Murfreesboro, Tennessee Analysis of Impediments to Fair Housing Choice 2010

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Chapter 1

Executive Summary

Murfreesboro has been a leader in seeking to craft a city that is racially, ethnically, and socioeconomically diverse and integrated. For over 20 years the city's *Comprehensive Land Use Plan* has voiced support for achieving racial and socioeconomic integration throughout the city:

> "The City will encourage a diversity of housing types and population densities throughout the City in order to maintain a diverse and integrated population. The City will not seek to exclude any racial or socioeconomic segment of the population from any area of the city by imposing minimum requirements that are designed to so exclude.[1]
>
> "Residential single-family developments are to occur in these manners: the entire development will be according to the existing classification; a consideration in residential zonings will be to provide housing that a "neighborhood" school philosophy can be maintained. *An achievement of social/racial/ economic heterogeneous grouping of children in each elementary school zone will be a goal and it will be recognized that residential zoning classifications to some extent serve to meet this goal."*[2]

Murfreesboro has attained a level of racial diversity in housing that most cities of its size, especially in the north, can only envy. Enjoying a spectacular 46 percent growth in population this century, six of Murfreesboro's ten core census tracts reflect a free housing market that is *not* distorted by racial discrimination. The racial and ethnic composition in each of these six census tracts is close to what would be expected in a free housing market absent racial discrimination.[3]

While the racial and ethnic composition of census tract 041900 still reflects the long legacy of racial segregation that made it known as the "black" part of town, this area continues its progression to integration, in part due to gentrification on its eastern portion. In 2000 the proportion of Caucasians in the tract had risen to 48.3 percent. While that is still far short of the 84.6 percent it would have been in 2000 if *no* racial discrimination had taken place, it reflects the growing integration of that area.

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1. Planning and Engineering Department, *Comprehensive Land Use Plan for City of Murfreesboro, Tennessee 1987 Thru 2000* (Murfreesboro, 1988), 22.

2. Ibid. 19–20. *Emphasis added.*

3. To fully understand this concept, please read the entire discussion of it beginning on page 17.

Moving in the opposite direction during the 1990s were three of the census tracts (041800, 04200, and 042100) surrounding 041900. All three show early signs of racial discrimination in housing as the proportion of minorities in each grew during the 1990s to higher levels than would be expected if there was no discrimination in housing. It is possible that members of minority groups displaced from tract 041900 are steering themselves or being steered by some members of the real estate industry to these nearby neighborhoods rather than considering housing options throughout the city.

Obviously the 2010 census will tell city officials if there has been further progress toward integration in tract 041900 and/or away from it in these other three tracts. Once 2010 census data become available, Murfreesboro should conduct another discrimination–free analysis like the one beginning on page 17 to identify the degree to which racial and ethnic patterns in housing have changed since 2000.

Meanwhile the city would be prudent to get more facts. Foremost is the need to conduct testing of real estate agents, rental managers and agents, and landlords to identify the extent of racial steering, if any, and other forms of housing discrimination.[4] The findings from this research will help the city determine the extent to which different types of local real estate professionals need training to comply with the city, state, and federal fair housing laws under which they operate. It is much more effective to catch discriminatory practices in the bud than having to reverse extensive and entrenched discriminatory practices.

This research will also help the city learn the causes of the movement of minorities to the three census tracts around 041900 and enable the city to craft solutions that address the root causes.

It appears there is a need to expand the housing choices of members of minority groups. The city's city's zoning and subdivision regulations should effectively require compliance with the Fair Housing Act and Americans With Disabilities Act before a building or occupancy permit can be issued. They should require a conscious effort to market housing to people of all races and ethnicities. The most obvious manifestations include the use of models who reflect the racial and ethnic diversity of Murfreesboro in print and online advertising and promotions. No less important is expanding the pool of real estate and rental agents to include more African Americans and Hispanics of whom there are currently very few.

African Americans and Hispanics continue to face illegal discrimination in mortgage lending. Controlling for all variables, it is obvious that African Amer-

4. "Testing" involves, for example, sending two matched individuals to an apartment building to inquire about renting an apartment. The two individuals have the same income, gender, and credit ratings. The only difference between them would be their race. Testing has often found that some landlords tell the African American tester that the apartment is no longer available even though a white tester who comes to see the apartment *after* the black tester is shown the apartment. Sometimes a landord will direct — or steer — the black tester to another building that is predominantly African American. Those kinds of landlord behaviors constitute violations of all three fair housing laws applicable in Murfreesboro.

icans and Hispanics continue to be denied home mortgage loans at substantially higher rates than Caucasians and Asians. While many lenders do not embrace discriminatory practices, the data suggest that a substantial number have engaged in them for quite some time. In addition to establishing a counseling program for potential home buyers, the city can exercise its discretion and reward lenders that do *not* discriminate by depositing city funds in those banks and withdrawing funds from those institutions that do discriminate.

Since 2004, the failure of landlords to make a reasonable accommodation for tenants with disabilities has been the most frequently–reported fair housing violation in Murfreesboro. On–going training in fair housing is warranted for landlords and their rental agents.

Ending discriminatory practices by some in the private sector requires a firm commitment and leadership by the City of Murfreesboro. Since 1988 the city's *Comprehensive Land Use Plan* has clearly stated the city's goal to achieve racial and socioeconomic integration. A very public rededication to the goals of the *Comprehensive Land Use Plan* will help establish a climate conducive to achieving them and implementing the recommendations of this analysis of impediments to fair housing choice. Adopting a "housing diversity" statement would have a similar impact.

The city's primary enforcement tool, its Fair Housing Ordinance, needs repair. Procedures need to be revamped and the never–appointed Fair Housing Board abolished. To make the city's Fair Housing Ordinance effective, Murfreesboro should consider establishing a formal contract with an organization with the expertise needed to investigate and resolve complaints, and bring legal action under the city's Fair Housing Ordinance.

None of this does much good if people who think they may have encountered housing discrimination do not know how to report it. Murfreesboro needs to make it very easy for people to reach the city's fair housing agent, to understand what actions constitute a fair housing violation, and to file a housing discrimination complaint. All city operators should know whom a caller should contact at city hall. Changes to the city's website can make information on housing discrimination much more easily accessible. Fair housing need not be treated as an afterthought.

The city can take a number of steps to incorporate fair housing into its routine planning and zoning processes. The data strongly suggest that Murfreesboro has a shortage of housing affordable to households of modest incomes, especially for tenants. Due to income disparities, Hispanics and African Americans constitute a disproportionately large percentage of these households that are "cost burdened."[5]

5. "Cost burdened" refers to households that spend over 30 percent of their gross monthly income on their housing. "Extremely cost burdened" refers to households spending over 50 percent. There is consensus that it is not financially healthy for households nor the economy when a household spends over 30 percent of its gross monthly income on rent or mortgage and property taxes.

The city should thoughtfully reconsider how the application of its residential zoning district affects the cost of housing. Little vacant land for single–family houses is zoned for smaller minimum lot sizes and little is zoned for multiple–family dwellings. The city should consider rezoning more land to the zoning districts that allow such housing and should judiciously use its PRD and PUD districts to promote the construction of new housing affordable to households with modest incomes. The city should explore requiring the inclusion of a set percentage of affordable units in all new developments in exchange for a density bonus that enables the developer to make as much profit as before. The result is more affordable housing at no cost to the taxpayer and no loss to the developer.

Murfreesboro needs to revamp its zoning treatment of community residences for people with disabilities to bring it into compliance with the nation's Fair Housing Act. Like the Tennessee statute governing community residences, Murfreesboro's zoning code leaves out of those community residences allowed as of right in single–family residential zoning districts, some classes protected by the three applicable fair housing laws. These exclusions and other inconsistencies need to be corrected in the near future. The city needs to monitor the location of community residences, including those allowed as of right, to prevent the development of *de facto* social service districts due to a concentration of community residences on a block or in a neighborhood.

Recognizing the pivotal role public schools have in establishing and maintaining stable, racially–integrated communities, the Murfreesboro City Schools has been working closely with the City of Murfreesboro to achieve the aforementioned goals of the city's *Comprehensive Land Use Plan*. The Rutherford County Schools need to join this effort.

During the past decade, the Murfreesboro Housing Authority (MHA) has made significant progress to integrate Mercury Court which was just one percent white in 2000. The same commitment to integration displayed with Mercury Court needs to be applied to the Westbrooks Towers senior housing which is 93 percent Caucasian. Just one Hispanic household lives in all of the MHA's public housing despite a substantial number of Hispanics eligible for public housing. While Section 8 vouchers constitute a small percentage of all rentals in every census tract of the city, 45 percent of all Section 8 vouchers are being used in just one census tract. The MHA needs to become a full partner with the City of Murfreesboro, the Murfreesboro City Schools, and the Rutherford County Schools in a comprehensive effort to achieve the racial and socioeconomic integration the city's plan envisions.

Murfreesboro has made significant progress toward achieving this vision. By implementing the recommendations of Chapter 5 to mitigate the obstacles to fair housing choice identified in this study, the City of Murfreesboro can take the next step to fulfill its adopted goals for racial and socioeconomic integration.

Chapter 2

Basis of This Study

Like all cities that receive Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development, the City of Murfreesboro is obligated to identify, analyze, and devise solutions to impediments to fair housing choice that may exist in the community.

CDBGs combined a slew of categorical grants into a single grant to cities, counties, and states that gives recipients a fair amount of discretion in how they spent the funds. Passage of the Housing and Community Development Act in 1974 established that *recipients of Community Development Block Grant (CDBG) funds have an obligation to "affirmatively advance fair housing."*[1]

Since 1968, *the U.S. Department of Housing and Urban Development (HUD) has been under an duty to "affirmatively advance fair housing in the programs it administers."*[2] In 1996, HUD officials very candidly reported:

> "However, we also know that the Department [HUD] itself has not, for a number of reasons, always been successful in ensuring results that are consistent with the Act. It should be a source of embarrassment that fair housing poster contests or other equally benign activity were ever deemed sufficient evidence of a community's efforts to affirmatively further fair housing. The Department believes that the principles embodied in the concept of "fair housing" are fundamental to healthy communities, and that communities must be encouraged and supported to include *real, effective,* fair housing strategies in their overall planning and development process, not only because it is the law, but because it is the right thing to do."[3]

As a condition of receiving these federal funds, communities are required to certify that they will affirmatively advance fair housing. Every voucher for funds that a community submits to HUD "implicitly certifies" that the community is af-

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1. Public Law Number 93–383, 88 Stat. 633 (August 22, 1974). Most of this statute can be found at 42 U.S.C. §§1437 et seq. and 42 U.S.C. §§5301 et seq.

2. Office of Fair Housing and Equal Opportunity, U. S. Department of Housing and Urban Development, *Fair Housing Planning Guide,* (Washington, DC. March 1996), Vol. 1, i.

3. Ibid. Emphasis in original.

firmatively furthering fair housing.[4] As clearly stated by HUD, benign activities do not make the cut. Seeking to comply with our nation's laws, HUD officials have determined that "Local communities will meet this obligation by performing an analysis of the impediments to fair housing choice within their communities and developing (and implementing) strategies and actions to overcome these barriers based on their history, circumstances, and experiences."[5]

While the extent of the obligation to affirmatively advance fair housing is not defined statutorily, HUD defines it as requiring a recipient of funds to:

1. Conduct an analysis to identify impediments to fair housing choice within the jurisdiction
2. Take appropriate actions to overcome the effects of any impediments identified through the analysis, and
3. Maintain records reflecting the analysis and actions in this regard."[6]

Throughout the nation, HUD interprets these broad objectives to mean:

- Analyze and eliminate housing discrimination in the jurisdiction
- Promote fair housing choice for all persons
- Provide opportunities for racially and ethnically inclusive patterns of housing occupancy
- Promote housing that is physically accessible to, and usable by, all persons, particularly persons with disabilities
- Foster compliance with the nondiscrimination provisions of the Fair Housing Act.[7]

While HUD has proffered a multitude of suggestions for producing the required analysis of impediments to fair housing choice, each recipient community is able to conduct the study that fits it within the broad guidelines HUD offers. We have attempted do just that with this report.

The substantive heart of the Fair Housing Act lies in the prohibitions stated in §3604, §3605, §3606, and §3617. It is said that the most important part of these sections is §3604(a) which makes it illegal

> To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, **or otherwise make unavailable or deny,** a dwelling to any person because

4. *U.S ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County,* New York, U.S. Dist. Ct. S.D.N.Y., 06 Civ. 2860 (DLC), Feb. 24, 2009, 43.

5. Ibid.

6. Ibid., 1–2.

7. Ibid., 1–3.

of race, color, religion, sex, familial status, or national origin.[8]

The 1988 amendments to the Act added a similarly–worded provision that added discrimination on the basis of handicap in §3604(f)(1) and required that reasonable accommodations be made "in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling."[9] In addition, the 1988 amendments mandate that reasonable modifications of existing premises be allowed for people with disabilities and that renters must agree to restore the interior of the premises to the condition it was in prior to making the modifications.[10] The amendments also required new multi–family construction to meet specified accessibility requirements in public areas and individual dwelling units.[11]

The highlighted provision, "or otherwise make unavailable or deny," has been read to include a broad range of housing practices that can discriminate illegally, such as exclusionary zoning; redlining mortgages, insurance, and appraisals; racial steering; blockbusting; discriminatory advertising; citizenship requirements that have the effect of excluding African Americans from a city's all–white public housing; harassment that would discourage minorities from living in certain dwellings; prohibiting white tenants from entertaining minority guests; and many more.[12]

As much as practical under budgetary constraints, an analysis of impediments to fair housing choice should seek to determine if any of these practices are present. The Housing and Community Development Act of 1974 clearly states that the intent of Congress is that the "primary objective" of the act and "of the community development program of each grantee is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income."[13]

It is clear that one of the key underlying purposes of the Housing and Community Development Act of 1974 is to foster racial and economic integration.[14] This key goal of the act is reflected in the technical language "the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods

8. 42 U.S.C. §3604(a). *Emphasis added.*

9. Ibid., §3604(f)(3)(B).

10. Ibid., §3604(f)(3)(A).

11. Ibid., §3604(f)(3)(C).

12. Robert Schwemm, *Housing Discrimination: Law and Litigation,* §13:4–13:16, 2007.

13. 42 U.S.C. §5301(c).

14. Daniel Lauber, "The Housing Act & Discrimination," *Planning*, (February 1975): 24–25.

through the spatial deconcentration of housing opportunities for persons of lower income."[15]

Taken as a whole the act has "the goal of open, integrated residential housing patterns and to prevent the increase of segregation, in ghettos, of racial groups."[16] With such a panoptic goal, HUD is obligated to use its grant programs "to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases."[17] "Congress saw the anti-discrimination policy [embodied in the Fair Housing Act] as the means to effect the antisegregation–integration policy."[18]

These purposes of the act have implications for the proper conduct of an analysis of impediments to fair housing choice. As noted earlier, every city that accepts Community Development Block Grant funds is obligated to "affirmatively further fair housing." In a lawsuit alleging that Westchester County, New York, had not affirmatively furthered fair housing with the $35 million of CDBG funds it received from 2000 to 2006, the federal district court in the Southern District of New York ruled "a local government entity that certifies to the federal government that it will affirmatively further fair housing as a condition to its receipt of federal funds must consider the existence and impact of race discrimination on housing opportunities and choice in its jurisdiction."[19] The court concluded "an analysis of impediments that purposefully and explicitly, "as a matter of policy," avoids consideration of race in analyzing fair housing needs fails to satisfy the duty affirmatively to further fair housing."[20]

Two years later Westchester County agreed to a $62.5 million settlement and is having a new analysis of impediments conducted in 2010 that addresses the issues of racial and socioeconomic segregation that it had ignored in violation of the law.

This analysis of impediments seeks to comply with the decisions in the Westchester County case and with purpose and spirit of the Housing and Community Development Act and the nation's Fair Housing Act. Every effort has been taken to conduct a fair and balanced analysis that follows sound planning, housing, and fair housing principles and practices.

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15. 42 U.S.C. §5301(c)(6).

16. *Otero v. New York City Housing Authority,* 484 F.2d 1122, 1134 (2d Cir. 1973).

17. *N.A.A.C.P. v. Secretary of HUD,* 817 F.2d 149, 155 (1st Cir. 1987) (Breyer, J.).

18. *United States v. Starrett City Associates,* 840 F.2d 1096, 1100 (2d Cir. 1988). The discussion in this paragraph is derived in large part from the discussion on pages 24 and 25 of the district court's decision in *U.S. ex rel. Antidiscrimination Center of Metro New York, Inc. v. Westchester County, New York*, 495 F.Supp.2d 375, 385–386 (S.D.N.Y. 2007).

19. *U.S. ex rel. Antidiscrimination Center of Metro New York, Inc. v. Westchester County, New York*, 495 F.Supp.2d 375, at 387 (S.D.N.Y. 2007).

20. Ibid., 388.

Planning/Communications approached this analysis of impediments to fair housing choice using the "CSI approach," namely we let the evidence lead us to our conclusions. We have attempted to apply sound planning and fair housing principles to the facts we found in order to identify both current and potential impediments to fair housing choice and craft recommendations to overcome them.

This is an analysis of "impediments" to fair housing choice. Consequently it focuses on those policies and practices that impede fair housing choice.

Limitations of This Analysis

This analysis of impediments to fair housing choice was prepared for the purposes stated herein. Consequently, it seeks to identify impediments and suggest solutions. However, it does not constitute a comprehensive planning program. Many of the identified issues warrant additional research and analysis by the staffs of Murfreesboro's Planning Department and Community Development Department.

Tempting as it always is to lift statements from any study out of context, please don't! It is vital that this analysis of impediments be read as a whole. Conclusions and observations made throughout this study are often dependent on data and discussions presented earlier. Readers of early drafts of this analysis reported that they were surprised to find their questions answered one or two pages later. Context is vital to correctly understand this analysis and avoid misleading or erroneous interpretations of its content.

This analysis does not constitute legal advice.

We have assumed that all direct and indirect information that the City of Murfreesboro supplied is accurate. Similarly, we have assumed that information provided by other sources is accurate.

An important note about the data

Like any study that involves demographics over a longitudinal period, this study is at the mercy of its data sources. Over the years data can be reported in different ways. Categories can be changed at the discretion of those who produce the raw data. Consequently, there are times when it is impossible to precisely match data categories from 2000 with 2007 or 2009.

In Chapters 3 and 4, this study reports data on the city's racial and ethnic composition that include small variations depending on the source material. Various data sources categorize their data differently. For example, some sources include "Hispanics" *within* their various racial categories. Others tally Hispanics as a sep-

arate category in addition to African Americans, Caucasians, and Asians. Some of these sources refer to these categories as "White Non–Hispanic."

In both Murfreesboro and Rutherford County, the number of people who are Native American, Alaskan, and Pacific Islander is infinitesimal. The decision was made to leave these categories out of the tables and figures to make them more legible and easier to read and use.

The ten census tracts that comprise the core of Murfreesboro are used throughout this study. Small segments of seven other census tracts were within the city limits in 1990 and 2000 but are not included in the analysis because so little of them fall within the city limits, ranging from 1 to 13 percent, and sampling tests show that they would not alter the findings of this report.

Some of the tables and figures that report data by census tract leave out census tract 041500 because that tract contains fewer than 25 residential buildings. The campus of Middle Tennessee State University occupies nearly all of the census tract.

Acknowledgments

We are extremely grateful to staff and officials at the City of Murfreesboro for their timely and very professional assistance in the completion of this research. Several people who went above and beyond the call of duty deserve special thanks.

Community Development Director John Callow provided guidance, insight, and vital contacts as he facilitated this study. Planning Director Joseph Aydelott and his staff collected and produced an incredible wealth of data and documentation crucial to completion of this study. His insights and institutional memory answered a plethora of questions throughout the study period. Bill Lord, Deputy Executive Director of the Murfreesboro Housing Authority (MHA), went above and beyond the call of duty to compile data and document MHA policies. Murfreesboro Transportation Director Dana Richardson assembled a wealth of data and documentation on public transportation. Police Chief Glenn Chrisman provided the data on hate crimes. Gary Anderson, Finance/Administrative Services Director, and Dr. Linda Gilbert, Director of Schools, provided details on the policies and practices of the Murfreesboro City Schools.

Candy Joyce of the Middle Tennessee Association of Realtors® kindly assembled critical and reliable data and information on Murfreesboro home sales for the past decade. Bess Rickman, Economic Development Specialist for the Rutherford County Chamber of Commerce, furnished information on businesses and the local economy. Tennessee Fair Housing Council Director Tracey McCartney provided insights and information on local fair housing complaints filed with her organization.

We apologize if we left out anybody else who contributed to this study.

Chapter 3

Overview of the City of Murfreesboro

Demographics

Sitting right in the geographic center of the State of Tennessee, Murfreesboro is the state's most rapidly growing city and one of the fastest growing in the nation. As shown in Table 1 below, this once small town of 19,000 has seen its population increase rapidly with every decennial census and skyrocket since 1990 by 124 percent. Over the past 25 years, Murfreesboro's land area has

Table 1: Murfreesboro Population Growth: 1960–2009

Murfreesboro Population Growth: 1960–2009				
Year	Population	Increase	Percent Increase	Data Source
1960	18,991	—	—	Census Count
1970	26,360	7,369	38.8%	Census Count
1980	32,845	6,485	24.6%	Census Count
1990	44,922	12,077	36.8%	Census Count
2000	68,816	23,894	53.2%	Census Count
2001	73,910	5,094	7.4%	Census Estimate
2002	76,737	2,827	3.8%	Census Estimate
2003	79,339	2,602	3.4%	Census Estimate
2004	82,889	3,550	4.5%	Census Estimate
2005	88,156	5,267	6.4%	Census Estimate
2006	93,851	5,695	6.5%	Census Estimate
2007	98,316	4,465	4.8%	Census Estimate
2008	101,753	3,437	3.5%	Census Estimate
2009	100,798	– 955	– 0.9%	Claritas Estimate

Source for 1960–2008: U.S. Census Bureau. Source for 2009: *Pop-Facts: Demographic Snapshot Report,* Claritas

more than doubled from 21 square miles in 1984[1] to 55.4 square miles today.

While sometimes considered an exurb or distant suburb of Nashville which is 35 miles northwest of Murfreesboro, this 55.4 square mile city is large enough to maintain its own identity. Murfreesboro is home to the state's largest undergraduate university, Middle Tennessee State University, whose student body constitutes nearly one–fourth of the city's population. It's also the county seat for Rutherford County.

The median income of Murfreesboro households has grown steadily from $26,394 in 1990, to $39,705 in 2000, and to $48,115 in 2007, the most recent year for which reliable data are available.[2]

While the most recently–reported poverty rate for Murfreesboro is nearly identical to that of the State of Tennessee, it is 29 percent higher than all of Rutherford County. The poverty rate for seniors is notably lower than in the county and the whole state. However, the poverty rate is higher in Murfreesboro than in Rutherford County among families, especially with related children under 18 years old. These rates, though, are appreciably less than for the entire State of Tennessee as shown in Table 2 below.

Table 2: Percentage of Population in Poverty by Category: 2007

Percentage of Population in Poverty by Category: 2007			
Category	Murfreesboro	Rutherford County	Tennessee
Age 65 and over	6.2%	10.3%	12.0%
Children under 18 years old	17.7%	15.5%	23.0%
All families	9.4%	9.0%	12.0%
Families with related children under 18 years old	16.4%	13.5%	18.9%
Married couple families	1.1%	2.6%	5.6%
Female–headed households, no husband present	31.3%	31.1%	34.3%
All people	16.0%	12.4%	15.9%

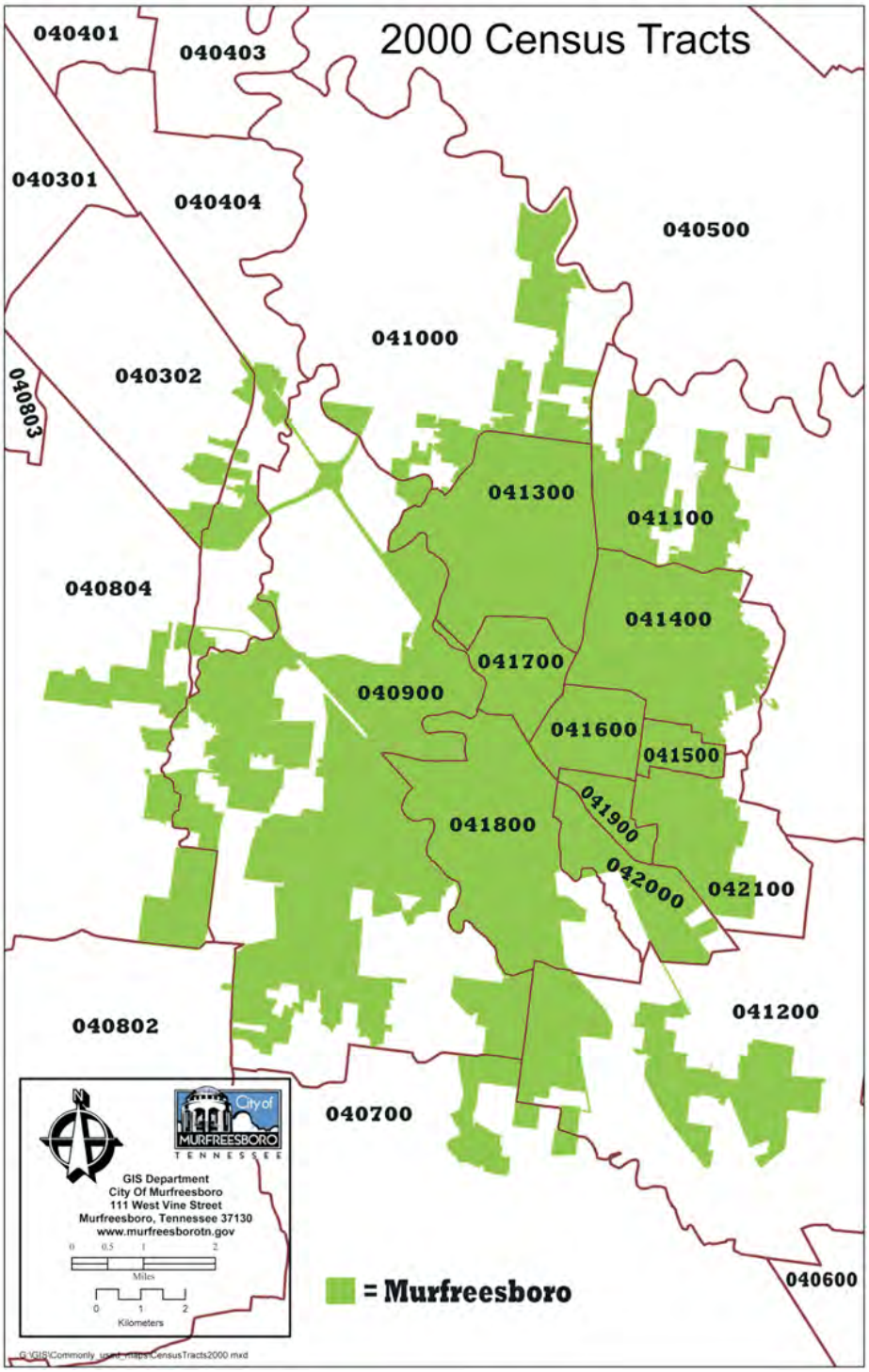
Categories with a margin of error that is so great as to be unreliable are excluded.
Source: 2007 American Community Survey, "Selected Economic Characteristics"

1. Planning and Engineering Department, *Comprehensive Land Use Plan for City of Murfreesboro, Tennessee 1987 Thru 2000* (Murfreesboro,1988), 45.

2. *1990 Census, 2000 Census, 2007 American Community Survey*, U.S. Census Bureau.

Murfreesboro's racial composition has remained fairly constant throughout the last three decades with the percentages of Hispanics, Asian, and "some other race" increasing slightly while there has been a very small decline in the percentage of people of African ancestry.

Figure 1: Murfreesboro Census Tracts 2000 Map



As with the entire nation, the most change has been an increase in the percentage of people who identify themselves as "Hispanic" or "Latino" from about 31 Murfreesboro residents in 1980 to 2,473 in 2000 and 2,556 in 2007 (estimate). The number of Asians has grown from just 143 in 1980 to 1,853 in 2000 and 1,329 in 2007 (estimate). "Some other race" has seen a similar growth pattern.

Table 3: Racial Composition of Murfreesboro: 1980–2007

Racial Composition of Murfreesboro: 1980–2007					
Year	White	African American	Asian	Some Other Race	Hispanic of Any Race
1980	83.9%	15.0%	0.4%	0.6%	0.1%
1990	82.3%	14.5%	2.8%	0.4%	0.8%
2000	81.0%	14.1%	2.7%	2.2%	3.5%
2007	83.1%	13.9%	1.4%	2.0%	2.6%

Figures are for one race alone or in combination with one or more other races. Rows do not add up to 100 percent due to some dual reporting. Figures from the *2007 American Community Survey* are estimates based on sampling, are subject to sampling variability, and are not as accurate as data from the decennial census. "Hispanic" is not a race and is reported separately because people of any race can be Hispanic.

Sources: 1990 and 2000 U.S. Census; 2007 American Community Survey. 1980 U.S. Census figures from Minnesota Population Center. National Historical Geographic Information System: Pre-release Version 0.1. Minneapolis, MN: University of Minnesota 2004, http://www.nhgis.org

Neither the university nor the city know how many of the 25,188 students who attend Middle Tennessee State University (MTSU) actually live in Murfreesboro during the school year. The 2000 Census reported that 3,099 students lived in dormitories in 2000 in census tract 041500 where the university is located. In 2009 the racial composition of the 25,188 students enrolled at MTSU was similar to the city as a whole with slightly higher percentages of members of minority groups: 76.3 percent Caucasian, 16 percent African American, 2.4 percent Hispanic, 3.5 percent Asian, 0.5 percent some other race (with 1.4 percent unclassified).[3]

The city's comprehensive plan establishes a clear policy to achieve racial and economic integration throughout the city:

> "The City will encourage a diversity of housing types and population densities throughout the City in order to maintain a diverse and integrated population. The City will not seek to exclude any racial or socioeconomic segment of the population

3. "Enrollment by Ethnic Group – Fall 2009," Office of Institutional Research, Middle Tennessee State University, available online at http://frank.mtsu.edu/~instres/quickfacts.htm. The university has become more diverse since 2000 when the student body was 84.7 percent white, 11 percent African American, 1.3 percent Hispanic, and 2.2 percent Asian.

> from any area of the city by imposing minimum requirements that are designed to so exclude.
>
> "The city will encourage a diversity of housing types and population densities throughout the city in order to maintain a diverse and integrated population.
>
> "The city will not seek to exclude any racial or socioeconomic segment of the population from any area of the city by imposing minimum requirements that are designed to so exclude."[4]

Because some of the city's zoning provisions *could* produce an exclusionary impact even though they were not deliberately designed to exclude, the third policy should be amended to read "…that are designed to so exclude or that have an exclusionary effect."

Any analysis of racial and socioeconomic segregation or integration must be based on the decennial census which provides racial, ethnic, and economic data by census tract. As noted in Chapter 5 of this report, the city should plan to conduct the analysis that begins on page 17 after 2010 census tract data become available.

Table 4 : Racial and Hispanic Composition of Murfreesboro by Census Tract: 2000

Racial and Hispanic Composition of Murfreesboro by Census Tract: 2000

Census Tract	Total	White	Percent White	Black	Percent Black	Asian	Percent Asian	Some Other Race	Percent Some other Race	Two or More Races	Percent Two or More Races	Hispanic of Any Race	Percent Hispanic of Any Race
040900	16,118	14,079	87.3%	1,137	7.1%	616	3.8%	112	0.7%	174	1.1%	253	1.6%
041300	10,271	9,507	92.6%	371	3.6%	255	2.5%	64	0.6%	74	0.7%	109	1.1%
041400	11,465	9,768	85.2%	1,226	10.7%	190	1.7%	154	1.3%	127	1.1%	255	2.2%
041500	3,154	2,210	70.1%	860	27.3%	37	1.2%	25	0.8%	22	0.7%	36	1.1%
041600	5,456	4,323	79.2%	871	16.0%	42	0.8%	132	2.4%	88	1.6%	192	3.5%
041700	5,060	4,163	82.3%	462	9.1%	76	1.5%	304	6.0%	55	1.1%	429	8.5%
041800	4,256	2,957	69.5%	950	22.3%	165	3.9%	85	2.0%	99	2.3%	130	3.1%
041900	4,285	1,950	45.5%	2,014	47.0%	44	1.0%	180	4.2%	97	2.3%	290	6.8%
042000	5,159	3,951	76.6%	493	9.6%	199	3.9%	401	7.8%	115	2.2%	617	12.0%
042100	6,275	4,337	69.1%	1,297	20.7%	426	6.8%	98	1.6%	117	1.9%	162	2.6%
Total	71,499	57,245	80.1%	9,681	13.5%	2,050	2.9%	1,555	2.2%	968	1.4%	2,473	3.5%

Percentages for "racial groups" do *not* include Hispanics who can be of any race. Consequently totals differ from the totals shown in Table 3.

Source: 2000 Census, United States Census Bureau, Tables P7 and P11

The above table reports the racial composition of each of Murfreesboro's core census tracts and reveals several instances of what would, at first glance, appear to be possible racial or ethnic concentrations.[5] These are highlighted in red.

4. City of Murfressboro Planning and Engineering Department, *Comprehensive Land Use Plan for City of Murfreesboro, Tennessee 1987 Thru 2000,* Revised Fall 1988, 22.

5. In 2000, *very small* portions of seven other census tracts were also within Murfreesboro's city limits. Just 1 percent of the land area of three of the tracts were in Murfreesboro. Six percent of one tract, 8 percent of

It is reasonable to characterize as a "possible concentration" a census tract with a "minority" population greater than 50 percent of the citywide proportion of that minority. With African Americans constituting 13.5 percent of Murfreesboro's population in 2000, there is a possible concentration of blacks in the four census tracts that are more than 20.25 percent African American (one and a half times 13.5 percent). Similarly there is one census tract where the proportion of Asians is more than 150 percent of the citywide proportion of 2.9 percent. And there are three census tracts where the proportion of Hispanics is at least one and a half times the 3.5 percent of residents citywide who are Latino.

As explained later in this analysis of impediments, these figures reflect conditions that can lead to future resegregation if any discriminatory practices that cause these distortions in the free housing market continue unfettered.

Table 5: Murfreesboro Housing Tenure By Race: 2000

Murfreesboro Housing Tenure by Race: 2000 Census

			Owner Occupied						Renter Occupied					
Census Tract	Total Population (Not households)	Total Occupied Housing Units	Total Number of Occupied Ownership Housing Units	Percent Ownership	White	Black	Asian	All Other Races and Multiple Races	Total Number of Occupied Rental Housing Units	Percent Rental	White	Black	Asian	All Other Races and Multiple Races
040900	16,118	5,786	4,543	78.5%	4,086	292	126	39	1,243	21.5%	1,103	88	26	26
041300	10,271	3,578	3,262	91.2%	3,090	100	51	21	316	8.8%	270	23	18	5
041400	11,465	5,138	1,774	34.5%	1,670	78	12	14	3,364	65.5%	2,807	408	65	84
041500	3,154	18	16	88.9%	16	0	0	0	2	11.1%	1	1	0	0
041600	5,456	2,718	680	25.0%	599	68	3	10	2,038	75.0%	1,652	297	15	74
041700	5,060	2,316	1,021	44.1%	997	12	3	9	1,295	55.9%	957	212	28	98
041800	4,256	1,394	429	30.8%	359	47	16	7	965	69.2%	733	178	25	29
041900	4,285	1,842	419	22.7%	150	260	2	7	1,423	77.3%	775	565	17	66
042000	5,159	2,049	1,294	63.2%	1,167	71	42	14	755	36.8%	489	134	22	110
042100	6,275	2,609	1,300	49.8%	981	234	70	15	1,309	50.2%	986	240	40	43
Total	71,499	27,448	14,738	53.7%	13,115	1,162	325	136	12,710	46.3%	9,773	2,146	256	535
Percent	100%	100%	53.7%	—	89.0%	7.9%	2.2%	0.9%	46.3%	—	76.9%	16.9%	2.0%	4.2%

Note: Data was available only by race. "Hispanic" is an ethnic classification, not a racial classification. The number of dwelling units by racial classification is based on the race of the householder in file H14, "Tenure by Race of Householder [17] – Universe: Occupied Housing Units" from the Census 2000 Summary File 1 (SF 1) 100-Percent Data. Total population is from P1 "Total Population."

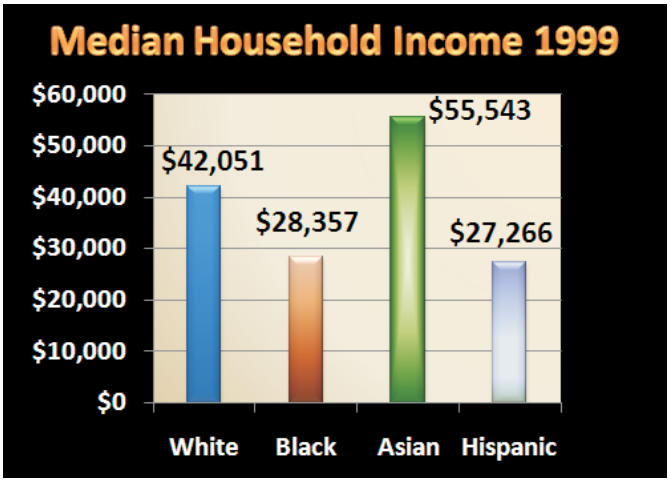
It is crucial to look at the available data more closely to determine the cause of these possible concentrations. The table above, "Murfreesboro Housing Tenure By Race: 2000," reports on housing in each census tract by tenure (ownership or rental) and by race. In Murfreesboro, Asians and whites had roughly the same rates of home ownership, 56 and 57 percent respectively, while just 36 percent of African American households owned a home in 2000. As of 2007, the most recent year for which reliable data are available, 58.3 percent of Murfrees-

two tracts, and 13 percent of one tract were within the city limits. With so little of each tract within the city, they were left out of this study because the racial composition of the portion of each tract within the city could differ from the composition of the entire census tract. Since most of the city's growth the past ten years has been in these tracts, analyses based on the 2010 Census should include them.

boro's housing was owner–occupied and 41.3 percent rental.[6]

It is possible that these home ownership rates may reflect income as shown in Figure 2 below. The median income among African Americans is one third that of Caucasians while the median among Asians is almost one–third higher than whites. So it is no surprise that whites and Asians enjoy a higher rate of home ownership in Murfreesboro than do African Americans or Hispanics.

Figure 2: Median Murfreesboro Household Income By Race and Ethnicity 1999



Source: Census 2000 Summary File 3 (SF 3), 2000 U.S. Census

However, further analysis can reveal whether the racial composition of each census tract in 2000 and 1990 is probably due to income and the cost of housing or to discriminatory private and/or public sector practices that distort the free housing market.

One of the most insightful and objective tools for determining whether impediments to fair housing choice exist is to compare the actual racial composition of a city's census tracts with what the racial composition would be in a free housing market undistorted by racial discrimination. Racial discrimination badly distorts the free market in housing by artificially reducing demand for housing in some neighborhoods and artificially increasing demand in others.

Racial discrimination in housing distorts property values. When African Americans, for example, move to segregated neighborhoods, they pay a substantial price. It is well documented that the value and appreciation of homes in segregated minority neighborhoods is generally less than those in heavily white and stable integrated areas. Segregated minority neighborhoods also often lack jobs and business investment opportunities making them economically unhealthy compared to stable integrated and predominantly white areas.[7] For the rapidly growing Black middle and upper classes, living in predominantly segregated minority neighborhoods denies them the full economic and educational benefits of middle– and upper–class status enjoyed in stable integrated and predominantly Caucasian neighborhoods.

In a free housing market economy, household income rather than race or

6. "Demographic and Housing Estimates," *2007 American Community Survey,* U.S. Census Bureau.

7. *Black, White and Shades of Brown: Fair Housing and Economic Opportunity in the Chicago Region,* 28–29. (see chap. 5, n. 1).

ethnicity determines who lives in the community. The table below, "Racial Composition of Murfreesboro by Census Tract," shows what the racial composition of each Murfreesboro census tract was in 1990 and 2000 and what the ra-

Table 6: Racial Composition of Murfreesboro by Census Tract

Table : Racial Composition of Murfreesboro by Census Tract in a Free Market Without Discrimination							
Census Tract	2000 Census				1990 Census		
	White	Black	Asian	Hispanic or Latino	White	Black	Asian
040900							
Actual proportions	88.8%	6.7%	2.3%	1.1%	92.8%	4.8%	2.0%
Free Market Without Discrimination	88.3%	8.2%	1.5%	1.8%	91.8%	6.9%	1.0%
Difference	0.5%	-1.6%	0.8%	-0.7%	0.9%	-2.1%	1.0%
041300							
Actual proportions	94.2%	3.6%	1.7%	0.4%	95.7%	2.1%	2.3%
Free Market Without Discrimination	89.5%	7.3%	1.7%	1.6%	93.2%	5.4%	1.1%
Difference	4.7%	-3.6%	0.0%	-1.1%	2.5%	-3.4%	1.2%
041400							
Actual proportions	87.7%	9.0%	1.2%	2.6%	90.5%	0.0%	9.5%
Free Market Without Discrimination	86.2%	10.1%	1.2%	2.2%	94.4%	4.3%	1.1%
Difference	1.6%	-1.1%	0.0%	0.4%	-4.0%	-43.0%	8.4%
041500							
Actual proportions	100.0%	0.0%	0.0%	0.0%	90.5%	0.0%	9.5%
Free Market Without Discrimination	88.2%	7.1%	2.7%	1.4%	94.4%	4.3%	1.1%
Difference	11.8%	-7.1%	-2.7%	-1.4%	-4.0%	-4.3%	8.4%
041600							
Actual proportions	84.0%	13.3%	0.8%	1.9%	85.6%	14.1%	0.0%
Free Market Without Discrimination	85.1%	11.1%	1.1%	2.5%	87.0%	11.7%	8.0%
Difference	1.0%	2.2%	-0.3%	-0.6%	-1.4%	2.4%	-8.0%
041700							
Actual proportions	84.6%	11.1%	0.4%	3.8%	94.3%	5.7%	0.0%
Free Market Without Discrimination	86.1%	10.1%	1.2%	2.3%	89.5%	9.3%	0.9%
Difference	-1.5%	1.0%	-0.7%	1.5%	4.9%	-3.7%	-0.9%
041800							
Actual proportions	73.2%	18.9%	5.4%	1.4%	87.1%	11.3%	1.6%
Free Market Without Discrimination	85.9%	10.3%	1.2%	2.4%	88.3%	10.6%	0.8%
Difference	-12.7%	8.6%	4.2%	-1.0%	-1.2%	0.7%	0.8%
041900							
Actual proportions	48.3%	45.6%	0.7%	3.7%	46.3%	50.6%	1.9%
Free Market Without Discrimination	84.6%	11.5%	1.0%	2.5%	86.7%	12.2%	0.8%
Difference	-36.3%	34.1%	-0.3%	1.2%	-40.3%	38.4%	1.1%
042000							
Actual proportions	78.8%	9.9%	3.8%	7.9%	88.3%	11.1%	0.6%
Free Market Without Discrimination	87.0%	9.2%	1.5%	2.2%	90.6%	8.2%	0.9%
Difference	-8.3%	0.7%	2.3%	5.7%	-2.2%	2.8%	-0.2%
042100							
Actual proportions	76.2%	17.4%	3.7%	2.2%	79.6%	15.1%	4.7%
Free Market Without Discrimination	85.9%	10.2%	1.2%	2.3%	89.5%	9.2%	0.9%
Difference	-9.7%	7.1%	2.5%	-0.1%	-9.9%	5.9%	3.8%
Citywide totals							
Actual proportions	82.9%	12.4%	2.0%	2.6%	85.3%	12.8%	1.6%
Free Market Without Discrimination	86.9%	9.5%	1.3%	2.1%	89.6%	9.2%	0.9%
Difference	-4.0%	3.0%	0.6%	0.4%	-4.3%	3.6%	0.7%

Figures for the proportion of Hispanics in 1990 are not available from the U.S. Census.

cial composition of households would have been if housing were a free market without the distortions caused by racially–discriminatory housing practices, largely by the private sector. The difference between the actual composition and the free market composition is shown for each census tract. Differences that suggest distortions possibly caused by racial discrimination are highlighted in red.[8]

When the actual proportions of minorities are significantly less than the proportions that would exist in a free housing market, it is very likely that factors other than income, social class, or personal choice are influencing who lives in the community. Researchers have concluded "that race and ethnicity (not just social class) remain major factors in steering minority families away from some communities and toward others."[9]

These figures can show whether impediments to fair housing choice based on race or ethnicity are present in Murfreesboro. In addition, the longitudinal view going back to 1990 can reveal the degree of progress Murfreesboro is making toward removing impediments to fair housing choice for the racial and ethnic groups that have historically faced housing discrimination nationally.

Citywide, Murfreesboro has had a slightly higher proportion of African Americans living here and a slightly lower proportion of Caucasians than if the housing market were free of racial discrimination. The data suggest the *possibility* that blacks are being steered to look at housing in Murfreesboro and whites are being steered to look at housing elsewhere in Rutherford County. The only way to know for certain is to conduct "testing" of real estate agents and rental agents in Murfreesboro in nearby portions of Rutherford County.

The racial composition of four census tracts (040900, 041400, 041600, and 041700) is very close to what would be expected in a housing market free of racial and ethnic discrimination, namely one in which income is the primary determinant of choosing where you live. Tract 041300 has relatively minor variations of 4.7 percent more whites and 3.6 percent fewer blacks than would be expected if no discrimination were taking place.

The campus of Middle Tennessee State University fills nearly all of census tract 041500. The tract also includes fewer than 25 residential dwellings which are adjacent to Tract 414 at the northeast corner of the campus. Because there are so few residences in this tract, their influence on fair housing choice is minimal and the racial composition of their residents not indicative of any patterns of racial and/or socioeconomic integration.

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8. This table and analysis use households to calculate racial and ethnic composition in each census tract. The percentages of each category differ from those in Table 5 because Table 5 is based on counts of individuals.

9. D. Coleman, M. Leachman, P. Nyden, and B. Peterman, *Black, White and Shades of Brown: Fair Housing and Economic Opportunity in the Chicago Region* (Chicago: Leadership Council for Metropolitan Open Communities, February 1998), v. The methodology, first developed by Harvard economist John Kain, is explained in detail beginning on page 17. A PDF file of the entire study (28.1 megabytes) can be downloaded at http://www.luc.edu/curl/pubs.

The four remaining census tracts — 041800, 041900, 04200, and 042100 — all exhibit characteristics of neighborhoods where racial steering *might* be taking place. Racial steering is an illegal practice where real estate and rental agents show property to African Americans only in neighborhoods with a substantial black population and do not show properties to Caucasians in such neighborhoods. They show properties in predominantly white neighborhoods to white people and do not show such properties to African Americans or other minorities. Racial steering distorts the free housing market so badly that neighborhoods eventually "resegregate" from all white to all black.

All four census tracts are south of Main Street and adjacent to each other.

Unique among the four is census tract 042000. While it is possible that many Hispanic households are moving to this area due to lower housing costs, the proportion of Hispanics living here is more than three and a half times greater than would be expected in a free housing market without discrimination. The proportion of whites is nine–tenths of what would be expected if no discrimination were occurring. These variations from the racial and ethnic composition of this census tract in a discrimination–free housing market suggests that there is a *possibility* that Hispanics are being steered to this neighborhood. Data from the 2010 census will provide a clearer picture.

The tract includes some older apartment complexes that can no longer compete for wealthier tenants and students as well as many duplexes. North of Southeast Broad Street and west of South Rutherford Boulevard sits the Kensington subdivision which consists of upscale large single–family houses. It is separated from less affluent housing in the area by protected wetlands that form a substantial barrier to interaction among the residents of these neighborhoods.

The racial composition of census tracts 041800 and 042100 exhibit modest variations from what would be expected if no racial steering were occurring and income were the primary determinant of who lives in the area. In tract 041800, the proportion of blacks in 2000 was 18.9 percent — and whites was 73.2 percent. In a housing market free of discrimination, blacks would have constituted 10.3 percent and whites 85.9 percent of the population. The situation was nearly identical in tract 042100.

Despite being primarily an industrial area, Tract 041800 housed 4,256 people in 2000. Much of the single–family housing was built in the 1940s. The typical home had two bedrooms and one bath, and was under 1,000 square feet.

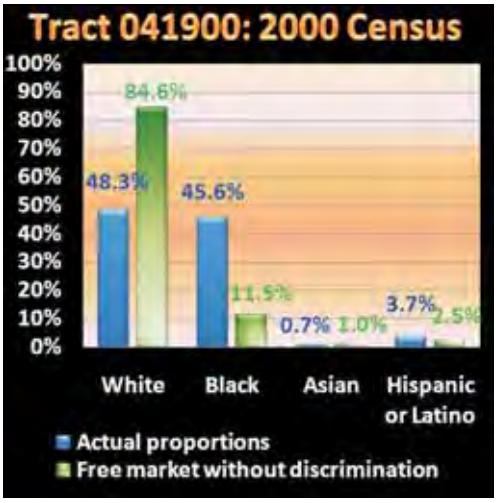
While the racial composition of tract 042100 held pretty steady between 1990 and 2000, tract 041800 exhibited mild and possibly early signs of movement toward resegregation from an integrated area to a predominantly black area. The proportion of African Americans rose from 11.3 percent to 18.9 percent that decade while the proportion of whites fell by 14 percentage points. Meanwhile the racial composition in a housing market free of discrimination barely changed. At this point in time it is impossible to know if these changes reflect illegal steering and/or movement toward resegregation. Data from the 2010 census should provide some answers.

It's no surprise that the racial composition of census tract 041900 exhibits the most extreme variations from what would be expected in a housing market free of racial discrimination. Historically, this tract has been considered the "African American" section of Murfreesboro. In the last two census counts, this tract reported the highest proportion of African Americans of any Murfreesboro census tract, 50.6 percent in 1990 and 45.6 percent in 2000.

However, in a free housing market absent racial discrimination, the proportion of African Americans would have been 12.2 percent in 1990 and 11.5 percent in 2000.

The direction of this shift in racial composition during the 1990s suggests that census tract 041900 was moving to a free housing market without racial discrimination. It is very likely that the 2010 census will show further movement in this direction thanks to further gentrification.

Figure 3: Differences for Census Tract 041900 in 2000



However, aggregate figures for an entire census tract can mask housing patterns that closer examination of 2000 census data at the block level might reveal.

The census blocks in tract 041900 are divided into two "Block Groups" shown in yellow in the two maps below. Block Group 2 sits just west of Block Group 1.

Figure 4: Map of Block Group 2 in Census Tract 041900

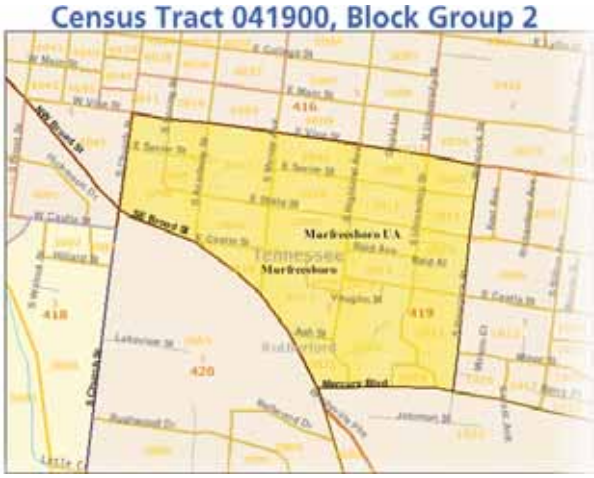
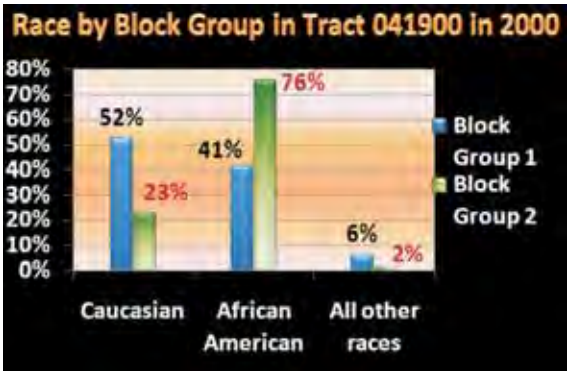


Figure 5: Map of Block Group 1 in Census Tract 041900

A s

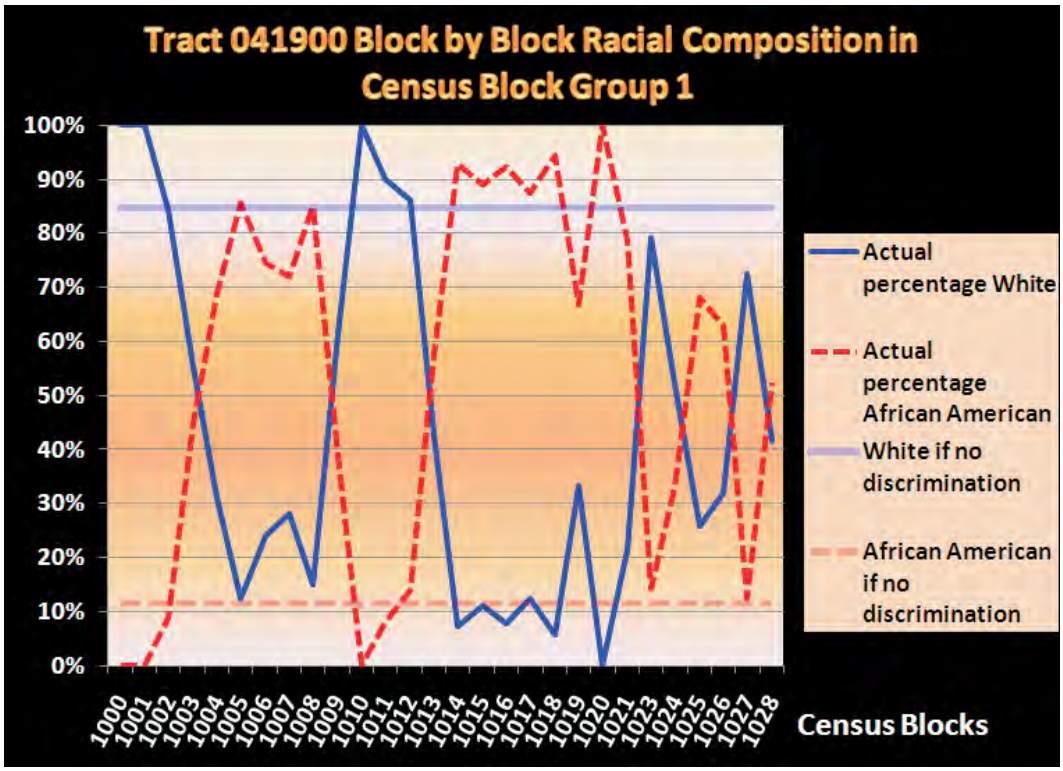
shown in the figure to the right, the racial composition of the two block groups is significantly different with Block Group 2 in the northwest corner of the census tract being three–fourths African American while Block Group 1 (in blue) is less than one–fourth African American. These significant differences warrant a closer look within each block group at the block level.

Figure 6: Race by Block Group in Tract 041900 in 2000



The two figures that follow show why Block Group 1 is the more racially integrated set of blocks. In about one–third of the blocks, one race is substantially disproportionately greater than the other. The two horizontal lines show what the racial composition in the census tract would be in a housing market free of racial discrimination. In Block Group 2, which was 70 percent black in 2000, most of the blocks are disproportionately African American. Eight are over 90 percent black.

Figure 7: Tract 041900 Block by Block Racial Composition in Census Block Group 1



The significant presence of college students and gentrification in Block Group 1 may help account for difference between the two block groups. Many of the homes in Block Group 1 that had been subdivided to provide housing for Middle Tennessee State University students have been renovated back into single–family residential. It is likely that the 2010 census will show a further shift in racial

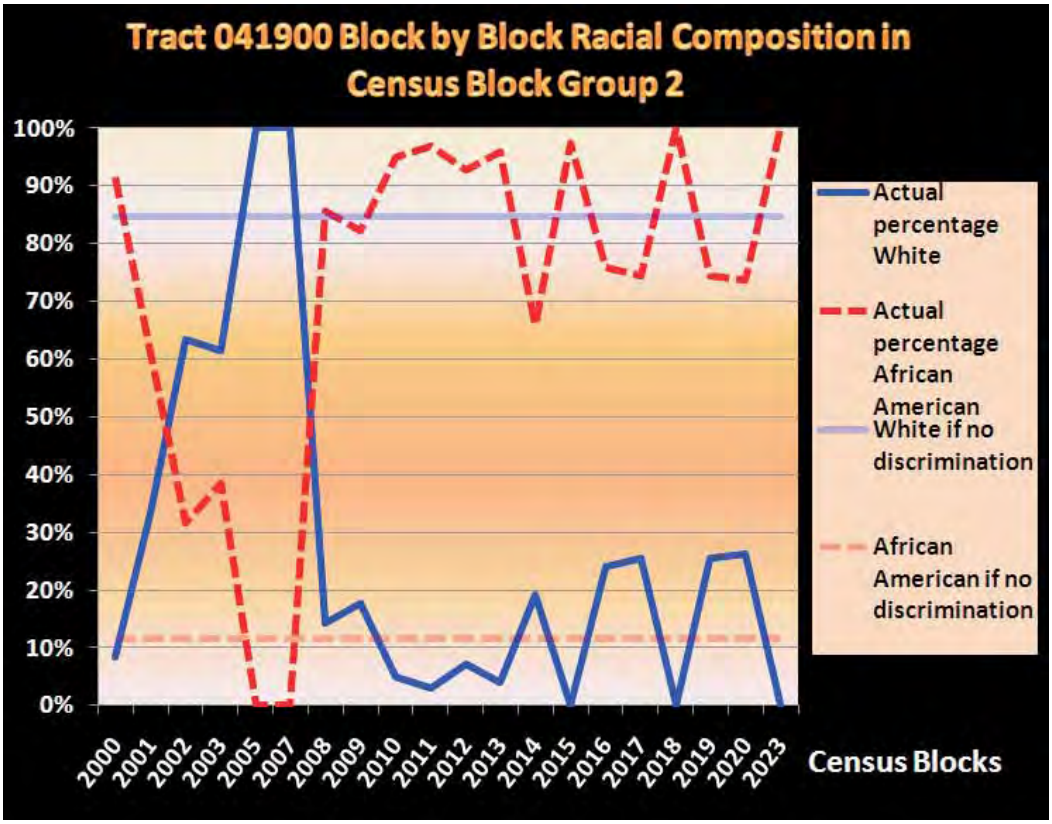
composition within both block groups.

Racial steering *might* be occurring in Block Group 2 which exhibits the most extreme variations from a housing market free of racial discrimination in 1990 *and* 2000. As illustrated earlier by the figure "Race by Block Group in Tract 041900 in 2000" on page 22, in 2000 this tract would have been 11.5 percent black and 84.6 percent white instead of 45.6 and 48.3 percent respectively if income were the primary determinant of who lived there.

This is the only census tract where most of the homeowners are of African descent (62 percent) which is not surprising given its history as the city's "African American neighborhood." Most renters (54 percent) are white in this predominantly rental census tract. But being predominantly rental does not account for the very substantial discrepancy between actual racial composition and what would be expected in a free market without racial discrimination.

None of the three census tracts with the next highest proportions of rental housing has such a huge discrepancy. With 75 percent rentals, Tract 041600 shows virtually no difference between actual and expected racial composition. Nor does tract 041400 with 65 percent rental. With 69.2 percent rental, tract 041800 has a white population 12.7 percentage points less than expected and a black population 8.6 points higher than expected — signs that racial steering *might* be taking place, albeit not to the degree as in tract 041900.

Figure 8: Tract 041900 Block by Block Racial Composition in Census Block Group 2



Tract 041900 does, however, include two public housing developments that were fairly segregated in 2000. Eighty–two percent of Mercury Court's households were African American in 2000 and just one percent white. Seventy–nine percent of the households at Highland Heights were black and 19 percent Caucasian. Oakland Court, which was 68 percent white and 32 percent black, is in tract 041600 while Franklin Heights sits in tract 041800. As discussed in Chapter 4 under "Public Sector Compliance Issues," data from 2009 shows l*ess racial segregation and more integration* at all four public housing developments.

The changes in racial composition toward integration in Block Group 1 suggest that the area is gradually becoming more racially diverse after decades of racial segregation. The city, however, should remain alert to the changes in racial composition in adjacent tracts 041800 and 042100 where the proportion of black residents has grown larger than would be expected in a housing market free of racial discrimination. Are African American households who leave tract 041900 being steered to these other two tracts rather than looking at housing throughout Murfreesboro? Data from the 2010 Census should be most revealing. This may be an area in which "testing" would answer this question.

It appears, however, while the proportion of minorities decreases in tract 041900, the proportion of minority students in the schools that serve the area has grown rapidly. It would appear that the policies of the two public school systems serving tract 041900 could impede this progress.

Public Schools

Murfreesboro's comprehensive plan recognizes the impact its land–use controls and planning has on the demographic composition of the student body at each of the city's public schools, both the elementary schools operated by the Murfreesboro City Schools and the elementary, middle, and high schools operated by the Rutherford County Schools.[10] The city's plan forthrightly states:

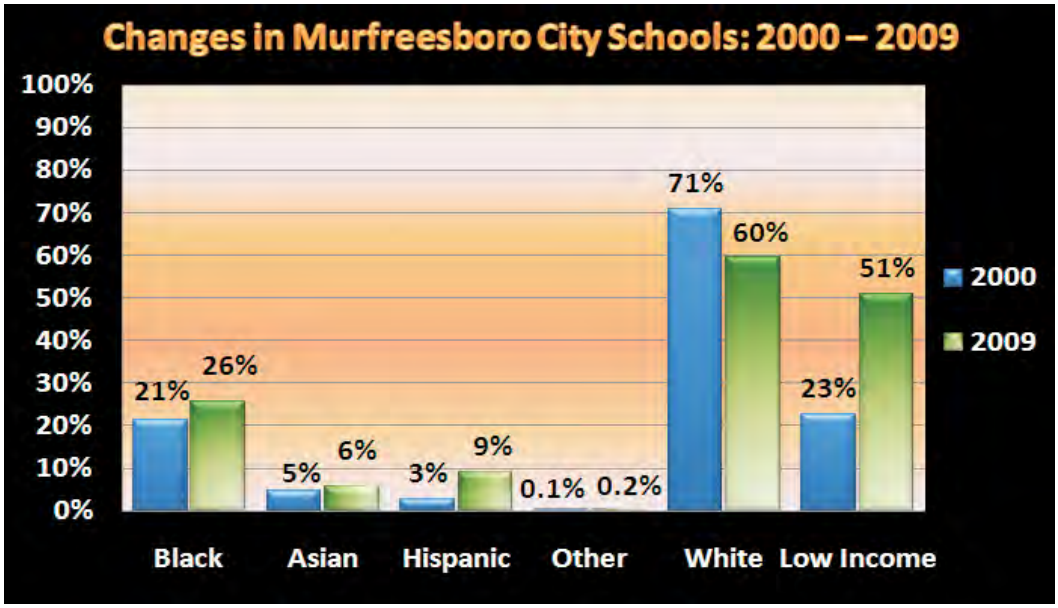
> "Residential single-family developments are to occur in these manners: the entire development will be according to the existing classification; a consideration in residential zonings will be to provide housing that a "neighborhood" school philosophy can be maintained. *An achievement of social/racial/ economic heterogeneous grouping of children in each elementary school zone will be a goal and it will be recognized that residential zoning classifications to some extent serve to meet this goal."* [emphasis added][11]

The Murfreesboro City Schools have been working proactively to help

10. As discussed on the following pages, the demographic composition of a public school can influence who moves into its attendance zone.

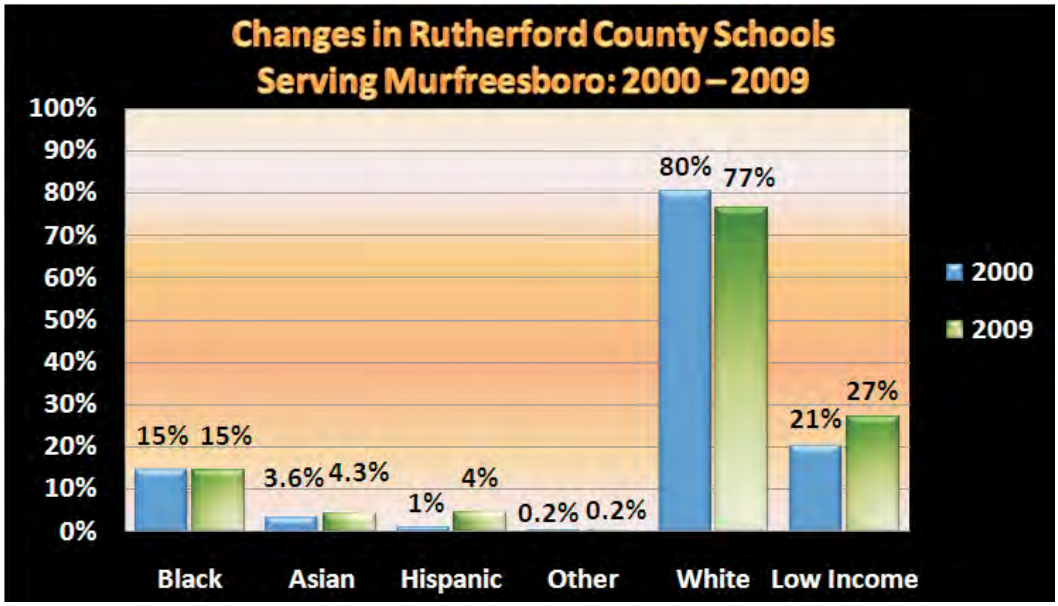
11. City of Murfreesboro Planning and Engineering Department, *Comprehensive Land Use Plan for City of Murfreesboro, Tennessee 1987 Thru 2000,* Revised Fall 1988, 19–20. This plan is still in effect.

Figure 9: Changes in Murfreesboro City Schools: 2000–2009



achieve the city's policy in the face of substantial demographic changes in the student body. Over the past decade, the collective student body of the Murfreesboro City Schools has become more economically and racially diverse. The proportion of students classified as "economically disadvantaged" has grown from

Figure 10: Changes in Rutherford County Schools Serving Murfreesboro: 2000–2009



27.5 percent in 2000 to 50.8 percent in 2009 even though the city as a whole is not close to being that poor.[12] The proportion of pupils from minority households has risen from 29 percent to 40.4 percent even though minorities do not

12. The proportion of "economonically disadvantaged" students attending the Rutherford County Schools

constitute that high a percentage of the city's population.[13] As shown in the two figures above, both school systems have seen fairly similar changes in the composition of their student bodies.

But these changes in the proportion of each demographic group do *not* give the full picture. Neither school system is losing Caucasian pupils. Instead, as the next two tables show, both systems have experienced a significant increase in students from *all* demographic groups.

Table 7: Enrollment Changes in Murfreesboro City Schools: 2000–2009

Enrollment Changes in Murfreesboro City Schools: 2000 – 2009				
Category	2000 Enrollment	2009 Enrollment	Enrollment Difference	Percentage Difference
African American	1,194	1,813	619	52%
Asian	271	393	122	45%
Hispanic	160	630	470	294%
Native American	8	14	6	75%
White	3,991	4,200	209	5%
Economically Disadvantaged	1,551	3,548	1,997	129%
Total Enrollment	5,624	7,050	1,426	25%
Number of Schools	10	12	2	20%

Source: Tennessee Department of Education State Report Card 2000 online at http://www.k-12.state.tn.us/rptcrd00/default.asp and Tennessee Department of Education State Report Card 2009 online at http://edu.reportcard.state.tn.us/pls/apex/f?p=200:1:1283562100113157::NO:::

In 2009, three of the Murfreesboro City Schools (the elementary schools) and one middle school located in Murfreesboro that is part of the Rutherford County Schools system had student bodies comprised mostly of minorities.[14] A student body that is "minority–majority" *can* lead to the neighborhoods the public school serves resegregating from predominantly white to predominantly African American. This change is brought about by the major role that the racial

grew from 22.7 percent to 40.8 percent in 2009. The sources for school data throughout this analysis are the *Tennessee Department of Education State Report Card 2000* available online at http://www.k-12.state.tn.us/rptcrd00/default.asp and the *Tennessee Department of Education State Report Card 2009* available online at http://edu.reportcard.state.tn.us/pls/apex/f?p=200:1:1283562100113157::NO:::

13. Murfreesboro was 17.1 percent minority in 2000 and is estimated to be 24.8 percent minority in 2009 according to the *Claritas Demographic Snapshot Report* for Murfreesboro, Tennessee prepared May 22, 2009. Larger household size among many minority classifications than among Caucasian households as well as age account for *part* of why the proportion of minorities in a city's public schools is higher than among the city's full population. In addition many households do not have school–age children.

14. A fourth school was also majority–minority in 2009. Because Bellwood–Bowdain Preschool serves the entire city, it is excluded from this analysis. The school was 67.6 percent minority with more than 95 percent of its pupils from low–income households. The school was established earlier in the decade specifically to serve high–risk children from low–income households.

Table 8: Enrollment Changes in Rutherford County Schools Serving Murfreesboro: 2000–2009

Enrollment Changes in Rutherford County Public Schools Serving Murfreesboro: 2000 – 2009				
Category	2000 Enrollment	2009 Enrollment	Enrollment Difference	Percentage Difference
African American	1,204	2,018	814	68%
Asian	293	591	298	102%
Hispanic	98	608	510	520%
Native American	13	30	17	131%
White	6,554	10,577	4,023	61%
Economically Disadvantaged	1,670	3,759	2,089	125%
Total Enrollment	8,162	13,824	5,662	69%
Number of Schools	8	13	5	63%

Source: Tennessee Department of Education State Report Card 2000 and Tennessee Department of Education State Report Card 2009

composition of a public school plays for home seekers in determining the desirability of a neighborhood and city in which to live.

The racial composition of public schools is relevant to fair housing because researchers have long known that changes in school racial composition can foreshadow changes in the racial composition of the surrounding community. The challenge to fair housing derives from the way potential Caucasian home seekers perceive the "quality of schools" as a major factor in choosing a home. No matter how inaccurate their views are and regardless of objective standards, a great many white people perceive predominantly white schools as superior, and predominantly minority schools as inferior.[15] So there is a substantial proportion of white households that avoid moving into a school's attendance area because whites are in the minority at the school even though students at the school may be receiving an excellent education.

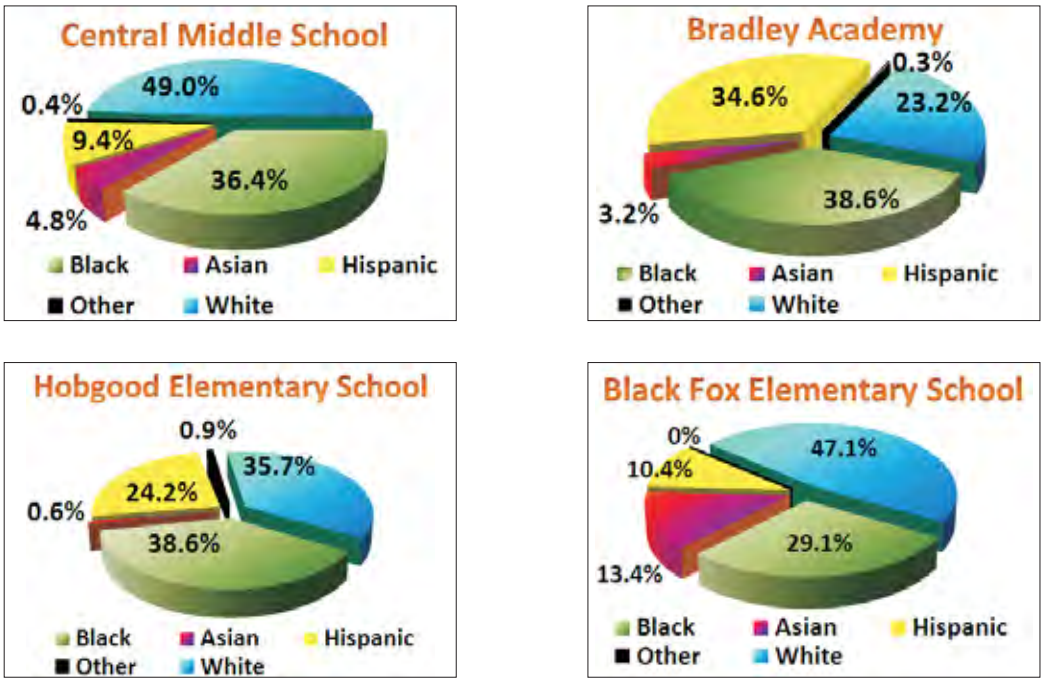
School systems can help take the racial composition out of the equation used by Caucasian households to decide where to live by adjusting attendance zones and the judicious use of magnet and "controlled choice" schools to help the student body at schools better reflect the demographic composition of the entire city.

Researchers have found that throughout the nation, when the student body of a public school has become mostly African American, the school and surrounding neighborhood have almost always "resegregated," changed from nearly all–white to nearly all–black over an average of 13 years. So–called

15. Juliet Saltman, *A Fragile Movement: The Struggle for Neighborhood Stabilization* (Westport, Connecticut: Greenwood Publishing Group, 1990), page 629 of the 1989 manuscript.

"white flight" does not necessarily take place. White demand for housing in the neighborhood shrinks while the proportion of members of minority groups moving in grows.[16] While this kind of resegregation has been the usual pattern, it does *not* have to be inevitable.

Figure 11: Racial Composition in Majority–Minority Public Schools in 2009



The four public schools whose student bodies have become mostly minority serve neighborhoods in the adjacent census tracts 041800, 041900, 042000, and 042100. As noted in the discussion beginning on page 17, the proportion of African American and/or Hispanic households in all four census tracts was greater in 2000 than would be expected if racial discrimination was not distorting the free housing market. The growing proportion of minorities in these four public schools poses a serious challenge to the ability of these neighborhoods to curtail further distortion of the free housing market and prevent resegregation.

The most substantial decline — 26.3 percentage points — in the proportion of white students who attend Central Middle School located just across the street from census tract 041900. All four public housing projects are in Central's attendance zone. Children from two public housing projects, Mercury Court and Highland Heights, are assigned to Bradley Academy located in census tract 041900 (a decline of 25.3 points in the proportion of white students). Hobgood Elementary in tract 042100 experienced 24.5 points drop in the proportion of white pupils attending. The proportion of whites at Black Fox Elementary set in tract 042000

16. Ibid. Also see Daniel Lauber, "Racially Diverse Communities: A National Necessity," in Wendy Kellogg, ed., *African Americans in Urban America: Contemporary Experiences* (Dubuque: Kendall/Hunt, 1996), 180–200.

fell an insignificant 3.4 percent during the decade.[17]

This is how racially and ethnically integrated neighborhoods begin to "resegregate" into primarily minority neighborhoods largely due to discriminatory real estate practices that distort the housing market. Resegregation from a predominantly white or integrated neighborhood to a primarily minority or nearly all–minority neighborhood is *not inevitable as long as action is taken to correct these distortions in the housing market.*

However, Murfreesboro City Schools and, to a lesser extent the Rutherford County Schools, have been taking steps to mitigate these imbalances. Central Middle School, part of the Rutherford County Schools, will become a countywide magnet school for grades seven through 12 this summer. Most of its current students will transfer to Siegel Middle School which was 85.2 percent Caucasian in 2009 and two newly–built middle schools. Switching a neighborhood school to a magnet school that draws pupils from throughout a city tends to bring the school's demographic composition closer to the city's demographic make up.[18]

Bradley and Hobgood are now "controlled choice" schools with a small area around each school zoned to attend that school and the rest of the student body coming from throughout the city. In addition, the Scales attendance area was rezoned to send children to Bradley, Hobgood, and Black Fox. These changes kept the decline in the proportion of white children and the increase in the percentage of children from low–income households at Bradley and Hobgood from being greater than they were.

The racial composition of the two block groups in census tract 041900 was discussed in some depth beginning on page 21. The children who live in Block Group 1 attend five different schools while those living in Block Group 2 attend four. By realigning attendance zones, the Murfreesboro City Schools have generated a more balanced socioeconomic distribution of children from low–income households that helps the city implement the diversity objectives and policies in its *Comprehensive Land Use Plan* that were quoted on page 1.

Murfreesboro's ability to implement these objectives and policies would be greatly enhanced if the Rutherford County Schools work more actively with the city and the Murfreesboro City Schools to help take the racial composition of schools out of the equation when Caucasians make their housing choices.

It would behoove the city to continue to monitor the annual reports of racial composition at Black Fox Elementary, Bradley Academy, Hobgood Elementary, and Central Middle School (which becomes Central Magnet School in summer 2010) to measure the effectiveness of the changes made and being made to these schools. In addition, the city needs to monitor the racial composi-

17. The percentage of white students fell in the last decade at all but one elementary and two high schools located in Murfreesboro. Data for 2000 and 2009 were available for 19 public schools located in the city.

18. Telephone interview with Dr. Linda Gilbert, Director of Schools, and Gary Anderson, Finance/Administrative Services Director, Mufreesboro City Schools, February 15, 2010. Much of this section is based on information provided during this interview.

tion of the neighborhoods surrounding these schools to quickly spot any further shift in racial composition which could reflect a reduction in white demand for housing in these neighborhoods.

As of this writing, it is unknown whether the racial/ethnic composition of these schools do pose an impediment to fair housing choice. Data from the 2010 Census will reveal any changes in the racial composition of the four census tracts in which these schools are located.

It is crucial that the city carefully monitor the racial composition of these four schools and the attendance zones they serve. When 2010 census data are available, another an analysis to identify the racial composition of each tract if no racial discrimination is taking place should be conducted to determine the direction in which each of these neighborhoods is going.[19]

If Murfreesboro implements the recommendations suggested in Chapter 5, it is likely that there will be strong demand for housing in these areas from all races and ethnicities that will establish them as stable racially–diverse neighborhoods.

Employment

With considerable commercial and industrial growth, Murfreesboro's population isn't the only aspect of the city that's been growing rapidly the past two decades. Since World War II, Murfreesboro's economy has shifted from an agrarian to an industrial and commercial base.

Table 9: Murfreesboro Private Sector Businesses by Industry and Number of Employees: 2007

Murfreesboro Private Sector Businesses by Industry and Number of Employees: 2007										
Private Sector Industry	Total Number of Businesses	Number of Businesses by Number of Employees								
		1 to 4	5 to 9	10 to 19	20 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1000+
All private sector industries	**3,007**	**1,487**	**627**	**419**	**296**	**99**	**62**	**9**	**5**	**3**
Mining	2	-	-	-	2	-	-	-	-	-
Utilities	5	2	-	-	1	1	1	-	-	-
Construction	347	220	60	41	21	2	3	-	-	-
Manufacturing	107	34	21	14	16	9	6	4	3	-
Wholesale trade	132	69	26	23	8	3	1	-	-	-
Retail trade	554	235	142	87	54	18	16	2	-	-
Transportation and warehousing	79	44	13	11	4	4	3	-	-	-
Information	29	12	4	5	3	4	-	-	1	-
Finance and insurance	231	140	49	27	10	2	1	1	-	1
Real estate and rental and leasing	153	94	34	21	4	-	-	-	-	-
Professional, scientific, and technical services	251	170	44	18	15	3	1	-	-	-
Management of companies and enterprises	11	3	3	-	2	1	2	-	-	-
Admin, support, waste management, remediation services	125	63	30	9	13	6	2	1	1	-
Educational services	28	15	3	3	6	-	1	-	-	-
Health care and social assistance	325	126	76	58	44	7	11	1	-	2
Arts, entertainment, and recreation	34	18	5	5	4	1	1	-	-	-
Accommodation and food services	283	62	44	63	73	29	12	-	-	-
Other services (except public administration)	309	178	73	32	16	9	1	-	-	-
Unclassified	2	2	-	-	-	-	-	-	-	-

Source: "County Business Patterns," U.S. Census Bureau at https://www.census.gov/econ/cbp

19. See the analysis beginning on page 17.

Table 9 above illustrates the diversity of the city's 3,007 private sector businesses in 2007. Nearly one–third of the businesses had ten or more employees.

Table 10: Twenty Largest Murfreesboro Employers: 2010

Twenty Largest Murfreesboro Employers: 2010		
Employer	**Nature of Employer**	**Number of Employees**
Rutherford County Government	County operations and services plus kindergarten through twelfth grade county public school system	5,100
Middle Tennessee State University	Public university	2,151
State Farm Operations Center	Insurance	1,708
Alvin C. York Veterans Administration Medical Center	Veterans Administration medical center	1,563
Middle Tennessee Medical Center	Hospital and health services	1,300
Verizon Wireless	Cellular phone customer service call center	1,100
Murfreesboro City Schools	Elementary public schools (874 full time, each of 317 part time employee counted as ½ employee)	1,032
City of Murfreesboro	City operations and services	960
General Mills/Pillsbury	Manufacturer of refrigerated baked goods	865
National HealthCare Corporation (NHC)	Long-term health care centers	700
Murfreesboro Medical Clinic	Health services	475
MAHLE Filter Systems	Manufacturer of automotive systems	385
Rich Products	Manufacturer of refrigerated baked goods	342
Perfect Equipment Inc.	Manufacturer of wheel weights	278
Lewis Bakeries Inc.	Manufacturer of bread & roll products	250
Johnson Controls Inc.	Automotive interiors	225
Heritage Farms Dairy	Manufacturer of dairy products	199
International Paper	Manufacturer of corrugated paper products	130
InterMetro Industries	Storage & transport solutions	110
RoscoeBrown, Inc.	Sales, service, and installation of heating and air conditioning systems	98

Source: Rutherford County Chamber of Commerce, compiled by Bess Rickman, January 2010

Table 11 : Murfreesboro Labor Force: 2005–2008

Murfreesboro Labor Force: 2005–2008				
Year	Size of Work Force	Number Employed	Number Unemployed	Unemployment Rate
2005	46,674	44,876	1,798	3.9%
2006	50,740	48,300	2,440	4.8%
2007	52,229	49,841	2,388	4.6%
2008	53,479	49,843	3,636	6.8%
2009*	51,977	46,991	4,986	9.6%

* = October 2009 preliminary figures

Source: United States Bureau of Labor Statistics, http://data.bls.gov, Series Id: LAUCT47030005,LAUCT47030003,LAUCT47030006,LAUCT47030004

Murfreesboro residents enjoy employment opportunities at such huge Rutherford County employers as Nissan Motor Manufacturing; Ingram Book Company, one of the largest national wholesalers of books and media; State Farm Insurance; and Verizon.

Since the research for the city's last *Analysis of Impediments* was completed in 2004, both the size of the work force and the number employed have increased — despite the deep recession afflicting the entire nation. These increase reflect the continuing migration of people to Murfreesboro. As with the rest of the nation, the city's unemployment rate rose in 2008 and 2009.

Table 12: Unemployment Rates: 2005–2009

Unemployment Rates: 2005-2009			
Year	Murfeesboro	Rutherford County	Tennessee
2005	3.9%	4.2%	5.6%
2006	4.8%	4.0%	5.2%
2007	4.6%	3.8%	4.8%
2008	6.8%	5.7%	6.4%
2009*	9.6%	9.3%	10.2%

*November 2009 figures. Not seasonally adjusted

Source: United States Bureau of Labor Statistics, http://www.bls.gov/data

In some years Murfreesboro's unemployment rate has been higher than for the entire state and for all of Rutherford County; in other years lower. There is no discernable pattern.

Racial and ethnic composition of workers compared to residents

The racial and ethnic composition of those who work in Murfreesboro in 2000 was very similar to the make up of the city's population. African Americans constituted 8.9 percent of workers and 13.5 percent of residents. Whites comprised 85.7 percent of employees and 81 percent of city inhabitants. Asians were 1.2 percent of the workers and 2.9 percent of residents. People of Hispanic ancestry made up 2.2 percent of employees and 3.5 percent of residents. There is no reason to expect the racial and ethnic composition of any city's residents and workers to be identical. The concentration of African Americans in the lower paid blue collar and service sector occupational groups should be of concern, but falls outside the scope of an analysis of impediments to fair housing choice.

Table 13: People Who Work in Murfreesboro by Race and Ethnicity: 2000

People Who Work in Murfreesboro by Race and Ethnicity: 2000					
Occupational Group	All Groups	White Non-Hispanic	Hispanic	Black Non-Hispanic	Asian Non-Hispanic
Murfreesboro Residents	100%	81.0%	3.5%	13.5%	2.9%
Total Employed in Murfreesboro	41,532	35,611	894	3,110	673
	100%	85.7%	2.2%	8.9%	1.6%
Management, Business, and Financial Workers	100%	92.5%	0.7%	5.9%	0.5%
Science, Engineering, and Computer Professionals	100%	88.8%	1.2%	4.3%	2.9%
Healthcare Practitioner Professionals	100%	89.6%	0.0%	5.7%	2.2%
Other Professional Workers	100%	90.0%	0.4%	6.5%	2.1%
Technicians	100%	86.2%	0.0%	9.4%	0.4%
Sales Workers	100%	86.1%	1.4%	9.9%	1.0%
Administrative Support Workers	100%	89.0%	1.1%	7.4%	1.5%
Construction and Extractive Craft Workers	100%	84.9%	8.8%	4.5%	0.2%
Installation, Maintenance, and Repair Craft Workers	100%	93.8%	1.6%	2.8%	0.8%
Production Operative Workers	100%	71.7%	3.8%	16.9%	4.6%
Transportation and Material Moving Operative Workers	100%	85.7%	0.7%	10.9%	1.8%
Laborers and Helpers	100%	80.8%	9.3%	7.8%	0.0%
Protective Service Workers	100%	78.9%	2.9%	17.6%	0.0%
Service Workers, except Protective	100%	79.6%	3.0%	12.9%	2.5%

Sources: 2000 Census EEO Data Tool at http://www.census.gov/hhes/www/eeoindex/page_c.html and 2000 Census, U.S.Census Bureau, Tables P7 and P11.

In 2000, the commute time for 54 percent of Murfreesboro residents was under 20 minutes and under 35 minutes for 75 percent of city inhabitants. Just 20 percent spent more than 45 minutes traveling to work.[20] It is estimated that in 2009, 37 percent commuted fewer than 15 minutes, 29 percent 15 to 29 miniutes, 15 percent 30 to 44 minutes, and 20 percent 45 or more minutes.[21]

Reducing the time spent commuting increases the desirability of living in a community which bodes well for the attractiveness of Murfreesboro. A well–regarded 2004 study arrived at the "unambiguous conclusion" that, "The length of their commute to work holds a dominant place in Americans' decisions about where to live. Americans place a high value on limiting their commute times and they are more likely to see improved public transportation and changing patterns of housing development as the solutions to longer commutes than increasing road capacities."[22]

More specifically, this random–sample national survey found:

- "A limited commute time is, for most Americans, an important factor in deciding where to live. Being within a 45–minute commute to work is rated highest among a list of fourteen priorities in thinking about where to live (79%) "very" or "somewhat" important), followed by easy access to highways (75%) and having sidewalks and places to walk (72%).
- "A short commute is particularly important to people who plan to buy a home in the next three years (87%) and women and African Americans place high importance on sidewalks and places to walk (76% and 85%, respectively)."[23]

Transportation

With 83 percent of its workers driving a car, truck, or van to work and 10 percent car pooling, Murfreesboro was similar to all of Rutherford County and the State of Tennessee in 2007.[24] The average commute for Murfreesboro residents took 24 minutes compared to 26 for all of Rutherford County and 23.8 throughout the state.

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20. "P31.Travel time to work for workers 16 years and over," Census 2000 Summary File 3 (SF 3), U.S.Census Bureau.

21. *Claritas Demographic Snapshot Report* for Murfreesboro, Tennessee, prepared May 22, 2009.

22. Belden Russonello & Stewart Research and Communications, *2004 American Community Survey National Survey on Communities* (October 2004), 1. Available online as a PDF file at http://smartgrowthamerica.org/narsgareport.html

23. Ibid. 7, 9.

24. "Selected Economic Characteristics: 2007," Data Set: 2007 American Community Survey 1–Year Estimates for Murfreesboro, TN; Rutherford County, TN; and the State of Tennessee.

With 5.5 percent of its households lacking access to any motor vehicle, Murfreesboro residents had roughly the same access to a motor vehicle as all of Rutherford County and the entire state.[25] As elsewhere, the households without a motor vehicle tend to be low–income. A lack of reliable public transportation tends to restrict their work and housing opportunities.[26]

Recognizing the importance of public transportation to connect workers with job opportunities, Murfreesboro established a public transit system called "Rover" in 2007. A major goal of the system was to give citizens with limited transportation options the ability to access employment opportunities. Routes were established to connect neighborhoods with higher concentrations of lower–income households with the city's employment centers.

Figure 12: Rover Buses

At 50 cents for seniors and people with disabilities and $1 for all other riders, fares are affordable even to the lowest income riders. Transfers are free. With a weekday–only schedule from 6 a.m. to 6 p.m., Rover focuses on providing transportation for workers. The system, however, does not serve employees who work later than 6 p.m. weekdays, night shifts, or on weekends.

The eight Rover routes connect the city's employment centers with its neighborhoods with higher concentrations of households with lower incomes. Buses serve all five public housing developments. The Mercury route runs through Mercury Court and within two blocks of Highland Heights. The Old Fort route runs along the northern border of Franklin Heights. The Gateway route runs through Oakland Court. Three routes — Gateway, Memorial, and NW Broad — all run past Westbrooks Towers. Since all routes originate and transfer at the Rover Transit Center at the northeast corner of Walnut and Burton, all routes are accessible to residents of public housing.

The Rover system started operating with 743 riders in its first month, April 2007. Monthly ridership peaked at 16,165 in October 2008 and stood at 15,727 in October 2009.[27] This 2.7 percent decline in ridership rests between the 5 percent nationwide fall compared to a year earlier and the 1 percent decline in cities below 100,000 population. Since 60 percent of transit trips are to and from work, it is not surprising that the use of transit has fallen during this reces-

25. *Ibid.*

26. TranSystems Corporation, *City of Murfreesboro Transit Service and Management Alternatives*, (Murfreesboro, May 2005), 3, 11.

27. City of Murfreesboro Transportation Department, "Rover Monthly Ridership and Revenue Figures." In September 2008 ridership reached 18,637. However, each September the city offers free rides to an annual event which drew 1,500 riders in 2008. Consequently September is not an appropriate month to use for measuring ridership levels over time.

sion.[28] In addition, ridership rose during 2008 as the price of gasoline rose. Lower gas prices have probably contributed to the reduction in ridership. This small decline in the use of Rover suggests that this recession *may* have hit Murfreesboro's transit–dependent population a bit harder than vehicle owners.

The fixed–route Rover System has issued more than 120 reduced fare cards to people with disabilities. All Rover buses are equipped with lifts to make them accessible to people who use a wheelchair. Bus stops themselves, however, are not all wheelchair accessible.

The city contracts with the Mid–Cumberland Human Resource Agency to supplement the fixed–route Rover system with curb–to–curb paratransit service for people with disabilities weekdays between 6 a.m. and 6 p.m. Reservations must be placed 24 hours in advance. Fares are $2 within the city and $3 to destinations elsewhere in Rutherford County. Higher fares are charged for trips outside Rutherford County.

Paratransit ridership is on the upswing. The first quarter of the 2009–2010 fiscal year saw a 23 percent jump in the number of trips originating in Murfreesboro compared to July through September 2008. Projecting this 23 percent rate of increase to the full fiscal year suggests that the number of trips would increase to 5,921 from 4,814 in fiscal year 2008–2009. The number of trips originating in Smyrna and Lavergne rose 27 percent during the same period.

The Regional Transportation Authority runs a "Relax–and–Ride" commuter bus service ("R.T.A. Murfreesboro Express," Route 96X) that connects to Nashville's bus service during weekday morning (three to Nashville and one to Murfreesboro) and evening (four to Murfreesboro and one to Nashville) commuter hours, plus one or two midday trips. There are stops at park–and–ride lots in Smyrna and LaVergne. Fares are $3.50 each way. Multi–ticket discounts are available. In 2008 an average of 7,040 passengers rode the R.T.A. Murfreesboro Express each month. For the first 11 months of 2009, the monthly average was 5,786, a 17.8 percent decline.[29] This decline is likely due to increased unemployment and lower gas prices.

Many Murfreesboro residents report that the Relax–and–Ride buses would have to run on an hourly schedule to become a desirable alternative to driving. In 2005 Murfreesboro identified the lack of reliable public transportation options as "a major barrier to employment — particularly for the better paying jobs outside of the City of Murfreesboro." It was found that most of the desirable jobs involved nontraditional hours.[30] None of the public transit options provide service during nontraditional hours. These roadblocks continue to exist today.

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28. American Public Transportation Association, "Transit Ridership Report Third Quarter 2009," (Washington, DC: December 2009) available online at http://www.apta.com.

29. Route 96X ridership figures supplied via email by James McAteer, AICP, Director of Planning, Nashville Metropolitan Transit Authority, Regional Transportation Authority, January 4, 2010.

30. TranSystems Corporation, *City of Murfreesboro Transit Service and Management Alternatives*, (Murfreesboro, May 2005), 11.

All Relax–and–Ride routes include a stop at Middle Tennessee State University and a transfer point to the Rover system at Mercury Plaza. An Emergency Ride Home Program offers a free ride home in case of unexpected overtime, an emergency, or illness.

Availability of land for residential development

Reflecting the national economy, Murfreesboro's rapid growth has slowed since its 2004 peak of residential permits approved as reflected in the table below.

Table 14: New Construction Activity in Murfreesboro: 2000–2009

New Construction Activity in Murfreesboro: 2000–2009						
Year	Single Family Units	Change from Previous Year	Multiple Family Dwelling Units	Change from Previous Year	Commercial Building Permits	Change from Previous Year
2000	964	—	520	—	72	—
2001	1,136	18%	770	48%	55	-24%
2002	1,284	13%	140	-82%	61	11%
2003	1,603	25%	120	-14%	50	-18%
2004	1,904	19%	1,267	956%	60	20%
2005	1,793	-6%	1,082	-15%	65	8%
2006	1,597	-11%	345	-68%	69	6%
2007	1,157	-28%	237	-31%	95	38%
2008	572	-51%	896	278%	57	-40%
2009	406	-29%	84	-91%	26	-54%
Total	5,525	—	2,644	—	312	—

Source: Joseph Aydelott, *2009 Year End Building Construction Activity Report,* January 5, 2010

As of 2009, about 74 percent of the city's 55.4 square miles of land was in zoning districts that allow residential uses. Just over 21,415 acres, 81.4 percent of the land in zoning districts that allow residential uses, are developed. Of all the land in which residential uses are allowed, 61 percent is in the five zoning districts that allow only single–family detached dwellings (RS–4 through RS–15). As the figures on the next page and Table 15 show, 12.3 percent is still available for development, just 1,970 acres.

Minimum lot sizes in these single–family residential districts range from 4,000 square feet in the RS–4 district (53 acres) to 15,000 square feet in the RS–15 district (9,762 acres).

Eleven percent of the city in which residential uses are allowed is in zoning districts that permit other types of residential uses such as zero lot line homes

(RZ), duplexes (R–D), multi–family dwellings (RM–12, RM–16,RM–22), and mobile homes (R–MO). Only 135.6 acres of the 2,804 acres in these six zoning districts are still available for development.

Four primarily commercial districts (CL, CM–R1, OG–R1, and CBD) allow all residential uses except multiple–family dwellings (structures housing more than four families). Only 13.7 percent of the land in these districts — 51.8 acres — was not developed as of 2009.

The College and University District (CU) is nearly completely built out with just 0.07 of its 632 acres undeveloped.

The Planned Residential Development District (PRD) and Planned Unit Development District (PUD) constitute one–fourth of all the land zoned for residential use in Murfreesboro. Between them, 2,736 acres were still available for development in 2009.

For every zoning district that allows residential uses, the table on the next page shows the amount of land mapped to each zoning district as well as how much of each district is still undeveloped.

Murfreesboro has grown largely through annexations that property owners request in anticipation of development. The city's comprehensive plan says that newly annexed areas that the county had zoned as residential or agricultural should be initially zoned "RS–15." The Planning Department is instructed to produce a zoning plan for the annexed area within six

Figure 13: Status of Single–Family Zoned Land

Figure 14: Status of Multi–Family Zoned Land

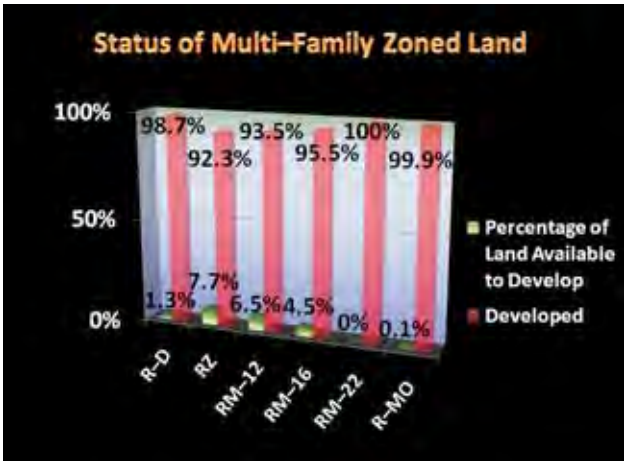
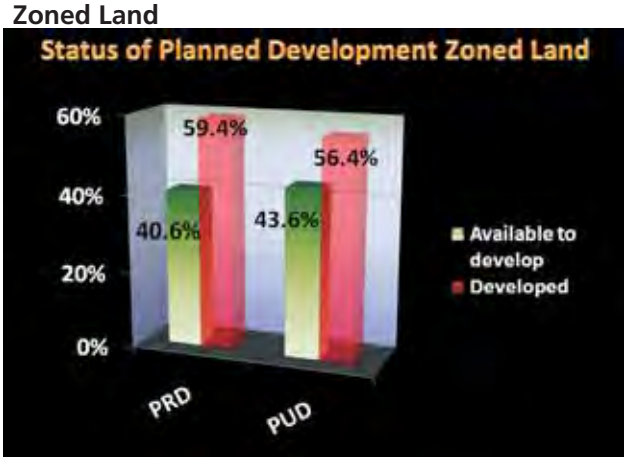


Figure 15: Status of Planned Development Zoned Land



months of annexation.[31]

No data were available that breaks down the annexed land by number of single–family and multiple–family dwelling units included. The number of new single–family units for which permits were issued between 2000 and 2009 was nearly twice the number of multi–family units as shown in the table "New Construction Activity in Murfreesboro: 2000–2009" on page 37.

Table 15: Land Zoned Residential As Of 2009

Land Zoned for Residential Use As Of 2009					
Zoning Districts That Allow Residential Uses		Minimum Lot Area in Square Feet	Total Acres	Land Available to Develop in Acres	Percentage of Land Available to Develop
RS–15	Single–Family Residential District	15,000	9,762	1,421.00	14.6%
RS–12	Single–Family Residential District	12,000	2,433	244.00	10.0%
RS–10	Single–Family Residential District	10,000	3,384	301.00	8.9%
RS–8	Single–Family Residential District	8,000	393	4.00	1.0%
RS–4	Single–Family Residential District	4,000	53	0.00	0.0%
R–D	Duplex Residential District	8,000	340	4.50	1.3%
RZ	Residential Zero Lot Line District	3,000	499	38.20	7.7%
RM–12	Residential Multifamily District	3,700 to 15,000	472	30.80	6.5%
RM–16	Residential Multifamily District	3,000 to 12,000	1,394	62.10	4.5%
RM–22	Residential Multifamily District	2,500 to 10,000	30	0.00	0.0%
R–MO	Mobile Home District	4,000	69	0.05	0.1%
CL[1]	Local Commercial District	3,750 to 15,000	123	8.63	7.0%
CM–R1	Medical District Residential	2,500 to 15,000	148	20.20	13.6%
OG–R1	General Office District – Residential	2,500 to 12,000	66	20.00	30.3%
CBD[2]	Central Business District	No minimum	39	3.00	7.7%
CM–RS–83	Medical District Residential Single–Family	8,000 SF only	5	0.30	6.0%
CU[4]	College and University District	10,000 to 25,000	632	0.07	0.0%
PRD	Planned Residential Development District		2,785	1,129.71	40.6%
PUD	Planned Unit Development District		3,685	1,606.70	43.6%
Total Land Zoned for Residential Use			**26,312**	**4,894**	**18.6%**

1 The CL, CM–R, and OG–R districts also permit single–family detached, single–family attached, two–family, three–family, and four–family dwellings

2 The CBD district allows multiple–family dwellings

3 The CM–RS–8 district allows s single–family detached dwellings

4 The CU district also permits single–family detached, single–family attached, two–family, three–family, four–family, and multiple–family dwellings

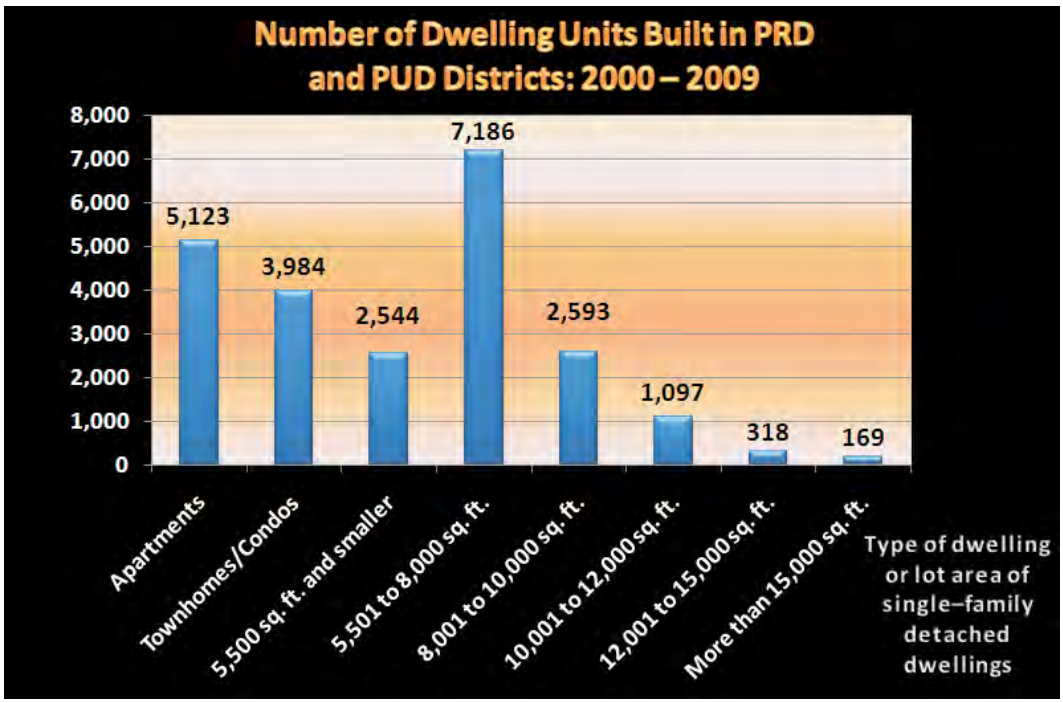
However, during the past decade the city has allowed a wide variety of development in the PRD and PUD districts. When a developer has sought to build in a single–family district, the city usually rezones the land PRD or PUD to give the developer flexibility and enable the inclusion of multi–family housing and/or smaller lot sizes for single–family houses. As illustrated in the figure below, 22.3 percent of the dwelling units built in these zones have been rental apartments and 17.3 percent have been townhouses and condominiums. Just over 42

31. City of Murfressboro Planning and Engineering Department, *Comprehensive Land Use Plan for City of Murfreesboro, Tennessee 1987 Thru 2000,* Revised Fall 1988, 17.

percent of the dwelling units are single—family detached homes built on lots of 8,000 square feet or less. Only 6.9 percent of the dwelling units are single–family homes built on relatively large lots of 10,000 square feet or more. These practices have fostered the construction of less costly housing than if more large sized lots had been used, enabling the city to better meet the housing needs of households that are not among the most affluent.

These practices help implement several plan goals and policies. The plan establishes goals to "provide for a sufficient amount of quality and diverse housing types" and "that suitable and affordable housing be available to every family."[32] To implement these goals, the plan proffers an objective to "encourage a diversity of housing types throughout the City. New development should be compatible with existing adjacent housing."[33]

Figure 16: Number of Dwelling Units Built in PRD and PUD Districts: 2000–2009



The plan establishes a policy, "Land use patterns that shorten travel distances for essential services, limit pollution, allow for alternative modes of transportation and generally conserve energy should be encouraged."[34] This policy suggests land near employment centers should be zoned for smaller minimum lot sizes (RS–8 and RS–4), duplexes (R–D), multi–family units (RM–12 through RM–22), and zero lot line development (RZ) as well as using PRD and PUD districts to include a mix of different types of housing with a wide range of

32. Ibid., 12.

33. Ibid., 13.

34. Ibid., 3.

price points.

Another policy states that "A variety of housing types should be provided and innovative development patterns and building methods resulting in more affordable housing should be encouraged."[35] With 56 percent of vacant land zoned for residential use in the PUD and PRD districts, the city can continue to use these districts to implement this policy and the preceding one.

35. Ibid., 4.

Chapter 4

Status of Fair Housing in Murfreesboro

Private Sector Compliance Issues

Fair Housing Complaints and Studies

There has been virtually no change in the number of fair housing complaints involving Murfreesboro property filed with the Tennessee Fair Housing Council or the U.S. Department of Housing and Urban Development since Murfreesboro's 2005 Analysis of Impediments was completed. Twenty fair housing complaints were filed with the Tennessee Fair Housing Council in the five year period ending in 2004 with 21 complaints filed in the five years ending in 2009.

With only one complaint related to the sale of a home, 95 percent of the complaints involved a rental. More than half involved disabilities with race and familial status a distant second and third.

Table 16: Murfreesboro Fair Housing Complaints Filed with the Tennessee Fair Housing Council: 2005 – 2009

Murfreesboro Fair Housing Complaints Filed with the Tennessee Fair Housing Council: 2005 – 2009								
Basis of complaints	All complaints		Rental		Sales		Zoning/Land Use	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Race	5	24%	4	19%	1	5%		0%
National origin	0	0%		0%		0%		0%
Color	0	0%		0%		0%		0%
Religion	0	0%		0%		0%		0%
Sex	1	5%	1	5%		0%		0%
Familial Status	3	14%	3	14%		0%		0%
Disability	12	57%	11	52%		0%	1	5%
TOTAL	21	100%	19	90%	1	5%	1	5%

Some complaints included more than one category. Percentages are of the total number of 21 complaints.

Source: Tennessee Fair Housing Council

Fair housing complaints involving properties in Murfreesboro that the Tennessee Fair Housing Council received include:

- A white woman with disabilities lived in a mobile home that she had purchased in full from the park's owner. In her fair housing complaint she alleged that her landlord — the owner of the park who rented the space to her where her mobile home was parked — started to harass her and filed a detainer lawsuit to evict her, falsely alleging that she was behind on her rent and taxes. The woman was able to prove that her rent and taxes were paid in full. The landlord told the woman's attorney that he was actually trying to evict her because she and "that black man" (her boyfriend) were "running drugs out of the trailer," an allegation for which he had no evidence. The landlord also contacted other mobile home parks in the area and made the same allegations to them, effectively making it impossible for the complainant to do anything other than abandon the mobile home she had bought. The complainant later was able to sell the mobile home and moved into a house she purchased, but not before filing a race and disability discrimination complaint against her landlord.
- Early in the day the potential tenant left a voice mail message for the landlord from her home phone inquiring about a duplex unit in Murfreesboro. Later in the day she called him *from her work phone* and the landlord answered. She explained to him that the location was perfect. He seemed eager and ready to show the unit to her — until she mentioned that she was legally blind and has a young son. The landlord suddenly remembered that he had already shown the unit to another party who would probably rent it. Later that day, the landlord returned her voice mail message and offered to set up a showing. He did not recognize her voice. An administrative complaint is pending.
- A man with a developmental disability sought to rent an apartment but was rejected because his income (SSI) did not meet the landlord's minimum income requirement and the landlord would not allow his brother to co–sign and guarantee the rent. The Tennessee Fair Housing Council asked the landlord to make a reasonable accommodation by allowing the applicant's parents to co–sign his lease since they handle all his money and can make sure his rent would be paid. The landlord accepted.
- The tenant complainant had disabilities due to the medication she was taking that suppressed her immune system. She needed to break her lease to move out of the house because the house was making her sicker. The house had mold and standing water underneath. Built in 1947, it had dirty air ducts and sludge in the kitchen and laundry traps. The Tennessee Fair Housing Council intervened and convinced the landlord to terminate the lease so the tenant could move to a home that did not make her ill.
- The landlord sought to evict the tenant who has multiple disabilities for conduct that she denied engaging in. Due to her disabilities, she relied heavily on her mother, who lives in the complex next door which would make moving an extreme hardship for her. The Tennessee Fair Housing

Council asked the landlord to make a reasonable accommodation by canceling the eviction. The landlord agreed.

- An African–American woman rented a house from a landlord who later tried to evict her because he thought that her two teenage sons were involved in a police incident — an incident in which they were not involved. The landlord told an investigator from the Tennessee Fair Housing Council that she "feared for her life" from the two teenagers. The complainant moved out voluntarily, and the landlord then sued her for non–existent damages but failed to show up for court. The same landlord later tried to evict a white friend of the complainant who had tried to assist the complainant, telling the friend, among other things, "I know you have a black boyfriend."

- A woman living in a subsidized housing complex verbally asked to use portable washer/dryer unit at her expense (including the extra water she uses) because her disability made it difficult for her to carry laundry to community laundries. The landlord rejected her request saying "if we allow it for you, we have to allow it for everyone." She later moved out and into a complex with laundry hookups in individual units.

Table 17: Rutherford County Fair Housing Complaints Filed with the Tennessee Fair Housing Council: 2005 – 2009

Rutherford County Fair Housing Complaints Filed with the Tennessee Fair Housing Council: 2005 – 2009								
Basis of complaints	All complaints		Rental		Sales		Zoning/Land Use	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Race	7	26%	5	19%	2	7%		0%
National origin	0	0%		0%		0%		0%
Color	0	0%		0%		0%		0%
Religion	0	0%		0%		0%		0%
Sex	1	4%	1	4%		0%		0%
Familial Status	5	19%	5	19%		0%		0%
Disability	14	52%	13	48%		0%	1	4%
TOTAL	27	100%	24	89%	2	7%	1	4%

Some complaints included more than one category. Percentages are of the total number of 27 complaints.

Source: Tennessee Fair Housing Council

- The City of Murfreesboro declined to issue a certificate of occupancy for a group home for children with disabilities. The complainant asserted that city officials balked because the proposed group home did not comply with the zoning code's definition of "family." The city reports that it had received conflicting information on whether the occupants would be referred by the courts and whether the home would be a "lock down." After establishing the actual nature of the prospective residents, the city issued the certificate of occupancy.

Twenty–eight fair housing complaints involving Murfreesboro property were filed with the U.S. Department of Housing and Urban Development (HUD) in the five years ending with 2009. The vast majority of complaints filed with HUD do not result in lawsuits. Some fair housing complaints are filed directly with HUD. Other fair housing complaints are initially filed with the Tennessee Fair Housing Council or the State of Tennessee. If they cannot resolve a complaint, it is forwarded to HUD for investigation and resolution.

Table 18: Types of Murfreesboro Fair Housing Complaints Filed with HUD: 2005 –2009

Types of Murfreesboro Fair Housing Complaints Filed with HUD: 2005 – 2009								
Basis of complaints	All complaints		Rental		Sales		Other	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Race	13	46%	11	39%	2	7%		0%
National origin	1	4%	1	4%		0%		0%
Color	1	4%	1	4%		0%		0%
Religion	1	4%		0%		0%	1	4%
Sex	2	7%	2	7%		0%		0%
Familial Status	3	11%	3	11%		0%		0%
Disability	6	21%	6	21%		0%		0%
Unknown	1	4%	1	4%		0%		0%
TOTAL	28	100%	25	89%	2	7%	1	4%

Some complaints included more than one category. Percentages are of the total number of 28 complaints.
Source: U.S.Department of Housing and Urban Development

The largest number of complaints were for discrimination based on race. The next largest basis was disabilities, with less than half as many as those based on race. Nine in ten complaints involved rentals. Over 71 percent of the complaints resulted in a "no cause determination," 11 percent were dismissed for lack of jurisdiction, 14 percent were settled through conciliation, and one complaint was dropped because the complainant could not be located.

One of these complaints was against the City of Murfreesboro's Community Development Department. The complainant had applied for funds under the city's Housing Rehabilitation Program. When he got to the head of the waiting list, the city's rehabilitation specialist allegedly attempted to notify him and allegedly was unable to contact him. The specialist then removed the applicant from the waiting list. A year later the applicant appeared at the Community Development office demanding to know why his application was dropped from the waiting list. He filed a complaint with HUD claiming he was discriminated against on the basis of his race and disability. It was settled through the conciliation process.

This appears to be a singular incident due to the actions of one city employee who no longer works for Murfreesboro. There were numerous code violations unrelated to the proposed rehabilitation on the applicant's property. The applicant agreed to correct those violations and the city agreed to reconsider his application. The funds were awarded and the rehabilitation was performed.

One complaint alleging discrimination based on race and disability was filed in 2005 against the Murfreesboro Housing Authority (MHA). The complainant was a homeless man of African ancestry with diabetes, congestive heart failure, and other disabling physical conditions. He sought emergency housing from the MHA on several occasions despite being informed that the MHA did not provide homeless housing. Saying he did not want to live with all those people, he declined to go to either of the two homeless shelters to which the MHA referred him for temporary housing until his eligibility for public housing could be determined. Once the complainant submitted a full application, he was accepted and placed on the waiting list for public housing at number 51.

The HUD investigation determined that the MHA applied its "Residence Selection Guidelines" and placed the complainant on its waiting list after he complied with the guidelines. Investigators determined that there was no evidence to back up his allegations of discriminations and the complaint was dismissed.

Complaints Filed Under the City of Murfreesboro's Fair Housing Ordinance

According to city staff, Murfreesboro's fair housing ordinance was last revised in 1992. The coverage of the city's law is essentially the same as the state and federal fair housing statutes. However, it does provide for appointment of a five–member Fair Housing Board — one that has never been appointed.

The city's Community Development Director serves as the Murfreesboro's fair housing officer. He receives one or two fair housing complaints in the typical year. If he determines a complaint might have merit, he forwards it to the Tennessee Fair Housing Council for assessment and further action.

It's well established that for each fair housing complaint that is actually filed, there are hundreds more that are not. Often acts of housing discrimination are so sophisticated or subtle that victims don't know they've been denied an opportunity to buy or rent — or even see — housing due to their race, gender, disability, familial status, etc. Placing enforcement responsibility in the hands of any city staff member without a thorough understanding of fair housing law and the ability to conduct a thorough investigation further hinders fair housing choice.

Incidents of Hate Crimes and Acts of Racial Violence

All of the seven hate crimes reported within Murfreesboro during the five–year study period were based on race. The police assign a "special watch" when a victim or complainant requests followup patrols and/or an increased police presence following an incident. In cases where the suspect cannot be identified or where the victim does not wish to prosecute, special watches are sometimes requested to give the victim or complainant a sense of security and to prevent recurrences.

Table 19 : Hate Crimes in Murfreesboro: 2005–2009

Hate Crimes in Murfreesboro: 2005–2009				
Date	Motivation	Victim	Suspect	Disposition
6/25/2005	Racial	Hispanic	African American	Special watch
3/15/2006	Racial	African American	Unknown	Pending
7/1/2006	Racial	African American	White	Met with suspect
7/1/2006	Racial	Asian	African American	No leads
5/31/2007	Racial	African American	White	No charges
4/23/2009	Racial	African American	White	No charges
8/31/2009	Racial	African American	White	Special Watch

Source: Murfreesboro Police Department, October 29, 2009

Home Mortgage Lending Practices

Issuance of Home Mortgage Loans

Among the roadblocks to fair housing choice throughout the nation have been practices of the lending community that have resulted in minorities, especially African Americans, being denied mortgages at a substantially higher rate than Caucasians. Murfreesboro's 2004 *Analysis of Impediments to Fair Housing Choice* reports denial rates for African Americans of 31.9 percent in 2000, 27.5 percent in 2001, and 18.2 percent in 2002 with approval rates of 45.5 percent, 48.4 percent, and 56.8 percent respectively. For all three years, the *denial* rates for blacks was 62, 61, and 78 percent *higher* than for whites with *approval* rates for blacks running 32, 32, and 24 percent *lower* than for whites.[1] These disparities suggest that lenders may be engaging in racially discriminatory practices.

The table "Results of Conventional Home Purchase Loan Applications in Murfreesboro: 2007–2008" below, reveals that this substantial disparity in approval and denial rates continues through 2007 and 2008 and that lenders may

1. Donald B. Eager & Associates, *Analysis of the Impediments to Fair Housing Choice Prepared for The City of Murfressboro, Tennessee*, (Murfreesboro, TN, 2005), 54.

still be employing racially discriminatory practices against African Americans.[2]

On the other hand, there are no consistent substantial disparities in approval and denial rates for other minority groups during 2007 and 2008. While there's a significant disparity in approval and denial rates for Hispanics compared to whites in 2007, those differences narrow to about three percentage points in 2008. In 2007 Asians received approval at a lower rate than whites and denials at a higher rate. But in 2008 their approval rate was higher and denial rate lower than for Caucasians. The extremely small number of applications from American or Alaskan Indians makes it impossible to identify any trends.

Table 20: Results of Home Mortgage Applications in Murfreesboro: 2007–2008

Results of Home Mortgage Applications in Murfreesboro, TN: 2007–2008								
Reporting Year: 2008								
Race/Ethnicity	Total Applications	Number Issued	Percent Issued	Approved Not Accepted	Number Denied	Percent Denied	Withdrawn	Closed Incomplete
American Indian or Alaskan	5	2	40.0%	0	0	0.0%	3	0
Asian	35	26	74.3%	1	1	2.9%	5	2
Black or African American	74	40	54.1%	6	19	25.7%	9	0
Hispanic	35	25	71.4%	4	4	11.4%	1	1
White	1187	895	75.4%	56	99	8.3%	118	19
Other	6	5	83.3%	0	0	0.0%	1	0
Unknown	141	100	70.9%	11	13	9.2%	16	1
Total	1483	1093	73.7%	78	136	9.2%	153	23
Reporting Year: 2007								
Race/Ethnicity	Total Applications	Number Issued	Percent Issued	Approved Not Accepted	Number Denied	Percent Denied	Withdrawn	Closed Incomplete
American Indian or Alaskan	4	3	75.0%	0	0	0.0%	1	0
Asian	62	43	69.4%	3	8	12.9%	8	0
Black or African American	201	130	64.7%	17	28	13.9%	22	4
Hispanic	113	62	54.9%	13	24	21.2%	9	5
White	2522	1930	76.5%	141	215	8.5%	204	32
Other	47	33	70.2%	4	3	6.4%	6	1
Unknown	346	219	63.3%	21	58	16.8%	38	10
Total	3295	2420	73.4%	199	336	10.2%	288	52

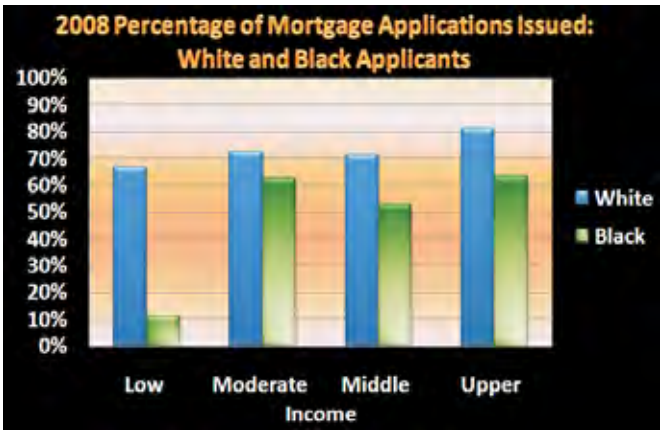
Source: Woodstock Institute, complied from Home Mortgage Disclosure Act Tables

It would be easy to suggest that differences in income explains the substantial disparity in approval and denial rates between African Americans and whites. However, a closer look at the Home Mortgage Disclosure Act data helps get beyond the surface.

2. The percent issued and percent denied do not add up to 100 percent because some mortgage applications were approved but rejected by the applicant, others were withdrawn, and other applications were incomplete. To make the table readable, the only percentages included are for mortgages issued and mortgage applications denied.

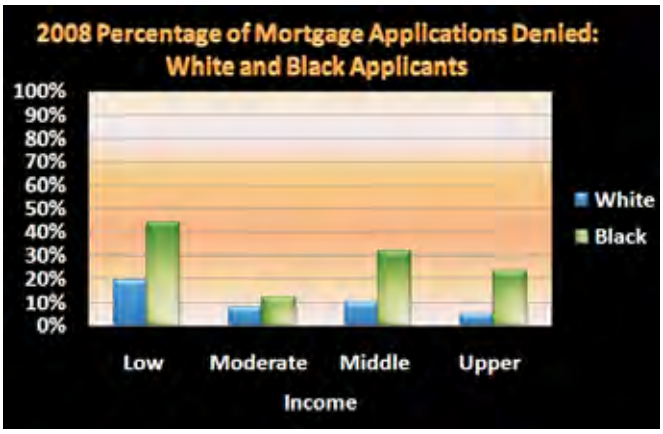
As illustrated by the figure below, in 2008 lenders approved a lower percentage of conventional home loan applications from African Americans than whites no matter what the applicant's income.[3] Mortgages were issued to 67 percent of the low–income white applicants and to only 11 percent of low–income black applicants. The disparity was just 9 percent among moderate–income applicants (72 and 63 percent), 18 percent among both middle–income (71 and 53 percent) and high–income applicants (81 and 63 percent).

Figure 17: 2008 Percentage of Mortgage Applications Issued: White and Black Applicants



Denial rates reveal a similar pattern with a denial rate of 19 percent for low–income Caucasian applicants compared to 44 percent for low–income African Americans. The gap narrows to just 5 percent among moderate–income applicants (8 and 13 percent). Among middle–income households, the denial rate for African Americans is nearly triple of that for Caucasians (32 to 10 percent) and among upper–income households the disparity is almost five times (23 to 5 percent for whites).

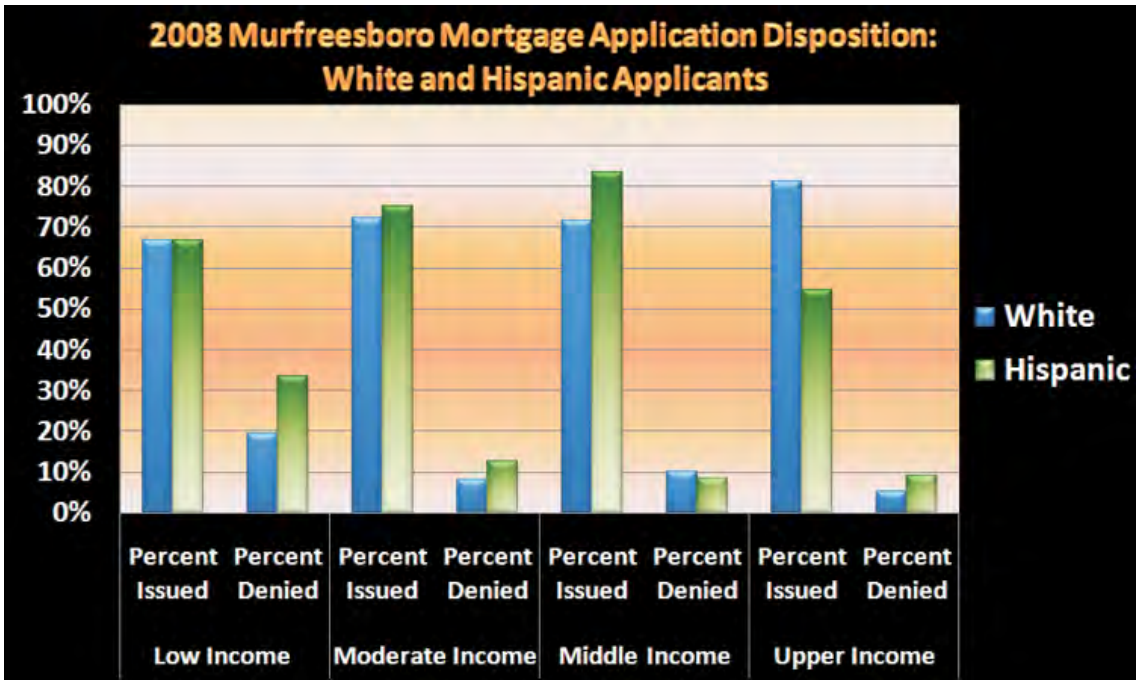
Figure 18: 2008 Percentage of Mortgage Applications Denied: White and Black Applicants



Hispanic applicants constitute the only other substantial "minority" with major disparities in approval and denial rates compared with Caucasians. While the gap in approval and denial rates between Hispanics and whites narrows substantially in 2008 to about 3 percent, a closer look at the data in the figure below shows disparities in some income categories with no clear pattern. While middle–income Hispanics received better approval and denial rates than whites, Hispanics in all other income categories generally had lower approval rates and higher denial rates.

3. The pattern was the same in 2007. The Murfreesboro Community Development Department has the raw HMDA data and illustrative graphs available for review in the spreadsheet named "Disposition with Graphs of Mortgage Apps by Race, Ethnicity & Income 07–08.xlsx."

Figure 19: 2008 Murfreesboro Mortgage Application Disposition: White and Hispanic Applicants



To place these approval and denial rates in context, they should be compared to those for the Nashville–Davidson County–Murfreesboro–Franklin Metropolitan Statistical Area (hereinafter referred to as the MSA). While Hispanics fared better in the MSA than in Murfreesboro in 2007, the reverse held true in 2008. Asians fared better in Murfreesboro in both years. The denial rates for American and Alaskan Indians were very close to those for whites while their approval rates lagged, especially in 2008.

In 2007 African Americans fared better in Murfreesboro than in the MSA with a significantly higher approval rate and lower denial rate than in the MSA. In 2008 the rates in Murfreesboro and the MSA differed by just a few percentage points. In both years a much smaller percentage of their applications were approved than for Caucasians and their denial rates were more than twice those of whites.

An examination of the reasons for denial in 2008 revealed no substantial disparities between Caucasians, African Americans, Hispanics, or Asians that could explain the disparities identified above.[4] The most substantial difference based on race was the debt–to–income ratio which accounted for 20 percent of white applications being denied, 29 percent of black applications, and 18 percent of Asian applications. This ratio accounted for 20 percent of the denials for non–Hispanic whites and 24 percent of all others including Hispanics. The

4. See the spreadsheet entitled "HDMA Table 8-2 Reasons for denial – Murfreesboro MSA 2008.xlsx" which is available from the Murfreesboro Community Development Department. Since the MSA data revealed no patterns that could explain the identified disparities, it was very unlikely that data just for Murfreesboro would either.

debt–to–income ratio accounted for 30 percent of the denials for low–income applicants and 21 percent for moderate– and low–middle income applicants. It accounted for 15 percent of the denials among upper–middle income applicants and for 17 percent of the upper–income applicants.

Table 21: Results of Home Mortgage Applications in the MSA: 2007–2008

Results of Home Mortgage Applications in the Metropolitan Statistical Area: 2007–2008								
Reporting Year: 2008								
Race/Ethnicity	Total Applications	Number Issued	Percent Issued	Approved Not Accepted	Number Denied	Percent Denied	Withdrawn	Closed Incomplete
American Indian or Alaskan	38	19	50.0%	7	4	10.5%	7	1
Asian	513	318	62.0%	39	69	13.5%	76	11
Black or African American	992	564	56.9%	82	224	22.6%	104	18
Hispanic	602	348	57.8%	50	129	21.4%	61	14
White	16114	11712	72.7%	924	1555	9.6%	1649	274
Other	169	110	65.1%	11	24	14.2%	20	4
Unknown	2573	1795	69.8%	205	263	10.2%	275	35
Total	21001	14866	70.8%	1318	2268	10.8%	2192	357
Reporting Year: 2007								
Race/Ethnicity	Total Applications	Number Issued	Percent Issued	Approved Not Accepted	Number Denied	Percent Denied	Withdrawn	Closed Incomplete
American Indian or Alaskan	63	42	66.7%	4	7	11.1%	8	2
Asian	993	671	67.6%	97	121	12.2%	83	21
Black or African American	3204	1795	56.0%	270	760	23.7%	287	92
Hispanic	1514	952	62.9%	126	278	18.4%	104	54
White	29653	22018	74.3%	1897	2949	9.9%	2330	459
Other	381	254	66.7%	36	47	12.3%	36	8
Unknown	4911	3084	62.8%	418	700	14.3%	573	136
Total	40719	28816	70.8%	2848	4862	11.9%	3421	772

This is the Nashville–Davidson–Murfreesboro–Franklin Metropolitan Statistical Area (MSA).

Source: Woodstock Institute, complied from Home Mortgage Disclosure Act Tables

Credit history had a great impact on denial rates and an inverse correlation to income accounting for 31 percent of the denials of lower–income and 26 percent of moderate–income applicants down to 12 percent of upper–income applicants.

Conversely, a lack of adequate collateral accounted for just 12 percent of the denials among low– and moderate–income applicants rising to 19 percent among upper–income applicants.

Denials of mortgage loans based on insufficient cash, unverifiable information, and incomplete credit applications rose as income increased. Denials based on employment history and mortgage insurance being denied were nearly identical for all income cohorts.

Taking into account this abundance of data, it is difficult not to conclude there are lenders in Murfreesboro and the MSA that are illegally discriminating against African Americans based on their race. No other factor can account for the substantially higher denial rates and lower approval rates that applications for conventional home loans received from African Americans compared to whites at all income levels.

Enacted in 1977, the Community Reinvestment Act (CRA)[5] was intended to encourage depository institutions, consistent with safe and sound banking operations, to help meet the credit needs of the communities in which they operate, including low– and moderate–income neighborhoods. Ratings are published for specific institutions that the Federal Deposit Insurance Corporation (FDIC) has examined. The ratings evaulate only whether loans are being issued. They do not evaluate discrimination in the issuance of loans or whether mortgages are "high cost loans." These banks are rated "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance." The handful of the depository institutions in Murfreesboro that have been evaluated under the CRA received ratings of "satisfactory."

"High Cost" Mortgage Loans

"High cost" mortgages include the sort of loans typically labeled "subprime" and/or predatory. They include mortgages based on higher rates typically three percentage points or more above the yield on a comparable term treasury security. These include mortgages with variable interest rates that can skyrocket in the years after the loan is issued.

The widespread use of these high cost mortgages is part of the increase in abusive lending practices that has generated a nationwide crisis for homeowners. Their use accelerated significantly in the past decade as lenders sought to extend credit to home purchasers who had poor credit histories and a poor understanding of mortgage loans. These lenders frequently target people with minimal understanding of the terms that constitute a prime mortgage, usually seniors and minorities and poor families who are buying for the first time. The mortgages to which they steer these folks have abusive terms that can lead to a loss of home equity and loss of the home. These include loans with the moniker "exploding ARMs" under which an adjustable interest rate can soar substantially after two or three years.[6]

According to research by the Center for Responsible Lending, 20 percent of high cost mortgages result in foreclosure, over eight times the rate for mortgages in the prime market. Subprime prepayment penalties and balloon pay-

5. 12 U.S.C. 2901. The Community Reinvestment Act is implemented by Regulations 12 CFR parts 25, 228, 345, and 563e. Ratings for specific banks can be searched online at http://www2.fdic.gov/crapes.

6. In the prime market, adjustable rate mortgages usually have a cap on annual increases of one or two percent and a lifetime cap of six percent.

ments only acerbate the crisis.[7]

High cost mortgages become a fair housing issue when lenders treat members of any class protected under the nation's Fair Housing Act differently and steer them to these loans. As the table to the right shows, no residential neighborhood in Murfreesboro has been immune.[8]

Table 22: "High Cost" Mortgages by Census Tract: 2008

"High Cost" Mortgages by Census Tract: 2008	
Census Tract	Percent of all home loans that were "High Cost"
040900	20.1%
041300	14.0%
041400	16.5%
041500	0.0%
041600	19.6%
041700	22.7%
041800	52.1%
041900	28.0%
042000	24.9%
042100	37.4%

Source: U.S. Department of Housing and Urban Development

While lenders have placed Murfreesboro home buyers of all races into high cost mortgages, the data in the table below strongly suggest that lenders have been steering African Americans to high cost loans more frequently than they have Caucasians or Hispanics. While 80.4 percent of all home mortgages issued in Murfreesboro in 2008 were to white households, they entered into just 73.1 percent of the high cost mortgages. But 20.4 percent of the high cost mortgages went to African American home buyers who comprised only 8.5 percent of all home buyers that year. In contrast, the percentages for Hispanic home buyers were proportionate. These differences have been fairly consistent throughout the 2005–2008 study period.[9]

It is likely that these high cost mortgages contributed to the increase in foreclosures in Murfreesboro as well as throughout the nation. Every Murfreesboro neighborhood has experienced foreclosures as shown in the table below.

Table 24 below shows that high risk mortgages constituted a substantial proportion of all Murfreesboro mortgages issued from 2004 through 2007. The four census tracts (004180, 004190, 0042000, and 004210) with the highest proportions of high risk mortgages and the highest rates of foreclosures are the four tracts with the greatest proportions of minority households, primarily African American.

7. Detailed information on the signs of a predatory loan are explained in detail online at http://www.responsiblelending.org/mortgage-lending/tools-resources/8-signs-of-predatory-lending.html.

8. As noted earlier, the Middle Tennessee State University campus occupies nearly all of census tract 041500. In 2000 there were fewer than 25 residences in the tract.

9. Because other smaller categories were left out of this table, totals do not add up to 100 percent.

Table 23: Percentage of All Home Mortgages That Were "High Cost" by Year Issued

Percentage of All Home Mortgages That Were "High Cost" by Year					
Jurisdiction	2005	2006	2007	2008	All Home Loans 2008
Murfreesboro	28.5%	29.3%	20.7%	10.4%	—
Murfreesboro - White	60.5%	63.7%	71.9%	73.1%	80.5%
Murfreesboro - Black	19.3%	15.6%	13.0%	20.4%	8.5%
Murfreesboro - Hispanic	2.9%	5.1%	3.2%	3.2%	2.9%
Rutherford County	23.7%	23.3%	15.7%	9.1%	—
MSA	24.9%	22.9%	14.5%	10.4%	—
Tennessee	22.3%	21.5%	15.0%	14.8%	—
Source: HDMA					

The data strongly suggest that some lenders steered African Americans more frequently than members of other racial or ethnic groups to high cost and other types of high risk loans.

Table 24: Murfreesboro High Risk Mortgages Issued

Murfreesboro High Risk Mortgages Issued			
Census Tract	Percentage of HMDA mortgages issued 2004-2007: All High Risk Mortgages	Estimated number of mortgages to start foreclosure process or be seriously delinquent in past 2 years	Estimated percent of mortgages to start foreclosure process or be seriously delinquent in past 2 years
040900	26.2%	458	6.3%
041300	21.4%	147	6.3%
041400	22.5%	99	6.0%
041500	0.0%	0	3.6%
041600	19.3%	27	6.7%
041700	23.6%	40	7.1%
041800	29.6%	27	9.0%
041900	40.5%	37	12.8%
042000	27.4%	65	7.9%
042100	32.3%	95	9.6%
Source: National Stabilization Program 2 data downloaded from http://www.huduser.org/nspgis/nsp_map_by_state.html			

Home Appraisal Practices

No fair housing complaints based on discriminatory appraisal practices were lodged with the city, state, Tennessee Fair Housing Council, or the U.S.

Department of Housing and Urban Development. In the absence of any studies of appraisal practices in Murfreesboro, it is impossible to evaluate these practices.

A study of the practices of local appraisers is needed to determine whether or not discrimination is taking place.

Murfreesboro Real Estate Firms and Developers

As discussed below under "Real Estate Advertising," very few members of minority groups appear to work as real estate agents in Murfreesboro. Efforts are needed to remedy this situation. The absence of any testing of real estate sales also needs to be remedied to determine the extent of racial steering, if any, and other discriminatory practices by real estate agents and their firms.

Rental Leasing Firms and Landlords

There appears to be a similar shortage of minorities among rental leasing firms that needs to be remedied. Likewise, there is a need for testing of rental firms and landlords to determine the extent of racial steering, if any, and other discriminatory practices

Real Estate Advertising

Print Advertising

The bulk of print advertising of rentals and of homes for sale appears in *The Daily News Journal* with Sunday being the primary day for display and classified real estate ads. The *Murfreesboro Post* runs about 95 percent fewer ads for residential real estate than *The Daily News Journal*. We examined 706 ads for rentals and 721 ads of houses, condominiums, and townhouses for sale during October and November 2009.[10]

Very few of the 1,427 print ads we examined exhibited any hint of housing discrimination. Just 35 ads mentioned the school zone in which the house is located and every one of those was a school with a student body that was overwhelmingly white — not a violation of any applicable fair housing law, but certainly sending a message outside the spirit of fair housing. Three ads for apartments stated that they would not rent to anybody with a Section 8 voucher — not a fair housing violation because Murfreesboro, Tennessee, and federal fair housing laws do not prohibit discrimination based on "source of income." One ad did say that Section 8 vouchers are accepted.

10. The Sunday edition of *The Daily News Journal* typically carried between 500 and 550 ads for residential real estate (over 60 percent for sale housing) while weekday editions had 150 to 200 ads, more than 85 percent for rentals.

Possible barriers to fair housing choice rest in the photographs in the display ads. Photographs in display ads can send a not–so–subtle message to potential buyers. For example, if a reader were to rely solely on the photographs of real estate agents that appear in the display ads in the Sunday paper, that reader would think every real estate agent in Murfreesboro is Caucasian. Since many of the display ads feature the photo of the agent with a specific piece of property, there's a subtle message that only whites are welcome. If these real estate agencies employ only white agents, there is a serious problem that needs to be addressed. If they are excluding from the print ads their agents who are members of minority groups, there is serious problem that must be addressed.

Prudential Rowland's newspaper ad seeking new agents featured photos of a racially–diverse staff.

One well–known landlord repeatedly ran a display ad for one of its rental complexes that featured only a twenty–something, white woman. Its website featured several photographs of models portraying tenants — all of whom were white and appeared to be in their twenties or early thirties. One model might be Hispanic.

A single instance of advertising with only white models of a certain age does not rise to the level of a fair housing violation even though it sends a message that minorities and older people are not welcome. But a campaign of this nature in which a series of ads run over several months *does* constitute a fair housing violation. This advertising campaign, both in print and online, very likely violates all three fair housing laws and should be investigated. The newspaper publishing the ads should have the prudence to refuse to carry them.

HUD's equal opportunity logo and any mention of fair housing or equal opportunity housing was noticeably absent from *all* display ads *except* for ads for Bob Parks Realty and Keller Williams which included a very small fair housing logo.

Online Advertising

During November 2009 we examined 18 websites of real estate firms and apartment management firms that serve Murfreesboro. Thirteen of their sites included either the fair housing logo and/or the words "equal housing opportunity." Century 21's site included a lengthy paragraph about fair housing. Three of the five apartment management firms had no fair housing indicia or words at all.

Century 21's site included a diverse group of models portraying buyers and agents. The company's entire site is also easily available in Spanish. Other firms that depicted diversity among buyers and/or agents were Caldwell Banker Snow & Wall, Bob Parks Realty, Greenvale Homes, Red Realty, Greenvale Homes, and Aldridge Gateway Village Apartments. Firms whose models were strictly white were John Jones Real Estate, Prudential Rowland, MMC Property Management, Ace Realty & Property Management, and Realtor.com (the only nonwhites were the movers).

Photos of actual real estate agents (not models) suggest a paucity of minority

real estate agents. Of the 127 employees pictured on the Bob Parks Realty website, two (possibly three) were African American. Of Caldwell Banker Snow & Wall's 39 pictured agents, two were black and one was Asian. One of the employees pictured on the site of John Jones Real Estate might be African American. Among Prudential Rowland's 61 agents were five African Americans and one Asian. Seven blacks were among the 58 agents pictured on the Red Realty website. All of the 12 agents pictured the Re/Max's Murfreesboro page were white.

It has long been said that the real estate profession is the most racially segregated in America. We found nothing to suggest that this adage is no longer true in Murfreesboro.

Two online ads were disturbing. The Prudential Rowland Real Estate site had a description of "Plantation South" on November 10, 2009, that read, in part, "Perfect for the new *[sic]* and established families, but *restrictive* enough to keep its beauty and resale value rising higher for years to come." *[Emphasis added]* Such language tends to discourage potential buyers who are members of group that have historically faced racial and religious restrictions in real estate.

One ad among the hundred we examined on Craigslist.com contained an overt violation of the Fair Housing Act. It was for a large "executive" home in southwest Murfreesboro. The ad plainly stated "no pets or children." While pets certainly can be excluded, the prohibition of children blatantly violates the ban on discrimination based on "familial status" in all three fair housing laws to which Murfreesboro property is subject. Otherwise online advertisements for residences in Murfreesboro were very similar to print ads.

Public Sector Compliance Issues

Land–Use Controls and Building Codes

Community Residences for People With Disabilities

Zoning

Throughout the nation, a great many municipal zoning ordinances fail to make the "reasonable accommodation" for community residences for people with disabilities (group homes, halfway houses, and recovery communities) required by the 1988 amendments to the nation's Fair Housing Act (FHA). The FHA requires local jurisdictions to make a "reasonable accommodation" in their zoning rules and regulations to enable community residences for people with disabilities to locate in the same residential districts as any other residential use.[11]

11. 42 U.S.C. §3604(f)(B) (1988).

Cities usually limit the number of unrelated people who can live together in a single dwelling unit.[12] For example, many zoning codes set four as the cap on the number of unrelated people who can live together.[13] This restriction would exclude community residences for more than four residents from the residential districts where they belong.[14] To make the "reasonable accommodation" that the Fair Housing Act requires, cities need to allow community residences that exceed the cap on the number of unrelated individuals to locate in all residential districts. Those that offer a relatively permanent living arrangement in which there is no limit on how long somebody can live there should be permitted uses. There is considerable debate in legal circles whether a rationally–based spacing distance or a license can be required. Community residences such as halfway houses that set a limit on length of residency, may be subject to a special use permit in single–family districts, although this too is subject to considerable debate in legal circles.

Table 25: Noninstutionalized Civilian Residents Reporting a Disability: 2007

Noninstutionalized Civilian Residents Reporting a Disability: 2007			
Age Range	Murfreesboro	Rutherford County	Tennessee
5 through 15	4.4%	4.8%	7.6%
16 through 64	10.9%	11.0%	15.9%
65 and over	51.9%	46.9%	45.7%
All ages 5 and over	13.3%	12.9%	18.6%

Source: 2007 American Community Survey, "Selected Social Characteristics"

These issues are settled to some extent by the State of Tennessee. Overriding local zoning laws,[15] Title 13, Chapter 24 of the state statutes provides:

> "13-24-102. Homes in which mentally retarded, mentally handicapped or physically handicapped persons reside classified as single family residence. —
>
> "For the purposes of any zoning law in Tennessee, the classification "single family residence" includes any home in which

12. The U.S. Supreme Court sanctioned this type of restriction in *Village of Belle Terre v. Borass,* 416 U.S. 1 (1974) and later modfied its ruling in *Moore v.City of East Cleveland, Ohio,* 431 U.S. 494 (1977).

13. Murfreesboro's zoning code reflects this practice when it places a cap of four on unrelated people living together: "… (b) a group of not more than four persons who are not related by blood, marriage, or adoption, living together as a common household in a dwelling unit…."

14. Most community residences for people with disabilities house more than four people. While the trend for people with developmental disabilities is toward smaller households, valid therapeutic and financial reasons lead to community residences for people with mental illness or people in recovery from drug and/or alcohol addiction to house eight to 12 residents.

15. 13-24-103. "Precedence over other laws. — This part takes precedence over any provision in any zoning law or ordinance in Tennessee to the contrary." Acts 1978, ch. 863, § 2; T.C.A., § 13-2403.

> eight (8) or fewer unrelated mentally retarded, mentally handicapped or physically handicapped persons reside, and may include three (3) additional persons acting as house parents or guardians, who need not be related to each other or to any of the mentally retarded, mentally handicapped or physically handicapped persons residing in the home."[16]

In its definition of "family," Murfreesboro's zoning code reflects the state law to an extent: "c) a group of not more than eight unrelated mentally retarded or physically handicapped persons which include *two* additional persons, acting as house parents or guardians, who need not be related to each other, or any of the mentally retarded or physically handicapped persons in the group." *[emphasis added]* The only difference is that the state law — which overrules Murfreesboro's zoning code — requires that three, not two, additional persons be allowed. The state law preempts local ordinances and the city is legally obligated to comply with the state statute. Murfreesboro city staff members appear to understand that they must allow three additional people, not two.

By limiting this provision to "mentally retarded, mentally handicapped or physically handicapped persons," the state statute leaves out some categories of people with disabilities covered by the Fair Housing Act, specifically people in recovery from drug and/or alcohol addictions who are not currently "using."

The city classifies halfway houses and recovery communities for people in recovery from drug and/or alcohol addictions as transitional homes.[17] Transitional homes are not permitted in any single–family residential district (RS–4 through RS–15). They are allowed solely by special use permit in multi–family districts R–D and RM–12,–16, and –22 as well as mixed–use districts OGR, OG, CM–R, and CM.

While the city can certainly exclude transitional homes for people *without* disabilities from the residential districts of its choosing, the Fair Housing Act prohibits this kind of zoning treatment for halfway houses and recovery communities that house people with disabilities.[18] The key distinction between halfway houses and recovery communities is that tenancy in the former is temporary with a limit on how long residents can live in a halfway house. Tenancy is measured in months. Tenancy in a recovery community is relatively permanent; there is no limit on how long you can live there. Tenancy is measured in years just as it is for conventional rental and ownership housing. Conse-

16. Acts 1978, ch. 863, § 2; 1979, ch. 361, § 2; T.C.A., § 13-2402; 1999, ch. 204, § 1.

17. Murfreesboro's zoning ordinance defines a transitional home as "A residence used for the purposes of rehabilitating persons from correctional facilities, mental institutions, and alcoholic and drug treatment centers and operated by a public or private agency duly authorized and licensed by the state, which agency houses individuals being cared for by the agency and deemed by the agency to be capable of living and functioning in a community and which provides continuous professional guidance."

18. It is extremely well–settled that people with drug and/or alcohol addictions who are not currerntly using an illicit drug are people with disabilities under the Fair Housing Act and Americans With Disabilities Act. *See 42 U.S.C. 3602(h)* and *24 C.F.R. 100.201(a)(2). See, also, City of Edmonds v. Washington State Building Code Council,* 115 S. Ct. 1776 (1995).

quently, it is rational for zoning to treat recovery communities like group homes which also offer relatively permanent tenancy and to treat halfway houses more like multi–family rental housing. The City of Murfreesboro should consider amending its zoning code to reflect this distinction and treat recovery communities the same way it treats group homes for people with developmental disabilities and mental or physical disabilities. Halfway houses should be allowed as of right in multi–family districts. In single–family districts, the higher scrutiny of a special use permit is warranted for halfway houses.[19]

According to the Tennessee Department of Mental Health and Developmental Disabilities, there are 29 group homes for people with mental illness or developmental disabilities licensed in Murfreesboro. Not all licensees, however, have actually opened a group home. The City of Murfreesboro can identify 21 group homes in the city.[20] There are at least seven recovery communities in Murfreesboro for people in recovery from drug and/or alcohol addiction.

In addition, there is a transitional home called Cedar Grove that provides residential services for teenage boys with what the operator characterizes as mental illness in a 36–person mini–institution. Length of tenancy is six to nine months. It is located in an RM–16 zoning district in which a special use permit is required for transitional homes. In 1989 the Board of Zoning Appeals unanimously approved a special use permit to operate this facility as a "group shelter" for "juvenile inmates" suffering from neglect or abuse who are in the custody of the Tennessee Department of Human Services.

Thirteen of the community residences (group homes, halfway houses, and recovery communities) are scattered throughout the city. However, 15 of the 28 identified community residences in Murfreesboro are located in the city's southeast corner bordered by Southeast Broad Street (Route 41) on the west and East Main Street on the north. All but two of these are north of South Rutherford Boulevard.

The city's zoning ordinance does not contain any provisions that would cause the operators of community residences to locate their homes in this area or any other neighborhood. It is very likely that comparatively low prices and the availability of one–story houses have led operators to locate community residences in this area. These are also neighborhoods with minority populations greater than would be expected in a free housing market absent racial discrimination.

At four different locations, one operator has chosen to locate two homes for

19. Whether or not the city intended to act this way, it has treated the seven recovery communities identified in this report as permitted uses since they have located in single–family residential districts without a special use permit. If the city were to seek to prohibit them from their present locations, the operators would likely have valid fair housing complaints.

20. Murfreesboro does not keep records on group homes for people with mental illness, developmental disabilities, or physical disabilities because they are allowed as of right in all residential zoning districts. City staff built its list based on information provided by the Tennessee Department of Mental Health and Developmental Disabilities.

people with developmental disabilities adjacent to each other. It has also located two homes across the street from each other. Each group home houses eight people. Such concentrations are how *de facto* social service districts begin. Locating additional community residences close to these — such as within a block — could change the character of the neighborhood and undermine the ability of community residences to achieve normalization and community integration.

All of the group homes with eight or fewer residents have been allowed as of right. City staff does not know if the 36–person mini–institution or the ten–person group home had to obtain a special use permit.

City staff report that the city has not denied zoning approval for any community residence during the 2005–2009 period this analysis of impediments covers. Over the years city staff have received phone calls from individuals who opposed a group home seeking to open in their neighborhood. The city received a number of phone calls from the neighbors of one group home who thought that because their subdivision's restrictive covenants prohibited businesses, a community residence was proscribed. However a community residence is a residential use, not a business, and the Fair Housing Amendments Act of 1988 specifically invalidates such prohibitions rendering them unenforceable against community residences for people with disabilities.[21]

In 2005 the City of Murfreesboro originally misclassified one proposed group home for children with mental illness as a "transitional home" which is prohibited in all single–family residential districts including the RS–10 district in which the operator sought to open it. In a letter to the operator, the city stated that its concern was that "some of the children that will be present at your facility [sic] may be referred to you from State correctional facilities, or may have certain substance abuse or behavioral problems." City officials also doubted that the children who would live in the group home had disabilities.

The operator assured the city that the children were not placements from correctional facilities. Because the state's Department of Mental Health and Developmental Disabilities suspected that the city was stonewalling a LULU (locally unwanted land use), the department took the unusual step of issuing a license *before* the city approved the home's zoning. The department wrote a letter stating that the home met all of the licensing requirement. Legal counsel requested that the city issue a certificate of occupancy which the city did in December 2005.

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21. The legislative history of the Fair Housing Amendments Act of 1988 makes it abundantly clear that new subsection 804(f)(2) of the Fair Housing Act "is intended to prohibit special restrictive covenants or other terms or conditions, or denials of service because of a person's handicap and which have the effect of excluding, for example, congregate living arrangements for persons with handicaps." Preamble I, 53 Federal Register 35001 (Nov. 7, 1988) and *U.S. House of Representatives, Committee on the Judiciary,* Report 100–711: the Fair Housing Amendments Act of 1988 at 23, 100th Congress, 2d Session (1988), published at 1988 U.S. Code Congressional and Administrative News 2173–2230 (1988). The report also states that the "Act is intended to prohibit the application of special requirements through land–use regulations, restrictive covenants, and conditional or special use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice in the community." Ibid. at 24.

Building Codes

The "reasonable accommodation" requirements of the 1988 amendments to the Fair Housing Act that added people with disabilities to the act's coverage apply to all government "rules and regulations,"not just to zoning codes. The legislative history of the Fair Housing Amendments Act of 1988 explained that it prohibits "the application or enforcement of otherwise neutral rules and regulations on health, safety and land–use in a manner that discriminates against people with disabilities. Such discrimination often results from false or over–protective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may pose" — practices prohibited under the 1988 amendments.[22]

In some jurisdictions the local or state building code may impose requirements on community residences for people with disabilities that are based on such "false or over–protective assumptions." Requiring a sprinkler system, hardwired fire alarm connection to the fire department, extra exits, and other expensive code requirements can exceed the actual needs of people with disabilities. Some of these requirements might be warranted for a community residence that houses bed–ridden residents or people who lack mobility without a wheel chair or with mental disabilities that would prevent them from quickly evacuating their home in case of fire. But they might be unjustifiable for other occupants of community residences such as people with relatively mild disabilities or people in recovery from drug and/or alcohol addiction.

Murfreesboro has adopted the *2006 International Building Code* which treats community residences for up to five people as Group R–3 if in a multi–family structure. If in a single–family detached house or a townhouse, they are regulated the same as all single–family detached houses and townhouses under the *International Residential Code.*

Group homes and halfway houses housing six to 16 persons (excluding staff) are classified as Group R–4 and must meet the code requirements for Group R–3 except as otherwise provided in the *International Building Code,* or they must comply with the *International Residential Code.*

A review of the applicable provisions did not reveal any requirements based on "false or over–protective assumptions." Absent any complaints from operators of community residences, it appears that the city's adopted building code and its enforcement practices do not impede fair housing choice. This analysis applies only to Murfreesboro's building code, not the state building code nor state licensing requirements which are beyond the scope of this study.

22. Ibid.

Public and Subsidized Housing

Subsidized Housing

The Murfreesboro Housing Authority (MHA) administers the city's Section 8 Housing Voucher Program which provides rent subsidies for households with low incomes. At the end of 2009, there were 1,661 households on the waiting list.

Dwellings where Section 8 vouchers are used appear to be distributed throughout the city, albeit slightly unevenly as shown in the table at the right. This table shows the proportion of all rentals in each census tract that were occupied by holders of Section 8 vouchers.

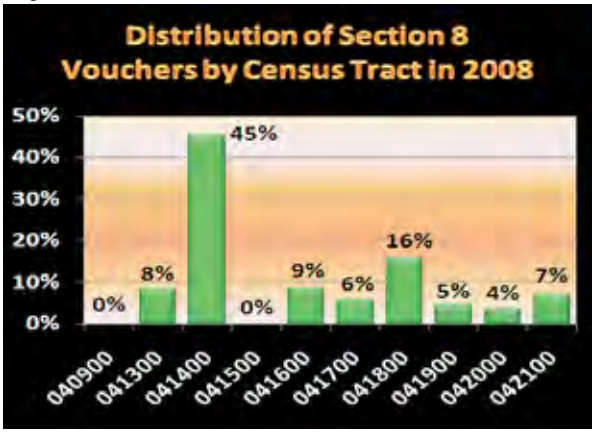
Table 26: Proportion of Rentals in Each Census Tract Occupied by Section 8 Voucher Holders in 2000

Proportion of Rentals in Each Census Tract Occupied by Section 8 Voucher Holders in 2000	
Census Tract	**Percentage**
040900	1.2%
041300	3.2%
041400	4.1%
041600	3.0%
041700	5.1%
041800	6.6%
041900	2.4%
042000	2.7%
042100	6.9%

Source: 2000 data from U.S. Department of Housing and Urban Development.

In 2008, Section 8 vouchers were still being used in every census tract with residential uses. However, nearly half of all Section 8 vouchers were being used in just one census tract, 004140 as shown in the figure below. In 2000, the racial composition of this tract was what would be expected if no racial discrimination was taking place.[23] Because the MHA could not provide a racial breakdown of households with Section 8 vouchers, it is impossible to know the impact, if any, of this concentration of subsidized housing on the current racial composition of this census tract. The city should examine the racial composition of this census tract when 2010 census data is available to make sure that this concentration of Section 8 vouchers is not producing a racial or economic concentration in census tract 041400.

Figure 20: Distribution of Section 8 Vouchers by Census Tract in 2008



Source: Murfreesboro Housing Authority

The number of Section 8 vouchers being used in other census tracts is so small that it is highly unlikely that the presence of Section 8 in these tracts has a significant impact on the racial and ethnic composition. In 2008 there were only 21 households using Section 8 vouchers in census tract 041900 which is the tract where actual racial and ethnic composition differed the most from what would

23. See the discussion and data beginning on page 17.

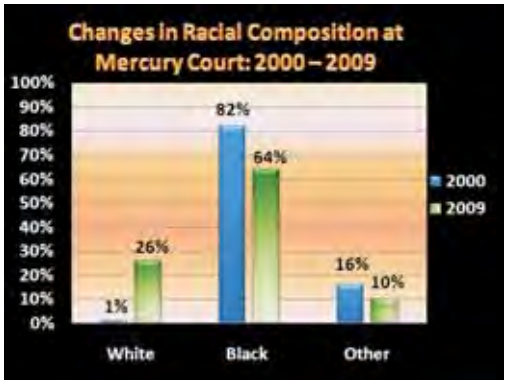
be expected in a housing market free of racial discrimination. The presence of two public housing projects in tract 041900 has more significant implications.

Public Housing

The presence of a concentration of public housing in tract 041900 does *not* enhance the ability of this census tract to remain racially integrated.[24] Research has found that the presence of substantial numbers of public housing units is one of the two "variables" that have consistently led to the resegregation of neighborhoods.[25] On the other hand, the increasing pace of renovations and gentrification in tract 041900 are working toward establishing a racial composition closer to would be expected if no racial discrimination were present. Still it would be extremely prudent for the Murfreesboro Housing Authority to pursue a strategy that reduces the number of public housing units in this census tract *after* it makes available scattered site dwellings located close to ROVER public transportation in census tracts *other than* the three tracts that have racial compositions significantly different than what would be expected in a market free of racial discrimination — 041900, 041800, and 042100.

Taken together, Murfreesboro's four public housing developments (excluding the one development for seniors) were 37 percent white, 58 percent African American, and 5 percent others in 2000. A direct comparison to the present day is impossible because Highland Heights is almost completely vacant while it is undergoes renovation. With Highland Heights nearly vacant, the remaining three developments were, in 2009, 41 percent Caucasian, 52 percent black, 4 percent Asian, and 2 percent unknown. There was just one Hispanic household living in these developments in 2009.

Figure 21: Changes in Racial Composition at Mercury Court: 2000–2009



Source: Murfreesboro Housing Authority

The Murfreesboro Housing Authority maintains a single waiting list for all of its public housing. At the end of 2009, there were 384 households on the list. The MHA did not identify the racial and ethnic composition of the people on the waiting list.

The racial composition of the individual public housing developments is more integrated today than in 2000. In 2000, Mercury Court was 1 percent Caucasian and 82 percent African American. Such extreme segregation does not happen by accident. However, by 2009 its composition had shifted to 26 percent white and 64 percent black. Change is incremental

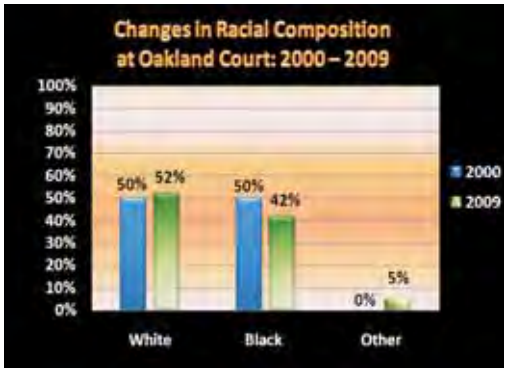
24. See the discussion on page 24.

25. Juliet Saltman, *A Fragile Movement: The Struggle for Neighborhood Stabilization* (Greenwood Press: New York, 1990).

and these figures show progress away from segregation.

The racial composition of Oakland Court remains balanced and steady as shown in the graph on this page. Franklin Heights, however, has seen its white population drop from 59 percent in 2000 to 43 percent in 2009 while its black population grew from 38 percent to 51 percent.

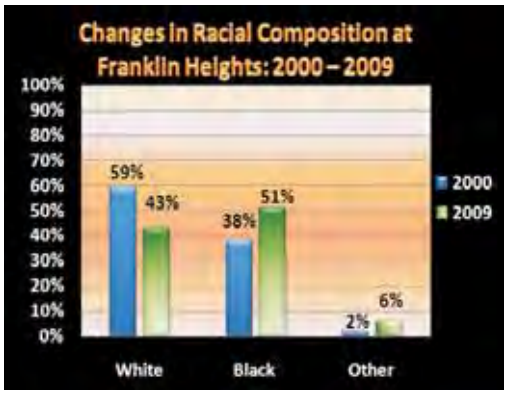
Figure 22: Changes in Racial Composition at Oakland Court: 2000–2009



Highland Heights, which is nearly empty as it undergoes renovation in 2010, was racially segregated in 2000 with 79 percent of its residents African American and 19 percent Caucasian.

In 2009 the MHA's senior development Westbrooks Towers was 93 percent white and 7 percent black. These proportions deviate substantially from the racial composition that might be expected if potential residents were free of racially discriminatory practices or policies. The MHA may have inherited this level of segregation when it bought Westbrooks Towers a few years ago. However, this degree of segregation rarely occurs naturally.

Figure 23: Changes in Racial Composition at Franklin Heights: 2000–2009



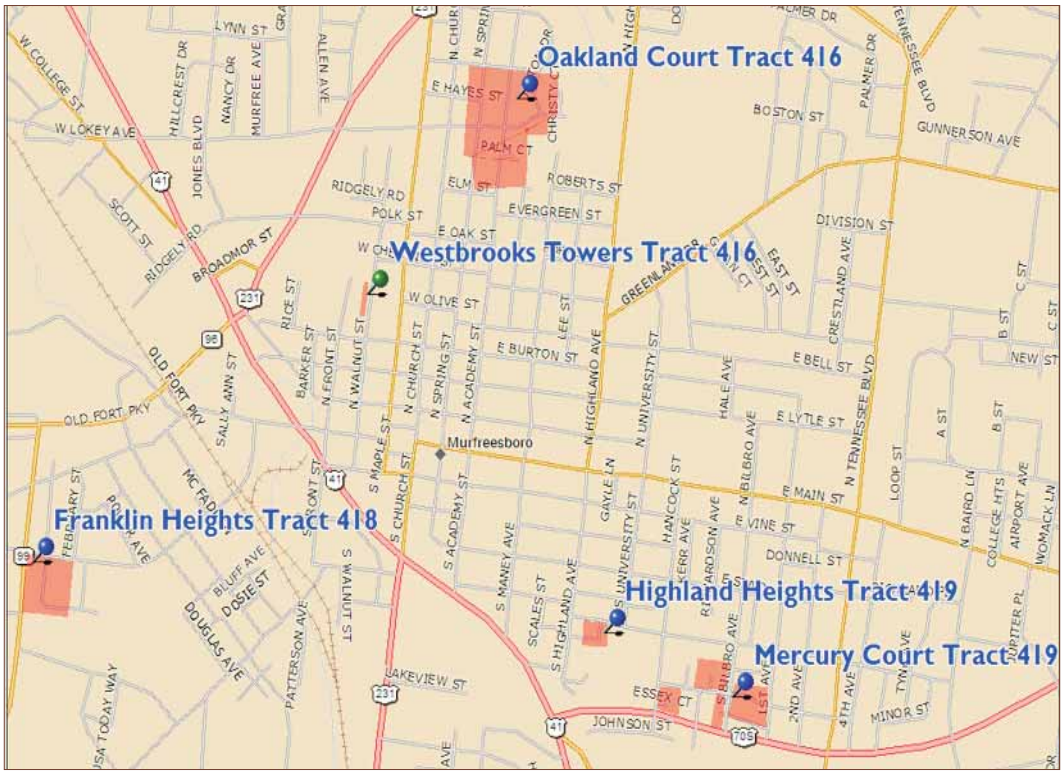
Policies and Practices

Pro–integrative Siting Policy. The MHA reports that it maintains no policies that address pro–integrative use of Section 8 vouchers or locating public housing to help achieve or maintain stable, racially– or economically–diverse neighborhoods.

Live–In Aide Policy. Some housing authorities have counted the income of a live–in aide as part of the income of the Section 8 or public housing family the aide lives with. This has resulted in the Kafkaesque situation in which the aide is treated as a member of the family and her income is counted toward the family's income — sometimes increasing the family income over the maximum allowed to live in public housing or to receive a Section 8 voucher. This "Catch–22" has applied more frequently when the live–in aide is a relative.

However, the Murfreesboro Housing Authority's adopted policy excludes the live–in aide's income when calculating eligibility income for the household. The relative must, quite reasonably, meet all of the criteria that defines a live–in aide.[26]

Figure 24: Locations of Public Housing Developments



Accessibility and ADA Compliance Policy. The Murfreesboro Housing Authority has promulgated rules and regulations governing its practices that apply the standards of the Americans With Disabilities Act.[27] These regulations provide guidance to staff for making the required "reasonable accommodation" to enable a person with disabilities to dwell in the four public housing developments and Westbrooks Towers. None of the fair housing complaints filed with the Tennessee Fair Housing Council, Department of Housing and Urban Development, and the Tennessee Human Rights Commission involved refusal of the MHA to make a reasonable accommodation.

26. "Live–In Aide Policy," *MHA Admissions and Continued Occupancy Policy Manuary (ACOP),* §3–1.M.

27. "Accessibility and ADA Compliance Policy," Ibid. §§2–II.G, 2–II.A.—F.

Affordable Housing

Economists and housing experts have long used the rule of thumb that a home is affordable when its purchase price is no more than two and a half or three times the buyer's gross annual income.[28] Their other test that applies to both owner *and* tenant households is that housing is affordable if the household spends no more than 30 percent of its gross monthly income on housing. This is not an arbitrary figure. Spending more than 30 percent on housing, leaves a typical household less money for essentials like food, clothing, furniture, transportation, health care, savings, and health insurance. Local businesses suffer the most from this reduction in spending money due to high housing costs. Spending more than 30 percent on housing denies spending to other sectors of the economy unless households strapped for cash go into credit card debt.

Table 27: Housing Tenure in 2000 and 2007

Housing Tenure in 2000 and 2007		
Year	Own	Rent
2000	52%	48%
2007	58%	42%

Sources: 2007 American Community Survey and 2000 Census, Table "H7. Tenure, Occupied Housing Units."

When a very substantial proportion of a protected class spends over 30 percent of its income on monthly housing costs, the cost of ownership and/or rental housing may pose an impediment to fair housing choice.

Due to a combination of factors including annexations and new construction, Murfreesboro's housing stock continues to shift to ownership, which tends to be more expensive than renting. In the last five years, building permits were issued to erect 4,125 units of single–family detached dwellings, 1,373 townhouses and condominiums, and 3,237 apartment dwelling units which constituted 37 percent of all new residential units for which building permits were issued.

Affordability of Ownership Housing

To make sense of the plethora of available data, many researchers report on median household incomes and median home values. The median is the middle. For example, half of Murfreesboro's households have incomes above the median and half below it.

In 2007, one in five Murfreesboro homeowning households was spending 30 percent or more of its monthly income on housing as shown in the table immeidately below. Nationally three in ten households were spending 30 pecent or more. While Murfreesboro is better off than the nation as a whole, nearly 21 percent of Murfreesboro home owners are spending an unhealthy large share of their income on their housing.

28. For purposes of this analysis, we will err on the conservative side and use three times the median income to establish the price of an affordable house in Murfreesboro rather than two and a half times.

Murfreesboro. On the next page, the table "Affordable Home Ownership in Murfreesboro: 1990–2007" shows that ownership housing is slowly becoming unaffordable for more than half of Murfreesboro's households. In both 1990 and 2000, a little over half of Murfreesboro's households could afford to purchase the median–priced single–family home (includes detached houses and townhouses) — the median household income was higher than the minimum income needed to purchase the median–priced single–family dwelling in Murfreesboro. Since then the rise in housing prices has outpaced increases in income and the minimum income needed to purchase the median–priced single–family home has become greater than the median household income.

Table 28: Percentage of Monthly Income Paid to Own in 2007

Percentage of Monthly Income Paid to Own in 2007				
Percentage of Household Income Paid for Ownership Costs	Percentage of All Owner Households			
	Murfreesboro With Mortgage	Murfreesboro No Mortgage	National With Mortgage	Nattional No Mortgage
Less than 20 percent	31.9%	21.2%	23.1%	22.5%
20 to 24.9 percent	16.5%	0.8%	10.8%	2.4%
25 to 29.9 percent	8.4%	0.5%	8.5%	1.6%
30 to 34.9 percent	**4.3%**	**0.3%**	**6.1%**	**1.1%**
35 percent or more	**14.3%**	**1.8%**	**19.5%**	**3.7%**

Total with and without mortgage equals 100 percent. Source: "Selected Housing Characteristics: 2007," *2007 American Community Survey, U.S. Census Bureau.*

The current recession has caused the median price of a single–family home to decline almost ten percent while the median price of condominiums has fallen just 2.5 percent. Median household income, however, slipped 8.3 percent between 2007 and 2009, nearly as much as the ten percent fall of the median–priced single–family home. It appears that because condominiums cost less than single–family detached houses and townhouses, they have remained more affordable to a larger percentage of Murfreesboro's population and demand for them has not declined as much as it has for the more expensive single–family dwellings.

In 2000, the most recent year for which this data are available, 18.9 percent of homeowners spent more than 30 percent of their income on ownership costs (called "cost burdened") while 6.4 percent spent over 50 percent (called "extremely cost burdened") as shown in the figure below.

Table 29: Affordable Home Ownership in Murfreesboro: 1990–2007

Affordable Home Ownership in Murfreesboro: 1990–2009						
Year	Median Household (HH) Income	Maximum Home Price Affordable to Median HH Income	Median Value of Single–Family Home	Minimum HH Income to Afford Median Priced Single–Family Home	Median Value of Condominiums	Minimum HH Income to Afford Median Priced Condominium
1990	$26,394	$79,182	$77,400 *	$25,800 *	N/A	N/A
2000	$39,705	$119,115	$118,500 *	$39,500 *	$109,500	$36,500
2007	$48,115	$144,345	$172,000	$57,333	$121,300	$40,433
2009	$44,125	$132,375	$155,500	$51,833	$118,238	$39,413

* For 1990 and 2000, these figures refer to *all* ownership housing in Murfreesboro, not just single–family homes (includes single–family detached and townhouses). The U.S. Census reports that there were only 223 owner–occupied condominium units in Murfreesboro in 1990 and 518 condos that were occupied by tenants.

Sources: Median household incomes are from the 1990 and 2000 U.S. Census, and 2007 *American Community Survey,* U.S. Census Bureau. The 2009 figure is an estimate from Claritas. Median home values for ownership housing in 1990 and 2000 are from the 1990 and 2000 U.S. Census except that the 2000 value for condominiums is from the Multiple Listing Service. Median values of homes in 2007 and 2009 from the actual completed sales of Murfreesboro residences listed with the Multiple Listing Service (MLS) as furnished by the Middle Tennessee Association of REALTORS®. Note that MLS figures do *not* include homes sold by owner.

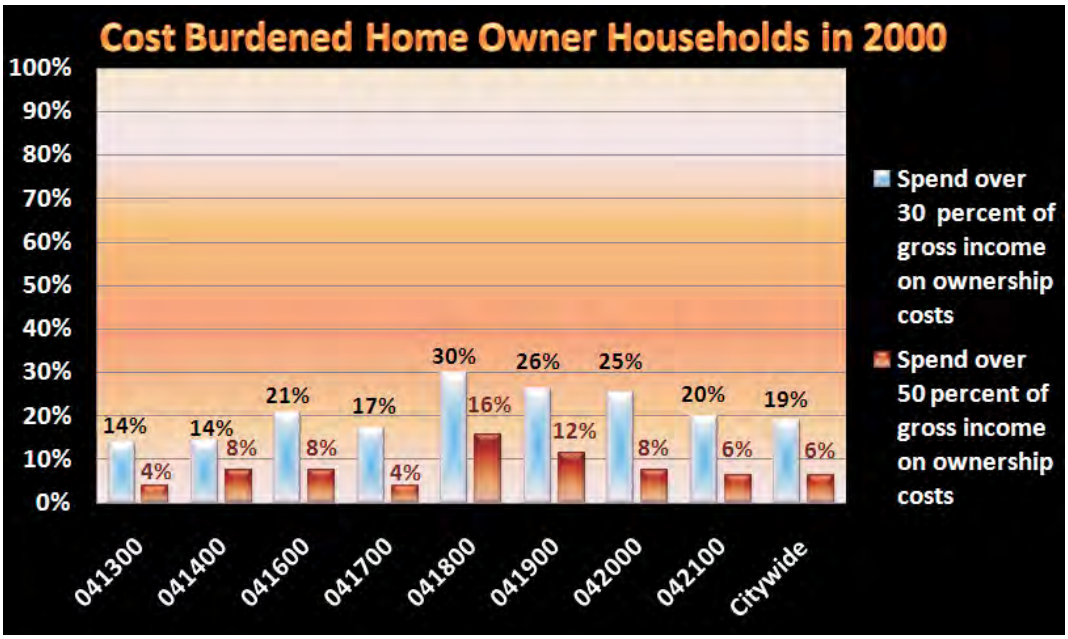
Methodology: "Affordable Home Price for the Median HH Income" is three times the "Median Household Income." The median household (HH) income to afford each type of ownership housing is one–third of the median value for each type of housing.

Sixty–two percent of owner households with annual incomes under $20,000 were cost burdened in 2000. That proportion fell to 39.9 percent for all owner households with incomes under $50,000 and to 27.1 percent of all owner households with incomes below $75,000. Unlike household income, age makes little difference with 19 percent of home owners under 55 cost burdened, 18.7 percent of owners 55 and older, 17.8 percent of owners 65 and older, and 14.8 percent of owners 75 and older.[29]

While housing has become less affordable for all racial and ethnic populations within Murfreesboro, it has been unaffordable to substantially higher proportions of African Americans and Hispanics than whites or Asians throughout the past decade. The median incomes for Hispanics and African Americans in Murfreesboro have remained well below the minimum household income needed to purchase a single–family home or a condominium. With Murfreesboro's housing stock becoming increasingly ownership rather than rental, the lack of ownership housing in Murfreesboro that is affordable to most African Americans and Hispanics can significantly limit where they live and pose a barrier to fair housing choice.

29. 2000 Census, U.S. Census Bureau.

Figure 25: Cost Burdened Home Owner Households in 2000



Source: 2000 Census, U.S. Census Bureau. Excludes census tract 041500.

Table 30: Median Household Income by Race and Ethnicity: 1999 and 2009

Median Household Income by Race and Ethnicity: 1999 and 2009		
Race/Ethnicity	**1999 Median Household Income**	**2009 Median Household Income**
White	$42,051	$47,561
Black	**$28,357**	**$32,718**
Hispanic	**$27,266**	**$30,575**
Asian	$55,543	$60,489

Legend: White cell = can afford median–price home; red cell = cannot afford median–priced single–family or condominium. Minimum income needed to afford a single–family home or a condominium appears in the previous table.

Sources: 2000 Census, U.S. Census Bureau and Claritas at PolicyMap.com

Affordability of Rental Housing

Since the turn of the 21st century, rental housing in Murfreesboro has become unaffordable to an increasing number of tenant households. The proportion spending over 30 percent of their income on rent rose from 43.2 percent in 1999 to over half in 2000. The affordability issue is particularly serious for those who spend over 35 percent of their income on monthly rent. That proportion of tenants rose by nearly a third to 45.7 percent in 2007 from 35.4 percent in 1999.

The extent to which Middle Tennessee State University (MTSU) students affect these figures is unknown because, as noted earlier, neither the university nor the city knows how many MTSU students live in Murfreesboro outside the university's housing system. Its students are far more likely to rent than to own, although some parents have bought condominiums for their college student offspring to live in. In 2000, 3,099 of the 17,506 students enrolled at MTSU lived in university housing. In 2009, the number of students had grown to 25,188. The university reports that more than 3,500 students live in dormitories or university apartments. The past 15 years have seen the construction of several large apartment buildings that cater to college students located near campus in the South Rutherford Boulevard and Lascassas Road corridors.

Table 31: Percentage of Income Paid for Rent in 1999 and 2007

Percentage of Income Paid for Rent in 1999 and 2007			
Percentage of Household Income Paid for Rent	Percentage of Tenant Households		
	Murfreesboro 1999	Murfreesboro 2007	National 2007
Less than 15 percent	13.5%	10.6%	12.1%
15 to 19.9 percent	14.2%	11.3%	11.8%
20 to 24.9 percent	12.9%	14.3%	12.1%
25 to 29.9 percent	10.6%	9.5%	10.8%
30 to 34.9 percent	**8.8%**	**4.7%**	**8.4%**
35 percent or more	**35.4%**	**45.7%**	**37.2%**

Source: *2007 American Community Survey* and *2000 Census*, Table "H69. Gross rent as a percentage of household income in 1999," U.S. Census Bureau.

In contrast to the situation with homeownership discussed above, the median household income for African Americans and Hispanics has been higher, albeit not by much, than the minimum income needed to afford the median rent apartment in Murfreesboro in 2000 ($23,680) and in 2007 ($30,520). See the table above and the table "Median Household Income by Race and Ethnicity: 1999 and 2009" on the previous page.

Medians, of course, do not provide a complete picture of affordability. ***The vast majority of Murfreesboro tenant households earn less than the city's median household income. Higher income households tend to own rather than rent.*** Therefore it is essential to look carefully at the percentage of income tenant households are spending each month on rent to get a clearer and accurate picture of the affordability of rental housing in Murfreesboro.

The key measure is the proportion of tenants who spend more than 30 percent of their monthly income on rent (called "cost burdened") and the proportion spending over 50 percent (called "extremely cost burdened"). As shown in the graph below, over 44 percent of Murfreesboro's tenants were cost burdened in 2000 (the most recent year for which this data are available) and over 22 per-

cent were spending over 50 percent of their income on rent. These high levels are throughout the city, not just in census tracts close to the Middle Tennessee State University campus where the large student–focused apartment buildings are located.

Table 32: Affordable Rental Costs in Murfreesboro

Affordable Rental Costs in Murfreesboro				
Year	Median Household Income	Maximum Rent Affordable to Median Household Income	Median Rent	Minimum Income to Afford Median Rent
1990	$26,394	$660	$388	$15,520
2000	$38,705	$968	$592	$23,680
2007	$48,115	$1,203	$763	$30,520
2009	$44,125	$1,103	N/A	N/A

Sources: 1900 and 2000 U.S. Census; 2007 American Community Survey; 2009 estimates for Murfreesboro, *Claritas Demographic Snapshot Report.*

These very substantial percentages of cost burdened and extremely cost burdened tenants cannot be attributed primarily to the Murfreesboro's college student population. Such proportions are not unusual in cities where college students do *not* comprise the roughly 20 percent of a city's population like they do in Murfreesboro. In addition, the percentage of cost burdened tenants is more than a third in every census tract with rental property.

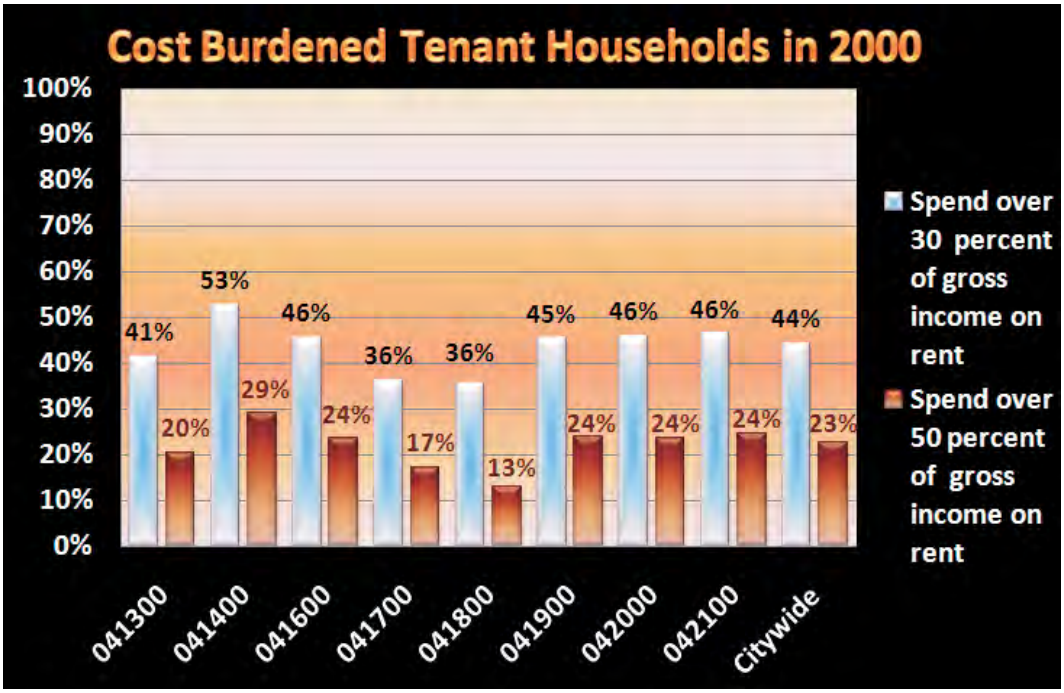
It appears that a major proportion of Murfreesboro tenants are cost burdened at all ages with 44.2 percent of them under 55 years old and 44.4 percent of those 55 and over cost burdened in 2000. Among those 65 and older, 53.4 percent were cost burdened.[30]

Income plays a major role. In 2000, 80.9 percent of Murfreesboro tenant households with an annual income under $20,000 were cost burdened. The proportion falls to 52.7 percent for households with incomes under $50,000 and to

30. 2000 Census, U.S. Census Bureau.

46.8 percent for those with incomes under $75,000.[31]

Figure 26: Cost Burdened Tenant Households in 2000



Source: 2000 Census, U.S. Census Bureau. Excludes census tract 041500.

Given that the median income of Murfreesboro's African American and Hispanic residents continues to be significantly lower than its Caucasian and Asian residents, it is extremely likely that rental costs limit where they can live and could impose a barrier to fair housing choice.

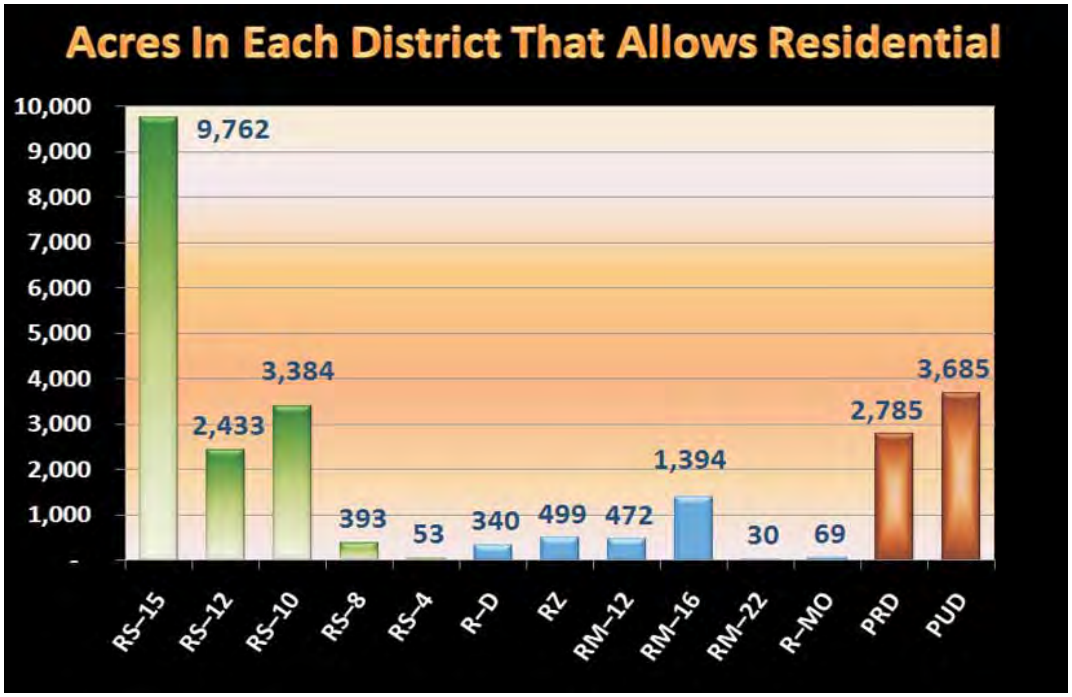
Conclusions on Affordable Housing

The cost of home ownership has grown out of reach for such a substantial proportion of Murfreesboro's Hispanic and African American residents that it may impede fair housing choice. While the city's rental stock remains affordable to households at or above the median household income, more than 40 percent of the city's tenant households are cost burdened (spending over 30 percent of income on rent) while half of those are spending over 50 percent. The city needs the cooperation of Middle Tennessee State University to help it distinguish between those tenants who are permanent residents in need of housing assistance and those who are temporary residents who, as college students, are not in need of housing assistance.

Due to the lower incomes among Murfreesboro's Hispanic and African American residents, a greater proportion of those who are African American and Hispanic face barriers to fair housing choice.

31. Ibid.

Figure 27: Acres in Each District That Allows Residential



Given the paucity of land zoned for multiple–family housing (the RD, RZ, and RM zoning districts in the above figure), Murfreesboro must continue to rely on its PRD and PUD districts to get new multi–family dwellings built. See the discussion beginning on page 39 to see how the city has used its PRD and PUD districts during the past decade.

Treatment of Proposals to Build Affordable Housing

Two proposals to build "affordable" ownership housing have come before the Murfreesboro City Council since completion of the city's previous *Analysis of Impediments*. No special use permits were needed. Both required a zoning map amendment to the PRD zoning district and both were approved. Construction has started on both developments.

In 2005, the proposed Villas of Baskinwood would offer 158 units in structures with two to four dwellings. Priced from the $120,000 to the $150,000s, each unit would be 1,370 to 1,605 square feet. These units would be affordable to households with annual gross incomes of at least $40,000. Based on 2007 gross annual incomes, about 57 percent of Murfreesboro households could afford to buy homes in this development.

In 2006, the proposed Liberty Townhouses would include 254 dwellings priced from $105,000 to the $120,000s. Buildings would have four, six, or eight units with dwelling ranging in size from 1,370 to 1,605 square feet. These dwellings would be affordable to households with annual gross incomes of at least $35,000. Based on 2007 gross annual incomes, about 63 percent of Murfreesboro households could afford to buy homes in this development.

The city's zoning ordinance does not include incentives to include dwellings affordable to households with modest incomes in new buildings or developments.

Accessing Information About Fair Housing and Reporting Housing Discrimination

The city uses several venues to convey information about fair housing to residents and potential residents and to report housing discrimination.

When callers to city hall are placed on hold or transferred to another extension they may hear an announcement telling them to contact the city's Community Development Department if they have a fair housing complaint or question. The city's government access channel features several public service announcements that promote fair housing. The Community Development Department's activities are regularly featured on the government access channel. The broadcasts always direct viewers to contact the Community Development Director if they have a fair housing complaint or question.

When you call city hall and say you think you may have been discriminated against when looking at a home to rent or buy, the operator connects you to the Administration Department. Administration connects you to Community Development.

Figure 28: Murfreesboro's Home Page

It takes some digging to find information about fair housing on the city's website. Housing discrimination is not included in links on the left–hand side of the home page. These links include "Report a Problem", "Find", and "Inquire

About" — three links somebody seeking to report housing discrimination would intuitively select. A search for "fair housing" or "housing discrimination" does get the viewer to the city's fair housing page. The Community Development Department's home page includes a link button for "Fair Housing."

The city's fair housing page is very succinct and sparse. It provides the phone number to call the Community Development Department if you think you may be a victim of housing discrimination. It also provides the phone number for the Tennessee Human Rights Commission "should you have a concern regarding your rights under the fair housing law." The page provides no examples of housing discrimination, instructions on how to file a housing discrimination complaint, direct access to a complaint form, nor details on the city's fair housing ordinance or the Tennessee or the federal fair housing statutes.

Figure 29: Murfreesboro's Fair Housing Page

The page reminds people that "April is Fair Housing Month in the U.S. and the City of Murfreesboro is committed to the principle of equal opportunity in housing without discrimination."

The page also provides a link to the annual "Tennessee Fair Housing Matters" conference to which the city contributes $1,000 each year. The Community Development Department promotes the conference through mailings.

The Community Development Department includes the fair housing logo on all of literature it distributes to the public. Some literature, such as the brochure for the "Affordable Housing Assistance Program," also include a few paragraphs entitled "Fair Housing Equal Opportunity" that provide the phone

numbers for the Tennessee Human Rights Commission and the city's fair housing officer. All applicants for the city's Housing Rehabilitation Program and AffordableHousing Program receive a copy of the booklet *Fair Housing: Equal Opportunity for All*.

Chapter 5

Impediments and Recommendations

Prevention is the best cure for the racial and economic segregation that Murfreesboro's *Comprehensive Land Use Plan* seeks to avoid. Stopping impediments to fair housing choice in their early stages is much more effective than waiting for them to distort the free housing market to a point where, for all practical purposes, a free housing market cannot be restored in our lifetimes.

As discussed in Chapter 3, the proportion of African–American and Hispanic people living in 60 percent of Murfreesboro's census tracts has been close to what would be expected in a housing market free of the distortions that racial discrimination causes. Relatively few cities have achieved this level of racial, ethnic, and socioeconomic diversity.

However, four census tracts have minority populations notably greater than would be expected if no racial discrimination were taking place. Tract 041900 has historically housed a concentration of African Americans and is gradually achieving a more diverse and integrated population, in part due to gentrification in its eastern block group. While the proportion of minorities in tract 041900 has been declining, it has increased in the three surrounding tracts 041800, 042000, and 042100. The causes of this emerging pattern need to be understood and addressed if Murfreesboro is to continue to successfully implement its *Comprehensive Land Use Plan.*

The recommendations that follow to address private sector and public sector impediments to fair housing choice offer guidance and specific tools to consolidate fair housing into the city's planning process and administration of its land–use controls rather than being the ineffective afterthought fair housing is in all too many cities across the nation.

These recommendations seek to help Murfreesboro fulfill its legal obligation to affirmatively further fair housing. As explained in detail in Chapter 2, every jurisdiction that accepts Community Development Block Grants or other funds from the U.S. Department of Housing and Urban Development (HUD) agrees to affirmatively further fair housing. As HUD acknowledged,

> "The Department believes that the principles embodied in the concept of "fair housing" are fundamental to healthy communities, and that communities must be encouraged and supported to include *real, effective,* fair housing strategies in their

overall planning and development process, not only because it is the law, but because it is the right thing to do."[1]

Affirmatively furthering fair housing means doing more than sitting by while discriminatory practices distort the free housing market and produce segregative living patterns. It means proactively establishing and implementing policies and practices that counteract and mitigate discriminatory housing practices and policies. While a government entity itself might not be using discriminatory housing practices or policies, it should recognize that when its passive approach results in segregative living patterns, it needs to take action to correct this distortion of the free housing market as part of its legal obligation to affirmatively further fair housing.

Stop reading now if you have not read chapters 2 through 4.

The impediments and recommendations that follow are based on the information presented in chapters 2 through 4. The rationale upon which they are based will not be clear unless you read those chapters first.

Private Sector Impediments

Get the Facts

Impediment #1 As noted several times in this analysis, there is simply an absence of information about the extent, if any, that real estate firms, rental agents, apartment managers, and landlords engage in discriminatory practices. Are minorities being steered to housing in predominantly minority neighborhoods and integrated neighborhoods while whites are steered to overwhelmingly white neighborhoods? Are landlords or rental agents denying rentals to minorities, households with children, or to people with disabilities who need a reasonable accommodation?

Racial steering is one of the most substantial impediments to assuring that people of all races and ethnicities are able to enjoy the full range of housing

1. Office of Fair Housing and Equal Opportunity, U. S. Department of Housing and Urban Development, *Fair Housing Planning Guide,* (Washington, DC. March 1996), Vol. 1, i. Emphasis in original.

choices envisioned by the Fair Housing Act and Community Development Block Grant Program.

The city needs to know if the members of minority groups that are moving out of tract 041900 are being steered to these nearby neighborhoods rather than considering locations throughout Murfreesboro, including those closer to job centers. It is vital that Murfreesboro act proactively to identify and curtail these practices before they can lead to increased racial and socioeconomic segregation.

Recommendation Murfreesboro should conduct testing of real estate firms, rental agents, apartment managers, and landlords to determine the extent, if any, that racial steering and other violations of the Fair Housing Act are occurring. The city should contract with an organization experienced in fair housing testing to conduct such periodic testing. Such testing should include controlled samples that are large enough to provide statistically significant results and findings. This should be an ongoing program incorporated into the city's community development program, not a one–time event. Potential contractors include the Tennessee Fair Housing Council.

If evidence of steering or other violations of the Fair Housing Act are discovered, intensive training of real estate professionals (sales people, rental agents, rental managers, landlords) would be needed to discourage steering and other illegal practices. If evidence of extensive discrimination is found, Murfreesboro should consider establishing a mandatory periodic training program for all real estate professionals practicing in the city that candidly examines fair housing issues, illegal practices, and proper practices to make them more sensitive to fair housing issues and less likely to engage in illegal practices.

Impediment #2 While the eastern part of census tract 041900 has been gentrifying and the racial and ethnic composition of the entire tract gradually moves closer to what would be expected if there were a free housing market without racial discrimination, the racial composition of the adjacent census tracts has been moving away in the opposite direction. It is likely that minorities who are being displaced by the gentrification are moving into these nearby neighborhoods rather than even considering housing elsewhere in Murfreesboro.

It is possible that racial steering by some members of the real estate industry and/or self–steering may account for this movement. Throughout the country some real estate professionals have been known to direct minorities to areas perceived as minority or as integrated neighborhoods, and to direct them away from predominantly white areas of a city. They have also been known to direct white people away from integrated and predominantly minority neighborhoods. Steering is a major cause of resegregation. If whites are steered away from integrated neighborhoods, then only minorities will move in and the neighborhoods will eventually resegregate. Maintaining demand for housing from all races and ethnic groups is the key to maintaining stable, racially–diverse neighborhoods in compliance with Murfreesboro's *Comprehensive Land*

Use Plan.

Recommendation The city should establish a program that encourages residents to expand where they look for housing. For example, members of minority groups should be encouraged to look at housing throughout the city, not just in neighborhoods with substantial minority populations. Caucasians should be encouraged to look at housing throughout the city, not just in overwhelmingly white neighborhoods. The idea is to expand housing choices, not restrict them.

This goal can be accomplished through counseling and/or a ongoing publicity campaign. The city may want to establish a pilot counseling program focused on census tract 041900. The Oak Park Regional Housing Center serves as a model of a highly effective counseling program that has successfully expanded housing choices and helped maintain racially–diverse neighborhoods that otherwise would have resegregated.[2] A publicity campaign can include the use of billboards, newspaper stories and display ads, and use of the Internet. An effort should be made to persuade local newspapers and websites to include a prominent notice with their real estate ads that promote expanding housing choices to include the entire city.

When data from the 2010 U.S. Census become available, it is vital for the city to conduct an another discrimination–free analysis like that beginning on page 17 to identify the degree to which racial and ethnic discrimination in housing has changed since 2000.

Expanding Housing Choice

Impediment #3 Our online sampling of the offices of real estate agents and rental offices revealed a paucity of Asian, Hispanic, and African American agents. Minority agents serve as a "welcome sign" to potential minority group home seekers. As noted in Chapter 4, several Murfreesboro real estate firms often advertise in print, as well as online, with photographs of their agents. When all of their agents are white, minorities — rightly or wrongly — often interpret that as a sign that minorities are not welcome in the communities served.

Recommendation Working closely with organizations of local real estate professionals like the Middle Tennessee Association of Realtors® as well as with the offices of local real estate firms, developers, landlords, and apartment managers and rental agents, the City of Murfreesboro should seek to increase their efforts to recruit African Americans, Hispanics, and Asians as residential real estate agents, leasing agents, and property managers.

2. The center is located in Oak Park, Illinois, and can be reached at 708–848–7150; Rob Breymaier, Executive Director. Website: www.apartmentsoakpark.org.

Impediment #4 As noted in Chapter 4, when display ads and brochures for real estate — ownership or rental — depict residents of only one race or ethnicity, they send a clear message of who is welcome and not welcome to live in the advertised housing, thus limiting the housing choices home seekers perceive as available to them.

Recommendation Murfreesboro should work closely with local real estate firms, developers, rental management companies, and landlords to include people of all races as well as Hispanics in their display advertising, brochures, and websites. The city should seriously consider filing fair housing complaints against those developers and landlords who fail to use racially/ethnically–diverse models in their display advertising campaigns, brochures, and websites.

Impediment #5 Given the concentrations of minorities gradually developing in three census tracts and the concentration already in tract 041900, it is highly likely that there is a need to expand the housing choices of minorities, especially African Americans and Hispanics. They need to be aware of ownership and rental opportunities in neighborhoods besides those that already have a substantial proportion of minority residents.

Recommendations Unless state law prohibits it, Murfreesboro should explicitly require developers of all residential developments and buildings to comply with the city, state, and federal fair housing laws and the accessibility standards of the Americans With Disabilities Act to receive a building permit, zoning, and/or subdivision approval. The underlying concepts are to ensure that housing is accessible to people with disabilities as the ADA requires and to make home seekers aware of the full array of housing choices available to them and to feel welcome in the development.[3] A number of cities including Hazel Crest and Matteson, Illinois, have adopted ordinances that effectively require compliance with the Fair Housing Act to receive building permits or zoning approval for new construction of all housing. A building permit cannot be issued until the city approves the developer's plans for compliance.[4]

In conjunction with the management or owners of apartment complexes, a city can also develop marketing plans to fulfill the mandates of the three applicable fair housing laws. Goals would be established and a record kept on the racial composition of current occupants and those looking for housing in the

3. Marketing in accord with the Fair Housing Act is nothing new. The precursor of modern fair housing marketing rests in the 1972 federal government requirement that all developers who use Federal Housing Administration insurance must file an "affirmative marketing plan" with the U.S. Department of Housing and Urban Development to encourage a racially–integrated housing market. These plans are to specify "efforts to reach those persons who traditionally would not have been expected to apply for housing." Quoted in Phyllis Nelson, *Marketing Your Housing Complex in 1985* (Homewood, IL: South Suburban Housing Center, 1985), 10.

4. James Engstrom, *Municipal Fair Housing Notebook: A Description of Local Ordinances, Tools, and Strategies for Promoting a Unitary Housing Market* (Park Forest, IL: Fair Housing Legal Action Committee, 1983), 11, 97.

complex so the plan's success can be evaluated. The same principles can be applied to the conversion of rental dwellings to condominium ownership. The legality of these requirements was upheld in federal court in *South Suburban Housing Center v. Board of Realtors.*[5]

For the developer or landlord, compliance with the city, state, and federal fair housing laws involves taking positive steps to promote traffic from particular racial or ethnic groups otherwise unlikely to compete for their housing in addition to building in accordance with the accessibility standards promulgated in the Americans With Disabilities Act. These steps can include:

5.A Producing print and Internet advertising targeted to the racial or ethnic groups that have not been seeking the housing. Photos and videos of models portraying residents or potential residents should reflect the full diversity of Murfreesboro to show that all are welcome to move to the building or development advertised.

5.B Billboards that use models portraying residents or potential residents who reflect the full diversity of Murfreesboro to show that all are welcome to move to the building or development advertised.

5.C The use of real estate agents or rental agents who reflect the full diversity of Murfreesboro. As noted in Chapter 4, it appears that the real estate agent and rental agent workforce has a disproportionately small number of Hispanic and African American agents.

5.D Giving every client who comes to look at housing a brochure that clearly identifies illegal discriminatory practices and provides clear contact information to file a fair housing complaint. The city should consider producing this brochure and providing a PDF file to each developer, real estate firm, landlord, and rental management firm to print.

5.E Including in all print and online advertising as well as all printed brochures the Fair Housing logo and/or the phrase "Equal Opportunity Housing" and contact information to file a housing discrimination complaint.

5.F Certifying that new residences comply with the accessibility requirements of the Americans With Disabilities Act. City staff should be thoroughly trained in those standards. No building or occupancy permit should be approved until ADA compliance is confirmed.

Impediment #6 The failure of some landlords to make a reasonable accommodation for people with disabilities account for about half of the fair hous-

5. 713 F.Supp. 1069, 1086 (1989).

ing complaints filed with the Tennessee Fair Housing Council for properties in Murfreesboro and Rutherford County. Nearly half of the fair housing complaints filed with the U.S. Department of Housing and Urban Development involved racial discrimination in rentals. The people in charge of renting homes and apartments clearly need to learn which practices violate the Fair Housing Act and how to make a reasonable accommodation for people with disabilities.

Recommendation Intensive training in fair housing is warranted for landlords and their rental agents, as well as for the personnel of rental management firms. This should be an ongoing program, not a one–time event. If voluntary participation in fair housing training does not significantly reduce the number of violations, the city should consider licensing landlords, rental agents, and rental managers and making annual training a requirement to receive and retain the rental license — if Tennessee law allows local licensing of this nature like some states do.

Mortgage Lending

Impediment #7 It appears that the discrimination in mortgage lending against African Americans and Hispanics noted in Murfreesboro's 2005 *Analysis of Impediments* continues to this very day. Controlling for all variables, it is rather obvious that African Americans and Hispanics continue to be denied home mortgage loans at substantially higher rates than Caucasians and Asians. While many lenders do not embrace discriminatory practices, the data suggest that a substantial number have engaged in them for quite some time.

Recommendations

7.A The ongoing disparity in loan denial rates, suggests a substantial need to provide members of minority groups, especially African Americans, with financial counseling to better prepare applicants *before* they submit a mortgage loan application. Such counseling should include educating potential home buyers to recognize what they can actually afford to purchase, avoiding the use of high cost and high risk mortgages that have produced the current nationwide wave of foreclosures, budgeting monthly ownership costs, building a reserve fund for normal and emergency repairs, recognizing racial steering by real estate agents, and encouraging consideration of the full range of housing choices available. The city could contract with an organization that provides such counseling and arrange with real estate firms and lenders serving Murfreesboro to identify applicants who are likely to benefit from such counseling. While this impediment is not unique to Murfreesboro, in the absence of an effective statewide or national effort to overcome it, local action is warranted.

7.B With the regulation of lenders falling within the purview of federal and state regulators, the City of Murfreesboro is limited in what it can do to alter the behavior of those lenders who engage in discriminatory practices.

The primary option available to the city rests with its ability to decide where it keeps its cash reserves. By adopting a policy that it will bank only with institutions that do not engage in these discriminatory practices, the city can make it in the financial interest of lenders to discontinue these practices. Adopting such a policy will require further research into the lending practices of specific local institutions.

Public Sector Impediments

Building a Climate To Overcome Private Sector Impediments

Impediment #8 As many of the recommendations for overcoming the private sector impediments suggest, those barriers to fair housing choice cannot be mitigated without a solid commitment from the City of Murfreesboro. It will take a public–private partnership to enable Murfreesboro to expand the free market in housing to all parts of the city.

Recommendation The City of Murfreesboro should expressly rededicate itself to the goals, objectives, and policies in its *Comprehensive Land Use Plan* that embrace the concept of achieving and maintaining a stable, racially, ethnically, and economically integrated city. The leadership of elected officials is key to implementing this recommendation and to building community support to implement the policies the city's plan established 22 years ago:

> "The City will encourage a diversity of housing types and population densities throughout the City in order to maintain a diverse and integrated population. The City will not seek to exclude any racial or socioeconomic segment of the population from any area of the city by imposing minimum requirements that are designed to so exclude."[6]

The city might also consider adopting a "housing diversity" statement in which it clearly articulates its vision for a Murfreesboro that is racially, ethnically, and socioeconomically integrated throughout.

Impediment #9 Well–intentioned as it is, Murfreesboro's Fair Housing Ordinance has rarely been applied. As discussed on page 46, its Fair Housing Board has never been appointed and primary support duties rest in the hands of the city's Fair Housing Officer who does not have the extensive training in fair housing law needed to implement the ordinance and investigate complaints.

6. Planning and Engineering Department, *Comprehensive Land Use Plan for City of Murfreesboro, Tennessee 1987 Thru 2000* (Murfreesboro,1988), 22.

Recommendations The city's Fair Housing Ordinance and procedures should be revised to make the law relevant and useable.

9.A The investigative duties of the city's Fair Housing Officer should be assigned by contract to an organization with considerable expertise in fair housing law and investigation.[7] The city's website, print publications, and staff should direct people who think they may have experienced housing discrimination to the city's Fair Housing Officer. The investigative organization should be charged with investigating and resolving complaints; and bringing legal action if the city's Fair Housing Officer determines action is warranted.

9.B The city's Fair Housing Ordinance should be revised to abolish the Fair Housing Board. Complaints should be reviewed by the city's Fair Housing Officer in conjunction with the investigative organization in the above recommendation. The ordinance should be revised to allow the city to assign investigative and possibly enforcement duties to the organization noted above.

Impediment #10 Anybody who thinks she has faced discrimination when seeking housing in Murfreesboro immediately runs into the problem of determining whom to contact. It's a substantial barrier to fair housing choice when somebody who thinks he may have been discriminated against cannot quickly and easily contact a live person who can hear the facts of his situation or easily get information about how to file a fair housing complaint. Each additional step a victim must take increases the chances that he will abandon his effort to report a violation. Currently when somebody calls who thinks he may have been discriminated against when seeking a home, the operator connects the caller to Administrative Services. Currently, it is not easy to find information needed to file a fair housing complaint or receive assistance.

Recommendations There are a number of steps Murfreesboro can undertake to provide more accessible assistance on fair housing complaints and easier access to fair housing information. *These recommendations use the term "housing discrimination" rather than "fair housing" because people understand the term "housing discrimination" more easily and more readily than "fair housing."*

10.A Train all of the city's phone operators to refer all calls about housing discrimination to the city's fair housing officer. Currently this is the Director of Community Development. If and when the city places investigative duties with an organization like the Tennessee Fair Housing Council as suggested by this report, operators should have full contact information (name, phone, website address) handy to provide to callers. Due to the growing number of Hispanic residents, there should be somebody on staff who speaks Spanish

7. The Tennessee Fair Housing Council is an example of such an organization.

with the same information available and to whom the operator can connect callers unable to speak or understand English. Any recording that callers to city hall may get when all operators are busy should include how to reach somebody if you believe you are a victim of housing discrimination.

10.B Make Murfreesboro's web page on fair housing much more accessible to viewers. Add the link "Housing Discrimination" to the city's home page's drop down menus "Find" and "Report a problem." These are where one would intuitively look to report an incident of housing discrimination. Both of these should be linked to a completely revamped housing discrimination page.

10.C The fair housing or housing discrimination pages should include the following elements. It is essential that these recommendations be implemented with care so that the information and process is clear to citizens who have had no experience with fair housing. In addition, it would be extremely prudent to include a Spanish–language version of the housing discrimination pages just as one of Murfreesboro's real estate firms provides a Spanish–language version of its real estate listings.

- So that viewers can see if they might have a valid fair housing complaint, provide a clear statement of what constitutes illegal housing discrimination and the classes protected by the three fair housing laws applicable to Murfreesboro (race, gender, familial status, disability, etc.).
- Include PDF files of the Murfreesboro, Tennessee, and national fair housing laws for online viewing and downloading.
- Provide concrete examples of illegal housing discrimination as well as of behaviors one might think are discriminatory, but are not.
- Furnish an easy way to file a fair housing complaint such as a form that can be completed online and automatically sent to the city's Fair Housing Officer and a downloadable PDF form with fields that can be filled in and mailed to the city's Fair Housing Officer.
- Make it very clear in plain English (and Spanish) the time frame within which a housing discrimination complaint must be filed. For example, avoid legal jargon like "statute of limitations" and simply say that a complaint must be filed within "X" days of the date on which the discriminatory act took place.
- Make it easy to reach the city's Fair Housing Officer by providing his name, phone number, and a link to his email address. Include his address in case somebody is more comfortable communicating in writing.
- Provide full contact information to reach the closest fair housing office of the U.S. Department of Housing and Urban Development and the Tennesse Fair Housing Council in case somebody feels more comfortable contacting those agencies.

- On its home page list of links, the Murfreesboro Housing Authority should place a direct link labeled "Housing Discrimination" to the city's housing discrimination page.

Incorporating Fair Housing into the Planning Process

Despite the clear statements in the city's *Comprehensive Land Use Plan*, fair housing has not been fully incorporated into the city's planning process and zoning administration.

Very little of the city's vacant land is in the multiple–family zoning districts or the single–family districts that require a relatively small minimum lot size. — both of which are needed for building housing affordable to households with modest incomes, a disproportionately large percentage of which are members of minority groups. The city has no provisions requiring the inclusion of housing affordable to households with modest incomes in new developments.

The vast majority of vacant residentially–zoned land is in the PRD and PUD districts. Development in these zones has often included apartments, condominiums and townhouses, and the smaller lot and zero–lot line development that enables construction of housing that is more affordable to households with modest incomes. How the city allows these properties to be developed in the future will greatly affect the city's ability to meet the needs of its existing households with modest incomes as well as similar households that wish to move to Murfreesboro. Those households toward the lower end of the income scale still face a scarcity of housing they can afford.

As explained in Chapter 4, *the cost of ownership and rental housing is beyond the reach of a growing proportion of Murfreesboro residents and limiting where households with modest incomes can live. With their lower median incomes, African Americans and Hispanics face the greatest limitations on housing choice. In 2007, one of every five home owners and more than half of the city's renters were cost burdened (spending over 30 percent of their gross income on housing costs).* When a household spends over 30 percent of its income on housing, it lacks funds to spend for essentials and for discretionary purchases in other of the economy, thus helping to set the stage for, and contributing to, the nation's current recession.

The city's zoning ordinance acts in an exclusionary manner when it comes to some types of community residences for people with disabilities.

Impediment #11 The city needs to carefully consider how the application of its zoning regulations affects the cost of housing. Large minimum lot sizes and amenity requirements tend to increase the cost of construction and land acquisition and have an exclusionary effect. With relatively little land zoned for multiple–family housing or in single–family districts with smaller minimum lot sizes, Murfreesboro's zoning practices *could* become exclusionary

zoning that prevents the construction of needed housing affordable to households with modest incomes.

Recommendation Containing most of the city's vacant land zoned for residential use, the PRD and PUD zoning districts offer Murfreesboro a highly viable opportunity to avoid exclusionary zoning and enable the construction of housing affordable to households of modest incomes. Even though the city has enabled a variety of housing types to be built in the PRD and PUD districts, data show that the housing needs of households with more modest incomes, especially tenants, are not being fully met. If Tennessee law does not prohibit it, the city should consider amending its zoning code to require that a specific percentage (15 or 20 percent is common) of units in a PRD or PUD be reserved for housing affordable to households with modest incomes in exchange for an increase in density that will allow the developer to make as much profit as under the current zoning. The developer loses nothing and the city gains affordable housing units with no taxpayer subsidy. This concept is not without precedent. Section 14A of the city's zoning code currently provides for amenity incentives for multiple–family development.

Similarly the city could establish a policy that implements its practices detailed beginning on page 39 that favor smaller lot sizes, the use of zero lot lines, the inclusion of multi–family housing, and other practices that would generate construction of more units of housing affordable to households with modest incomes in new developments allowed in PRD and PUD districts.

Impediment #12 Both the Tennessee statute governing zoning for community residences for people with disabilities and the Murfreesboro zoning ordinance allow group homes for up to eight residents with mental illness, developmental disabilities, and physically handicapped persons as a permitted use in all single–family residential zoning districts. Both laws violate the federal Fair Housing Act by excluding group homes for other people with disabilities particularly people not currently using illegal drugs who are in recovery from drug and/or alcohol addiction. *There is nothing in the applicable fair housing laws nor case law that allows a jurisdiction to pick and choose the types of disabilities allowed in group homes.* The characteristic that distinguishes how zoning can treat different types of community residences is how closely their operation resembles a family and the relative permanency of tenancy typical of single–family uses. So community residences that seek to emulate a family and do *not* impose a limit on how long a resident can live there offer the tenancy typical of single–family uses. As explained on page 59, recovery communities fit this description while halfway houses do not. Currently the city's zoning appears to treat recovery communities as "transitional homes" that are not allowed in any single–family district and are allowed only with a special use permit in multiple–family and mixed–use districts.

Murfreesboro's zoning code allows for just two "additional persons, acting as house parents or guardians, who need not be related to each other, or any of the

… persons in the group." The state statute that overrides the city's zoning allows for three house parents or guardians.[8]

Recommendation Murfreesboro's zoning for community residences needs to be thoroughly revised. The ordinance must be rewritten to end the exclusion of people not currently using who are in recovery from drug and/or alcohol addiction so that recovery communities are allowed in single–family districts like other group homes. The distinction between "group home" and "transitional home" needs to be clarified. Transitional homes for people with disabilities, such as halfway houses, should be allowed by special use permit in single–family districts and as of right in multiple–family districts subject at most to a rationally–based spacing distance and licensing requirement with a special use backup provision for those that seek to locate within the spacing distance or for which a license is not required to operate. The number of "house parents or guardians" allowed in a group home should be increased from two to three to comply with state law.

It is essential that such changes be based on thorough research that demonstrates the need for spacing distances and licensing. When a city has not conducted thorough research to lay a foundation for spacing distances and licensing, these requirements are nearly always overturned in court.

Until the city can revamp its zoning provisions for community residences, city staff should treat proposed recovery communities the same way they do the group homes for people with developmental disabilities, mental illness, or physical disabilities — as permitted uses in all residential districts. Failure to do so would likely expose the city to liability under the nation's Fair Housing Act and the state's fair housing statute.

Impediment #13 With the exceptions noted above, Murfreesboro regulates the location of community residences in compliance with local, state, and federal fair housing law. As noted beginning on page 60, more than half of Murfreesboro's community residences are located in the city's southeast quadrant. In four places, operators have clustered two group homes next to each other and in a fifth, immediately across the street from one another.

Recommendation Currently vigilance is warranted. Murfreesboro would be very prudent to monitor the location of present and future community residences to establish an early warning system that would identify potentially harmful and counterproductive clustering. The city would be prudent to maintain a map that shows exactly where each residential care home is located. City staff should update the map whenever a community residence is opened. Should serious clustering of community residences on specific blocks or in specific neighborhoods occur, the city might want to explore imposing a rationally–based spacing distance such as one–block (660 foot) between community resi-

8. Acts 1978, ch. 863, § 2; 1979, ch. 361, § 2; T.C.A., § 13-2402; 1999, ch. 204, § 1.

dences allowed as of right and require a special use permit to locate within that spacing distance — *if such a requirement could be legal under Tennessee state law*.

Engaging the Public Schools in Fair Housing Efforts

Impediment #14 If the City of Murfreesboro is to achieve the goals and objectives of its *Comprehensive Land Use Plan,* the Rutherford County Schools need to become as engaged in these efforts as the Murfreesboro City Schools have been. As explained beginning on page 24, the public schools play a pivotal role in achieving and maintaining stable, racially–integrated neighborhoods. Historically, when the student body of a neighborhood school becomes majority–minority, the neighborhood is likely to resegregate.

Recommendation The Rutherford County Schools need to take into account the impact on the racial composition of schools when establishing attendance zones and should adopt the same proactive approach that the Murfreesboro City Schools use. The Rutherford County Schools need to establish a closer working relationship with both the City of Murfreesboro and the Murfreesboro City Schools to effectively collaborate on efforts to implements the city's *Comprehensive Land Use Plan*.

Engaging the Murfreesboro Housing Authority in Fair Housing Efforts

Impediment #15 As noted in Chapter 4, concentrations of public housing do not help racially–integrated neighborhoods stay integrated. The Murfreesboro Housing Authority (MHA) operates two substantial public housing developments in census tract 041900, the tract whose racial composition deviates the most from what would be expected in a free housing market absent racial discrimination. While the racial composition of the MHA's public housing developments is more racially diverse than it was in 2000, the MHA still has a way to go with Mercury Court and especially the senior apartments at Westbrooks Towers, 93 percent Caucasian in 2009. Last year there was just one Hispanic household living in MHA developments. With a conscious effort the MHA can correct these disparities and assure they do not happen again.[9]

9. Nothing suggests that the MHA engages in any practices or policies that violate the Fair Housing Act. But as explained at the beginning of this chapter, like other recipients of funds from the U.S. Department of Housing and Urban Development, the MHA has a legal obligation to affirmatively further fair housing which means doing more than passively sitting by when segregative conditions occur.

Recommendation The Murfreesboro Housing Authority should establish and follow a clear and consistent policy to affirmatively further fair housing and racial diversity in all its operations.

15.A The Murfreesboro Housing Authority should adopt policies and practices that expand upon the progress it has made to desegregate Mercury Court and apply them to all of the MHA's housing, especially Westbrooks Towers. The MHA should incorporate the goals of racial and socioeconomic integration into its policies governing the location of public housing and where Section 8 vouchers are used. Counseling should be provided to encourage those on the waiting list for public housing to expand the choice of which public housing development is right for them.

15.B The MHA should identify and remove the obstacles that have excluded Hispanics from its housing. While it is likely that the MHA has done nothing to exclude Hispanics, it has an obligation to affirmatively further fair housing and reach out to the underserved community of eligible Hispanic citizens and legal immigrants. Efforts should be undertaken to make Hispanics aware of the availability of public housing and Section 8 vouchers. To affirmatively market public housing and Section 8 vouchers to eligible Spanish–speaking residents, the MHA should produce Spanish–language versions of the MHA's website and printed material targeted to the public and consider the use of billboards in areas with high Hispanic traffic.[10]

15.C Should the opportunity arise to build new public housing, the MHA should work closely with the City of Murfreesboro to select sites so they are not concentrated in any part of the city and that they contribute to achieving stable, racially–integrated neighborhoods in accord with the city's *Comprehensive Land Use Plan*.

15.D The MHA should keep track of the race and ethnicity of holders of Section 8 vouchers in order to identify any segregative patterns of where Section 8 vouchers are being used. If evidence of segregative use is found, the MHA should provide counseling to expand the housing choices of Section 8 voucher holders.[11]

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10. As noted on page 56, already one Murfreesboro real estate firm has a Spanish–language version of its website with residential real estate listings.

11. While the holder of a Section 8 housing voucher can use it anywhere in the city, the data showed that nearly half were using their vouchers in just one of the city's ten census tracts. The MHA could not provide any data to identify the demographics of Section 8 voucher holders and where they used their vouchers to rent. With an obligation to affirmatively further fair housing, the MHA should maintain this information and, if it shows self–steering or steering by rental agents or landlords, the MHA needs to provide the recommended counseling to expand where Section 8 voucher holders look for housing to rent.