Our Right to Choose Where We Live

KHC Kentucky Housing Corporation

Investing in quality housing solutions.

Our Civil Right to Choose Where We Live:

Analysis of Impediments to Fair Housing in Kentucky 2014-2015

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EXECUTIVE INTRODUCTION

The Southern writer Thomas Wolfe described the American Dream as:

> *To every man his chance—regardless of his birth, his shining golden opportunity…to live, to work, to be himself, and to become whatever thing his manhood and his vision can combine to make him.*

However, today the American Dream is at risk. Studies report that the majority of Americans now believe that the American Dream is not attainable, and that their children will not be better off than their parents. The American Dream has always been linked with the American home, whether a house one owns, an apartment one rents, or the farm where one's family has long lived. Where we live directly impacts our educational and job opportunities. Our zip code, it turns out, has as much impact upon our health as our genetic background. Given the link between our home and the American Dream, it is no surprise that the American Dream finds itself in peril at a time when the nation's Fair Housing Act is violated, at a conservative estimate, 4 million times a year.

Passed by Congress in 1968, largely in response to the assassination of Martin Luther King Jr., the Fair Housing Act seeks to provide freedom in housing choice to all Americans, regardless of race, gender, creed, or disability. The Fair Housing Act stands as the doorway, literally and metaphorically, to the American Dream. But each violation of the Fair Housing Act erodes upon each person's ability to freely choose where to live and to thereby begin pursuing the American Dream. When the Act is violated 4 million times each year, the American Dream finds itself so eroded, that inevitably a majority of Americans are left to feel that the American Dream will remain a dream, and never a reality, for them and their children.

Kentucky Housing Corporation (KHC) believes that the American Dream, which can be achieved only by first being able to freely choose where we live, is something for which it is worth fighting. The fight will be, as it so often has been in America, the fight for which matters most: a struggle of our minds and of our hearts for what kind of America we will be. F. Scott Fitzgerald wrote that while "France was a land; England was a people; but America, having about it ... that quality of the idea, was harder to utter…It was a willingness of the heart." The questions for all of us are: what will our idea of America be? And how willing are we to achieve it?

Kentucky is not only centrally located geographically, but centrally located in this nation's intellectual history. Time and time again, it was a Kentuckian who established an idea – a vision – of this country, which eventually became the law of this country. Henry Clay's vision of this country was one of an unbreakable union. U.S. Supreme Court Justice John Marshall Harlan insisted that this country's constitution was color blind and that separate could never be equal, with his vision finally becoming law 58 years later in Brown v. Board of Education. U.S. Supreme Court Justice Louis D. Brandeis, who had himself experienced discrimination, had a vision of this country as a democracy built upon freedom of speech and the right to privacy. These various ideas of our country seem so accepted today that it is easy to forget that they were articulated in a time when they were, in fact, often the dissenting view of this country. It was the power, the beauty, and the passion with which those Kentuckians articulated those visions, which helped to make them the American reality.

As these great Kentuckians have shown, often the dream begins as a dissent. Martin Luther King Jr., too, held a dissenting view, which he turned into perhaps the most powerful dream of all. In 1963, he looked at this country and refused to accept a reality where African Americans were not invited to the prosperity of this country, but instead were marooned "on a lonely island of poverty in the midst of a vast ocean of material prosperity." In King's vision, "we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity in this nation." And so King had a dream: "I have a dream that one day this nation will rise up and live out the true meaning of its creed: 'We hold these truths to be self-evident, that all men are created equal.'"

KHC's founder, Mae Street Kidd, joined in King's dream. An African American woman, Kidd served in the Kentucky House of Representatives from 1968 to 1984, where she was instrumental in passage of Kentucky's Fair Housing Act, as well as legislation forming KHC. She, too, had a different vision of this country. At a time when so many chose to pass as white, Kidd, as she noted in her autobiography, chose to spend her life "Passing for Black." And yet, the vision shared by King and Kidd has not yet become the American reality. With 4 million violations each year, we cannot say that we have

implemented the Fair Housing Act. And when people cannot freely choose where to live, the American Dream cannot live because the American Dream then has no starting point.

The American Dream is in serious trouble, but it is not dead. But, if there ever was a time to remind us of King's "fierce urgency of now", this would be it. KHC believes that Kentucky can restore the American Dream, and that King's and Kidd's alternative vision for this county and this state can become the reality. But only if we truly implement the Fair Housing Act. KHC here releases this report on the Fair Housing Act in the hope that agencies, families, and individuals will join us across Kentucky in the hard but important act of turning the American Dream into reality. And we can do that when we insist on full implementation of our country's most important civil rights statute: the Fair Housing Act, the doorway to the American Dream.

KHC has sought to fully implement the Fair Housing Act, not only by passionately embracing the spirit of the Act, but by also requiring that the Uniform Residential Landlord Tenant Act (URLTA) be applied to all its multifamily projects, that the new U.S. Department of Housing and Urban Development (HUD) regulation prohibiting discrimination against the lesbian, gay, bisexual, and transgender (LGBT) community be applied to all KHC programs, and by seeking to de-concentrate high poverty areas (King's "lonely islands of poverty") by limiting new construction in Qualified Census Tracts and giving increased weight to and seeking guidance from local jurisdictions' fair housing reports. In the belief that the first step to solving a problem is in recognizing the problem, KHC has joined with the Fair Housing Task Force, which created a list of the impediments to freedom of housing choice across the state of Kentucky. And because the data will demonstrate the extent of those problems, KHC has here provided a section of data concerning Kentucky demographics and how that relates to the goals of the Fair Housing Act.

KHC issues this report in the hope that those reading it will join us and the Fair Housing Task Force in our work in reducing and one day eliminating the impediments to freedom of housing choice across Kentucky. To be most effective in reducing those problems, the Fair Housing Task force has chosen to focus over the next year on five key areas: increased awareness by the public of fair housing problems, implementation of the URLTA in an increased number of local jurisdictions, encouraging the implementation of fairness ordinances at the local level, providing support to the domestic violence community to change housing laws to protect the safety of domestic violence victims, and to push for a greater increase in translated documents and otherwise meeting the housing needs of the growing immigrant community.

KHC also seeks to recognize here those communities and agencies who have sought to take innovative approaches to fair housing, and hopes that, one day, their creative approaches and visions will have become so successful that they will be seen, no longer as innovative, but as the norm.

J. Kathryn Peters
Executive Director
Kentucky Housing Corporation

EASTERN
AIRLINES

The Role of Kentucky Housing Corporation and Fair Housing in the History of Kentucky

In the late 1960s, Mae Street Kidd decided to reverse the usual order of things. In a world which emphasized white privilege, Ms. Kidd, who was of mixed race, identified as African American. While some chose to pass for white, Ms. Kidd, as she entitled her autobiography, was *Passing for Black*. And during a time which told women that their place was in the home, Ms. Kidd won election to Kentucky's most powerful house: the House of Representatives. Ms. Kidd then used her place in the House of Representatives to create good, safe homes for individuals and families across Kentucky.

Having a good home has always been the starting point for living the American Dream. Where we live determines such things as our educational attainment and our ability to get a good job. Studies also show that where we live, in particular our zip codes, have as much or even more impact on our health as do our genetic codes.[1] But in 1972, the American Dream was in peril for many across Kentucky. Ms. Kidd and the Kentucky Legislature recognized that severe problems existed in Kentucky's residential housing, in both the urban and the rural areas of the state: "There exists in the Commonwealth a serious shortage of decent, safe, and sanitary residential housing available at prices or rentals which can be afforded by persons and families of lower and moderate income. This shortage is severe in certain urban areas of the state, is especially critical in the rural areas."[2] Housing in Kentucky was so poor at that time that not only was it failing to provide entry to the American Dream, the Legislature found it was actually "inimical to the health, safety, welfare and prosperity of all residents of the Commonwealth and to the sound growth of Kentucky communities."[3]

Ms. Kidd and the Legislature created two solutions to the housing problem. The Legislature recognized that "private enterprise and investment have not been able to produce, without assistance, the needed construction of decent, safe, and sanitary residential housing at low prices or rentals which persons and families of lower and moderate income can afford, or to achieve the urgently needed rehabilitation of much of the present supply of residential housing available for persons and families of lower and moderate income."[4] To solve this problem, and to generate financing for good and affordable housing, Ms. Kidd sponsored legislation which created the state's housing finance agency, Kentucky Housing Corporation (KHC). Kentucky Housing Corporation was established to "perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing."[5] KHC's many enumerated powers, such as making residential mortgages, borrowing of funds, making of loans, and encouraging community organization to participate in residential housing, are all contained in KRS 198A.040.

Ms. Kidd established KHC not only to provide funding for good, safe homes for people and families in Kentucky, but also to be the state's leader in housing policy. "The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy."[6] The Legislature enumerated the different facets of Kentucky housing policy, which was to focus on all Kentuckians, including "the elderly, persons of lower and very low income, the disabled, the homeless, and single-parent households,"[7] The Legislature was clear that "housing policies which concentrate affordable housing in limited sections of metropolitan areas and county jurisdictions" was to be "discourage[d]."[8] Further, housing policy was to transcend beyond actual housing agencies, to include all state departments and social services agencies which were to coordinate services, and collaborative planning was mandated.[9]

Establishing a system for creating good and affordable homes across Kentucky solved one aspect of the problem, but individuals and families also needed to be able to freely access their right to live in good homes. A good home is useless if there are barriers to entering it. In 1968, Ms. Kidd, along with Georgia Powers and Hugh McGill, sponsored the Kentucky Fair Housing Act, making Kentucky the first state in the South to pass a bill providing for freedom in housing choice. The Kentucky Fair Housing Act originally prohibited discrimination in housing based on race, color, national origin, or religion, with the Legislature later broadening the law to prohibit discrimination in housing based on disability, gender, and familial status (i.e., families with children).[10] The Kentucky Fair

[1] Dr. Gail Christopher, Should Your Zip Code Determine How Long You Live?, Huffington Post, February 14, 2013; Megan Willett, Your Zip Code Could Indicate When You Will Die, Business Insider, July 11, 2013 (citing report from Institute of Health Metrics and Evaluation at the University of Washington which was published in Journal of the American Medical Association).

[2] KRS 198A.020(1)

[3] Ibid.

[4] KRS 198A.020(2)

[5] KRS 198A.030(2)

[6] 7KRS 198A.035(1)

[7] 8KRS 198A.025(1)

[8] Ibid.

[9] KRS 198A.025(3), 6), (7), and (8)

[10] KRS 344.360

Housing Act prohibits discrimination not only in selling, exchanging, renting or leasing, but also in advertising and representation of property availability or "to otherwise make unavailable or deny a housing accommodation."[11] It applies everywhere except to rental of an owner-occupied duplex or one room in a private home, the sale of property without help from a real estate dealer and without public advertising, and rental of church-owned housing to the extent of giving preference to those of that religion.

The National Struggle for our Right to Choose Where We Live

In passing the Kentucky Fair Housing Act, the General Assembly was following in the wake of Congress, which had passed the national Fair Housing Act earlier that year. From time-to-time in our country's history, various courageous individuals came forth to insist that the American Dream is and will be real, and that the American Dream must be for all, and not for just a few. Because Martin Luther King Jr. and other civil rights leaders had a dream, the national Civil Rights Act was passed in 1964. However, while the 1964 Civil Rights Act outlawed discrimination in employment, voting, and public accommodations, it failed to include any provision prohibiting discrimination in housing.

Perhaps because so much of one's later economic, professional, and personal success and well-being depend upon having a good home, the right to choose that home has been one of the most highly contested rights in American history. In the summer of 1966 at an open housing protest in Chicago, pro-segregation protesters held up signs (one saying that "King would look good with a knife in his back") and threw a rock which knocked King to the ground for several minutes. Even King, by then a veteran of protests, declared that he had "never seen anything so hostile and so hateful as I've seen here today."[12]

The national Fair Housing Act shared this turbulent history, being denied passage in 1966 and again in 1967. It was only after the assassination of King that a shocked and saddened Congress finally passed the Fair Housing Act in response to President Lyndon B. Johnson's passionate plea that they guarantee "a basic American right – the right of a man to secure a home for his family regardless of the color of his skin."[13] President Johnson went on to declare, "This tragedy has caused all good men to look deeply into their hearts. When the Nation so urgently needs the healing balm of unity, a brutal wound on our conscience forces upon us all this question: What more can I do to achieve brotherhood and equality among all Americans? There are many actions the Congress can take, on its part. The most immediate is to enact legislation so long delayed and so close to fulfillment."[14]

Dr. Martin Luther King speaking against war in Vietnam, St. Paul Campus, University of Minnesota (Flickr) https://www.flickr.com/photos/minnesotahistoricalsociety/5355384180

It can be said that Martin Luther King Jr. gave his life for the passage of the Fair Housing Act. If so, the bill is oddly titled, because King was one of this country's most passionate devotees of freedom. King's chief contribution to the Civil Rights Movement was his "vision of freedom. Always he appealed to principles of freedom. He made the word itself into an icon. In some images, a 'freedom march'…In other signs it was 'Freedom Now.' But always it was freedom as the ancient idea of belonging."[15]

The Fair Housing Act is about freedom to choose where to live. In its insistence that all Americans are entitled to freely choose their home, the Fair Housing Act seeks to make the American Dream the American reality. It covers real property, such as homes, apartments, lots, etc., that are rented or sold, whether by or through a real estate broker, sales agent or operator, or directly by the owner with the intent of being used of occupied, or is designed or arranged as a home or residency for one or more families.[16] Today, the Fair Housing Act forbids discrimination based upon race, color, national origin, religion, sex, familial status, or handicap. Traditionally, while the Fair Housing Act specifies only those seven protected groups; in practice, the fair housing area extends to offer protection to other groups, as well. For example,

[11] KRS 344.360(9)

[12] Frank James, Martin Luther King Jr. in Chicago at www.chicagotribune.com/news/nationworld/politics/chi-chicagodays-martinlutherking

[13] Lyndon B. Johnson, Letter to the Speaker of the House Urging Enactment of the Fair Housing Bill, April 5, 1968 at www.presideny.ucsb.edu

[14] Ibid.

[15] D. Fischer, Fairness and Freedom, 278-279 (Oxford University Press 2012)

[16] 42 U.S.C. Section 3601 et. al

the elderly, while not being included in the Fair Housing Act, are included under the Age Discrimination Act.[17] Similarly, victims of domestic violence are included in the Violence Against Women Act,[18] and their safety and protection has become one of the many focuses of the fair housing field.

Because of the Fair Housing Act, it is illegal to:

- Refuse to rent or sell to someone because they are a within a designated group.
- Provide different services of housing facilities to someone because they are within a designated group.
- Falsely deny housing is available because someone is within a designated group.
- Impose different housing rules on different people based on their being within a designated group.

Because of the Fair Housing Act, it is illegal for lending institutions to:

- Refuse to accept mortgage loan applications because someone is within a designated group.
- Refuse to provide loan information because someone is within a designated group.
- Give people different terms/conditions on a loan because they are within designated groups.
- Discriminate in the appraisal of property because someone is in a designated group.

And, most broadly, because of the Fair Housing Act, it is illegal for any person involved in any aspect of housing to:

- Threaten, intimidate, or interfere with any person's fair housing rights.
- Advertise any availability of housing that states a preference or limitation based upon a person being in a designated group.

Further details are available in the U.S. Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity (FHEO).[19]

The Changing Landscape of Fair Housing: Expanding Who Has a Right to Choose Where to Live

Since its enactment in 1968, the terms of the Fair Housing Act have been broadened and strengthened so that the American Dream can become real for all. The most significant changes to the Fair Housing Act recently have been its inclusion of the gay community as a protected class through promulgation of a February 2012 regulation by HUD, which prohibits discrimination based on "sexual orientation, gender identity, or marital status" by those receiving HUD funding.[20] These changes did not occur in isolation, but instead were in response to significant and wide-spread shifts in the legal system across the country, responding to unfair and discriminatory treatment of the gay community. These shifts began in 2003 with the U.S. Supreme Court in *Lawrence v. Texas*, 539 U.S. 558 (2003), reversing its previous opinion of *Bowers v. Hardwick*, 478 U.S. 186 (1986), which had criminalized homosexuality. The *Lawrence* case recognized a liberty interest in protected, private behavior. At the state court level, Massachusetts Supreme Court Justice Margaret Marshall wrote the first opinion finding that statutes discriminating against marriage by gay couples were "incompatible with the constitutional principles of respect for individual autonomy and equality under the law."[21]

With one opinion, Justice Marshall helped to lay the foundation for changes in the legal landscape across the country, with state and federal courts subsequently addressing the same or similar issues and agreeing with much of her analysis, culminating in the U.S. Supreme Court opinion striking down the Defense of Marriage Act in *U.S. v. Windsor*, 570 U.S. __ (2013). When subsequently interviewed about her decision and the background for it, Justice Marshall looked back at her years of growing up in South Africa and fighting apartheid there, crediting Senator Robert Kennedy with helping to create a turning point in her own life. Kennedy had accepted Marshall's organization's offer to give an address at the University of

The truth. #rfk#bobbykennedy #kennedy #wewantbobby #wherehaveallthe flowersgone #hope (Flickr) https://www.flickr.com/photos/drbrydges/12708067273

[16] 42 U.S.C. Section 3601 et. al

[17] 21 U.S.C. Section 6101

[18] 42 U.S.C. Section 13295 et. al.

[19] http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp

[20] Federal Register, Volume 77, No. 23, February 3, 2012, 5662-5676

[21] Goodridge v. Department of Public Health, 798 N.E.2d 941, (Mass. 2003)

Cape Town. Kennedy gave the Ripple of Hope Speech, in what Marshall characterized as "one of the bleakest years in a bleak time" in South Africa. As Marshall said, "The key message in the 'Ripple of Hope' speech, which made such an impact on me, is that if each person does some small thing, ultimately each of those small acts will add up to a combined impact that will tear away the greatest oppression…That was both reinforcing and inspiring to know that we were not wasting our lives."[22]

At the state level, Kentucky has seen more and more local communities pass fairness ordinances which prohibit discrimination against the gay community, both in housing and employment. To date, Kentucky's largest metropolitan regions of Louisville, Lexington, and Covington, as well as Frankfort, Ashland, Morehead, and Danville have passed fairness ordinances. One of Kentucky's smallest communities, Vicco, with a population of 329 in eastern Kentucky, also passed an ordinance in January 2013. Vicco's ordinance has perhaps received the most national attention, from the *New York Times* to *The Colbert Report*, perhaps because, as it has been said, for a small former mining community to pass such an ordinance was considered to be "stereotype-pulverizing."[23] However, to date, protections for the gay community exist only on the local level, as the state civil rights statutes do not extend to the LGBT population.

In February 2013, HUD promulgated a disparate impact regulation, recognizing that not only discriminatory intent, but also discriminatory effect, is actionable under the Fair Housing Act, just as it is under other civil rights provisions.[24] Previous to the regulation, "courts across the country have applied the disparate impact standard in evaluating claims under the Fair Housing Act, in recognition that 'effect, not motivation,' is the touchstone, because a thoughtless housing practice can be as unfair to minority rights as a willful scheme. Every circuit to consider the question – eleven in all – has held that the FHA prohibits housing practices that have a disparate impact on a protected group, even in the absence of discriminatory intent."[25] Ultimately, it will have to be the U.S. Supreme Court which determines whether or not the HUD regulation will stand. In a vehemently worded opinion, on November 3, 2014, the U.S. District Court for the District of Columbia struck down HUD's disparate impact regulation, finding that HUD had exceeded its authority in enacting it.[26]

In Kentucky, at least one court decision has found that housing discrimination claims can be brought not only with evidence of discriminatory intent, but also based upon discriminatory impact. "Racial discrimination may be shown by proof of either discriminatory purpose or discriminatory effect…Any municipal action or inaction over, subtle or concealed, which perpetuates or reasonably could perpetrate discrimination, especially in public housing, cannot be tolerated."[27]

President Lyndon B. Johnson signs "Gulf of Tonkin" resolution - NARA - 192484.tif (- Wikimedia Commons) http://commons.wikimedia.org/wiki/File:President_Lyndon_B._Johnson_signs_%22Gulf_of_Tonkin%22_resolution_-_NARA_-_192484.tif

Calling Us to Do More: What is Meant by Affirmatively Furthering Fair Housing?

While most legal statutes speak in terms of what is prohibited or what one shall not do, the Fair Housing Act is unique in that it mandates that its purposes must be "affirmatively furthered." Specifically, the FHA requires that "all executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes."[28] The phrase "affirmatively to further" is not one which falls "trippingly on the tongue", but behind that awkward phrase is President Johnson's exhortation asking us "what more

[22] NPR, Former Mass. Chief Justice on Life, Liberty, and Gay Marriage, Morning Edition, June 7, 2013

[23] Gay Mayor of Vicco, Kentucky, Reacts to the "Best Segment of 'The Colbert Report' Ever", Mother Jones, August 16, 2013 at http://www.motherjones.com/mojo/2013/08/major-johnny-cummings-vicco-kentucky-interview-colbert-report

[24] 24 CFR Part 100, Vol 78 Federal Register, No. 32, 11460-11482

[25] Assessing HUD's Disparate Impact Rule: A Practitioner's Perspective, 49 Harvard Civil Rights-Civil Liberties Law Review 156, Michael G. Allen, Jamie L. Crook and John P. Relman, 156

[26] American Insurance Association v. U.S. Department of Housing and Urban Development, Civil Case No. 13-00966(RJL)

[27] Middlesboro Housing Authority v. Kentucky Commission on Human Rights, Ky. App., 553 S.W.2d 57, 62 (1977)

[28] 42 U.S.C.A. Section 3608(d)

can I do to achieve brotherhood and equality among all Americans?" The Fair Housing Act, unlike most statutes, calls on us to be our better selves.

The Fair Housing Act affirmatively furthers fair housing by demanding that government agencies engage in regular and searching self-examination concerning what they have done to help individuals and families fight for their right to choose where to live. Every five years, HUD requires that government agencies which receive HUD funding examine their actions to see how they have promoted freedom in housing choice, how they can further aid individuals and families in being able to freely exercise their housing choices, and to draft a report called an Analysis of Impediments (AI). As a recipient of funds from HUD, KHC is required to be in compliance with the Consolidated Plan regulation (24 CFR 91.225), as KHC has received funding through the Community Development Block Grant, the HOME Investment Partnerships Program, Housing Opportunities for Persons With AIDS, and the Emergency Shelter Grant Program. The AI is an integral part of the state's Consolidated Plan.

The AI must:

1. Provide a listing and an analysis of all impediments to fair housing across the state.
2. Show and propose appropriate actions to overcome the effects of any impediments identified through that analysis.
3. Contain records reflecting the analysis and actions.

KHC does not regard this report as merely a bureaucratic requirement. Long after she founded KHC, Mae Street Kidd was well known for calling to KHC and demanding of its staff, "what have you been doing for the people?" While Mae Street Kidd passed away in 1999, her question still remains. And this report represents KHC's attempt to answer not only what it has been doing for the past five years regarding fair housing, but what it plans to do in the future.

Fair Housing as Gateway to the American Dream

The last five years have seen both a sense of increasing urgency concerning the lack of freedom in housing choice in America and an increased sense of commitment to ensuring that people can freely exercise their right to choose where to live. A right to choose where to live has always been the central doorway to the American Dream. "Where we live directly affects our educational and health outcomes and life opportunities."[29] Studies show us that our zip code is directly correlated with the state of health and our very longevity. Comparisons of life expectancy in neighboring census tracts show that the differences in such life expectancy in Cook County, Illinois, is 18 years; in Bernallillo County, New Mexico, is 22 years; and in Boston, Massachusetts, is 33 years.[30] Further, where children live determines the quality of the education they receive, to the point where "housing policy is school policy."[31] The U.S. Supreme Court decision in *Brown v. Board of Education*[32] ended, in theory, the practice of segregation in schools. However, today's often-segregated housing practices mean that, in practice, our schools and the educational opportunities they offer remain unequal.

From 1987 KHC Annual Report

[29] Fair Housing in a Changing Nation, April 30, 2012

[30] Megan Willett, Your Zip Code Could Indicate When You Will Die, Business Insider, July 11, 2013

[31] Housing Segregation Is Holding Back the Promise of Brown v. Board of Education, Washington Post, May 15, 2014

[32] 347 U.S. 483 (1954)

Trace back the achievement gaps of low-income children…and you'll find opportunity gaps in the places where they live. You'll find school district that receive fewer property tax dollars and schools that have a harder time retaining and paying good teachers. You'll find classrooms where turnover is high among low-income students whose families must move more often. You'll find classrooms where special needs are more common and where involvement among single parents more scarce. You'll also find neighborhoods where crime is high, preventing children from playing outside, and where environmental hazards are high as well, resulting in elevated rates of asthma that keep children out of class. You'll find neighborhoods short on primary-care doctors, jobs and mentors.

Excerpt from Housing Segregation Is Holding Back the Promise of Brown v. Board of Education, Washington Post, May 15, 2014

The reality remains that, nationally, "three times as many poor African Americans and over twice as many poor Latinos currently live in resource-poor neighborhoods as compared to poor whites."[33]

The full implementation of the Fair Housing Act remains central and necessary to America's maintaining its economic success. "Eliminating individual and systemic acts of discrimination that affect our life opportunities is paramount to achieving a productive U.S. workforce capable of competing on a global scale."[34] But this country has not successfully implemented or enforced the Fair Housing Act. "A conservative estimate puts the number of violations of fair housing law at four million *every year.*"[35] In particular, the number of documented incidents of fair housing discrimination against people with disabilities is "overwhelming... These complaints account for 44 percent of 2011 complaint filings. Nationwide, about 19 percent of the non-institutionalized population has a disability, and close to one third of households in 2007 had one or more people with a disability."[36] Such failures in freedom of housing choice act not only as a legal barrier to advancement, but also as an economic drag. Freedom of housing choice for all people is "instrumental in achieving a nation in which a competitive and productive citizenry can flourish."[37]

The American Dream at Risk

Not surprisingly, when barriers to freedom in housing choice mean barriers to accessing life opportunities, the American Dream itself becomes at risk. It is no coincidence that these days find nearly 6 in 10 Americans believe the American Dream is not attainable.[38] The majority of Americans – 63 percent – believe that today's children will not be better off than their parents.[39] A study by *USA Today* computed the cost of living the American Dream at approximately $130,000 per year for the average family of four. This American Dream was based on a relatively moderate lifestyle: the median price of a new home, a moderate-cost grocery plan, one vehicle, health insurance and medical expenses, and educational expenses for the children, estimated at $4,000 per year with a college savings at $2,500 per year.

With a $130,000 price tag, the American Dream is unaffordable for all but a small percentage of American families. According to the U.S. Census Bureau, the median household income in the U.S. in 2012 was $51,371, less than half of what is required to achieve the American Dream. In fact, only the top 12 percent of American families earn $130,000 or more annually. The current reality is that unless dramatic actions are taken, the American Dream will be out of reach for 88 percent of American families, turning the American Dream into the American illusion.[40]

For renters, the American Dream is even more remote as their housing grows ever more tenuous. "For tens of thousands of renters, life has become increasingly unstable in recent years, even as the economy has slowly improved. Middle-class wages have stagnated and rents have risen sharply in many places, fueled by growing interest in urban living and a shortage of rental housing. The result is a surge in eviction cases that has abruptly disrupted lives, leaving families to search for not just new housing that fits their budgets, but new schools, new bus routes and sometimes new jobs."[41] Eviction filings have increased sharply over the country, including an 8 percent increase in Kentucky.[42] Explanations vary for the phenomenon, but "perhaps the simplest explanation for the rise in evictions is a severe shortage of rental housing caused by a lack of new construction during the recession and the wave of foreclosures that turned homeowners into renters and

[33] Fair Housing in a Changing Nation, National Fair Housing Alliance, 2012 Fair Housing Trends Report, April 30, 2012

[34] Ibid.

[35] Ibid.

[36] Ibid.

[37] Ibid.

[38] June, 2014 CNN/Opinion Research Corporation Poll at http://money.cnn.com/2014/06/04/news/economy/american-dream

[39] Ibid.

[40] http://www.nytimes.com/interactive/2012/01/15/business/one-percent-map.html

[41] Evictions Soar in Hot Market; Renters Suffer, August 29, 2014, New York Times

[42] Ibid.

occupied housing into abandoned blight."[43] The rental shortage and evictions are particularly problematic for fair housing concerns, "making the most vulnerable tenants susceptible to eviction" with many of those evicted being people of color or with disabilities.[44]

For most Americans, the American Dream will remain merely a dream, and never the reality, unless changes are made. Those changes must come not only in the form of fighting discrimination in housing by individuals, but also by examining and altering systems which result in placing minorities, individuals with disabilities, and families with children in areas which consistently expose them to fewer opportunities than are available to mainstream, upper income groups. The key must be to connect one's home to one's life opportunities.

In proposing a new regulation, Affirmatively Furthering Fair Housing,[45] HUD now seeks to make those broad systematic changes. HUD proposed the new regulation on July 19, 2013, thereby unleashing a storm of public opinion both in favor and in opposition. The proposed regulation makes numerous changes, with the most important being that it places fair housing goals at the center of all major planning decisions and that it seeks to connect housing planning decisions to other economic areas, such as jobs, transportation, and healthcare. This proposed HUD regulation acknowledges that the prospect for individual or familial success is influenced by a variety of neighborhood features far more extensive than just housing. These other neighborhood features are important considerations in advancing fair housing. HUD seeks to have housing and other agencies consider factors, such as the neighborhood school proficiency index, the labor market engagement index, the job access index, the health hazards exposure index, and the transit index. The proposed rule also seeks greater input, comment, and coordination from what it references as "disconnected policy domains," such as those concerning health services, social services, educational, transportation, and environmental agencies. The proposed regulation seeks to reduce disparities in these key community assets based on race, color, religion, sex, familial status, national origin, or disability, thereby improving economic competitiveness and quality of life. The proposed rule can be found at http://www.huduser.org/portal/affht_pt.html.

Fight for Our Right to Choose Where to Live: Making the American Dream Real in Kentucky

While a proposed regulation is not legally binding upon KHC, this regulation nonetheless signals a major policy and directional shift by HUD, a shift to which KHC must respond. To the extent this proposed regulation seeks to connect people and their homes to greater life opportunities, KHC applauds the regulation. Yet, from Kentucky's perspective, this proposed regulation paradoxically both reaches too far and yet does not reach far enough. The proposed regulation, as one would expect from an agency called Housing and Urban Development, is one which appears to be most suited to metropolitan areas, which are the areas which tend to have jobs, educational institutions, and transportation centers.

KHC, as the state housing finance agency, is charged with funding good and affordable homes across the Commonwealth of Kentucky, particularly in the rural areas. In 1972, the Kentucky Legislature found that the "shortage of decent, safe, and sanitary residential housing" was "especially critical in the rural areas."[46] And in 2014, rural areas still find critical shortages in good and affordable homes. "With lower incomes and higher poverty rates, rural renters – including aging seniors, individuals and families with very-low incomes, persons with disabilities, and farmworkers – face especially daunting barriers to affordable housing."[47] "Rural minorities, female-headed households, and children are significantly more likely to live in poverty…As a result, they not only are more likely to live in rental housing, but are also more vulnerable to living in substandard and unaffordable housing. For example, while people of color represent 20 percent of the total rural population, they comprise a quarter (25 percent) of all rural renters. Rural minorities are twice as likely as rural white residents to be renters."[48]

Comparing Rural and Urban Poverty Rates

2012 American Community Survey
Five-Year Estimates

	White	Black	Hispanic	Children
Rural	22%	35%	36%	31%
Urban	13%	31%	32%	22%

[43] Evictions Soar in Hot Market; Renters Suffer, August 29, 2014, New York Times

[44] Ibid.

[45] http://www.huduser.org/portal/affht_pt.html

[46] KRS 198A.020(1)

[47] National Rural Housing Coalition, Federal Strategies to Preserve Access to Affordable Rental Housing in Rural Communities (2014)

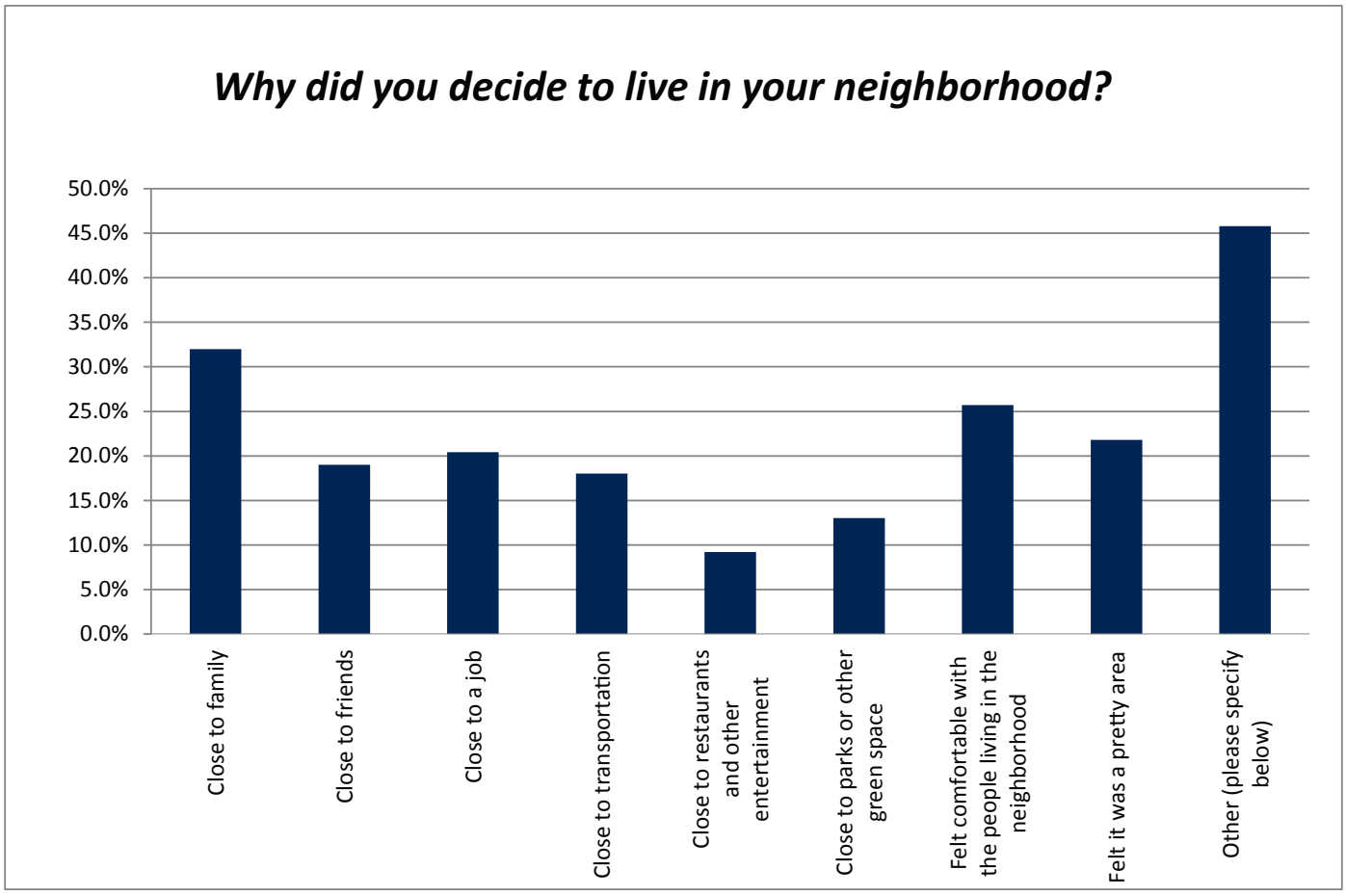
[48] Ibid.

As a state housing finance agency, KHC must promote freedom in housing choice for Kentucky residents. Such freedom in housing choice depends largely upon two things: 1) why do Kentucky residents choose to live where they live; and 2) what connections are important to Kentucky residents? KHC's task must be to help remove existing barriers, which exclude families and other protected groups from moving into high opportunity areas. But, conversely, KHC's task must also be to bring resources and opportunities to families and other protected groups who wish to remain in homes but find that their homes do not provide access to opportunities. As the state housing finance agency, KHC must balance and join in various state and federal initiatives to accomplish these goals, including not only the proposed HUD regulation, but rural initiatives, such as those of the U.S. Department of Agriculture (USDA), as well as the most recent initiative for eastern Kentucky, SOAR.

The regulation represents HUD's viewpoint on where people should live, but it fails to ask people themselves why they live where they do. KHC has asked Kentucky residents that question by drafting fair housing surveys, both for Kentucky residents and for Kentucky housing professionals. The survey was sent out by means of KHC eGrams, posted on KHC's website, and distributed by KHC staff presenting at conferences across Kentucky. The survey cannot claim to be scientific, but it does provide a key window into why KHC's clients, borrowers, and partners live where they do. According to those surveys, the number one reason determining where Kentucky individuals and families live is to be close to families and friends.

In Kentucky, jobs, education, and green space are all important. But it would appear that the most powerful connectors are the ties that bind us to each other, in the form of families and friends.

Each time an individual denies to another individual their right to own a home or rent an apartment because of the other individual's race, gender, or sexual orientation, the fair housing laws are violated. Each time a community puts in place a system which prevents particular groups of people being able to move into high opportunity areas, or a system which relegates particular groups of people to certain areas of the community, freedom in housing choice is denied and the Fair Housing Act is violated. But, also, each time particular groups of people wish to remain in an area and are denied that opportunity, then the Fair Housing Act is also violated. KHC must be able to respond to all situations across the state.



To the extent that the proposed HUD regulation helps families and protected groups to be able to assert their right to choose where they live, the proposed regulation is one which will help Kentucky. But, to the extent that the proposed regulation suggests or proposes that families and protected groups who value their current homes must move, the proposed regulation is not one which can or will work for Kentucky.

The American Dream began with this country's first settlers leaving their homes in the hope of establishing new homes in a new land, homes which would lead to greater opportunity. But in many ways, the modern world has grown smaller. The frontier once defined this country, but the American frontier is gone. The new American Dream must somehow now embrace a dream which must, in this smaller world of finite resources, begin to develop a sense of place. While the HUD regulation strongly suggests the answer to problems is to simply pick up and move, the new American Dream could well also embrace the virtues of fidelity to a particular place, to a loyalty to a home where one has long lived, and to thorough understanding that home and place.

Any analysis of our right to choose where to live must somehow include recognition of what that home means to us in the first place. Kentucky is fortunate in that its writers have long spoken about the meaning of home and the meaning of place for Kentuckians. For all its innovation, the HUD regulation cannot embrace the essence of what makes Kentucky unique or what it is that holds generation after generation of Kentuckians to this place. In response to the article in the New York Times with the (somewhat insulting) title of "What's the Matter with Eastern Kentucky?", the writer Silas House directly responded and conveyed his ties to his "true home" in Appalachia that he values:

> *"My point here is, once again, that to properly examine quality of life in the region, one needs to do more than look at data. I do not mean that only Appalachians can write about Appalachia. But I do mean that anyone who is attempting to write about it must become immersed in a special kind of way. Appalachia is the kind of place everyone thinks he or she understands but very few actually do, and that's mostly because they haven't taken the time to educate themselves properly. One must go to a place like Rockhouse, to drive these winding roads. One must sit and jaw for a while with folks on their front porches, to attend weddings and high school graduations. One must study the history of the place and come to understand it, must sit at a wake and look at the lines on the face of the people, the calluses on their hands, understand the gestational and generational complexities of poverty and pride and culture. One must stand for a while outside the funeral home and smell the air, study the gravestones out back that await the inscriptions of names belonging to people, not statistics. Otherwise you don't know what you are talking about."*

Silas House on Eastern Kentucky: "I am that Smudge." Courier Journal, July 28, 2014

When one has a "true home," then leaving it can be as bitterly wrenching as the opposite experience of being denied entry into a community where one wishes to live. As author bell hooks writes about her experience of leaving her home in Kentucky, "Leaving home evoked extreme feelings of abandonment and loss. It was like dying."[49] The new American Dream must be one which recognizes both sides of reality; Americans must have the ability to move freely to areas of high opportunity and they must also be provided with the opportunity to remain in the homes they love. The American Dream, if it means anything, must permit Americans and Kentuckians to have the choice in the home where they live, and that home must be then connected to the larger community of opportunities for everyone.

Progress in Fair Housing from 2009-2014

In creating its report concerning the state of fair housing in Kentucky today, KHC must first examine the progress made in the last five years. In March 2009, a Fair Housing Focus Group came to Frankfort to identify impediments to fair housing. This Fair Housing Focus Group was composed of KHC and the following agencies: Department for Local Government, Lexington Fair Housing Council, Kentucky Commission on Human Rights, Bowling Green Human Rights Commission, Kentucky Domestic Violence Association, the City of Covington, Kentuckians for the Commonwealth, Louisville Metro Human Relations Commission, and the Bowling Green Human Rights Commission.

[49] bell hooks, Belonging: A Culture of Place

The group identified the following obstacles to people being able to freely choose where to live and to exercise their fair housing rights:

- Lack of funding for enforcement, litigation, and appropriate staffing at Fair Housing Assistance Programs (Kentucky Commission on Human Rights, Louisville Metro Human Relations Commission, Lexington Human Rights Commission).
- The process for filing a discrimination charge is not complainant friendly.
- Funding inadequate to receive complaints.
- The process for moving a case from filing to close-out is overly bureaucratic and slow-moving, clogging up the system, allowing files to age, and overburdening an understaffed group.
- The intake process is too complicated and not supportive enough, for lack of staff available to answer calls.
- Lack of accountability to fair housing standards, based on loose "affirmatively furthering fair housing" standards and overburdened fair housing investigators.
- No consistent means of communicating between fair housing leaders through the state.
- The Uniform Residential Landlord Tenant Act (URLTA) only protects a very few cities and counties in Kentucky, leaving many residents vulnerable to retaliation.
- The eligibility requirements and placement of new and rehabbed developments are not adequately transparent and often exclusive.
- Insufficient language access.
- Subprime lending.
- Lack of public knowledge.
- Insufficient building accessibility, permits not checked.
- Refusal to rent to people with Section 8 vouchers.

KHC, 2014 March for Fair Housing - Frankfort, KY

The group also identified a lengthy list of proposed actions and solutions. In particular, the group suggested the following actions:

- Create a fact sheet on the process of filing a complaint and include it in the distribution materials.
- Take the ideas generated by this group to the Housing Policy Advisory Committee and request a subcommittee on fair housing.
- Expand protected classes to include source of income, marital status, gender, sexual orientation, and domestic violence status.
- Focus on educating landlords and political leaders on the benefits of URLTA, Section 8 tenants, and fair housing practices.

Over the past five years, KHC has taken several key actions to address the 2009 impediments through making changes to its own policies and procedures which impact housing across Kentucky. The URLTA figured largely in the 2009 report. URLTA provides for protections not only to tenants, e.g., prohibits them from being summarily evicted, but also extends protections to landlords by requiring that tenants properly take care of and safeguard their rental properties.[50]

Unfortunately, URLTA has been passed by only a few jurisdictions: Barbourville, Bellevue, Bromley, Covington, Dayton, Florence, Lexington-Fayette County, Georgetown, Louisville-Jefferson County, Ludlow, Melbourne, Newport, Oldham County, Pulaski County, Shelbyville, Silver Grove, Southgate, Taylor Mill, and Woodlawn.[51] With a limited jurisdictional reach, URLTA's scope is severely limited across the state. However, the multifamily projects funded by KHC extend across the Commonwealth of Kentucky. KHC has begun to not only require that developers agree that their projects will adhere to the URLTA requirements, regardless of where the development is located, but beginning in January 2015, will also require that the URLTA requirements be incorporated into tenant leases in KHC-funded or tax credit projects across Kentucky.[52]

Similarly, civil liberties for the gay community are only sporadically protected across Kentucky, through locally-enacted fairness ordinances. For example, please see the Morehead Fairness Ordinance, located at the Appendix in this document. The HUD regulation prohibiting discrimination against the gay community is similarly limited in that it applies only to HUD-funded projects.

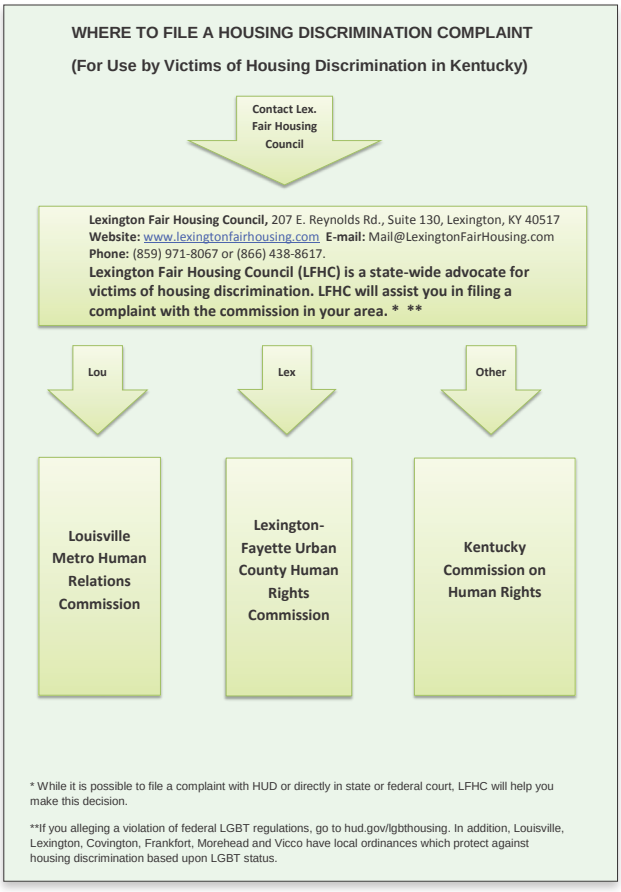
[50] KRS 383.500-383.715

[51] Legal Aid Network of Kentucky, Reading Your Lease – Non-URLTA, at http://kyjustice.org/node/708

[52] KHC 2015 QAP, at 110

However, beginning in August 2012, KHC implemented the HUD regulation by applying it across the board to all KHC-funded projects. KHC made this decision not only because a uniform application of the regulation provides for greater administrative ease, but also due to a sense of fairness and a belief that housing benefits should not be withheld from any designated group of people. As a result, all KHC-funded projects must demonstrate that their non-discrimination policies protect the gay community, just as they protect other minorities. In addition, KHC staff have testified about the KHC requirement at various hearings in different communities considering passing fairness ordinances.

Filing a fair housing complaint can be a confusing process, as there are different entities which can take the complaint and different points of entry into the fair housing system. KHC has attempted to provide greater education concerning the fair housing complaint process, and thereby reduce any confusion concerning it. KHC has done so by drafting a chart which summarizes the fair housing complaint process which is available on KHC's website, www.kyhousing.org, under *Resources, Data Library, Fair Housing in Kentucky*.



The Housing Policy Advisory Committee (HPAC) was listed repeatedly in the 2009 AI as one way of improving the fair housing process by having the HPAC weigh in on fair housing issues. HPAC's membership includes not only housing agencies, but a broad cross-section of other government and policy makers in Kentucky. KHC staff began the process of seeking HPAC involvement by reporting to the HPAC on fair housing issues. In October 2013, KHC reported to the HPAC about the new proposed HUD regulation on affirmatively furthering fair housing. KHC also discussed with the HPAC the possibility of including source of income as a new protected class under the Kentucky Civil Rights Act, and that issue remains under study. In July 2014, KHC staff further discussed with HPAC KHC's role in fair housing policies and plans and proposed plans for the future. The HPAC members also submitted feedback and filled in surveys in order to assist KHC in preparing this 2014 AI.

KHC also re-emphasized fair housing training, and conducted a mandatory all-staff fair housing training which gave an overview of the history, the reasons, and the laws pertaining to fair housing. The KHC Fair Housing Coordinator lead a fair housing training at the Kentucky Affordable Housing Conference in October 2013. KHC staff also made fair housing training part of the various committees and other meetings which KHC helps to staff or facilitate, including a public hearing held in February 2013; an Affordable Housing Trust Fund Committee meeting in October 2013, as well as seeking input across the state on the 2014 Analysis of Impediments by presenting on that subject at the Lexington Fair Housing Conferences in April 2013 and 2014, the Kentucky Human Rights Commission Fair Housing Conference in April 2013, and the Homeless and Housing Coalition Conference in April 2013.

To make sure that KHC is serving the needs of the immigrant community and to expand its immigrant customer base, KHC created a new position, that of the multi-cultural customer service and outreach coordinator. This cultural outreach staff person has been focusing on networking with the immigrant community, examining KHC's minority contractor procedures, and seeking to expand and improve KHC's response to individuals whose first language is not English.

In addition, KHC continued to engage in the following activities:

- Educating renters about their housing rights through the Section 8 briefing process and brochures in all regional KHC offices, as well as providing fair housing information at all new owner orientations.

- Working with the Kentucky Finance Cabinet to monitor KHC's recipients' compliance with Title VI requirements.
- Providing educational and technical assistance regarding fair housing issues as it continues to administer various housing programs.
- Including fair housing information in all contracts with subrecipients.
- Sending staff to fair housing training provided by the John Marshall Law School in Chicago in October 2013.
- Meeting with HUD Deputy Secretary Sara Pratt concerning fair housing enforcement issues and the Analysis of Impediments in June 2014.
- Creating a KHC Multicultural Affairs Committee, which seeks to improve all KHC programs and general operations so that fair housing goals are affirmatively furthered and minority concerns are appropriately addressed.
- KHC's executive director opening the annual Get on the Bus fair housing event sponsored by the Lexington Fair Housing Council.
- KHC representatives attended the 50th Anniversary of the Civil Rights March on Frankfort.

Current Impediments to Fair Housing and Freedom of Housing Choice Across Kentucky

In May 2014, the Fair Housing Task Force met to review current impediments to being able to freely choose where to live in Kentucky. In addition to KHC, the other agencies who were present and who submitted their expertise and their current view of the fair housing problems were: the Kentucky Human Rights Commission, the Lexington Fair Housing Coalition, Kentucky Habitat for Humanity, the Louisville Metropolitan Housing Coalition, the Bowling Green Human Rights Commission, the Lexington Human Rights Commission, Legal Aid of the Bluegrass, the Kentucky Equal Justice Center, Kentucky Protection and Advocacy, the Center for Women and Families, and the Kentucky Domestic Violence Association. Collectively, the group assembled a list of current impediments to housing choice in 2014 (see below). As can be seen from the list, not only are the problems extensive, but the problems impacting fair housing are not merely problems in the housing field. Housing remains at the center of all Kentuckians' lives, and the problems concerning freedom of housing choice can begin to be remedied only by examining not only housing, but other areas such as employment, transportation and healthcare, all of which impact on our lives and our homes.

Listing of Impediments to Fair Housing Across Kentucky

Practices

1. **Credit**
   a. Emphasis on credit scores has an adverse and disproportionately negative impact upon minorities and protected classes.
   b. Credit scores are inflexible and fail to reflect the full economic reality of each individual. For example, penalties for failure to pay rent but no credit enhancements for making rent payments.
   c. Increased reliance and importance of credit scores will continue to disproportionately impact minorities and protected classes and exclude them from both rental and purchased home options.

2. **Appraisals**
   a. Changes in the appraisal process, including outsourcing of the services, have contributed to increased devaluation of minority neighborhoods.

3. **Lending**
   a. The problem of sub-prime lending has been replaced by the fact that many minority and protected classes are excluded from being eligible for any home mortgage lending.
   b. When any loans still remain a possibility, minorities are excluded or steered away from the best lending terms.

4. **Predatory Practices**
   a. Fast cash for home programs often leaves the home borrower still owing on a mortgage, after the house has already been sold.

5. **Environmental**
   a. Building codes do not currently take into account internal chemical hazards and risks faced by occupants.
   b. Housing often ends up being placed in environmentally hazardous areas, particularly where minorities and other protected classes are concerned.

6. **Zoning**
    a. Particularly in urban areas, zoning has resulted in separating residential development according to class or economic status, and has perpetrated segregation by race and class.

7. **Insurance**
    a. Insurance rates continue to remain high, with no reduction in the rates even after potential homeowners complete homeownership counseling or other programs, such as Habitat for Humanity.

8. **Tax Credit Projects**
    a. Tax credit projects have historically not been administered through a fair housing lens, although steps recently taken by KHC have begun to rectify this problem.

9. **Foreclosures**
    a. Maintenance on foreclosed properties often varies depending on whether a property is in a poor minority area or a wealthier predominantly white area.

10. **Miscellaneous**
    a. While discriminatory provisions and restrictions in deeds are now legally invalid in that they cannot be enforced, the language still remains in hundreds or thousands of deeds, sending an unwelcoming message to those groups targeted by that language.
    b. The current land bank system is somewhat ineffective and rather archaic.
    c. Utilities are part of housing costs, but LIHEAP gives increased funding to rural areas over urban areas.

Processes

11. **Inadequate State and Local Laws**
    a. The Kentucky Fair Housing Act is not sufficiently broad and leaves out LGBT, elderly, and those receiving government benefits as protected classes.
    b. Uniform Residential Landlord Tenant Act (URLTA) is of limited impact, as it is in effect in only a few communities.
    c. Immigrants feel both unwelcome and at risk of having their homes taken away by virtue of the escheat provisions of Kentucky law under KRS 381.300.
    d. Legislative involvement or interest in affordable housing has diminished in the past 40 years.

12. **Criminal Justice System**
    a. As the criminal justice system moves to increasing use of diversion, early release, and lighter sentences, the prison population is re-entering back into the community at a faster rate, and often re-enters into segregated areas.
    b. Past criminal convictions limit housing options, are treated differently by different housing jurisdictions, and often result in those with convictions being funneled into certain areas.

13. **Fair Housing**
    a. Housing discrimination complaints are handled by both federal and local agencies, creating confusion, rigidity, and overlap.
    b. Fair Housing Reports (known as the Analysis of Impediments, or AIs) have historically been reviewed only ever 5 years and each jurisdiction's AI has tended to be viewed in isolation.

14. Connectivity: Transportation and Internet

a. Housing must be linked to other resources, but with inadequate or no means of transportation in rural areas, rural renters and homeowners are separated from needed resources, such as employment, healthcare, or in the case of domestic violence victims, forced to continue to live with an abusive spouse or partner.

b. Kentucky ranks 40th in residential access to high-speed Internet, which tends to be most highly concentrated in the center, more urban area of the state, known as the Golden Triangle. Even among those with access to high-speed Internet, many do not know how to use it. In today's economy, internet access can prove a substitute for poor or nonexistent roads.

15. Inadequate Affordable Housing Stock

a. The overall housing vacancy rate is so low that protected classes are at an increased risk for being rejected.

Populations

16. Mobile Homes

a. Individuals and families living in mobile home parks are particularly vulnerable to eviction, sometimes being evicted in one day.

b. Energy costs for mobile homes are excessive.

17. LGBT

a. Except for those communities which have passed fairness ordinances and for housing funded by HUD, the LGBT community has no legal protection from discrimination in housing access or evictions.

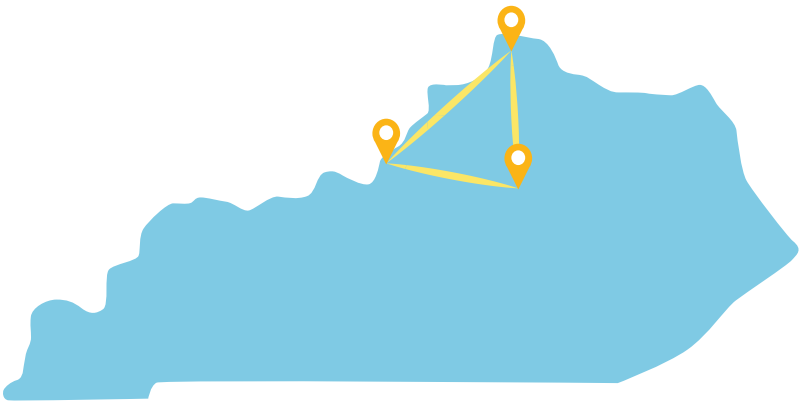
18. Elderly

a. There has been little to no work done on helping aging Kentuckians age-in-place in their homes.

b. Kentucky's lack of sufficient accessible housing will only get worse in time, as Kentucky's population ages.

19. Individuals with Disabilities

a. There is insufficient accessible housing for full time residential use by individuals with disabilities.



The Golden Triangle is the area between Covington, Lexington, and Louisville.

b. There is insufficient "visitable" housing to permit individuals with disabilities to visit others.

c. After Olmstead, individuals with disabilities are being released at an increasing rate into communities, with those communities being unprepared and having insufficient and/or inadequate housing to meet the need. As a result, individuals with disabilities are being segregated into certain neighborhoods.

d. New housing construction must be built according to the design and construction requirements of the Fair Housing Act, and the building permit process must ensure that accessibility requirements are met.

e. Lack of "visitability" features in homes results in increased social isolation: individuals with disabilities find it difficult to access homes or certain areas of the homes for social calls, and those residing in non-visitable homes find it difficult to invite individuals with disabilities when their residences might have staircases at entrances, etc. Visitability is achieved when residences have one zero-step entrance, doors with 32 inch clear passages of space, and one bathroom on the main floor which is wheel-chair accessible. The visitability problem is one which also impacts the elderly.

20. Domestic Violence Victims

a. Lack of rental housing in rural areas has a disproportionate impact upon domestic violence victims, who often find they have no safe or available housing alternative to that of living with an abuser.

b. Domestic violence victims have the legal ability to be able to be released from rental leases when necessary, but this right is not clear to most in the community.

21. Immigrants

a. Refugees face inadequate housing options.

b. Some landlords have established rental policies on their face which are neutral but have a disparate impact upon a particular protected class. For example, some prohibit certain cookware which is most often used by Latinos.

22. Families with Children

a. Inadequate housing exists for families with children, and appears to have been reduced over the past twenty years.

23. Rural

a. Rural areas have an acute shortage of homeless shelters, with many rural counties having no such shelter.

Public Outreach

24. Public Culture

a. Renting, and therefore renters, are not well-regarded in our culture.

b. Across Kentucky, there is a lack of awareness of the housing problems faced by many Kentuckians, particularly those in protected classes.

c. Often minorities and protected classes feel unwelcome in communities.

d. Our elected executive officials often do not place sufficient emphasis upon affordable and fair housing.

e. Many Section 8 recipients are turned away by landlords.

25. Education

a. Education for homeownership and renters' rights often remains available only in English

Action Plans

Fair Housing Task Force Plan of Action

On September 4, 2014, the Fair Housing Task Force met and reviewed the impediments to fair housing which had been identified. The Task Force concluded that, while all impediments were of importance and needed to be addressed, the best way to achieve progress would be to focus efforts and resources upon designated areas. The Task Force determined that it would concentrate its efforts on:

- Continuing the work across Kentucky concerning efforts to pass local fairness ordinances and a statewide civil rights bill. (Impediments 11a and 17a).
- Continuing to seek the implementation of URLTA and to have URLTA passed as the law in all jurisdictions across Kentucky. (Impediment 11b).
- Argue and advocate for increased fair and equal access for housing resources for the immigrant community, particularly regarding the need for translated documents and interpreters. (Impediments 21a-b and 25a).
- Provide any requested support and assistance to the domestic violence community in their continued efforts to secure passage of legislation protecting the health and safety of domestic violence and other victims of crime by clearly permitting them to terminate rental leases when health and physical safety are in danger. (Impediments 20a-b).
- Continue to work to raise awareness of fair housing problems, to provide education concerning fair housing and people's right to choose where to live, and to expand the dialogue about civil rights concerning freedom of housing choice to include other government and policy stake-holders. (Impediments 13a-b and 24a-e).

The decision to emphasize URLTA, fairness ordinances, and the domestic violence legislation was based upon the fact that those areas have seen an increased momentum of late, and therefore stand in need of increased education and advocacy to help make needed legal changes. Raising awareness of fair housing problems continues to be the over-arching goal of the Fair Housing Task Force, as solving that goal would begin to create success in all other fair housing areas.

The decision to emphasize the needs of the immigrant community was based upon need, as the immigrant community continues to increase in numbers across Kentucky. Data concerning the immigrant community will be discussed at greater length in the data section. However, a key fact is that while immigrants account for just 3 percent of Kentucky's population, the state's immigrant population grew at a faster rate than all but six states between 2000 and 2012.[53] The immigrant community in Kentucky cannot be said to constitute a

[53] A Profile of New Americans in Kentucky, Kentucky Center for Economic Policy, at 1 (July 2014)

monolithic whole. In terms of education, for example, "immigrants' distribution across the educational spectrum is more top- and bottom-heavy than it is for U.S. born Kentuckians."[54]

The Fair Housing Task Force determined that it would continue to meet regularly and to formulate a plan, establish designated actions, and set targeted goals for the identified focus areas.

KHC's Plan of Action

In order to most effectively combat the impediments to fair housing which currently exist across Kentucky, and in order to most efficiently use its funding and resources to accomplish that goal, KHC will engage in the following course of action:

A. KHC will continue to work with and support the Fair Housing Task in accomplishing its goals. In particular, KHC will support the Fair Housing Task force by regularly attending its meetings, joining with the task force in its goals of focusing upon reducing or eliminating the five targeted impediments, and by providing staff to engage with and join the Fair Housing Task force in education, outreach, and (where practical) legislative advocacy across Kentucky and nationally to strengthen statutes to advance fair housing goals. KHC will meet this goal by attending the quarterly meetings of the Fair Housing Task force and annually attending and presenting at conferences.

   Impediments Addressed: In general all, but in particular, Impediments 11a-b, 13a -b, 17a, 20a-b, 21a-b, 24a-e, and 25a.

B. KHC recognizes and agrees with the feedback received from the Kentucky Commission on Human Rights which "strongly encourages each community that receives federal funding through KHC to take proactive steps to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities for all citizens of the Commonwealth."[55] As the state housing funding agency for Kentucky, KHC can most efficiently use its resources (both federal and state) to reduce impediments to fair housing by seeing that all funding which passes through KHC is used to accomplish fair housing goals. As a result, beginning in 2015, KHC will require that any

individual or entity receiving any funding through KHC, must demonstrate on their application that they 1) they have read KHC's report, entitled, *Our Civil Right to Choose Where We Live: Analysis of Impediments to Fair Housing in Kentucky 2014-2015*; 2) indicate which of the designated Impediments 1-25 listed there would be reduced by their proposed project and 3) how their project would reduce such designated Impediments.

   Impediments Addressed: All Impediments 1-25.

C. KHC believes that a key solution to reducing impediments to fair housing across Kentucky is to seek to reduce concentrations of poverty across the state and to address the lack of direct connection between the various local jurisdictions' AI's and KHC's statewide AI. To begin to correct these problems, KHC's 2015 QAP will not only address fair housing concerns, but will seek to de-concentrate high poverty areas and to incorporate local input by giving weight and guidance to the local AI.

[54] A Profile of New Americans in Kentucky, Kentucky Center for Economic Policy, at 1 (July 2014)

[55] December 10, 2014, Letter from John J. Johnson, Kentucky Commission on Human Rights, at 3

As stated in KHC's 2015 QAP: "KHC's review of impediments revealed that impediments for fair housing choice exist within Qualified Census Tracts (QCT) as defined under Section 42(d)(5)(B) of the Internal Revenue Code (IRC). Consequently, this QAP limits new construction activities in QCTs." The new KHC approach is further elaborated and explained in the QAP:

New Construction in Qualified Census Tracts

A QCT is any census tract (or equivalent geographic area defined by the U.S. Census Bureau) in which at least 50 percent of households have an income less than 60 percent of the AMGI or where the poverty rate is at least 25 percent.

KHC's findings reflect that QCTs have benefited over the years with the creation of affordable housing developments with the Low Income Housing Tax Credit (Housing Credit) program under IRC section 42 and other public housing programs. Treasury regulation § 1.42-9(a) mandates compliance with HUD directives including Title VIII of the Civil Rights Act of 1968.

To meet the requirements of the Fair Housing Act and Treasury regulation § 1.42-9(a), KHC has restricted the creation of new affordable housing units in QCTs. KHC will now require developments that propose the creation of new units in QCTs to undergo a thorough review and justification process prior to an application for funding being accepted. Developments must demonstrate one of the following to be eligible:

1) *The creation of new affordable units in a QCT must be part of a written community revitalization plan that specifically identifies the proposed project. The community revitalization plan (or its equivalent) must have been in existence prior to an application for funding. The plan must be consistent with the Fair Housing Act; or*
2) *Developments that receive a certification from an entitlement jurisdiction in which the property is located. The certification must specifically identify the proposed development and state that the creation of new affordable units in a QCT is consistent with its AI and certification to HUD.*
3) *Developments proposing new affordable housing units in a QCT located in the state jurisdiction covered by KHC's AI will not be accepted. Developers may request a waiver of this requirement prior to seeking funding from KHC. Waivers will be granted on a case-by-case basis at KHC's sole and absolute discretion. All waiver requests must be sent to KHC's legal department and include detailed information on the project, existing affordable housing developments located within the QCT and within the market area as determined by a third party market analyst. Additionally, KHC will require letters from community officials and affordable housing organizations which discuss the community's existing affordable housing, the rationale for the creation of new units in a QCT and the availability of affordable rental housing in their community in locations outside of the QCT. KHC will reject waiver requests that appear to violate fair housing laws (24 CFR 100).*

KHC will continue to allow Housing Credits in QCTs for the preservation of existing affordable housing developments that have been previously assisted by federal or state programs.

Impediments Addressed: All but in particular Impediments 6a, 8a, and 13b.

D. The fact that the Uniform Residential Landlord Tenant Act is not in place across Kentucky presents a serious problem to fair housing, and is one which KHC will take particular steps to address. KHC has worked to strengthen the requirements concerning URLTA in its 2015 Rental Guidelines. KHC now requires, effective January 1, 2015, that any KHC-supported development must incorporate the URLTA provisions into tenant leases. As provided in KHC's 2015 Rental Guidelines:

> *As a result [of URLTA not being in effect across Kentucky], many renters are forced to live in substandard housing, an effect felt disproportionately by low-income and minority residents.*

KHC has determined that the best way to further both fair housing and the quality of rental housing stock across Kentucky is to require that developers who receive funding or housing credits through KHC to develop standard rental housing projects must agree to adhere to the requirements of URLTA. Specialized or supportive housing projects will be exempt from this requirement, as URLTA does not apply to housing incidental to the "provision of medical, geriatric, educational counseling, religious, or similar services."[56]

URLTA is codified at KRS 383.505-.715, and provides protection of the property owner and the tenant, as well as corresponding rights and duties of each party. The landlord's duties are to: place any security deposits in a separate account in a regulated financial institution, adhere to building codes affecting health and safety, make required repairs to keep premises fit and habitable, keep the building systems and common areas safe and in good condition, and supply running water at all times and reasonable heat throughout the cold months of the year. The landlord's rights are to terminate the lease after 14 days' written notice, collect for damages, evict from the unit, enter the rental unit, and know when the tenant will be absent for more than seven days.

Similar to the property owner, the tenant is required to adhere to building codes affecting health and safety and to keep the premises as clean and safe as practical. In addition, tenants are required to dispose of waste safely, use electrical and all other appliances in a reasonable manner, not deliberately or negligently damage the unit or premises, conduct themselves in a way not to disturb neighbors, and not engage in unlawful activities within the premises. The tenant has the right to move in once the lease has been signed, terminate the lease if the landlord fails to comply with the provisions of URLTA, deduct from the rent when the landlord fails to comply with the lease or URLTA in a manner which impacts the tenant's health or safety, have essential services, and oppose the landlord's retaliation for complaining about the condition of the unit.

A sample copy of the lease between the owner and tenant must be provided to KHC at the technical submission stage. KHC's Legal Services and Compliance department will review the lease to ensure compliance with the provisions of URLTA and other KHC funding source requirements, as applicable.

Impediments Addressed: Impediment 11b.

[56] KRS 383.535(1)

E. KHC believes that fair housing goals need to be placed at the center of all planning decisions. As a result, KHC will use its AI as a key planning document, equal in importance to its Consolidated Plan. The two shall be used, developed, and consulted in tandem, including conducting periodic joint public hearings regarding the development and amendments of both documents.

Impediments Addressed: All but in particular Impediments 14a-b, 16a-b, 17a, 18a-b, 19a-e, 20a-b, 21a-b, 22a, and 23a.

F. In order to reduce impediments to fair housing across the state, KHC must seek to be as proactive as possible. In order to best accomplish that goal, KHC has determined to begin in 2015 a review of fair housing issues and problems as they impact each department at KHC, to incorporate any needed changes, and to continue such reviews biennially.

Impediments Addressed: All Impediments 1-25.

G. As the state housing finance agency, KHC has the potential to reach many immigrant renters and potential homebuyers. Beginning in 2015 and continuing forward, KHC will seek to become proactive in serving the growing LEP population in our state. KHC has begun work on this goal by translating an increased number and variety of its own documents and web pages into Spanish (including a Homeownership Guide) and by hiring a multi-cultural customer service and outreach coordinator who will devote his time to reaching out to LEP communities across the state and to reviewing KHC policies to ensure that KHC programs and services are fully accessible by LEP persons. KHC will also work with our grantees so that their programs and services are fully accessible by LEP persons and that they are in compliance with Executive Order 13166, Title VI of the Civil Rights Act of 1964, signed by President Clinton on August 11, 2000, in the effort to avert any housing discrimination that may occur on basis of national origin.

Impediments Addressed: Impediments 21a-b, and 25a.

Innovations in Fair Housing

Introduction

The Fair Housing Act is a federal statute, codified at 42 U.S. Section 3601 *et. al.*, as one part of the law. Throughout history, many individuals have sought to define exactly what the law is and what it should be. Perhaps the best and one of the most recent definitions is by Harvard Law School Professor Gerald Frug, who believes that the law serves as the architectural framework for our society, a framework which makes everything else possible. He states that the law provides "a background structure of life in a similar way to how the natural environment does. Just as with the natural environment, you can modify the background – you can tear things down and build them up – but the underlying structure is still there, guiding what is possible." He recognizes that sometimes the implementation of the law can obscure our view of the actual structure and purpose of the law: "People don't tend to think of the law that way. Instead, the law is seen as an annoyance, as a system of 'command and control' that stands in the way of a citizen and what he or she wants to accomplish, rather than a set of rules that organize activity."[1]

Kentucky has been fortunate in having 11 Kentuckians serve upon the U.S. Supreme Court, whose decisions serve as the fundamental building blocks of that structure which defines the possible. Chief among those 11 justices were Justice John Marshall Harlan and Justice Louis D. Brandeis. Harlan became famous for the number and power of his dissenting opinions, eventually being known as The Great Dissenter. Key among his dissenting opinions was that in *Plessy v. Ferguson*, 163 U.S. 537 (1896), in which the U.S. Supreme Court upheld the system of racial segregation in railroad cars, finding that "separate but equal" was constitutional. Harlan cast the one dissenting (and furious) vote:

> *"In view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved."*[2]

Harlan served on the U.S. Supreme Court from 1877 to 1911, and was then followed on the Court by Brandeis, who served from 1916 to 1939. While Harlan's nomination to the Court was unanimous, Brandeis' appointment saw a bitter fight, with 22 votes opposing it. Much of the opposition to Brandeis' nomination resulted from anti-semitism, as Brandeis was the first Jewish Supreme Court Justice. Even after securing his seat on the bench, Brandeis continued to confront anti-semitism on a daily basis, largely in the form of his fellow Supreme Court Justice James C. McReynolds, who refused to speak to or otherwise acknowledge him.[3] Writer Bill Bryson notes that McReynolds went so far as to make "a point of studying papers or even reading a newspaper when Brandeis was addressing the court."[4] Brandeis responded to this prejudice by continuing to come into work each day, crafting opinions which are still quoted nearly a century later. Perhaps fittingly, it is Brandeis' name which still lives on, while almost no one today remembers McReynolds, whose name now is surrounded by the same silence with which he so often greeted Brandeis.

Today, Brandeis remains famous for his opinions arguing for freedom of speech, urging that the discussion of ideas is the fundamental building block of our democracy,[5]("the greatest menace to freedom is an inert people ... Public discussion is a political duty"), as well as for his opinions seeking to establish our right to privacy, which he described as "the right to be let alone – the most comprehensive of rights, and the right most valued by civilized men."[6]

Like Harlan's opinions, many of Brandeis' opinions were dissents. What makes a dissent great is not only its refusal to recognize an unjust state of affairs, but its ability to articulate to us to a vision of the way our society should be. The power of Harlan's and Brandeis' visions in their dissents was so vast that the law they argued for in those dissents is now the law in the country today. For example, Harlan's dissent in *Plessy* became the law – years late in *Brown v. Board of Education*, 347 U.S. 483 (1954).

That same power to envision a different and a better society was present in Mae Street Kidd, who was instrumental in creating KHC and in passing the Kentucky Fair Housing Act. As a tribute to her, and to Kentucky's famous jurists, KHC here recognizes three different individuals, communities, and agencies who have all taken innovative approaches to create fair and better housing in Kentucky, thereby advancing the purpose of the Fair Housing Act. All three represent, in a sense, a dissent from

[1] The Underlying Structure: A Conversation on Law with Gerald Frug in The Architectural League's Urban Omnibus, August 27, 2013

[2] Plessy v. Ferguson, 163 U.S. 537 (1896) at 559

[3] Bill Bryson, One Summer –America, 1927 (Doubleday 2013)

[4] Ibid.

[5] Whitney v. California, 274 U.S. 357, 376 (1927)

[6] Olmstead v. U.S. 277 U.S. 438, 478 (1928)

the current way of doing things, and a willingness to change the current rules. In crafting new solutions, all three ask the questions of “why?” and “how?” to move forward in radically new directions to redefine the possible. Perhaps one day, their new innovations will become the standard order of things.

Mayor Eddie Girdler and the city council of Somerset have opened the first city-run gas station in the country. Our homes are worth little to us if we cannot afford the transportation to and from them, and the price of our homes must inevitably include the transportation costs. Somerset’s gas station has operated to reduce what, until now, has been unusually high gas prices in that region. Somerset’s population includes a large percentage of renters: nearly 60 percent. The rental population across Kentucky tends to involve large numbers of those protected by the fair housing laws: minorities, the disabled, etc. Any innovation which reduces the transportation costs will therefore most benefit the renters and minorities across Kentucky, making this an idea that other communities across Kentucky might wish to consider. While many have greeted Somerset’s idea with applause (particularly those living there), the idea has also generated a great deal of controversy. In that respect, Somerset’s new approach fits well within Brandeis’ desire for public discussion as political duty.

Mary Shearer and the staff at Kentucky Habitat for Humanity have looked at the very concept of transportation and turned it on its head, so that the transportation itself becomes a new form of housing. In Europe, along America’s east and west coasts, and across the world, innovative architects are transforming shipping containers into fashionable, light-drenched homes, often for upper-income or trend-setter homeowners. The newly-created homes not only are environmentally sustainable themselves, but transform an otherwise discarded product into an inviting home. Kentucky Habitat is seeking to bring the fashionable container home into Kentucky, so that it can then become homes for the disabled and for veterans. The homes envisioned by Habitat would have an incredibly low monthly mortgage cost, and would be especially suitable for the disabled or for veterans, the last being a group which, much like Brandeis, understands the importance of privacy.

Finally, there is the small town of Vicco, which was the smallest town in the country (or perhaps the world) to pass a fairness ordinance protecting the LGBT community from discrimination in housing, and revealed itself as a town with a big mind and a large heart.

Somerset Fuel Station

"A Tip of the Hat to Somerset"

LOW
SULPHUR
ON ROAD
DIESEL
6
NO
SMOKING
STOP
ENGINE
CITY OF SOMERSET KENTUCKY
CITY OF THE
THIRD CLASS
1888

Somerset, Kentucky, is a third-class city located in the south-central portion of the state, with a population of approximately 11,447 people. Of that group, 92.3 percent are white, 3.5 percent are African American, 3.7 percent are Hispanic, 1.7 percent are of two or more races, .7 percent are Asian, .2 percent are American Indian, and .1 percent are Native Hawaiian and other Pacific Islander. The median household income in Somerset for 2008-2012 was only $26,617, compared to the Kentucky average of $42,610. In keeping with that figure, the poverty rate in Somerset is 26.5 percent, which exceeds the state average of 18.6 percent. The homeownership rate is lower in Somerset than in the rest of Kentucky: 46.4 percent versus 68.7 percent. (Data taken from U.S. Census Bureau).

The statistics portray a picture of Somerset as predominantly white, composed largely of renters, and poorer than much of the rest of Kentucky. However, the statistics give us only a partial picture of Somerset, one which utterly fails to capture the vibrancy of the community. In particular, the statistics fail to take into account that these days, under the leadership of Mayor Eddie Girdler and the Somerset city council, Somerset has effectively launched a shot heard around the world.

For several years, Somerset sought to address the problems posed by having one of the state's lowest median income levels, but the state's highest gasoline prices. According to Mayor Girdler, this disparity was a "deep problem" because we "depend upon the car. We cannot say that the car is something we can do without."[1] Housing and transportation are, of necessity, connected. As stated by Mayor Girdler:

> *"The housing industry in Somerset needs to be revised and revamped. The problem is the lack of ability to pay for it. As homeownership has been falling, rental prices have been increasing. So the more people have to pay for gas and groceries, the more it hurts their ability to pay the rent. Lower gas prices help to pay for rent. Sixty percent of people in Somerset are renters. Any way you can put more dollars in the pockets of the people, will also help housing."*[2]

So, on July 19, 2014, Somerset became the first community in the U.S. to open up its own government-run gas station. The goal was to provide the people of Somerset with competition in gas prices, to offer them alternatives. The creation of the city-owned gas station did not arise out of a vacuum, but instead was inherently intertwined with Somerset's history in which innovative transportation and independent-minded politicians feature prominently. Somerset was established in 1801 by a group of settlers from New Jersey, who paid tribute to their origins there by naming the new town after Somerset County in New Jersey, which they had left. Perhaps in recognition of its transplanted origins, Somerset's early history was largely dependent upon transportation: much of the city's trade was tied to the nearby Cumberland River, and passengers were transported by stagecoach to nearby communities. In its reliance upon the river for serving transportation needs, Somerset was typical of many early Kentucky towns. But in becoming a division headquarters for the Cincinnati & Southern Railroad in the 1870's, Somerset was not typical, with the railroad leading to Somerset's rapid growth into a "regional metropolis."[3]

The railroad made a dramatic impact upon Somerset: in 1880, Somerset had fewer than 1,000 people, but by 1890, the population had more than doubled, increasing to 2,625. While the town originally had a variety of Protestant churches, including Baptist, Presbyterian, Methodist, and Disciples of Christ, the railroad brought many Irish immigrants to Somerset, with the first Catholic church established in 1878. The railroad continued to play a vital role in Somerset's economy until the 1950s, when diesel locomotives replaced those driven by steam. However, tourism began to replace the role of the railroad when the Wolf Creek Dam was completed in 1951, transforming the Cumberland River into Lake Cumberland.[4]

In 1946, a few years before the completion of the Wolf Creek Dam, John Sherman Cooper, a Republican who was born in Somerset and served as circuit judge there, was elected to the U.S. Senate. Cooper would go on to serve a total of 17 years in the Senate, where he "maintained a reputation for absolute independence."[5] According to his obituary in the New York Times in 1991:

> *His first roll-call vote, transferring investigatory powers to a special War Investigation Committee soon after World War II, went against the wishes of his party's leaders. So did his second vote, which prompted Senator Robert A. Taft, Republican of Ohio, to storm up the aisle and demand: "are you a Republican or a Democrat? When are you going to start voting with us?"*

[1] KHC Interview with Mayor Girdler

[2] Ibid.

[3] Kentucky Encyclopedia, Somerset

[4] Ibid.

[5] New York Times Obituary, February 23, 1991

"If you'll pardon me," Senator Cooper replied, "I was sent here to represent my constituents, and I intend to vote as I think best."[6]

He then spent the rest of his time in the Senate proving that "he meant what he said."[7]

The key word in Senator Cooper's comment is, perhaps, that of "think," and Somerset has historically thought hard to come up with new approaches to transportation challenges. In the mid-1970s, natural gas shortages became common, and Somerset did something about it. It already had established its own natural gas company in 1951. Building upon this, it began to solve the problems of the natural gas shortages by building its own pipeline to connect east to previously landlocked producers in eastern Kentucky, as well as building west to a Texas Eastern Transmission, funding the project through a $4.5 million loan from Farmers Home Administration. As a result, Somerset has been directly purchasing natural gas from various producers while also transporting gas to other markets. In 2012, Somerset began the process of converting its municipal fleet to compressed natural gas, and became the first in Kentucky to sell natural gas to privately-owned vehicles.[8]

KHC, Somerset Mayor, Eddie Girdler, outside fuel station.

In the summer of 2014, the Somerset City Council once again decided to do something about the high costs of fuel. Historically, gasoline prices in Somerset have run 30 cents more per gallon than in neighboring areas. Gasoline prices at the pump were high, despite the fact that the median income in Somerset was low: $14,000 to $15,000 less than the state average. In addition, the gas prices were troubling for Somerset as a gateway town for tourists on the way to Lake Cumberland: Somerset was losing tourist dollars since tourists did not want to stop there for refueling.[9] Somerset asked a simple question: why? "Why should we be paying high gas prices [which] they can't afford to start with?" asked the mayor and the City Council members.[10] To get answers, they began a letter writing campaign to Speedway, Murphy, Kroger, etc. But Somerset failed to get any answers.

Hearing no effective response to its inquiries, Somerset decided to solve the problem itself. Or, as Mayor Girdler said, "We decided that hey, we might as well take a stand in a small way of saying that we're tired of it."[11] On June 9, 2014, the Somerset City Council unanimously passed an ordinance authorizing the city to sell gasoline to the public. The ordinance is shown in the Appendix on page 74. The ordinance recognized and built upon Somerset's previous success in energy initiatives. On June 23, 2014, the ordinance received its second reading, again passing unanimously. The Somerset station has no convenience store and sells only regular gasoline, nor does it advertise. The goal is not to drive other gas stations out of business, but to make Somerset's gas prices competitive with the regional prices.

Since the opening of the Somerset station, gas prices there have fallen to below the state average.[12] Mayor Girdler estimates that in one year, the Somerset gas pump will

[6] New York Times Obituary, February 23, 1991

[7] Ibid.

[8] David Morris, Debating the Role of Government in Somerset, Kentucky

[9] KHC Interview with Mayor Girdler

[10] NPR, August 13, 2014, City-Run Gas Station Makes Waves in Southeastern Kentucky

[11] David Morris, Debating the Role of Government in Somerset, Kentucky

[12] NPR, August 13, 2014, City-Run Gas Station Makes Waves in Southeastern Kentucky

[13] KHC Interview with Mayor Girdler

save consumers $4 million dollars.[13] This will result in a positive impact on housing, for as Mayor Girdler stated: "gasoline and jobs have to be dealt with in terms of providing opportunities to people in housing."[14] And "the more you raise median income or lower commuting costs, the more you help housing" since that is more money that can be spent on either rent or a mortgage.[15] Mayor Girdler also notes that Somerset's energy programs have also benefited housing, as Somerset has not had utility increases in eight years, and has seen a decrease in property taxes.[16]

While many in Somerset are happy with the gas station initiative, the idea has generated considerable controversy, prompting debates about the role of government. Opponents claim the mayor and city council are engaging in socialism.[17] The mayor contends that "the Constitution says 'we the people'" and finds it curious that the city was not charged with socialism when selling compressed natural gas, but finds itself subject to that charge for selling gasoline. Ultimately, the voters in Somerset and perhaps across Kentucky will decide the issue. U.S. Supreme Court Justice Louis D. Brandeis, who was from Louisville, spoke many years ago of the value to this country in having what he termed a "marketplace of ideas."[18] Somerset has demonstrated that it is ideas which drive a vibrant market, and for that, as one writer said, "whatever happens, a tip of the hat to Somerset."[19]

[14]KHC Interview with Mayor Girdler

[15]Ibid.

[16]Ibid.

[17]August 20, 2013, National Federal of Independent Business, NFIB Among Those Opposed to City-Owned Gas Station

[18]Whitney v. California, 274 U.S. 357 (1927)

[19]David Morris, Debating the Role of Government in Somerset, Kentucky

KHC, Exterior of Somerset Fuel Station, Residents refueling.

LAMMABLE
NLEADED
O SMOKING
CNG

Affordable Housing Using Shipping Containers

"Much Ado About Containers"

one cool habitat-prefabricated containers (Flickr) https://www.flickr.com/photos/onecoolhabitatcom/sets/72157623511146099/

SG Blocks Harbinger House (Flickr) https://www.flickr.com/photos/inhabitat/sets/72157607439216171

In Europe, along the east and west coasts of the U.S. and across the world, shipping containers are turned into stylish, cutting-edge homes and office complexes. A "source of fascination" for architects, they:

> *Are now being used to create entire student residences, prize-winning homes, and cruise terminals. They are perched as penthouses on New York rooftops or as…architectural works on the roofscape of San Francisco. They are stacked on top of each other to create residential buildings in London or high-rise apartment blocks in Melbourne. Designers are turning them into mobile homes or spectacular holiday homes.*[1]

And if Mary Shearer, the Executive Director of Kentucky Habitat for Humanity (KyHFH), and her group have their way, shipping containers will be the next wave of affordable housing in Kentucky, particularly for veterans and the elderly.

Approximately 30 million shipping containers are in existence, and have been the globally-standardized transportation module since 1965. But while they provide a cheap means of transport for goods across oceans, the costs of shipping back the empty containers themselves is prohibitively high. As a result, empty containers litter the landscape, with the Department of Transportation estimating that, each year, over 700,000 cargo containers are abandoned in the United States. The problem is worsened by the fact that the United States is, truly, a "consumer republic."[2] Our chronic trade imbalance means that each year, the United States imports far more goods (and containers) than it exports.[3]

KyHFH has two principal visions for shipping containers in Kentucky: "to take that which is wasted and develop something that serves a vital human need, and to take a primitive design (a metal box) and develop affordable, sustainable shelter."[4] So far, that vision has played out across the world, but has not yet been fully implemented

[1] NRW-Forum Dusseldorf, Container Architecture 8 June to 4 September, 2011

[2] A Consumer's Republic: The Politics of Mass Consumption in Postwar America, by Lizabeth Cohen

[3] Herald Leader, Lexington Couple Turn Three Shipping Containers into a Stylish Home

in Kentucky. In London, England, an entire container city has gone up. The containers "simply unbolt and can be relocated or stored when land is required for alternate uses. To date, this alternate method of construction has successfully created youth centers, classrooms, office space, artists' studios, live/work space and retail space."[5] In Colorado, the Studio H:T firm whose principals have each won an AIA Young Architects Award, have managed to build an off-the-grid container home, where "two shipping containers saddlebag a taller common space that connects local rock outcroppings to the expansive mountain ridge views."[6] At 1,500 square feet, the home "questions the need to excessive space and challenges occupants to be efficient." In Costa Rica, architect Benjamin Garcia Saxe turned containers into affordable housing in his Containers of Hope project. Each residence was built on a budget of $40,000, using two shipping containers to create a home of 1,000 square feet. Saxe described his purpose as:

> *"It was important for me to provide them with the sunrise, the sunset, the spectacular views, and overall try and create a feeling of comfort and home. A roof between the two containers, made from the scrap pieces of metal taken to make the windows, not only creates an internal sensation of openness but also provides a cross ventilation which is surprisingly sufficient enough to never have to turn the air conditioning on."*

Saxe concludes by saying, "Perhaps this project begins to expose the importance of design as a tool to provide beauty and comfort with a very low budget in the 21st century, whilst using creativity to not only redefine a scrap material, such as a disused shipping container, but perhaps to even show that there are viable, low cost, passive alternatives of temperature control to adapt to a very intense tropical climate."[7]

In Kentucky, one of the few architects to design a container home has been Tom Cheek, who designed the Stone Tavern Lane Container House (pictured on pg. 33) for Todd and Gae Hoffman in Lexington in 2010. Built with three shipping containers, the home consists of 960 square feet, and was featured in the Herald Leader shortly after completion. As seen from the photographs, the home is not only stylish, but "contemporary, open, and airy."[8] According to Cheek, the home "was constructed with cash [for an estimated $100,000], and has been leased since completion for $1,200/month. We are very interested in developing others and have been able to successfully deal with permitting and insurance, but financing is a major problem."

Shipping Container House / Studio H:T (ArchDaily) http://www.archdaily.com/222361/shipping-container-house-studio-ht/

[4] KyHFH, The Oak Hill Fund: Environmentally and Economically Sustainable Cargo Container Homes

[5] http://www.inspirationgree.com/container-homes.html, citing www.continercity.com

[6] www.archdaily.com/222361

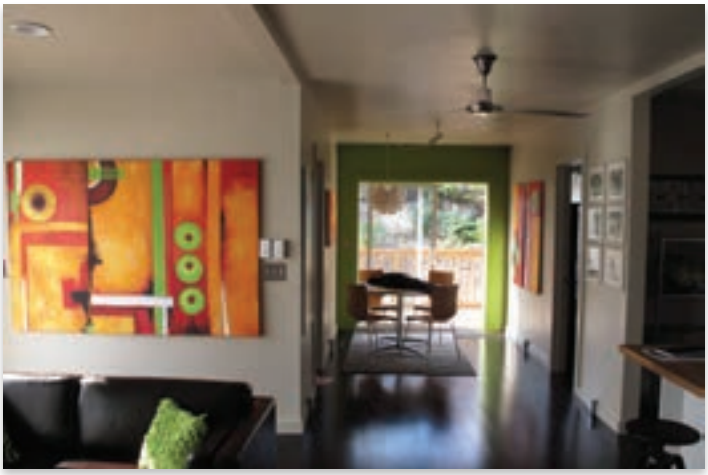
[7] http://intrhalld.com/2012/04/40000-containers-of-hope-residence-shipping-container-home

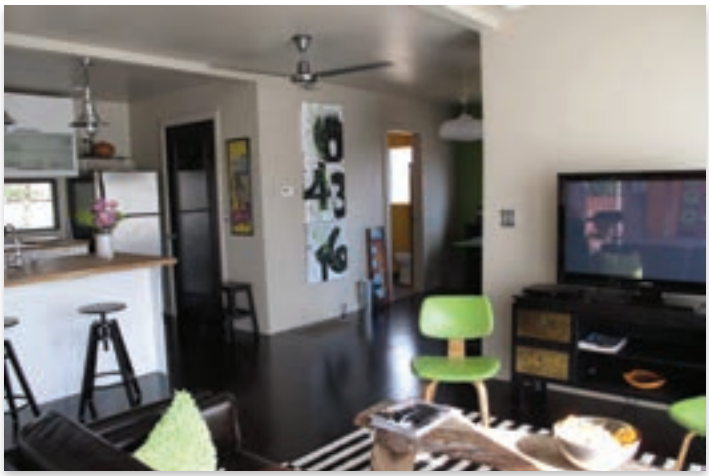
[8] Herald Leader, November 27, 2010

There are never any half-measures with KyHFH... Ask for creamer and get a tub of creamer.

Mary Shearer is determined to overcome the financing problem, saying, "we are really committed to the container home concept, and it is going to happen." KHC staff recently visited KyHFH's offices in Louisville and discussed the project with Mary, KyHFH Team Leader Holly Todd, and Director of Development Mary Edwardsen. The women at KyHFH do not do things in half measures: ask for a cup of coffee at KyHFH, and you are promptly given the entire pot.

Fueled by serious determination and appropriate caffeine, the KyHFH team has set their sights on constructing a prototype container home project in a rural area, possibly in Hardin County, although it would work in an urban area, as well. The hope is to use a single, 40-foot long, 8 feet 6 inches wide and high container to create a two-bedroom unit which will accommodate two to three people. Like the Stone Tavern Lane Container House in Lexington, the intent is to make these homes light-filled, but the primary motivation is cost and affordability. "The goal of building these prototypes is to build these cargo container homes – both those hooked up to city utilities and amenities and those partially off-grid – at a maximum cost of $25,000 ... This cost is well below the required income for a traditional Habitat home, allowing those in Appalachia living at 20-45 percent of the Area Median Income (AMI) or less than $6,000-$13,000 annual household income, to own a home."[9] KyHFH estimates that for a 30-year mortgage, the estimated monthly cost would be $69 plus taxes and insurance, while a 20-year mortgage would result in an estimated monthly cost of $104 plus taxes and insurance. The result will be "safe, healthy, economically and





Stone Tavern Lane Shipping Container House. Tom Cheek (TCDB), Lexington, KY.

[9] KyHFH, The Oak Hill Fund: Environmentally and Economically Sustainable Cargo Container Homes

environmentally sustainable" homes for extremely low-income individuals and families in Kentucky.[10] In particular, it is thought that the homes would be especially appealing for veterans, as these homes offer essential privacy, which is often lacking in other housing alternatives.

KyHFH describes the planned homes, which will be about 320 square feet in size:

> *To be as energy efficient and, hence, as affordably maintained as possible, the container will have an R-value of 20 for the walls, and 40 for the roof and floor. We intend to spray with closed-cell foam insulation in the corrugations of the walls, roof, and on the floor system or use a foam-board product, creating thermal break. The strength of the cargo containers allows the economical construction of a foundation of 24" round, 36" deep, concrete piers. They are both sustainable and fortified, for the container will be structurally attached to the in-ground piers.*
>
> *A single container home...will comprise a bathtub and commode bathroom, utilizing the adjoining sink in the kitchen; a refrigerator and stove with cabinetry; room for a full-size bed in master bedroom and a spare room, which could function as a second bedroom, office, den, etc.; a pull-down table; and windows (Energy Star, U-value 30) with awnings. All appliances will be Energy Star, and a continuous ventilation fan will be installed to guarantee air quality.*
>
> *Depending on location and accessibility to utilities, south-facing solar panels (with battery backup) will be installed for partially off-grid container homes. A cistern with purifier can be installed to collect rainwater, making drinkable water available or a potable drinking water setup will be included. A compost toilet will be installed, freeing the cargo container home from use of a sewer hook-up.*
>
> *In addition, landscaping can increase the energy-efficiency of the dwelling, by using drought-tolerant, native plants which can be planted on the roof.*

Shearer compares the container home and its costs to that of mobile homes. She notes that new mobile homes can cost over $50,000, which makes their ownership prohibitive to residents earning less than $6,000-$13,000 per year. In addition, the container home is much stronger and safer in extreme weather. The container home is a fortified structure and can withstand winds of up to 130 mph, thereby avoiding the mobile home's vulnerability to tornadoes.

The container home is not without challenges. A new concept, as it is a non-standard building material, requires a professional to state that it meets the requirements of a more standard building material. Further, container homes are not currently listed as an approved structure by the state standards, although KyHFH is seeking to challenge that. Funding continues to remain a problem, as the container home does not fall within the traditional lending guidelines. But the container home's greatest challenge is for us to change our view. Or, as Mary Shearer says, "We have got to start thinking differently as to what is a house, how much space do we need, and how will that house work for us?"

[10] KyHFH, The Oak Hill Fund: Environmentally and Economically Sustainable Cargo Container Homes

Vicco Fairness Ordinance

"Big Ideas from a Small Town"

VICCO
CITY

In January 2013, the city council of Vicco, Kentucky, voted to pass a fairness ordinance, prohibiting discrimination in housing. The ordinance reads:

> *It is hereby unlawful for any individual and/or entity to refuse to sale, lease, and/or transfer in any way; or to attempt to evict; or otherwise treat differently ANY individual for the following reasons:*
>
> *a) Race, Color, or National Origin;*
> *b) Sex and/or gender (including gender identity);*
> *c) Religion;*
> *d) Age; and/or*
> *e) Sexual Orientation, either realor perceived.*

The council voted 3 to 1 in favor of the ordinance. When asked about the reasons for voting for the ordinance, council members stated that they believed it was the right thing to do.

The story of Vicco's passage of the fairness ordinance is fairly straightforward. The world's reaction to Vicco's passage of the ordinance is not. Vicco is a small town in eastern Kentucky. It has a population of 334 people. Vicco's passage of the fairness ordinance reveals as much about the country's stereotypes about Appalachia and small towns as it does about stereotypes concerning the LGBT community.

Vicco Mayor, Johnny Cummings

While Kentucky's state civil rights chapter protects a variety of groups, it does not extend protection from discrimination to the LGBT community. The lofty purposes expressed in KRS 344.020 fail to reach, or even acknowledge, the dignity of or the problems faced by LGBT individuals:

> *The general purposes of this chapter are: To safeguard all individuals within the state from discrimination because of familial status, race, color, religion, national origin, sex, age forty (40) and over, or because of the person's status as a qualified individual with a disability as defined in KRS 344.010 and KRS 344.030; thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest which would menace its democratic institutions, to preserve the public safety, health, and general welfare, and to further the interest, rights, and privileges of individuals within the state.*[1]

While the laws in Kentucky have a gap concerning the LGBT community, law enforcement and scientific studies do not. Studies are clear concerning the discrimination and fear the LGBT community must often face. According to the FBI's last annual hate crimes report, of the 7,164 hate crimes reported in 2012, 19.6 percent were committed based on sexual orientation. The reality faced by LGBT children is particularly harsh: it is estimated that 40.3 percent of LGBT young people (up to age 21) have attempted suicide.[2] For transgender individuals, the difficulties may well increase: 41 percent have reported a suicide attempt (versus 4.6 percent of the overall U.S. population).[3] Our transgender children find that a majority of them, 50-54 percent, have faced bullying at school.[4] A study by the U.S. Department of Health and Human Services reported that "it would be difficult to overstate the impact of stigma and discrimination against LGBT individuals in the U.S. Stigma and discrimination are directly tied to risk factors for suicide."[5]

---

[1] KRS 344.020(1)(b)

[2] Suicide Prevention Resource Center, Suicide Risk and Prevention for Lesbian, Gay, Bisexual, and Transgender Youth at 15 (2008)

[3] American Foundation for Suicide Prevention and The Williams Institute, Suicide Attempts among the Transgender and Gender Non-Conforming Adults, January, 2014

[4] Ibid.

[5] HHS, Suicide Resource Prevention Center, Suicide Risk and Prevention for Lesbian, Gay, Bisexual, and Transgender Youth (2008)

In Kentucky, the Fairness Campaign is working so that the law addresses the reality described in the studies and achieves justice by including the LGBT community in the state civil rights statutes. Until the state statutes are changed, change must come on the local level, community by community, through passage of fairness ordinances. The mayor of Vicco, Johnny Cummings, heard about the Fairness Campaign's efforts and decided to seek passage of a fairness ordinance in his town. The prospect of passing a fairness ordinance in a small town in Appalachia surprised the Fairness Campaign, which has been focusing in larger cities and towns across Kentucky. Johnny Cummings had a different take on it, telling them, "I'm gay and I'm the mayor. I think it might work."

Vicco Town Coucil

KHC staff recently traveled to Vicco and met with the mayor and some of the council members concerning their votes in favor of the fairness ordinance. Mayor Cummings is also the town's hairdresser, and has his shop, Scissors, next door to city hall. In addition, he is an excellent cook, making the visiting KHC staff three different kinds of soup and two different kinds of sandwiches. Mayor Cummings explained the ordinance as "The same thing as the Golden Rule" of doing unto others what you would have them do unto you. For the mayor, as well as for commissioners Jimmy Slone, Claude Branson, and Lula Gibson, the primary reason for the ordinance was Vicco's children. In fact, Commissioner Lula Gibson's "first thought" regarding the ordinance, "was my daughter's future." To help prevent bullying of Vicco's children, the commissioners passed the ordinance. In Vicco, as Lula Gibson said, "if that's your preference, I support your preference."

To the mayor and the commissioners of Vicco, the passage of the fairness ordinance did not seem particularly remarkable. But to the rest of the world, it did. The second reading of the ordinance saw Vicco's biggest city council meeting ever, attended by those who lived in Vicco and those who lived far away. Mayor Cummings estimated that at least 50 people must have been present inside, with an overfill crowd standing outside. With the passage of the 3 to 1 vote on the ordinance, Vicco became famous as the smallest town anywhere to have a fairness ordinance.

After that vote, the outside world arrived at Vicco's doorstep, sometimes seeking to find in Vicco the stereotypes that the outside world carries of Appalachia. One TV production crew, according to Cummings, stood outside on the street for three days, trying to find people who were against the ordinance. After their search, the crew found only two people who were opposed to it, neither of whom would agree to be filmed on television for "fear their wives would kill them." The New York Times applauded, while seeming surprised, by the passage of a fairness ordinance in what it called a "coal smudge of a place in eastern Kentucky." The Los Angeles Times reacted in a similar way, writing how "this faded coal town" had become "the smallest town in America to outlaw discrimination against homosexuals." Rolling Stone Magazine had its own unique take, astonished to find heavy metal music in a bar in Whitesburg (presumably they were expecting bluegrass or country).

It is perhaps puzzling that journalists and producers would journey halfway across the country, only to seek at their destination the images that they carry around in their own heads, complete with smudges and fadings. Yet, for generation after generation, the United States has historically taken this very approach to Appalachia, seeing it through a selective lens and viewing it is separate and other:

> *For more than a century, Appalachia…has appeared as a place of cultural backwardness in a nation of progressive values, a region of poverty in an affluent society, and a rural landscape in an increasingly urban nation. We know Appalachia exists because we need it to exist in order to define what we are not. It is the "other America" because the very idea of Appalachia convinces us of the righteousness of our own lives. The notion of Appalachia as a separate place, a region set off from mainstream culture and history, has allowed us to distance ourselves from the uncomfortable dilemmas that the story of Appalachia raises about our own lives and about the larger society.*[6]

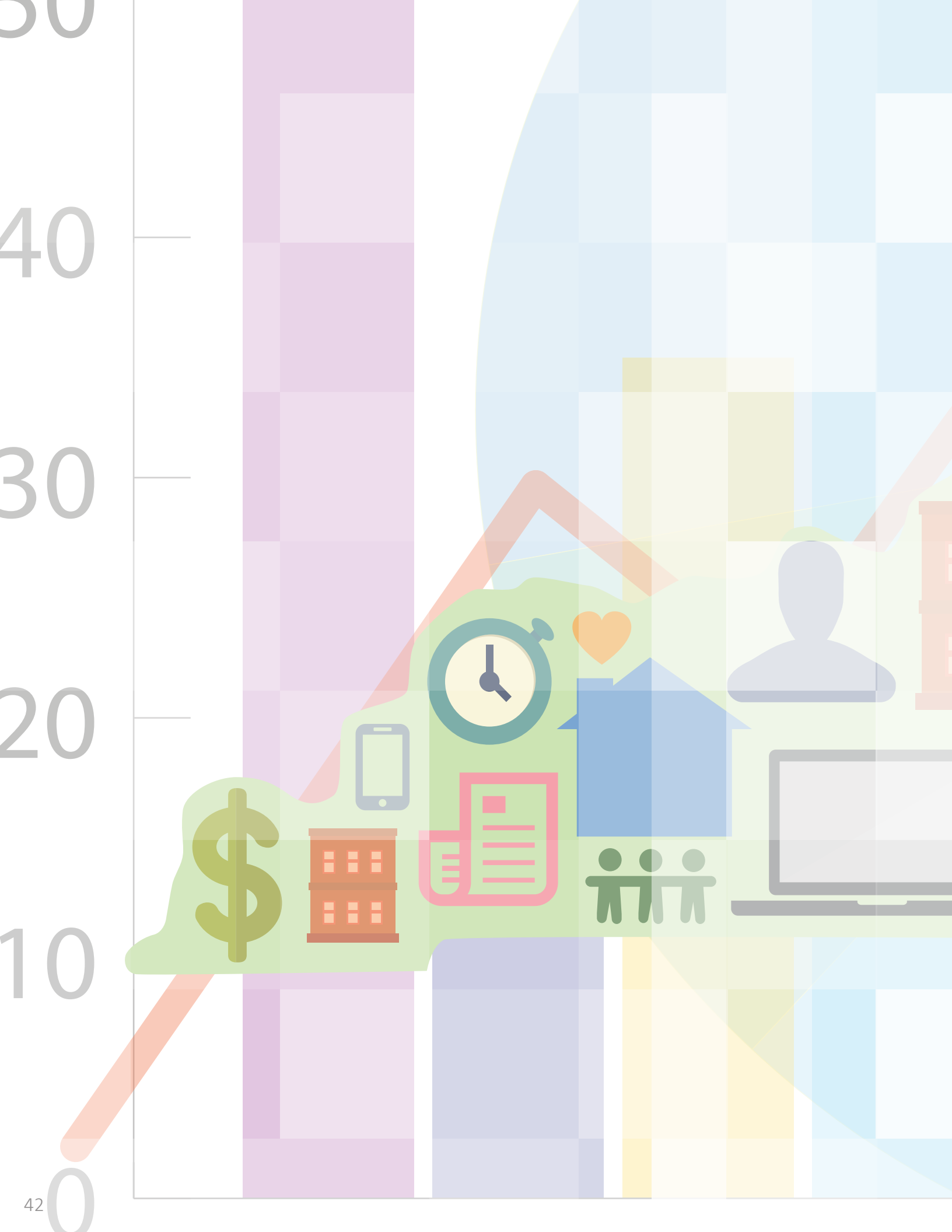
[6] Ronald Eller, Uneven Ground: Appalachia Since 1945, University Press of Kentucky, 2008

Eller is one of Kentucky's foremost historians, and he notes: "Appalachia is more than an intellectual idea. It is also a real place." He concludes: "Appalachia's problems are not those of Appalachia alone. They will not be solved in isolation from the dilemmas facing the rest of modern society. For that reason, we are all engaged in the struggle to define the good life in the mountains. We are all Appalachians."

The problem with stereotypes, among many, is that they reduce us to one thing. Vicco is and never has been one thing. The town originally was founded, not as Vicco, but as the town of Montego (no one seems to know why). Later, during the peak years of coal camps and coal companies, the town's name was changed to reflect the initials of the Virginia Iron Coal and Coke Company. Today finds Vicco struggling with unemployment and a lack of affordable housing, but it has embraced an unofficial motto of "the town too tough to die." While the population of the town would make it small in size, its recent fairness ordinance would cast it as large and generous of heart.

Perhaps instead of the world descending upon and studying Vicco, we should embrace Eller's "uncomfortable dilemma" and reverse the lens to ask what Vicco's fairness ordinance says about the larger society. The question Vicco poses is not why the fairness ordinance was passed in Vicco, but why so few other towns and cities across the country have followed Vicco's lead.

Marc S. Murphy, Small Town Values. (2013, January 17).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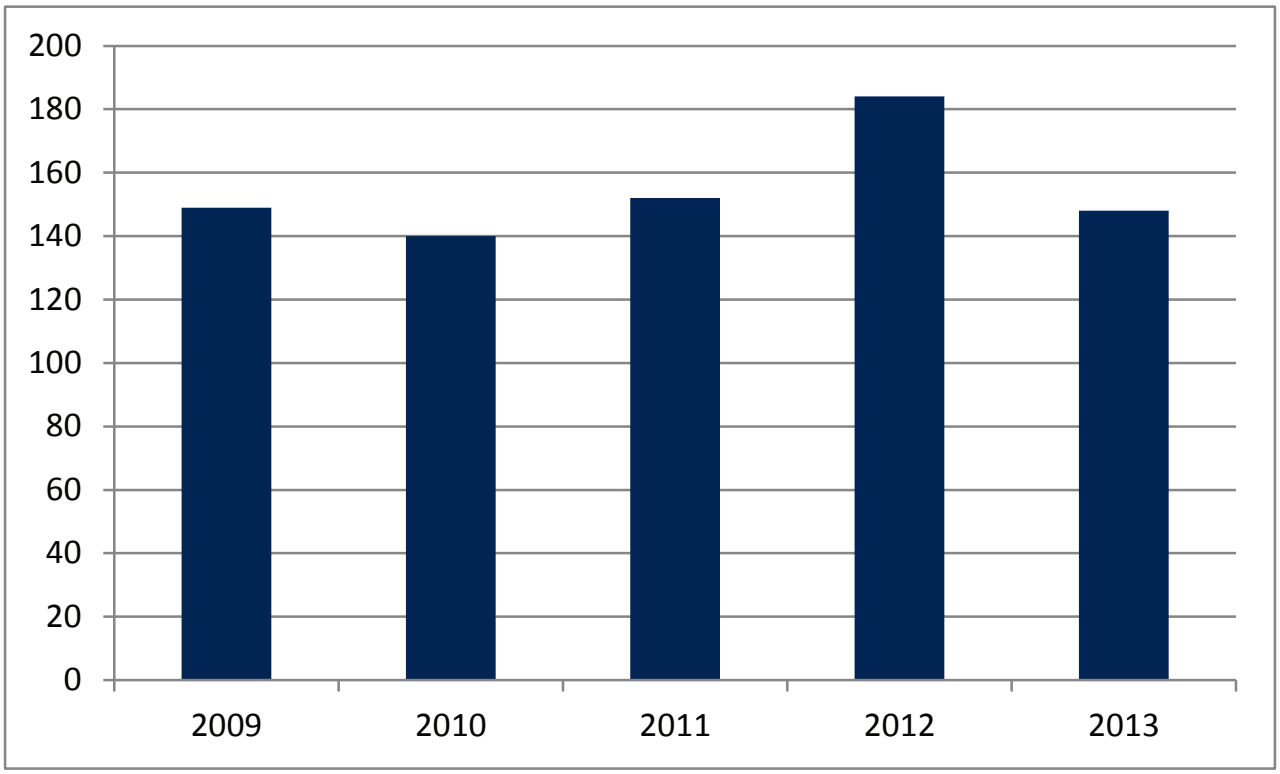
Analysis Data

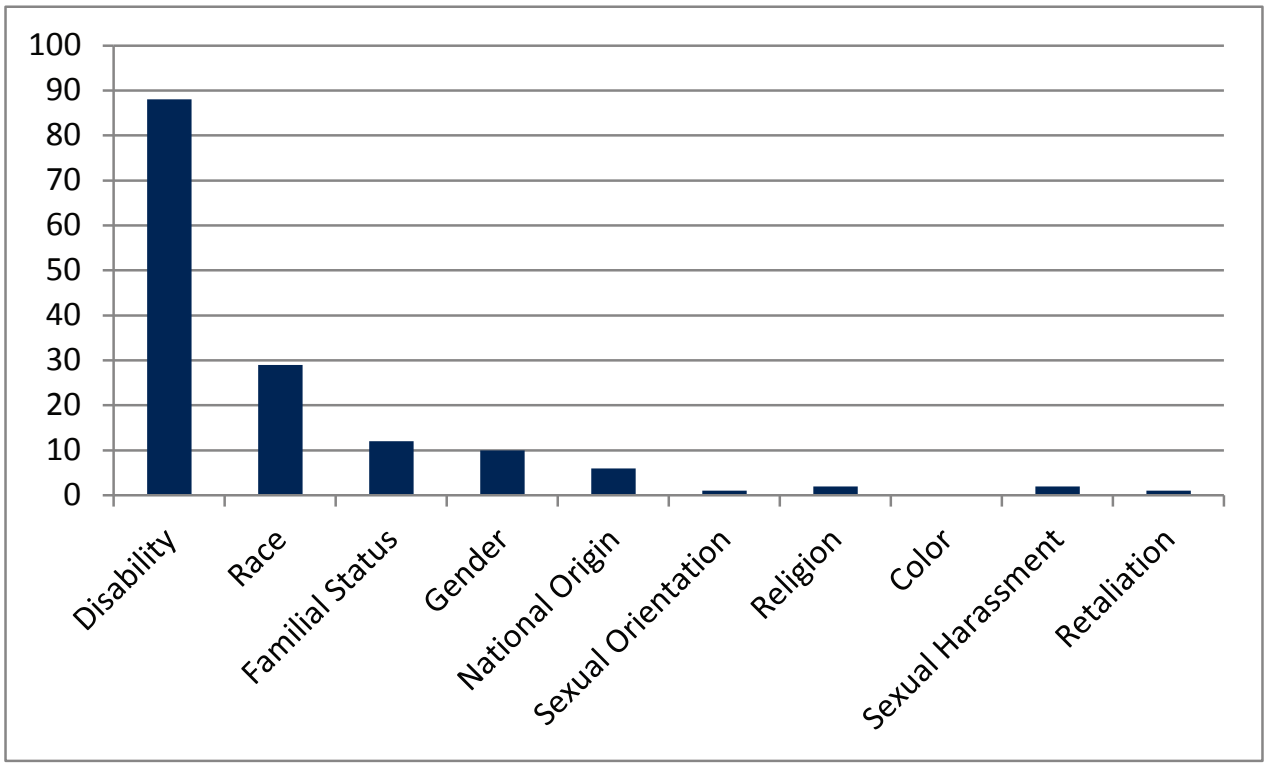
Fair Housing Complaints in Kentucky

The Lexington Fair Housing Council and Kentucky Commission on Human Rights report that a total of 148 Fair Housing complaints were filed in 2013.

Complaints Filed in the Past Five Years



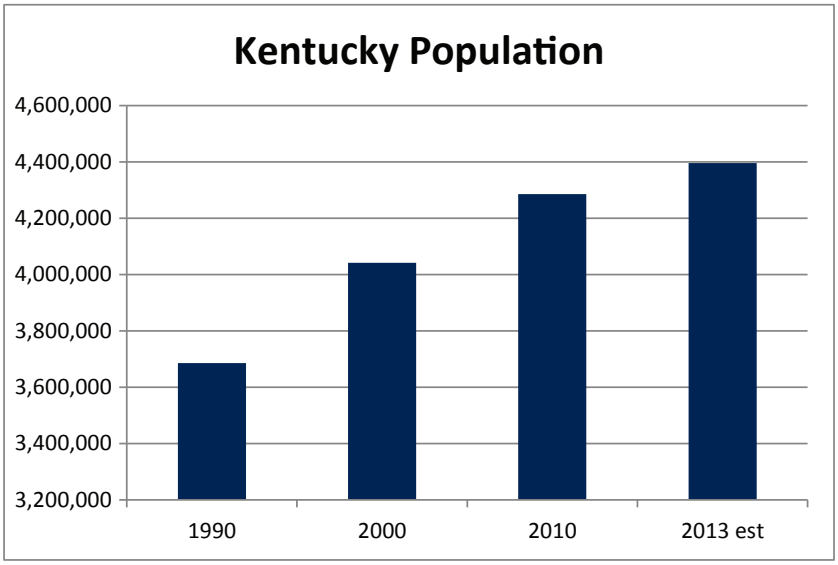
Basis of Complaints*



**Some complaints my have more than one basis.*

People of Kentucky

U.S. Census Bureau data indicates Kentucky's population continues to rise at a rate lower than the national rate. Kentucky's population grew 6 percent between 2000 to 2010, with projections for further growth. Counties with the highest rates of growth from 2000 to 2010 continued to be those in the central part of the state, while far southeastern and western counties experienced a decline.



Data from the 2000 Census shows that the number of households increased from the previous census by 210,000 to 1,590,647. Census data for 2010 indicates the number of households in Kentucky grew to 1,676,708, a 5 percent increase. The U.S. Census Bureau estimates that, currently, the average number of persons per household in Kentucky is 2.40 and this trend is expected to continue.

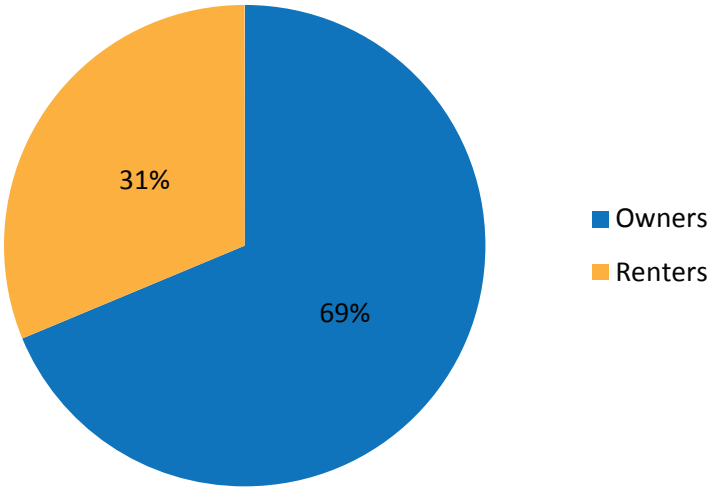
The following table includes information about the types of households in Kentucky. Extremely low-income households (0 – 30% HUD Area Median Family Income [HAMFI]) comprise 13 percent of all households in Kentucky. Households with children under age 6 and persons age 75 and over are more likely to be of low income (under 80% of HAMFI).

	0-30% HAMFI	>30-50% HAMFI	>50-80% HAMFI	>80-100% HAMFI	>100% HAMFI
Total Households *	223,775	203,850	282,305	167,545	799,230
Small Family Households *	76,850	66,875	106,370	72,695	473,230
Large Family Households *	12,165	11,410	19,575	12,335	57,280
Household contains at least one person 62-74 years of age	33,840	43,725	60,470	34,260	133,340
Household contains at least one person age 75 or older	28,355	42,090	41,095	17,080	46,770
Households with one or more children 6 years old or younger *	43,495	30,610	45,405	27,175	92,490

* the highest income category for these family types is >80% HAMFI

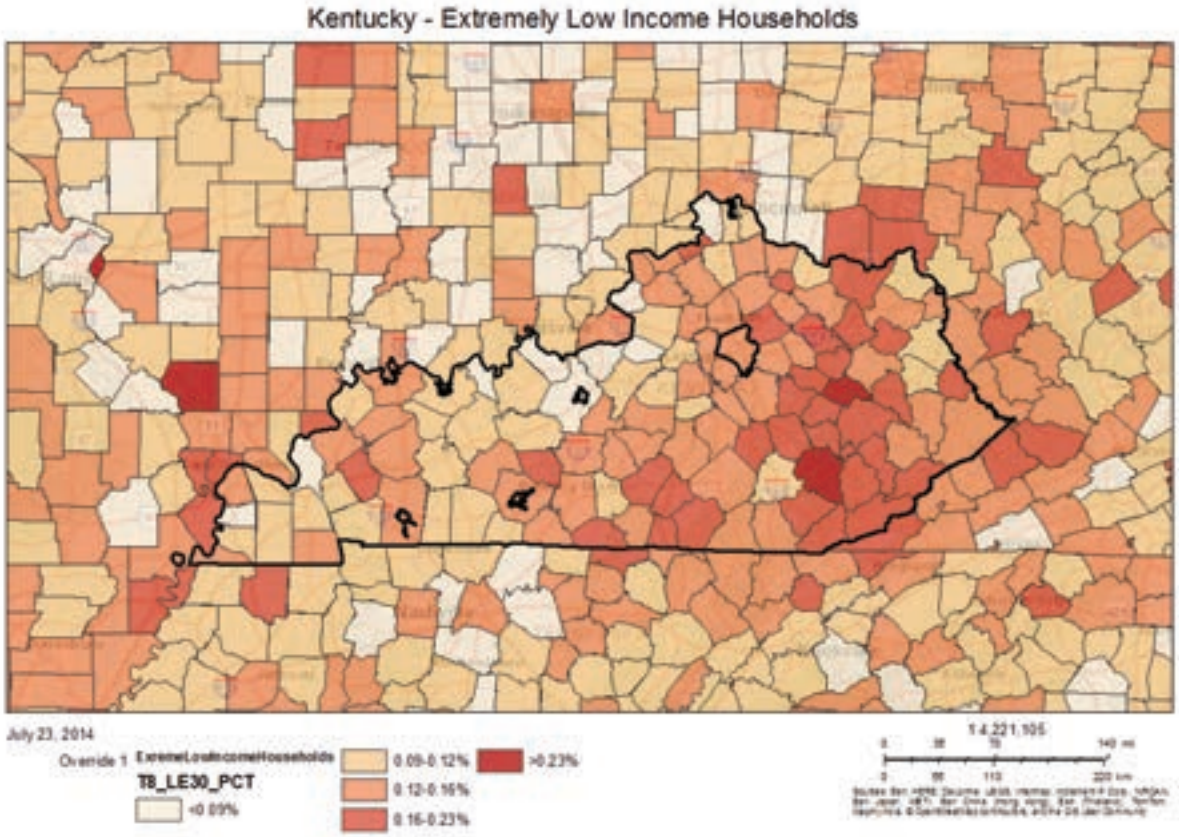
Data Source: 2007-2011 CHAS

Household Tenancy in Kentucky



US Census Bureau 2008-2012 Estimates

The following map indicates the geographic locations of Kentucky's lowest-income households. This map aligns with the highest rates of poverty in Kentucky, with the highest concentrations in the Appalachian region of the state.



Problems

As part of the process for the state's Five-Year Consolidated Plan, KHC reviews data provided by HUD to determine which races of Kentucky citizens are disproportionately impacted by housing problems. The four housing problems analyzed are:

1. Lacks complete kitchen facilities.
2. Lacks complete plumbing facilities.
3. Overcrowding (more than one person per room in the home).
4. Cost Burden – those paying greater than 30 percent of income for housing costs are considered to have housing problems while those paying greater than 50 percent of household income for housing costs are considered to have severe housing problems.

The following charts include data by race and Area Median Income. The race categories highlighted in each chart indicate those with a disproportionate need in each category. The first charts indicate those with Housing Problems and the second group indicates those with Severe Housing Problems.

Housing Cost Burden: Nearly 100,000 renter households in Kentucky are considered extremely housing cost-burdened, paying greater than 50 percent of income for housing costs. Of these, 77 percent are extremely low-income (0 – 30% HAMFI). In total, 380,755 households (owner and renter combined) are housing cost-burdened – 23 percent of all households in Kentucky.

Housing Problems for 0%-30% of Area Median Income

	Has one or more of four housing problems	Has none of the four housing problems	Household has no/ negative income, but none of the other housing problems
Jurisdiction as a whole	169,884	48,945	18,382
White/Caucasian	137,651	42,396	14,807
Black / African American	24,169	5,262	2,620
Asian	1,311	189	346
American Indian/Alaska Native	529	120	105
Pacific Islander	120	20	0
Hispanic	3,791	324	357

Data Source: 2007-2011 CHAS

Housing Problems for 30%-50% of Area Median Income

	Has one or more of four housing problems	Has none of the four housing problems	Household has no/ negative income, but none of the other housing problems
Jurisdiction as a whole	117,179	92,533	0
White/Caucasian	98,586	83,190	0
Black / African American	12,871	6,452	0
Asian	970	349	0
American Indian/Alaska Native	255	183	0
Pacific Islander	70	170	0
Hispanic	2,988	1,491	0

Data Source: 2007-2011 CHAS

Housing Problems for 50%-80% of Area Median Income

	Has one or more of four housing problems	Has none of the four housing problems	Household has no/ negative income, but none of the other housing problems
Jurisdiction as a whole	93,943	197,575	0
White/Caucasian	80,266	175,238	0
Black / African American	9,301	16,202	0
Asian	635	741	0
American Indian/Alaska Native	425	409	0
Pacific Islander	15	78	0
Hispanic	2,369	3,357	0

Data Source: 2007-2011 CHAS

Housing Problems for 80%-100% of Area Median Income

	Has one or more of four housing problems	Has none of the four housing problems	Household has no/ negative income, but none of the other housing problems
Jurisdiction as a whole	30,618	140,119	0
White/Caucasian	27,206	126,122	0
Black / African American	2,233	9,411	0
Asian	566	1,010	0
American Indian/Alaska Native	55	165	0
Pacific Islander	15	93	0
Hispanic	347	2,544	0

Data Source: 2007-2011 CHAS

Severe Housing Problems for 0%-30% of Area Median Income

	Has one or more of four housing problems	Has none of the four housing problems	Household has no/ negative income, but none of the other housing problems
Jurisdiction as a whole	131,350	87,536	18,382
White/Caucasian	105,412	74,746	14,807
Black / African American	19,272	10,137	2,620
Asian	1,115	384	346
American Indian/Alaska Native	371	271	105
Pacific Islander	120	20	0
Hispanic	3,394	720	357

Data Source: 2007-2011 CHAS

Severe Housing Problems for 30%-50% of Area Median Income

	Has one or more of four housing problems	Has none of the four housing problems	Household has no/ negative income, but none of the other housing problems
Jurisdiction as a whole	48,350	161,314	0
White/Caucasian	40,596	141,070	0
Black / African American	5,153	14,183	0
Asian	430	893	0
American Indian/Alaska Native	113	320	0
Pacific Islander	50	190	0
Hispanic	1,227	3,232	0

Data Source: 2007-2011 CHAS

Severe Housing Problems for 50%-80% of Area Median Income

	Has one or more of four housing problems	Has none of the four housing problems	Household has no/ negative income, but none of the other housing problems
Jurisdiction as a whole	25,281	266,119	0
White/Caucasian	21,375	233,967	0
Black / African American	2,221	23,264	0
Asian	207	1,174	0
American Indian/Alaska Native	101	733	0
Pacific Islander	15	78	0
Hispanic	1,147	4,561	0

Data Source: 2007-2011 CHAS

Severe Housing Problems for 80%-100% of Area Median Income

	Has one or more of four housing problems	Has none of the four housing problems	Household has no/ negative income, but none of the other housing problems
Jurisdiction as a whole	7,583	163,124	0
White/Caucasian	6,507	146,756	0
Black / African American	654	10,984	0
Asian	139	1,432	0
American Indian/Alaska Native	0	221	0
Pacific Islander	15	93	0
Hispanic	222	2,670	0

Data Source: 2007-2011 CHAS

HOMELESSNESS IN KENTUCKY

Each year KHC undertakes a count of homeless persons in the Balance of State Continuum of Care region (118 of Kentucky's 120 counties, excluding Jefferson and Fayette). The following table provides data on those counted in early 2014.

Total				
All - Balance of State				
	Sheltered		Unsheltered	Total
	ES	TH	Unsheltered	Total
Total Number of Households	803	265	393	1461
Total Number of Persons		466	670	2229
Number of persons (under age 18)	253	173	146	572
Number of Persons (18-24)	101	52	89	242
Number of Persons (over age 24)	739	241	435	1415
Ethnicity (adults and children)				
Non-Hispanic/Non-Latino	1,494		616	2110
Hispanic/Latino	52		54	106
Race				
White/Caucasian	1,276		535	1811
Black/ African American	205		64	269
Asian	2		5	7
American Indian/Alaska Native	13		6	19
Native Hawaiian/Other Pacific Islander	1		0	1
Multiple Races	49		60	109

ES=Emergency Shelter TH=Trasitional Housing

Unless otherwise noted, the following data is derived from the U.S. Census Bureau's 2008-2012 American Community Survey.

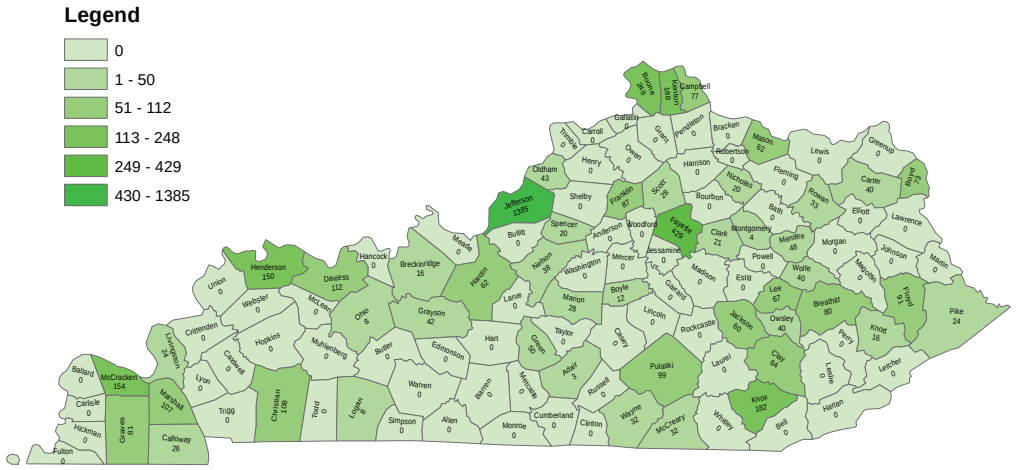
INCOME

The median income of households in Kentucky is $42,610. The number of households whose income is derived from earnings has decreased to 73.6 percent, and those receiving Social Security payments has increased to 32.5 percent (a 1.5 percent increase in the past five years). Also, increased slightly are the number of households who receive retirement income other than Social Security (19.5 percent).

PUBLIC ASSISTANCE

Sixteen percent of households receive Food Stamp/SNAP benefits, 2.5 percent receive cash public assistance (mean = $3,248), and 7.1 percent receive Supplemental Security Income (SSI). The mean amount of SSI is $8,118.

HUD-Subsidized Housing Units for Elderly and Disabled Households



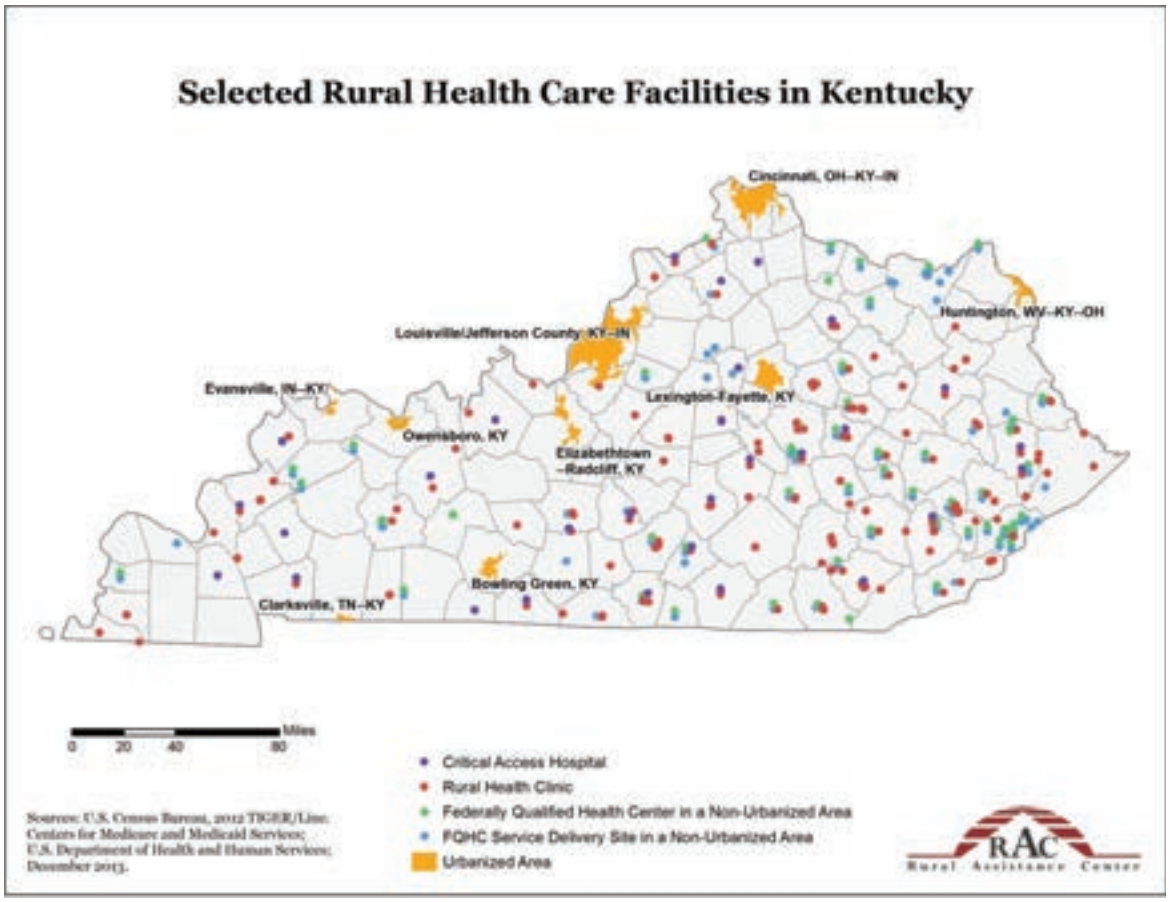
Data Source: Kentucky Assisted Rental Housing Directory, HUD Section 202 and Section 811 Projects

KHC Kentucky Housing Corporation

This Map Prepared By:
Bernadette Hillman
Kentucky Housing Corporation
March 13, 2012

HEALTH INSURANCE COVERAGE

Data pertaining to health insurance coverage is applicable to the civilian non-institutionalized population. Of this group, 85.9 percent have health insurance coverage, 65.5 percent have private health insurance, and 32.4 percent have public coverage. Currently, 14.1 percent have no health insurance coverage. The map below indicates the availability of health care facilities in rural areas of Kentucky.



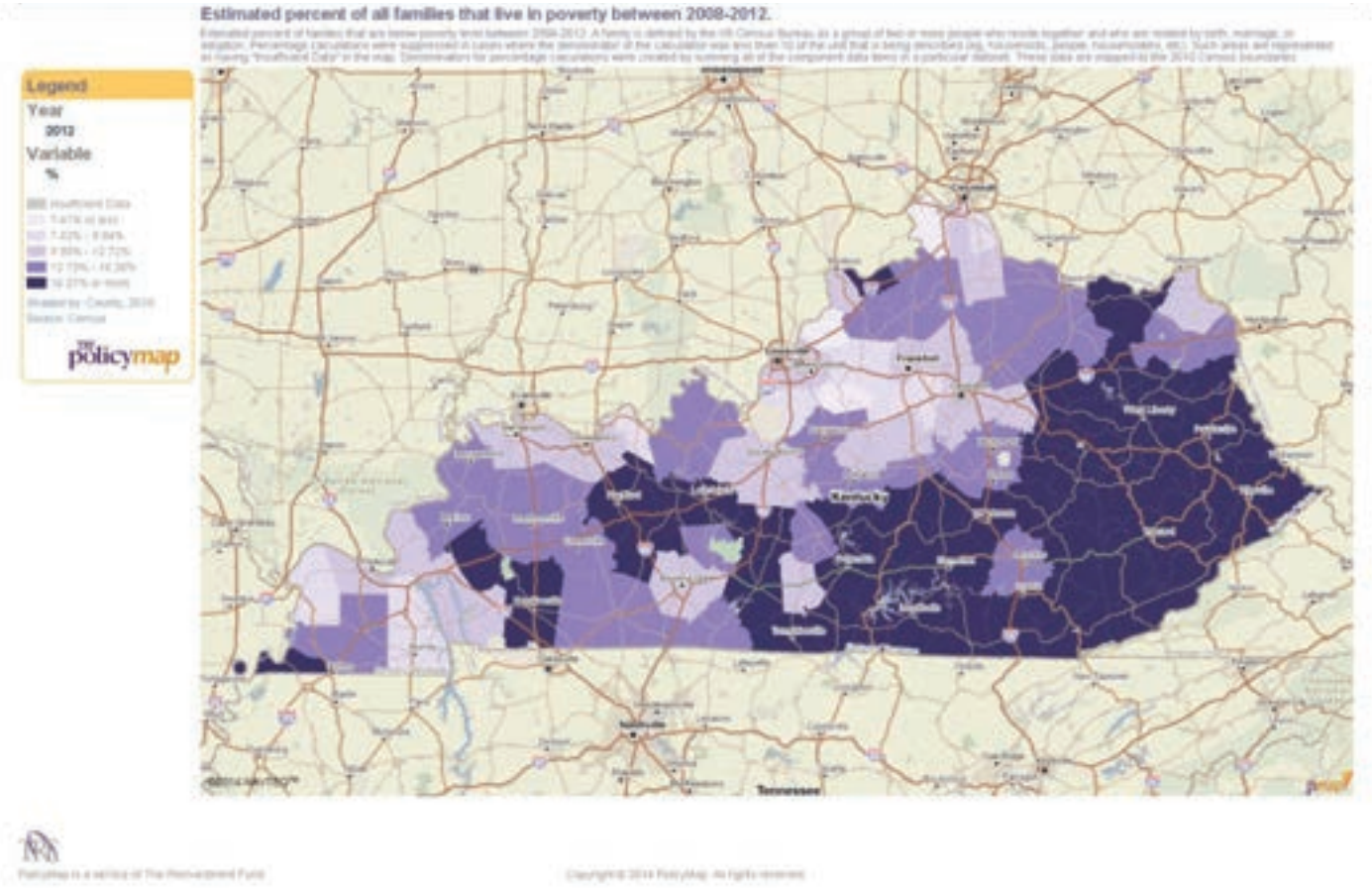
POVERTY

Poverty is a long-standing problem in Kentucky. It has presented many challenges for housing and community development activities in the state. The percentage of Kentuckians living in poverty in currently stands at 14.2 percent. The table below indicates the breakdown of families and people whose income in the past 12 months is below the poverty level. The family group with the highest rate of poverty is female single parent households, especially those with children. This rate has increased over the past five years.

Family/Household Description	Percent Below the Poverty Level
All families	14.2%
• with children under 18 years of age	22.1%
• with children under 5 years of age	25.6%
Married couple familes	7.2%
• with children under 18 years of age	10.1%
• with children under 5 years of age	10.8%
Families with female householder, no husband present	38.5%
• with children under 18 years of age	49%
• with children under 5 years of age	58.4%

Geographically, Kentucky's Appalachian counties continue to experience the highest rates of poverty. Some of these southeastern counties have poverty rates at twice to three times the national poverty rate.

Map of Kentucky with Estimated Percent of All Families That Live in Poverty Between 2008-2012.

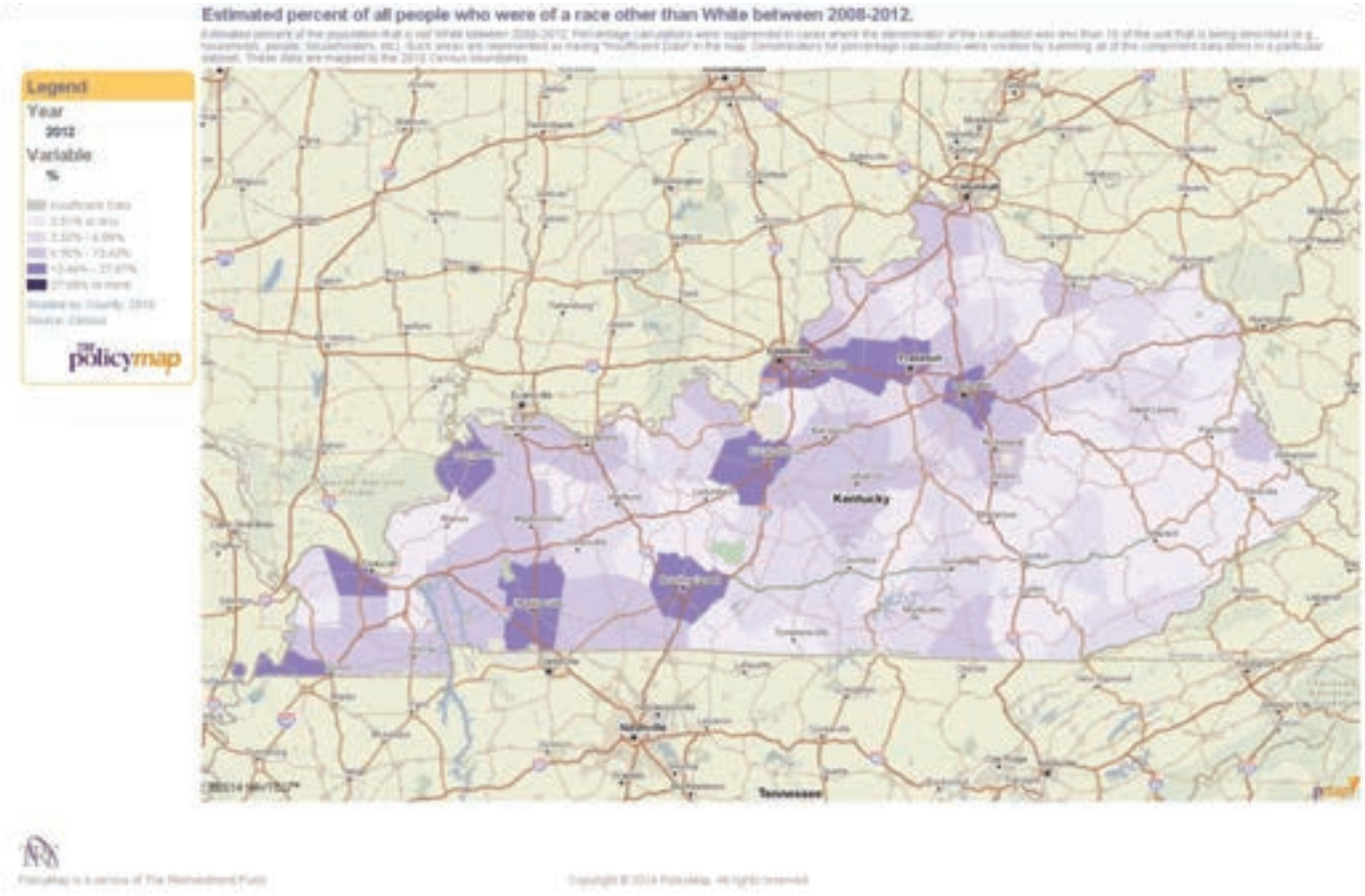


RACE

Kentucky's population continues to be predominately white. The percentage of non-white population has increased over the past decade and is projected to increase over the next several decades.

2010 CENSUS					
TOTAL	WHITE	BLACK	ASIAN	OTHER	HISPANIC
	86.4%	7.7%	1.1%	1.7%	3.1%
4,339,367	3,750,091	334,712	49,004	72,724	132,836
2013 CENSUS ESTIMATE					
	85.6%	8.0%	1.3%	1.8%	3.3%
4,395,295	3,763,110	349,667	56,493	80,264	145,761

Map of Kentucky with Estimated Percent of All People Who Were of a Race Other Than White Between 2008-2012.



NATIVITY AND LANGUAGE

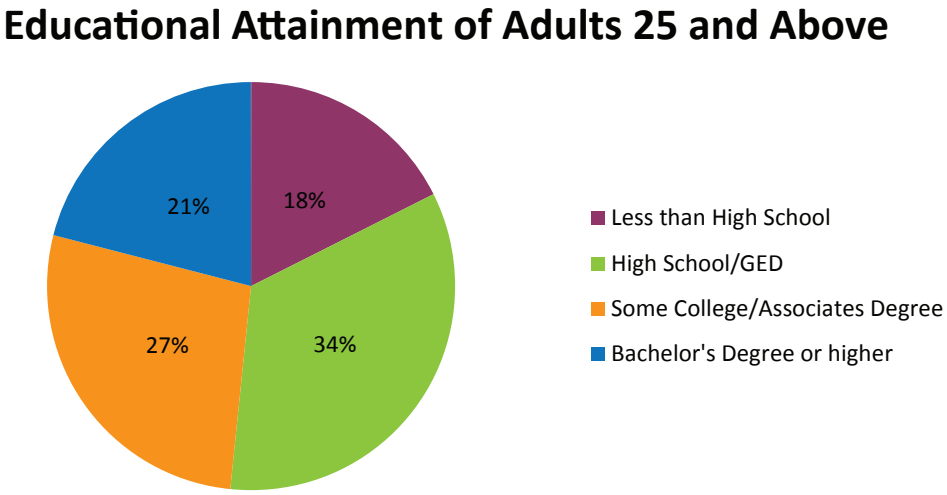
In 2013, 3.2 percent of people living in Kentucky were foreign born, a slight increase in the past 5 years. Among people at least five years old living in Kentucky, 4.8 percent spoke a language other than English at home, an increase of nearly one percent, compared to five years earlier.

GEOGRAPHIC MOBILITY

As of 2013, 84 percent of people were living in the same residence they lived in one year earlier.

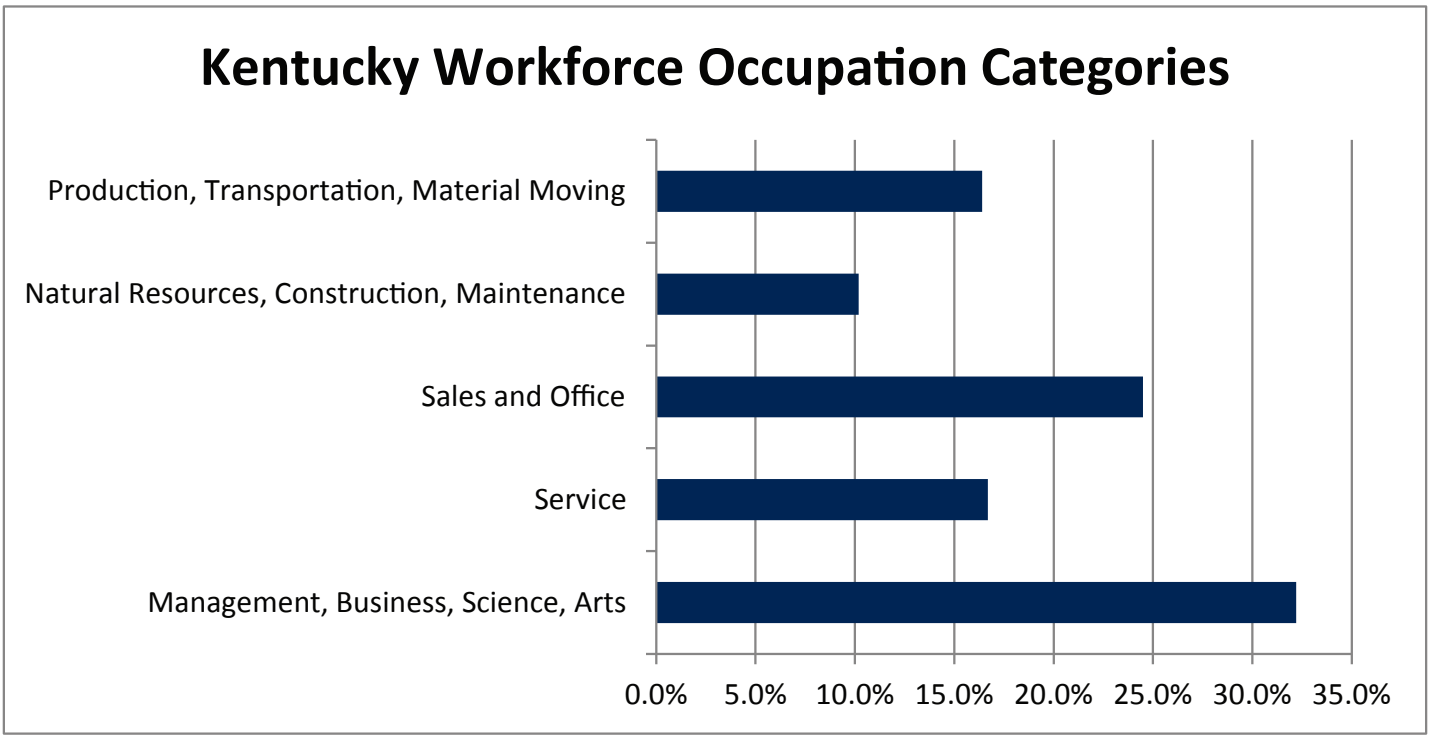
EDUCATION

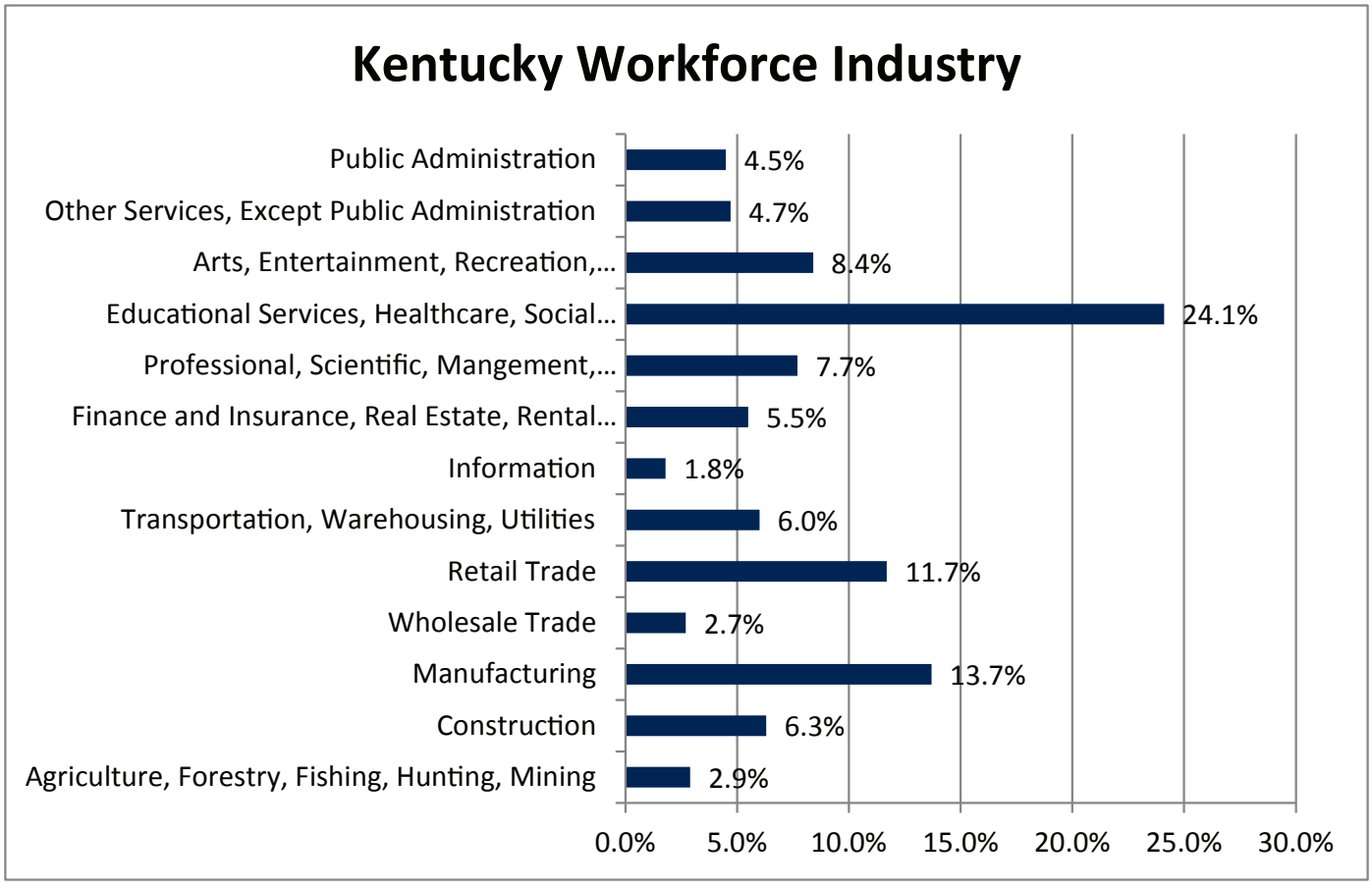
The total school enrollment in Kentucky is approximately 1,094,621, according to US Census Bureau 2008 – 2012 American Community Survey Estimates. Nursery school and kindergarten enrollment is 124,989, and elementary or high school enrollment is 683,359. College or graduate school enrollment is 286,273.



BUSINESS AND INDUSTRIES

2008 – 2012 estimates indicate that 60.3 percent of the population age 16 and over are in the labor force and 39.7 percent are not in the labor force. The vast majority of workers drove alone (82.2 percent), while 10.4 percent carpooled. Only 1.2 percent utilized public transportation. The mean travel time to work is 22.7 minutes.



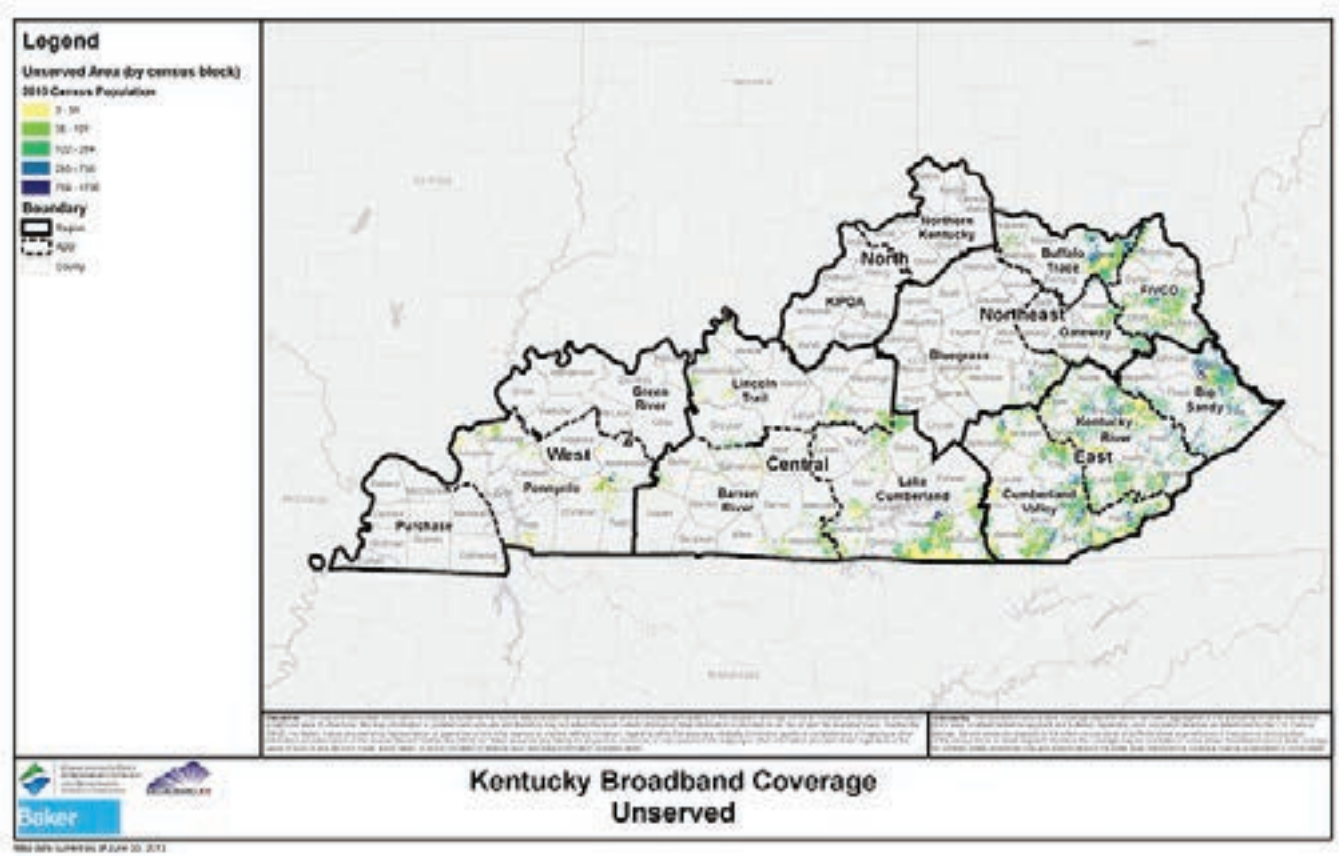


CLASS OF WORKER

Of the civilian-employed workforce, 78.6 percent are employed in the private sector, 15.6 percent are government workers, 5.7 percent are self-employed, and 0.2 percent are unpaid family workers.

INTERNET ACCESS

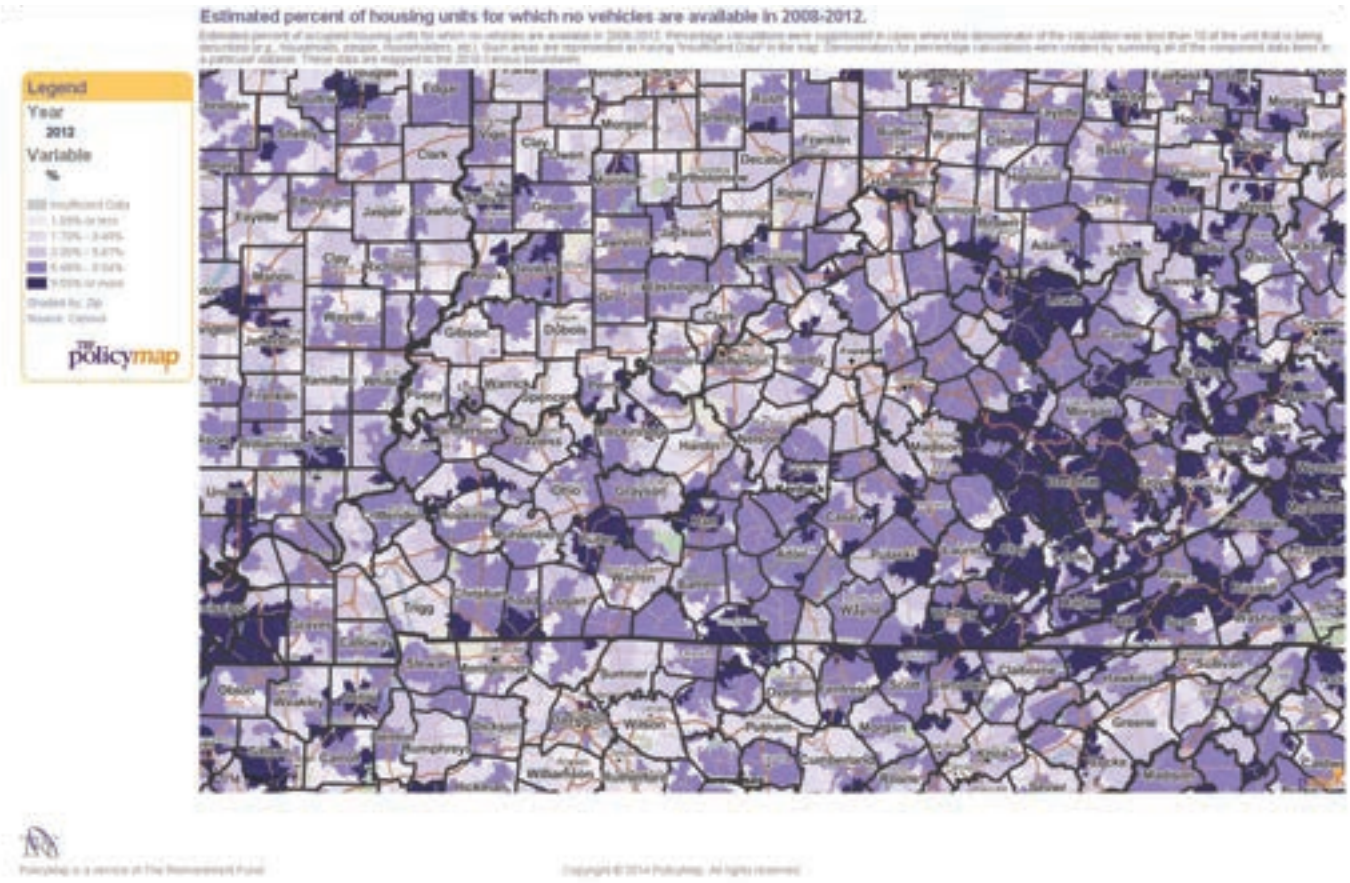
Access to the Internet is directly tied to educational and business opportunities. According to a September 2013 article, *The Internet in Kentucky: Life in the Slow Lane for Many* authored by Carl Nathe and Michael Childress, broadband high-speed Internet access has increased to 67 percent of households in the past decade. According to the study, there is a direct connection between the lack of high-speed Internet access and low educational attainment, high unemployment, and poverty (http://cber.uky.edu).



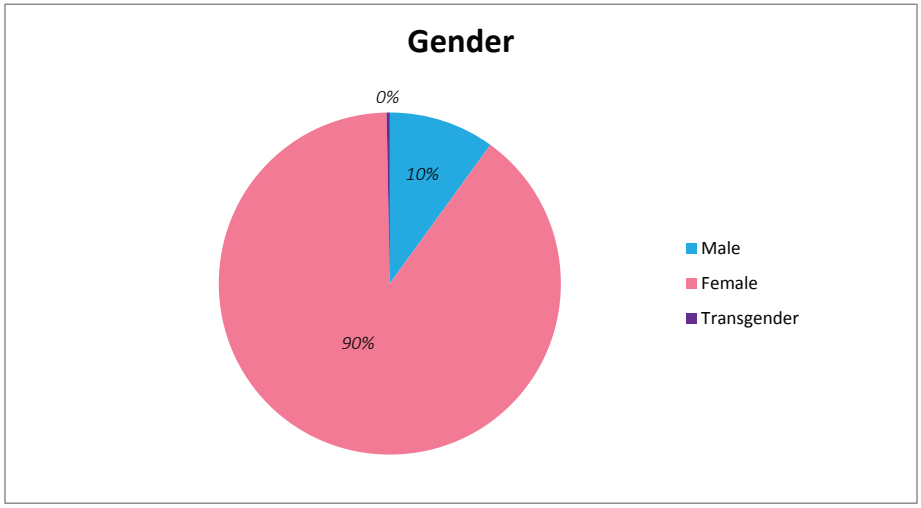
TRANSPORTATION

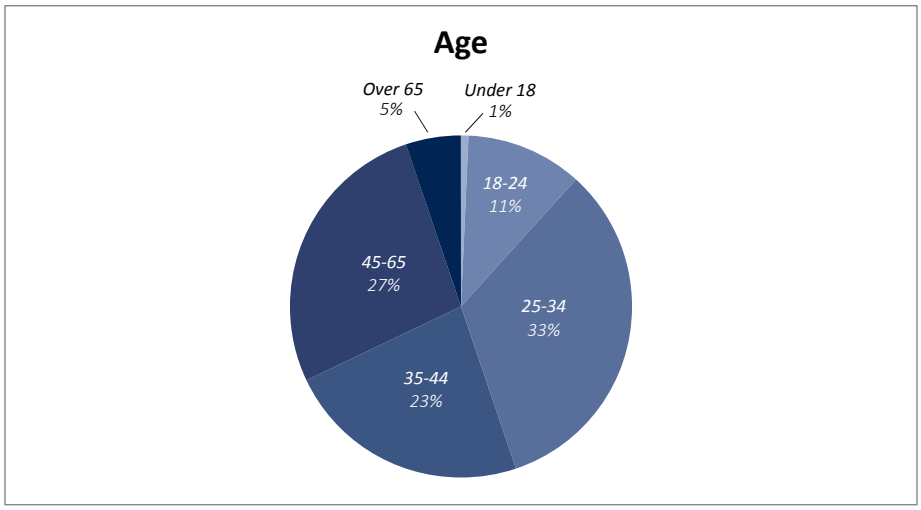
Kentucky is a primarily rural state with little to no access to public transportation outside of the largest metro areas. Access to transportation for work, education, and daily living in rural areas is vital in breaking the cycle of poverty. As the following map shows, the highest number of households without a vehicle are those in the poorest counties of the state.

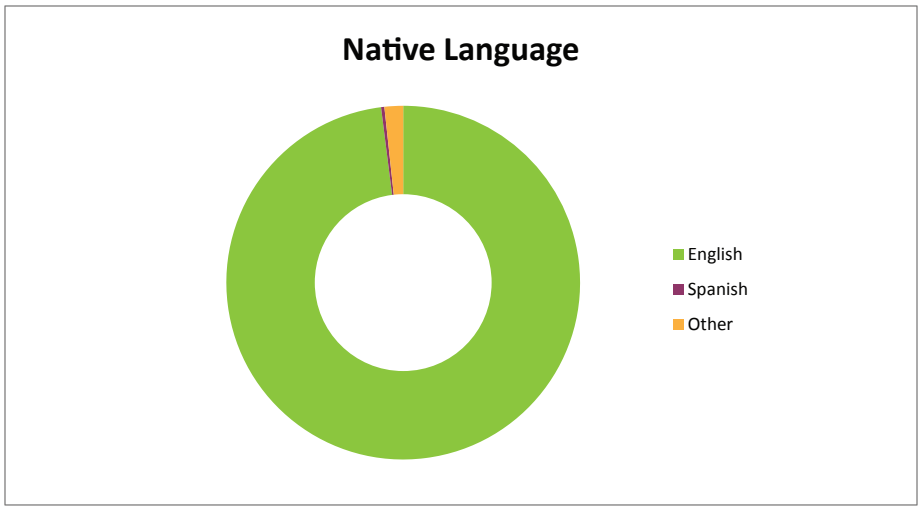
Map of Kentucky with Estimated Percent of Housing Units for Which No Vehicles are Available in 2008-2012.

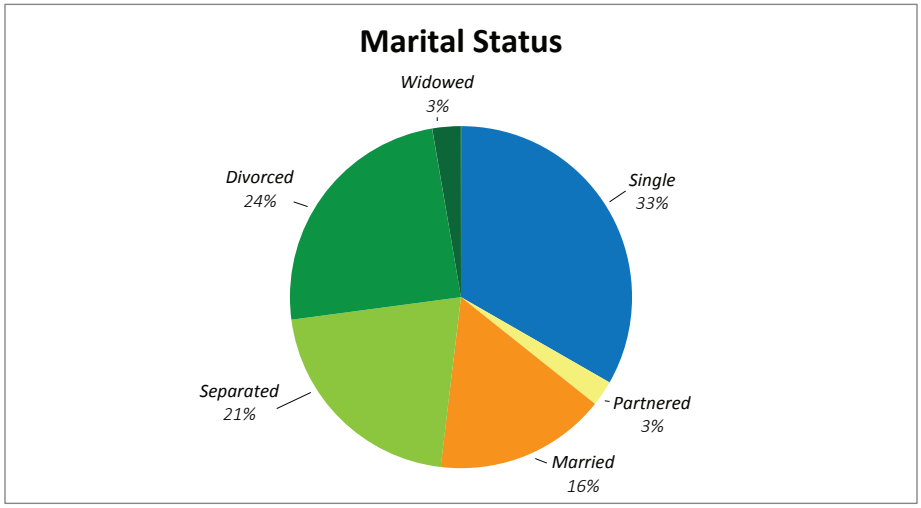


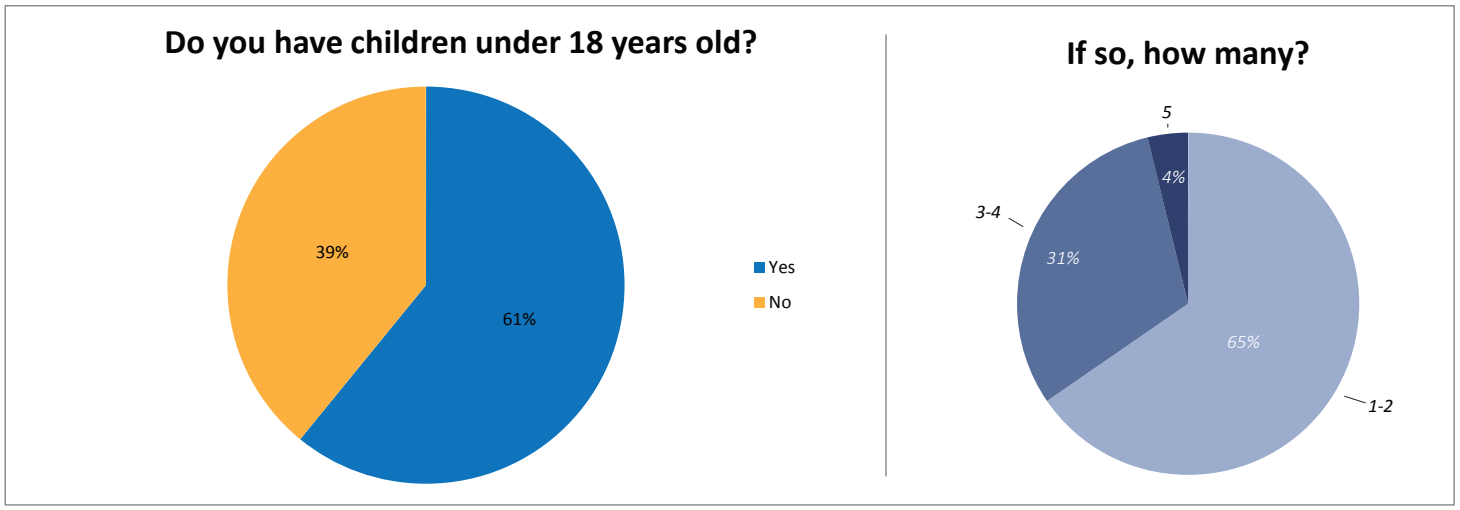
Fair Housing Survey Data

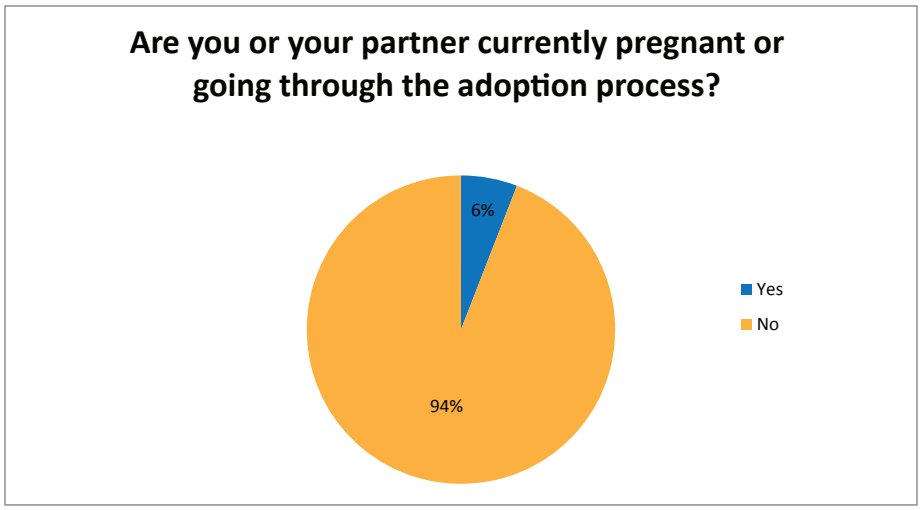

Gender
0%
10%
90%
Male
Female
Transgender

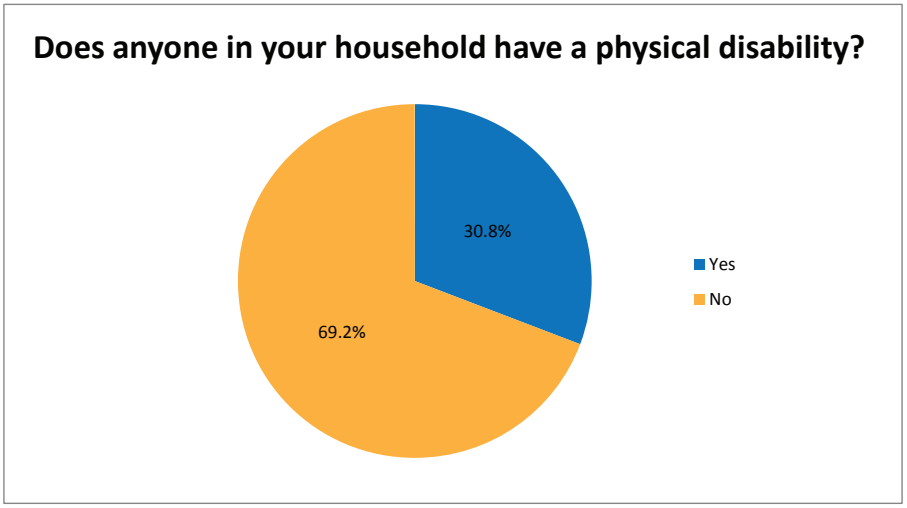

Age
Over 65
5%
Under 18
1%
18-24
11%
25-34
33%
35-44
23%
45-65
27%

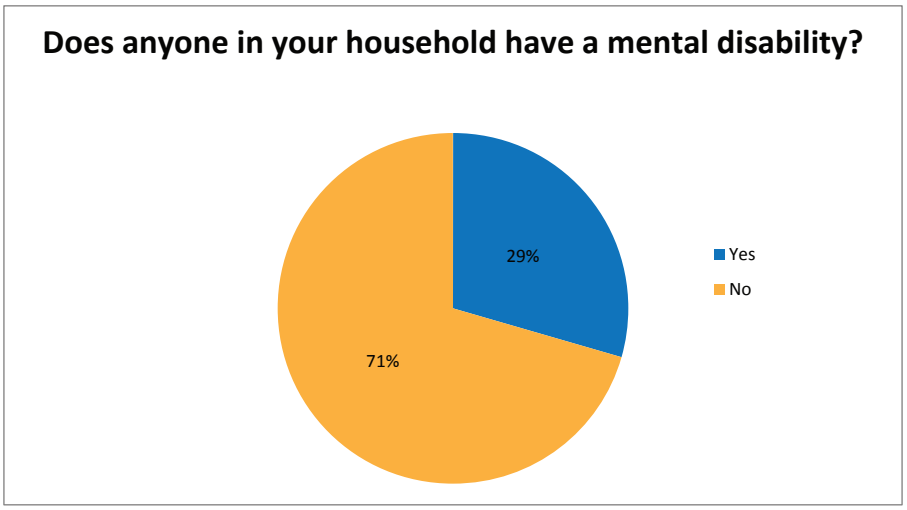

Native Language
English
Spanish
Other

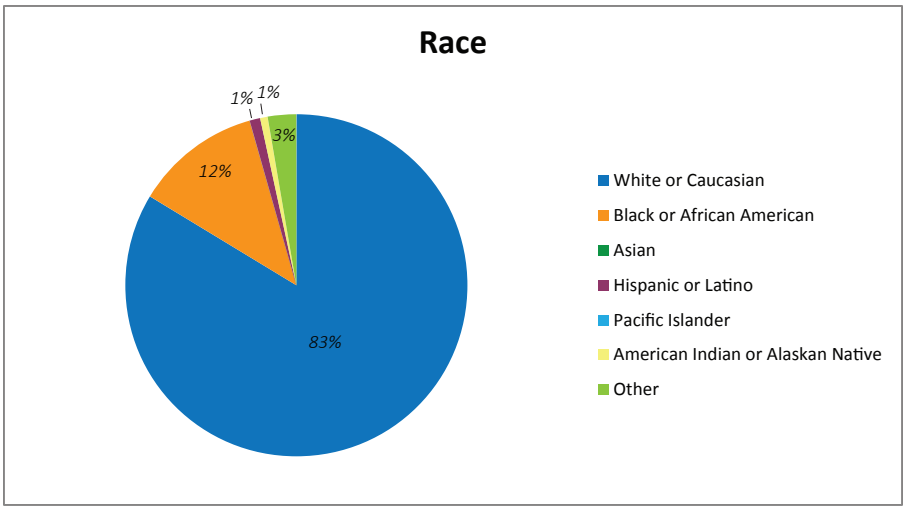

Marital Status
Widowed
3%
Divorced
24%
Single
33%
Separated
21%
Partnered
3%
Married
16%

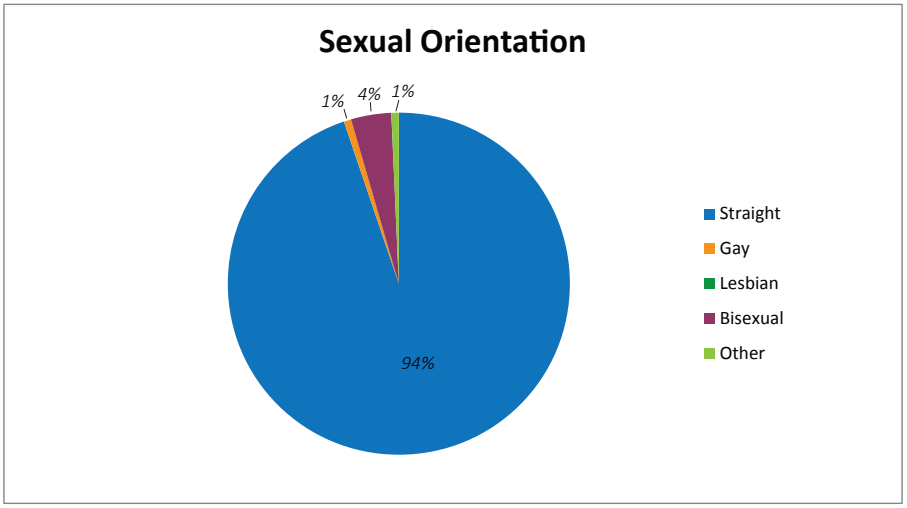

Do you have children under 18 years old?
39%
61%
Yes
No
If so, how many?
5
4%
3-4
31%
65%
1-2

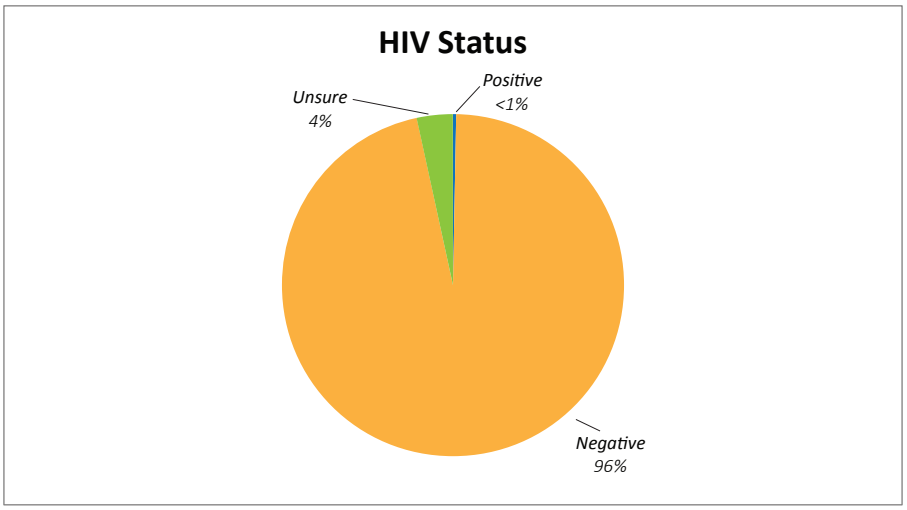

Are you or your partner currently pregnant or going through the adoption process?
6%
94%
Yes
No

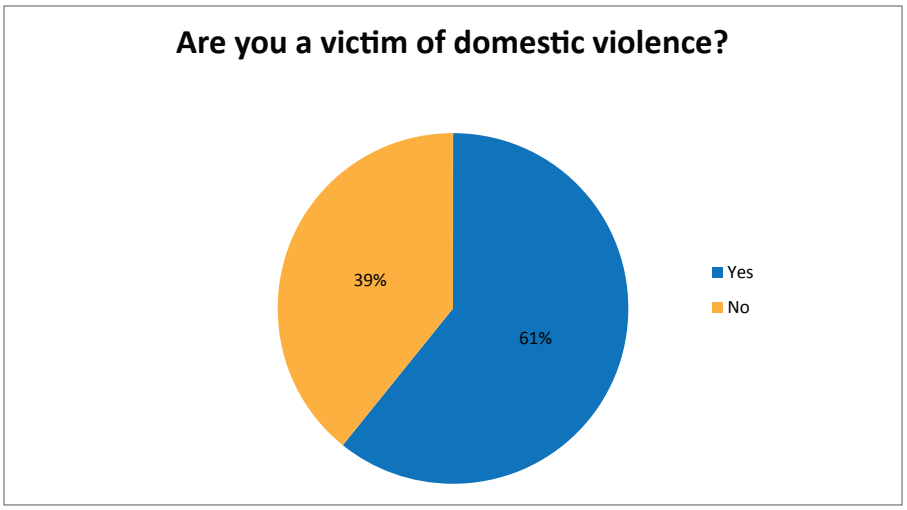

Does anyone in your household have a physical disability?
30.8%
69.2%
Yes
No

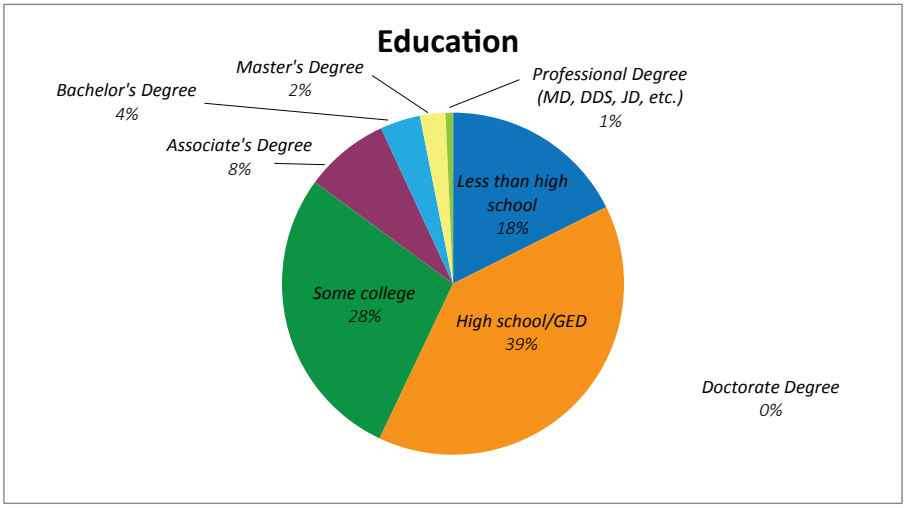

Does anyone in your household have a mental disability?
29%
71%
Yes
No

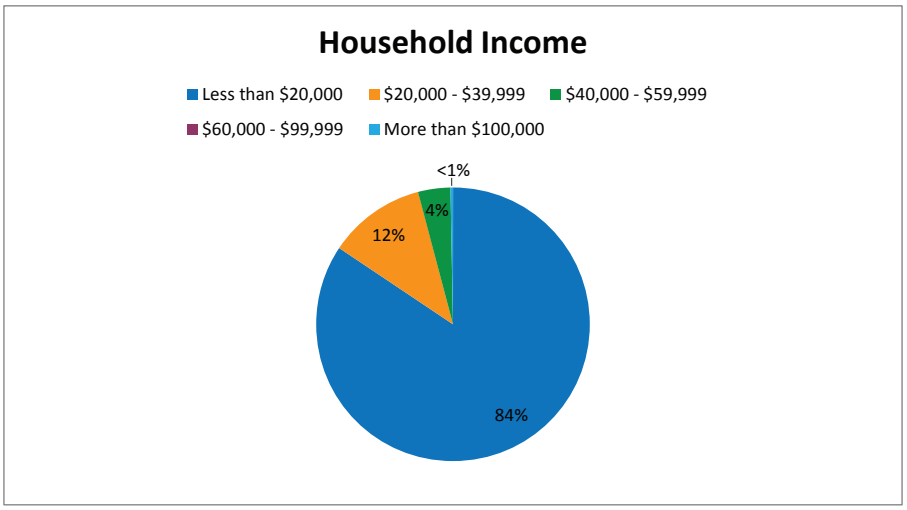

Race
1%
1%
3%
12%
83%
White or Caucasian
Black or African American
Asian
Hispanic or Latino
Pacific Islander
American Indian or Alaskan Native
Other

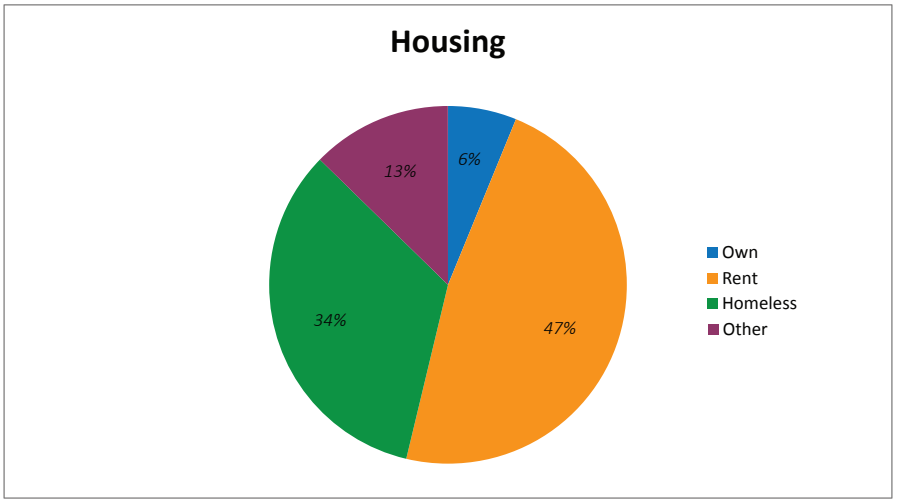

Sexual Orientation
1%
4%
1%
94%
Straight
Gay
Lesbian
Bisexual
Other


HIV Status
Unsure
4%
Positive
<1%
Negative
96%

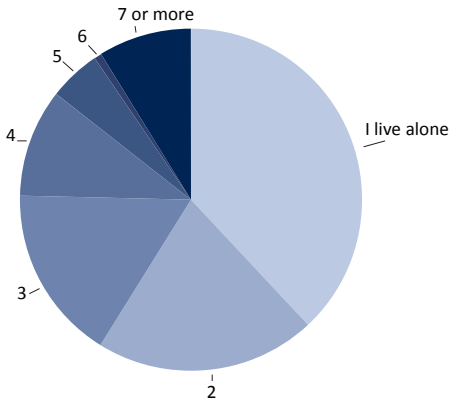

Are you a victim of domestic violence?
39%
61%
Yes
No


Education
Master's Degree
2%
Professional Degree
(MD, DDS, JD, etc.)
1%
Bachelor's Degree
4%
Associate's Degree
8%
Less than high
school
18%
Some college
28%
High school/GED
39%
Doctorate Degree
0%

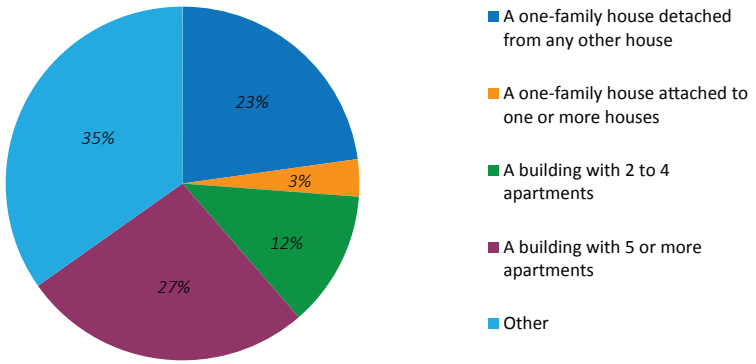

Household Income
Less than $20,000
$20,000 - $39,999
$40,000 - $59,999
$60,000 - $99,999
More than $100,000
<1%
4%
12%
84%


Housing
6%
13%
34%
47%
Own
Rent
Homeless
Other

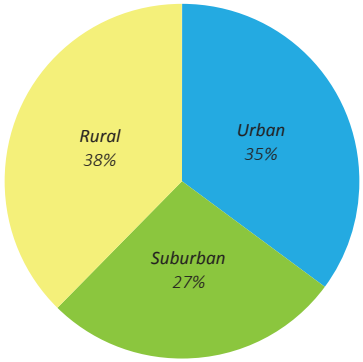
How many people live in your household?

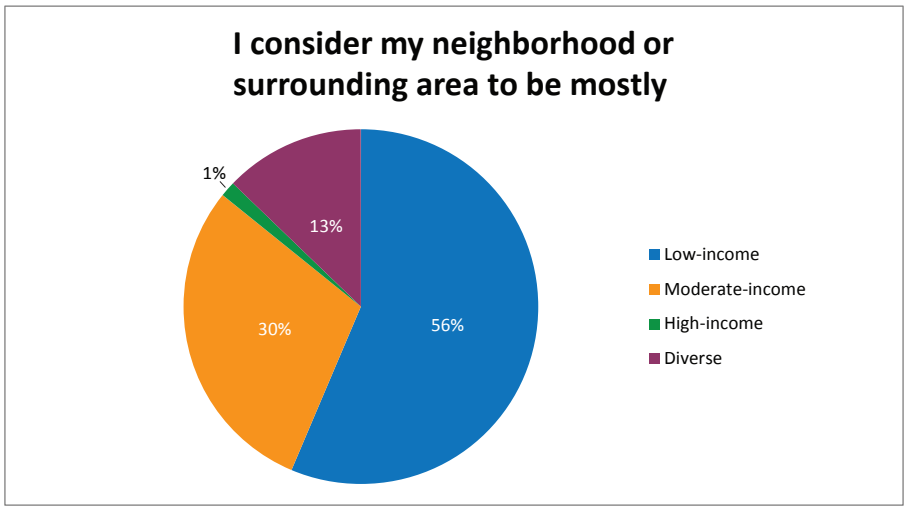


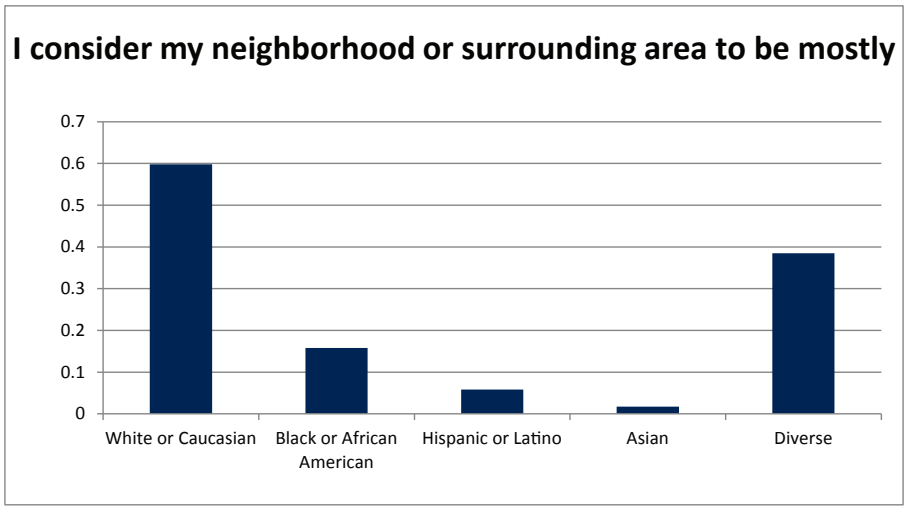
What best describes your housing?

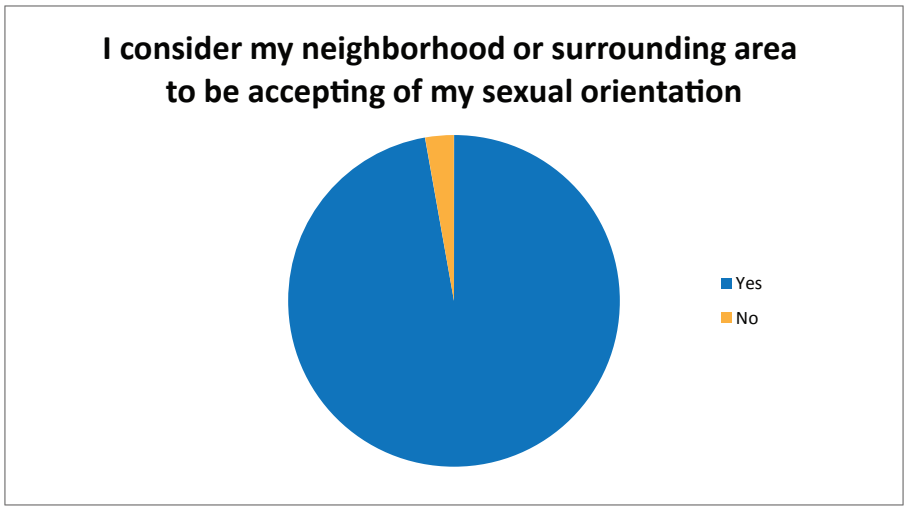


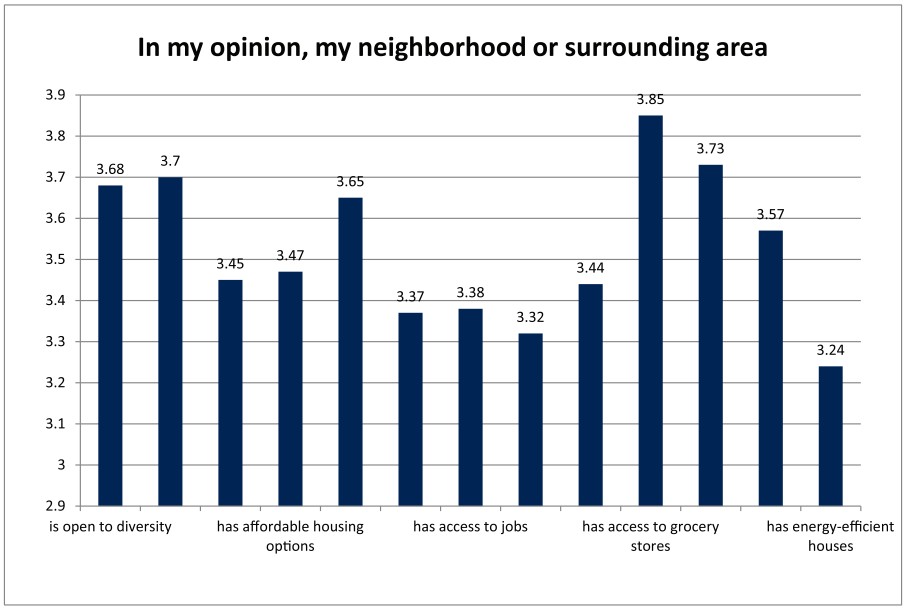
I consider my neighborhood or surrounding area to be

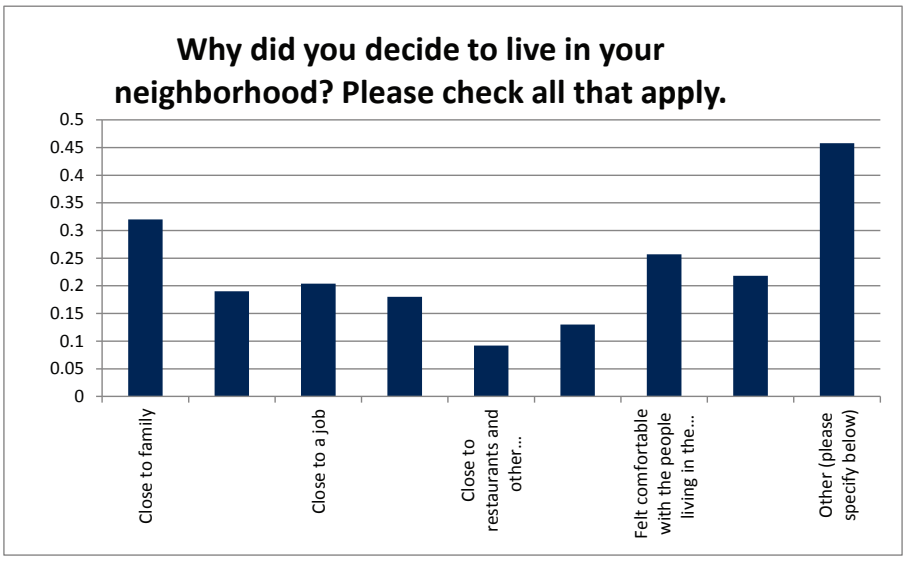


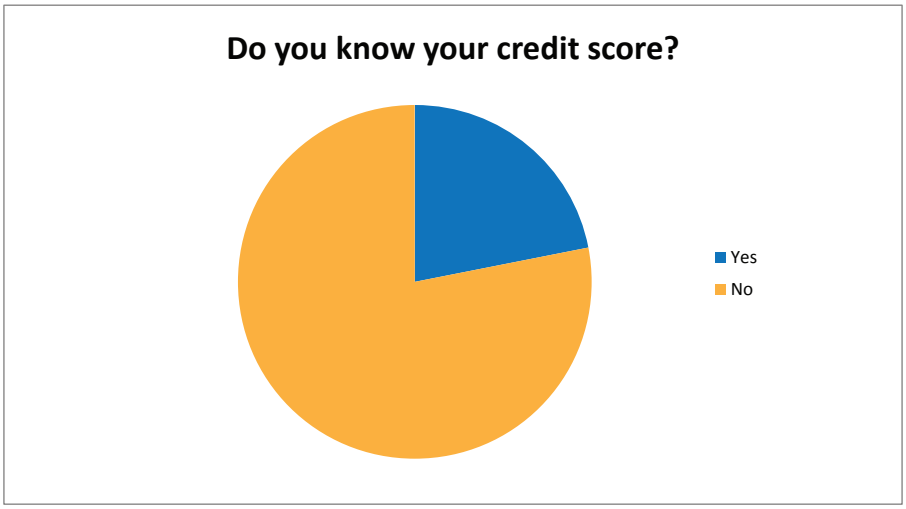

I consider my neighborhood or surrounding area to be mostly
1%
13%
30%
56%
Low-income
Moderate-income
High-income
Diverse

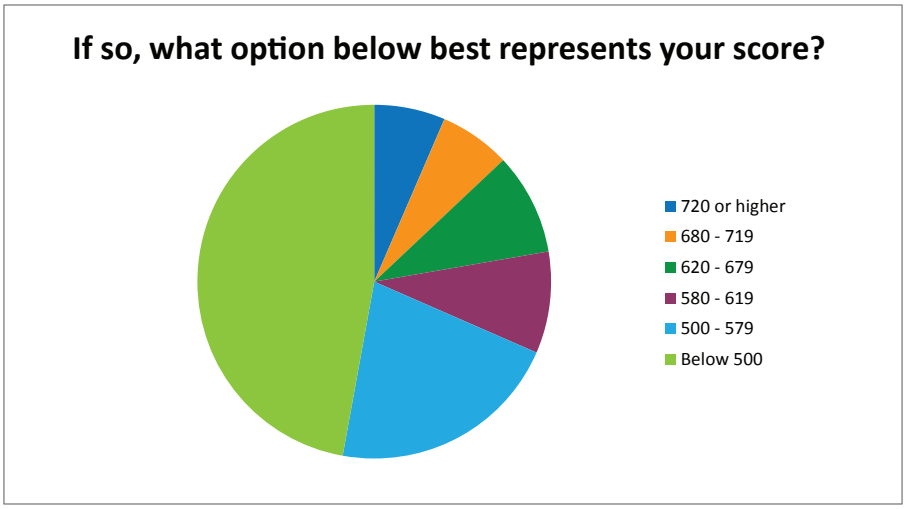

I consider my neighborhood or surrounding area to be mostly
0.7
0.6
0.5
0.4
0.3
0.2
0.1
0
White or Caucasian
Black or African American
Hispanic or Latino
Asian
Diverse

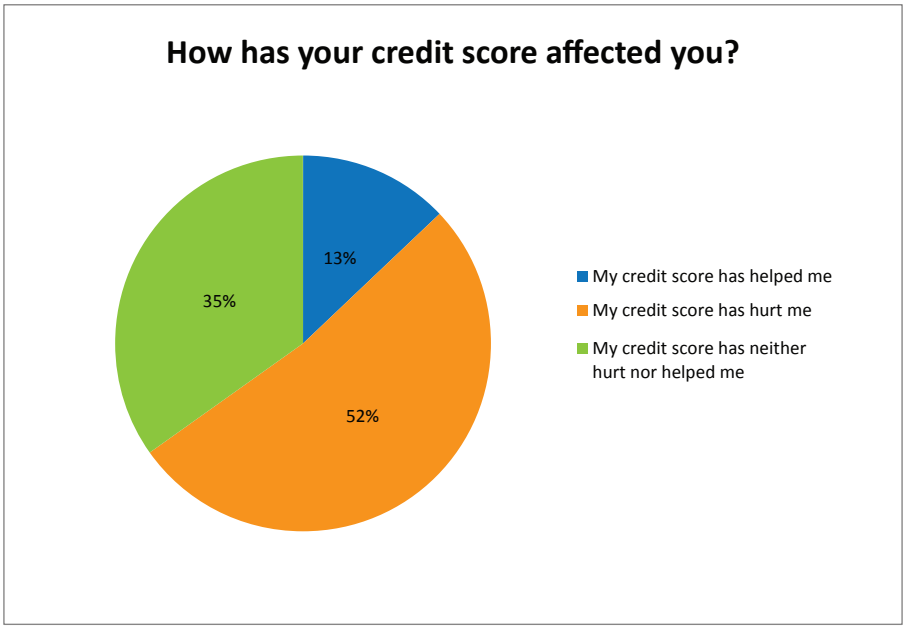

I consider my neighborhood or surrounding area to be accepting of my sexual orientation
Yes
No

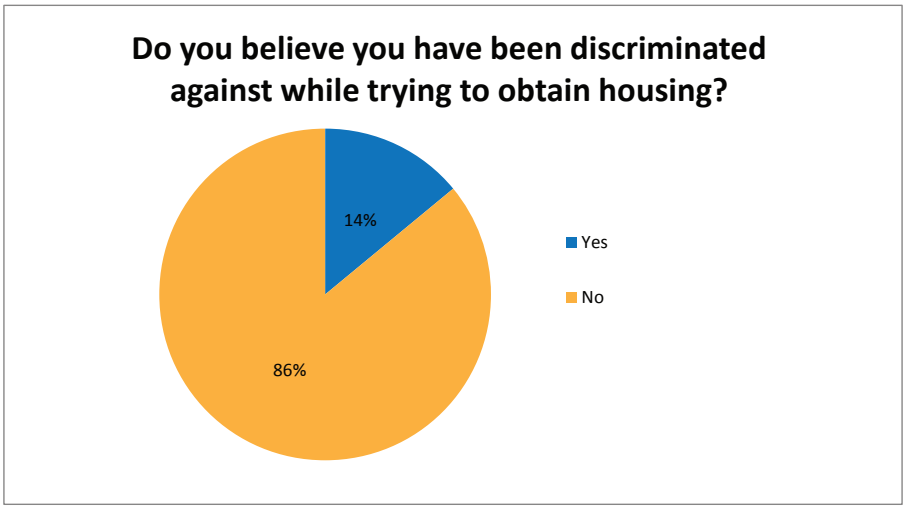

In my opinion, my neighborhood or surrounding area
3.9
3.8
3.7
3.6
3.5
3.4
3.3
3.2
3.1
3
2.9
3.68
3.7
3.45
3.47
3.65
3.37
3.38
3.32
3.44
3.85
3.73
3.57
3.24
is open to diversity
has affordable housing options
has access to jobs
has access to grocery stores
has energy-efficient houses

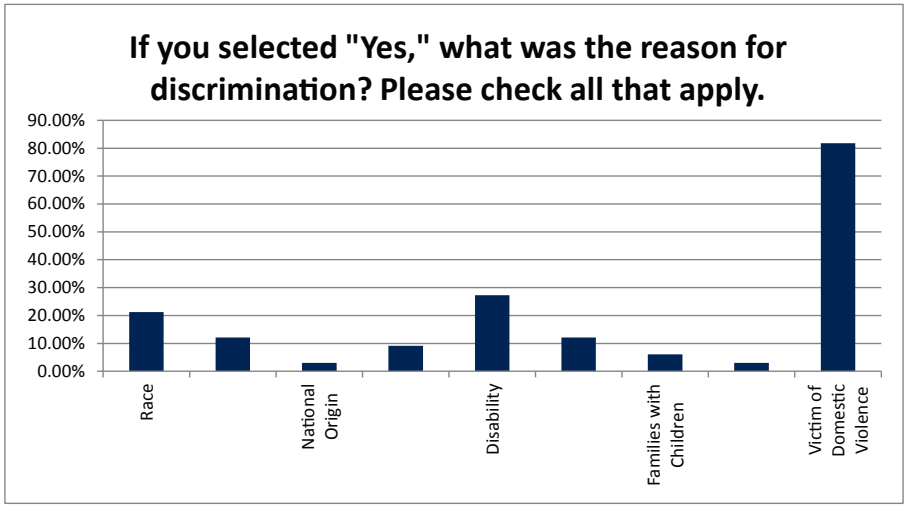

Why did you decide to live in your neighborhood? Please check all that apply.
0.5
0.45
0.4
0.35
0.3
0.25
0.2
0.15
0.1
0.05
0
Close to family
Close to a job
Close to restaurants and other...
Felt comfortable with the people living in the...
Other (please specify below)

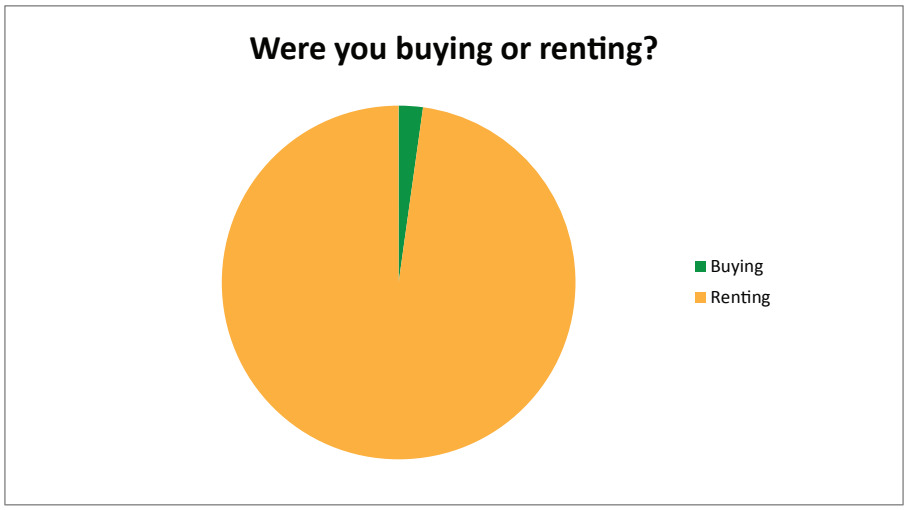

Do you know your credit score?
Yes
No

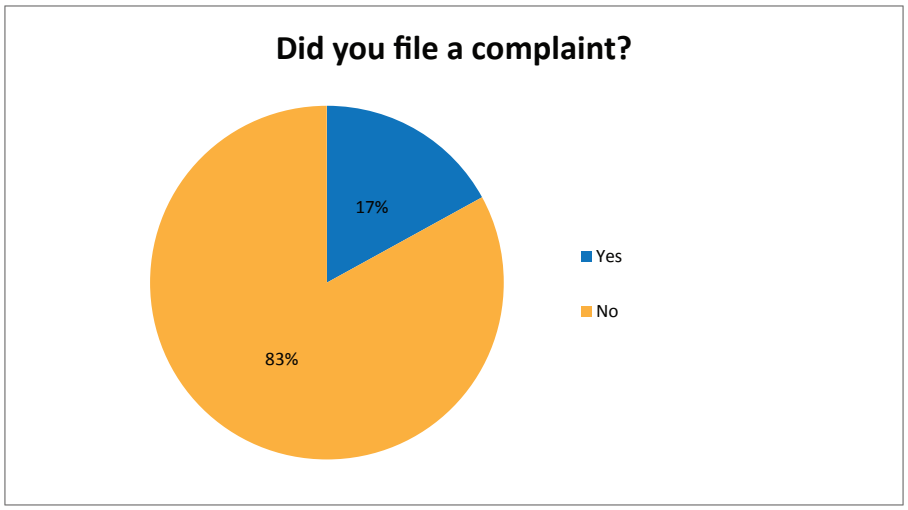

If so, what option below best represents your score?
720 or higher
680 - 719
620 - 679
580 - 619
500 - 579
Below 500

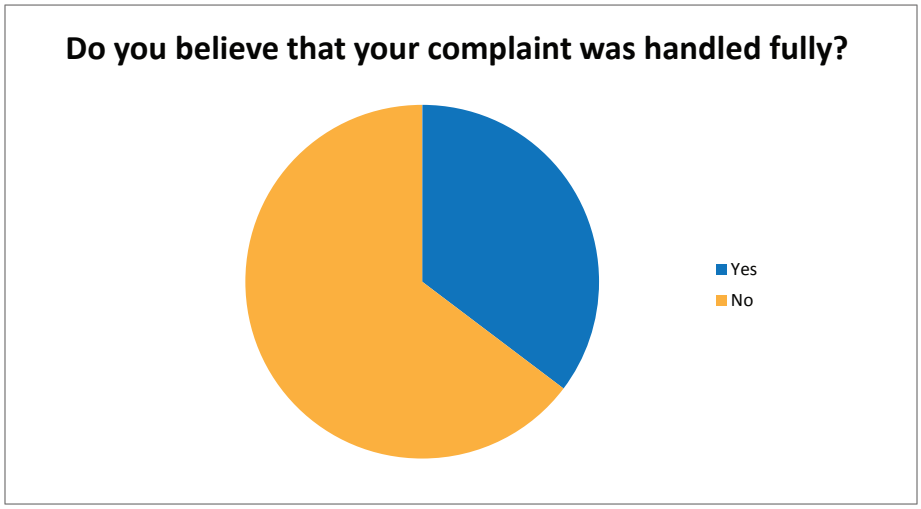

How has your credit score affected you?
13%
52%
35%
My credit score has helped me
My credit score has hurt me
My credit score has neither hurt nor helped me

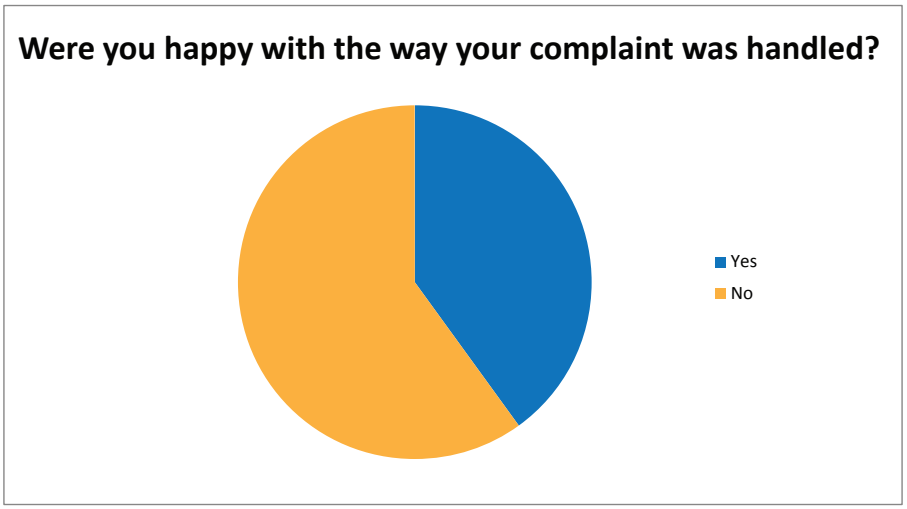

Do you believe you have been discriminated against while trying to obtain housing?
14%
86%
Yes
No

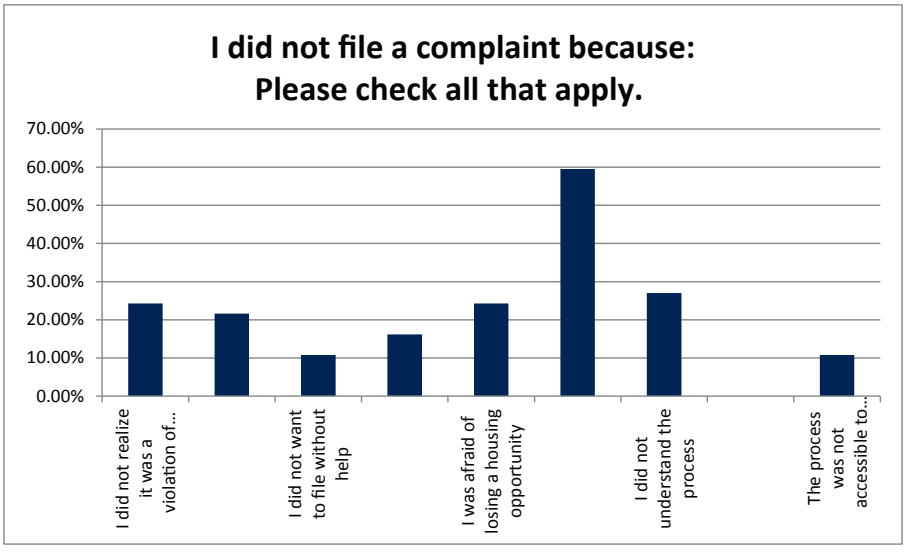

If you selected "Yes," what was the reason for discrimination? Please check all that apply.
90.00%
80.00%
70.00%
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
Race
National Origin
Disability
Families with Children
Victim of Domestic Violence

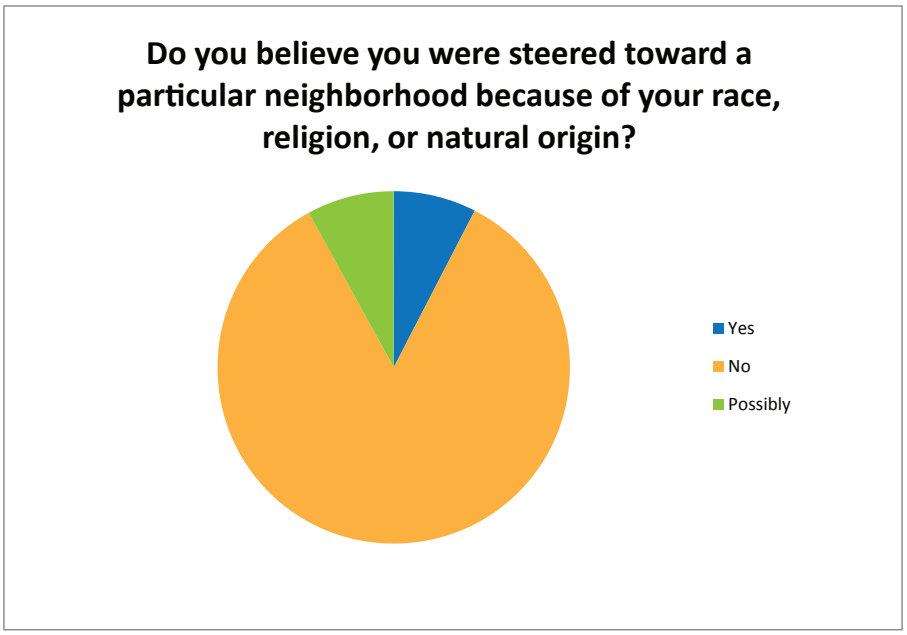

Were you buying or renting?
Buying
Renting

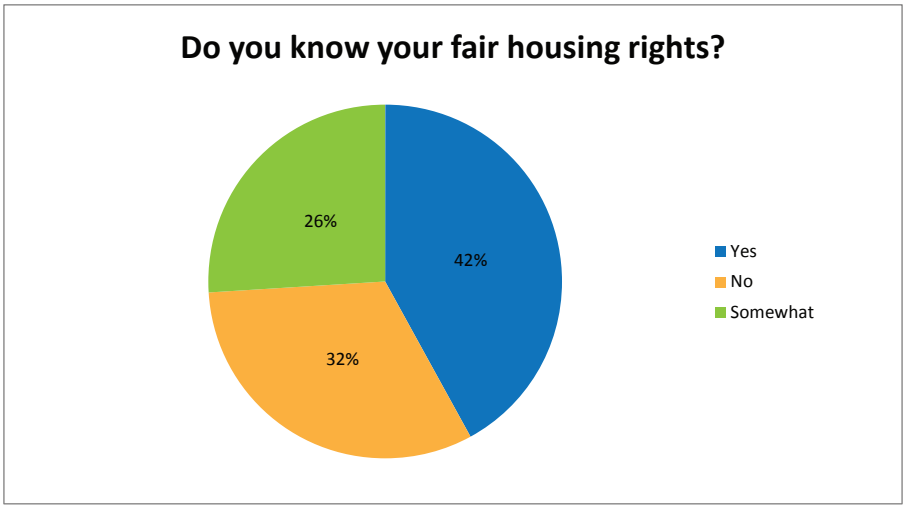

Did you file a complaint?
17%
83%
Yes
No

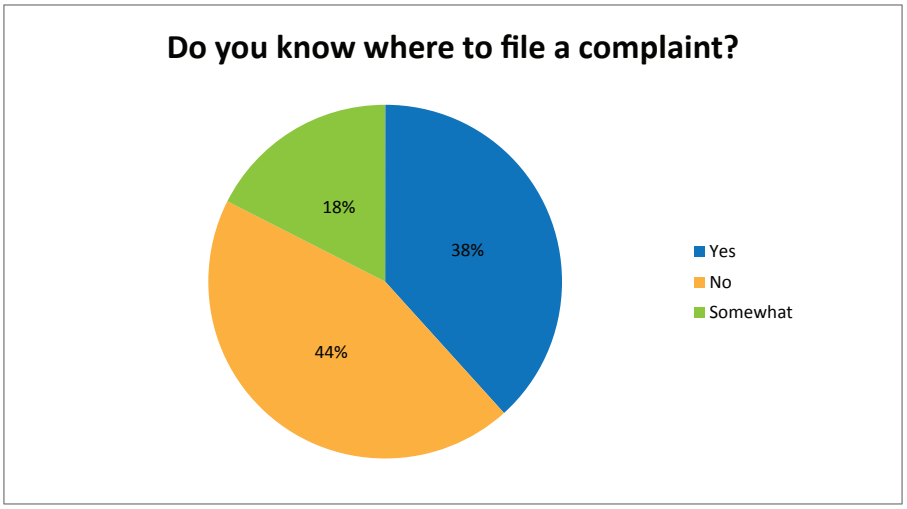

Do you believe that your complaint was handled fully?
Yes
No

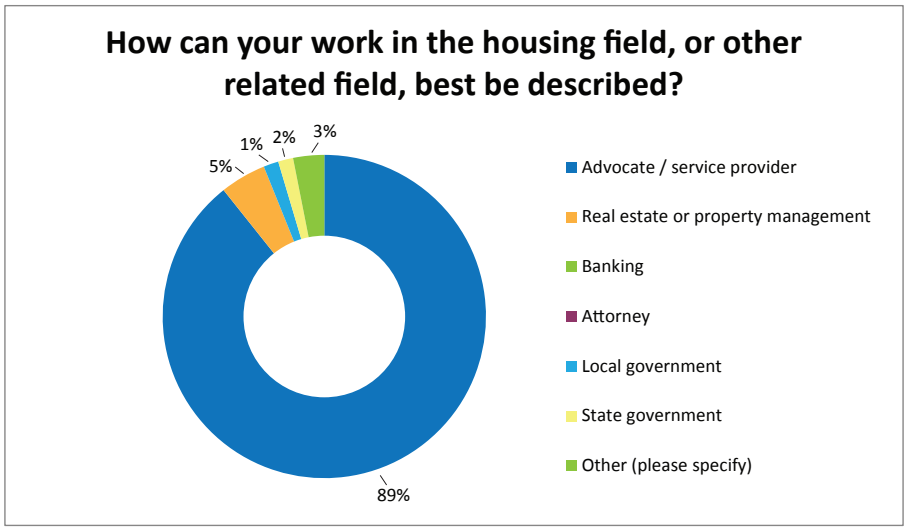

Were you happy with the way your complaint was handled?
Yes
No

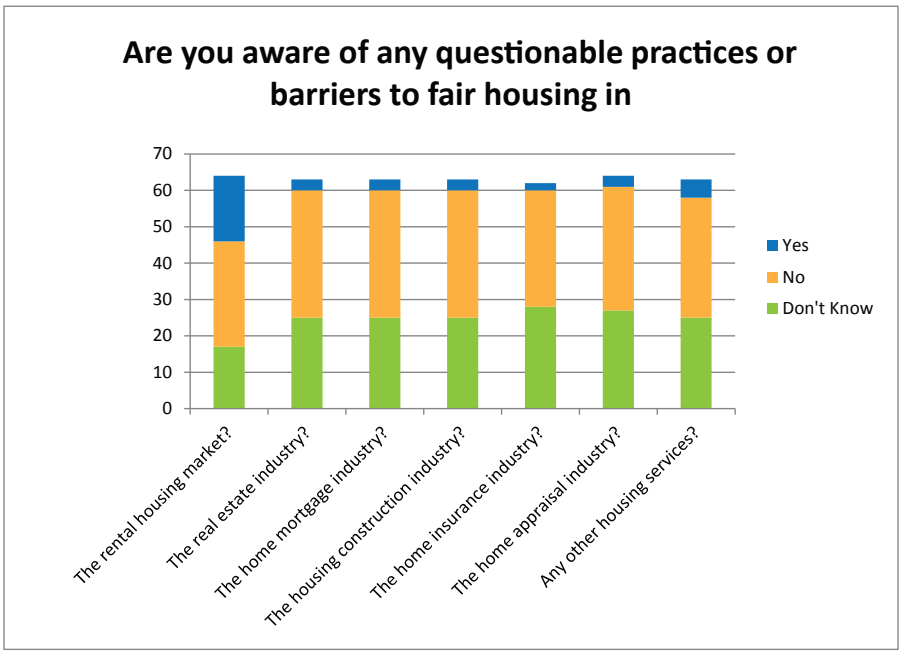

I did not file a complaint because:
Please check all that apply.
70.00%
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
I did not realize it was a violation of...
I did not want to file without help
I was afraid of losing a housing opportunity
I did not understand the process
The process was not accessible to...

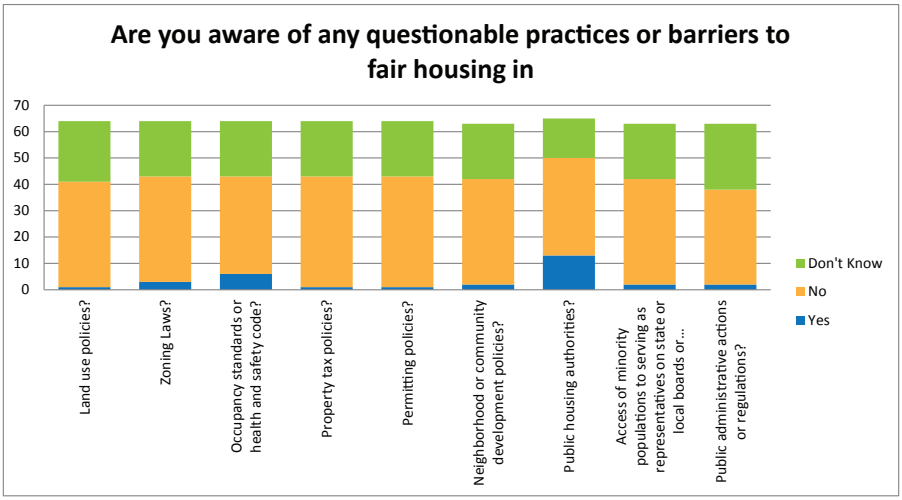

Do you believe you were steered toward a particular neighborhood because of your race, religion, or natural origin?
Yes
No
Possibly


Do you know your fair housing rights?
26%
42%
32%
Yes
No
Somewhat


Do you know where to file a complaint?
18%
38%
44%
Yes
No
Somewhat


How can your work in the housing field, or other related field, best be described?
3%
2%
1%
5%
89%
Advocate / service provider
Real estate or property management
Banking
Attorney
Local government
State government
Other (please specify)


Are you aware of any questionable practices or barriers to fair housing in
70
60
50
40
30
20
10
0
The rental housing market?
The real estate industry?
The home mortgage industry?
The housing construction industry?
The home insurance industry?
The home appraisal industry?
Any other housing services?
Yes
No
Don't Know


Are you aware of any questionable practices or barriers to fair housing in
70
60
50
40
30
20
10
0
Land use policies?
Zoning Laws?
Occupancy standards or health and safety code?
Property tax policies?
Permitting policies?
Neighborhood or community development policies?
Public housing authorities?
Access of minority populations to serving as representatives on state or local boards or...
Public administrative actions or regulations?
Don't Know
No
Yes

Kentucky Housing Corporation Programs

KHC funds a variety of housing programs across the state. Below is the statistical breakdown of the population served by each program for fiscal year 2014.

1. ***Kentucky Homeownership Protection Center.*** The Kentucky Homeownership Protection Center was created to address the foreclosure crisis in Kentucky. This program, which is funded by the U.S. Department of Housing and Urban Development (HUD), provides a centralized location for information on public services to assist Kentuckians in keeping their homes. Homeowners can find information on the foreclosure process, utility assistance and home repair assistance to make choices and avoid losing their homes. The Kentucky Homeownership Protection Center is a joint effort of the Department of Financial Institutions, Kentucky Housing Corporation, and other agencies across the state.

   Population Served: Participants in the program totaled 11,505, of which 8,498 did not report race. Of the 3,007 reporting, 13.0 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (315), American Indian/Alaskan Native (16); Asian (7); Native Hawaiian/other Pacific Islander (5); Hispanic (48); and Multi-racial (0).

2. ***Weatherization Assistance Program.*** The Weatherization Assistance Program, which is funded by the U.S. Department of Energy, provides services and benefits to low-income households. The goal of the program is to improve the quality of life for young children and vulnerable adults by making their homes more energy efficient. Services include repair and replacement of heating systems, testing for gas leaks and carbon monoxide, installing insulation and energy education. KHC sub-contracts with Community Action Agencies across the state to provide the services. The Community Action Agencies maintain databases for statistical informational purposes. Eligible participants must be at and/or scaled on a 200 percent poverty level. Households with individuals who are elderly or who have disabilities, children, high energy users, and those with a high energy burden are given first priority to participate in the program.

   Population Served: Participants in the program totaled 1,035 of which 6.2 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (46); American Indian/ Alaska Native (10); Multi-Racial (2); Hispanic (0); and Other (6).

3. ***HOME Investment Partnerships Program (HOME).*** The HOME Investment Partnerships Act is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), Public Law 101-625. HOME is a formula-based allocation program intended to support a wide variety of local affordable housing programs. HUD funds may be utilized for acquisition, new construction, reconstruction, and moderate to substantial rehabilitation activities that promote affordable rental and ownership activities. HOME funds can also be used for Tenant-Based Rental Assistance. Eligible applicants include units of local government, public agencies, foundations, nonprofits, Community Housing Development Organizations, and private developers. Applications for funding are taken annually on a competitive basis. Small scale projects are taken on an ongoing basis. Potential beneficiaries include very-low and low-income individuals.

   Population Served: Assistance was provided to 263 persons, of which 10.6 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (24); American Indian/ Alaskan Native (1); Multi-Racial (1); Hispanic (0); and Other (2).

4. ***Emergency Solutions Grant Program/Continuum of Care.*** The Emergency Solutions Grant (ESG) Program is authorized under Title IV of the Stewart B. McKinley Homeless Assistance Act, and was recently renamed as the Continuum of Care Program. Under the ESG Program, KHC may make grants to units of local governments and nonprofit organizations for the rehabilitation or conversion of buildings for use as emergency shelters for the homeless and for certain operating and service expenses of the shelter. Additionally, funds may be used for Street Outreach, Homelessness Prevention, or Rapid Re-Housing Programs. Potential beneficiaries (depending on which type of program is implemented) include those individuals who meet the HUD definition of homeless or at-risk of homelessness, as detailed in 24 CFR, part 576. ESG is a HUD-funded program.

   Population Served: Assistance was provided to 3,520 persons, of which 18.80 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (409); American Indian/ Alaskan Native (22); Asian (3); Native Hawaiian/Other Pacific Islander (6); Hispanic (68); and Other/Multi-Racial (154).

5. Supportive Housing Program. The Supportive Housing Program (SHP) began as a demonstration program consisting of three parts: Transitional Housing, Permanent Housing for Homeless Handicapped and Supplemental Assistance for Facilities to Assist the Homeless (SAFAH). The Housing and Community Development Act of 1992 consolidated the three parts into the Supportive Housing Program. The purpose of the program, which is funded by HUD, is to promote the development of housing with supportive services, including innovative approaches to assist the transition from homelessness to help homeless persons live independently. Some types of programs require participants to have a disabling condition. SHP is a HUD-funded program.

   Population Served: Participants in the program totaled 2,418, of which 22.3 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (384); American Indian/ Alaskan Native (12); Asian (3); Native Hawaiian/Other Pacific Islander (2); Hispanic (48); and Other/Multi-Racial (90).

6. Section 8

a. Housing Choice Voucher Program. The Housing Choice Voucher Program provides a rent subsidy to ensure that eligible tenants pay no more than 30 percent of their monthly adjusted gross income for decent, safe, and sanitary housing. To administer this program, KHC enters into contractual relationships with HUD, private owners, and eligible beneficiaries. KHC provides housing assistance payments to the owner of the unit under lease by the eligible beneficiary. KHC maintains a waiting list for rental assistance in counties where KHC has jurisdiction. The Housing Choice Voucher Program is administered by KHC's Tenant Based Programs Department. Potential program beneficiaries include very low-income singles, families, the elderly and persons with disabilities. Housign Choice Vouchers is a HUD-funded program. Population served is reported below.

b. Family Self-Sufficiency (FSS) Program. The purpose of the FSS Program is to promote the development of local strategies to coordinate the use of the Housing Choice Voucher Program with public and private resources, and to enable eligible families to receive rental assistance under these programs to achieve economic independence and self-sufficiency. The objective of the FSS Program is to reduce the dependency of low-income families on Welfare Assistance and Section 8 rental assistance. Under the FSS Program, low-income families are provided opportunities for education, job training, counseling ,and other forms of social service assistance, while living in assisted housing. This opportunity enables beneficiaries to obtain the education, employment, and business and social skills necessary to achieve self-sufficiency. KHC's Planning and Program Development Department administers the FSS Program. Program beneficiaries include very low-income singles, families, the elderly, and persons with disabilities. The FSS Program is a HUD-funded program.

Population Served in Housing Choice Voucher Program/ Section 8 Family Self–Sufficiency Program (FSS): Assistance was provided to 4,498 persons, of which 20.0 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (855) and Hispanic (45).

7. Shelter Plus Care Program. The Shelter Plus Care Program provides rental housing assistance in connection with supportive services, which are funded from other sources, to homeless persons with disabilities, including their families. These disabilities primarily include serious mental illness, chronic drug or alcohol abuse, Acquired Immune Deficiency Syndrome (AIDS), and related diseases. Potential program beneficiaries include those individuals that meet the HUD definition of homeless, as detailed in 24 CFR, part 582. Shelter Plus Care is a HUD-funded program.

Population Served: Assistance was provided to 18 persons, of which 22.2 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (3); Hispanic (0); and Multi-racial/Other (1).

8. Project-Based Rental Assistance Contract. KHC serves as contract administrator on behalf of HUD for the Project-Based Contract. Rental assistance funds flow from HUD through KHC to owners to help families pay for rent and utilities. Eligible tenants pay no more than 30 percent of their monthly adjusted gross income for the Section 8 units. Individual apartment complexes maintain independent waiting lists. Potential program beneficiaries include very low-income singles, families, the elderly, and persons with disabilities.

Population Served: Assistance was provided to 23,277 persons, of which 26.2 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (5,370); American Indian/Alaskan Native (93); Asian (113); Native Hawaiian/Other Pacific Islander (35); Hispanic (308); and Other (191). (Note: 256 individuals declined to self identify)

9. Homeownership Counseling Program. The Homeownership Counseling Program offers a homeownership counseling curriculum and materials to counselors throughout the state. HUD provides funding for the program. KHC contracts with agencies and counselors to provide services to KHC-eligible prospective home buyers that have been declined financing by KHC or a KHC-approved lender due to credit problems.

Population Served: Counseling was provided to 3,356 persons, or which 14 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (337); Asian (14); American Indian/Alaskan Native (14); Hispanic (77); and Other (62). (Note: 678 individuals declined to self identify.)

10. Housing Opportunities for Persons With AIDS (HOPWA). The HOPWA Program was authorized by the AIDS Housing Opportunity Act (AHOA) and amended by the Housing and Community Development Act of 1992. This HUD-funded program is designed to provide states and localities with resources and incentives for devising long-term comprehensive strategies for meeting the housing needs of persons with AIDS or related diseases and their families. Eligible recipients are low-income persons—80 percent or below of Area Median Income—who are diagnosed with HIV/AIDS and their family members.

Population Served: Assistance was provided to 277 persons, of which 41.87 percent were minority. The breakdown of minorities by race and ethnicity is as follows: Black/African American (59); Asian (3); American Indian/Alaskan Native (0); Hispanic (39); and Other (15).

APPENDIX

City of Morehead Fairness Ordinance

AN ORDINANCE AMENDING TITLE 9, GENERAL REGULATIONS, CHAPTER 96, DISCRIMINATORY PRACTICES TO PROHIBIT DISCRIMINATION AGAINST INDIVIDUALS IN HOUSING, EMPLOYMENT AND PUBLIC ACCOMMODATION ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, GENDER IDENTITY, SEXUAL ORIENTATION, FAMILIAL STATUS OR DISABILITY STATUS AND TO PROVIDE ENFORCEMENT

WHEREAS, the Board of City Council of the City of Morehead believe that all individuals in the City of Morehead should be treated fairly, and with respect and dignity;

WHEREAS, the Board of City Council of the City of Morehead desires to prohibit discrimination against individuals in housing, employment and public accommodation on the basis of race, color, religion, national origin, sex, age, gender identity, sexual orientation, familial status or disability status, and to provide for the enforcement;

NOW, THEREFORE, BE IT ORDAINED by the Board of City Council of the City of Morehead, Kentucky that Title 9, General Regulations, Chapter 96 Discriminatory Practices be amended as follows:

Section 96.01 ~~Definitions.~~ Purpose.

It is the public policy of the City of Morehead (the "City") to promote fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex age (over the age of 40), disability, sexual orientation, gender identity, or familial status. The City desires to implement a policy to protect all individuals within the City from discrimination on the basis of these protected classifications in the contexts of housing and related financial transactions, employment and public accommodations

Section 96.02 Definitions.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"AGE". Age 40 years and over.

"DISCRIMINATION." Any direct or indirect act or practice of exclusion, distinction, restriction~~s~~, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in treatment of a person or persons ~~because of race, color, religion, national origin, physical or mental disability, sex, or age between 40 and 65, or the abiding, abetting, inciting, coercing, or compelling thereof.~~ , or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this chapter.

"DWELLING." Any building, structure or portion thereof which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure or portion thereof.

"EMPLOYEE." Any individual employed by an employer, but not including an individual employed by his or her parents, spouse or child, or an individual employed to render services as a nurse, domestic or personal companion in the home of the employer.

"EMPLOYER". A person who has eight (8) or more employees within the City in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such person, except for purposes of determining discrimination based on disability, employer means a person engaged in an industry affecting commerce who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of that person, excluding the United State and the Commonwealth of Kentucky or one of its agencies or corporations or an Indian Tribe.

"FAIRNESS OFFICER." The Mayor of the City of Morehead or an elected official or city employee who has been designated by the Mayor.

"FAMILIAL STATUS." One or more individuals who have not attained the age of 18 years and are being domiciled with a parent or another person having legal custody of such individual or individuals; or the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

"FAMILY." Includes a single individual, spouse, and children, whether related by blood, legal guardianship, adoption or marriage.

"FINANCIAL INSTITUTION." A bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

"GENDER IDENTITY." The gender-related identity appearance, or mannerisms or other gender-related characteristics of a person with or without

regard to the person's designated sex at birth.

"HOUSING ACCOMMODATIONS." Includes improved and unimproved property and means a building, structure, lot, or part thereof which is used or occupied as the home or residence of one or more individuals.

"PERSON." One or more individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

"PLACE OF PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT." Any place, building, facility, store or other establishment, either license or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds; except that a private club is not a place of public accommodation, resort or amusement if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests. Place of Public Accommodation, Resort or Amusement does not include a dwelling or rooming or boarding house containing no more than one room for rent or hire and which is within a building occupied by the proprietor as his or her residence.

"REAL PROPERTY." Includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

"REAL ESTATE BROKER" or "REAL ESTATE SALESMAN." An individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who, with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or lease real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

"REAL ESTATE OPERATOR." Any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, the county or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

"SEXUAL ORIENTATION". An individual's actual or imputed heterosexuality, homosexuality or bisexuality.
Section 96.0~~2~~3 UNLAWFUL HOUSING PRACTICES.

It is an unlawful practice for a real estate operator, or for a real estate broker, real estate salesman, or an individual employed by or acting on behalf of any of these:
(A) To refuse to sell, exchange, rent, or lease or otherwise deny to or withhold real property from an individual because of his/her race, color, creed, national origin, age, disability, or sex.
(B) To discriminate against an individual because of his/her race, color, creed, national origin, age, disability, or sex, in the terms, conditions, or privileges of the sale, exchange, rental, or lease of real property or on the furnishing of facilities or services in connection therewith.
(C) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his/her race, color, creed, national origin, age, disability, or sex.
(D) To refuse to negotiate for the sale, rental, or lease of real property to an individual because of his/her race, color, creed, national origin, age, disability, or sex.
(E) To represent to an individual that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his/her race, color, creed, national origin, age, disability, or sex.
~~(F) To otherwise deny or withhold real property from an individual because of his/her race, color, creed, national origin, age, disability, or sex.~~

It is hereby unlawful for any person to refuse or perceive to refuse to sell, lease, and/or transfer, attempt to evict or otherwise treat differently any person based upon race, color, national origin, sex and/or gender identity, religion, age and/or sexual orientation.

Section 96.0~~3~~4 EXEMPTIONS FROM HOUSING PROVISIONS.

(A) Nothing in § 96.0~~2~~3 shall apply:

(1) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of his family resides in one of the housing accommodations:

(2) To the rental of a portion of a housing accommodation by the occupant of the housing accommodation, or by the owner of the housing accommodation if he or a member of his family resides therein;

(3) To a religious institution, or to an organization operated for charitable or educational purposes, which is operated, or supervised, or controlled by a religious corporation, association, society , to the extent that the religious corporation, association, or society limits, or gives preferences in, sale, lease, rental, assignment, or sublease of real property to individuals of the same religion, or makes a selection of buyers, tenants, lessees, assignees, or sublessees, that is calculated by such religious corporation, association, or society to promote the religious

principles for which it is established or maintained;

(4) To the private sale by a private individual homeowner who disposes of his property without the aid of any real estate operator, broker, or salesman, and without advertising or public display;

(5) To a real estate operator to require him to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

(6) ~~It shall be no defense to a violation of a section of this chapter by a real estate operator, real estate broker, real estate salesman, financial institution, or other person subject to the provisions of this chapter that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter~~

Section 96.0~~4~~5 UNLAWFUL FINANCIAL PRACTICES.

It is an unlawful practice for a financial institution or an individual employed by or acting on behalf of a financial institution:

(A) To discriminate against a ~~individual~~ person because of the race, color, creed, national origin, age forty (40) and over, disability, ~~or~~ sex, gender identity, sexual orientation, or familial status of the individual or the present or prospective owner, tenant, or occupant, of the real property or a member, stockholder, director, officer, employee, or representative of any of these, and the granting, withholding, extending, modifying or renewing the rates, terms conditions, privileges, or other provisions of financial assistance or in the extension of services in connection therewith.

(B) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate directly or indirectly a limitation, specification, or discrimination as to race, color, creed, national origin, age forty (40) and over, disability, ~~or~~ sex, gender identity, sexual orientation, or familial status or an intent to make such a limitation, specification, or discrimination.

(C) To discriminate by refusing to give full recognition, because of sex, to the income of each spouse or the total income and expenses of both spouses where both spouses become or are prepared to become joint or several obligators in real estate transactions.

Section 96.0~~5~~6 BLOCK BUSTING.

~~(A)~~It is an unlawful practice for a real estate operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(~~1~~A) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, sex, disability, familial status or national origin, of the owners or occupants in the block, neighborhood, or area in which the real property is located; ~~or~~

(~~2~~B) To represent that this change will or may result in the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

(C) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status or national origin.

Section 96.07 UNLAWFUL PRACTICE IN CONNECTION WITH PUBLIC ACCOMMODATIONS.

(A) Except as otherwise provided herein, it is an unlawful practice for a person to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement as defined herein, on the ground of race, color, religion, national origin, sex, age forty (40) and over, disability, sexual orientation or gender identity.

(B) It shall be an unlawful practice to deny any person, because of race, color, religion, national origin, sex, age forty(40) and over, disability, sexual orientation or gender identity, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a restaurant, hotel, motel, or any facility supported directly or indirectly by government funds.

(C) The provisions of this subsection shall not apply to:

(1) Restrooms, shower rooms, bath houses and similar facilities which are in their nature distinctly private;

(2) YMCA, YWCA and similar type dormitory lodging facilities;

(3) The exemptions contained in the definition of "Places of Public Accommodations, Resort or Amusement", herein.

(4) Hospitals, nursing homes, penal or similar facilities, with respect to any requirement that men and women not be in the same room

Section 96.08 UNLAWFUL PRACTICES IN CONNECTION WITH EMPLOYMENT

(A) It is prohibited, unlawful practice for an employer or employment agency:

(1) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions or privileges of employment, because of such individual's race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation; or

(2) To limit, segregate, or classify his or her employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, national origin, age forty(40) and over, disability, sex, gender identity, or sexual orientation; or

(B) It is an unlawful practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against, any individual because of his or her race, color, religion, national origin, age (40) and over, disability, sex, gender identity, or sexual orientation, or to classify or refer for employment an individual on the basis of race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity or sexual orientation.

(C) It is an unlawful practice for a labor organization:

(1) To exclude or to expel from its membership or to otherwise discriminate against a member or applicant for membership because of race, color, religion, national origin, age 40 and over, disability, sex, gender identity, or sexual orientation; or

(2) To limit segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way or manner which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect one's status as an employee or as an applicant for employment because of such individual's race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation; or

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(D) It is an unlawful practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation, in admission to or employment in, any program established to provide such apprenticeship, training, or retraining.

(E) It is an unlawful practice for any employer, labor organization, or employment agency to print or publish or cause to be printed or published, any notice or classification or referral for employment by such a labor organization or classification or limitation, specification or discrimination based on race, color, religion, national origin, age forty(40) and over, disability, sex, gender identity, or sexual orientation, except that such a notice or advertisement may indicate a preference, limitation, or specification, based on religion, national origin, age forty (40) and over, disability or sex when religion, national origin, age forty (40) and over, disability or sex is a bona fide occupational qualification for employment.

(F) Nothing herein shall be construed to prevent an employer from:

(1) Enforcing a written employees dress policy; or
(2) Designating appropriate restroom and shower facilities.

(G) Employment Exceptions. Notwithstanding any other provisions of this chapter, it shall not be an unlawful practice for:

(1) An employer to hire and employ employees, or an employment agency to classify or refer for employment an individual, or for a labor organization to classify its membership or to classify or refer for employment and individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ an individual in any such program, on the bases of his religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise;

(2) A religious organization, corporation, association, or society to employ an individual on the basis of his or her religion to perform work connected with the carrying on by such corporation, association, or society of its religious activity;

(3) A school, college, university, or other educational institution to hire and employ individuals of a particular religion, if the school, college, university, or other educational institution is in whole or substantial part owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of the school, college, university, or other educational institution is directed toward the propagation of a particular religion, and the choice of employees is determined by such organization to promote the religious principles for which it is established or maintained;

(4) An employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measure earnings by quantity or quality of production or to employees who work in different locations, if the differences are not the result of an intention to discriminate because of race, color, national origin, sex, age forty (40) and over, disability, gender identity, or sexual orientation, nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed competency or ability test provided that the test, its administration or action based upon the test results is not designed, intended or used to discriminate because of race, color, religion, national origin, sex, age forty (40) and over, disability, gender identity, or sexual orientation.

Section 96.09 General Exception

The provisions of this Chapter regarding sexual orientation or gender identity shall not apply to a religious institution, association, society or entity or to an organization operated for charitable or educational purposes, which is owned, operated or controlled by a religious institution, association, society or entity, except that when such an institution or organization receives a majority of its annual funding from any federal, state, local or other governmental body or agency, or any combination thereof, it shall not be entitled to this exemption.

~~**§ 96.06 AGENCY NO DEFENSE.**~~
~~It shall be no defense to a violation of a section of this chapter by a real estate operator, real estate broker, real estate salesman, financial institution, or other person subject to the provisions of this chapter that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter.~~

Section 96.~~07~~10 ENFORCEMENT PROCEDURE.

~~Any person who claims to have been injured by a discriminatory housing practice, or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter known as the aggrieved person) may file a complaint with the City Human Rights Commission. Complaints shall be in writing, and shall contain such information and be in such form as the Commission shall require. Upon receipt of such complaint, the chairman of the Commission shall furnish a copy of the same to the person who allegedly committed or are about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint, the Commission shall investigate the complaint and give notice in writing to the person aggrieved whether the Commission intends to resolve it. If the Commission decides to resolve the complaint, it shall proceed to try to eliminate or correct the alleged discriminatory housing practice or financing practice by informal methods of conference, conciliation, and persuasion.~~

~~(A) Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the person concerned.~~

~~(B) A complaint filed hereunder shall be filed within 180 days after the alleged discriminatory practice.~~

~~(C) If the Commission had determined that a discriminatory practice exists and is unable to resolve the same by informal methods within 30 days of the determination to resolve, then the Commission, utilizing the services of the City Attorney, may institute appropriate action in Rowan Circuit Court for appropriate injunctive relief against the respondent named in the complaint, to enforce the rights granted or protected by this chapter. However, notwithstanding anything contained herein to the contrary, the Commission shall not institute such action until such time as the Commission has issued remedial orders, after notice and hearing, requiring cessation of violation, and more than 30 days have passed without compliance with the remedial orders~~.

(A) City's Relationship with the Kentucky Commissions on Human Rights

In order to effectuate and enforce the provisions of this subsection, the City shall enter into a cooperative working agreement with the Kentucky Commission on Human Rights whereby all claims filed with the Fairness Officer alleging discrimination in employment, public accommodations, housing financial and credit transactions based on race, color, national origin, religion, age (over 40), familial status and disability, shall be referred to the Kentucky Commission on Human Rights for investigation and enforcement in accordance with the Kentucky Civil Rights Act, KRS Chapter 344 et seq. The City shall reserve to itself the resolution of all claims of discrimination based on sexual orientation or gender identity.

(B) Filing and Processing Complaints:

(1) Any person claiming to be aggrieved by a violation of this ordinance may, within 180 days of the alleged violation or one year if the alleged violation pertains to housing file a written complaint under oath with the Fairness Officer containing the following information:

(a) The name and address (if known) of the allege violator, ("Respondent") or fact sufficient to identify such person.

(b) An outline of the material facts upon which the complaint is based.

(c) The alleged violation.

(d) That any conduct of the complainant was for the purpose of obtaining housing, employment or public accommodation in question and not for the purpose of harassment or entrapment of the person against whom the complaint is made.

(e) That a complaint concerning this same matter has not been filed with another agency or that any complaint concerning this matter filed with another agency has been dismissed by such agency without a final judgment on the merits.

(2) Upon receipt of the complaint, the Fairness Officer shall first make the following determination, and take the following action:

(a) If the complaint alleges discrimination based on race, color, national origin, religion, sex, age (over 40),

familial status or disability, the complaint shall immediately be referred to the Kentucky Commission on Human Rights for further processing, investigation and/or administrative proceedings in accordance with the Kentucky Civil Rights Act, KRS Chapter 344, et seq.

(b) If the complaint alleges discrimination based on sexual orientation or gender identity, a copy of the complaint shall be served on the respondent by certified mail. The respondent shall file a written response to the complaint within twenty (20) days from the receipt thereof.

(C) Investigation – Findings and Conciliation

(1) If, after investigation, the Fairness Officer determines that there is no probable cause to believe that a violation has occurred, the Fairness Officer shall dismiss the complaint. Written notices of the dismissal shall be served upon the complainant and responded by U.S. Mail postage prepaid. The notice shall state that the complainant or his or her designee may file a written request for reconsideration within ten (10) days in accordance with the provisions set out in KRS 344.200.

(2) If, after investigation, the Fairness Officer determines that there is probable cause to support the allegations contained in the complaint, the Fairness Officer shall endeavor to eliminate the alleged violation by a conciliation agreement, signed by all parties and the Fairness Officer, wherein the alleged violation is eliminated and the complainant is made whole to the greatest extent practicable.

(3) If a settlement is achieved, the Fairness Officer shall furnish a copy of a signed conciliation agreement to the complainant and the respondent. The terms of the conciliation agreement may be made public, but no other information relating to any complaint, its investigation or its disposition may be disclosed without consent of the complainant and the person charged. A conciliation agreement need not contain a declaration or finding that a violation has in fact occurred and it may provide for dismissal of the complaint without prejudice. The Board of City Council shall have discretion to approve, modify or reject the conciliation agreement.

(4) If conciliation is not achieved either by agreement between the parties or approval by the Board of City Council, the Fairness Officer shall proceed with a hearing in accordance with the Kentucky Civil Rights Act and KRS 13 B.

(D) Hearing Procedures, Judicial Review and Appeals

(1) The Fairness Officer shall set a date, time and location for a hearing and notify the complainant and respondent in writing at least twenty (20) days in advance of that hearing date.

(2) A hearing officer shall be appointed by the Fairness Officer to conduct an administrative hearing and to regulate the course of the proceedings in a manner that will promote the orderly and prompt conduct of the hearing. The hearing officer shall be an attorney, licensed to practice law in the Commonwealth of Kentucky, and shall be certified by the Attorney General's Office to serve as hearing officer in accordance with the requirements set forth in KRS 13B.

(3) All pre-hearing proceedings, hearings, judicial review and appeals shall be conducted in accordance with all applicable provisions of the Kentucky Civil Rights Act, including KRS 344.240 and KRS 13B, the provisions of all of which are hereby adopted in full and incorporated herein by reference.

(4) If the Hearing Officer finds that a violation has occurred, he/she may recommend the following penalties:

(a) For the first or second offense, a civil penalty of no less than $100.00, but not greater than $250.00.

(b) For the third or subsequent offense, a civil penalty of not less than $250.00, but not greater than $500.00. Additionally, the violator shall be required to submit written corrective measures to the Board of City Council.

The Hearing Officer shall submit the final adjudication and recommended order to the City Council for approval.

(5) Upon approval by the City Council, the Fairness Officer shall mail a copy the Order to the Complainant and Respondent, postage pre-paid. The Respondent shall have thirty days to pay any penalty issued in the Order. If the Respondent does not pay the penalty within the time given, then City Council may direct the City Attorney to place a lien against the Respondent's property in the office of the County Clerk where said property is located.

Section 96.~~08~~11 ENFORCEMENT BY PRIVATE ~~PERSONS~~ ACTION.

(A) Rights created under this chapter may be enforced by civil action in ~~Rowan Circuit Court~~ the state or local courts of general jurisdiction by aggrieved individuals by bringing an action within 180 days after the alleged discriminatory ~~housing~~ practice ~~or financing practice~~ has occurred. Provided, however, that upon the bringing of such civil action, the court shall continue the case from time to time before bringing it to trial, and direct the parties to submit themselves to conciliation efforts of the Human Rights Commission, and shall bring the matter to trial only upon certification by the chairman of the Human Rights Commission that all reasonable efforts have been brought to bear to informally resolve the complaint, and that, in the opinion of the chairman, the matter cannot be resolved to the satisfaction of the parties involved.

(B) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than $1,000 punitive damages, together with court costs and reasonable attorney's fees in the case of prevailing plaintiff.

Section 96.12 Obstruction and Retaliation

It shall be an unlawful practice for a person, or for two (2) or more persons to conspire:

(A) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under this chapter; or

(B) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or

(C) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder;

(D) To resist, prevent, impede, or interfere with the City , or any of its members or representatives, in the lawful performance of duty under this chapter; or

(E) To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Ordinance and KRS 344.360, 344.367, 344.370, 344.380 or 344.680.

~~**§ 96.09 GRIEVANCE PROCEDURE FOR COMPLAINTS RELATING TO DISCRIMINATION ON BASIS OF DISABILITY STATUS.**~~

~~(A) Any person (employee or citizen) who believes that he has been subjected to discrimination as prohibited by Section 504 of the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act may, personally or by a representative, file a complaint with the Office of the Mayor, City of Morehead, Kentucky. A person who has not personally been subjected to discrimination may file a complaint.~~
~~(B) When any person (citizen, applicant, or employee), who believes he has been adversely affected by an act or decision by the city, and that such act or decision was based on a disability shall have the right to process a complaint or grievance in accordance with the following procedure.~~
~~(1) Step 1. An aggrieved person must submit a written statement to the Mayor setting forth the nature of the discrimination alleged and facts upon which the allegation is based.~~
~~(2) Step 2. The Mayor shall contact the complainant no later than 15 days after receiving the written statement to establish an informal meeting with the objective of resolving the matter informally. However, in no case shall the informal meeting be conducted sooner than 5 days nor more than 45 days after receiving the written statement. There shall be prepared a written documentary of the discussions at the informal meeting, which shall be preserved in the records of the city.~~
~~(3) Step 3. Within 15 days of the informal meeting, if no decision has been made by the Mayor or the decision of the Mayor does not satisfy the complainant, he may request a hearing with the Board of City Council by submitting a written request to the Mayor.~~
~~(4) Step 4. In thus discussing the grievance, the complainant may designate any person of his choice to appear with him and participate in the discussion. The Board of City Council shall require the Mayor to participate in the discussion of the grievance, when it is brought before the Board of City Council. The Board of City Council shall issue a written decision on the matter within 15 days, and the decision shall be the final procedure for the complainant at the local level.~~

(4) Step 4. In thus discussing the grievance, the complainant may designate any person of his choice to appear with him and participate in the discussion. The Board of City Council shall require the Mayor to participate in the discussion of the grievance, when it is brought before the Board of City Council. The Board of City Council shall issue a written decision on the matter within 15 days, and the decision shall be the final procedure for the complainant at the local level.
(C) There shall be prepared a written documentary of the discussion at the hearing, which shall be preserved in the records of the city.

INTRODUCED, SECONDED AND GIVEN FIRST READING at a duly convened meeting of the Board of City Council of the City of Morehead, Kentucky held on this the _____day of _____, 2013.

INTRODUCED, SECONDED AND GIVEN SECOND READING at a duly convened meeting of the Board of City Council of the City of Morehead, Kentucky held on this the _____day of _____, 2013.

APPROVED: **:** **ATTESTED:**

_____: : _____
DAVID C. PERKINS, MAYOR **:** **JONI MRAZ, CITY CLERK**

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EQUAL HOUSING OPPORTUNITY

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