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A Satellite Office of the
Metropolitan Milwaukee
Fair Housing Council

September 25, 2013

Community Development Block Grant Committee
Room 225, Madison Municipal Building
215 Martin Luther King, Jr. Boulevard
P.O. Box 2627
Madison, Wisconsin 53701-2627

Dear CDBG Committee Members:

We are writing in response to the recently released draft of the City of Madison's Analysis of Impediments to Fair Housing Choice (AI), conducted by MSA Professional Services. In reviewing the AI, we appreciate many comprehensive aspects of the report; there are also several items we wish to offer feedback on.

1. In the report's introduction, under "What is Required to Affirmatively Further Fair Housing?" (page 7), we recommend using a more comprehensive definition of the requirements of AFFH. Affirmatively Furthering Fair Housing goes beyond the prohibition of discrimination and directs HUD's program participants, such as the City of Madison, to take steps proactively to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities for all.
2. Much of the report focuses on affordability and income, without also adequately assessing barriers to fair housing choice posed by illegal discrimination. While we recognize that there are overlaps between issues of affordability and discrimination, they are distinct issues. We are concerned that the report places an undue emphasis on affordability as a barrier to housing choice, and does not adequately assess illegal discrimination based on each protected class defined by federal, state, or local fair housing laws.

One illustration of the conflation of these issues occurs under "Fair Housing Programs and Activities" in the first table (Section 3, page 37). The organizations listed here focus on development, sale, management, or preservation of housing stock, but they do not focus on civil rights in the housing market as protected by fair housing laws.

3. In addition, when looking at affordability and income as a factor in fair housing choice, we recommend explicitly tying affordability to protected class status. Looking at affordability and income alongside race, ethnicity, and disability, and connecting this with any potential racial disparities, will help explain why affordability and cost burden are fair housing issues

(for example of one place where this connection could be made, see the description of “Cost Burden” on page 30). One helpful tool for examining this through mapping is HUD’s new Geospatial Tool, which has been developed for use under the AFFH draft rule. A usable prototype can be found on the HUD website.

4. When outlining recommendations related to financial impediments in the private sector and the lack of loans to minorities (Section 5, 3.1, page 68), we recommend adding an additional action: the City should encourage local lenders to take steps to affirmatively further fair housing and to ensure they are extending credit to underserved communities. One tool in examining current credit extension and access in underserved communities would be to evaluate access to lending services available at locations throughout the City, including ATMs, bank branches, and other banking services.

While the report does briefly address segregation under “Determination of Unlawful Segregation” (page 58), we feel it is important to note that, while unlawful segregation resulting in finding of noncompliance or charges against a municipality has not occurred, it is equally important to assess de facto segregation. Looking at data provided through US 2010 (a Brown University research program assessing, among other things, segregation by municipality through multiple indexes), Madison’s dissimilarity index using both 2005-2009 ASC and 2010 Census data for each racial group is within or close to the “moderate level of segregation.” We suggest adding an acknowledgement that, although unlawful segregation resulting in charges or findings of noncompliance does not exist, segregation based on race and ethnicity does indeed exist in the City of Madison, and this segregation has consequences that may impede housing choice.

5. In addressing the administrative impediments in the public sector, Section 5 notes the “Limited Use of Fair Housing Complaint Procedures” (page 70) and describes recommended actions. We propose an additional recommendation: that the City should partner with a Qualified Fair Housing Enforcement Organization (as defined by HUD in 24 CFR 125.103 [Title 24 Housing and Urban Development; Subtitle B Regulations Relating to Housing and Urban Development; Chapter I Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development; Subchapter A Fair Housing; Part 125 Fair Housing Initiatives Program]) to fund and implement additional investigative services, including testing, for complainants as well as additional systemic testing where appropriate. Testing and other investigative services increase access to and efficacy of legal remedies. This, in turn, would help potential complainants view the complaint process as worthwhile—something the report identifies as a current challenge.

6. In Figure 1-1, “Summary of Protected Classes and Exceptions” (page 6), the table omits Receipt of Rental Assistance as a Dane County protected class. It is a current protected class for Dane County.

7. On page 41, under “Non-Profit Agencies,” the description of the Fair Housing Center of Greater Madison is inaccurate. A current description of activities is enclosed.

We appreciate this opportunity to send feedback on the City of Madison's Analysis of Impediments for the Committee's consideration. If you have any questions about this feedback, please contact me at 257-0853 or at lbastian@fairhousingwisconsin.com. Thank you for your time.

Sincerely,

A handwritten signature in cursive script that reads "Laurel Bastian".

Laurel Bastian
Program Services Coordinator
Fair Housing Center of Greater Madison

Enclosure

Fair Housing Center of Greater Madison

<http://www.fairhousingwisconsin.com/>

The Fair Housing Center of Greater Madison (FHCGM) is a satellite office of the Metropolitan Milwaukee Fair Housing Council. This organization is a private non-profit that provides a full-service fair housing program. Programs and services include:

- Enforcement- intake of fair housing complaints, counseling on administrative or judicial options, investigative services for potential complainants, referrals to attorneys and government agencies, systemic investigations
- Outreach and Education- presentations to housing consumers and advocates, fair housing training for housing providers, fair housing technical assistance, development and distribution of fair housing educational materials
- Fair Lending- counseling, investigation of predatory lending/ fair lending violations, monitoring of financial institutions, technical assistance to lenders/policymakers, information to financial institutions on improving service to low/moderate income communities and people of color
- Inclusive Communities- technical assistance to community organizations, developers, policymakers, housing consumers on inclusionary housing, access to pro-integrative housing, research and analysis of fair and affordable housing opportunities and impediments