

Implementing AB 686 Affirmatively Furthering Fair Housing

Guidance for All Public Entities and for Housing Elements



California Department of Housing and Community Development

What is Affirmatively Furthering Fair Housing?

“‘Affirmatively furthering fair housing’ means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development.” – (Gov. Code, § 8899.50, subd. (a)(1).)

The Need for AFFH

“Although federal mandates prohibit overt forms of discrimination in housing, forces driving residential segregation have persisted, sometimes taking on new forms to achieve the same discriminatory ends. **Racially explicit practices were subtly replaced by race-neutral methods to exclude people of color from predominantly white neighborhoods. Over time, single-family zoning emerged and replaced race-based zoning as a tool for segregating communities** by restricting more affordable housing options, such as apartments or condominiums...**Furthermore, federal, state, and local subsidized programs failed to construct affordable housing in high-resource neighborhoods,** which are disproportionately white, thereby reinforcing the spatial segregation of low-income communities of color...

Housing policy, program guidelines, and regulations were essential in creating current inequities, and they are equally important in both preventing further segregation and concentration of poverty, as well as increasing access to opportunity. **In order to ameliorate past actions that led to inequity, decision-makers must create land-use and funding policies to increase affordable housing in high resource neighborhoods that have often been exclusionary** (explicitly or in effect of costs and zoning policies)

and bring additional resources to traditionally under-resourced neighborhoods.” (HCD AFFH Guidance Affirmatively Furthering Fair Housing Memo P. 6)

Duty of ALL California
Public Agencies to
AFFH

Duty of All Public Agencies to AFFH

» **AB 686 Expands duty to AFFH to ALL California public agencies**

- These new statutory obligations charge all public agencies with broadly examining their existing and future policies, plans, programs, rules, practices, and related activities and make proactive changes to promote more inclusive communities
- Must administer programs and activities relating to housing and community development in a manner that AFFH
- Take meaningful and proactive actions that have a significant impact in integrating living patterns and socio-economic concentrations – well beyond combating discrimination or mitigating disparities.
- Inventory and amend existing programs and activities regularly for opportunities to AFFH
- Take no action inconsistent with this obligation



AB 686

Expands and protects duty to affirmatively further fair housing (AFFH) in CA

1

All public agencies required to administer programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with this obligation.

2

New Housing Element Requirements

**Applies to housing elements due to be revised on or after January 1, 2021*



Outreach

A diligent effort must be made to equitably include all community stakeholders in the housing element public participation process.



Assessment of Fair Housing

All housing elements must include an assessment of fair housing within the housing needs section. This assessment should include an analysis of fair housing issues in the jurisdiction including existing segregation and inclusion trends and current fair housing practices.



Sites Analysis

Local jurisdictions must evaluate and address how particular sites available for development of housing will meet the needs of households at all income levels and will AFFH by replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.



Priorities, Goals, and Actions

Based on findings from the needs assessment and the site inventory analysis with respect to AFFH, local jurisdictions will assess contributing factors to fair housing barriers and adopt policies with programs that remediate identified fair housing issues and/or further promote fair housing.

New Housing Element Requirements to AFFH

Components of New HE AFFH Requirements

1. Outreach
2. Assessment of Fair Housing (AFH)
3. Site Inventory
4. Identification and Prioritization of Contributing Factors
5. Goals and Actions/Programs



Analysis Requirements/Sources

» **Patterns & Trends (Local & Regional)**

- Narration
- Data tables
- Maps

» **Local Data & Knowledge**

» **Other Relevant Factors**

- History
- Demographic Trends

- Governmental Barriers or Lack of Action
- Supplemental Data Sources

» **US Census/ACS**

» **Regional data provided by COGs – not required, but recommended**

» **AFFH Data and Mapping Resources**
California Department of Housing and Community Development

1. Outreach

» Existing Housing Element Outreach Requirements

- Reach all economic segments of the population
- Describe meaningful, frequent, and ongoing community participation, consultation, and coordination that is integrated with the broader stakeholder outreach and community participation process for the overall housing element
- List of organizations contacted and consulted and for what purpose
- Summary of comments and how comments are considered and incorporated

» New AFFH Housing Element Outreach Requirements

- Include a summary of fair housing outreach and capacity. (Gov. Code, § 8899.50, subd. (a)(2))
- Receive public input and local knowledge on Assessment of Fair Housing

2. Assessment of Fair Housing (AFH)

The housing element now incorporates planning and analysis which is collectively referred to as an Assessment of Fair Housing (AFH). Required components of the AFH include analyses on the following

» **Outreach & Enforcement Capacity**

» **Integration & Segregation**

» **Racially/Ethnically Concentrated Areas of Poverty (R/ECAP)**

» **Disparities in Access to Opportunity** (education, transportation, economic, environment)

» **Disproportionate Housing Needs, Including Displacement**



Fair Housing
Enforcement and
Outreach



Segregation and
Integration



Disparities in
Access to
Opportunity



Disproportionate
Housing Needs /
Displacement



Racially and
Ethnically
Concentrated



Supplemental
Data

There must be an assessment for each of the 5 areas listed above that includes all the analysis requirements/sources we described earlier, at both the local and

regional scale, AND a summary of fair housing issues. Affirmatively Furthering Fair Housing

3. Site Inventory

AB 686 now requires that a jurisdiction identify sites throughout the community in a manner that is consistent with its duty to AFFH.

- » The findings of the full scope of a jurisdiction's assessment of fair housing (e.g. segregation & integration, R/ECAP, etc.) should inform the identification of sites in a manner that AFFH.
- » The site identification requirement involves not only an analysis of site capacity to accommodate the RHNA, but also whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.
- » Analysis should not be limited to the identification of sites for lower income households but should rather incorporate the jurisdiction's projected housing development at all income levels and assess the extent to which it either further entrenches or ameliorates existing patterns of segregation and/or exclusion of members of protected categories.

3. Site Inventory Continued

To evaluate site inventory's consistency with AFFH, it should address the following at a regional and local level for each of the fair housing issue areas (Segregation & Integration, R/ECAPs, etc.):

- » **Improved Conditions**
- » **Exacerbated Conditions**
- » **Isolation of the RHNA**
- » **Local Data & Knowledge**
- » **Other Relevant Factors**



Fair Housing
Enforcement and
Outreach



Segregation and
Integration



Disparities in
Access to
Opportunity



Disproportionate
Housing Needs /
Displacement



Racially and
Ethnically
Concentrated



Supplemental
Data

Based on the analysis, the element must summarize conclusions and directly identify policies and programs needed to adequately make sites available to accommodate the RHNA in a manner that AFFH.

AFFIRMATIVELY FURTHERING FAIR HOUSING

1 *Analyze* patterns and trends of disparate housing needs and disproportionate access to opportunities

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Outreach Efforts Assessment of Fair Housing Sites Inventory

2 *Identify* and *Prioritize* significant contributing factors to fair housing choice

3  *Establish* strategic policies, goals, and actions to AFFH based on analysis contributing factors

4. Identify and Prioritize Contributing Factors

- » **The housing element must include an identification and prioritization of significant contributing factors to segregation, R/ECAPs, disparities in access to opportunity, and disproportionate housing needs.**
- » **Fair housing contributing factor means a factor that creates, contributes to, perpetuates, or increases the severity of one or more fair housing issues**
- » **Contributing factors should be based on all prior AFFH analyses (outreach, AFH, site inventory)**
- » **Identification and evaluation of contributing factors must:**
 - Identify fair housing issues and significant contributing factors
 - Prioritize contributing factors, giving highest priority to those factors that most limit or deny fair housing choice, access to opportunity, or negatively impact fair housing or civil rights compliance
 - Discuss strategic approaches to inform and strongly connect to goals and actions. Goals and actions should stem directly from Contributing Factors
- » **Prioritization is important – should be a manageable list (4-6, not 50)**
- » **Must be tailored to local conditions**

5. Goals and Actions

The housing element must include a schedule of actions directly related to AFFH. As a whole it must:

- » Reflect the results of the AFFH analyses and directly address the contributing factors
- » Address significant disparities in housing needs and in access to opportunity
- » Replace segregated living patterns with truly integrated and balanced living patterns
- » Transform racially and ethnically concentrated areas of poverty into areas of opportunity
- » Foster and maintain compliance with civil rights and fair housing laws
- » Be specific, with concrete language – words like ‘explore’, ‘consider’ and ‘study’ don’t cut it
- » Have a clear timeline with specific dates and milestones – ‘ongoing’ usually not adequate
- » Quantifiable outcomes
- » Have a beneficial/meaningful impact during the planning period
- » Go well beyond a continuation of past actions
- » Not take any action materially inconsistent with the obligation to AFFH

5. Goals and Actions Continued

Action Areas to AFFH may include, but are not limited to:

- » **Enhancing housing mobility strategies**
- » **Encouraging development of new affordable housing in high resource areas**
- » **Improving place-based strategies to encourage community conservation and revitalization, including preservation of existing affordable housing**
- » **Protecting existing residents from displacement**

While it is not required to have a suite of programs that addresses each of the 4 above action areas, they must address the full scope of outreach, AFH, site inventory, and overcome contributing factors to fair housing, so generally a schedule of actions needs all four categories. The number and scale of actions will depend on the severity of the needs.

A balanced and effective approach will consider and combine each of the following tools:

- » **land use resources: planning documents such as general plans, zoning, specific plans, ordinances and procedures**
- » **financial resources**
- » **human resources: outreach, education, marketing, collaboration**

Common Mistakes & Pitfalls

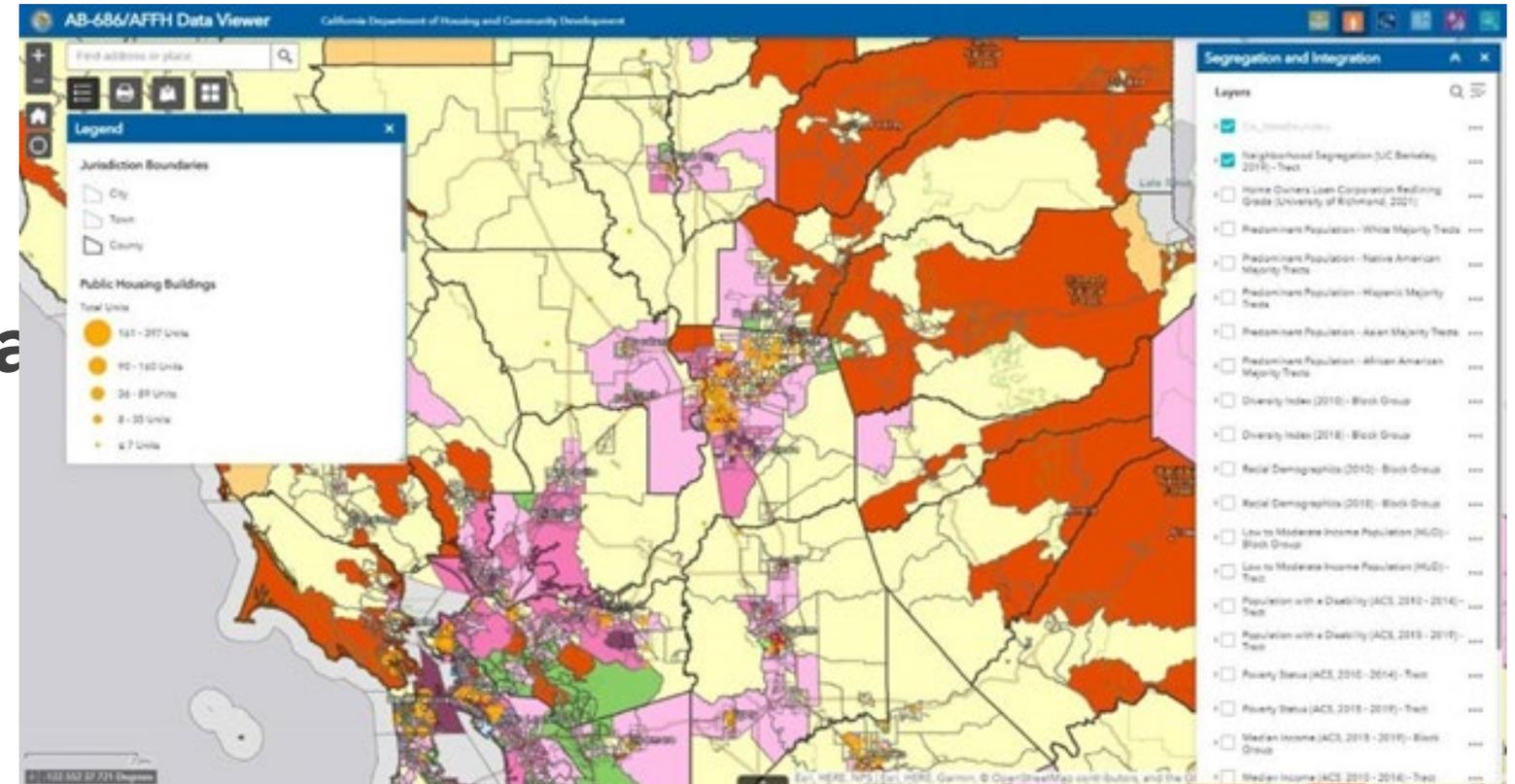
- » **A local jurisdiction just refers to a County-level Analysis of Impediments to Fair Housing previously completed**
- » **High-quality Assessment of Fair Housing, status-quo actions/programs**
- » **Does not include regional comparison in analyses**
- » **Only analyzes patterns of low-income sites, not all sites**
- » **Does not ask the public to provide input on AFFH**
- » **Doesn't prioritize 4-5 contributing factors & connect to programs**
- » **High opportunity areas can't rely on ADUs alone**
- » **No data dumping! Tell the story**

AFFH Data Viewer

Demo

AFFH Data Viewer

- » Map
- » Data pages
- » How-to Guide
- » Recommended vs. Additional
- » Print Functions
- » Feedback survey/email



Coming Soon

- » **AFFH Sample Analyses**
- » **Updates to Data Viewer**
 - New data layers
- » **Webinars**
 - HCD series of webinars
 - 6/15 11am-12pm
 - ABAG webinar 6/22
 - Other webinars as requested



Q & A

AFFHGuidance@hcd.ca.gov
Marisa.Prasse@hcd.ca.gov



Thank you!

AFFHGuidance@hcd.ca.gov
Marisa.Prasse@hcd.ca.gov

