

Examining Fair Housing and Equal Access to Housing Opportunities in Minnesota



A Report of the
Minnesota Advisory Committee to the
U.S. Commission on Civil Rights

July 2024

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights (Commission) has established an advisory committee in each of the 50 states, the District of Columbia, and the U.S. Territories. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Letter of Transmittal to the U.S. Commission on Civil Rights

Minnesota Advisory Committee to the U.S. Commission on Civil Rights

The Minnesota Advisory Committee to the U.S. Commission on Civil Rights submits this report exploring the barriers faced by the federally protected classes in Minnesota. In particular, the Committee examined the efficacy of the 2020-2023 strategic plan created by the state agency, Minnesota Housing Finance Agency. The Committee submits this report as part of its responsibility to study and report on civil rights issues in the state of Minnesota. The contents of this report are primarily based on testimony the Committee heard during web briefings on November 9, 2023; December 8, 2023; January 17, 2024; and January 26, 2024. It also includes written testimony submitted within the Committee's project timeline.

While the Committee initially aimed to examine the efficacy of the Minnesota Housing Finance Agency's 2020-2023 strategic plan, it encountered limitations in conducting a comprehensive assessment due to receiving limited testimony. Therefore, the findings within the report generally address civil rights themes related to housing affordability and equitable access to housing in Minnesota that emerged during the Committee's inquiry. The Committee also offers recommendations to the Commission to ask federal, state, and local entities to address concerns that are within their jurisdiction.

Appendix D includes a statement submitted by a Committee member.

Minnesota Advisory Committee to the U.S. Commission on Civil Rights

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Project Overview

On August 24, 2023, the Minnesota Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study examining housing affordability and equitable access to housing in Minnesota and any disparities impacting federally protected classes. Initially, the Committee sought to understand the extent to which the Minnesota Housing Finance Agency achieved their goals within their 2020-2023 Strategic Plan. Given the short timeframe to examine this topic prior to the expiration of the Committee's term in June of 2024 and receiving limited testimony, the Committee was unable to comprehensively examine Minnesota Housing Finance Agency's 2020-2023 Strategic Plan. Instead, the Committee offers relevant findings that include references to Minnesota Housing Finance Agency's strategic goals and civil rights themes. While other important topics may have surfaced throughout the Committee's inquiry, matters that are outside the scope of this specific civil rights mandate may be mentioned but are left for another discussion.

As part of this inquiry, the Committee heard testimony via videoconference on November 9, 2023; December 8, 2023; January 17, 2024; and January 26, 2024.¹ The following report results from a review of testimony at these meetings along with written testimony² submitted to the Committee. It begins with a brief background of the issues to be considered by the Committee, followed by themes and findings as they emerged from this testimony. Finally, it makes recommendations for addressing related civil rights concerns. This report and the recommendations included within it were adopted by a majority of Committee members present at a meeting on June 14, 2024. Appendix D includes a statement submitted by a Committee member.

¹ Meeting records and transcripts are available here: <https://usccr.box.com/s/6zfsawahwlmst96udm5kseko80yno4jvl>. Briefing before the *Minnesota Advisory Committee to the U.S. Commission on Civil Rights*, November 9, 2023, (web-based), Transcript (hereinafter cited as “11/9/23 Web Briefing”); Briefing before the *Minnesota Advisory Committee to the U.S. Commission on Civil Rights*, December 8, 2023, (web-based), Transcript (hereinafter cited as “12/8/23 Web Briefing”); Briefing before the *Minnesota Advisory Committee to the U.S. Commission on Civil Rights*, January 17, 2024, (web-based), Transcript (hereinafter cited as “1/17/24 Web Briefing”); Briefing before the *Minnesota Advisory Committee to the U.S. Commission on Civil Rights*, January 26, 2024, (web-based), Transcript (hereinafter cited as “1/26/24 Web Briefing”).

² Relevant report materials can be found here: <https://usccr.box.com/s/6zfsawahwlmst96udm5kseko80yno4jvl>.

Background

The United States is grappling with a significant housing shortage, estimated at close to 3.79 million homes according to recent data.³ This shortage has been exacerbated by a long-term decline in housing production relative to population growth over the past four decades.⁴ Observing housing starts data, which measures the number of brand-new housing units initiated by homebuilders as a share of the U.S. population, provides insight into this shortage.⁵ Since the 1970s, housing starts as a share of the population have been steadily decreasing, a trend that became more pronounced after the peak of the 2000s housing bubble.⁶ Additionally, shifting household dynamics, such as a decrease in average household size and an increased demand for living space, have further strained housing supply.⁷

Various factors contribute to the dearth of housing supply, and these challenges vary between regions. For example, Urban and suburban markets often face shortages of available land⁸ influenced by local public policy decisions on land utilization.⁹ In recent years, rising land costs have put pressure on developing new housing, with land prices increasing by 60 percent between 2012 and 2019, and the cost of homes more than doubling from 1998 to 2021.¹⁰ Other factors

³ Sam Khater, Len Kiefer, Venkataramana Yanamandra, “Housing Supply: A Growing Deficit,” *Freddie Mac*, May 7, 2021, <https://www.freddiemac.com/research/insight/20210507-housing-supply> (hereafter cited as Freddie Mac, *Housing Supply: A Growing Deficit*).

⁴ White House, Council of Economic Advisers, *Alleviating Supply Constraints in the Housing Market*, by Jared Bernstein, Jeffery Zhang, Ryan Cummings, and Matthew Maury, November 30, 2021, <https://www.whitehouse.gov/cea/written-materials/2021/09/01/alleviating-supply-constraints-in-the-housing-market/> (hereafter cited as WHCEA, *Alleviating Supply Constraints in the Housing Market*).

⁵ Ibid.

⁶ Ibid.

⁷ Rose Quint, “What Home Buyers Really Want, 2021 Edition,” *National Association of Home Builders*, Feb. 2021, <https://www.nahb.org/-/media/NAHB/news-and-economics/docs/housing-economics-plus/special-studies/2021/special-study-what-home-buyers-really-want-march-2021.pdf>.

⁸ Nicole Friedman, “Housing Boom Brings a Shortage of Land to Build New Homes,” *Wall Street Journal*, Dec. 25, 2020, <https://www.wsj.com/articles/housing-boom-brings-a-shortage-of-land-to-build-new-homes-11608904980>.

⁹ WHCEA, *Alleviating Supply Constraints in the Housing Market*.

¹⁰ U.S. Government Accountability Office, *The Affordable Housing Crisis Grows While Efforts to Increase Supply Fall Short*, November 7, 2023, <https://www.gao.gov/blog/affordable-housing-crisis-grows-while-efforts-increase-supply-fall-short>. (hereinafter cited as GAO, *The Affordable Housing Crisis Grows While Efforts to Increase Supply Fall Short*).

include a lack of available construction labor,¹¹ increasing costs of building materials,¹² zoning restrictions hindering housing supply,¹³ the advent of NIMBYism (not in my backyard),¹⁴ and a shortage of land developers.¹⁵ For instance, in 2021, wood products, especially lumber and plywood, saw extreme price increase by more than 25 percent in three months.

Even when housing is available, the cost of homes has risen significantly and varies regionally. Recent data from the Federal Reserve Bank indicates a decrease in the number of active housing listings across the country (roughly 346,500), reaching its lowest point in at least five years in February 2022 which dropped from over 1 million listings before the pandemic and recession.¹⁶ Concurrently, the national median sale price for a single-family home has increased by 25 percent¹⁷ with the greatest increases occurring in the West,¹⁸ Midwest¹⁹ and Northeastern states²⁰ making home ownership out of reach for many.

Inevitably, renters bear the brunt of housing challenges. Many renters allocate a significant portion of their income to housing, with 46 percent of American renters spending 30 percent or more of their income on housing, a threshold defined as being “cost-burdened” by the U.S. Department of

¹¹ Jim Parrott and Mark M. Zandi, “Overcoming the Nation’s Daunting Housing Supply Shortage,” *Urban Institute*, Mar. 30, 2021, <https://www.urban.org/research/publication/overcoming-nations-daunting-housing-supply-shortage>; “New HBI Report Shows Labor Shortage Weakening Housing Supply, Affordability,” *National Association of Home Builders*, Nov. 4, 2021, <https://www.nahb.org/blog/2021/11/new-hbi-report-shows-labor-shortage-weakening-housing-supply-affordability/>.

¹² Tu-Uyen Tran, “Rising Cost of Materials Means Fewer Contracts, Smaller Profits for Builders, Survey Says” *Federal Reserve Bank of Minneapolis*, Jun. 24, 2021, <https://www.minneapolisfed.org/article/2021/rising-cost-of-materials-means-fewer-contracts-smaller-profits-for-builders-survey-says>.

¹³ Owen Minott, Rebecca Orbach, Julia Selby, Emma Waters, and Stephanie Espinosa, “Expanding Affordable Housing Opportunities: Zoning and Land Use Case Studies,” *Bipartisan Policy Center*, Oct. 3, 2023, <https://bipartisanpolicy.org/blog/expanding-affordable-housing-opportunities-zoning-and-land-use-case-studies/>.

¹⁴ Freddie Mac, *Housing Supply: A Growing Deficit*.

¹⁵ Ibid.

¹⁶ Realtor.com, Housing Inventory: Active Listing Count in the United States [ACTLISCOUUS], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/ACTLISCOUUS>, February 7, 2024.

¹⁷ U.S. Census Bureau and U.S. Department of Housing and Urban Development, Median Sales Price of Houses Sold for the United States [MSPUS], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/MSPUS>, February 7, 2024.

¹⁸ U.S. Census Bureau and U.S. Department of Housing and Urban Development, Median Sales Price of Houses Sold for the West Census Region [MSPW], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/MSPW>, February 2, 2024.

¹⁹ U.S. Census Bureau and U.S. Department of Housing and Urban Development, Median Sales Price of Houses Sold for the Midwest Census Region [MSPM], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/MSPM>, February 2, 2024.

²⁰ U.S. Census Bureau and U.S. Department of Housing and Urban Development, Median Sales Price of Houses Sold for the Northeast Census Region [MSPNE], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/MSPNE>, February 2, 2024.

Housing and Urban Development (HUD).²¹ Furthermore, 23 percent of renters are considered deeply cost-burdened, spending at least 50 percent of their income on housing.²² The average rent has increased by 18 percent over the last five years, outpacing inflation,²³ which has implications for renters' financial stability especially as wages have not kept up with the increase in rent prices.²⁴ According to the Federal Reserve Bank's 2022 survey of consumer expectations, Americans anticipate further rent increases, highlighting the ongoing challenges faced by renters in accessing affordable housing.²⁵

These trends occur at a time when federal funding for housing development has remained stagnant, failing to keep pace with the growing demand for affordable housing. In particular, funding for HUD has seen minimal increases, if any, in recent years.²⁶ Despite the increasing need for affordable housing, federal funding has not substantially increased to address this demand.²⁷ This stagnation in funding has made it difficult for state agencies, housing authorities, and other organizations to meet the needs of low-income individuals and families in their jurisdictions.²⁸ This lack of adequate funding has exacerbated housing issues across the country, leading to a shortage of affordable housing, increased homelessness, and housing insecurity. Without sufficient investment in housing development, these challenges are likely to persist and worsen over time.²⁹

²¹ U.S. Department of Housing and Urban Development, "HUD Archives: Glossary of Terms to Affordable Housing - HUD," April 6, 2006, <https://archives.hud.gov/local/nv/goodstories/2006-04-06glos.cfm>; U.S. Census Bureau, "Renters More Likely than Homeowners to Spend More than 30% of Income on Housing in Almost All Counties," Census.gov, December 8, 2022, <https://www.census.gov/library/stories/2022/12/housing-costs-burden.html>.

²² U.S. Census Bureau, American Community Survey, 2020, <https://data.census.gov/all?q=GROSS%20RENT%20AS%20A%20PERCENTAGE%20OF%20HOUSEHOLD%20INCOME%20IN%20THE%20PAST%2012%20MONTHS>.

²³ U.S. Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers: Rent of Primary Residence in U.S. City Average [CUUR0000SEHA], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/CUUR0000SEHA>, February 2, 2024.

²⁴ U.S. Census Bureau; Federal Reserve Bank of St. Louis; Consumer Price Index; Jaime Dunaway-Seale, "Rent Prices Vs. Income: The Most and Least Affordable Cities for Renters in 2023," Real Estate Witch, January 29, 2024, <https://www.realestatewitch.com/rent-to-income-ratio-2023/>.

²⁵ "Survey of Consumer Expectations," *Federal Reserve Bank of New York*, n.d., <https://www.newyorkfed.org/microeconomics/sce#/%202022>. (noting that Americans expect that rents will increase by 10 as compared with any other commodity, including food (9.2 percent), college education (9 percent) and gas (8.8 percent).)

²⁶ GAO, *The Affordable Housing Crisis Grows While Efforts to Increase Supply Fall Short*.

²⁷ Ibid.

²⁸ Douglas Rice, "Chart Book: Cuts in Federal Assistance Have Exacerbated Families' Struggles to Afford Housing," *Center on Budget and Policy Priorities*, Apr. 12, 2016, <https://www.cbpp.org/research/chart-book-cuts-in-federal-assistance-have-exacerbated-families-struggles-to-afford-housing> (hereafter cited as Center on Budget and Policy Priorities, *Cuts in Federal Assistance Have Exacerbated Families' Struggles to Afford Housing*).

²⁹ Ibid.

Housing in Minnesota and Brief Historical Context

State officials in Minnesota have long recognized the persistent challenge to adequately address housing needs, particularly impacting vulnerable populations. This issue was underscored in a 2001 report³⁰ directed by the Legislative Audit Commission, a bipartisan body comprising members from both the House of Representatives and the Senate,³¹ which tasked the Office of the Legislative Auditor with reviewing factors limiting the production of affordable housing. The report revealed that in 1989, low-income, rental, single-parent, older, and Twin Cities metropolitan area households were disproportionately cost burdened.³² Furthermore, minority-headed households faced a greater lack of affordable housing compared to non-minority households.

Notable findings from the report include consistently low vacancy rates in both the Twin Cities area and the state overall, persisting below national averages for over a decade. This indicates Minnesota's rental market has been tighter than most others for at least ten years.³³ Despite these insights, Minnesota has consistently fallen short in providing housing for low-income families, resulting in a significant gap of approximately 104,000 homes.³⁴ This shortfall was highlighted was once again highlighted in a 2018 report sponsored by state leaders the 2018 Governor's Task Force on Housing, which estimated a shortage of 50,000 homes, with the Twin Cities region bearing much of the burden.³⁵ More recent estimates from a 2023 national cross-sector member network indicate that Minnesota faces a shortage of 106,000 homes, ranking among the top 10 states with the most severe housing shortages (Figure 1).³⁶

³⁰ State of Minnesota, Office of the Legislative Auditor, Program Evaluation Report: Affordable Housing, Report #01-03, January 2001, <https://www.auditor.leg.state.mn.us/ped/pedrep/0103all.pdf>. (hereafter cited as Office of the Legislative Auditor, *2001 Affordable Housing Report*).

³¹ [Minnesota Statutes 3.97, subd. 2.](#)

³² Office of the Legislative Auditor, *2001 Affordable Housing Report*.

³³ United States Bureau of the Census, "Table 3. Rental Vacancy Rates, by State: 1986 to 1999" and "Table 5. Rental Vacancy Rates for the 75 Largest Metropolitan Areas: 1986 to 1999" (standard errors listed in tables B-3 and B-4), <http://www.census.gov/hhes/www/housing/hvs/annual99/ann99ind.html>; accessed September 13, 2000. The three metropolitan areas with significantly lower vacancy rates are Ventura, California (1.3 percent vacancy); Nassau-Suffolk, New York (1.9 percent); and San Jose, California (2.1 percent). (Ignoring sampling error, the Twin Cities is tied for the ninth lowest rental vacancy rate of all major metropolitan areas, and Minnesota has the eighth lowest rental vacancy rate of all states.)

³⁴ Mavity Testimony, *11/9/23 Web Briefing*, p. 3.

³⁵ More Places to Call Home: Investing in Minnesota's Future: Report of the Governor's Taskforce on Housing, August 2018, <https://www.lrl.mn.gov/docs/2018/other/180809.pdf>.

³⁶ "2023 Housing UnderproductionTM in the U.S." *Up For Growth*, Nov. 29, 2023, <https://upforgrowth.org/apply-the-vision/2023-housing-underproduction/>; Katie McKellar, "Housing Market: These Top 10 States Have Most 'Severe' Shortage," *Deseret News*, Oct. 13, 2023, <https://www.deseret.com/utah/2023/10/12/23914769/housing-market-shortage-utah-idaho-top-10-severe-shortage-up-for-growth>.

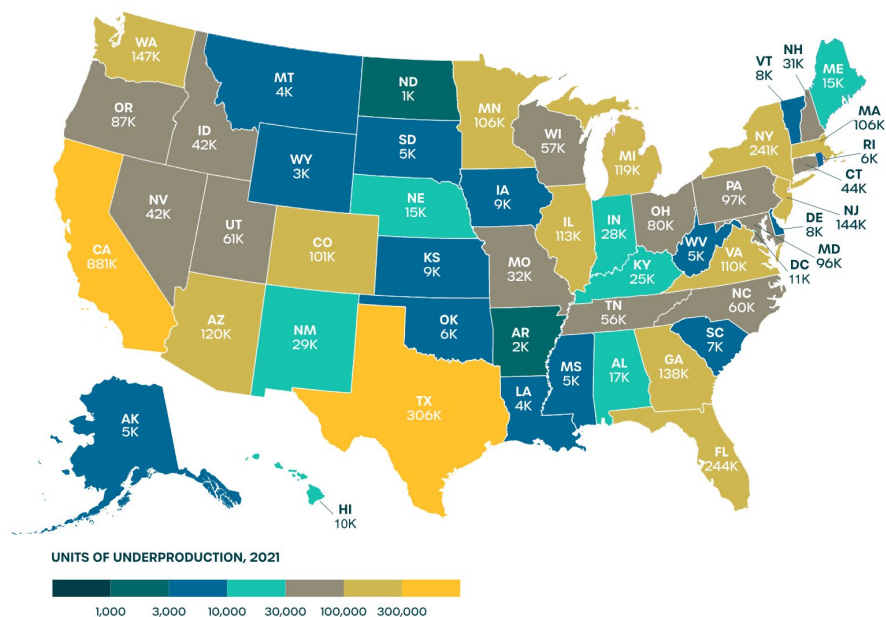


Figure 1

The shortage of homes in Minnesota stems from a historical mismatch between the supply of housing and the growing unmet demand for housing, exacerbated by a growing population. This shortage has led to effectively zero percent vacancy rates for rental homes affordable to low-income households.³⁷ According to estimates by the Minnesota Housing Partnership, there is a shortage of 103,626 affordable and available homes for extremely low-income (ELI) renter households.³⁸ Despite a steady increase in the number of ELI households over time,³⁹ the available rental units have remained constrained, fluctuating within a range of 58,000 to 73,000.⁴⁰ For instance, in 2013, there were 173,920 ELI rental households with 65,476 available units, while in 2018, the number of ELI households rose to 175,319, yet only 71,005 units were available.⁴¹ Presently, out of 167,522 ELI renter households, merely 63,896 homes are within reach, emphasizing a significant mismatch between the demand and supply of rental housing for

³⁷ Mavity Testimony, *11/9/23 Web Briefing*, p. 4; HousingLink, June 2022.

³⁸ “2023 Minnesota State Housing Profile” *Minnesota Housing Partnership*, Sept. 7, 2023, <https://mhponline.org/minnesota-state-housing-profile/> (hereafter cited as Minnesota Housing Partnership, *2023 Minnesota State Profile*) (Noting “extremely low-income renter households” as households earning under \$30,190 annually).

³⁹ The National Low Income Housing Coalition examined American Community Survey (ACS) and ACS Public Use Microdata Sample (PUMS) data between 2007 – 2022.

⁴⁰ “Gap Report: Minnesota,” National Low Income Housing Coalition, 2022, <https://nlihc.org/gap/state/mn>.

⁴¹ “Gap Report: Minnesota,” National Low Income Housing Coalition, 2018, <https://nlihc.org/gap/state/mn>.

extremely low-income individuals.⁴² This scarcity has disproportionately burdened owners and renters, with households of color experiencing a higher rate of cost burden compared to White households. The graph below (Figure 2) further demonstrates the cost burden of housing among varying groups.

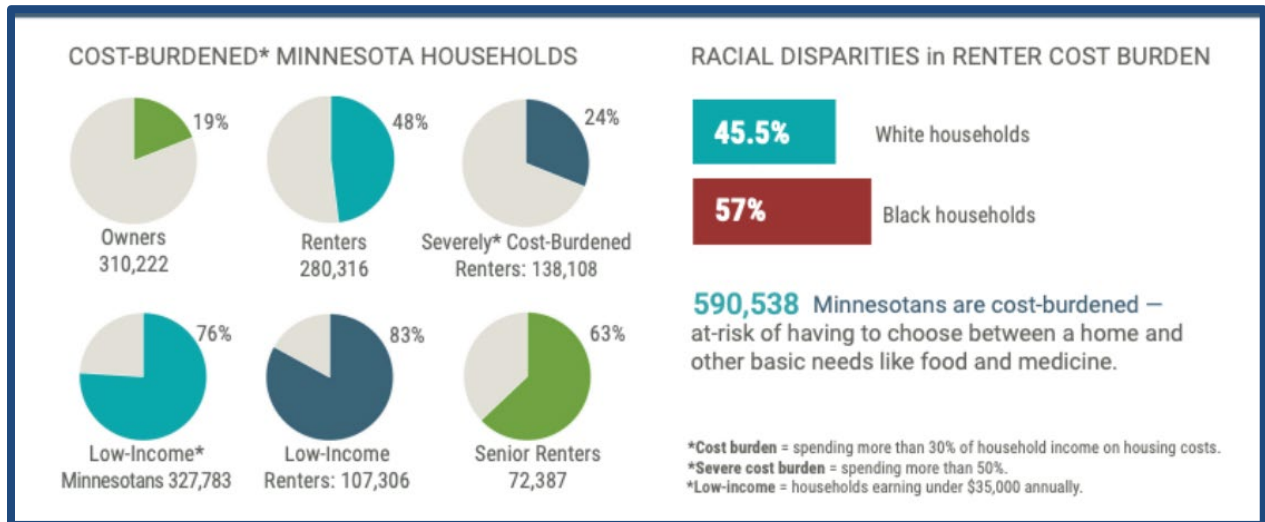


Figure 2

The impacts of housing cost burden are especially severe for low-income earners, with more than three-quarters of low-income Minnesotans and 63 percent of senior renters facing cost burdens.⁴³ Furthermore, 590,530 Minnesotans are at risk of sacrificing basic needs such as food and medicine to afford their homes.⁴⁴

As for Minnesotans seeking homeownership, the Federal Reserve Bank documented that the number of active housing listings (roughly 5,200) in Minnesota was at its lowest in at least five years in February of 2022 which dropped from 15,000 listings.⁴⁵ At the same time, the state's

⁴² Mavity Testimony, *11/9/23 Web Briefing*, p. 4.

⁴³ Ibid.

⁴⁴ Minnesota Housing Partnership, *2023 Minnesota State Profile*.

⁴⁵ Realtor.com, Housing Inventory: Active Listing Count in the United States [ACTLISCOUUS], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/ACTLISCOUUS>, February 7, 2024.

median sale price for a single family home went up by 46 percent from \$223,000 in 2017 to \$326,500 in 2022 (Figure 3).⁴⁶

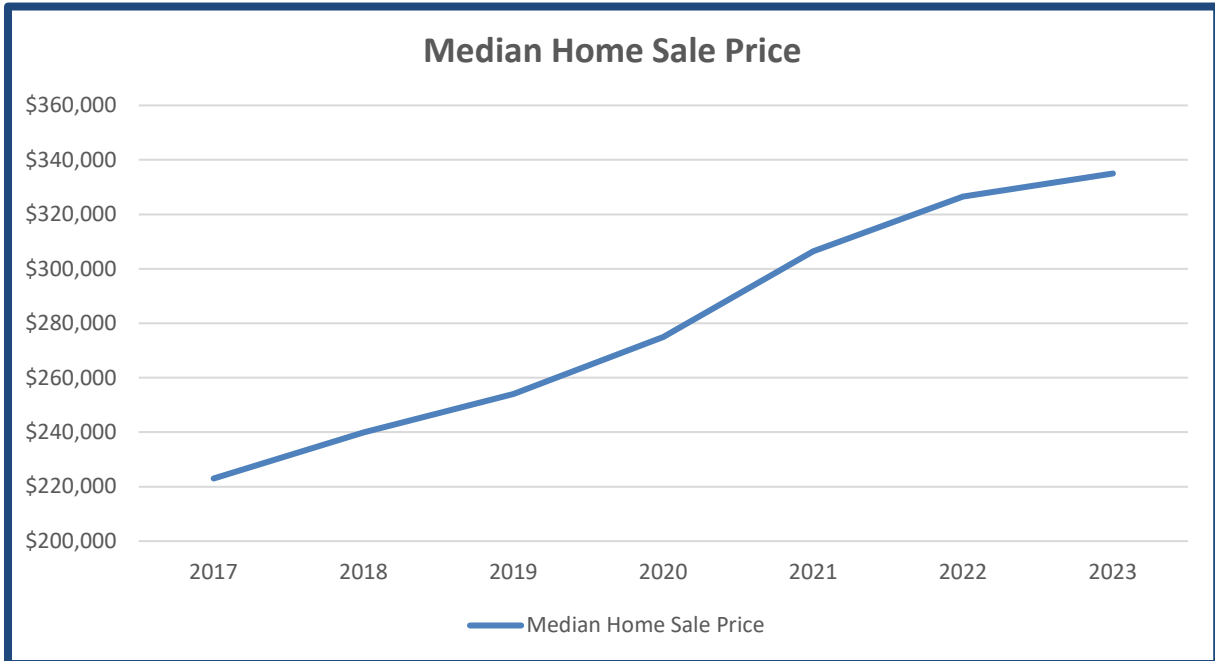
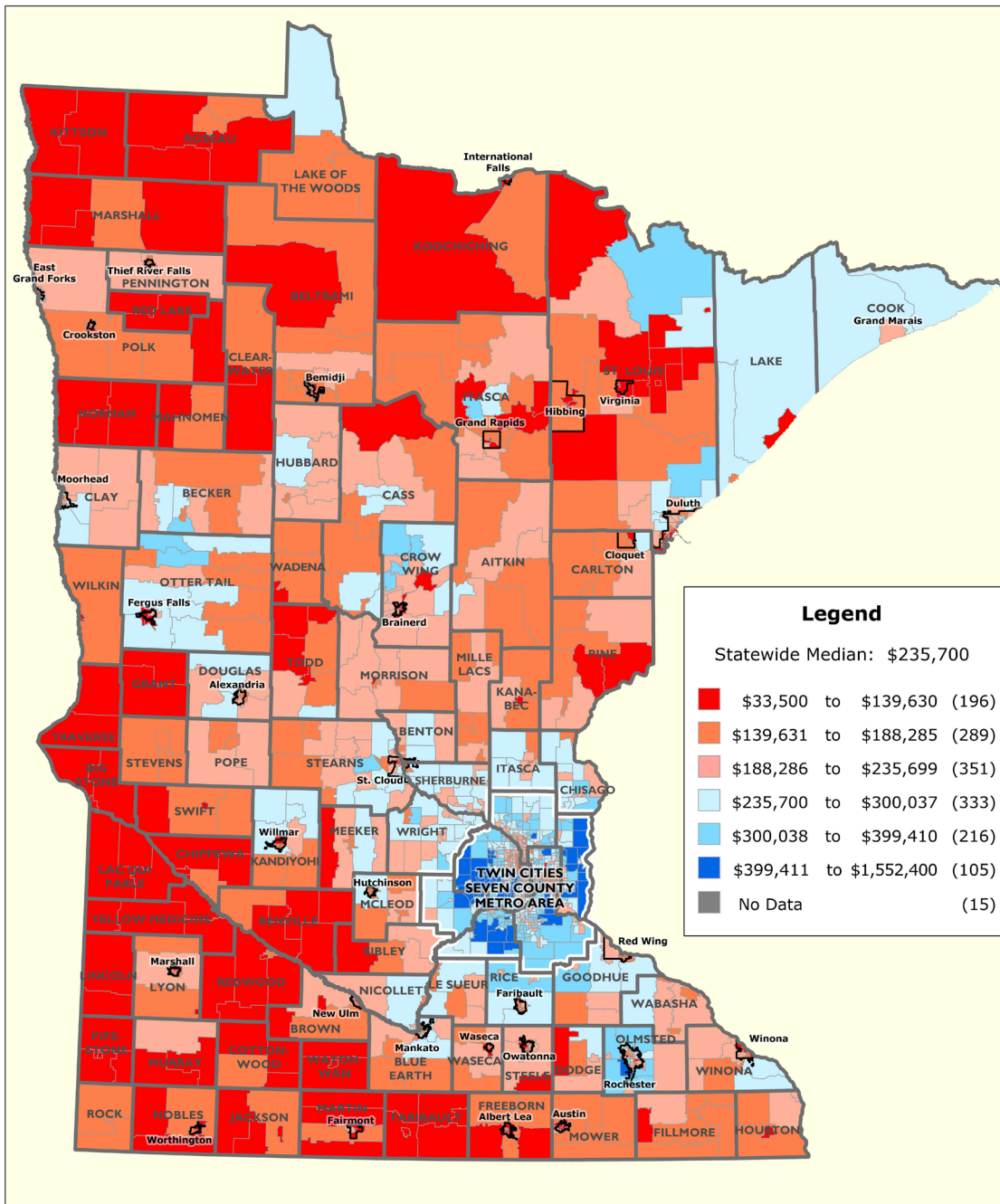


Figure 3

Additionally, the statewide median home value is \$235,700 (Figure 4). Throughout Minnesota, home values are generally lower in the northern and southwest regions of the state. The highest home values are concentrated mostly within the Twin cities seven county metro area where the median home value is \$275, 985 (Figure 5).

⁴⁶ Data from Minnesota Realtors®.

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STATE OF MINNESOTA
Median Home Value
by Census Tract, 2020
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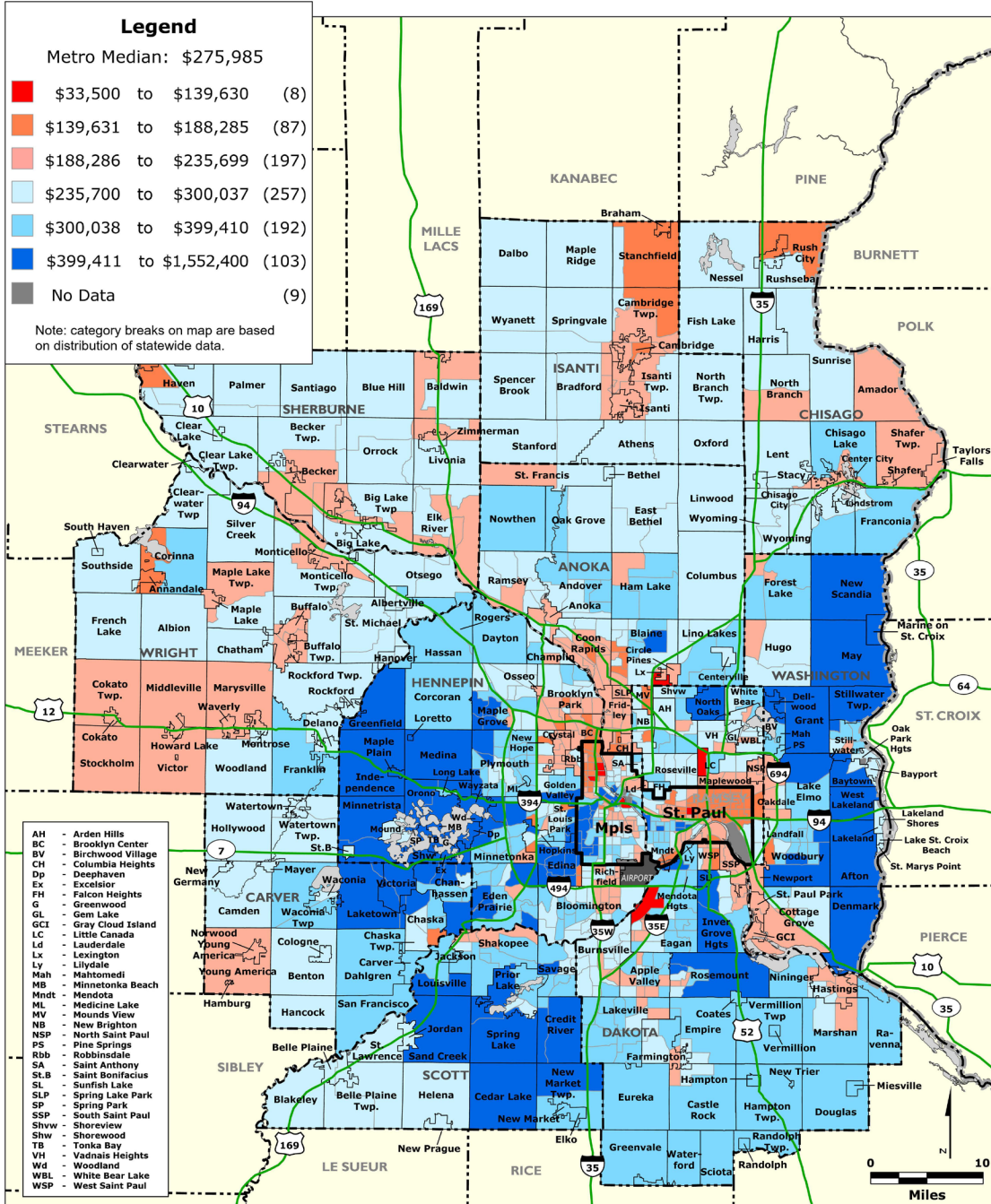


Data Sources: IPUMS NHGIS, University of Minnesota; U.S. Census Bureau, American Community Survey (5-year) data.

Figure 4



MINNEAPOLIS - SAINT PAUL REGION Median Home Value by Census Tract, 2020



Data Sources: IPUMS NHGIS, University of Minnesota; U.S. Census Bureau, American Community Survey (5-year) data.

Figure 5

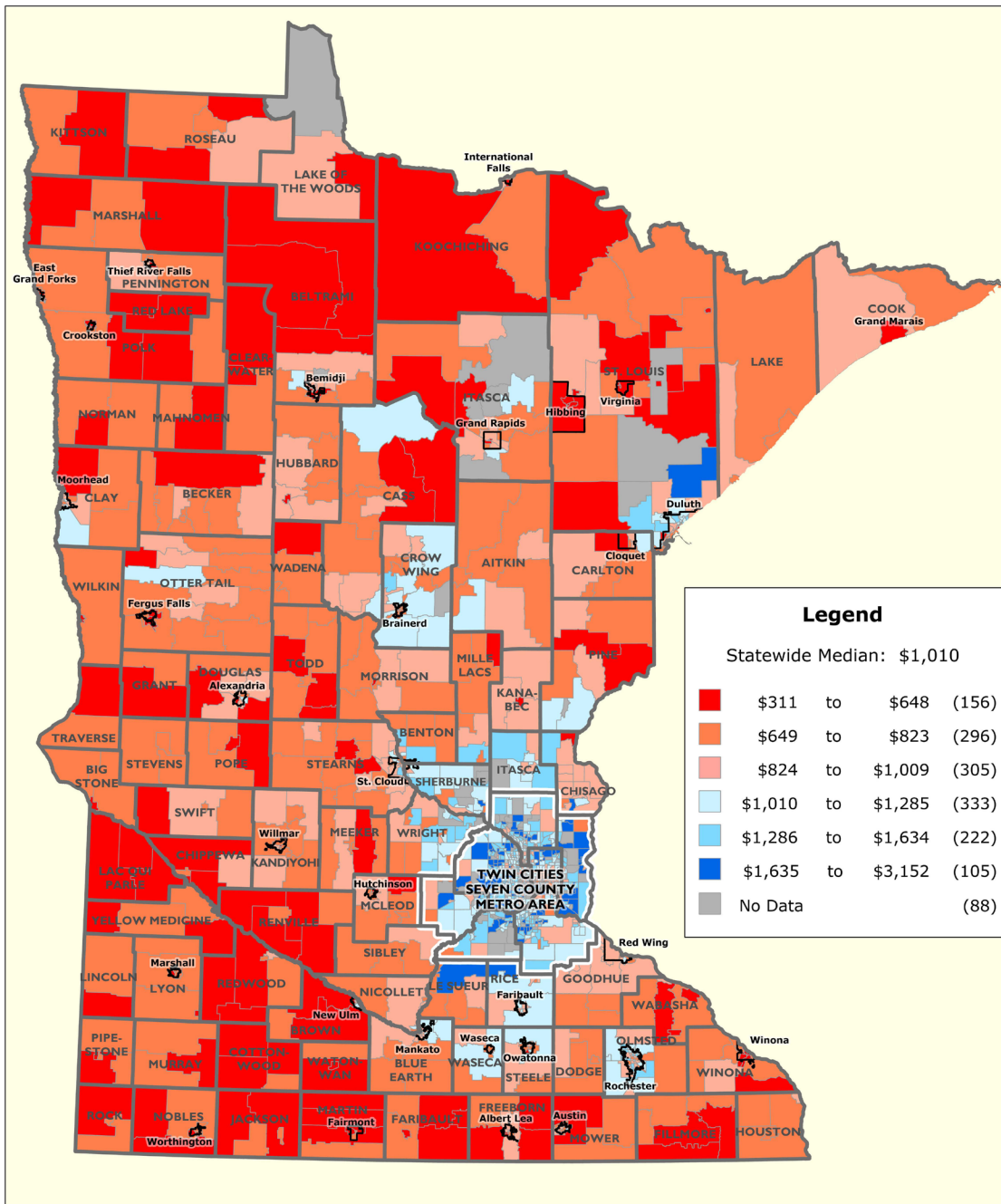
Racial disparities in homeownership persist, with significantly lower rates among Native American (50 percent) and Black (31 percent) households compared to White (78 percent) households in Minnesota.⁴⁷

When examining 2020 Census data on housing affordability, the statewide median rent is \$1,010 (Figure 6). The majority of cities generally have lower median rents, with some jurisdictions offering rents as low as \$311. Looking closely at the Minneapolis and Saint Paul region, median rents are higher in the southern areas of these cities and some areas in northern Minneapolis (Figure 7).

⁴⁷ Minnesota Housing Partnership, *2023 Minnesota State Profile*.

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STATE OF MINNESOTA
Median Gross Rent
by Census Tract, 2020

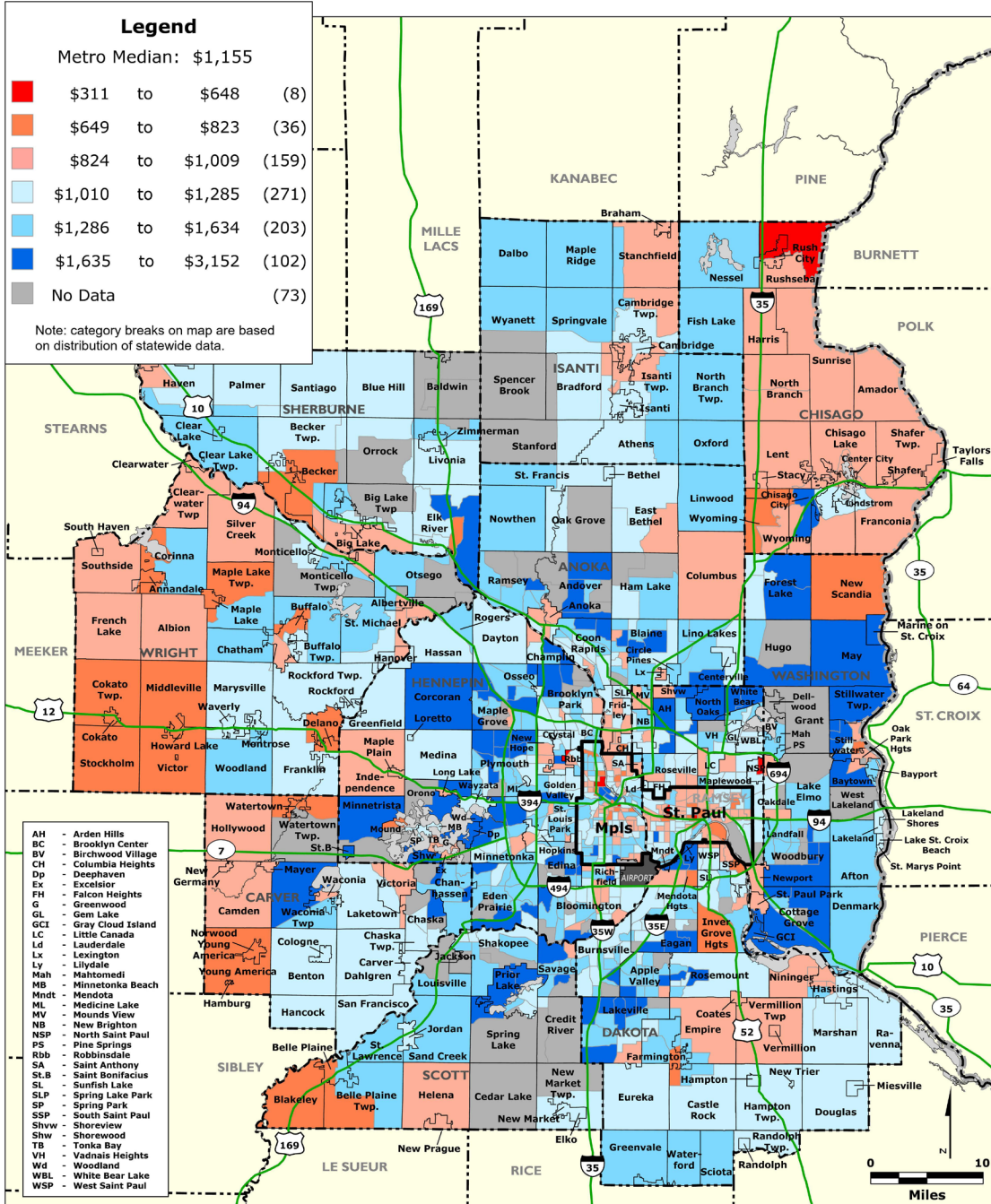


Data Sources: IPUMS NHGIS, University of Minnesota; U.S. Census Bureau, American Community Survey (5-year) data.

Figure 6



MINNEAPOLIS - SAINT PAUL REGION Median Gross Rent by Census Tract, 2020



Data Sources: IPUMS NHGIS, University of Minnesota; U.S. Census Bureau, American Community Survey (5-year) data.

Figure 7

In the Minneapolis-Saint Paul region, where the majority of the state’s population reside, there are stark differences across neighborhoods especially for households with 30 percent, 50 percent, and 80 percent of area median income (Figures 8, 9, and 10).

A household with 30 percent of median income could afford a home valued at \$52,300 or a monthly rent of \$622 (30 percent of median family income = \$31,193); 50 percent median income at \$134,900 or a monthly rent of \$1,036 (50 percent of median family income = \$51,989); 80 percent median income at \$256,900 or a monthly rent of \$1,658. (80 percent of median family income = \$83,182); and 100 percent median income at \$340,400 or a monthly rent of \$2,072 (100 percent of median family income = \$103,977).⁴⁸

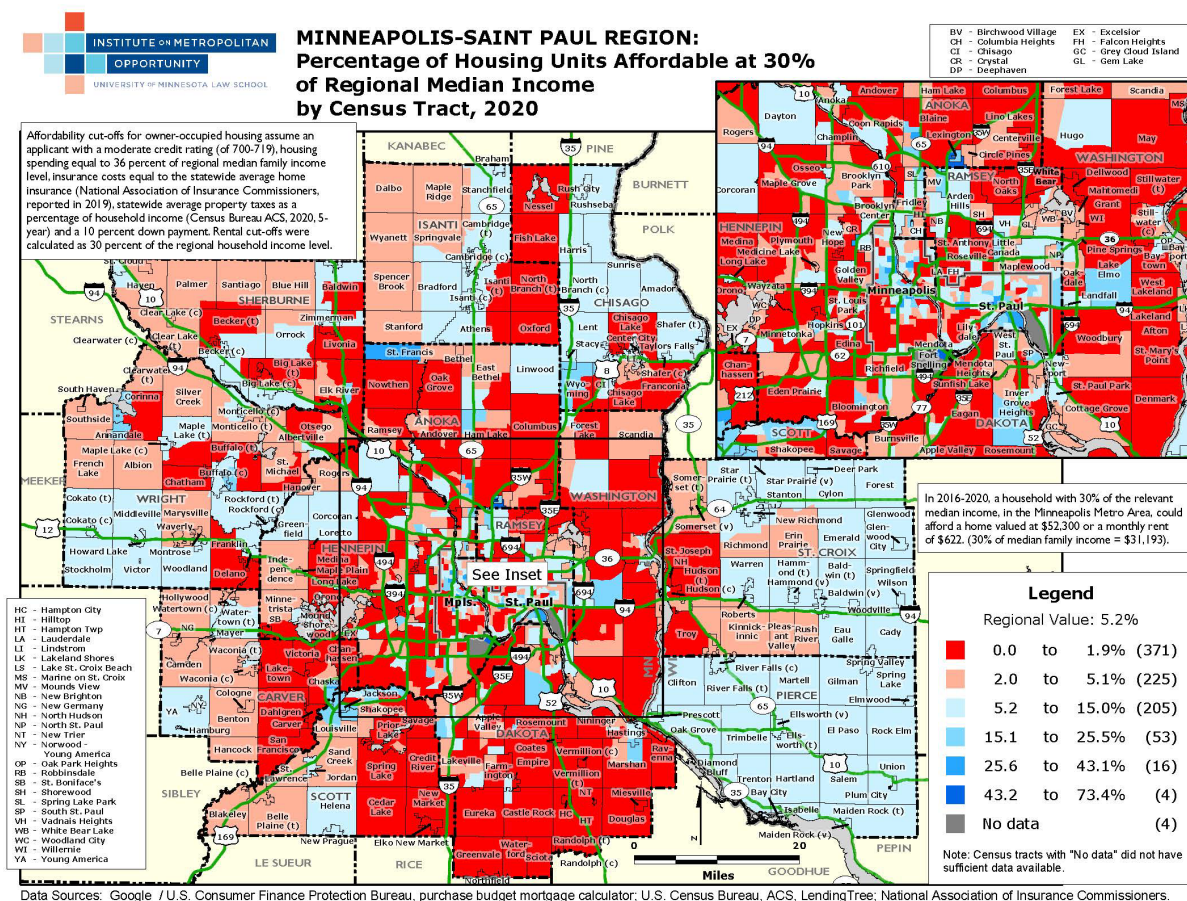


Figure 8

⁴⁸ See Appendix for graph on 100% AMI.

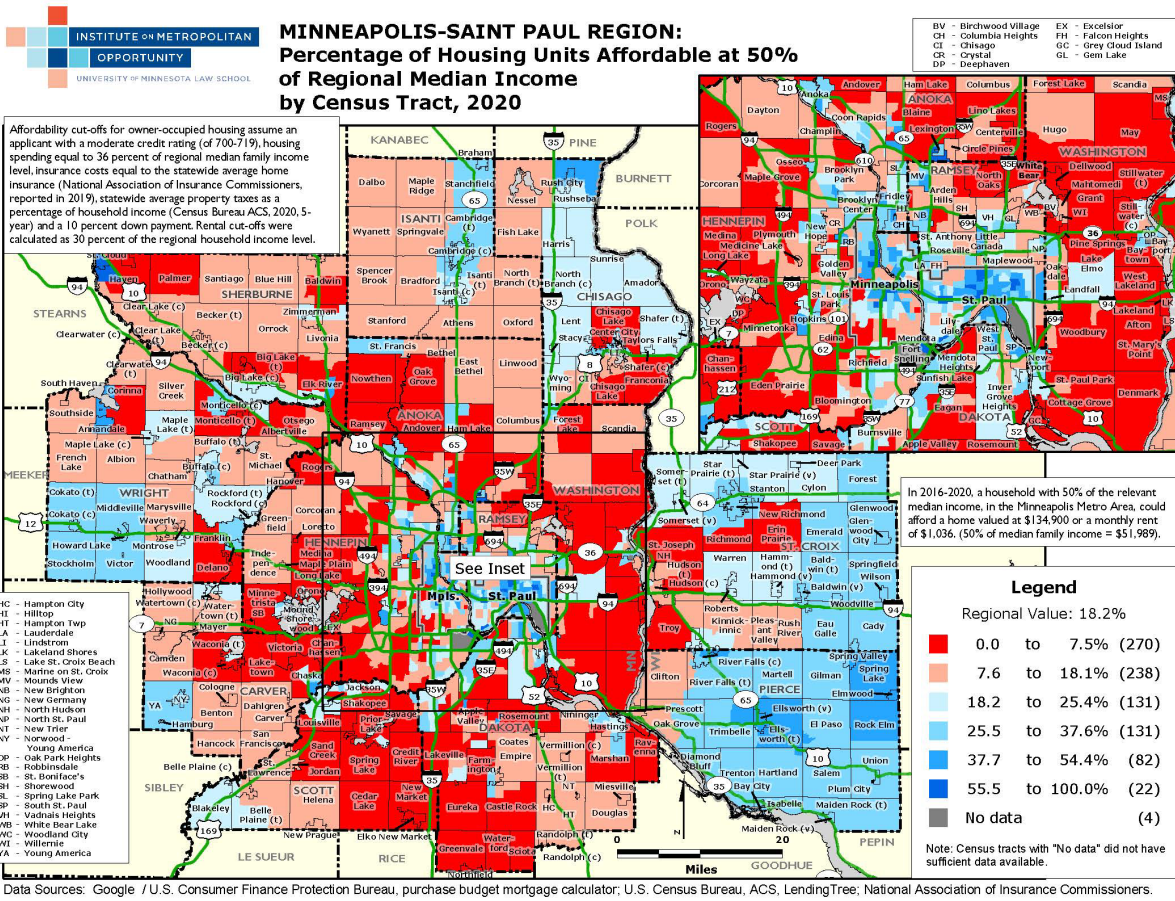
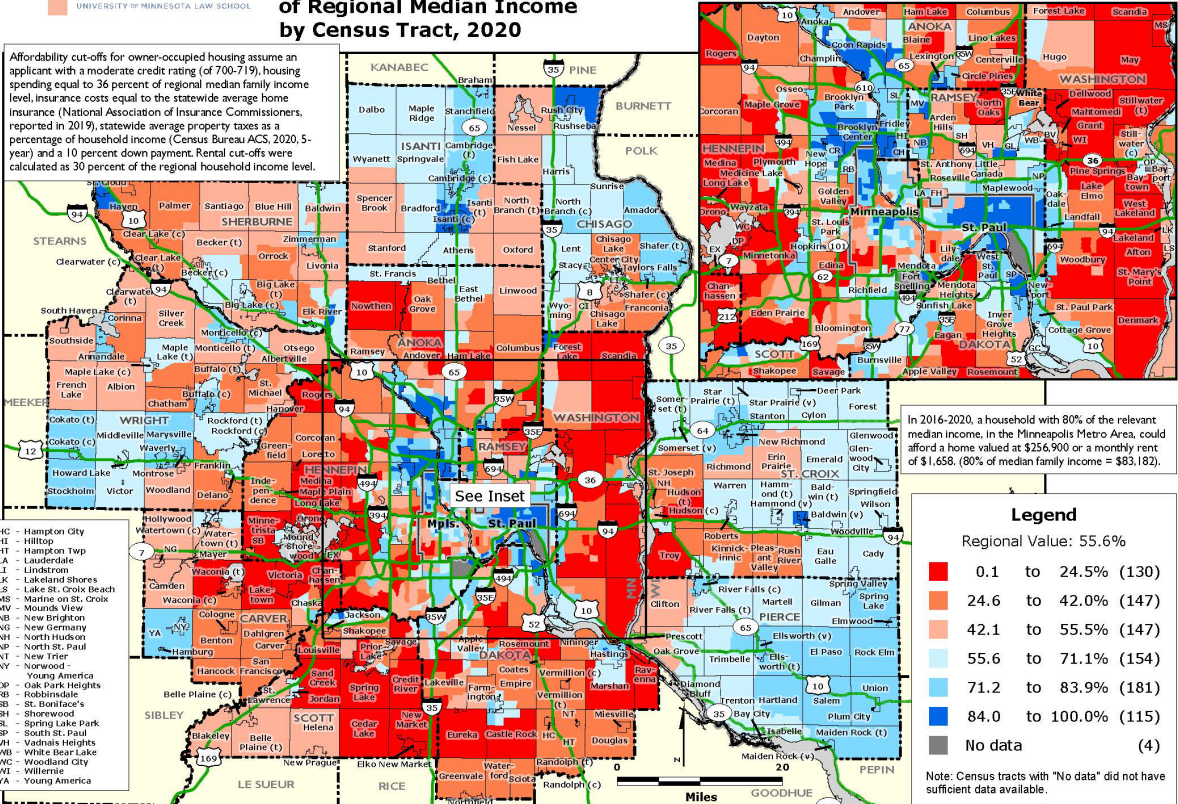


Figure 9



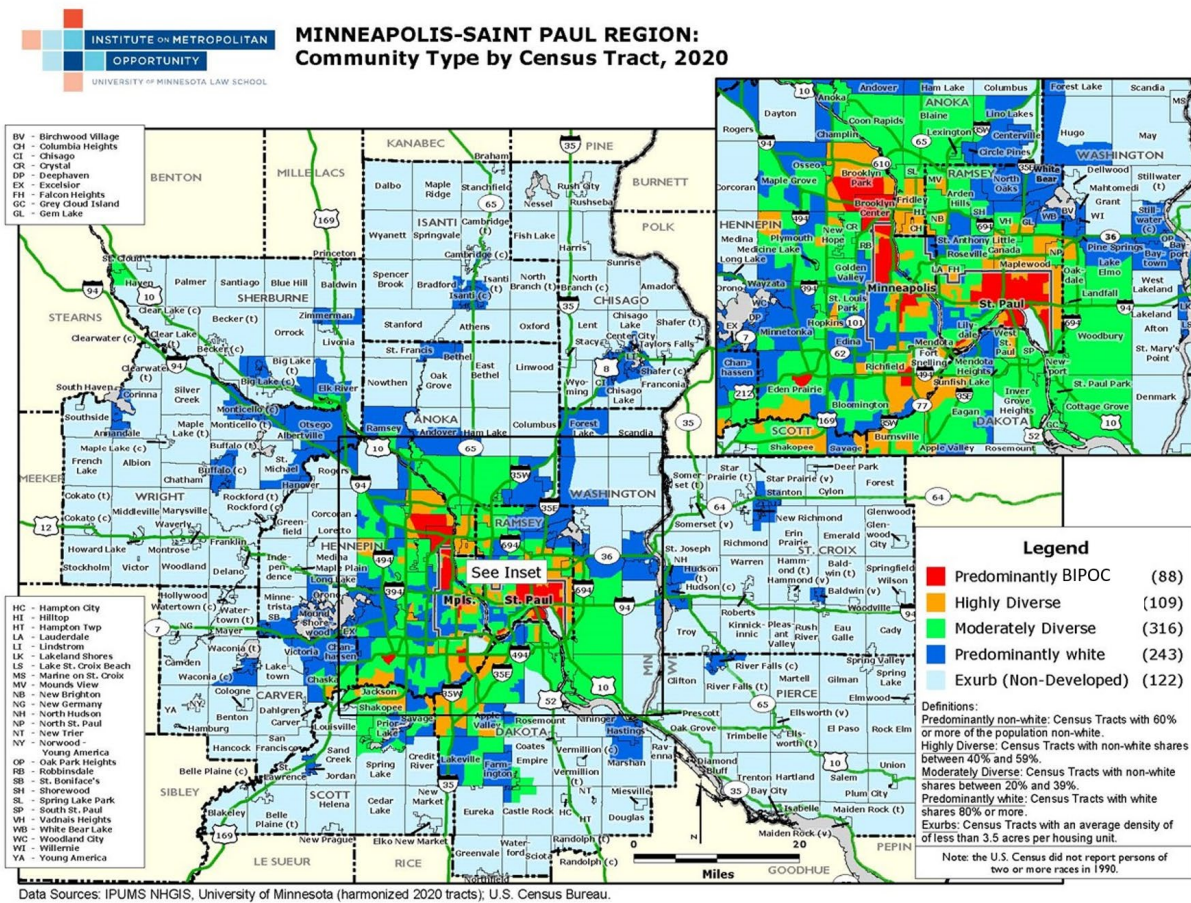
MINNEAPOLIS-SAINT PAUL REGION: Percentage of Housing Units Affordable at 80% of Regional Median Income by Census Tract, 2020

Affordability cut-offs for owner-occupied housing assume an applicant with a moderate credit rating (of 700-719), housing spending equal to 36 percent of regional median family income level. Insurance costs equal to the statewide average home insurance (National Association of Insurance Commissioners, reported in 2019), statewide average property taxes as a percentage of household income (Census Bureau ACS, 2020, 5-year) and a 10 percent down payment. Rental cut-offs were calculated as 30 percent of the regional household income level.



Data Sources: Google / U.S. Consumer Finance Protection Bureau, purchase budget mortgage calculator; U.S. Census Bureau, ACS; LendingTree; National Association of Insurance Commissioners.

Figure 10

Figure 11⁴⁹

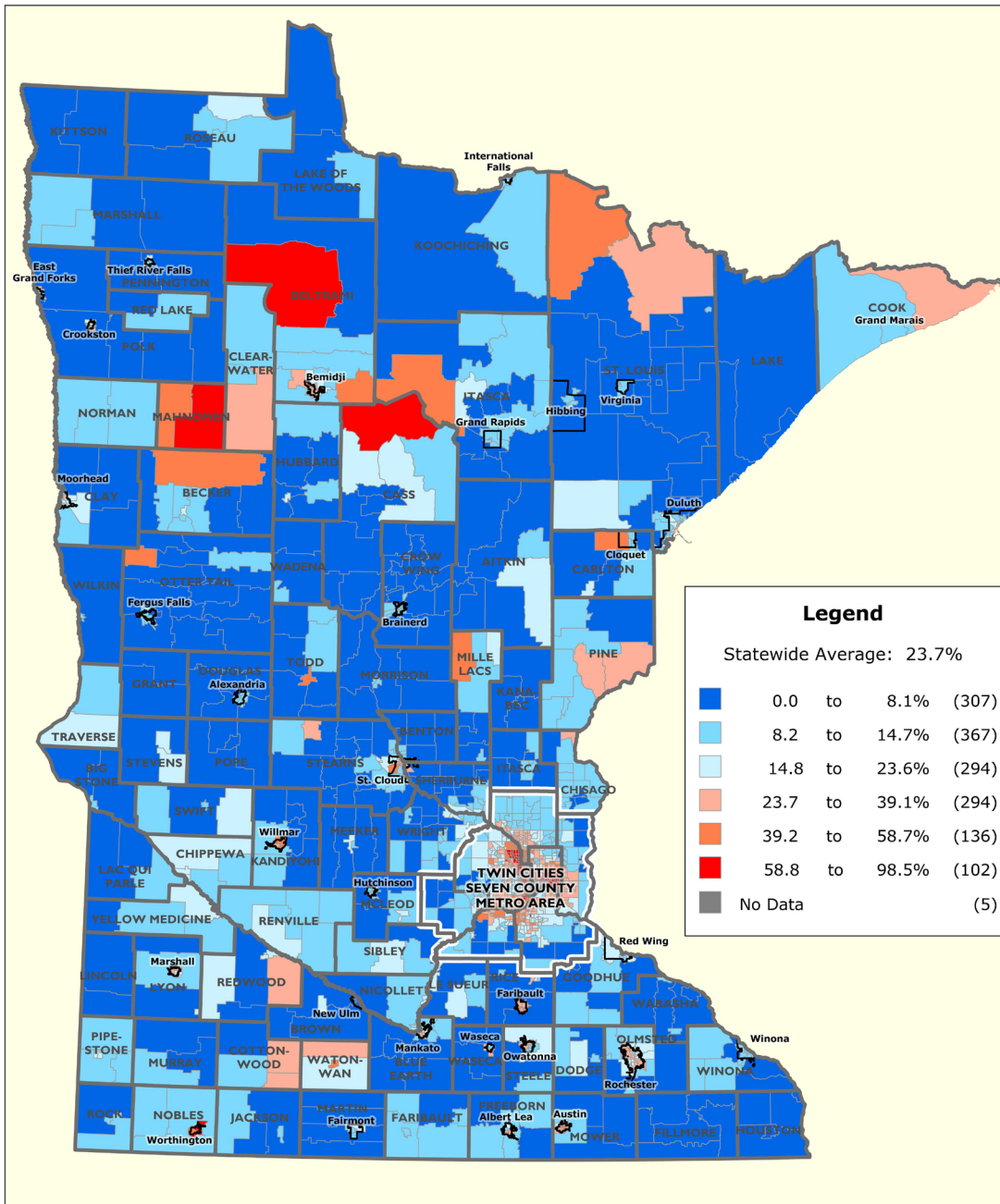
For additional demographic context (Figure 11), BIPOC, residents who identify as a race other than White alone, and/or those who are Hispanic or Latin(x) make up 20 percent of the total population. Non-Hispanic White Minnesotans represent the remaining 80 percent of the statewide population. Notably, racial ethnic groups have grown recently in Minnesota, but between 2010 and 2018, the state has added five times as many BIPOC as non-Hispanic White residents.⁵⁰ BIPOC populations are distributed unevenly across the state, and are more likely to live in metro areas than rural areas (Figure 12). This population makes up 23.7 percent of residents.

⁴⁹ The Committee prefers to use the term “BIPOC” (Black, Indigenous, People of color) in place of “Predominantly non-white,” but understands that Census data defines major racial and ethnic groups as noted in the legend in Figure 11.

⁵⁰ “Data by Topic: Age, Race & Ethnicity / MN State Demographic Center,” n.d., <https://mn.gov/admin/demography/data-by-topic/age-race-ethnicity/>.



STATE OF MINNESOTA Percentage Racial Minority Population by Census Tract, 2020



Data Sources: IPUMS NHGIS, University of Minnesota; U.S. Census Bureau, Demographic and Housing Characteristics File (DHC)

Figure 12

These disparities in housing are deeply rooted in historical racist policies and practices occurring both at the federal and state level, including racial covenants, redlining, and discriminatory lending practices. Below is a brief historical summary of landmark decisions and laws that have impacted the trajectory of access to housing on a federal and state level.

In the early to mid-20th century, racial covenants were commonplace in housing deeds in Minnesota, as in many other states. These covenants were legal agreements that restricted the sale or rental of property to specific racial or ethnic groups. One significant example is the case of *Shelley v. Kraemer* in 1948, where the U.S. Supreme Court ruled that racially restrictive covenants were unenforceable in court.⁵¹ However, despite this ruling, racial covenants continued in Minnesota. It was not until 1953 when the Minnesota legislature banned new racial covenants.⁵²

Between the 1930s to 1960s, the discriminatory practice of redlining— that is the practice by which banks and lending institutions refused or limited loans, mortgages, and insurance services to residents in specific geographic areas, often based on race or ethnicity—was prevalent across the country. In Minnesota, as in other states, the Homeowners’ Loan Corporation created “Residential Security” maps, designating neighborhoods as “high-risk” or “hazardous” based on racial composition.⁵³ These maps facilitated redlining and disinvestment in predominantly Black and immigrant communities.⁵⁴

In response to persistent discrimination, the Minnesota Legislature took proactive measures before the federal government by enacting legislation in 1962 to combat housing inequality.⁵⁵ This state-level action prohibited housing discrimination based on race, religion, and national origin.⁵⁶ Following this initiative, the federal government took decisive action four years later with the passage of the Fair Housing Act of 1968 (FHA).⁵⁷ Notably, Senator Walter Mondale, a Minnesotan, played a pivotal role in shaping this landmark legislation, which aimed to eliminate housing discrimination on a national scale.

⁵¹ *Shelley v. Kraemer*, 334 U.S. 1 (1948).

⁵² Minnesota Statutes, 1940, Section 507.18, Subdivision 1, Chapter 480 – H.F. No. 210, <https://www.revisor.mn.gov/laws/1953/0/Session+Law/Chapter/480/pdf/>.

⁵³ Greer, James. (2013). The Homeowners’ Loan Corporation and the Development of the Residential Security Maps. *Journal of Urban History*. 39. 275-296. 10.1177/0096144212436724.

⁵⁴ *Ibid.*

⁵⁵ Jessica Carter, “Open Occupancy and the “Racial Problem”,” *A Public History of 35W*, Dec. 11, 2020, <https://humantoll35w.org/uncategorized/open-occupancy-and-the-racial-problem/>.

⁵⁶ Minnesota Statutes, Chapter 363A.

⁵⁷ 42 U.S. Code § 3601 et seq.

The objectives of the FHA were multifaceted. It sought to ensure equal access to housing opportunities for all individuals, regardless of their race, religion, national origin, or other protected characteristics.⁵⁸ By prohibiting discriminatory practices such as refusal to rent or sell housing, discriminatory advertising, and the imposition of different terms or conditions based on protected characteristics, the FHA aimed to create a level playing field in the housing market.

Moreover, the FHA aimed to promote diverse and inclusive communities. By fostering integration and combating segregation, the law aimed to create neighborhoods where individuals of all backgrounds could live, work, and thrive together. This objective was crucial for breaking down barriers and fostering social cohesion and economic opportunity across communities.

Despite the passage of the FHA, the struggle to obtain fair and equitable housing continues today and efforts to combat housing inequality remain ongoing, underscoring the need for continued vigilance and proactive measures to uphold the principles of fair housing for all. The Affirmatively Furthering Fair Housing (AFFH) rule, established in 2015 by HUD, aimed to bolster the FHA's mandate.⁵⁹ The AFFH rule required communities receiving federal housing funds to scrutinize their housing patterns for discrimination and segregation, aligning with the FHA's objective of fostering fair and inclusive housing practices.

Under the AFFH rule, communities were obligated to develop strategies to dismantle barriers to fair housing, like zoning ordinances that perpetuated segregation or inadequate access to affordable housing.⁶⁰ Despite its alignment with the FHA's goals, the AFFH rule faced criticism for what some saw as undue regulatory imposition.⁶¹ Consequently, the rule was repealed in 2020 by the Trump administration, creating uncertainty about the trajectory of fair housing policy in the United States.⁶² On February 9, 2023, HUD proposed a rule that would implement the AFFH that would direct the agency to ensure its program participants “proactively take meaningful actions to

⁵⁸ *Id.*

⁵⁹ U.S. Department of Housing And Urban Development, Affirmatively Furthering Fair Housing, https://www.hud.gov/AFFH#_What_is_AFFH?.

⁶⁰ *Ibid.*

⁶¹ Ben S. Carson, “BEN CARSON: Obama's Housing Rules Try to Accomplish What Busing Could Not,” *The Washington Times*, Jul. 23, 2015, <https://www.washingtontimes.com/news/2015/jul/23/ben-carson-obamas-housing-rules-try-to-accomplish-/>.

⁶² The White House, Archive, President Donald J. Trump Is Protecting Our Suburbs and Preserving the American Dream for All Americans, Jul. 23, 2020, <https://trumpwhitehouse.archives.gov/briefings-statements/president-donald-j-trump-protecting-suburbs-preserving-american-dream-americans/>.

overcome patterns of segregation, promote fair housing choice, eliminate disparities in opportunities, and foster inclusive communities free from discrimination.”⁶³

The future direction of fair housing efforts remains contingent upon the priorities and policies of the current administration and Congress, with implications for addressing historical injustices in housing access and discrimination. This theme underscores testimony shared by Reverend Babington-Johnson, CEO of the Stairstep Foundation noting that segregation and economic disparities persist, despite the passage of several well-intentioned civil rights laws implemented on many levels of government, highlighting the enduring challenges in achieving equitable housing opportunities.⁶⁴

Further, this brings into light the efforts of the Minnesota Advisory Committee in examining housing issues impacting protected groups and an emphasis on Minnesota Housing Finance Agency’s 2020-2023 strategic plan.

The following section describes the Agency’s strategic objectives and brief updates from its Commissioner as of December 2023.

A Lens on Minnesota Housing Finance Agency’s Strategic Plan

The challenges in accessing housing are a consequence of historically discriminatory housing policies, and present day efforts to tackle them are visible across different state agencies, especially the Minnesota Housing Finance Agency. As the state's housing bank, this agency is responsible for implementing a broad spectrum of financial activities in the areas of supporting home ownership and rental support. In support of homeownership, Minnesota Housing Finance Agency finances mortgages, downpayments, and closing cost loans; finances home improvement and rehabilitation loans, funds home buyer education and counseling, and training; funds financial coaching; and finances the development of affordable single-family homes. They also have a critical role in providing rental support where they finance the creation and preservation of affordable rental housing; fund rental assistance and operating subsidies; fund homelessness prevention and assistance; and administers project-based Section 8 contracts in Minnesota on behalf of HUD. Their focus primarily revolves around providing support for housing and does not entail regulatory responsibilities.

With these functions under its purview, Minnesota Housing Finance Agency released its 2020-2023 strategic plan with an explicit goal to

⁶³ Affirmatively Furthering Fair Housing, 88 Fed. Reg. 8516, (February 9, 2023), <https://www.federalregister.gov/documents/2023/02/09/2023-00625/affirmatively-furthering-fair-housing>.

⁶⁴ Babington-Johnson Testimony, 1/17/24 Web Briefing, pp. 9-10.

“reverse the growing housing challenges that face Minnesotans in all parts of the state...[and] correct the inequities that impact communities of color, indigenous populations, and people with disabilities.”⁶⁵

Additionally, it identified five focus areas in their 2020-2023 Strategic Plan and 14 strategic objectives which fall into those areas of focus along with strategic goals that are measured by specific metrics to ensure accountability (Table 1).⁶⁶

Areas of Focus	Strategic Objectives
Improve the Housing System	Focus on the people and places most impacted, especially children
	Create an inclusive and equitable housing system
	Finance housing to support all areas of life
Preserve and Create Housing Opportunities	Preserve the condition and affordability of existing housing
	Increase the development of new housing that is affordable
	Increase access to rental assistance
	Support and preserve manufactured housing
Make Homeownership More Accessible	Address homeownership barriers and reduce disparities
Support People Needing Services	Effectively link services with housing
	Prevent and end homelessness
	Support people with disabilities

⁶⁵ Minnesota Housing Finance Agency, *Go Big So Everyone Can Go Home, 2020 – 2023 Strategic Plan*, p. 28, https://www.mnhousing.gov/content/published/api/v1.1/assets/CONTA24D600810824387B1FA3C250178921C/nat ive?cb= cache_8d61&channelToken=294436b7dd6c4570988cae88f0ee7c90&download=false (hereafter cited as Minnesota Housing Finance Agency, *Go Big So Everyone Can Go Home, 2020 – 2023 Strategic Plan*).

⁶⁶ Minnesota Housing Finance Agency, *Go Big So Everyone Can Go Home, 2020 – 2023 Strategic Plan*, p. 9.

	Support older Minnesotans
Strengthen Communities	Strengthen disinvested communities
	Support Tribal nations and indigenous communities

Table 1

During her presentation to the Committee, Jennifer Ho, Commissioner of the Minnesota Housing Finance Agency, provided an update on their efforts to address homeownership disparities and the shortage of affordable housing. To tackle these challenges among BIPOC households, they set a target goal to direct 40 percent of lending mortgages to indigenous, Black, and households of color. The Minnesota Housing Finance Agency reached its 40 percent target in 2022 and expect to surpass the goal with the additional home buyer resources from the 2023 legislature. Notably, the Minnesota Housing Finance Agency's lending rate to BIPOC communities is twice the industry average, demonstrating its proactive approach to fostering equitable access to housing.⁶⁷

As for efforts to address the shortage of affordable housing, Minnesota Housing Finance Agency set out goals to finance new deeply affordable⁶⁸ rental housing. With its 2023 consolidated request for proposals (the process that they use to award its funding) for rental housing development, they reached 53 percent of the selected new housing units being deeply affordable, surpassing its goal of 50 percent.⁶⁹ To achieve the goal, they: (1) provided zero- interest loans and housing tax credits, which reduced or eliminated a property's debt costs, and (2) incentivized developers to incorporate rental assistance into their developments.⁷⁰

Commissioner Ho commented on the inadequacy of appropriations on supporting affordable housing. Accordingly, during periods when housing infrastructure bonds and legislative appropriations have been more readily available at the state level, Minnesota Housing Finance Agency has observed the highest share of deeply affordable housing units. However, the share of these units decreased in 2022 due to the absence of new housing infrastructure resources allocated by the legislature that year.⁷¹ She also noted that, given the historical inadequacy of capital funding to significantly restrict rents to 30 percent of the area median income, rental assistance remains crucial in the creation of deeply affordable units. Additionally, government subsidies are seen as essential as the private market typically does not usually develop affordable rental housing. With

⁶⁷ Ho Testimony, *12/8/23 Web Briefing*, pp. 4-5.

⁶⁸ Deeply affordable rental units are those rents restricted to be affordable at 30 percent of the area median income.

⁶⁹ Ho Written Testimony submitted 5/2/24, p. 3.

⁷⁰ Ho Testimony, *12/8/23 Web Briefing*, p. 5.

⁷¹ See Appendix B for Federal Fiscal Year Disbursements.

this background, Minnesota Housing Finance Agency is typically able to finance one out of every four projects that request funding because the federal government does not provide adequate housing development resources. She stressed that the federal government plays a significant role in providing capital investments to increase the supply of new affordable housing and rental assistance vouchers to make existing housing affordable.⁷²

Ensuring Minnesotans can both afford and decide where to live, the Minnesota Housing Finance Agency is funding new rental properties in a wide range of communities across the region, concentrating on densely populated areas.⁷³

Commissioner Ho emphasized that collaboration is needed among various stakeholders in order to eliminate housing disparities, especially among the Black community.⁷⁴ Minnesota Housing Finance Agency, in its collective efforts, noted that it is committed to making significant strides in advancing housing equity, ensuring genuine choices and access to affordable housing for all Minnesotans.⁷⁵

Because the Minnesota Housing Finance Agency plays a crucial role in making access to housing a reality for Minnesotans, the Committee analyzed testimony it received and offers relevant findings in the sections below that include references to Minnesota Housing Finance Agency's strategic goals.

Method

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly affected by the civil rights topic at hand; researchers and experts who have rigorously studied and reported on the topic; community organizations and advocates representing a broad range of backgrounds and perspectives related to the topic; and government officials tasked with related policy decisions and the administration of those policies.

Committee studies require Committee members to use their expertise in selecting a sample of panelists that is the most useful to the purposes of the study and will result in a broad understanding of the issue. This method of (non-probability) judgment sampling requires Committee members to draw from their own experiences, knowledge, opinions, and views to gain understanding of the issue and possible policy solutions. Committees are composed of volunteer professionals who are

⁷² Ho Written Testimony submitted 5/2/24, p. 1.

⁷³ Ho Testimony, *12/8/23 Web Briefing*, p. 7.

⁷⁴ *Ibid.*

⁷⁵ Ho Testimony, *12/8/23 Web Briefing*, pp. 3-7.

familiar with civil rights issues in their state or territory. Members represent a variety of political viewpoints, occupations, races, ages, and gender identities, as well as a variety of backgrounds, skills, and experiences. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in oversight of nuances in the testimony.

In fulfillment of Committees' responsibility to advise the Commission of civil rights matters in their locales, Committees conduct an in-depth review and thematic analysis of the testimony received and other data gathered throughout the course of their inquiry. Committee members use this publicly collected information, often from those directly affected by the civil rights topic of study, or others with direct expert knowledge of such matters, to identify findings and recommendations to report to the Commission. Drafts of the Committee's report are publicly available and shared with panelists and other contributors to ensure that their testimony was accurately captured. Reports are also shared with affected agencies to request clarification regarding allegations noted in testimony.

For the purposes of this study, **Findings** are defined as what the testimony and other data *suggested, revealed, or indicated* based upon the data collected by the Committee. Findings refer to a synthesis of observations confirmed by majority vote of members, rather than conclusions drawn by any one member. **Recommendations** are specific actions or proposed policy interventions intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also target specific directed areas in need of further, more rigorous study. Recommendations are directed to the Commission; they request that the Commission itself take a specific action, or that the Commission forward recommendations to other federal or state agencies, policy makers, or stakeholders.

Findings

In keeping with its duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,⁷⁶ the Minnesota Advisory Committee submits the following findings to the Commission regarding housing affordability and equitable access to affordable housing. The Committee's focus is to examine the civil rights implications of the Minnesota Housing Finance Agency's strategic plan, rather than specifically seeking to identify intentionally discriminatory housing policies. Although the Committee's examination did not reveal any deliberate discriminatory policies, it is worth noting that housing civil rights laws include the concept of disparate impact, which is recognized in the subsequent findings that reference specific housing policies. Additionally, the Committee recognizes that the

⁷⁶ 45 C.F.R. § 703.2.

following findings are not fully centered around the Minnesota Housing Finance Agency's strategic plan, as testimony limitations restricted a comprehensive assessment. Therefore, the following findings address civil rights themes that emerged during the Committee's inquiry. The complete meeting transcripts and written testimony received are accessible by a weblink in citation and at the end of the report for further reference.⁷⁷

Finding I: Lack of funding dedicated to maintenance of affordable housing properties creates a challenge for nonprofit housing providers and puts tenants in vulnerable circumstances.

In reference to Minnesota Housing Finance Agency's goal related to preserving and creating housing opportunities, there was discussion about the lack of funding dedicated to the maintenance of affordable housing properties.⁷⁸ Panelists highlighted several competing factors that have an impact on overall maintenance of such properties, such as the rising cost of land and materials;⁷⁹ the stringent regulatory environment in which stakeholders must operate; and the cost burden impacting stakeholders because they do not receive high enough rents for maintenance to be possible.⁸⁰

Will Delaney, Co-Executive Director at Hope Community, testified that rents that affordable housing properties receive are generally not sufficient to cover all of a property's operating needs including preventive maintenance. Similarly, public funding to address maintenance costs is often not available until the "building system has completely failed, meaning residents suffer subpar living conditions in the meantime while repair costs balloon."⁸¹

The concern of habitability occurs in both subsidized and unsubsidized housing where many of the people who have barriers to access are living in housing of last resort and the quality of housing is often highly distressed.⁸² When people are experiencing multiple barriers to housing access, they are less likely to raise issues about habitability. Margaret Kaplan, President of the Housing Justice Center testified that this occurs often in unsubsidized housing that is investor owned. In this case, there is a decline of the quality of housing over time and the disinvestment that happens,

⁷⁷ Link to relevant report materials: <https://usccr.box.com/s/6zfsawahwlmst96udm5kseko80yno4jvl>.

⁷⁸ Kaplan Testimony, *1/26/24 Web Briefing*, pp. 23-4; Delaney Testimony, *1/17/24 Web Briefing*, p. 5.

⁷⁹ Kaplan Testimony, *1/26/24 Web Briefing*, p. 18; Rashida Jackson, *1/17/24 Web Briefing*, p. 22; Delaney Testimony, *1/17/24 Web Briefing*, p. 25; Cashman Testimony, *12/8/34 Web Briefing*, pp. 28-9; Schneider Testimony, *12/8/34 Web Briefing*, p. 29.

⁸⁰ Schneider Testimony, *12/8/34 Web Briefing*, pp. 29-30; Delaney Testimony, *1/17/24 Web Briefing*, p. 5.

⁸¹ Delaney Testimony, *1/17/24 Web Briefing*, p. 5.

⁸² Kaplan Testimony, *1/26/24 Web Briefing*, p. 15.

particularly in low-income communities, communities of color, and rural communities, reinforces itself. In effect, investors are less motivated to preserve those housing properties.⁸³ The absence of a clear statewide standard for defining “appropriate” and “dignified” housing complicates efforts to ensure the safety and well-being of residents, particularly those in the lowest income brackets (i.e. immigrant communities, Black communities, and Indigenous communities).

In the instance where renters proactively take on maintenance, either by themselves or soliciting a service, renovations are done without following regulations that deal with hazards such as lead or asbestos; or basic housing maintenance.⁸⁴ This is especially concerning for tenants because exposure to lead can cause cancer and at high enough levels can kill.⁸⁵ Additionally, when children are exposed, it can stunt growth, causes nervous system and kidney damage, and delay development.⁸⁶ With other hazards like mold exposure comes the risk of respiratory and digestive tract problems and skin infections.⁸⁷ Out of these potential harms, there are no legal requirements specific to addressing mold in most Minnesota homes.⁸⁸

Another dynamic that occurs between a tenant living in poor housing conditions and their landlord is the tenant choosing to withhold rent to force landlords to address the condition of the unit. Often, the only way to get landlords to address these housing code violations is to withhold rent, wait to be sued for eviction, and then raise the housing code violations as a defense in the context of an eviction proceeding.⁸⁹ In the context of racial equity, author on race and social policy Dalton Conley states that racial and ethnic minority tenants are more likely to live in units with housing code violations.⁹⁰

These concerns regarding the need for maintenance occur at a time when Minnesota public housing authorities estimated \$354.9 million in critical maintenance and repairs; or an average of \$16,790

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Centers for Disease Control and Prevention, Lead in Paint, <https://www.cdc.gov/nceh/lead/prevention/sources/paint.htm>. (Noting that construction companies used lead-based paint before it was banned in 1978).

⁸⁶ Centers for Disease Control and Prevention, Health Effects of Lead Exposure, <https://www.cdc.gov/nceh/lead/prevention/health-effects.htm>.

⁸⁷ Centers for Disease Control and Prevention, Mold, <https://www.cdc.gov/mold/default.htm>.

⁸⁸ Minnesota Department of Health, Mold in Rental Housing, <https://www.health.state.mn.us/communities/environment/air/mold/renters.html>.

⁸⁹ Eliza Berkon, “When Tenants Take on Landlords Over Bad Conditions: A Rent-Strike Explainer,” *NPR*, Feb. 27, 2020, <https://www.npr.org/local/305/2020/02/27/809935489/when-tenants-take-on-landlords-over-bad-conditions-a-rent-strike> explainer#:~:text=What%20Exactly%20Is%20A%20Rent,strike%20is%20one%20possible%20response.

⁹⁰ Dalton Conley, “Being Black, Living in the Red: Race, Wealth, and Social Policy in America” University of California Press, December 2009 <https://www.ucpress.edu/book/9780520261303/being-black-living-in-the-red>.

per unit of capital improvements, according to a report released in 2019 by the Minnesota chapter of the National Association of Housing and Redevelopment Officials.⁹¹ Minneapolis Public Housing Authority (MPHA), the state's largest public housing authority shared that more than half of the properties are in "poor" condition and have a backlog of more than \$31 million in need of maintenance and repairs for roofs that leak, deteriorating siding, furnaces or ventilation systems that need to be replaced, etc. MPHA stated that if left unaddressed, the estimated cost to fix these properties repairs would double over the next five years.⁹² In total MPHA has \$210 million maintenance backlog on all of its properties. Saint Paul, the second largest city in Minnesota, also needed \$84 million in capital funding to repair its public housing units.⁹³ There are roughly 135 housing authorities in Minnesota and up to date information concerning backlogs and maintenance is not available through a centralized source.

HUD provides funding for public housing through capital expenses⁹⁴ and an operating fund⁹⁵ subsidy. While capital funding is designated for property improvements, major repairs, and renovations, the operating fund subsidy covers the gap between rent payments and operating expenses. Despite the essential nature of these funds, public housing has suffered significant cuts, experiencing a \$1.6 billion decrease from 2010 to 2016.⁹⁶ Nationally, repair funding has plummeted by 53 percent since 2000, and in 2016, public housing agencies received only 84 percent of their actual operating costs.⁹⁷

⁹¹ Minnesota National Association of Housing and Redevelopment Officials to Minnesota House Capital Investment Committee, April 14, 2021, RE: Bonds for Housing Investment Will Help Minnesota Address the Need for Affordable Housing Across the State; <https://www.house.mn.gov/comm/docs/EfYB0W-bkeSNLfpReeWuw.pdf>.

⁹² Kyle Stokes, "Q&A: Minneapolis Public Housing Chief Makes His Case for a Cut of Minnesota's Big Surplus," MinnPost, Mar. 3, 2023, <https://www.minnpost.com/metro/2023/03/qa-minneapolis-public-housing-chief-makes-his-case-for-a-cut-of-minnesotas-big-surplus/>.

⁹³ Marissa Evans, "St. Paul Public Housing Agency gets OK for program to preserve public housing Units," *Star Tribune*, Oct. 11, 2019, <https://www.startribune.com/st-paul-public-housing-agency-gets-ok-for-program-to-preserve-public-housing-units/562872392/>.

⁹⁴ "About Us -- Office of Capital Improvements -- PIH - HUD," HUD.gov / U.S. Department of Housing And Urban Development (HUD), n.d., https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund/aboutus. (Explanation of the Capital Fund program).

⁹⁵ "Eligible Uses of the Operating Fund Program - Asset Management - HUD," HUD.gov / U.S. Department of Housing And Urban Development (HUD), n.d., https://www.hud.gov/program_offices/public_indian_housing/programs/ph/am/eligibility.

⁹⁶ Center on Budget and Policy Priorities, *Cuts in Federal Assistance Have Exacerbated Families' Struggles to Afford Housing*.

⁹⁷ "Keeping Communities Strong by Preserving Public Housing," Minnesota Housing Partnership, 2018, <https://mhponline.org/images/Public-housing-report-final.pdf> (hereafter cited as Minnesota Housing Partnership, *Keeping Communities Strong by Preserving Public Housing*).

In Minnesota, the Publicly Owned Housing Program (POHP) was established by the Minnesota Legislature to help housing authorities to rehabilitate and preserve public housing units. POHP funds are provided in the form of a 20-year, deferred, forgivable loan and are funded by the sale of General Obligation bonds.⁹⁸ The state has invested nearly \$48 million to improve more than 5,200 public housing units since 2012. Despite these efforts, 95 percent of public housing in Minnesota is over 35 years old, and housing authorities often lack resources for critical repairs, such as fixing roofs, upgrading heating systems, and enhancing security. This deferred maintenance and delayed improvement cycle significantly impacts residents and the financial viability of public housing. The most vulnerable communities residing in public housing include seniors, children, veterans, and individuals with mental or physical illnesses or disabilities. Approximately 65 percent of households have a head of household who is a senior, has a disability, or is both a senior and has a disability, and 33 percent include children.⁹⁹

Shifting attention to rural residents and the issue of affordable housing maintenance, the U.S. Department of Agriculture's 515 rental housing program often stands as the primary affordable housing option for rural residents, many of whom are seniors in need of deeply affordable rental housing. Unfortunately, many of these properties are facing significant challenges. The Midwest, including Minnesota, is anticipated to experience a disproportionate number of Section 515 properties maturing out of the program earlier than the national average. By 2030, it is estimated that 2,125 Section 515 units in Minnesota will mature and potentially exit the program, a decade before the national peak in mortgage maturations. Given that Section 515 properties in Minnesota are more likely to be occupied by seniors than in other states, the lack of maintenance and the potential for displacement due to substantial rent increases place some of rural Minnesota's most vulnerable households at risk. Without a clear contingency plan to maintain affordability in these properties, many are expected to exit the program, further depleting the already limited stock of affordable housing in rural areas.¹⁰⁰

Access to affordable rental housing is crucial to advancing the goals of fair and equitable housing but that access alone is not nearly enough when there are competing concerns that involve funding to complete essential work.¹⁰¹ Chris LaTondresse, CEO for Beacon Interfaith Housing Collaborative, a developer of permanent supportive housing that is deeply affordable homes with

⁹⁸ Minnesota Statutes § 16A.695; Minnesota Statutes § 462A.202.

⁹⁹ Minnesota Housing Partnership, *Keeping Communities Strong by Preserving Public Housing*, p. 2.

¹⁰⁰ Ryan Allen, Susan Bergmann, and Max Geitz, "The USDA Section 515 Program and the Challenge of Preserving Affordable Housing in Greater Minnesota" Center for Urban & Regional Affairs, Apr.15, 2023, <https://www.cura.umn.edu/research/usda-section-515-program-exec-summary>.

¹⁰¹ LaTondresse Testimony, *1/26/24 Web Briefing*, p. 6.; J.D. Duggan, "Bill Proposes \$120M for Nonprofit Housing Providers | Finance & Commerce," Finance & Commerce, Mar. 31, 2023, <https://finance-commerce.com/2023/03/bill-proposes-120m-for-nonprofit-housing-providers/>.

on-site services to meet the unique needs of residents advocated to align capital and service funding. In particular, he advocates for every 70 cents of state-funded development capital allocated, all supportive housing projects should receive an additional 30 cents in upfront capitalized reserves. These reserves would support a mix of services, front desk operations, security, and operating funds.¹⁰² Will Delaney emphasized that the current affordable rental housing system is “at a breaking point for nonprofit providers and [] residents alike.”¹⁰³ He discussed competing issues such as supply chain disruptions, the struggle to secure adequate funding for competitive staff wages, the impact of the opioid crisis, the necessity for private security, and the escalating problem of unsheltered homelessness.¹⁰⁴

All in all, the lack of funding dedicated to the maintenance of affordable housing properties presents a pressing legal issue that requires immediate attention and action. Nonprofit housing providers, tenants, and advocacy organizations may consider pursuing legal avenues to address this systemic problem and uphold the rights of tenants to safe, decent, and affordable housing. It is also incumbent upon policymakers, legislators, and stakeholders to allocate adequate resources and support to ensure the preservation and maintenance of affordable housing while also ensuring supportive housing can provide the necessary services for tenants.

Finding II: The housing system, that includes implementation of mixed streams of financing dedicated to developing, building, and maintaining affordable housing, is disparate and creates concerns for equity in access among vulnerable populations.

As the Committee heard testimony, it was clear that the housing system is complex with multiple stakeholders, funding streams, market forces, and layers of policy occurring at the same time. The majority of panelists tend to agree that to address the affordable housing crisis would require an “all hands on deck” approach from decision makers at every level of government and requires partnership from the private sector. With the significant increase in funding on housing in the 2023 legislative cycle, the Minnesota Housing Finance Agency has the enormous task of managing the state’s funding for developing, building, and maintaining affordable housing. Will Delaney brought to light the reality of the added funding and stated, “we have so underinvested in affordable rental housing for so many decades that one good cycle cannot fix it all.”¹⁰⁵ In an attempt to understand the intricacies of funding and the measurable outcome of that funding, Committee members came to two distinct conclusions:

¹⁰² Ibid.

¹⁰³ Delaney Testimony, *1/17/24 Web Briefing*, p. 5.

¹⁰⁴ Ibid.

¹⁰⁵ Delaney Testimony, *1/17/24 Web Briefing*, p. 6.

- A. *Several government agencies in Minnesota are responsible for implementing regulations that have a direct impact on the speed of housing development, building, and maintenance, particularly in the affordable housing sector. These regulations, while well-intentioned, often introduce bureaucratic hurdles and delays that impede the timely delivery of affordable housing projects.*

For instance, the Minnesota Housing Finance Agency, as the primary state agency responsible for financing affordable housing development, administers various programs and initiatives aimed at addressing housing needs in the state.¹⁰⁶ However, the application and approval processes for the Minnesota Housing Finance Agency funding can be lengthy and cumbersome, requiring extensive documentation and compliance with stringent requirements. These bureaucratic hurdles can delay the start of construction and increase project costs, ultimately affecting the affordability and availability of housing units.

Similarly, the Minnesota Department of Human Services administers housing programs and services aimed at preventing homelessness and providing housing assistance to vulnerable populations. However, the eligibility criteria and application procedures for these programs may be complex and difficult to navigate, particularly for individuals and families in crisis situations.

Additionally, local government agencies, such as cities and counties in Minnesota, play a crucial role in regulating land use and permitting processes for housing development projects. While zoning and land use regulations are intended to promote orderly development and protect community interests, they can sometimes be restrictive or outdated, hindering the development of affordable housing. Delays in obtaining necessary permits and approvals can significantly prolong the development timeline and increase costs for developers, making it more challenging to deliver affordable housing units in a timely manner. When developers begin the process of creating deeply affordable housing and face challenges with the alignment of resources, every year that developers hold onto land, costs increased for them, and slows down the process of increasing the overall affordable housing stock.¹⁰⁷

These hurdles are also seen at the federal level with when interacting with HUD as they play a significant role in regulating housing development and maintenance through grant programs and regulatory oversight. Inconsistencies in federal regulations and reporting requirements add another layer of complexity to affordable housing projects, often leading to confusion and delays in implementation.

¹⁰⁶ Minnesota Housing Finance Agency, <https://www.mnhousing.gov/about-us.html>.

¹⁰⁷ Kaplan Testimony, 1/26/24 Web Briefing, p. 18.

The regulatory landscape in Minnesota, governed by multiple government agencies at the federal, state, and local levels, presents significant challenges for the development, building, and maintenance of affordable housing. One instance showcasing how regulations pose a hurdle to creating affordable and supportive housing for various occupants is demonstrated by the process required to establish shelters tailored for youth. Organizations or property owners interested in formalizing housing encounter numerous administrative hurdles, including obtaining as many as four licenses from various government entities such as the Minnesota Department of Health and local county offices with some entities even countering certain requirements.¹⁰⁸ To address this issue, Reverend Babington-Johnson emphasized the need for stakeholders to be more intentional in developing housing as individuals are experiencing an economic crisis.¹⁰⁹ Similarly, panelists advocated for a reform of the regulatory framework. Minnesota Housing Partnership, Habitat for Humanity of Minnesota, and a range of diverse stakeholders advocate for a reform that encompasses enabling and incentivizing diverse housing types and densities across neighborhoods, streamlining and enhancing the production and affordability of housing through land use reforms, and encouraging the development of affordable housing while directing local governments to actively support such initiatives.¹¹⁰ By removing obstacles, policymakers can facilitate the timely delivery of affordable housing units and better meet the housing needs in Minnesota.

B. The lack of incentives to develop affordable and deeply affordable housing in Minnesota stems from a housing system that predominantly favors landlords and developers focused on market-rate housing. This systemic imbalance perpetuates disparities in housing access and affordability, particularly for low-income individuals and families.

One of the primary challenges facing developers of affordable housing in Minnesota is the financial viability of such projects. Unlike market-rate developments, which can generate substantial profits for developers, affordable housing projects often operate on thinner profit margins or may even operate at a loss. The limited potential for financial returns discourages developers from investing in affordable housing, particularly deeply affordable units serving those with the lowest incomes. One example of a program designed to incentivize affordable housing development is the federal Low-Income Housing Tax Credit (LIHTC) program.¹¹¹ LIHTC provides tax credits to developers who commit to building or rehabilitating affordable housing

¹⁰⁸ Holger Testimony, *11/9/23 Web Briefing*, pp. 21-2.

¹⁰⁹ Babington-Johnson, *1/17/24 Web Briefing*, p. 23.

¹¹⁰ Facilitate Housing Supply Framework and Summary Recommendations drafted by a workgroup of diverse stakeholders including Minnesota Housing Partnership and Habitat for Humanity of Minnesota. See Appendix C.

¹¹¹ 26 U.S.C. § 42.

units, but the program's effectiveness in incentivizing deeply affordable housing is limited.¹¹² According to the GAO, there is limited federal oversight of the program, and it is difficult to compare cost drivers and trends across locations because federal oversight of cost data is limited and data collection is inconsistent.¹¹³ Investors rely on that tax credit and more than likely do not put in their own money into affordable housing projects because it yields less profits. The nonprofits then, who are involved with working developers, end up having to make up for some costs involved. Developers may prioritize projects that maximize tax credits while offering a mix of market-rate and affordable units, rather than focusing exclusively on building deeply affordable housing.

Furthermore, the regulatory environment in Minnesota inadvertently discourages the development of deeply affordable housing. Zoning restrictions,¹¹⁴ land use regulations, and other regulations increase development costs and delay project timelines, further eroding the financial feasibility of affordable housing projects. In a study conducted by the Minneapolis Federal Reserve, surveying 15 cities with recent track records of approving multifamily developments, land use regulations sometimes require beyond what developers would have otherwise planned to serve residents such as parking requirements that vary significantly in cost. For example, some cities require enclosed parking spots (e.g. garage parking or underground parking structures), while others only require surface parking spots. The per-parking-spot cost difference between the two is significant: surface-lot spots could cost \$3,000–\$10,000 apiece, while structured spots can cost \$30,000–\$50,000.¹¹⁵ Statewide land use policies related to minimum residential parking requirements vary based on the type of residential uses: the minimum number of parking spaces for one-family dwellings and two-family and townhouse dwellings is 1.5 spaces per unit; multi-family and carriage house dwelling is 1 space per unit; housing for the elderly is 1 space per 4 residents; and community residential facilities are 1 space per four bedrooms.¹¹⁶

Also, community opposition to affordable housing developments, or NIMBYism, often rooted in misconceptions and stigma surrounding low-income housing, can pose significant challenges for developers seeking to secure necessary approvals and funding.

¹¹² Government Accountability Office, Low-Income Housing Tax Credit: Opportunities to Improve Oversight, GAO-24-107064, December 2023, <https://www.gao.gov/assets/d24107064.pdf>.

¹¹³ Ibid.

¹¹⁴ Mavity Testimony, *11/9/23 Web Briefing*, pp. 20-1; Holger Testimony, *11/9/23 Web Briefing*, pp. 21-2.

¹¹⁵ Ben Horowitz, Hue Nguyen, Libby Starling, Alene Tchourumoff, “City Planners and Private Developers Find Common Ground on Improving Land Use Policies and Processes” *Federal Reserve Bank of Minneapolis*, Mar. 22, 2024, <https://www.minneapolisfed.org/article/2024/city-planners-and-private-developers-find-common-ground-on-improving-land-use-policies-and-processes>.

¹¹⁶ Minnesota Administrative Rules, 2400.2820.

Another factor contributing to the lack of incentives for affordable housing development in Minnesota is the competitive nature of the housing market. Developers may prioritize projects that cater to higher-income renters or buyers, as these projects offer greater potential for profitability. This market-driven approach perpetuates disparities in housing access and affordability, particularly for low-income individuals and families who are disproportionately impacted by rising rents and housing costs.

Addressing this imbalance in the housing market that favors landlords and developers focused on market-rate housing requires targeted policy interventions, such as increasing funding for affordable housing programs, streamlining regulatory processes, and combating stigma and opposition to affordable housing developments. To address the housing shortage and focus on developing affordable housing, Ramsey County created an economic inclusion and competitiveness plan that focused on 30 percent AMI housing by utilizing their taxes and involved a strong partnership of community developers.¹¹⁷ Cities like Minneapolis are no stranger to land use reforms as it has enacted major housing policies since 2009 to expand its housing supply by eliminating minimum parking requirements for new developments, encourage apartment development on commercial corridors, establish building height minimums in high-density zones and permit duplex and triplex construction on all residential lots.¹¹⁸ Additionally, Minneapolis and Saint Paul eliminated minimum parking requirements in 2021 for new developments which has been shown to be an effective change for increasing housing affordability and improving city design.¹¹⁹

Finding III: Source of income discrimination is among the barriers to ensuring equitable access to affordable housing for certain protected groups.

Source of income discrimination poses a significant barrier to ensuring equitable access to affordable housing for certain protected groups in Minnesota. Currently, it is legal for landlords in the state to refuse to rent to housing applicants based on how they intend to pay for rent. This

¹¹⁷ Delaney Testimony, *1/17/24 Web Briefing*, p. 27.

¹¹⁸ Linlin Liang, Adam Staveski, and Alex Horowitz, “Minneapolis Land Use Reforms Offer a Blueprint for Housing Affordability,” *The Pew Charitable Trusts*, Jan. 4, 2024, <https://www.pewtrusts.org/en/research-and-analysis/articles/2024/01/04/minneapolis-land-use-reforms-offer-a-blueprint-for-housing-affordability>.

¹¹⁹ Zak Yudhishthu, “Ending Minimum Parking Requirements Was a Policy Win for the Twin Cities,” *Minnesota Reformer*, August 31, 2023, <https://minnesotareformer.com/2023/08/31/ending-minimum-parking-requirements-was-a-policy-win-for-the-twin-cities/>.

practice disproportionately affects low-income families who rely on housing assistance programs, which are scarce, publicly funded resources.¹²⁰

Housing assistance programs in Minnesota encompass a variety of program types, including Bridges, emergency rental assistance, and Section 8/Housing Choice Vouchers.¹²¹ However, qualifying for these programs can be a lengthy and arduous process; and often taking years, followed by extended waitlist times to receive assistance. For example, the Minneapolis Public Housing Authority has not opened its waitlist to new applicants since 2019, exacerbating the challenges faced by low-income families in securing stable and affordable housing.¹²²

While federal law does not classify income as a protected class, protections for individuals using housing assistance have been enacted at the state and local levels across the country. Currently, 21 states and over 90 local municipalities have implemented source of income protections against discrimination.¹²³

Currently, Saint Paul¹²⁴ and Minneapolis stand as the only cities in Minnesota that prohibits discrimination among renters who use any rent subsidies to pay for housing.¹²⁵ This is incredibly beneficial to the tenants receiving Section 8 Housing Choice Vouchers not only because it addresses race equity with nearly 86 percent of Minneapolis tenants who rely on these vouchers are Black or African American but also because it provides stable housing for children who make up half of those tenants.¹²⁶

The impact of source of income discrimination extends beyond housing access; it serves as a proxy for other forms of illegal discrimination, particularly racial discrimination, and discrimination against individuals with disabilities. In Minnesota, this becomes an issue of racial equity, as 44

¹²⁰ “Source of Income Protection,” Minnesota Housing Partnership and Housing Justice Center, <https://www.house.mn.gov/comm/docs/yI815oDNZUeXMPofuJDISA.pdf>;

¹²¹ 42 U.S.C. § 1437f(o) (2018); 24 C.F.R. § 982.1(a) (2023).

¹²² Madison McVan, “Minneapolis Section 8 Protection Ordinance Withstands Legal Challenge,” *Minnesota Reformer*, Jan. 23, 2024, <https://minnesotareformer.com/2024/01/22/minneapolis-section-8-protection-ordinance-withstands-legal-challenge/>.

¹²³ Nada Hussein and Sarag Gallagher, “End Rental Arrears to Stop Evictions: The State of Statewide Tenant Protections,” *National Low Income Housing Coalition*, May 2023, <https://nlihc.org/sites/default/files/The-State-of-Statewide-Tenant-Protections.pdf>.

¹²⁴ City of Saint Paul Legislative Ordinance Chapter 183.02 (31).

¹²⁵ Katelyn Vue, “Minneapolis City Leaders Urge Renters to Report Discrimination Against Section 8 Vouchers,” *Sahan Journal*, Nov. 2, 2023, <https://sahanjournal.com/housing/section-8-vouchers-minneapolis-renters-discrimination-ordinance/>.

¹²⁶ *Ibid.*

percent of Housing Choice Voucher assistance recipients are Black or African American.¹²⁷ Landlords who refuse to accept vouchers perpetuate exclusionary practices that disproportionately affect under-resourced Minnesotans, particularly Black Minnesotans, hindering opportunities for economic security and upward mobility. For individuals with disabilities living in a time of a housing shortage, their disability is what makes them more vulnerable to that instability.¹²⁸ Even amidst increased funding through Minnesota’s recent initiatives such as the “Bring It Home Campaign”¹²⁹ aimed at expanding access to affordable housing, the persistence of source of income discrimination undermines these efforts.¹³⁰ Individuals who receive specialized voucher types, such as VASH vouchers for veterans and Bridges vouchers for individuals with disabilities, face challenges in finding suitable housing placements due to landlord reluctance to accept housing assistance vouchers.¹³¹

Given these challenges, there is a consensus among panelists that the state cannot rely solely on incentives for landlords to accept housing assistance vouchers. Regulation is essential to ensure equitable access to affordable housing for all Minnesotans. Even reported in a study commissioned by HUD, researchers suggest that these laws have the potential to make a substantial difference in utilization rates and locational outcomes.¹³² Making source of income discrimination illegal would have significant benefits, including preventing homelessness, increasing the availability of homes for individuals seeking affordable housing, and expanding housing choice across the state.¹³³ Advocates, including the Minnesota Housing Finance Agency, have introduced legislation over the years to make source of income discrimination illegal,¹³⁴ but state legislators have thus far failed to pass such laws.

¹²⁷ “Source of Income Protection,” Minnesota Housing Partnership and Housing Justice Center, <https://www.house.mn.gov/comm/docs/yI815oDNZUeXMPofuJDISA.pdf>.

¹²⁸ Ibid

¹²⁹ “BringitHomeMN,” <https://www.bringithomeminnesota.org/>.

¹³⁰ Kaplan Testimony, *1/26/24 Web Briefing*, p. 16.

¹³¹ Ibid., p. 21.

¹³² Lance Freeman, “The Impact of Source of Income Laws on Voucher Utilization,” *Housing Policy Debate* 22, no. 2 (March 1, 2012): 297–318, <https://doi.org/10.1080/10511482.2011.648210>.

¹³³ Mavity Testimony, *11/9/23 Web Briefing*, p. 19; Kaplan Testimony, *1/26/24 Web Briefing*, p. 16.

¹³⁴ Ho Testimony, *12/8/23 Web Briefing*, p. 7; Kaplan Testimony, *1/26/24 Web Briefing*, p. 16.

In addition to agreeing that regulation is needed to prohibit discrimination based on income sources, panelists advocate for increased and sustained rental assistance, citing inadequate appropriations to ensuring greater access to affordable housing.¹³⁵

Minnesota Housing Finance Agency provides funding through its rental assistance programs:¹³⁶ Bridges,¹³⁷ Family Homeless Prevention and Assistance Program,¹³⁸ Homework Starts with Home,¹³⁹ and Housing Trust Fund.¹⁴⁰ Between 2020-2023, Minnesota Housing Finance Agency also disbursed rental assistance through Project-Based Section 8 assistance on behalf of HUD, project-based Section 811 assistance, federal COVID-19 emergency rental assistance under the RentHelpMN program, and COVID Housing Assistance Program. In addition, the 2023 Minnesota Legislature created a new state rental assistance program called Bring It Home Rental Assistance that Minnesota Housing Finance Agency is responsible for implementing.¹⁴¹

Finding IV: Reliance on tenant screening tools using certain criteria may discriminate against protected categories and violate the Fair Housing Act.

Landlords frequently rely on screening companies to assist in the review of tenant applications as a way to objectively mitigate the risk of renting to potential.¹⁴² These screening companies utilize proprietary algorithms that consider various criteria such as eviction filings, criminal records, and credit history to produce a risk score or recommendation for landlords.¹⁴³ The opacity of these

¹³⁵ Mavity Testimony, *11/9/23 Web Briefing*, p. 10; Watlov Philips Testimony, *12/8/23 Web Briefing*, p. 10; Kaplan Testimony, *1/26/24 Web Briefing*, p. 16; LaTondresse Testimony, *1/26/24 Web Briefing*, p. 5, 22; Burch Testimony, *1/26/24 Web Briefing*, p. 11.

¹³⁶ Funding Data can be found in Appendix B.

¹³⁷ Minnesota Statutes § 462A.2097.

¹³⁸ Minnesota Statutes § 462A.204. The Family Homeless Prevention Assistance Program encompasses more than just emergency rental assistance, it consists of a mix of short-term rent assistance, security deposits, utilities, transportation assistance and case management services.

¹³⁹ Minnesota Statutes § 462A.201, subd.2; Minnesota Statutes § 462A.204, subd. 8.

¹⁴⁰ Minnesota Statutes § 462A.201.

¹⁴¹ Minnesota Statutes 2023, section 462A.05, subd. 42; Minnesota Omnibus Judiciary and Public Safety Appropriations (May 19, 2023), which is available here: <https://legiscan.com/MN/text/SF2909/id/2809477>.

¹⁴² Birch Testimony, *1/26/24 Web Briefing*, p. 10; Kaplan *1/26/24 Web Briefing*, p. 16.

¹⁴³ Chi Chi Wu, Ariel Nelson, April Kuehnhoff, and Caroline Cohn, “Digital Denials: How Abuse, Bias, and Lack of Transparency in Tenant Screening Harm Renters,” *National Consumer Law Center*, September 2023 https://www.nclc.org/wp-content/uploads/2023/09/202309_Report_Digital-Denials.pdf September 2023 (hereafter cited as National Consumer Law Center, *Digital Denials*).

algorithms can obscure intentional discrimination by concealing whether they improperly rely on data about protected classes, making disparate impact claims difficult to prove.

According to a study by the National Consumer Law Center, landlords often make leasing decisions based on these tenant screening scores and recommendations, without considering disputes or mitigating factors.¹⁴⁴ Algorithms are programmed to learn from patterns and adjust to make more precise predictions for future behaviors.¹⁴⁵ However, the use of big data perpetuates existing patterns of discrimination, as it relies on historical data that reflects systemic biases.

The reliance on data in the tenant selection process disproportionately impacts the BIPOC community. Nationally, African American and Latino families are far more likely to be renters than White families. An estimate of 44 percent of African American families and 51 percent of Latino families are homeowners, whereas 73 percent of White families are homeowners.¹⁴⁶ On a statewide level, these figures are similar: in Minnesota, 31 percent of African American families and 57 percent of Latino families are homeowners, and 77 percent of White families are homeowners.¹⁴⁷ This discrepancy results in minorities being more susceptible to eviction proceedings. Additionally, evictions disproportionately affect women of color,¹⁴⁸ as eviction records, regardless of outcome, can follow renters for years, making it challenging to obtain and maintain future housing, potentially leading to a cycle of poverty and homelessness.

Using criminal records as a criterion for tenant selection can lead to unjust barriers for applicants who disproportionately interact with the criminal legal system due to systemic racial bias and unfair policing practices.¹⁴⁹ This is particularly important because in Minnesota people of color

¹⁴⁴ Ibid.

¹⁴⁵ Mark MacCarthy, Standards of Fairness for Disparate Impact Assessment of Big Data Algorithms, 48 CUMB. L. REV. 67, 74 (2018) (explaining that machine learning programs improve as they are exposed to more data, adjusting over time according to their original design as well as the training data to which they were originally exposed).

¹⁴⁶ American Community Survey 2021.

¹⁴⁷ American Community Survey 2021.

¹⁴⁸ Catherine Lizette Gonzalez, STUDY: Women of Color Living in Poverty Face Highest Risk of Eviction, COLORLINES (Apr. 9, 2018), <https://www.colorlines.com/articles/study-women-color-living-poverty-face-highest-risk-eviction> [<https://perma.cc/VA9V-MXZU>] (In a 2014 study authored by Matthew Desmond, Black women with low-incomes were evicted at alarmingly higher rates than other racial groups due to factors such as having children, low wages and landlord-tenant gender dynamics.); Timothy A. Thomas et al., The State of Evictions: Results from the University of Washington Evictions Project, UNIV. OF WASH. (Feb. 17, 2019), <https://evictions.study/washington/> [<https://perma.cc/83HA-RF58>] (finding different trends in eviction rates by race among three different Washington counties).

¹⁴⁹ Criminal justice data are insufficient where the Federal Bureau of Investigation's Uniform Crime Report relies on voluntary contributions that are not rich enough or comprehensive enough to meet the requirements for in-depth analysis; National Consumer Law Center, *Digital Denials*, p. 37.

are overrepresented in prisons and jails.¹⁵⁰ Notably, African Americans are incarcerated at a rate 9.1 times higher than White people.¹⁵¹ Similarly, credit scores can also impact the overall score or recommendation to the landlord. The National Consumer Law Center argues that there is no empirical or scientific evidence showing that credit reports and scores accurately predict a successful tenancy. Furthermore, credit reports are riddled with errors,¹⁵² which makes them an unreliable tool, and the use of credit reports for rental housing likely has a disparate impact on Black and Latino tenants.¹⁵³ The economic consequences of the nation's long history of racial discrimination in housing (redlining),¹⁵⁴ employment,¹⁵⁵ and debt collection¹⁵⁶ are the factors used in credit reports.

Credit scores are often lower in communities of color, with huge racial disparities. An Urban Institute study found that 50 percent of White households have a FICO credit score above 700, compared with only 20.6 percent of Black households,¹⁵⁷ a finding similar to a dozen earlier studies on the topic.¹⁵⁸ The use of credit history in the state is only addressed in Minneapolis's recent city ordinance when a renters protections ordinance was designed as part of a larger racial equity policy shift in Minneapolis.¹⁵⁹ The ordinance explicitly addresses concerns about credit

¹⁵⁰ “Minnesota Incarceration Rates by Race,” *Prison Policy Initiative*, https://www.prisonpolicy.org/graphs/rates2021/MN_Rates_2021.html; Bureau of Justice Statistics and U.S. Census Bureau data; https://prisonpolicy.org/data/race_bystate_2021.xlsx.

¹⁵¹ “Updated Data and Charts: Incarceration Stats by Race, Ethnicity, and Gender for All 50 States and D.C.,” *Prison Policy Initiative*, Sept. 27, 2023, https://www.prisonpolicy.org/blog/2023/09/27/updated_race_data/#compare.

¹⁵² Federal Trade Commission, Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003, December 2012, <https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf> (A landmark FTC study from 2012 on credit reporting errors found that one in five consumers have verified errors in their credit reports, and one in 20 consumers have errors so serious that they would be denied credit or need to pay more for it.)

¹⁵³ National Consumer Law Center, *Digital Denials*, p. 55.

¹⁵⁴ Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (2017).

¹⁵⁵ Christian E. Weller, Ctr. for Am. Progress, *African Americans Face Systematic Obstacles to Getting Good Jobs* (2019).

¹⁵⁶ Paul Kiel & Annie Waldman, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods*, ProPublica (Oct. 8, 2015).

¹⁵⁷ Jung Hyun Choi et al., Urban Inst., *Explaining the Black-White Homeownership Gap: A Closer Look at Disparities across Local Markets* 8 (2019).

¹⁵⁸ “Past Imperfect: How Credit Scores and Other Analytics “Bake In” and Perpetuate Past Discrimination,” *National Consumer Law Center*, May 2016, https://www.nclc.org/wp-content/uploads/2022/09/Past_Perfect.pdf.

¹⁵⁹ See generally, City of Minneapolis, August 28, 2019 Housing Policy & Development Committee, Youtube (Aug. 28, 2019), <https://www.youtube.com/watch?v=VdqDoQYNis8&t=10619s&fbclid=IwAR3nEyLFROboNMmpP4bLH4jZd0Mw8i3-m2ztjU7XXQx-g7Z-bck6BHa8Whk>.

history by prohibiting the use of a credit score or insufficient credit history when screening applicants and no longer factoring in evictions that are older than a decade.¹⁶⁰

The use of predictive algorithms by screening companies can streamline decision-making for landlords, but it also has the potential to violate the Fair Housing Act by perpetuating intentional discrimination or disparate treatment. The law subjects housing providers to liability if they intentionally refuse to sell or rent to a person because of that person's membership in a protected class.

Understanding this concern, panelists discussed the need for legislation in Minnesota to address the potential for disparate impact on protected groups.¹⁶¹ Organizations such as the Family Housing Fund attempt to address this issue is by working with stakeholders to develop data driven recommendations for selection criteria that has a relationship to housing outcomes while also advocating for more accountability for the tenant screening industry that includes regulating their sourcing, assessment and distribution of information that has a direct impact on housing access.¹⁶² On the federal level, Federal Trade Commission, the Consumer Financial Protection Bureau, Congress, and states can have a role in regulating the tenant screening industry and ensure renters' access to and affordable housing.¹⁶³

In general, it was also recommended that local, state, and federal funding is needed to ensure that property owners such as landlords and property management companies are abiding by fair housing laws and regulations. As for protections for renters, more outreach and education is needed on tenant rights and fair housing with an emphasis on target populations who may be most impacted.¹⁶⁴

Finding V: The concentration of affordable housing can impact long term outcomes for individuals and families by restricting availability of housing choice.

Housing is more than a place to live. It also affects the ability of an individual or family to access other dimensions of opportunity, such as employment, education, transportation, or social services. As such, the geographic location of housing has important consequences for residents and has frequently been a concern for civil rights law.

¹⁶⁰ Ibid.

¹⁶¹ Birch Testimony, *1/26/24 Web Briefing*, p. 10; Kaplan Testimony, *1/26/24 Web Briefing*, p. 16.

¹⁶² Birch Testimony, *1/26/24 Web Briefing*, p. 10.

¹⁶³ National Consumer Law Center, *Digital Denials*, p. 77.

¹⁶⁴ Holger Testimony, *11/9/23 Web Briefing*, p. 12.

Racial and socioeconomic segregation have historically been associated with a lack of access to opportunity.¹⁶⁵ By confining historically disadvantaged or discriminated groups, researchers have found that residential segregation has been empirically demonstrated to reduce individuals' ability to enter social networks of opportunity, including in schools and workplaces.¹⁶⁶ Recent research by economists Raj Chetty et al. has demonstrated that individuals' economic mobility increases in areas where residents with lower incomes have exposure and form connections to residents with higher incomes, a concept he terms "social capital." Chetty et al. estimate that these connections are the primary driver of improved incomes in economically integrated areas. They estimate that low-income individuals' adult incomes would improve by 20 percent if their social networks were as relatively affluent as those of higher-income individuals. Residential segregation has been statistically associated with reduced incomes, worsened mental health outcomes, and lower educational attainment.¹⁶⁷

As a result of findings like these,¹⁶⁸ federal civil rights law, most notably the Fair Housing Act, requires recipients of federal housing funds to advance access to opportunity, and relatedly, to mitigate the impacts of segregation.¹⁶⁹ 42 USC § 3608 (e) requires HUD to administer programs in a manner "affirmatively to further" the purposes of the Fair Housing Act. Federal courts have

¹⁶⁵ Williams DR, Collins C. Racial residential segregation: a fundamental cause of racial disparities in health. *Public Health Rep.* 2001;116(5):404–16. doi: [10.1093/phr/116.5.404](https://doi.org/10.1093/phr/116.5.404); Williams DR, Sternthal M. Understanding racial-ethnic disparities in health: sociological contributions. *Journal of health and social behavior.* 2010;51 Suppl:S15–27. Epub 2010/12/22. doi: [10.1177/0022146510383838](https://doi.org/10.1177/0022146510383838); Williams DR, Neighbors HW, Jackson JS. Racial/ethnic discrimination and health: findings from community studies. *Am J Public Health.* 2003;93(2):200–8.

¹⁶⁶ Raj Chetty, Matthew O. Jackson, Theresa Kuchler, Johannes Stroebel, Nathaniel Hendren, et al., "Social Capital I: Measurement and Associations with Economic Mobility," 608 *Nature* 108 (2022); Raj Chetty, Matthew O. Jackson, Theresa Kuchler, Johannes Stroebel, Nathaniel Hendren, et al., "Social Capital II: Determinants of Economic Connectedness," 608 *Nature* 122 (2022).

¹⁶⁷ See, e.g. Raj Chetty, Nathaniel Hendren, Lawrence Katz, "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment," 106 *American Economic Review* 855 (2015); Benson, J. & Borman, G. D. "Family, neighborhood, and school settings across seasons: when do socioeconomic context and racial composition matter for the reading achievement growth of young children?" 112 *Teachers College Record* 1338-1390 (2010); Kling, J. R., Liebman, J. B. & Katz, L. F., "Experimental analysis of neighborhood effects," 75 *Econometrica* 83–119 (2007).

¹⁶⁸ Raj Chetty, Matthew O. Jackson, Theresa Kuchler, Johannes Stroebel, Nathaniel Hendren, et al., "Social Capital I: Measurement and Associations with Economic Mobility," 608 *Nature* 108 (2022); Raj Chetty, Matthew O. Jackson, Theresa Kuchler, Johannes Stroebel, Nathaniel Hendren, et al., "Social Capital II: Determinants of Economic Connectedness," 608 *Nature* 122 (2022).

¹⁶⁹ U.S. Department of Housing And Urban Development, "Affirmatively Furthering Fair Housing," HUD.gov (HUD), n.d., <https://www.hud.gov/AFFH>; Babington-Johnson Testimony, 1/17/24 *Web Briefing*, p. 9.

read that mandate in light of the Act’s aim of creating “truly integrated and balanced living patterns,” as described by its chief co-author, then-Senator Walter Mondale.¹⁷⁰

One panelist maintained that segregation persists in Minnesota and is perpetuated by the geographic allocation of subsidized housing, including subsidized housing funding by the Minnesota Housing Finance Agency.¹⁷¹ Historically, most affordable housing in the state has been built in the urban core cities of Minneapolis and Saint Paul. However, the Minnesota Housing Finance Agency reported:

“in the last several years, 63 percent of the new rental units in the Twin Cities metropolitan area that have been awarded funds through the Consolidated Request for Proposals have been in the suburbs while 37 percent have been in the central cities of Minneapolis and Saint Paul.”¹⁷²

Nonetheless, one panelist expressed concern that these geographic patterns prevent lack of access to opportunity, including educational opportunity.¹⁷³ Barriers to affordable housing construction /are not distributed equally across Minnesota. Though some cities, such as Minneapolis, Saint Paul, Saint Louis Park, Golden Valley, Edina, Burnsville, and Wayzata, have loosened zoning restrictions to allow for a greater density of units or more unit types including Accessory Dwelling Units, but other municipalities have not done so.¹⁷⁴ Some suburban communities still require large lot sizes, restrict rental or multifamily housing, or require additional parking, which helps prevent the construction of subsidized affordable units in these areas.¹⁷⁵ Stringent requirements effectively create barriers to building a more diverse supply of housing which exclude lower-income individuals and families, thereby reinforcing economic and racial segregation.¹⁷⁶ Housing providers report neighborhood resistance, sometimes manifested through zoning regulation or local review of affordable housing proposals.¹⁷⁷

In Minnesota, zoning laws wield significant influence over housing disparities and economic mobility. Research shows that communities with strict zoning requirements tend to have

¹⁷⁰ See, e.g., *Client's Council v. Pierce*, 711 F.2d 1406, 1425 (8th Cir. 1983); *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205 (1972).

¹⁷¹ Babington-Johnson Testimony, 1/17/24 *Web Briefing*, p. 8-10.

¹⁷² Ho Written Testimony submitted 6/3/24.

¹⁷³ Kwong Written Testimony submitted 3/31/24, p. 1.

¹⁷⁴ Mavity Testimony, 11/9/23 *Web Briefing*, p. 20.

¹⁷⁵ Mavity Testimony, 11/9/23 *Web Briefing*, p. 21.

¹⁷⁶ Abigail Grimshaw, “Understanding Exclusionary Zoning and Its Impact on Concentrated Poverty,” The Century Foundation, Mar. 15, 2022, <https://tcf.org/content/facts/understanding-exclusionary-zoning-impact-concentrated-poverty/>.

¹⁷⁷ Holger Testimony, 11/9/23 *Web Briefing*, p. 13-4.

higher home prices,¹⁷⁸ rent growth,¹⁷⁹ and levels of homelessness¹⁸⁰ than those with more permissive zoning laws. These disparities are particularly pronounced in the Twin Cities metro area, where the distribution of affordable housing presents a challenges to economic advancement, notably for lower-income individuals and BIPOC communities.¹⁸¹ Census data on median household income serves as an indicator of this issue, demonstrating concentration of affordable housing in neighborhoods such as Minneapolis, juxtaposed against the more affluent locales of Minnetonka, Mendota Heights, Dellwood or Eden Prairie. For example, Minneapolis, with a median household income of \$70,099, contrasts starkly with Minnetonka's \$106,023,¹⁸² Mendota Heights' \$129,800, Dellwood's \$206,979 or Eden Prairie's \$129,345,¹⁸³ thus exacerbating economic disparities and impeding upward mobility. This clustering of affordable housing can also perpetuate segregation. Communities with higher affordable housing densities have larger minority populations. For instance, in Minneapolis, 31.9 percent of the population is BIPOC or Indigenous. More specifically, in North Minneapolis, African American residents and Hispanic/Latino residents collectively comprise over 70 percent of the population, in contrast to 12.8 percent representation of BIPOC in Minnetonka, 19.2 percent in Mendota Heights, 5.8 percent in Dellwood, and 27.7 percent Eden Prairie.¹⁸⁴

One key dimension of neighborhood opportunity is education. David Schultz, professor at Hamline University noted:¹⁸⁵

“Minnesota has a long history of residential segregation which impacts schooling and learning when considering test scores and graduation rates.¹⁸⁶ Overwhelmingly student achievement is correlated

¹⁷⁸ Edward Glaeser and Joseph Gyourko, “The Impact of Building Restrictions on Housing Affordability,” Federal Reserve Bank of New York, June 2023,

<https://www.newyorkfed.org/medialibrary/media/research/epr/03v09n2/0306glae.pdf>.

¹⁷⁹ Alex Horowitz and Adam Staveski, “New York’s Housing Shortage Pushes up Rents and Homelessness,” May 25, 2023, <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/05/25/new-yorks-housing-shortage-pushes-up-rents-and-homelessness>.

¹⁸⁰ Dawkins, Casey J. “Homelessness and Housing Supply.” *Journal of Urban Affairs*, (2023), 1–19. doi:10.1080/07352166.2023.2168553.

¹⁸¹ Kwong Written Testimony submitted 4/2/24.

¹⁸² U.S. Census Bureau, American Community Survey, 2021.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ David Schultz, “Improving Minnesota Education: What Does the Evidence Say Really Works?,” *Minnesota Reformer*, November 8, 2023, <https://minnesotareformer.com/2023/03/14/improving-minnesota-education-what-does-the-evidence-say-really-works/>.

¹⁸⁶ John Powell et al., “Examining the Relationship Between Housing, Education, and Persistent Segregation.” 1997, <https://eric.ed.gov/?id=ED428154>.

with poverty.¹⁸⁷ Children who live in high or concentrated poverty neighborhoods generally do not score as high on standardized tests¹⁸⁸ and graduate at lesser rates than those who live in affluent communities.¹⁸⁹”

Minnesota faces some of the most pronounced racial disparities in the country, stemming from persistent systemic obstacles experienced by BIPOC communities.¹⁹⁰ Among these disparities is the substantial difference in earning potential between people of color and their White peers. This racial wage gap becomes evident at an early stage in life, often emerging shortly after high school graduation.¹⁹¹ As the wage gap persists and widens over time, they perpetuate racial inequalities in all aspects of life, such as home ownership, access to financial credit, quality health care, and employment stability.¹⁹² The Minnesota Department of Employment and Economic Development studied this dynamic and found that in the first year after high school, median wages are approximately the same regardless of race (around \$10 an hour), but after only three years the earnings of White Minnesotans start growing at a much faster pace than others. Over the course of nine years following high school graduation, the wages of White Minnesotans grew exactly twice as much as those of American Indians (110 percent versus 55 percent). This data shows White students earned \$20.96, Asian students earned \$18.98, Latino students earned \$18.31, Black students earned \$16.36 and American Indian students earned \$15.56.

¹⁸⁷ Camara P. Jones, Cedric M. Bright, and Cato T. Laurencin, “Segregation in Housing and Education,” *The Impacts of Racism and Bias on Black People Pursuing Careers in Science, Engineering, and Medicine* - NCBI Bookshelf, November 18, 2020, <https://www.ncbi.nlm.nih.gov/books/NBK565026/>.

¹⁸⁸ Christopher Ingraham, “Wealthy Suburbs Lead the Pack on Standardized Test Scores, Data Show,” *Minnesota Reformer*, Sept. 5, 2023, <https://minnesotareformer.com/2023/09/05/wealthy-suburbs-lead-the-pack-on-standardized-test-scores-data-show/>; “Minnesota Report Card,” *Minnesota Report Card*, n.d., <https://rc.education.mn.gov/#mySchool/p--3>.

¹⁸⁹ Portia Miller, Elizabeth Votruba-Drzal, and Rebekah Levine Coley, “Poverty and Academic Achievement Across the Urban to Rural Landscape: Associations With Community Resources and Stressors,” *RSF* 5, no. 2 (January 1, 2019): 106, <https://doi.org/10.7758/rsf.2019.5.2.06>; Bischoff Kendra, and Reardon Sean. 2014. “Residential Segregation by Income, 1970–2009.” In *Diversity and Disparities: America Enters a New Century*, edited by Logan John R.. New York: Russell Sage Foundation; Roslyn Arlin Mickelson, “Is There Systematic Meaningful Evidence Of School Poverty Thresholds?” *The National Coalition on School Diversity*, Sept 2018 Research Brief 14, <https://files.eric.ed.gov/fulltext/ED603709.pdf>; Abigail Grimshaw, “Concentrated Poverty Impacts Student Achievement,” *The Century Foundation*, Mar. 7, 2016, <https://tcf.org/content/commentary/concentrated-poverty-impacts-student-achievement/>.

¹⁹⁰ “How The Deck Is Stacked: Racial and Ethnic Disparities in Earnings Following High School Graduation in Minnesota / Minnesota Department of Employment and Economic Development,” Minnesota Department of Employment and Economic Development, n.d., <https://mn.gov/deed/newscenter/publications/trends/march-2021/deck-is-stacked.jsp>.

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*

Efforts to address these disparities are carried out by organizations like Project for Pride in Living, a community development agency, that provides ancillary support to families by connecting them with resources, providing tutoring, advocating for children and local schools in proximity to their properties, and host activities and cultural events that students may not typically have access to.¹⁹³ Also, with the aid of corporate sponsorship, Hope Community built a tech center for teens to help them with skill building for the future.¹⁹⁴

Moreover, the effect of neighborhood extends beyond economic and educational implications. Neighborhood affects overall community health and well-being, as evidenced by higher levels of stress, reduced access to healthcare services, and diminished social cohesion in neighborhoods burdened by concentrated affordable housing.¹⁹⁵ This is demonstrated by a study published in the *Journal of Urban Health* found that residents of neighborhoods with limited access to affordable housing were more likely to experience mental health issues and chronic stress.¹⁹⁶ Additionally, when examining school segregation and health, researchers have found that school segregation was associated with worse outcomes on several measures of well-being that may contribute to health inequities across the lifespan.¹⁹⁷

The Minnesota Housing Finance Agency has previously, though intermittently, incorporated opportunity measures into its allocative criteria for some affordable housing. For instance, the Qualified Allocation Plan for Low-Income Housing Tax Credits previously awarded points to proposals located in the attendance zone of high-performing schools.¹⁹⁸ It emphasizes that in doing so, it contributes to its goal to finance the development and preservation of housing that is affordable across all types of Minnesota communities with the intention to give families more options to afford homes in a community of their choice.¹⁹⁹

¹⁹³ Jackson Testimony, 1/17/24 *Web Briefing*, p. 18.

¹⁹⁴ Delaney Testimony, 1/17/24, p. 19.

¹⁹⁵ U.S. Department of Health and Human Services, “How Neighborhoods Shape Health and Opportunity,” Community Health and Economic Prosperity.” January 1, 2021, <https://www.ncbi.nlm.nih.gov/books/NBK568862/>.

¹⁹⁶ Amy M. Burdette, Terrence D. Hill, and Lauren Hale, “Household Disrepair and the Mental Health of Low-Income Urban Women,” *Journal of Urban Health* 88, no. 1 (January 13, 2011): 142–53, <https://doi.org/10.1007/s11524-010-9529-2>.

¹⁹⁷ Guangyi Wang et al., “School Racial Segregation and the Health of Black Children,” *Pediatrics (Evanston)* 149, no. 5 (April 18, 2022), <https://doi.org/10.1542/peds.2021-055952> (Measures of well-being include behavioral problems and drinking activities).

¹⁹⁸ Minnesota Housing Finance Agency, “2021 QAP – Access to Higher-Performing Schools Methodology,” available at https://mnhousing.gov/content/published/api/v1.1/assets/CONTB243B453EA0A4533B4EB93E903D17967/native?cb=_cache_dc37&channelToken=294436b7dd6c4570988cae88f0ee7c90&download=false

¹⁹⁹ Ho Written Testimony submitted 5/2/24, p. 2.

Efforts to reform zoning laws have gained momentum in recent years, seeking to address housing disparities. Initiatives like Minneapolis's comprehensive plan, Minneapolis 2040, advocate for diversifying housing types and increasing density in residential areas to promote equitable development.²⁰⁰ However, the path to implementation is fraught with challenges, facing staunch opposition in more affluent neighborhoods.²⁰¹ This demonstrates the formidable obstacles in achieving equitable housing distribution.

In Saint Paul, zoning regulations have long favored single-family dwellings, hindering multifamily housing development in wealthier areas. It wasn't until 2023 that the St. Paul City Council approved significant changes to its zoning code.²⁰² However, the full impact of these changes has yet to be realized.

Moreover, the lack of job opportunities in areas with elevated affordable housing concentrations such as Minneapolis and Saint Paul exacerbates economic inequalities, perpetuating cycles of poverty, particularly when coupled with lower educational attainment.²⁰³ A striking statistic from Minneapolis highlights this disparity: White residents, with a median annual income of \$83,076, can afford to live in many high income areas of the city. In contrast, Black residents have a median annual income of \$30,617 and Native American residents have a median annual income of \$35,561.²⁰⁴ Statewide, a similar trend persists: White residents have a median annual income of \$80,991, while Native American residents and African American residents have median annual incomes of at \$40,982, at \$44,484 respectively.²⁰⁵

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports

²⁰⁰ “Minneapolis 2040,” n.d., <https://minneapolis2040.com/>.

²⁰¹ Ryan Johnson, “Minneapolis 2040 Opposition: A Look at the Signs,” Streets.mn, July 19, 2020, <https://streets.mn/2018/09/25/minneapolis-2040-opposition-a-look-at-the-signs/>.

²⁰² “City of Saint Paul Updates Zoning Code to Support Greater Housing Density,” Saint Paul Minnesota, n.d., <https://www.stpaul.gov/news/city-saint-paul-updates-zoning-code-support-greater-housing-density>.

²⁰³ Kwong Written Testimony submitted 3/31/24.

²⁰⁴ U.S. Census Bureau, American Community Survey, 2021; See also “Eliminate Disparities,” n.d., <https://minneapolis2040.com/goals/eliminate-disparities/>.

²⁰⁵ U.S. Census Bureau, American Community Survey, 2021.

of the Commission to the President and the Congress.²⁰⁶ In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should send this report and issue the following recommendations to the U.S. Congress:
 - a. Expand the Fair Housing Act to bar discrimination on the basis of source of income.
 - b. Increase funding to the national Housing Trust Fund,²⁰⁷ the first new federal housing resource in a generation that is exclusively targeted to help build, preserve, and rehabilitate housing for people with the lowest incomes.
 - c. Increase funding for capital investment and rental assistance vouchers.
 - d. Increase funding of the housing choice voucher Section 8 program to encourage homeownership in Minnesota.
 - e. Pass legislation to fund universal rental assistance.
 - f. Pass legislation to establish protections for renters, including (1) just cause eviction standards to ensure greater housing stability and prevent arbitrary and harmful actions by landlords; (2) a right to counsel to help more renters stay in their homes and mitigate harm when eviction is unavoidable; (3) source-of income discrimination bans to help ensure that landlords do not discriminate against renters with rental assistance or other sources of income; (4) habitability standards to ensure access to safe, quality affordable housing; and (5) other measures to protect renters nationwide.
 - g. Preserve and expand affordable housing available in rural areas by supporting funding for USDA Rural Development programs and through opportunities to preserve the agency's rental housing portfolio.
 - h. Strengthen the Affirmatively Furthering Fair Housing provision within the Fair Housing Act which requires that communities receiving federal funding affirmatively seek to eliminate segregated living patterns.

²⁰⁶ 45 C.F.R. § 703.2.

²⁰⁷ "Housing Trust Fund," HUD.gov / U.S. Department of Housing And Urban Development (HUD), n.d., https://www.hud.gov/program_offices/comm_planning/htf.

2. The U.S. Commission on Civil Rights should send this report to the Federal Trade Commission and the Consumer Financial Protection Bureau²⁰⁸ and recommend that they review the civil rights implications of the tenant screening industry and secure renters' access to decent and affordable housing.
3. The U.S. Commission on Civil Rights should send this report and issue the following recommendations to the Minnesota Governor:
 - a. Review all housing policies to emphasize that housing is a gateway for services, jobs, education, etc.
 - b. Work to ensure that affordable housing units are available in all geographies throughout the state to allow Minnesotans to maximize housing choice.
4. The U.S. Commission on Civil Rights should send this report and issue the following recommendations to the Minnesota Housing Finance Agency:
 - a. At a minimum, incorporate the full scope of federal civil rights laws, especially language similar to the Affirmatively Furthering Fair Housing mandate of the Fair Housing Act into future strategic plans and agency objectives.
5. The U.S. Commission on Civil Rights should send this report and issue the following recommendations to Minnesota Legislature:
 - a. Pass legislation to fund universal rental assistance.
 - b. Pass tenant protections and tenant supportive measures, state and local governments should provide adequate funding to support implementation and enforcement and develop equitable marketing strategies that efficiently communicate new protections to renter households so that renters are aware of their rights and can exercise those rights in interactions with their landlords or in court.
 - c. Amend the Minnesota Human Rights Act to clarify that housing discrimination based on a person's source of income is illegal.
 - d. Pass legislation to ensure housing agencies provide services (e.g. voucher support, etc.) to a minimum standard as determined by a statewide policy.

²⁰⁸ See generally <https://www.ftc.gov/news-events/news/press-releases/2023/02/ftc-cfpb-seek-public-comment-how-background-screening-may-shut-renters-out-housing>.

- e. Pass legislation to create statewide uniformity around property rights to allow more housing production.
6. The U.S. Commission on Civil Rights should send this report and issue the following recommendation to the Minnesota Attorney General's Office:
 - a. Increase outreach and awareness on landlord and tenant's rights and responsibilities.²⁰⁹

²⁰⁹ Minn. Stat. ch. 504B; Minn. Stat. § 484.014; Minn. Stat. § 484.013.

Link to relevant report materials:

<https://usccr.box.com/s/6zfswahwlmst96udm5kseko80yno4jv1>

Appendices

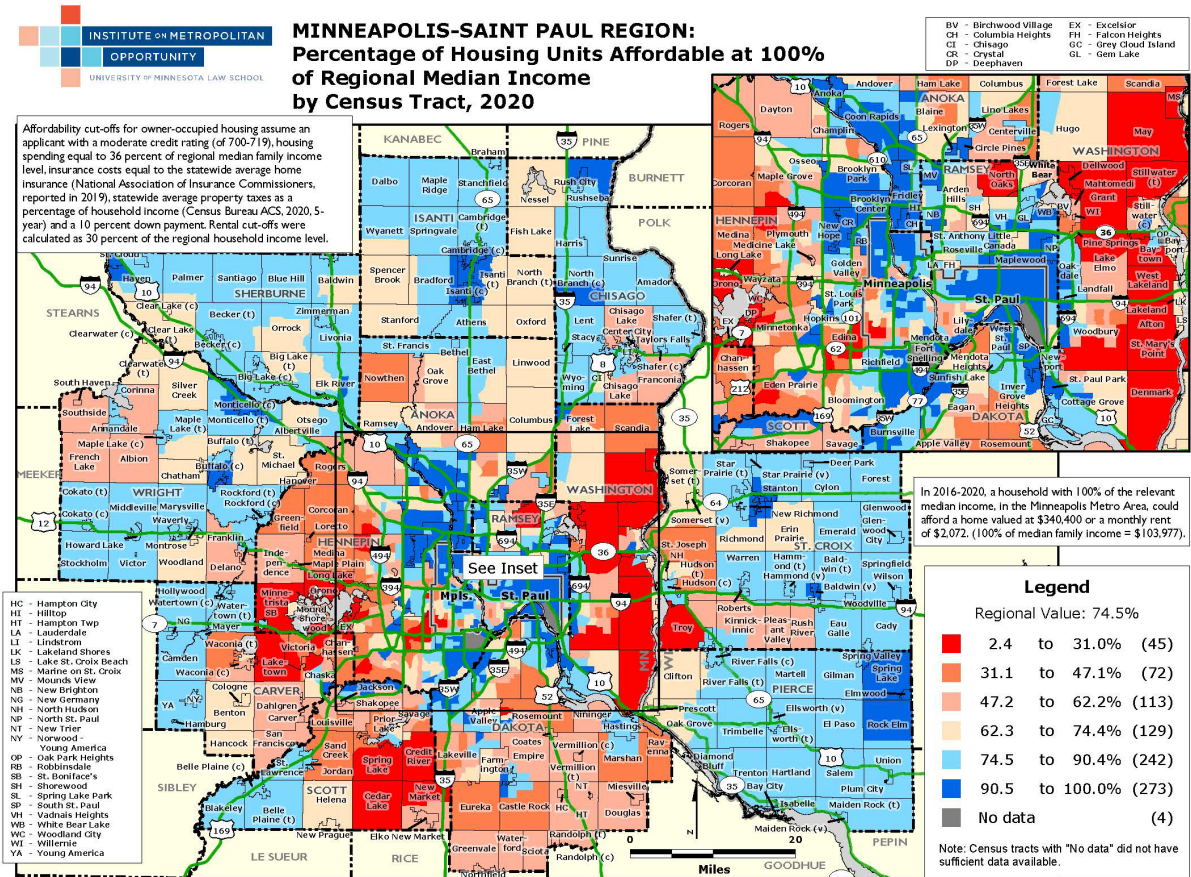
Appendix A: Graph of Minneapolis-Saint Paul Region Demonstrating Percentage of housing Units Affordable at 100 Percent of Regional Median Income by Census Tract 2020

Appendix B: Table of Minnesota Housing Finance Agency's Federal Fiscal Year Program Disbursements

Appendix C: "Recommendations To Create the Homes Minnesota Needs" Submitted by Workgroup Formed by Habitat for Humanity in October 2023

Appendix D: Member Statement by Lawrence Purdy

Appendix A: Graph of Minneapolis-Saint Paul Region Demonstrating Percentage of housing Units Affordable at 100 Percent of Regional Median Income by Census Tract 2020



Appendix B: Table of Minnesota Housing Finance Agency's Federal Fiscal Year Program Disbursements

Federal Fiscal Year Program Disbursements				
	2020	2021	2022	2023
Housing Trust Fund Rental Assistance	\$9,850,414	\$10,423,893	\$9,005,123	\$9,896,959
Bridges	\$3,806,855	\$3,586,100	\$3,682,195	\$3,875,264
Homework Starts with Home	\$1,028,176	\$1,982,471	\$2,381,332	\$2,265,757
Family Homeless Prevention and Assistance Program	\$9,191,079	\$9,844,420	\$9,221,441	\$33,762,160
Total	\$23,878,544	\$25,838,905	\$24,292,113	\$49,802,163

Source: Minnesota Housing Finance Agency (The 2023 Legislature significantly increased funding for the Family Homeless Prevention and Assistance Program. An estimate of \$23 million was disbursed in 2023, which resulted in the increase from 2022 to 2023 disbursements.)

Appendix C: “Recommendations To Create the Homes Minnesota Needs” Submitted by Workgroup Formed by Habitat for Humanity in October 2023



Recommendations to create the homes Minnesota needs

We need more homes, of every type, in every corner of Minnesota.

Enable and incentivize diverse housing types and densities across neighborhoods.

- Expand zoning of housing across Minnesota to allow for the construction of middle housing, as follows:
 - Allow for the development of up to six units on a single lot.
 - Allow up to eight units when the building 1) is within half a mile of a major transit stop, or 2) has at least two units that include affordability protections.
- Allow for larger lots to be subdivided to accommodate multiple single-family homes.
 - Enable the subdivision as of right.
 - Expedite the process for approving applications to subdivide lots.
- Allow attached and detached accessory dwelling units (ADUs), either constructed or converted, as of right in all predominantly residential zoning districts.
 - Restrict cities and counties from imposing additional restrictions (such as height, square footage minimums and maximums, etc.).
- Enact an administrative design review process for proposed buildings of six or fewer units and/or the subdivision of lots, when the proposal is aligned with a comprehensive plan and all other zoning requirements.

Expedite and increase production and affordability of housing through land use reforms.

- Allow for multi-family housing as an as-of-right conditional use in all commercial zoning districts.
- Simplify off-street parking requirements to require no more than one parking space per dwelling unit.
- Simplify aesthetic, material, shape, bulk, size, floor area, and other massing requirements for multi-unit dwellings or mixed-use developments that go beyond statewide building code requirements.

- Allow for flexible unit design and configurations by eliminating restrictions on the size or configuration of units.

Incentivize affordable housing and direct local governments to proactively support affordable housing.

- Allow an as-of-right density bonus to developments meeting the affordability requirements. Density bonuses equivalent to the greater of both:
 - Three stories in height OR matching the maximum allowed height in any zoning district within one mile of the parcel; AND
 - Double the dwelling units/acre or 30% floor area ratio (FAR) increase OR matching the maximum allowed dwelling units per acre (du/ac) or FAR in any zoning district within one mile of the parcel.
- Allow staff-level design approval and limit the use of Planned Unit Developments (PUDs) for developments meeting the affordability requirements.
- Create and track a statewide standard that all cities and townships should have at least 10% of their units (single-family or multi-family, rented or owned) protected as affordable housing for households making less than 60% AMI (or 115% AMI for homeownership units).
- Develop enforcement mechanisms that balance statewide accountability for meeting the housing needs of Minnesotans with the ability of jurisdictions which exceed affordability minimums to retain and maintain local zoning control. Specifically, developers proposing projects that meet the affordability set aside minimums would have the right to either: (1) Appeal local land use decisions that denied their project to a state-appointed Housing Appeals Board, or (2) Seek approval for land use approvals through an alternative process by the state-appointed Housing Appeals Board instead of the local city or county process.
- Develop an implementation grant program for local jurisdictions to implement and enforce zoning reform.

These recommendations were informed by a workgroup led by Habitat for Humanity of Minnesota and MHP (Minnesota Housing Partnership) in September/October 2023.

For more information please contact Libby Murphy, Director of Policy, MHP at libby.murphy@mhponline.org

Appendix D: Member Statement by Lawrence Purdy (18 June 2024)

Please note that the below statement from Committee Member Lawrence Purdy reflects only his personal views and not the official views or position of the Minnesota Advisory Committee or U.S. Commission on Civil Rights, which do not sanction or endorse Mr. Purdy's views. Nor has USCCR or the Minnesota Committee reviewed or otherwise edited Mr. Purdy's below statement.

INTRODUCTION

I commend our committee for choosing to address the topic of how to make affordable housing available to every Minnesotan without regard to an individual's race, ethnicity, or gender. And, without endorsing or opposing any specific recommendation, I agree that many of the Findings and Recommendations are worthy of consideration by legislators and public policy makers across our state government. However, based on the statutory purpose and jurisdiction of the United States Commission on Civil Rights, and principally because I heard no evidence to suggest any civil rights violations are occurring in the context of Minnesota's present housing policies,¹ I do not believe the Findings and Recommendations of the Minnesota State Advisory Committee fall with the USCCR's jurisdiction.²

DISCUSSION

While I respect the views of many of the invited witnesses and members of the public who addressed our committee, it became clear from the outset that virtually all were advocates on one side of the housing debate. For example, many, if not all, explicitly or implicitly endorse varying levels of governmental control and intervention premised largely, it seems, on a presumption that "systemic racism"³ is the default explanation for certain

¹ To the extent any individual Minnesotan is a victim of housing (or any other form of) discrimination based on his or her race (e.g., in the context of an alleged unlawful eviction), the provisions of Title VI of the Civil Rights Act of 1964 and comparable provisions within Minnesota's Human Rights legislation should be aggressively enforced.

² At various times, I raised concerns concerning the scope of our project. As stated during our initial discussion of the contours of our project, my concern was over the committee's decision to focus on "equity" versus "equality of opportunity." That "equity" (defined as equal outcomes across all racial, ethnic and gender identity groups) has not been achieved is neither surprising nor proof that equal opportunity has been denied any individual or group based on his/her/their identity. (See discussion *infra* note 7 re "disparate impact" data.)

³ No person denies that "systemic racism" was once a serious problem in Minnesota and throughout our Nation (see pages 22-25 of the draft report). In decades past, the policies

racial⁴ disparities cited in the report. I believe such a presumption is unwarranted in 2024; and unfairly stigmatizes many Minnesotans based on their race and ethnicity. Moreover, it entirely ignores the strongly-held – and fully supported – views of highly respected Twin Cities community leaders who reject “systemic racism” as the root cause for various racial disparities (including, importantly, disparities in educational achievement).⁵

In short, “systemic racism” appeared to be accepted without challenge by virtually all the witnesses who appeared before our committee as the default explanation for the current housing disparities when it came to comparing households from different racial groups.⁶ Moreover, I submit that the committee’s witnesses improperly rely on statistical (“disparate impact”) evidence to support their allegation that racism (“systemic” or otherwise) continues to impact Minnesota housing policies. Entirely ignored is the legal

cited therein clearly had an adverse impact on fair housing opportunities, particularly within certain minority communities.

⁴ I respectfully note that the manner in which “race” is defined is increasingly suspect. See *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U. S. 181, 216-217 (2023); and *id.*, at 291-294 (Justice Gorsuch, concurring). In addition, and in my opinion, dividing Minnesotans by *race* (however it is defined), and granting benefits or penalties on that basis, is, as it always has been, destructive to our society. Moreover, it does nothing to advance solutions that equally benefit all our fellow citizens irrespective of one’s race and/or ethnicity.

⁵ See, e.g., *The Washington Perspective*, A **TakeCharge** Publication (Issue 3, Spring 2024): “**Core Principles:** The promise of America is available to everyone regardless of skin color or social station: . . . *We reject the concept of group identity and all its ancillary components including white privilege, systemic racism, equity, etc.* . . . The private sector and free enterprise are the fastest route from poverty to prosperity for all Americans.” (Emphasis added.) *Id.*, at 8. Unfortunately, no representative from **TakeCharge** or any other person who shares **TakeCharge**’s views was invited to testify before this committee.

⁶ Missing from the record before the committee was testimony from any witness who discussed the failures of governmental intervention when it comes to addressing the nation’s affordable housing crisis. For example, see, Howard Husock (Senior Fellow at the American Enterprise Institute), “Throwing Billions at Failure,” CITY JOURNAL (May 14, 2024); and Steven Malanga, “Gimme (Government) Shelter,” CITY JOURNAL (The Magazine) (Spring 2024) (https://www.city-journal.org/article/gimme-government-shelter?utm_source=mailchimp&utm_medium=email&utm_campaign=cjdail)

principle that recognizes that while “disparate impact” data can be evidence of racial discrimination, such data alone, without more, does not establish the existence of such discrimination.⁷

Again, in my opinion, no witness made any effort to demonstrate that the objectively racist housing practices of the past, much less any current practices, meaningfully contribute to today’s housing disparities.⁸ The rote invocation of “systemic racism” is, in my opinion, inaccurate and frustrates efforts to find solutions that treat all Minnesotans equally as individuals when it comes to affordable housing.

In the end, the goal of objectivity requires us to consider all the reasons underlying the affordable housing crisis; and this, I believe, we failed to do.

It goes without saying that during our investigation, we welcomed advocates with strong public opinions on housing issues. While respectfully disagreeing with some of their positions, I personally applaud the work many of them and their organizations do. But selectively attributing racial disparities in housing (and related disparities allegedly related to housing patterns, particularly in the Twin Cities urban communities) to “systemic racism” does not advance the effort to expand affordable housing for all Minnesotans.⁹

⁷ *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U. S. 519, ____ (2015): “[A] disparate-impact claim that relies on a statistical disparity must fail if the plaintiff cannot point to a defendant’s policy or policies causing that disparity. *A robust causality requirement ensures that racial imbalance . . . does not, without more, establish a prima facie case of disparate impact [liability] . . .*” (emphasis added). Also see former MN SAC witness (in our 2022 Policing Report) Heather Mac Donald, *Disparate Impact Thinking is Destroying Our Civilization*, IMPRIMIS, Vol. 53, No. 2 (February 2024); and Gail L. Heriot, *Title VII Disparate Impact Liability Makes Almost Everything Presumptively Illegal*, 14 N.Y.U. J. L. & Liberty 1 (2020).

⁸ Other evidence cited in the draft report would appear to refute any such allegation. See, e.g., page 19 of the current draft, citing the fact that “racial ethnic groups have grown recently in Minnesota but between 2010 and 2018, the state has added five times as many BIPOC as non-Hispanic White residents.” This is a time period that would not appear to be impacted by any of the historic racist policies of the past.

⁹ That “cost burdened” households cross all racial lines is, in fact, demonstrated in the presentations provided by a committee witness. See, e.g., page 10, Figure 2 in the draft report

CONCLUSION

I commend the committee for its diligence in gathering information concerning the overall goals and effectiveness of Minnesota’s current housing policies. I also applaud the committee’s effort to provide suggestions for public policy leaders to consider (some of which I fully concur with).

However, for the reasons set forth, above, I respectfully abstain from joining the majority report because I do not believe it raises civil rights questions that fall within the USCCR’s jurisdiction.¹⁰

ADDENDUM

The following has been added and modified based on information received on June 3-4, 2024 from the Center for Urban and Regional Affairs (CURA) and other entities, and additional correspondence which was received on June 13-14, 2024:¹¹

¹⁰ When it comes to potential civil rights concerns, one aspect of the presentations which the committee seems unwilling to address, relates to an apparently race-restricted program for “Emerging Developers of Color.” See <https://gmhf.com/programs/emerging-developers-of-color-program/>. The existence of this program suggests that the race or ethnicity of a new or “emerging” developer matters when it comes to providing affordable housing to our BIPOC communities. I respectfully disagree. The only factors that should matter are (a) the developer’s competence and (b) his or her commitment to equally serve all Minnesotans irrespective of their race, ethnicity, and/or gender identity.

¹¹ See, e.g., June 12, 2024 letter from **Stairstep Foundation** signed by its CEO, Rev. Alfred Babington-Johnson; and June 14, 2024 letter from University of Minnesota Law Professor Myron Orfield. As noted in both pieces of correspondence, Rev. Babington-Johnson’s organization is the plaintiff in pending litigation against the State of Minnesota, Minnesota Housing, and the Metropolitan Council. While welcoming the testimony of Rev. Babington-Johnson and the brief public comment on June 4 by Professor Orfield, the committee has declined (properly, in my opinion) to take a position on the merits of Stairstep’s pending lawsuit. In addition, I believe a careful reading of both Rev. Babington-Johnson’s and Professor Orfield’s correspondence suggests that the principal disputed question in the lawsuit is whether the named defendants should adopt the so-called “opportunity

CURA's report entitled "The Diversity of Gentrification: Multiple Forms of Gentrification in Minneapolis and St. Paul" lays out in detail the pros and cons of gentrification. What is evident from reading this extensive report is that decisions surrounding the impact of gentrification pose myriad *political* (as opposed to civil rights) questions.¹²

Similarly, the 06-03-2024 submission by the Commissioner for Minnesota Housing, Jennifer Leimaile Ho, reinforces my view that the goal of providing decent affordable housing for all Minnesotans is principally a political/public policy question.¹³ Without endorsing its policy approaches, I heard no evidence to suggest that Minnesota Housing is failing to address this goal in good faith.

Finally, I respectfully disagree with the criticisms leveled against the Minnesota State Advisory Committee as set forth (a) in the late written submissions from *Equity in Place* (received 06-03-2024) and MICAH Board Member Edward McDonald (received 06-04-2024); (b) in the comments covered by certain members of the public at the conclusion of our meeting on

neighborhood framework." In my opinion, that is fundamentally a political/public policy (as opposed to a civil rights) question and, thus, outside the Commission's jurisdiction.

¹² See discussion within the CURA report, at page 4: "The phenomenon of gentrification *is a highly charged political issue*. To some it represents a threat to community and neighborhood stability. . . and to people of color, gentrification represents the loss of affordable housing, the loss of community, and changes in neighborhoods that make continued residence there difficult, if not impossible. On the other hand, some see . . . the positive aspects of increased investment in neighborhoods that have suffered from the lack of such investment in the past. These observers see needed reinvestment . . . that improve[s] conditions for all residents and turn[s] around decades of neighborhood decline." (Emphasis added.) Ironically, one of the alleged problems cited in the CURA report was the "presence of whiteness." For housing advocates who express complaints about persistent residential "segregation," and presumably seek more racial diversity in neighborhoods throughout Minnesota, concerns over "young white families buying homes and driving up values [in presumptively majority minority neighborhoods]," *id.* at 2, is, to say the least, puzzling. Finally, I reiterate my view that there is no support in the record that "segregation persists" *because of alleged systemically racist policies*, public or private.

¹³ I join in Commissioner Ho's specific questions/objections to the current draft of the draft report

June 4, 2024; and (c) in the late-received correspondence from Rev. Alfred Babington-Johnson and Professor Myron Orfield (cited *supra* note 11).

Their criticisms are unjustified. There is no question in my mind that every participating member of the Minnesota State Advisory Committee has, throughout this study, been committed to ensuring equal treatment for all Minnesotans when it comes to the goal of providing decent affordable housing without regard to an individual's race, ethnicity, and/or gender identity.

Respectfully submitted,

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