

# Analysis of Impediments to Fair Housing Choice

This document is the Analysis of Impediments to Fair Housing Choice (AI) for the City of Plano. Cities and states eligible to receive federal community development and housing block grants, such as the Community Development Block Grant (CDBG), are required by the U.S. Department of Housing & Urban Development (HUD) to certify that they are taking actions to “affirmatively further fair housing choice.” Completing an AI every three to five years provides a framework for meeting this certification.

## Organization and Methodology

This section begins with background information about AIs and the research conducted for this report. The remaining part of the section includes an analysis of:

- Key findings from the demographic and economic overview of Plano conducted for the 2010-2014 Consolidated Plan;
- Community input about fair housing issues;
- A description of the complaints filed with HUD by or against residents and businesses in Plano;
- Legal cases and actions within communities near Plano related to fair housing;
- Community Reinvestment Act (CRA) and Home Mortgage Disclosure Act (HMDA) data that highlight fair lending concerns; and
- A review of city policies and procedures related to affordable housing development and land use.

The impediments that were identified during the AI research and the fair housing action plan (FHAP) to address these impediments and mitigate fair housing violations in Plano are presented in the beginning of this report on page 3.

**Analysis of Impediments background.** The AI is a HUD mandated review of impediments to fair housing choice in the public and private sector. The AI is required for the City of Plano to receive federal housing and community development block grant funding.<sup>1</sup>

The AI involves:

- A review of a city’s laws, regulations, and administrative policies, procedures and practices;
- An assessment of how those laws, policies and practices affect the location, availability and accessibility of housing; and
- An assessment of public and private sector conditions affecting fair housing choice.

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<sup>1</sup> The City is also required to submit a Consolidated Plan for Housing and Community Development and an annual performance report to receive funding each year. The documents can be accessed from the city’s website at [www.planotx.org](http://www.planotx.org).

According to HUD, impediments to fair housing choice are:

- Any actions, omissions, or decisions *taken because of* race, color, religion, sex, disability, familial status or national origin that restrict housing choices or the availability of housing choices.
- Any actions, omissions or decisions that have the effect of restricting housing choices or the availability of housing choices *on the basis of* race, color, religion, sex, disability, familial status or national origin.

HUD desires that AIs:

- Serve as the substantive, logical basis for fair housing planning;
- Provide essential and detailed information to policy makers, administrative staff, housing providers, lenders, and fair housing advocates; and
- Assist in building public support for fair housing efforts both within a City's boundaries and beyond.

In 2009, the City of Plano Neighborhood Services Division contracted with BBC Research & Consulting (BBC) to conduct an AI for the city. BBC is an economic research and consulting firm with a specialty in housing studies, including fair housing.

**Fair Housing Act.** The Federal Fair Housing Act, passed in 1968 and amended in 1988, prohibits discrimination in housing on the basis of race, color, national origin, religion, gender/sex, familial status and disability. The Fair Housing Act covers most types of housing activities including rental housing, home sales, mortgage and home improvement lending, and land use and zoning regulations. Excluded from the provisions of the Act are owner-occupied buildings with no more than four units, single family housing units sold or rented without the use of a real estate agent or broker, housing operated by organizations and private clubs that limit occupancy to members, and housing for older persons.<sup>2</sup>

HUD has the primary authority for enforcing the Federal Fair Housing Act. HUD investigates the complaints it receives and determines if there is a "reasonable cause" to believe that discrimination occurred. If reasonable cause is established, HUD brings the complaint before an Administrative Law Judge. Parties to the action can also elect to have the trial held in a federal court (in which case the Department of Justice brings the claim on behalf of the plaintiff).<sup>3</sup>

**State fair housing law.** The State of Texas has a fair housing act (the Texas Fair Housing Act or TFHA) that carries the same protections as the Federal Fair Housing Act. The state law is enforced by the Texas Workforce Commission, Civil Rights Division (TWCCRD).<sup>4</sup>

**Local ordinance.** The City of Plano has adopted a local fair housing ordinance (No. 92-3-13) with protections that essentially mirror the Federal Fair Housing Act. The City's Community Services Division enforces the city's fair housing ordinance.

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<sup>2</sup> "How Much Do We Know? Public Awareness of the Nation's Fair Housing Laws", The U.S. Department of Housing and Urban Development, Office of Policy and Research, April 2002.

<sup>3</sup> Ibid.

<sup>4</sup> [http://www.twc.state.tx.us/crd/housing\\_fact.html](http://www.twc.state.tx.us/crd/housing_fact.html)

## Summary Findings and Recommendations

**2005 Impediments.** The City of Plano also conducted an AI in 2005 as part of its 2005-2009 Consolidated Plan. In this AI, the following fair housing concerns were identified:

- Between 7 and 10 percent of Plano residents reported experiencing housing discrimination; most discriminatory incidences were related to race/ethnicity or familial status. Plano residents who have experienced housing discrimination are not informed about their options for reporting the discrimination. Most do nothing or move to get away from the discriminatory activities. *In the 2010 AI survey, 12.5 percent of the 16 respondents said they had faced housing discrimination. An analysis of the complaints HUD received indicates that race remains the reason for the vast majority of alleged complaints.*
- Households located in the census tracts directly east of Highway 75 are denied loans at much higher rates than households located in other parts of the city. *This is also true in 2008, although the “high denial” areas of the city have broadened since 2003 to include more areas in the central and western portion of Plano.*
- New loan products that allow borrowers to purchase homes with higher debt to equity ratios and low or no downpayments may be putting borrowers at greater risk of foreclosure. *Although this was a concern in the middle part of the past decade, the tightening of credit policies and slowdown in lending has reduced the availability of such products.*
- Insurance companies providing homeowners insurance have been reluctant to cover borrowers who have poor credit or units that have had previous claims, making it more difficult for borrowers to find insurance. *This was not identified as a problem in 2010.*
- With the high land costs in Plano, density is critical to affordable housing production. However, the city’s zoning and land use policies discourage development of large, multifamily developments, particularly those concentrated in certain areas. The city’s Housing Authority promotes scattered site housing rather than concentrated affordable housing. Such efforts are important to limiting the concentration of poverty in the city: Indeed, minorities are well dispersed throughout the city and households receiving housing assistance have a variety of options of where to reside in the city. However, these policies limit the amount of affordable housing that might be created if the city were less reluctant to allow larger scale multifamily developments.

**Current (2010) impediments.** In 2010, fair housing barriers in the City of Plano consisted of the following:

**Impediment No. 1.** Residents have very low awareness of who investigates housing discrimination in Plano and/or who to contact to file a complaint.

**Impediment No. 2.** Residents have limited information about fair housing laws and their rights. The city, housing authority and other partners could do more fair housing education and outreach.

**Impediment No. 3.** Plano continues to be a desirable place to live and, as such, has relatively high land and housing costs. That said, the city has policies in place to encourage affordable housing, including a Housing Infill ordinance and a Housing Density policy that allows for a mixture of housing types and densities. However, the city is predominantly intended for low-density neighborhood development.

### **Fair Housing Action Plan**

Based on our research for this AI, BBC recommends that the City of Plano consider the following Fair Housing Action Plan (FHAP) and activities for reducing fair housing impediments:

**Action Item 1. Make it easier for residents to find information about fair housing and the complaint process.** The city's website, which is a commonly used resource for residents seeking information about housing and community development, contains information about the city's fair housing ordinance and gives a phone number to call for questions about fair housing concerns. This website is easy to find from the city's homepage with a simple search.

We commend the city for putting fair housing information on its website—most cities do not. However, the city could improve its website by:

- **Defining fair housing on the website.** Discuss what fair housing is and provide the basics of the federal Fair Housing Act and the city's fair housing ordinance.
- **Having direct instructions for filing a complaint.** Residents should be able to easily understand how to file a fair housing complaint with simple instructions contained on the city's website.
- **Having links to Texas Workforce Commission, Civil Rights Division (TWCCRD) AND HUD's websites.** If a resident is accessing the city's fair housing page outside of the traditional workday and wants more information on fair housing, they will need to conduct a search on their own. The city should contain links to the TWCCRD website on fair housing, as well as HUD's, so that residents can easily get more information about the Fair Housing Acts and their rights.
- **Providing information in Spanish and English.** All of the information suggested above should be provided in English and Spanish.
- **Having cross links with the Plano Housing Authority's website.** Most residents in the survey we conducted for the AI said they would contact the Plano Housing Authority if they felt they had been discriminated against and/or wanted more information about their fair housing rights. A review of the housing authority's website found no fair housing information. At the very least, the Plano Housing Authority should have summary information about fair housing rights on its home page, with links to the city's, TWCCRD's and HUD's websites so that residents can easily get more information about fair housing and the complaint process if they need it.

In addition, the city should partner with the housing authority and local housing nonprofits to promote education and understanding of fair housing laws and rights. This could be accomplished through some of the following activities:

- Fair housing presentations at neighborhood meetings and community events;
- Sponsoring fair housing poster contests in elementary schools;
- Displaying fair housing brochures and posters at community/recreation centers, in schools, health clinics, nonprofits and city/county agencies that are frequented by populations most vulnerable to housing discrimination.

**Action Item 2. Continue policies to encourage and create mixed types of housing, affordable to households of all income levels.** The city has several policies that encourage housing opportunities for low and moderate income households. The city’s Housing Infill ordinance allows the city to acquire, donate land and/or allocate other funds toward the development of affordable housing.

The city’s Housing Density Policy Statement that is part of its Comprehensive Plan outlines guiding principles for the development of larger scale, multifamily developments to avoid concentrations of such housing types. The policy statement includes a discussion of the positives of multifamily developments and counters common myths about multifamily developments. The document is a very positive step toward increasing public awareness about housing diversity and reducing NIMBYism.

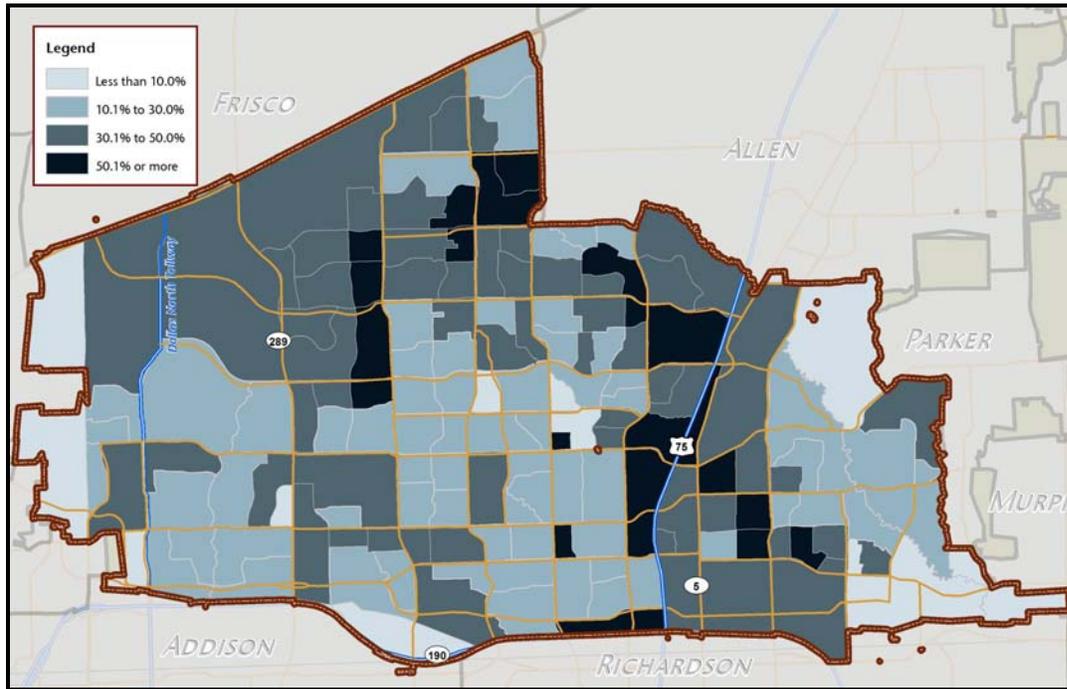
We applaud the city for these efforts and recommend such policies and activities to increase the mix of housing type and pricing in Plano be continued and, as opportunities arise, expanded.

## **Demographic and Housing Market Analysis**

The demographic and economic analysis for Plano’s AI was completed in conjunction with the 2010-2014 Consolidated Plan. Please refer to Appendix E of the Consolidated Plan for a detailed analysis of demographic and economic conditions in the city. In sum, the demographic and housing market analysis for Plano revealed the following:

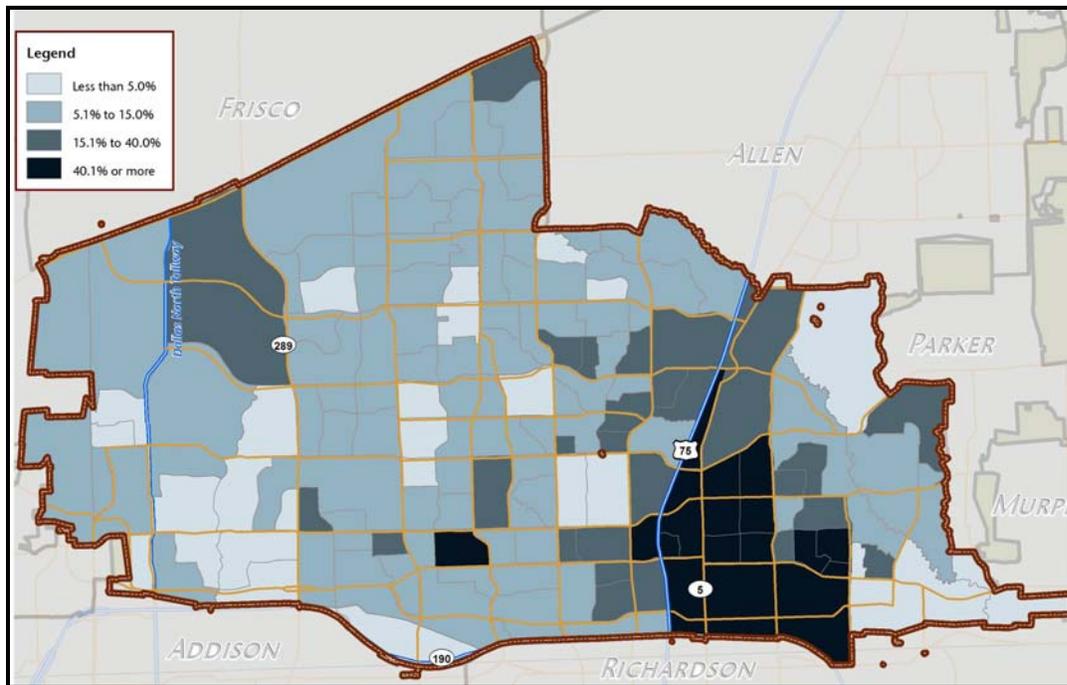
- In 2009, 65 percent of Plano’s population consisted of persons who are White, 17 percent who are Asian and 9 percent African American. The remaining 9 percent consist mainly of persons who classify themselves as Some Other Race (6 percent) and Two or More Races (3 percent). Hispanics or Latinos comprise around 15 percent of the population.
- Every minority population in Plano grew in numbers from 2000 to 2009. African Americans and Asians doubled their populations during this 9-year time period, and the Hispanic population increased by 76 percent. The White population grew very slowly by comparison, at just 1 percent.
- There are some areas of minority concentration in the city; these are mostly Hispanic persons living in the southeast. For the most part, the city’s minorities live throughout the city, as shown in the following maps.

**Exhibit AI-1.**  
**Percent of Population by Block Group that is Not White, City of Plano, 2009**



Source: Claritas 2009 estimates.

**Exhibit AI-2.**  
**Percent of Population by Block Group that is Hispanic or Latino, City of Plano, 2009**



Source: Claritas 2009 estimates.

- A estimated 7,774 households in Plano are linguistically isolated, meaning they live in a household in which no household member over the age of 14 speaks English well.
- Large households, defined by the Census Bureau as having five or more persons in a household, made up 10 percent (9,553 households) of Plano households in 2008. There are about 8,000 single-parent households in Plano (mostly single mothers), representing 8 percent of total households and 22 percent of households with children.
- The 2008 American Community Survey reported that 5 percent (12,301 persons) of the population in the City of Plano has one or more types of disability. The incidence of disability increases by age, as shown in the table below. About 40 percent of the city's seniors are disabled.

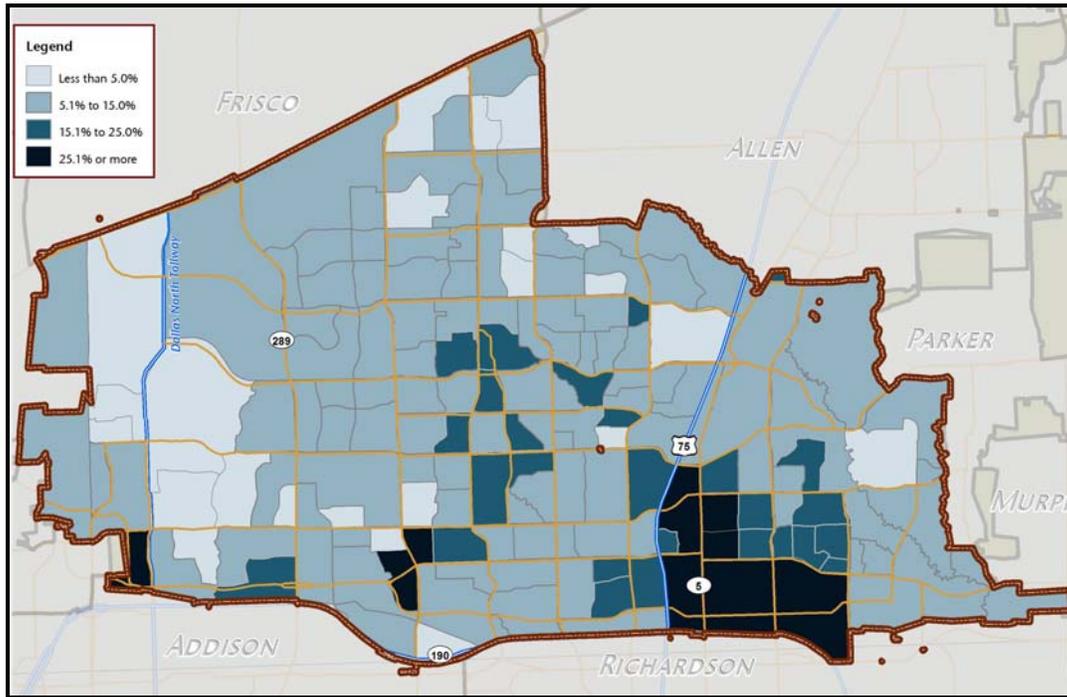
**Exhibit AI-3.  
Disability by Age Cohort, City of Plano, 2008**

	Under 18 Years	18 to 34 Years	35 to 64 Years	65 Years and Over	Total	Percent of Population
Without any disability	66,362	58,202	106,609	14,829	246,002	95%
With one type of disability	710	860	3,077	2,214	6,861	3%
With two or more types of disability	478	615	1,685	2,662	5,440	2%
<b>Total</b>	<b>67,550</b>	<b>59,677</b>	<b>111,371</b>	<b>19,705</b>	<b>258,303</b>	<b>100%</b>
<i>Percent of population with one or more types of disability</i>	2%	2%	4%	25%	5%	
<i>Percent of population by age cohort with one or more types of disability</i>	10%	12%	39%	40%	100%	

Source: U.S. Census Bureau 2008 American Community Survey.

- Because many people with disabilities have a limited ability to work for pay, they are restricted in their ability to generate earnings and often live on fixed incomes. Persons with disabilities are more likely to have lower incomes and live in poverty than people without disabilities. Finding housing that is affordable, has needed accessibility improvements and is conveniently located near transit and other needed services is often very challenging for persons with disabilities. As shown in the map below, persons with disabilities are largely concentrated in the southeast portion of Plano. This is partially due to the availability of affordable housing and transit in this part of the city.

**Exhibit AI-4.**  
**Percent of Persons with Disabilities by Block Group, City of Plano, 2000**



Source: U.S. Census Bureau 2000 Census.

- Plano has not been immune to the housing market downturn; however, because the city is a desirable place to live, home prices have remained high and affordable housing is challenging for some Plano residents to find. The median price of a home in Plano was \$210,900 in 2008; this compares with \$146,800 for the Metroplex overall. An estimated 37 percent of Plano’s renters (12,170 households) and 80 percent of owners (50,057 households) could afford to purchase the median-priced home without being cost burdened, as shown in the following exhibit.

**Exhibit AI-5.**  
**Affordability of Median Priced Home and Those Who Can Afford the Median Priced Home, City of Plano, 2008 and 2009**

Note:  
Mortgage loan terms are assumed as follows: 30 year fixed, 6.0 percent, 10 percent downpayment. The affordable mortgage payment is also adjusted to incorporate hazard insurance, property taxes and utilities.

Source:  
Richard Fricks - Keller Williams Realty, U.S. Census Bureau 2008 American Community Survey and BBC Research & Consulting.

Affordability	
Median price of homes	\$210,900
Income needed to afford median price	\$60,900
Number of <b>renters</b> who can afford to buy	12,170
Percent of <b>renters</b> who can afford to buy	37%
Number of <b>owners</b> who can afford to buy	50,057
Percent of <b>owners</b> who can afford to buy	80%

- Finally, it is not only difficult for many of the city’ renters to buy a home, many cannot afford their current rent and, as such, are cost burdened. In 2008, about 6,390 renter households—20 percent of all renter households—earned less than \$25,000. These households could only afford to pay \$625 per month in rent *and utilities* without being cost burdened. There are approximately 2,822 affordable units available to households in this income range, leaving a shortage of 3,568 rental units in the City of Plano.

## Community Input on Fair Housing

As part of the AI research process, BBC and the city made a survey available to Plano residents that asked about fair housing impediments. In addition to the survey, residents were welcome to discuss fair housing issues during the public meetings held during the five-year Consolidated Plan citizen participation process.

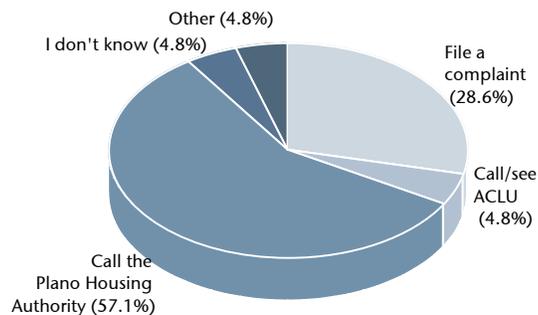
A total of 16 completed fair housing surveys were returned. Two of the 16 respondents (12.5 percent) said they believed they had experienced housing discrimination. In one case, the resident was a student and was told that single male students could not rent a townhome that was for rent. The other respondent who said he/she had been discriminated against did not list a reason for the discrimination.

Three respondents of the 16 said they knew of someone who had been discriminated against. In two cases, the alleged discrimination was because of race and language; in another case, the alleged discrimination involved a credit history problem.

The survey respondents were asked what they would do if they or someone they know had been discriminated against. Exhibit AI-6 shows their responses. The vast majority would contact the Plano Housing Authority.

**Exhibit AI-6.**  
**"What would you do or recommend if you or someone you knew faced housing discrimination?"**

Source:  
 City of Plano, 2010 AI survey.

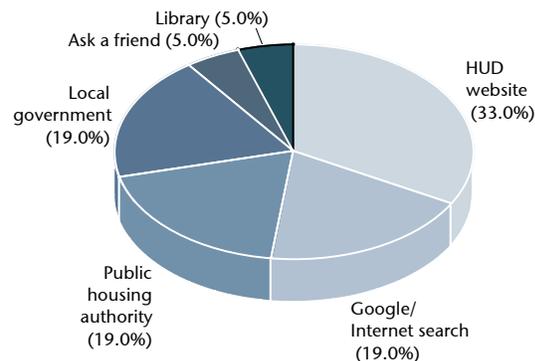


Eleven of the survey respondents said they do not know who they would contact if they experienced housing discrimination. All but two residents said they know who investigates housing discrimination in Plano.

The survey also asked residents where they would look if they wanted to get more information about their fair housing rights. Exhibit AI-7 shows their answers to this question.

**Exhibit AI-7.**  
**"Where would you look to obtain more information about your fair housing rights?"**

Source:  
 City of Plano, 2010 AI survey.



## Fair Housing Complaint Process

Citizens of Plano who believe they have experienced discrimination in violation of the Federal Fair Housing Act or state fair housing laws may report their complaints to the following entities:

- HUD’s Office of Fair Housing and Equal Opportunity (FHEO);
- The State of Texas Workforce Commission, Civil Rights Division (TWCCRD); and
- The City of Plano Community Services Division. When the City of Plano receives an alleged fair housing complaint, the complaint is directed to the appropriate organization, depending on the nature of complaint and issues involved. The city’s website contains contact information for the city’s fair housing law and procedures at: <http://www.planotx.org><sup>5</sup>.

Victims have one year from the date of the alleged discrimination to file a complaint with HUD and TWCCRD.

**HUD complaint procedures.** Housing discrimination complaints filed with HUD may be done online at (<http://www.hud.gov/complaints/housediscrim.cfm>), by calling 1-800-669-9777 or by contacting the HUD Regional Office of Fair Housing and Equal Opportunity in Fort Worth (also by 1-800-669-9777).

When HUD receives a complaint, the department will notify the person who filed the complaint, then notify the alleged violator and allow that person to submit a response. The complaint will be investigated to determine whether there has been a violation of the Fair Housing Act.

A complaint may be resolved in a number of ways. First, HUD will try to reach an agreement between the two parties involved. A “conciliation agreement” must protect the filer of the complaint and public interest. If an agreement is signed, HUD will take no further action unless the agreement has been breached. HUD will then recommend that the Attorney General file suit, if applicable.

If a person needs immediate help to stop a serious problem that is being caused by a Fair Housing Act violation, HUD may be able to assist as soon as a complaint is filed. HUD may authorize the Attorney General to go to court to seek temporary or preliminary relief, pending the outcome of the complaint, if irreparable harm is likely to occur without HUD's intervention and there is substantial evidence that a violation of the Fair Housing Act occurred.

**State complaint procedures.** The Texas Workforce Commission, Civil Rights Division (TWCCRD) enforces the state’s fair housing laws. The division has a good website outlining the steps a resident should take if they think their rights have been violated:

*Send a letter to the TWCCRD at  
Texas Workforce Commission  
Civil Rights Division  
1117 Trinity Street, Rm. 144-T  
Austin, Texas 78701  
or call directly at 1(888) 452-4778 or 1(512) 463-2642.*

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<sup>5</sup> [http://www.planotx.org/Departments/Planning/Neighborhood%20Services/Pages/fair\\_housing.aspx](http://www.planotx.org/Departments/Planning/Neighborhood%20Services/Pages/fair_housing.aspx)

For persons with disabilities, TWCCRD provides:

- A TTY phone for the deaf/hearing impaired users at 1 (512) 371-7473; and
- Assistance in reading and completing forms.

After a complaint is filed, TWCCRD notifies the complainant that it has been received. TWCCRD then notifies the alleged violator of the complaint and permits that person to submit a response. The division then investigates the complaint and determines whether there is reasonable cause to believe the law has been violated.

The TWCCRD will try to reach an agreement with the complainant and the respondent. If an agreement is signed, the TWCCRD will take no further action on the complaint unless the TWCCRD has reasonable cause to believe that the conciliation agreement has been breached. The TWCCRD may then recommend that the Texas Attorney General file suit.

If, after investigating the complaint, the TWCCRD finds reasonable cause to believe that discrimination occurred, it will inform the complainant. Additionally the complaint will be referred to the TWCCRD's office of General Council for additional action(s).

If, after investigating the complaint, the TWCCRD finds no reasonable cause to believe the law has been violated, the complainant will be notified in writing. Additionally, the complainant will be informed of their right to file suit at their expense, in federal or state District Court within two years of the alleged violation.

**Complaints filed.** Plano residents filed 82 complaints with HUD between September 2004 and January 2010. This compares with 23 complaints filed between 1998 and 2004. Exhibit AI-8 shows the trends in the complaints filed in Plano during the past 5 years.

**Exhibit AI-8.  
Complaints Filed with  
HUD, City of Plano,  
September 2004  
through January 2010**

Source:  
HUD's Fort Worth Regional Office of Fair  
Housing and Equal Opportunity (FHEO).

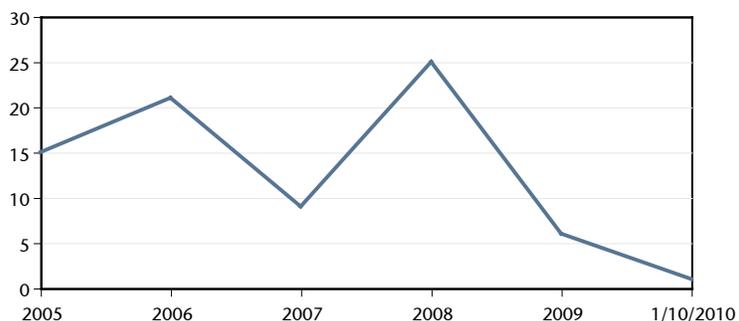


Exhibit AI-9 shows the bases of the discrimination that was alleged in the complaints. Race was the most common reason, followed by (far less often) disability and then familial status.

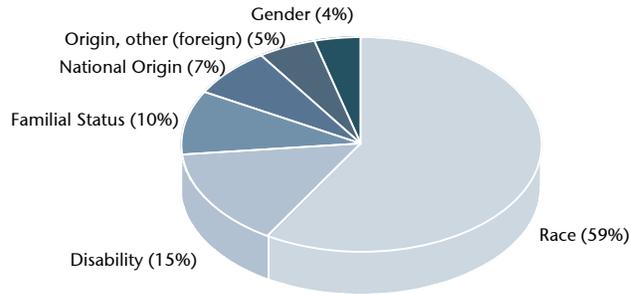
**Exhibit AI-9.  
Bases for Discrimination  
Complaint, City of Plano,  
2004 to August 12, 2009**

Note:

A case may include multiple bases of discrimination.

Source:

HUD's Fort Worth Regional Office of Fair Housing and Equal Opportunity (FHEO).



According to HUD, the vast majority of the fair housing complaints filed involved refusal to rent or rent offered on different terms; the respondent in most of the cases was a property management company or landlord. The second most common type of discrimination was “Discriminatory terms, conditions, privileges, or services and facilities.”

Of the 82 cases, 21 were successfully resolved (about one-fourth). The majority (48 cases, or 58 percent) were found to have no reasonable cause. The remaining 16 percent of cases were withdrawn by the complainant or lacked complainant cooperation and could not be investigated further.

### Recent Legal Cases

As part of the fair housing analysis, legal cases involving fair housing issues were reviewed to determine significant fair housing issues and trends in the City of Plano.

Case searches were completed using the National Fair Housing Advocate’s case database and the U.S. Department of Justice’s fair housing database. The legal cases presented in the databases include those that involved a court decision which have been reported to legal reporting services. (Open or ongoing cases would not be represented unless a prior court decision on the case has been made.) Disputes that are settled through mediation are not included in the reported cases.

Most of the cases involve alleged claims of failure to make reasonable accommodations to persons with disabilities. None of these cases occurred in Plano; however, summary information on all cases is included to highlight recent trends and primary issues in fair housing litigation.

**Failure to comply with accessibility standards.** The following represent cases pertaining to fair housing violations and disability status.

**United States v. Henry Billingsley (2008).** On April 24, 2008, the United States filed a complaint in *United States v. Henry Billingsley, et al.* (E.D. Tex.), a Fair Housing Act referral from HUD alleging discrimination on the basis of disability. The complaint alleges that the members of the zoning committee and property owners of Air Park Estates, in Collin County, Texas, violated the Fair Housing Act by refusing to grant a reasonable accommodation by allowing the complainant to keep a footbridge in front of her house. The complainant, who has a mobility disability, needs to use the bridge to reach the street without risk of injury. On June 30, 2009, the Court issued an order granting our motion for preliminary injunction prohibiting the Defendants from removing the bridge or causing it to be removed. The Court granted the motion using broadly favorable language, finding that the complainant would "almost certainly suffer personal injuries" if the bridge were removed and that the United States had presented a likelihood of success on the merits in the suit.

**United States v. JPI Apartment Construction (2009).** On March 4, 2009, the United States filed a pattern or practice complaint in *United States v. JPI Apartment Construction, L.P., et al.* (N.D. Tex.). The complaint alleges that JPI failed to comply with the design and construction requirements of the Fair Housing Act (FHA) and ADA in the design and construction of two multi-family housing complexes in Texas and some of JPI's other 205 nationwide multi-family properties.

**United States v. Housing Authority of the City of San Antonio (2006).** On March 28, 2006, the court incorporated the terms of the parties' settlement and release agreement in granting the joint motion for an order of dismissal in *United States v. Housing Authority of the City of San Antonio* (W.D. Tex.). The complaint, filed on June 3, 2005, alleged that the owners and managers of the Westminster Square Apartments, a Section 202 complex in San Antonio, Texas, violated the Fair Housing Act when they refused repeated requests by the complainants to transfer to a first floor unit. The complainant, a double leg amputee who uses a wheelchair, and his wife, who is also disabled, asked on several occasions to move from their third floor unit to a first floor unit so that they would not be dependent on the elevators and would not have to travel as far to get to their unit. The complaint alleged that the defendants denied the requests despite the availability of two first floor units. The settlement requires defendants to transfer the complainants to a first floor unit, to pay \$125,000 in damages and attorneys' fees to the complainants and a fair housing organization that assisted them, to implement a comprehensive reasonable accommodation policy, to attend fair housing training and to submit to standard injunctive relief. The case was referred to the Division after the Department of Housing and Urban Development (HUD) received a complaint, conducted an investigation, and issued a charge of discrimination.

**United States v. Pacific Life Insurance Company (2004).** On December 22, 2004, the United States filed a complaint and the court entered a consent order resolving *United States v. Pacific Life Ins. Co., et al.* (W.D. Tex.). The complaint alleged that these defendants discriminated on the basis of disability. Specifically, the complaint alleged the defendants evicted residents with disabilities if they were unable to walk without assistance or if they required too many hours of assistive services and conducted health assessments of residents as a condition of tenancy. Under the consent order the former owner and manager, respectively, of The Summit at Newforest (now Newforest Estates Retirement Community), are required to pay a total of \$420,000 to settle allegations that they discriminated against tenants with disabilities. The monetary amount includes: \$260,000 for six

former and current residents; \$50,000 in civil penalties, and \$110,000 for a settlement fund to compensate any additional victims. The defendants are also required to implement nondiscriminatory rental standards and tenant rules and to replace current leases containing discriminatory policies. In addition, these defendant are required to pay \$200,000 to settle a related private suit.

**United States v. SDC Legend Communities, Inc. (2006).** On October 2, 2006, the Court entered a consent order in *United States v. SDC Legend Communities, Inc., et al.* (W.D. Tex.). The complaint, was amended on September 28, 2006, and a consent order alleged a pattern or practice of disability discrimination by the architects, engineers, developers, builders, and owners of two, multi-family residential complexes constructed in Austin, Texas, through the use of Low Income Housing Tax Credits. The complaint alleged the Defendants' failure to design and construct 52 ground level units at St. Johns Village and 110 ground level units at Huntington Meadows and the public and common areas in compliance with the accessibility and adaptability features violated section 804(f)(3)(C) of the Fair Housing Act. The order provides for retrofits of routes, entrances, and public and common-use areas, as well as interior retrofits in certain units and installation of enhanced accessibility features in others. The order also requires the defendants to establish a \$50,000 fund which will be used to compensate individuals harmed by the inaccessible housing and to pay \$10,000 in civil penalties to the government. The order also provides for injunctive relief, training, reporting and record keeping. The consent order will remain in effect for three years.

**Affordable housing and race cases.** The Inclusive Communities Project (ICP) have brought a number of lawsuits against suburban Dallas communities citing that refusing to negotiate to participate in an ICP program to attract Low Income Housing Tax credits violated the Fair Housing Act for perpetuating racial segregation. ICP filed cases against Flower Mound and McKinney. ICP also filed a suit against the Greystar Real Estate Partners, claiming they practiced racial discrimination by not accepting Section 8 Vouchers as part of a settlement in which all participants were African American. Those cases and others are discussed below.

**The Inclusive Communities Project, Inc. v. The Town of Flower Mound, Texas (2009).** In July 2009, the Inclusive Communities Project (ICP) made offers of financial assistance to the Town of Flower Mound, Texas in order to encourage the development of desegregated, affordable rental housing in Flower Mound. ICP offered to assist the town with a program designed to attract Low Income Housing Tax Credit rental housing; however, ICP alleges that the town refused to negotiate for or participate in an ICP program, or any similar program, for the development of low-income housing. There is no multifamily zoned vacant land available for purchase and use in Flower Mound. ICP alleges that the town practices exclusionary housing policies and practices, such as the adoption of current zoning ordinances, which obstruct the creation of low-income rental properties and create a segregated school system. ICP filed its complaint on November 19, 2008, alleging that the town is in violation of the Fair Housing Act for perpetuating racial segregation by making dwellings unavailable because of race.

**The Inclusive Communities Project, Inc. v. The City of McKinney, Texas (2008).** The Inclusive Communities Project, Inc. (“ICP”) as part of its mission to provide desegregated housing opportunities made offers of financial assistance to the City of McKinney and to the Housing Authority of the City of McKinney (“MHA”) for the City or the Housing Authority to assist and encourage the development of desegregated, affordable rental housing in west McKinney, west of U.S. Highway 75. In return for the financial assistance, ICP would obtain the ability to place its clients or other Section 8 voucher recipients in approximately 30% of any tax credit units developed in west McKinney with the assistance. The use of the units would provide desegregated rental housing for ICP’s clients and Dallas Housing Authority Section 8 Voucher tenants. Both the City and MHA refused to negotiate with ICP for the provision of ICP financial assistance for the development of affordable rental housing for families in west McKinney. Both refused to participate in the ICP program. The City and MHA are willing to negotiate for and to provide financial support for the location of LIHTC housing in racially segregated low income and minority concentrated east McKinney area but refuse to do so in predominantly White west McKinney. The City’s and MHA’s actions refusing to participate in the ICP program perpetuate racial segregation by making dwellings unavailable because of race or color in violation of the Fair Housing Act.

**The Inclusive Communities Project, Inc. v. Buchanan Street Partners and Greystar Real Estate Partners (2008).** To further its mission, the ICP assists Dallas Housing Authority Section 8 families that have “Walker Settlement Vouchers” in finding housing opportunities in the suburban communities of Dallas. All families with Walker Settlement Vouchers are African American.

The Defendants, who own a multifamily rental complex in Irving, refused to negotiate with ICP for the rental of dwelling units with the Vouchers, despite the fact that the prior owner of the building did accept Vouchers. ICP claimed that the refusal to participate in the project by the Defendants led to the involuntary relocation of Voucher tenants.

**Dews v. Town of Sunnyvale (2010).** Plaintiff is the Inclusive Communities Project (“ICP”). Its predecessor in interest sued Defendant, The Town of Sunnyvale in 1988 complaining that Sunnyvale’s zoning laws were discriminatory and violated various federal statutes outlawing these acts. After a bench trial, Sunnyvale was found to have committed unlawful acts of discrimination. After making these findings, the Court prepared to address these violations in a remedial phase. Before beginning the remedial phase, Sunnyvale moved for a new trial on the merits. Prior to deciding either of these issues, the parties entered into a settlement agreement. The settlement required a number of actions from Sunnyvale pertaining to the provision of affordable housing; however, ICP claims that Sunnyvale failed to comply with the Order because it did not identify sites for the low income housing units within the specified time frame.

#### **Race discrimination case.**

**United States v. Falvey (2006).** On April 11, 2006, the United States filed a Settlement Agreement resolving *United States v. Falvey* (W.D. Tex.) The complaint, filed on April 7, 2006, alleged that the Defendants discriminated on the basis of familial status by placing an advertisement that expressed a preference for persons without children and by refusing to rent an apartment to a Border Fair Housing and Economic Justice Center (“BFHC”) tester who posed as a single mother with a seven year old daughter. The settlement agreement prohibits the Defendant from discriminating based on familial status, requires training, notification to the public of its non-discriminatory policies and requires the Defendants and to pay \$10,750 to the Border Fair Housing

and Economic Justice Center. The settlement agreement will remain in effect for 2 ½ years. The case was referred to the Division after the Department of Housing and Urban Development (HUD) received a complaint, conducted an investigation, and issued a charge of discrimination.

### **Fair Lending Review**

Community Reinvestment Act (CRA) ratings and Home Mortgage Disclosure Act (HMDA) data are commonly used in AIs to examine fair lending practices within a jurisdiction. These data sets can identify potential or existing lending discrimination or community disinvestment.

**CRA review.** The Federal CRA requires that financial institutions progressively seek to enhance community development within the area they serve. On a regular basis, financial institutions submit information about mortgage loan applications as well as materials documenting their community development activity. The records are reviewed as part of CRA examinations to determine if the institution satisfied CRA requirements. The assessment includes a review of records as related to the following:

- Commitment to evaluating and servicing community credit needs;
- Offering and marketing various credit programs;
- Record of opening and closing of offices;
- Discrimination and other illegal credit practices; and
- Community development initiatives.

Ratings for institutions range from substantial noncompliance in meeting credit needs to an outstanding record of meeting a community's credit needs.

There were five CRA examinations conducted in Plano banks since 2005. All of the banks reviewed had rankings that were "satisfactory."

**HMDA data analysis.** The best source of analysis of mortgage lending discrimination is Home Mortgage Disclosure Act, or HMDA, data. HMDA data consist of information about mortgage loan applications for financial institutions, savings banks, credit unions, and some mortgage companies.<sup>6</sup> The data contains information about the location, dollar amount, and types of loans made, as well as racial and ethnic information, income, and credit characteristics of all loan applicants. The data is available for home purchases, loan refinances, and home improvement loans.

HMDA data can provide a picture of how different applicant types fare in the mortgage lending process. The data can be used to identify areas of potential concern that may warrant further investigations. For example, by comparing loan approval rates of minority applicants with non-minorities who have similar income and credit characteristics, areas of potential discrimination may be detected.

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<sup>6</sup> Financial institutions are required to report HMDA data if they have assets of more than \$32 million, have a branch office in a metropolitan area, and originated at least one home purchase or refinance loan in the reporting calendar year. Mortgage companies are required to report HMDA if they are for-profit institutions, had home purchase loan originations exceeding 10 percent of all loan obligations in the past year, are located in an MSA (or originated five or more home purchase loans in an MSA) and either had more than \$10 million in assets or made at least 100 home purchase or refinance loans in the calendar year.

The Federal Reserve is the primary regulator of compliance with fair lending regulations. When federal regulators examine financial institutions, they use HMDA data to determine if applicants of a certain gender, race, or ethnicity are rejected at statistically significant higher rates than applicants with other characteristics. The Federal Reserve uses a combination of sophisticated statistical modeling and loan file sampling and review to detect lending discrimination. Recently, the Federal Reserve began requiring banks to provide the rate spread above a certain annual percentage rate (APR) data for subprime loans. As such, HMDA data can now be used to examine differences in subprime pricing among borrowers of various races and ethnicities.

**Loan application process.** When a loan application is submitted by a borrower to a bank, a variety of actions can be taken by the bank, which are captured in the HMDA data:

- “Loan originated” indicates that the application was approved and the applicant accepted the loan;
- “Approved, not accepted” means that the application was approved, but the applicant chose not to accept the loan;
- “Denied” signifies that the application was not approved;
- “Withdrawn” indicates that the applicant chose not to pursue the loan before an approval decision had been made; and
- “File closed, incomplete” means that the application was incomplete and the loan was not evaluated.

Exhibit AI-10 presents data on loan applications submitted to Plano residents in 2008 (the most recent date of available HMDA data). The data show that Hispanic and African American borrowers have about twice the denial rate of White and Asian borrowers for home loans.

For White applicants, 65 percent of loans were approved and 17 percent were denied (the remainder were not approved because they were withdrawn or incomplete). This compares to an approval rate of 51 percent for Hispanic borrowers, 61 percent for Asian borrowers and 47 percent for African American borrowers. Hispanic borrowers are denied loans 29 percent of the time; Asian borrowers, 16 percent; and African American borrowers, 31 percent.

The most common reasons that loans were denied across races and ethnicities was poor credit history, inadequate collateral and high debt-to-income ratios.

**Exhibit AI-10.  
Loan Origination and Denial Rates by Race and Ethnicity, Plano, 2008**

	Hispanic/Latino		Non-Hispanic/Latino		Asian	
	Number	Percent	Number	Percent	Number	Percent
Loan originated	752	51%	11,610	64%	1,782	61%
Application approved, not accepted	89	6%	1,256	7%	236	8%
Application denied	424	29%	3,073	17%	481	16%
Application withdrawn	166	11%	1,853	10%	356	12%
File closed, incomplete	45	3%	345	2%	67	2%
<b>Total</b>	<b>1,476</b>		<b>18,137</b>		<b>2,922</b>	

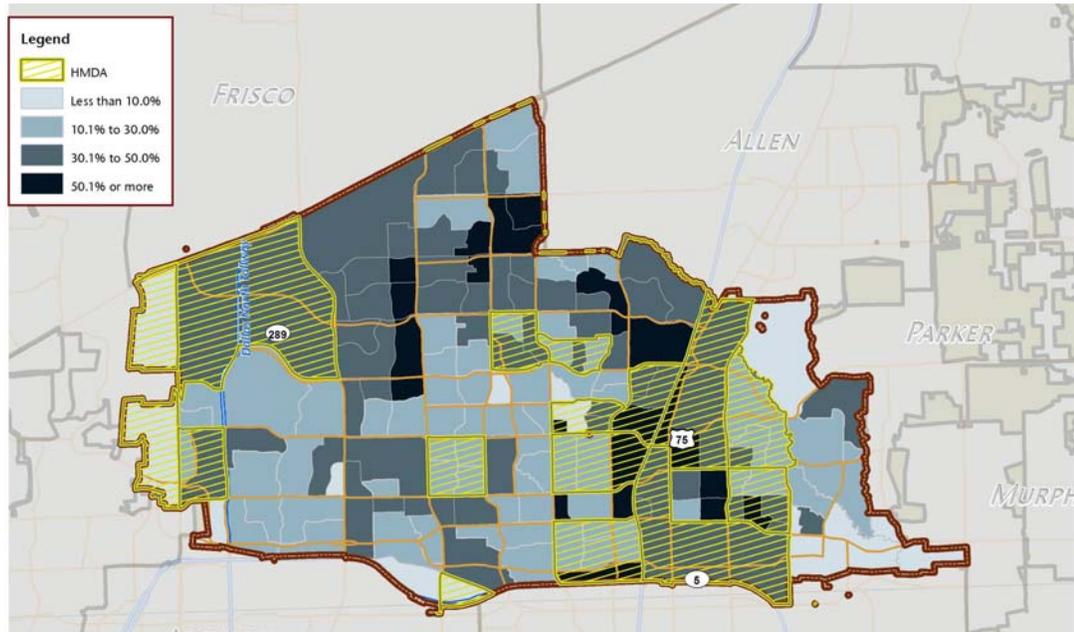
<i>Continued...</i>	Black/African American		White	
	Number	Percent	Number	Percent
Loan originated	586	47%	9,842	65%
Application approved, not accepted	81	6%	1,000	7%
Application denied	389	31%	2,505	17%
Application withdrawn	156	12%	1,439	10%
File closed, incomplete	38	3%	275	2%
<b>Total</b>	<b>1,250</b>		<b>15,061</b>	

Source: Home Mortgage Disclosure Act data, FFIEC, 2008.

Exhibits AI-11 and AI-12 overlay the areas where HMDA denials are higher than the citywide average with minority concentrations in the city. Overall, 10 percent of home purchase loans were denied in the city.<sup>7</sup>

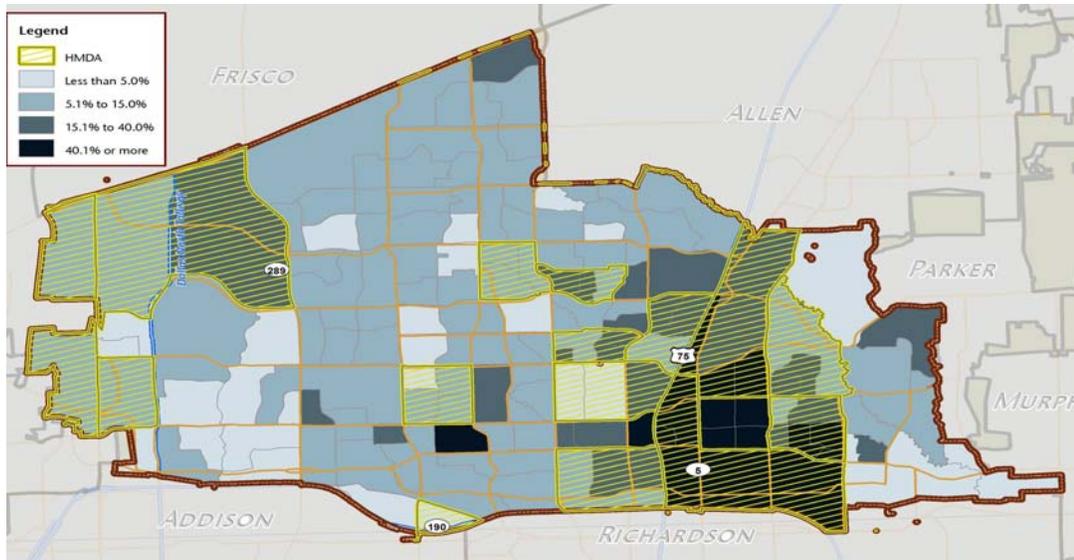
<sup>7</sup> The maps show home purchase loans only; they exclude loans for home improvements or refinances.

**Exhibit AI-11.**  
**Percent of Population by Block Group that is Not White, City of Plano, 2009**



Source: Claritas 2009 estimates.

**Exhibit AI-12.**  
**Percent of Population by Block Group that is Hispanic or Latino, City of Plano, 2009**



Source: Claritas 2009 estimates.

The analysis of HMDA data in 2003 (as part of the city’s last AI) showed denials to be the highest in the southeast/east portion of the city and much less so in the western portion of the city. Although there is some overlap between home purchase denials and areas in the city with the highest proportions of the city, the overlap is not always consistent, especially in Exhibit AI-11. A stronger overlap would suggest potential redlining and disinvestment.

**Subprime loans.** Of the 22,530 loans captured in the HMDA data, 840, or 3.7 percent, carried subprime rates. Hispanic borrowers in Plano received subprime rates 6.1 percent of the time; African American borrowers received subprime rates 5.3 percent of the time. Although these proportions are higher than the rate of subprime loans for the city overall, they are relatively low differences. In most communities, non-White populations receive two to three times the proportion of subprime loans as non-minorities.

## **Land Use Policy Review**

To evaluate potential fair housing concerns within the city's zoning code, BBC utilized a "Review of Public Policies and Practices (Zoning and Planning Codes)" form recently circulated by the Los Angeles fair housing office of HUD. This section poses the questions from this checklist, along with responses about the City of Plano's regulations and code.

*Does the code definition of "family" have the effect of discriminating against unrelated individuals with disabilities who reside together in a congregate or group living arrangement?* The city does not define "family" in its zoning ordinance.

*Does the Code definition of "disability" the same as the Fair Housing Act?* The city's definition of "disabled" goes beyond the fair housing act by incorporating persons recovering from addiction: *A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who is regarded as having that type of impairment, or a person who has a record of that type of impairment. The term "disabled" includes persons recovering from addition, but such term does not include current, illegal use of, or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).* (ZC 2009-09; Ordinance 2009-6-9)

*Does the zoning ordinance restrict housing opportunities for individuals with disabilities and mischaracterize such housing as a "boarding or rooming house" or "hotel"? How are "special group residential housing" defined in the jurisdiction zoning code?* No; such housing opportunities are called "rehabilitation care facilities/institutions," "household care facilities/institutions," and "independent living facilities," all of which are allowed permitted in residential areas by right or special permit. Boarding/rooming houses are defined as: *A residence excluding hotels, where living quarters are shared by three or more persons not living together as a single household and where personal care services or assistance with medications (as defined by the Texas Health and Safety Code) are not provided.* (ZC 2009-09; Ordinance No. 2009-6-9)

*Does the zoning ordinance deny housing opportunities for disability individuals with on site housing supporting services?* No.

*Does the jurisdiction policy allow any number of unrelated persons to reside together, but restrict such occupancy, if the residents are disabled?* In a residential zoning districts, residential facilities are limited to 8 persons (there is no cap for developments in commercial districts). However, for developments housing persons with disabilities in residential districts, exceptions may be granted to increase the occupancy.

*Does the jurisdiction policy not allow disabled persons to make reasonable modifications or provide reasonable accommodation for disabled people who live in municipal-supplied or managed residential housing?* N/A because Plano does not supply or provide municipal-supplied or managed residential housing.

*Does the jurisdiction require a public hearing to obtain public input for specific exceptions to zoning and land-use rules for disabled applicants and is the hearing only for disabled applicants rather than for all applicants?* No.

*Does the zoning ordinance address mixed uses?* Yes.

*How are the residential land uses discussed? What standards apply? Does the zoning ordinance describe any areas in this jurisdiction as exclusive?* Residential uses are discussed in the “zoning districts and uses” section of the code; some also have supplementary regulations. We did not identify any residential areas described as “exclusive.”

*Are there exclusions or discussions of limiting housing to any of the following groups? If yes, check all of the following that apply:*

*Are there any restrictions for Senior Housing in the zoning ordinance? If yes, do the restrictions comply with Federal law on housing for older persons (i.e., solely occupied by persons 62 years of age or older or at least one person 55 years of age and has significant facilities or services to meet the physical or social needs of older people)?* Yes.

*Does the zoning ordinance contain any special provisions for making housing accessible to persons with disabilities?* No.

*Does the zoning ordinance establish occupancy standards or maximum occupancy limits?* No.

*Does the zoning ordinance include a discussion of fair housing?* No.

*Describe the minimum standards and amenities required by the ordinance for a multiple family project with respect to handicap parking.* In multifamily districts, the city requires one handicapped parking space for 1-25 non-handicapped spaces; two for 26-50 non-handicapped spaces; etc. If the Texas Accessibility Standards exceed this requirement, the Standards prevail.

*Does the zoning code distinguish senior citizen housing from other single family residential and multifamily residential uses by the application of a conditional use permit (cup)?* Only for independent living facilities; in 6 districts such facilities are allowed by right; in 3 a conditional use permit is required.

*Does the zoning code distinguish handicapped housing from other single family residential and multifamily residential uses by the application of a conditional use permit (cup)?* Only for rehabilitation care facilities in single family detached areas and for developments with more than 8 units in multifamily areas.

*Does the jurisdiction's planning and building codes presently make specific reference to the accessibility requirements contained in the 1988 amendment to the Fair Housing Act? No. Is there any provision for monitoring compliance?*

**Infill program.** The City of Plano has established Housing Infill regulations that authorize the city to exercise the following powers and authority to produce low and moderate income housing in the city:

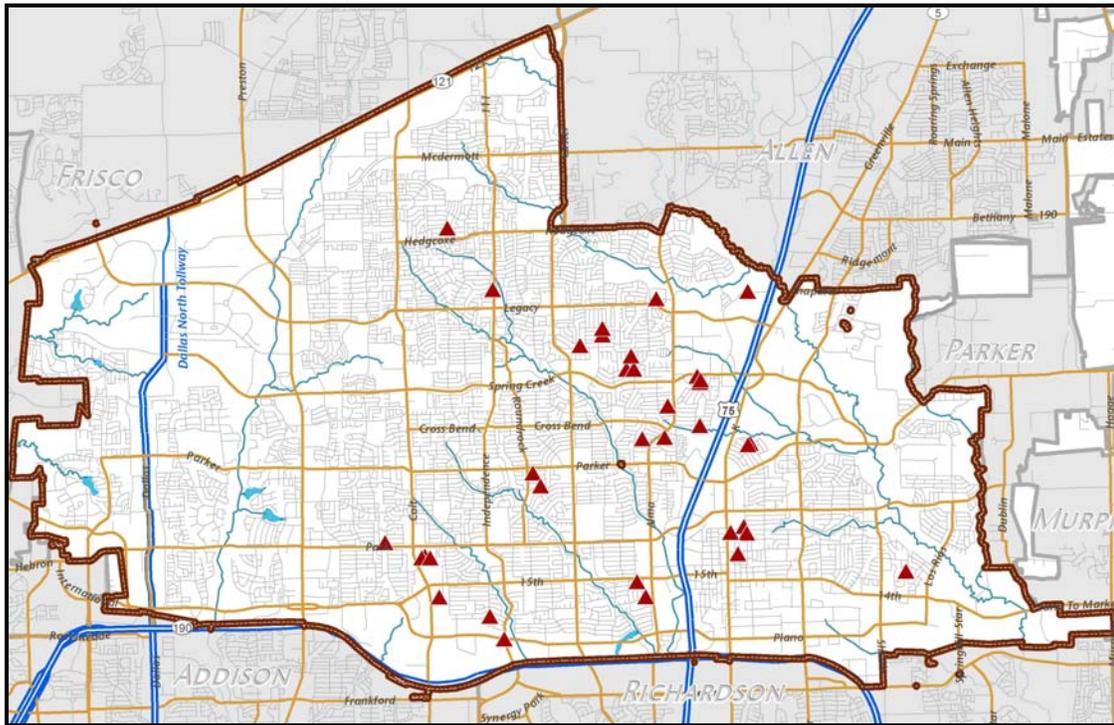
- (1) Expend funds for the implementation of the program.
- (2) Expend funds to acquire and develop real property to provide for low and moderate income housing.
- (3) Acquire and relocate residential structures and rehabilitate structures to provide low and moderate income housing and to expend funds in connection therewith.
- (4) Sell real property directly to qualified low and moderate income households or, under contract, to the Plano Housing Authority or to an independent foundation as provided in section 272.001(b)(5) of the Local Government Code, to provide low and moderate income housing.
- (5) Expend funds for incidental expenses in implementing the program.

**Public Housing Authority policies and procedures.** The City of Plano's lowest income renters are primarily served through assisted housing programs through the Plano Housing Authority (PHA). The PHA owns and manages 24 public housing units scattered throughout the City of Plano. The 24 units are 3 and 4 bedroom single family homes located in mixed income neighborhoods. The PHA also provides Section 8 Housing Choice Vouchers (HCV) to eligible applicants, including Plano residents. Currently, there are 842 vouchers administered by the PHA. An additional 306 vouchers are located in Plano (ported in), but are administered by other housing authorities.

Additionally, there are units built using Low Income Housing Tax Credits (LIHTC) and funding through the U.S. Department of Housing and Urban Development in Plano. There are also a number of privately owned multifamily complexes that are LIHTC, accept Section 8 or fall under the HUD rental income guidelines.

Exhibit AI-13 shows the location of affordable units in Plano. As the exhibit shows, most of the locations are in the east-central part of the city, but the developments are not heavily concentrated in any one area.

**Exhibit A-13.**  
**Location of Affordable Housing Units, City of Plano**



Source: U.S. Department of Housing and Urban Development, Texas Department of Housing and Community Affairs and the Plano Housing Authority.

The PHA is overseen by a Board of Commissioners, a 5 member board that provides governance and administrative control of the Authority's programs. The PHA also has a Family Self Sufficiency Committee and City Council liaisons.

**Policies and procedures.** The PHA follows the following intake and notification procedures for households who are interested in obtaining housing assistance:

**Housing Authority unit applications and wait list.** The PHA has open application dates for the units it owns and manages as vacancies become available. During these dates, applications may be picked up in person or, for elderly or disabled applicants, distributed through mail. Applicants must show identification to obtain an application. They have 10 days to return the application to the PHA.

Once the application is received, waitlist preferences are examined and applied to all applicants. The PHA’s waitlist procedures are:

Number of Points	Description
<b>100 PTS</b> <b>Highest Ranking Preference</b>	<b>An applicant who is a resident of Plano; and</b> 1. Is employed within the PHA jurisdiction (40 mile radius of PHA address); <b>or</b> 2. Enrolled currently in educational, training, or upward mobility programs (must provide proof); <b>or</b> 3. Elderly, disabled and working families.
<b>100 PTS</b> <b>Highest Ranking Preference</b>	4. Victim of domestic violence (must provide proof); <b>or</b> 5. Involuntary displacement (disaster, government action, action of housing owner, inaccessibility, property disposition— <i>Must Provide Proof</i> )
<b>75 PTS</b> <b>Second Ranking Preference</b>	1. An applicant who is a resident of Plano.
<b>50 PTS</b> <b>Third Ranking Preference</b>	<b>An applicant who is not a resident of Plano, but is:</b> 1. Employed in Plano; <b>or</b> 2. Elderly, disabled, or working families.
<b>0 PTS</b> <b>Fourth Ranking Preference</b>	1. An applicant without a preference.
<b>Rules:</b> <ul style="list-style-type: none"> <li>• Within a preference, date and time of application will prevail.</li> <li>• The waitlist is located in the lobby of the Plano Housing Authority and is updated the fifth day of every month.</li> <li>• You will need your application number to find your position on the waitlist.</li> <li>• Applicant numbers are mailed to your mailing address within two weeks after turning in application. You must keep your mailing address current</li> <li>• Plano Housing Authority cannot give any waitlist information over the telephone.</li> <li>• For more information, contact the waitlist Coordinator at 972-423-4928, ext. 110.</li> </ul>	

Once an application is received, applicants receive a number that they can use to access their position on the wait list. The wait list is located in the lobby of the PHA and is updated on the 5<sup>th</sup> day of each month. The PHA has a wait list coordinator who is available to answer questions and provide information about other types of housing assistance, such as emergency assistance.

**Prequalification.** Applicants who are near the top of the list are informed that they will be prequalified in order to have a pool of eligible applications for voucher issuance or public housing units. Applicants attend a prequalification briefing where an updated application is completed and all of their verification/release forms and identifying information are collected. A background and preliminary income screen is conducted to determine if the applicant qualifies for the program. If the applicant does not meet the criteria, they are notified in writing and have 10 days to appeal the decision.

Applicants who pass the initial screening are then qualified with third party verification of income, expenses and assets. Qualified applicants are invited to a voucher issue briefing. Public housing applicants have an individual appointment with a public housing counselor to view an available unit. The Plano PHA permits new clients two refusals of public housing units. They do not remove the clients from the waiting list if they refuse two units.

Applicants for the voucher program receive a comprehensive information packet which explains the voucher program, contains all necessary forms for landlords and a list of all participating landlords in the city with their phone numbers.

**Section 8 vouchers wait list.** The PHA's waiting list for Section 8 Housing Choice Vouchers has been closed for two years. The PHA updates and purges the waiting list twice a year, once in January and once in July. The PHA closes the wait list to prevent the wait time for a voucher or public housing unit from becoming too lengthy.

**Deconcentration of units.** According to the Housing Authority, landlords who participate in the Section 8 program are well distributed throughout Plano. The majority of their landlords rent single family homes, most of which have 2 to 4 bedrooms. Voucher holders have a wide variety of housing types and locations to choose from in Plano. The PHA provides information on its website to landlords who are interested in participating in the Section 8 program. The PHA also has a list of rental properties that accept Section 8.

**Fair housing.** Each client of the PHA receives a copy of HUD's Fair Housing: Equal Opportunity for All brochure, along with a copy of HUD's Housing Discrimination Complaint form, should they have a need to file a complaint. The PHA has not received complaints from voucher holders about fair housing violations of landlords participating in the Section 8 program. The PHA has only received one complaint from a public housing unit alleging discrimination by the PHA; the issue was resolved through mediation and the client was issued a Section 8 voucher.

The PHA does not maintain information about fair housing laws on its website.