
CITY OF SAN MARCOS, TEXAS
ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

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Introduction and Acknowledgements

Introduction

This report provides an Analysis of Impediments to Fair Housing Choice (AI), commissioned by the City of San Marcos, Texas. This AI was conducted using a methodology consistent with the U.S. Department of Housing and Urban Development (HUD) guidelines. HUD requires that each jurisdiction receiving federal funds certify that it is affirmatively furthering fair housing. The certification specifically requires jurisdictions to do the following:

- Conduct an **analysis of impediments** to fair housing choice within the state or local jurisdiction.
- Take appropriate actions to overcome the effects of any impediments identified through that analysis.
- Maintain records reflecting the analysis and actions in this regard.

Lead and Participating Agencies

City of San Marcos, Community Initiatives Division of the Planning and Development Services Department was responsible for oversight and coordination of the AI process. The City of San Marcos retained J-Quad Planning Group, LLC, a Community Development, Urban Planning and Housing Consulting firm to assist in the preparation of the AI.

Acknowledgements

Data collected in preparing the AI relied in part on input from the public. The process included information gathered from three citizen focus groups, key person interviews, and data provided by the City of San Marcos. We also acknowledge the participation of the City government officials, development community, non-profit, social services, business, and real estate industries. Special thanks to all focus group participants and their contributions toward making the AI process a success.

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Executive Summary

Introduction

In 1995 the U.S. Department of Housing and Urban Development (HUD) announced that entitlement communities - communities receiving direct federal funding from Community Development Block Grant, HOME Investment Partnership and Emergency Shelter Grant programs – must conduct a study of existing barriers to housing choice. This required study is referred to as the "Analysis of Impediments" (AI) and is part of entitlement communities' consolidated planning process.

The purpose of the AI is to examine how state and local laws, private, public and non-profit sector regulations, administrative policies, procedures, and practices are impacting the location, availability, and accessibility of housing in a given area. The AI is not a Fair Housing Plan rather it is an analysis of the current state of fair housing choice in San Marcos. The AI identifies specific barriers that need to be addressed if future fair housing initiatives are to be successful.

Each jurisdiction receiving federal funds must certify that it is affirmatively furthering fair housing. The certification specifically requires jurisdictions to do the following:

- Conduct an analysis of impediments to fair housing choice within the state or local jurisdiction.
- Take appropriate actions to overcome the effects of any impediments identified through that analysis.
- Maintain records reflecting the analysis and actions in this regard.

The City of San Marcos' commitment to furthering fair housing and affordable housing through planning and CDBG program design and implementation is noteworthy. These efforts will continue to improve and help maintain stability, and strengthen its older and lower income areas. The City and its nonprofit partners are encouraged to expand these efforts into other neighborhoods as a primary means of expanding fair housing choice. The impediments identified in Section Six can be directly linked to and supported by data and analysis from the previous sections. In some instances, footnotes have provided information should the reader need to refer to other sections for more details.

Evaluating fair housing is a complex process involving diverse and wide-ranging considerations. The role of economics, housing markets, and personal choice are important to consider when examining fair housing. Any disproportionate impacts on persons of a particular race, ethnicity, or members of the protected classes under fair housing law have been comparatively analyzed to determine to what extent those disparities are limiting fair housing choice. San Marcos has relatively few impediments to fair housing. However, some issues were identified.

The analysis of fair housing choice in the City of San Marcos has resulted in the identification of impediments, identified through a study methodology that included conducting focus group sessions, the construction of a demographic analysis resulting in a community profile and fair housing index, analysis of the Home Mortgage Disclosure Act (HMDA) data for the City of San Marcos and a fair housing law and public policy and program review. The following narrative provides a summary of those sections.

Community Profiles

According to the 2010 Census estimates, the total population of San Marcos was 44,894, a 29.3 percent increase between 2000 and 2010. Table 1.1, in the Community Profile, shows the distribution of population by race and ethnicity in the city. The White population increased by 39.8 percent, and their percentage of the total population increased from 72.6 percent to 78.5 percent between 2000 and 2010. African-Americans increased by 544 persons, and made up 5.5 percent of total population in 2010. San Marcos experienced a 33.9 percent increase in the Hispanic population between 2000 and 2010. The percentage of Hispanic population of the total population increased from 36.5 percent in 2000 to 37.8 percent in 2010, a 1.3 percentage point increase. The Census Bureau does not recognize Hispanic as a race, but rather as an ethnicity. This may account for the higher percentages of “Other” category in 2000 and 2010. It is a common misidentification for ethnic Hispanics to choose the ‘other’ category on the Census forms for race rather than White or African-American.

Other populations decreased by 12.3 percent between 2000 and 2010. During the period, there was a 62.1 percent increase in the American Indian and Eskimo population and 68.7 percent increase in Asian and Pacific Islander population, but numerically and as a percent of total population, these increases were actually much less significant.

Household compositions consisting of large families, families with children and female headed households with children appear most likely to encounter issues relative to fair housing choice. The percentage of female-headed households with children among White households was 2.5 percent, compared to 13.9 percent in Hispanic households, and 13.1 percent in African-American households between 2006 and 2010.

When considering all family types with children present, the data show that 11.4 percent of all White households, 36.2 percent of all Hispanic households, and

19.0 percent of all African-American households were in this category. Non-family households among Whites made up 72.1 percent of all White households in San Marcos. Non-family households among Hispanics accounted for 41.9 percent of all Hispanic households. Non-family households among African-Americans accounted for 58.8 percent of all African-American households.

Employment opportunities in the area and educational levels of the employees make a significant impact on housing affordability and the location choice of residents. Table 1.5, in the Community Profile, presents our analysis of occupation data, which indicate that there has been some shift in the distribution of occupations between 2000 and 2010. Retail services had the largest increase, up 3.1 percentage points to 18.8 percent. Arts, entertainment, recreation, accommodation, and food services had an increase, up 2.2 percentage points to 19.0 percent. Manufacturing realized the largest reduction of 2.6 percentage points leading to 4.3 percent of the total workforce. Education and health services had a decrease of 2.0 percentage points to 27.2 percent of the workforce. Transportation, Communications, and other public utilities reduced by 1.0 percentage point to 5.2 percent of the total workforce. Finance, insurance, and real estate services experienced a reduction of 1.0 percentage point falling to 3.7 percent of the total workforce.

According to the San Marcos Chamber of Commerce, the major employers in the area include Texas State University with 2,780 employees, Prime Outlets San Marcos with 2,100 employees, and Tanger Factory Outlet Center with 1,540 employees. San Marcos Consolidated Independent School District (CISD) has 1,114 workers, Hays County has 850 employees, Hunter Industries and Central Texas Medical Center have 650 workers each, HEB Distribution Center employs 578 workers, City of San Marcos has 517 employees, and Telenetwork Partners, LTD has 500 employees.

According to the Bureau of Labor Statistics, the unemployment rate for the City of San Marcos has marginally increased from 5.9 percent in 2011 to 6.2 percent as

of July 2012. However unemployment has a disparate impact based on race and ethnicity, particularly among African-Americans. Between 2006 and 2010, 10.4 percent of White persons age 16 and over reported being unemployed. Hispanic persons in the same age group reported a 6.5 percent unemployment rate and the data for African-Americans showed 21.0 percent unemployment rate.

Income is a major factor contributing to fair housing choice. An estimated 49.4 percent of White households, 35 percent of African-American households and 45.2 percent of Hispanic households have incomes of less than \$25,000. The entire City of San Marcos is comprised of census tracts where the majority of household incomes are below 80% of the area median, making the entire City eligible under HUD guidelines for Community Development Block Grant funding.

The modal income class, the income class with the highest number of households, for Whites was the less than \$10,000 category with 20.9 percent of Whites in this income range. The modal income class for Hispanic households was \$15,000 to \$24,999 range with 18.0 percent of households in this range. The most frequently reported income for African-American households was also the less than \$10,000 range with 26.2 percent of households in this range.

According to the 2006 - 2010 ACS estimates, the median household income was \$25,492 for White households, \$28,733 for Hispanic households, and \$29,877 for African-American households, compared to \$26,734 for the overall city. It is noteworthy that we found no disparate impacts relative to income for the protected class members. However the median and modal income for each of the three major racial/ethnic groups and for the city underscores that many earn incomes that are insufficient to acquire housing in the current market regardless of race or ethnicity, and resulting in a significant cost burden for others.

One of the most revealing indicators that income limitations are impacting a persons' ability to obtain housing of their choice is the category of homeownership. According to the 2006 - 2010 ACS data, homeownership rate

among Whites was 25.1 percent, compared to 31.3 percent among Hispanics, and 28.3 percent among African-Americans. Again, our analysis noted that White households had lower homeownership rates compared to minorities, and no disparate impact on homeownership rates based on race and ethnicity. All three groups are experiencing similar percentages of their population becoming homeowners.

All racial and ethnic populations in the city are confronted with large numbers of their population living in poverty. The ACS data shows the incidence of poverty among Hispanics was 32.3 percent and African-Americans were 39.7 percent of the total population between 2006 and 2010. Among White persons, the data reported 40.0 percent lived in poverty between 2006 and 2010. In comparison, the poverty rate for the city was 36.9 percent during the period.

There is one notable exception where poverty has a disparate impact based on race and ethnicity, The poverty data in Table 1.4 of the Community Profile shows the incidence of poverty for persons under the age of 5 years for African-Americans was a staggering 69.5 percent of their total population between 2006 and 2010. Among White persons, the data reported 5.8 percent, and among Hispanics 39.6 percent of children under the age of 5 years lived in poverty between 2006 and 2010.

It should be noted that lower educational attainment has a disparate impact based on race and ethnicity, among African-Americans and Hispanics compared to Whites. In San Marcos, even the difference in the unemployment rate between African-Americans and the other two groups may, to some extent, be attributed to limitations due to educational attainment. According to the 2006 - 2010 ACS estimates (5-year average), 29.6 percent of Hispanics age 25 and above reported less than a high school education compared to 6.4 percent of Whites and 17.2 percent for African-Americans in the same age group. As a comparison, the percentage of population with less than a high school education in the city was 16.7 percent during the period.

The availability of jobs, consistent with the skill levels and educational levels of low-income persons, is largely dependent on the geographic location of the jobs and the workforces' ability to get to and from the employment centers where those jobs are located. If jobs are far removed from the areas where lower income persons live, their ability to get to and from work may be difficult, without public transportation. To further examine the impact of employment proximity relative to housing choice for low- and moderate-income persons, we analyzed the use and availability of public transportation and the extent to which public transportation provides flexible routes, affordable rates, time efficient commutes with direct route and limited transfers, and routes and schedules that provide access to major employment centers for peak and off-peak work shifts.

The Capital Area Rural Transportation System (CARTS) is a Rural Transit District that provides transit services in nine county areas surrounding the City of Austin. The CARTS District includes all of Bastrop, Burnet, Blanco, Caldwell, Fayette, Hays, and Lee counties and the non-urbanized areas of Travis and Williamson counties. CARTS provide a variety of transit services tailored to the needs of each community in the region. CARTS Around Town (CAT) is a municipal fixed route bus service offering regular route service connecting neighborhoods and downtown businesses for citizens and visitors. CARTS buses operate from five transit stations, located strategically throughout the CARTS district connecting San Marcos to other centers in Austin, Bastrop, Round Rock, and Smithville.

The San Marcos CAT is a wheelchair-accessible fixed-route service, which operates from Monday through Friday 7 am to 6 pm. The bus service includes ten routes connecting major destinations in the city such as the Factory Outlet Malls, H.E.B., Wal-mart, Springtown Mall, The Playscape Park, and many school campuses in the area. The bus service is available at affordable fares and reduced fares are available for persons with disabilities, seniors, and students. CARTS operates ADA paratransit curb-to-curb service is available for individuals with disabilities who are unable to use the CAT routes.

According to the 2006 - 2010 ACS estimates (5-year average), the total number of housing units in the city was 17,304 with 8.3 percent vacant units. As shown in Table 1.7 of the Community Profile, there were 13,320 housing units in San Marcos in 2000. The total number of housing units in the city increased 29.9 percent between 2000 and 2010. According to the 2006 - 2010 ACS data, of the total number of housing units in the city, 25.1 percent were owner-occupied and 66.6 percent were renter-occupied. The median housing value in the city was \$121,700 and the median contract rent was \$644 between 2006 and 2010.

Fair Housing Law, Municipal Policies and Complaint Analysis

The State of Texas has enacted fair housing law that is substantially equivalent to the federal Fair Housing Act. The City of San Marcos has also enacted local fair housing law. However it is not considered substantially equivalent to the federal Fair Housing Act in the area of enforcement. Having a fair housing ordinance, especially one that is substantially equivalent to the federal Fair Housing Act, exemplifies a jurisdiction's local commitment to enforcing fair housing regulations and it provides public awareness of individuals' rights under the Fair Housing Act. The City of San Marcos Community Initiatives Division of the Planning and Development Services Department makes referrals of received fair housing complaints to HUD for enforcement. This division is also responsible for conducting public education, training and outreach of fair housing rights and remedies in San Marcos.

Texas is part of HUD's five state Region VI that includes Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. The Regional VI HUD Office in Fort Worth, Texas conducts investigations of fair housing complaints that are reported directly to their office. Fair housing complaint information was received from the Fort Worth, Texas FHEO Division of the Regional Office of the U.S. Department of HUD. The data provides a breakdown of complaints filed for Hays County and San Marcos from January 1, 2007 through June 30, 2012. During this period,

sixteen complaints were filed according to one or more of seven bases, including; National Origin, Color, Religion, Familial Status, Handicap, Sex, and Race.

Focus Groups, Fair Housing Index, Home Mortgage Disclosure Act Analysis

Fair housing choice within the City of San Marcos encounters a number of impediments, as identified through the construction of a fair housing index, and analysis of the Home Mortgage Disclosure Act (HMDA) data for San Marcos.

Data collected in preparing the AI relied in part on input from the public. The process included information gathered from three focus group sessions, key persons interviews, and data provided by the Community Development Division. We also acknowledge the participation of the local chamber of commerce, and representatives from the banking and mortgage institutions, housing development, non-profit, social services, business and real estate industries. Participants attending the focus groups, community needs workshop, and community forums voiced their concerns relating to fair housing choice actions or policy they perceive as impediments. Section Three of this report details the input received during the community participation process.

The HMDA analysis, detailed in Section Four, indicates that the major issue in mortgage lending is the credit worthiness of borrowers. The data showed no evidence of disparate impacts of loan denials for minority populations compared to White applicants, however there is some evidence that characteristics of redlining may exist and is found to be adversely impacting fair housing choice in San Marcos.

Section Five of the report, the Fair Housing Index, highlights geographic areas indicating a concentration of attributes prevalent in fair housing issues. These attributes include high minority concentrations, older housing stock, reliance on public transportation, low income, low housing values and contract rents, a high

percentage of female headed households with children, a high ratio of loans denied to loans originated, high unemployment rates, and high rates of high school dropouts. The collective concentration of these issues leads to neighborhood deterioration and market conditions that tend to impede fair housing choice. The census tracts having moderate to Low risk of fair housing problems are located in the northwest and southeast areas of the city.

Impediments to Fair Housing Choice

Impediments to fair housing choice are detailed in Section Six of this report. This section draws on the information collected and analyzed in previous sections to provide a detailed look at fair housing impediments in San Marcos. Five major categories of impediments were analyzed: Real Estate Impediments; Public Policy Impediments; Neighborhood Conditions as Impediments; Banking, Finance, and Insurance Related Impediments; and Socioeconomic Impediments. For each impediment identified, issues and impacts are detailed. Remedial actions are suggested to address each impediment. Some of the remedial actions recommended in this section are conceptual frameworks for addressing the impediments. These actions will require further research, analysis, and final program design by the City of San Marcos for implementation.

The Analysis of Impediments to Fair Housing Choice identified fair housing impediments related to **real estate market conditions as impediments**: a lack of affordability and insufficient Income; **public policy related impediments**: a lack of public awareness of fair housing rights; **banking, finance, insurance and other industry related impediments**: large numbers of foreclosures in the real estate market; predatory lending; **socio-economic impediments**: poverty and low-income; and **neighborhood conditions related impediments**: Limited resources to assist lower income, elderly and indigent homeowners maintain their homes and stability in neighborhoods.

Housing affordability, and the cost, qualifying and associated issues such as credit appeared to be the most pressing issues faced relative to acquiring housing of one's choice. The increase in home foreclosures can be linked to predatory lending as a significant aftereffect of those lending practices. Adjustable Rate Mortgages (ARMs), interest only loans, one hundred percent loan-to-value mortgages, and other mortgage instruments that enabled large numbers of families enter into homeownership have become burdens to many as the housing bubble proved to be unsustainable. As the Community Profile points out, a number of San Marcos homeowners have lost their homes to foreclosure, many as a direct result of these lending practices. However, with this unfortunate state of the economy come opportunities for others. Relative bargains have been available to families as these foreclosed units are put back on the market. Investor purchases are common, with these homes being marketed as rental units, but where a family has been able to save enough for a down-payment and has avoided sub-prime mortgage products, some have been able to take advantage of the bursting housing bubble to find their own opportunities.

Review of City development regulations and practices revealed no significant policy barriers to affordable housing. These policies include land use controls, zoning ordinances, building codes, fees and charges, and tax policies. No excessive, exclusionary, discriminatory or duplicatory policies, rules or regulations were found that constitute barriers to affordability. However, in an effort to expand local resources, we also recommend that the City initiate an effort to research and consider one particular policy change, inclusionary zoning, as one alternative means of promoting balanced housing development. Inclusionary zoning has been used in other communities to ensure that some portion of new housing development is affordable.

Remedial Activities Designed To Address Impediments

The major focus of the recommended remedial actions is centered on creating partnerships, identifying new federal resources and leveraging private funding needed to enhance the jurisdiction's ability to increase its supply of affordable housing and better meet the needs of low-income and moderate-income households. Other remedial actions are recommended as a means of reversing the negative impacts of the market conditions and mortgage lending trends that adversely and disproportionately impact the members of the protected classes under the fair housing law. These include sub prime lending, foreclosures, credit and collateral deficiencies that impact loan origination rates, poverty, unemployment and limited income. The details of the identified impediments and remedial actions are presented in Section Six of the report.

Section 1: Community Profile

Introduction

The Community Profile is a review of demographic, income, employment, and housing data of San Marcos, Texas, gathered from the 2010 and 2000 Census estimates, 2006 - 2010 American Community Survey (ACS) 5-Year estimates, City of San Marcos, San Marcos Chamber of Commerce, and other sources. The following sections provide an overview and analysis of the current status of the community in San Marcos:

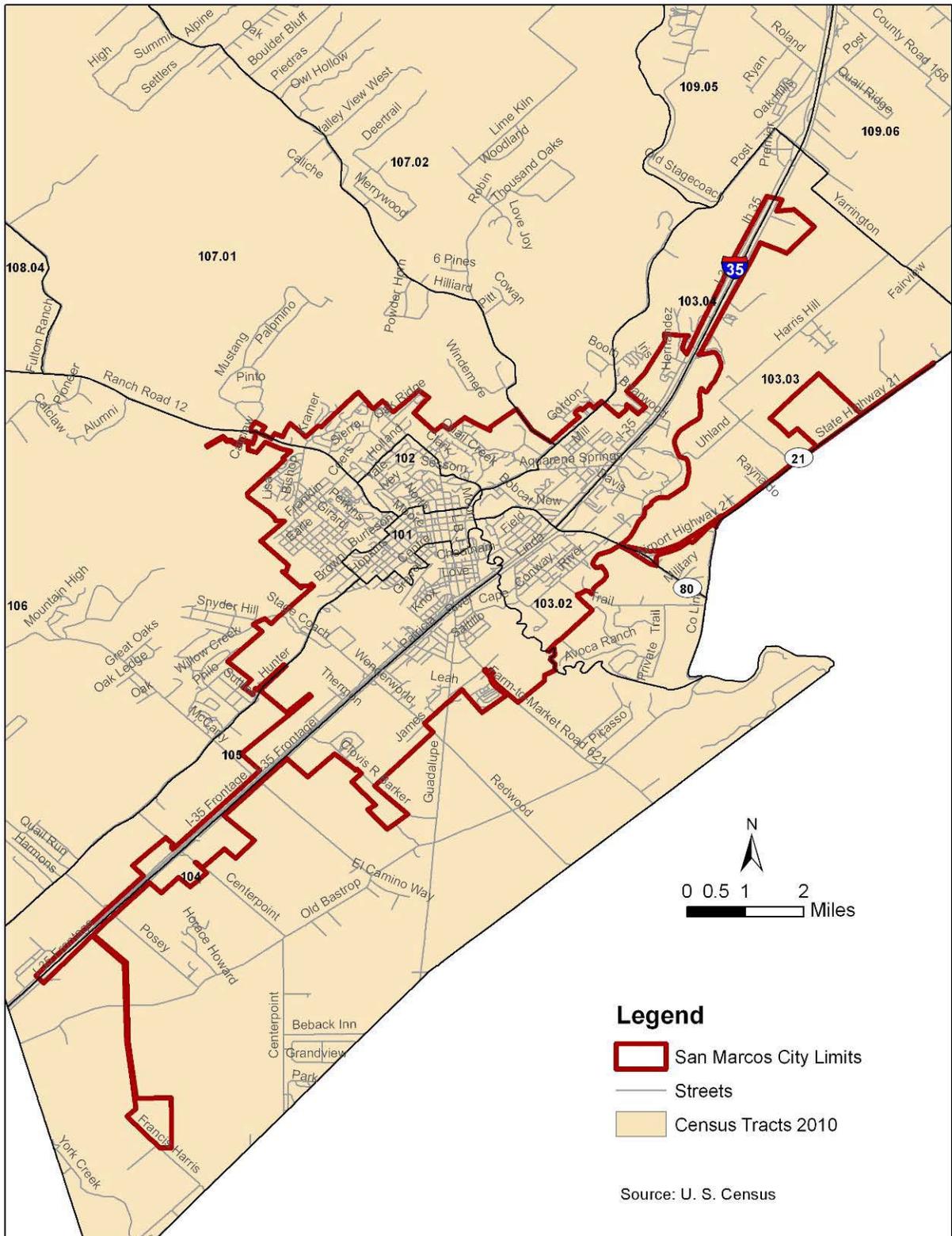
- Demographics - analyzes the basic structure of the community in terms of racial diversity, population growth, and family structure.
- Income - analyzes income sources, the distribution of income across income class, and poverty.
- Employment - examines unemployment rates, occupation trends, and major employers.
- Public Transportation – analyzes access and availability of public transit system.
- Housing - examines data on the housing stock, with particular attention to the age of the housing stock, vacancy rates, tenure, and cost burdens.

Detailed analyses will concentrate on three major ethnic groups in San Marcos: White, Hispanics, and African-Americans. All other ethnic groups are smaller in number and percentage and, therefore, the results of their analysis will not be presented in detail. The analysis is supported with tables and maps provided as reference materials. Most of the data presented in the tables and maps are directly referenced in the text. There may be some cases where additional information was included for the reader's benefit, though not specifically noted in the text.

1.1. Demographics

The demographic analysis of San Marcos concentrates on the magnitude and composition of the population and changes that occurred between 2000 and 2010. Please note that the attached maps present data by census tract with an overlay of the city limits. For reference, Map 1.1, on the following page, provides a visual representation of San Marcos.

Map 1.1: San Marcos, Texas



According to the 2010 Census estimates, the total population of San Marcos was 44,894, a 29.3 percent increase between 2000 and 2010. Table 1.1, below, shows the distribution of population by race and ethnicity in the city. The White population increased by 39.8 percent, and their percentage of the total population increased from 72.6 percent to 78.5 percent between 2000 and 2010. African-Americans increased by 544 persons, and made up 5.5 percent of total population in 2010. San Marcos experienced a 33.9 percent increase in the Hispanic population between 2000 and 2010. The percentage of Hispanic population of the total population increased from 36.5 percent in 2000 to 37.8 percent in 2010, a 1.3 percentage point increase. The Census Bureau does not recognize Hispanic as a race, but rather as an ethnicity. This may account for the higher percentages of “Other” category in 2000 and 2010. It is a common misidentification for ethnic Hispanics to choose the ‘other’ category on the Census for race rather than White or African-American.

Other populations decreased by 12.3 percent between 2000 and 2010. During the period, there was a 62.1 percent increase in the American Indian and Eskimo population and 68.7 percent increase in Asian and Pacific Islander population, but numerically and as a percent of total population, these increases were actually much less significant.

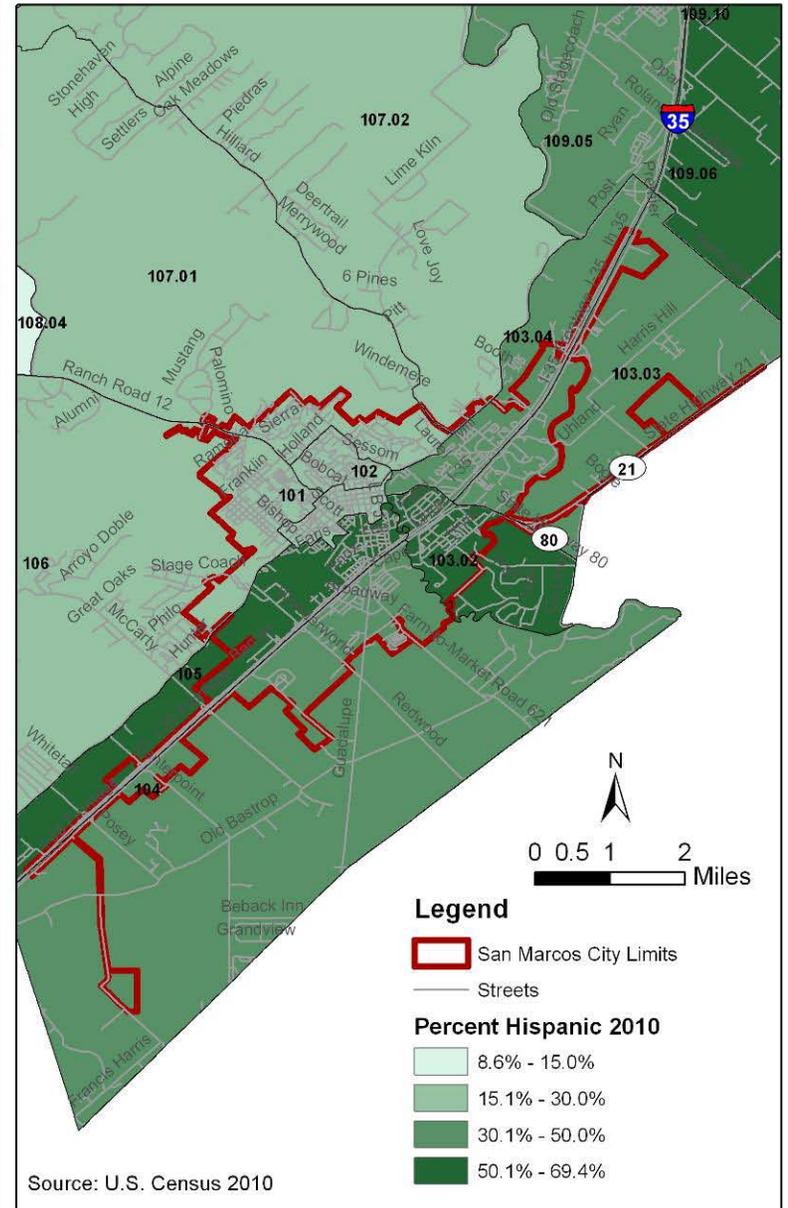
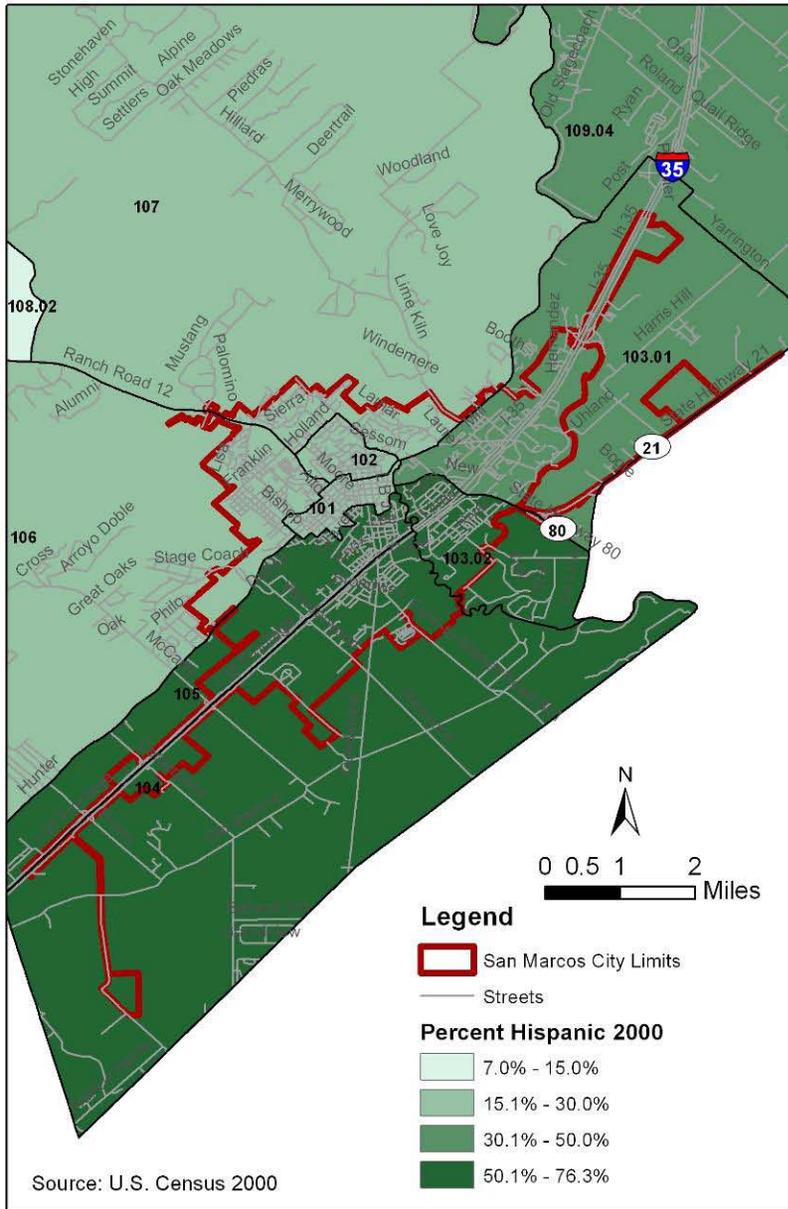
Table 1.1
Total population by race and ethnicity for San Marcos, 2000 and 2010

Race	2000		2010		%Change 2000-2010
	#	%	#	%	
White	25,200	72.6%	35,221	78.5%	39.8%
African-American	1,921	5.5%	2,465	5.5%	28.3%
Asian or Pacific Islander	227	0.7%	383	0.9%	68.7%
American Indian and Eskimo	464	1.3%	752	1.7%	62.1%
Other race	6,921	19.9%	6,073	13.5%	-12.3%
Total	34,733	100.0%	44,894	100.0%	29.3%
Hispanic (ethnicity)	12,676	36.5%	16,967	37.8%	33.9%

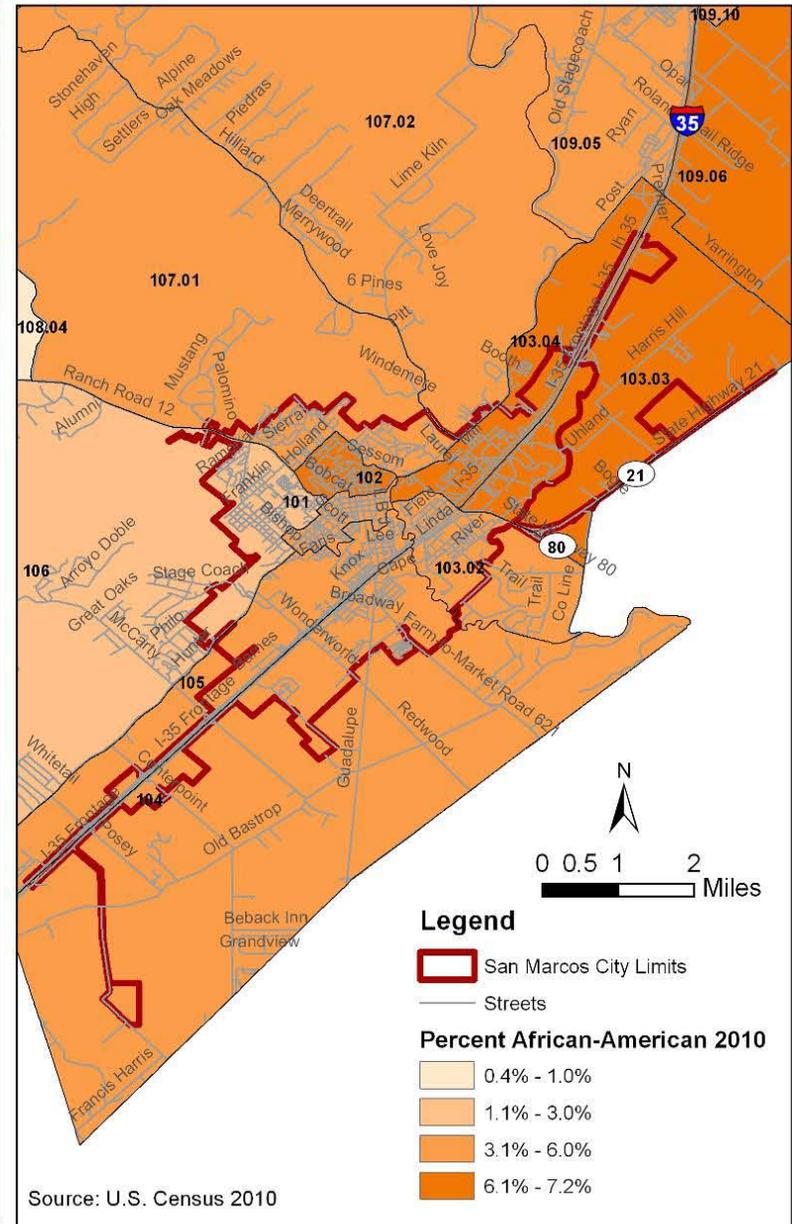
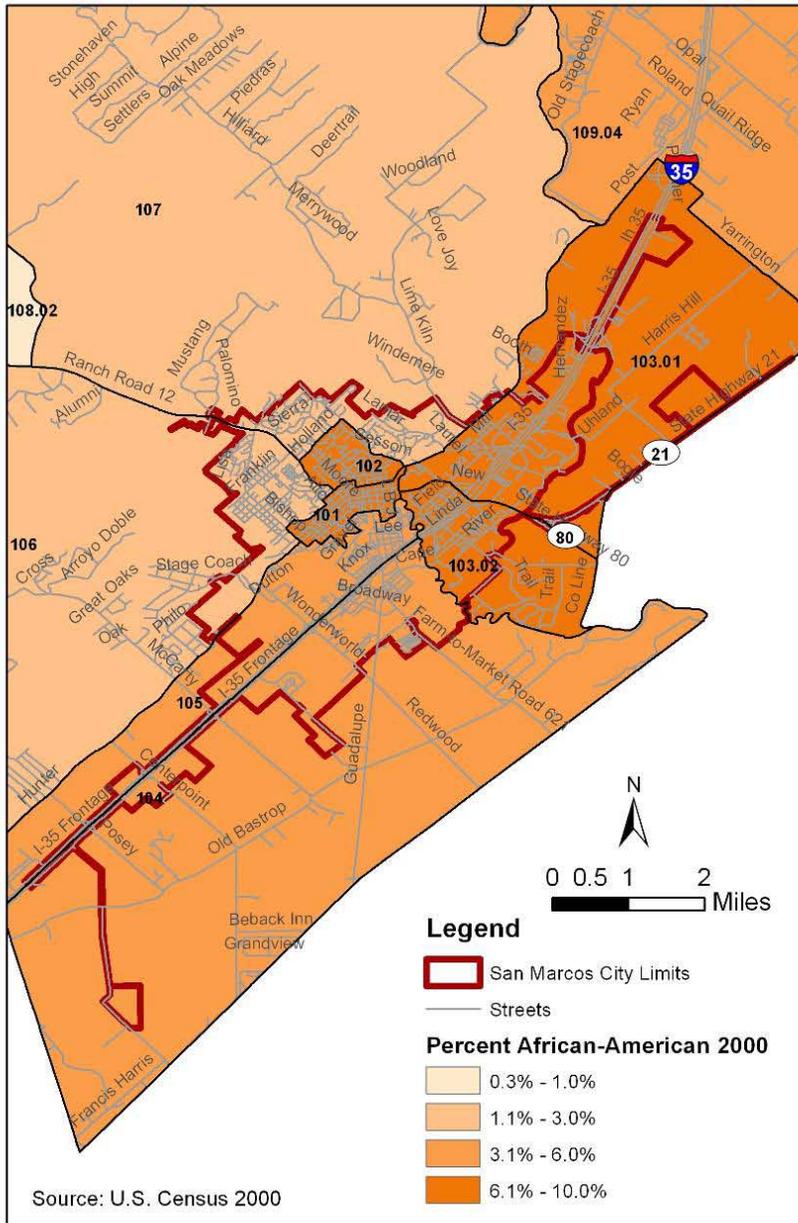
Source: US Census 2000 and 2010

The series of Maps 1.2 through 1.5 on the following pages show the spatial concentrations of the various racial and ethnic groups within San Marcos.

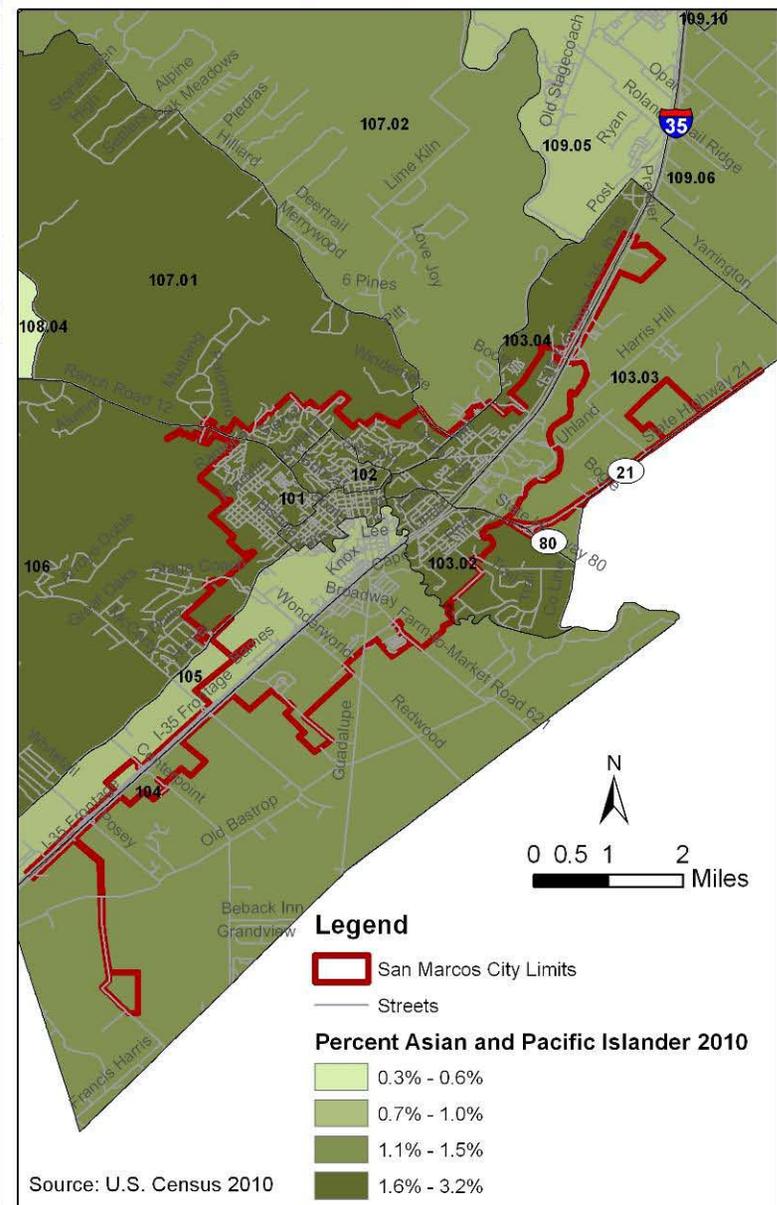
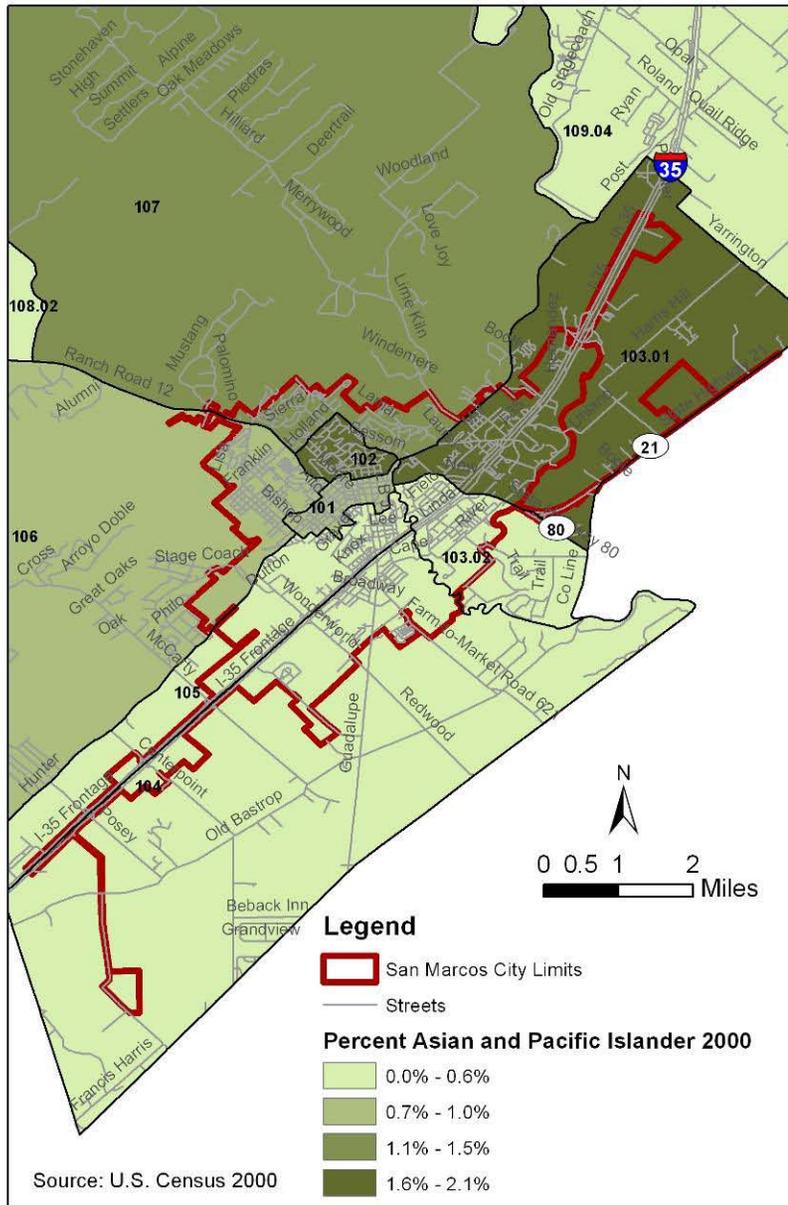
Map 1.3: Percent Hispanic 2000 and 2010



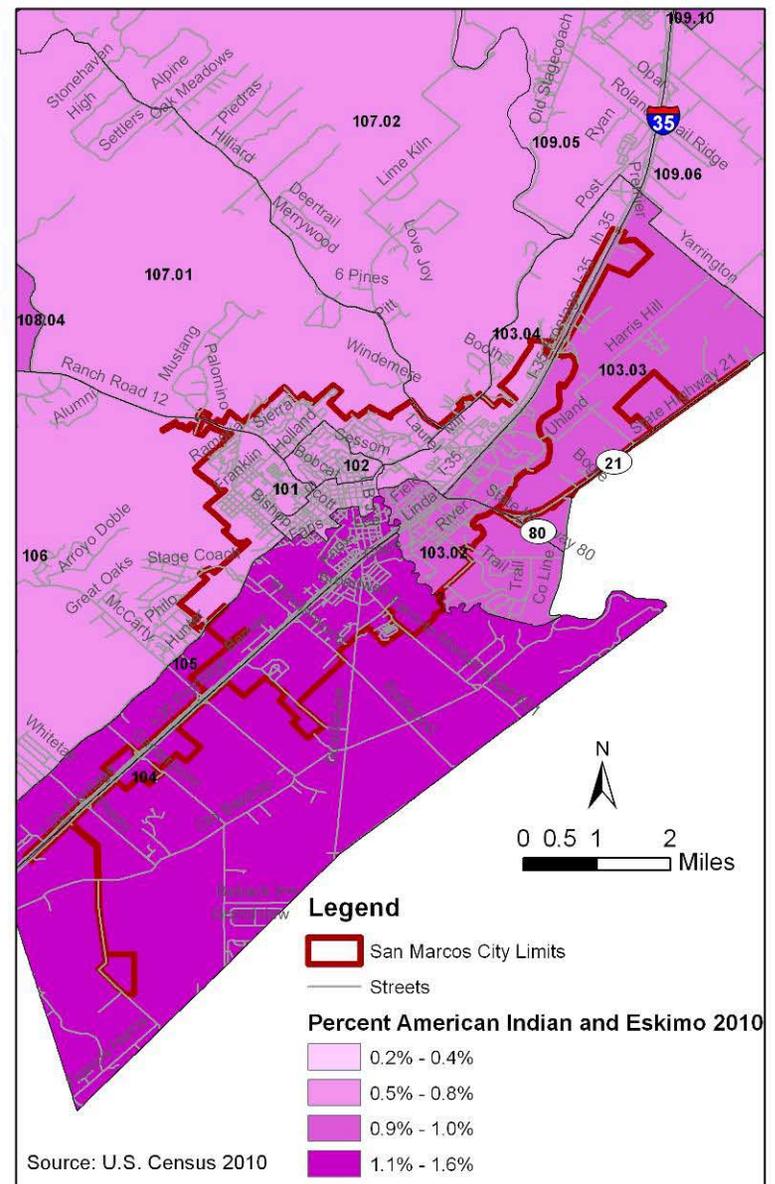
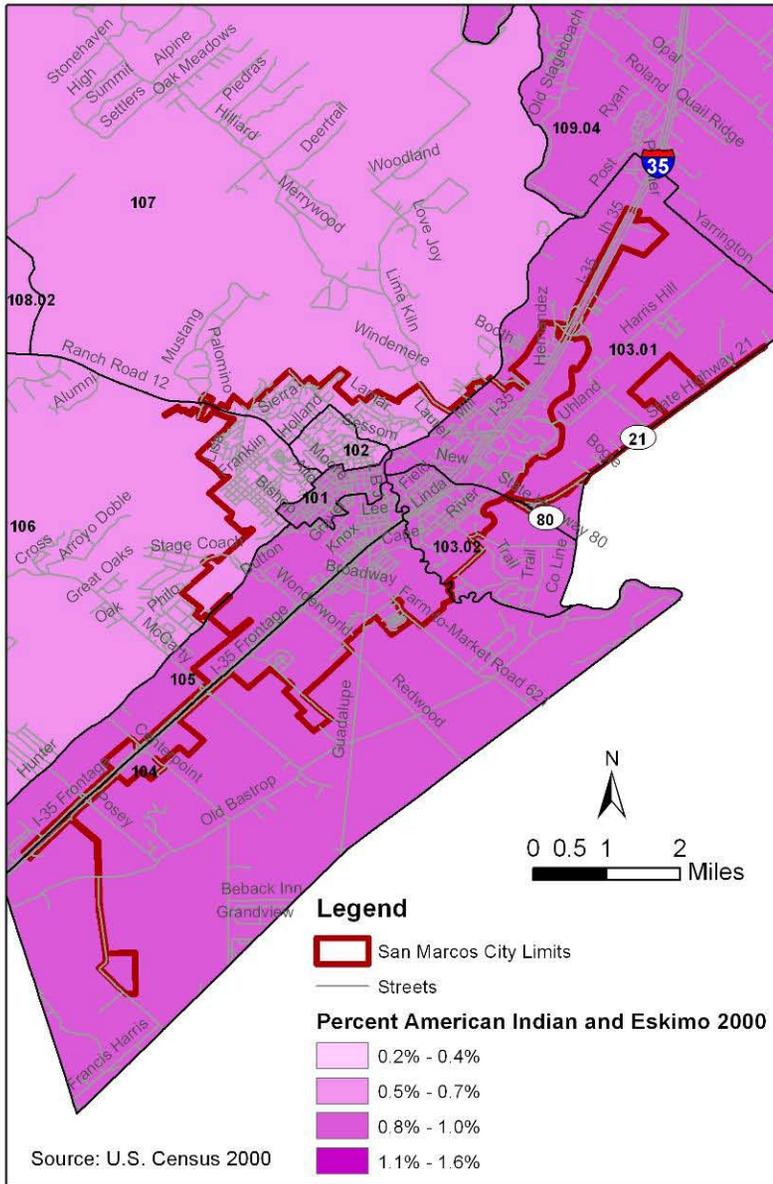
Map 1.2: Percent African-American 2000 and 2010



Map 1.4: Percent Asian and Pacific Islander 2000 and 2010



Map 1.5: Percent American Indian and Eskimo 2000 and 2010



In many communities, female-headed households and female-headed households with children face a high rate of housing discrimination. Higher percentages of female-headed households with children under the age of 18, sometimes correlates to increased incidents of reported rental property owners' refusal to rent to tenants with children. The percentage of female-headed households with children among White households was 2.5 percent, compared to 13.9 percent in Hispanic households, and 13.1 percent in African-American households between 2006 and 2010.

When considering all family types with children present, the data show that 11.4 percent of all White households, 36.2 percent of all Hispanic households, and 19.0 percent of all African-American households were in this category.

Non-family households among Whites made up 72.1 percent of all White households in San Marcos. Non-family households among Hispanics accounted for 41.9 percent of all Hispanic households. Non-family households among African-Americans accounted for 58.8 percent of all African-American households. Table 1.2, below, shows the family structure of White, Hispanic, and African-American households between 2006 and 2010.

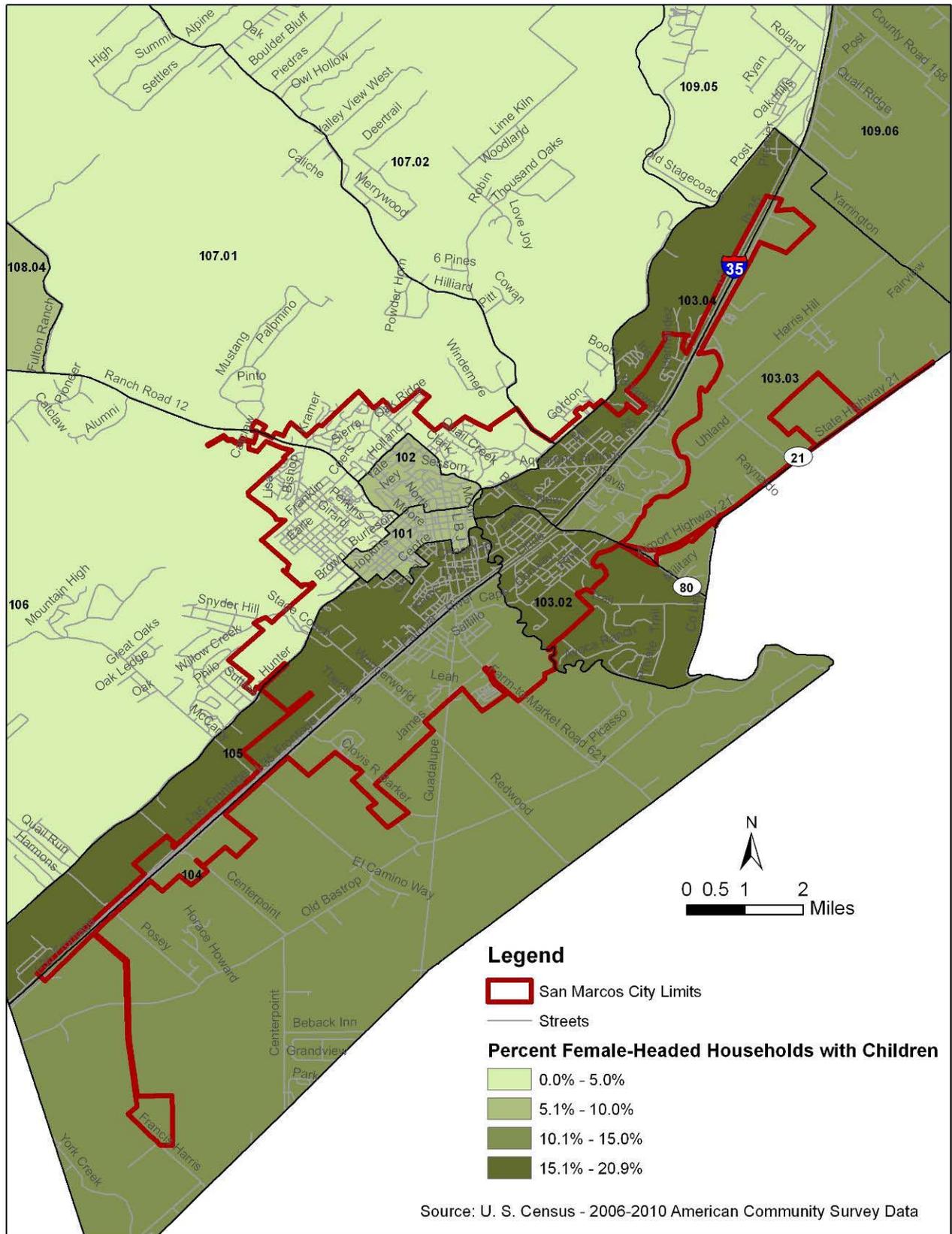
Table 1.2
Household structure by race for San Marcos, 2006 - 2010 (5-Year Average)

Household Type	White		Hispanic		African-American	
	# of households	% of Households	# of households	% of Households	# of households	% of Households
Family Households	2,663	27.9%	3,064	58.1%	261	41.2%
Married-couple	1,804	18.9%	1,685	31.9%	97	15.3%
Married-couple with children	678	7.1%	856	16.2%	32	5.1%
Male householder, no wife present	447	4.7%	503	9.5%	38	6.0%
Male Householder with children	172	1.8%	320	6.1%	5	0.8%
Female householder, no husband present	412	4.3%	876	16.6%	126	19.9%
Female-Headed with children	240	2.5%	735	13.9%	83	13.1%
Non-Family Households	6,895	72.1%	2,212	41.9%	372	58.8%
Total Households	9,558	100.0%	5,276	100.0%	633	100.0%

Source: 2006 - 2010 American Community Survey

The spatial distribution of female-headed households with children is shown in Map 1.6, on the following page.

Map 1.6: Percent Female-Headed Households with Children, 2006 - 2010



1.2. Income

In general, limitations on fair housing choice are more commonly found to affect housing decisions among low-income persons. Low-income households tend to be the most adversely impacted in acquiring desirable housing of their choice and housing in the more desirable areas in the city. Income limitations often prevent those households from moving to areas where local amenities raise the value of the housing. Income plays a very important part in securing and maintaining housing. In San Marcos, low income is certainly adversely impacting fair housing choice and quality of life for its residents. However, there is very little disparate impact of lower income based on race and ethnicity. All three race and ethnicities are experiencing large percentages of their population with very low incomes.

The data in Table 1.3 and Chart 1.1, on the following page, show the distribution of income across income classes among Whites, Hispanics, and African-Americans. An estimated 49.4 percent of White households, 35 percent of African-American households and 45.2 percent of Hispanic households have incomes of less than \$25,000. The City of San Marcos is comprised of census tracts where the majority of household incomes are below 80% of the area median, making the entire City eligible under HUD guidelines for Community Development Block Grant funding.

Chart 1.1 shows that the modal income class, the income classes with the highest number of households, for Whites was the less than \$10,000 category with 20.9 percent of Whites in this income range. The modal income class for Hispanic households was \$15,000 to \$24,999 range with 18.0 percent of households in this range. The most frequently reported income for African-American households was less than \$10,000 range with 26.2 percent of households in this range.

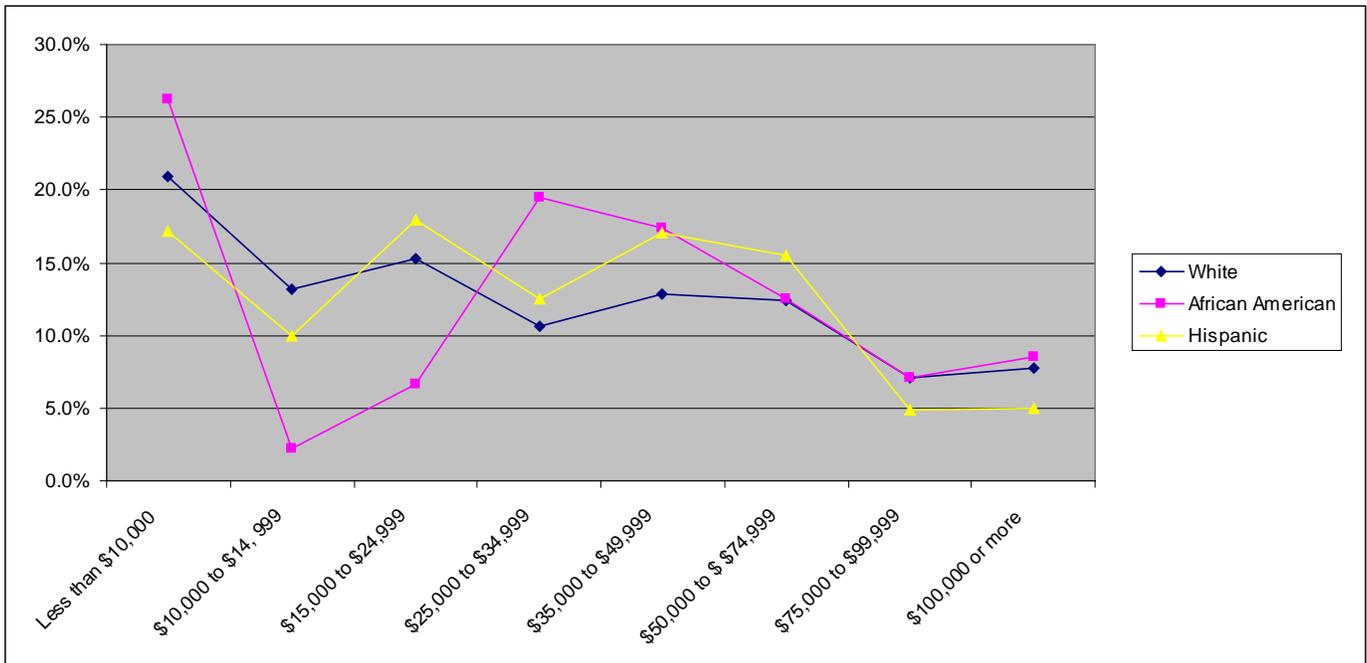
According to the 2006 - 2010 ACS estimates, the median household income was \$25,492 for White households, \$28,733 for Hispanic households, and \$29,877 for African-American households, compared to \$26,734 for the overall city. Map 1.7, on page 12, shows the median household income by census tract between 2006 and 2010.

Table 1.3
Households by race by income for San Marcos, 2006 - 2010

Income class	White		Hispanic		African-American	
	# of households	% of Households	# of households	% of Households	# of households	% of Households
Less than \$10,000	1,997	20.9%	905	17.2%	166	26.2%
\$10,000 to \$14,999	1,263	13.2%	525	10.0%	14	2.2%
\$15,000 to \$24,999	1,460	15.3%	949	18.0%	42	6.6%
\$25,000 to \$34,999	1,017	10.6%	658	12.5%	123	19.4%
\$35,000 to \$49,999	1,227	12.8%	902	17.1%	110	17.4%
\$50,000 to \$74,999	1,180	12.3%	817	15.5%	79	12.5%
\$75,000 to \$99,999	673	7.0%	256	4.9%	45	7.1%
\$100,000 or more	741	7.8%	264	5.0%	54	8.5%
Total:	9,558	100.0%	5,276	100.0%	633	100.0%

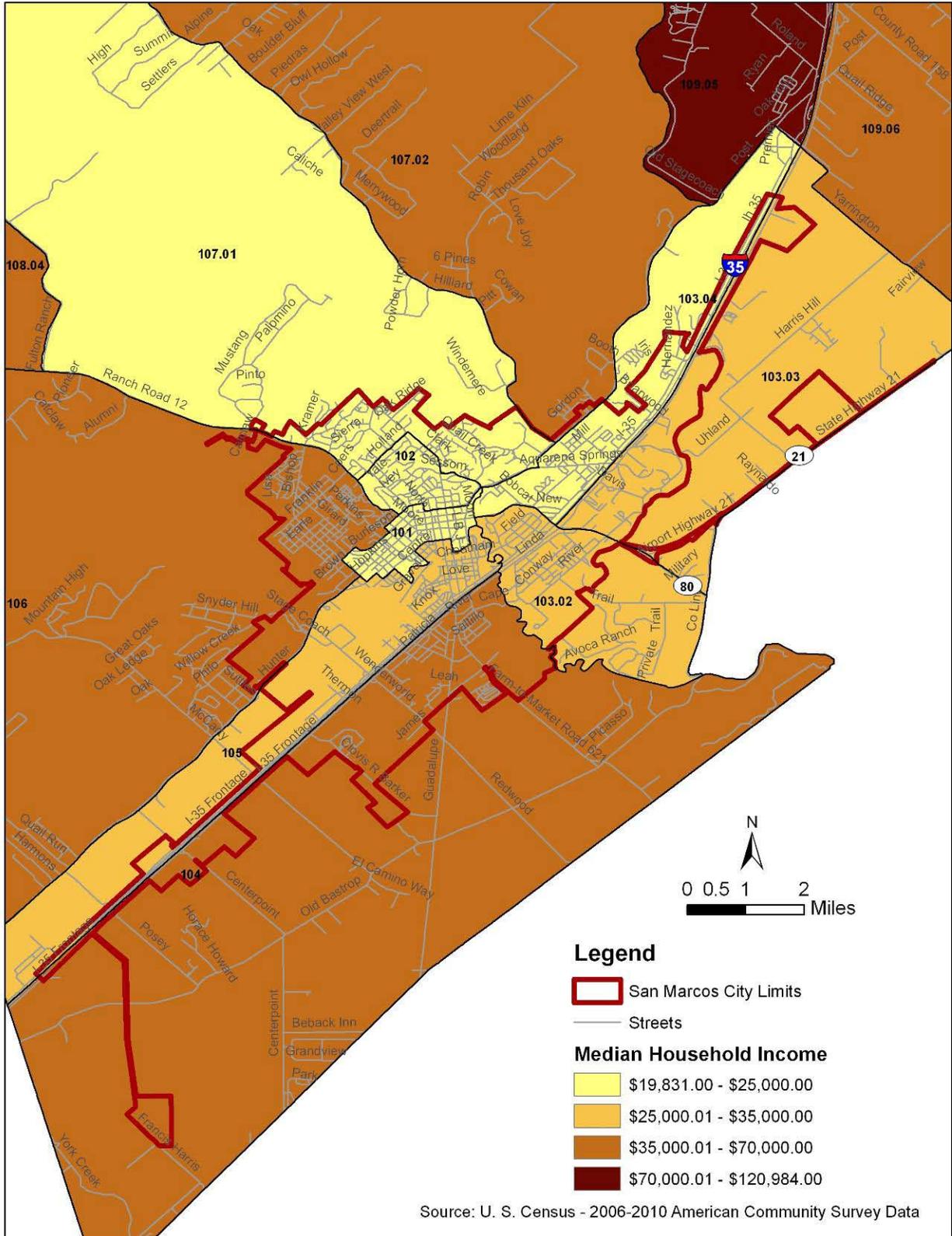
Source: 2006 - 2010 American Community Survey

Chart 1.1: Percent of Households by income class by race for San Marcos, 2006 - 2010



Source: 2006 - 2010 American Community Survey

Map 1.7: Median Household Income, 2006 - 2010



In San Marcos, poverty like low income is certainly adversely impacting fair housing choice and quality of life for its residents. However, there is very little disparate impact of poverty based on race and ethnicity. All three race and ethnicities are experiencing large percentages of their population living in poverty.

The poverty data in Table 1.4, below, shows the incidence of poverty among Hispanics was 32.3 percent and African-Americans was 39.7 percent of the total population between 2006 and 2010. Among White persons, the data reported 40.0 percent lived in poverty between 2006 and 2010. In comparison, the poverty rate for the city was 36.9 percent during the period.

There is one notable exception where poverty has a disparate impact based on race and ethnicity, The poverty data in Table 1.4, shows the incidence of poverty for persons under the age of 5 years for African-Americans was a staggering 69.5 percent of their total population between 2006 and 2010. Among White persons, the data reported 5.8 percent, and among Hispanics 39.6 percent of children under the age of 5 years lived in poverty between 2006 and 2010.

Table 1.4
Poverty Status by race San Marcos, 2006 - 2010

Age Group	White		Hispanic		African-American	
	Number in Poverty	% in Poverty	Number in Poverty	% in Poverty	Number in Poverty	% in Poverty
Under 5 years	27	5.8%	509	39.6%	89	69.5%
5 years	17	19.5%	79	32.6%	0	0.0%
6 to 11 years	26	6.5%	526	32.9%	44	31.4%
12 to 17 years	22	4.9%	429	27.6%	17	23.6%
18 to 64 years	7,232	46.0%	3,254	33.9%	437	40.1%
65 to 74 years	48	7.3%	0	0.0%	40	26.8%
75 years and over	72	8.7%	85	22.5%	24	40.7%
Total	7,444	40.0%	4,882	32.3%	651	39.7%

Source: 2006 - 2010 American Community Survey

1.3. Employment

Employment opportunities in the area and educational levels of the employees make a significant impact on housing affordability and the location choice of residents. Table 1.5, below, presents our analysis of occupation data, which indicate that there has been some shift in the distribution of occupations between 2000 and 2010. Retail services had the largest increase, up 3.1 percentage points to 18.8 percent. Arts, entertainment, recreation, accommodation, and food services had an increase, up 2.2 percentage points to 19.0 percent. Manufacturing realized the largest reduction of 2.6 percentage points leading to 4.3 percent of the total workforce. Education and health services had a decrease of 2.0 percentage points to 27.2 percent of the workforce. Transportation, Communications, and other public utilities reduced by 1.0 percentage point to 5.2 percent of the total workforce. Finance, insurance, and real estate services experienced a reduction of 1.0 percentage point falling to 3.7 percent of the total workforce.

Table 1.5

Occupation of employed persons for San Marcos, 2000 and 2006 - 2010 (5-Year Average)

Occupation	2000	2006 - 2010 Average	Percent Point Change
Agriculture, forestry, mining, and fisheries	0.6%	0.5%	-0.1%
Construction	4.5%	5.3%	0.8%
Manufacturing	6.9%	4.3%	-2.6%
Transportation, Communications, and other public utilities	2.4%	1.4%	-1.0%
Wholesale trade	1.4%	1.8%	0.4%
Retail trade	15.7%	18.8%	3.1%
Finance, insurance, and real estate	4.7%	3.7%	-1.0%
Professional, Business, repair, and personal services	10.0%	10.0%	0.0%
Arts, Entertainment and recreation services	16.8%	19.0%	2.2%
Educational and Health services	29.2%	27.2%	-2.0%
Other professional and related services	4.0%	5.0%	1.0%
Public administration	3.8%	3.0%	-0.8%

Source: US Census 2000 & 2006 - 2010 American Community Survey

The data presented in Table 1.6, provide a portrait of the distribution of the unemployed. It should be noted that unemployment has a disparate impact based on race and ethnicity, particularly among African-Americans. Between 2006 and 2010, 10.4 percent of White persons age 16 and over reported being unemployed. Hispanic persons in the same age group reported a 6.5 percent unemployment rate and the data for African-Americans showed 21.0 percent unemployment rate. As a comparison, the citywide unemployment rate was 9.6 percent during the period.

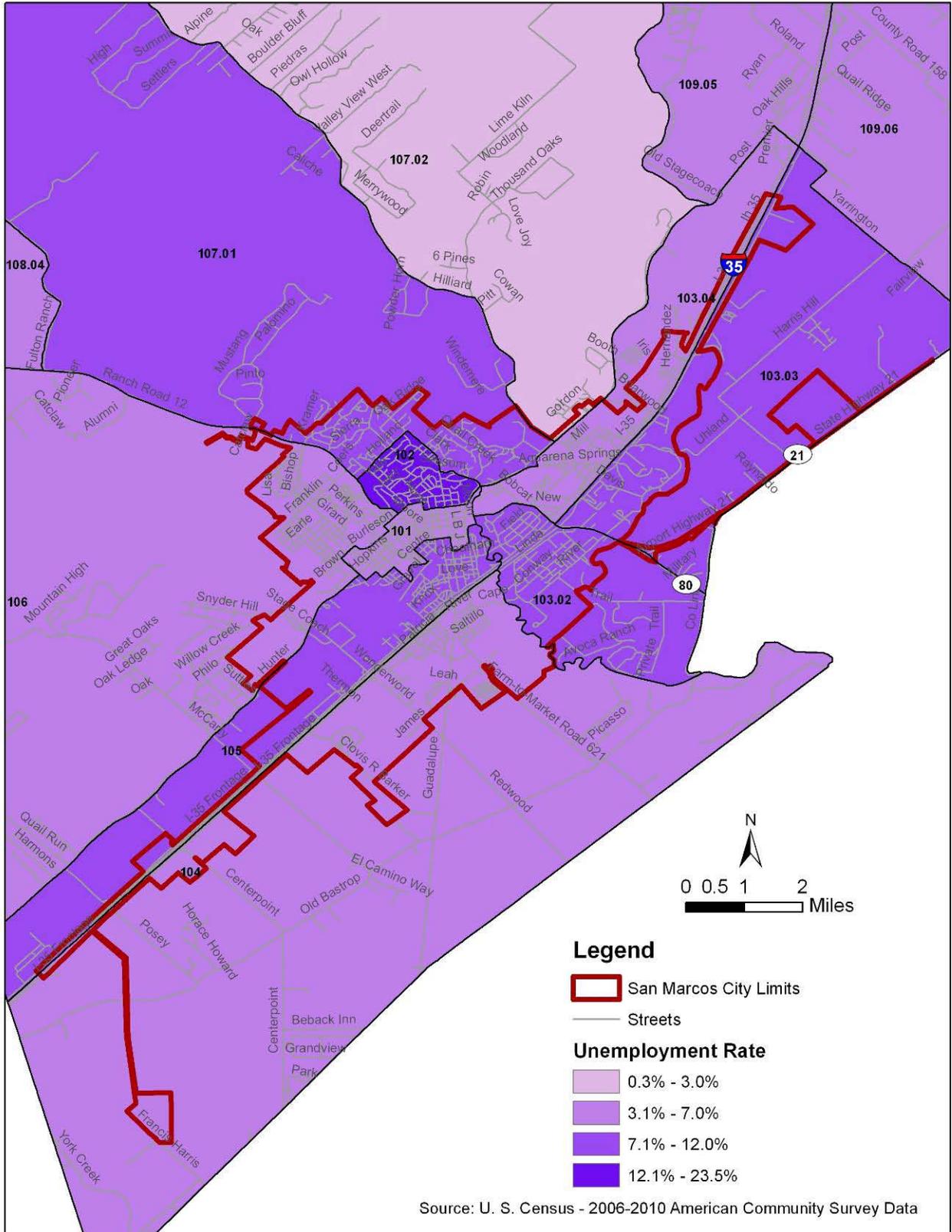
Table 1.6
Employment Status by race for San Marcos, 2006 - 2010

Employment Status	White		Hispanic		African-American		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
In Labor Force:	12,948		8,095		1,040		22,724	
In Armed Forces	24	0.2%	14	0.2%	0	0.0%	38	0.2%
Civilian:	14,249		8,893		1,198		22,189	
Employed	11,582	89.5%	7,553	93.3%	822	79.0%	20,501	90.2%
Unemployed	1,342	10.4%	528	6.5%	218	21.0%	2,185	9.6%
Not in labor force	9,041		4,455		753		14,582	
Total	21,989		12,550		1,793		22,724	

Source: 2006 - 2010 American Community Survey

According to the Bureau of Labor Statistics, the unemployment rate for the City of San Marcos has marginally increased from 5.9 percent in 2011 to 6.2 percent as of July 2012. Map 1.8, on the following page, shows the distribution of unemployed in San Marcos.

Map 1.8: Unemployment Rate, 2006 - 2010



According to the San Marcos Chamber of Commerce, the major employers in the area include Texas State University with 2,780 employees, Prime Outlets San Marcos with 2,100 employees, and Tanger Factory Outlet Center with 1,540 employees. San Marcos Consolidated Independent School District (CISD) has 1,114 workers, Hays County has 850 employees, Hunter Industries and Central Texas Medical Center have 650 workers each, HEB Distribution Center employs 578 workers, City of San Marcos has 517 employees, and Telenetwork Partners, LTD has 500 employees.

It should be noted that lower educational attainment has a disparate impact based on race and ethnicity, among African-Americans and Hispanics compared to Whites. In San Marcos, even the difference in the unemployment rate between African-Americans and the other two groups may, to some extent, be attributed to limitations due to educational attainment. According to the 2006 - 2010 ACS estimates (5-year average), 29.6 percent of Hispanics age 25 and above reported less than a high school education compared to 6.4 percent of Whites and 17.2 percent for African-Americans in the same age group. As a comparison, the percentage of population with less than a high school education in the city was 16.7 percent during the period.

The availability of jobs, consistent with the skill levels and educational levels of low-income persons, is largely dependent on the geographic location of the jobs and the workforces' ability to get to and from the employment centers where those job are located. If jobs are concentrated in largely upper income areas, far removed from the areas where lower income persons live, their ability to get to and from work may be difficult, without public transportation, sometimes causing hardships on employees or potential employees that cannot afford their own private automobile.

To further examine the impact of employment proximity relative to housing choice for low- and moderate-income persons, we analyzed the use and availability of public transportation and the extent to which public transportation provides flexible routes, affordable rates, time efficient commutes with direct route and limited transfers, and

routes and schedules that provide access to major employment centers for peak and off-peak work shifts.

1.4. Public Transportation

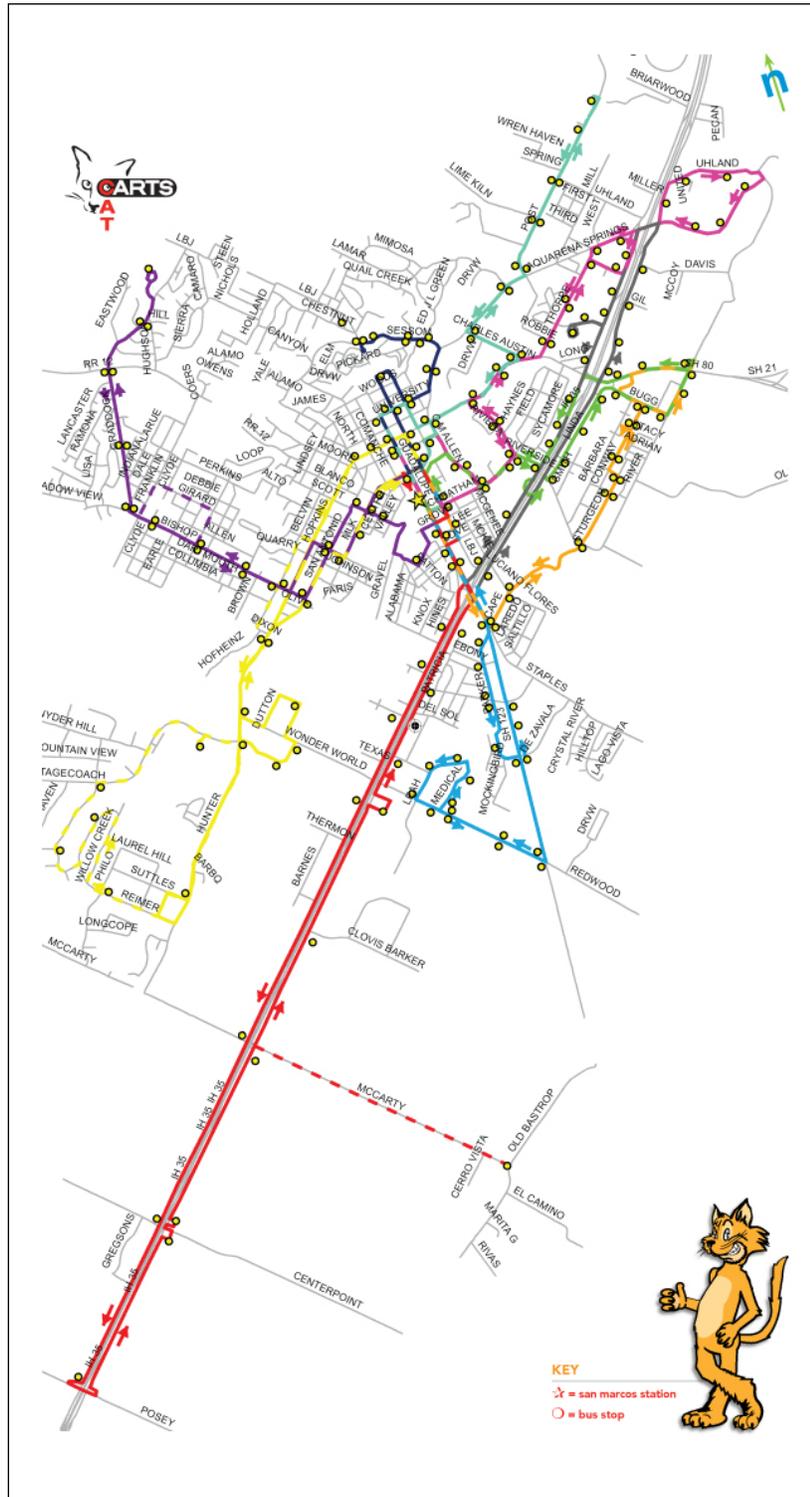
The Capital Area Rural Transportation System (CARTS) is a Rural Transit District that provides transit services in nine county areas surrounding the City of Austin. The CARTS District includes all of Bastrop, Burnet, Blanco, Caldwell, Fayette, Hays, and Lee counties and the non-urbanized areas of Travis and Williamson counties.

CARTS provide a variety of transit services tailored to the needs of each community in the region. CARTS Around Town (CAT) is a municipal fixed route bus service offering regular route service connecting neighborhoods and downtown businesses for citizens and visitors. CARTS buses operate from five transit stations, located strategically throughout the CARTS district connecting San Marcos to other centers in Austin, Bastrop, Round Rock, and Smithville.

The San Marcos CAT is a wheelchair-accessible fixed-route service, which operates from Monday through Friday 7 am to 6 pm. The bus service includes ten routes connecting major destinations in the city such as the Factory Outlet Malls, H.E.B., Wal-mart, Springtown Mall, The Playscape Park, and many school campuses in the area. The bus service is available at affordable fares and reduced fares are available for persons with disabilities, seniors, and students. CARTS operates ADA paratransit curb-to-curb service is available for individuals with disabilities who are unable to use the CAT routes.

Map 1.9 on the following page shows CAT's bus routes in the city.

Map 1.9: San Marcos Bus Route Map



Source: Capital Area Rural Transportation System

1.5. Housing

According to the 2006 - 2010 ACS estimates (5-year average), the total number of housing units in the city was 17,304 with 8.3 percent vacant units. As shown in Table 1.7, to the right, there were 13,320 housing units in San Marcos in 2000. The total number of housing units in the city increased 29.9 percent between 2000 and 2010. According to the 2006 - 2010 ACS data, of the total number of housing units in the city, 25.1 percent were owner-occupied and 66.6 percent were renter-occupied. The median housing value in the city was \$121,700 and the median contract rent was \$644 between 2006 and 2010.

Table 1.7
Tenure for housing in San Marcos, 2000,
and 2006 - 2010 (5-Year Average)

Tenure	2000		2006 - 2010 (Average)	
	Number	Percent	Number	Percent
Owner-occupied	3,824	28.7%	4,338	25.1%
Renter-occupied	8,836	66.3%	11,523	66.6%
Vacant	660	5.0%	1,443	8.3%
Total:	13,320	100.0%	17,304	100.0%

Source: US Census 2000 and 2006 - 2010 American Community Survey

Table 1.8, to the right, shows that of all housing units, 31.1 percent were categorized as single-family detached housing units, 1.8 percent as single-family attached units, 15.8 percent contained two to four units, 46.1 percent were multifamily, and 5.2 percent mobile home or other.

Table 1.8
Housing type for San Marcos, 2006 - 2010 (5-Year Average)

Units in Structure	Number*	Percent
Single-Family detached	5,382	31.1%
Single-Family attached	316	1.8%
2-4 units	2,734	15.8%
Multifamily	7,976	46.1%
Mobile home or Other	896	5.2%
Total	17,304	100.0%

Source: 2006 - 2010 American Community Survey

As shown on Table 1.9, on the following page, 6.0 percent of all housing units were built prior to 1950, 7.1 percent were built between 1950 and 1959, 7.8 percent were built between 1960 and 1969, 20.7 percent were built between 1970 and 1979, and 58.4 percent were built after 1979. Over 13 percent of the housing stock is more than 50 years old, built prior to 1960. About 21 percent of the housing stock was built prior to 1970. Based on national standards, these units may contain lead-based paint or likely be in need of repairs and maintenance.

Table 1.9
Age of Housing Stock in San Marcos, 2006 - 2010 (5-Year Average)

Year Built	Number	Percent
Built 2006 or later	762	4.4%
Built 2000 to 2004	3,999	23.1%
Built 1990 to 1999	2,409	13.9%
Built 1980 to 1989	2,934	17.0%
Built 1970 to 1979	3,575	20.7%
Built 1960 to 1969	1,347	7.8%
Built 1950 to 1959	1,226	7.1%
Built 1940 to 1949	441	2.5%
Built 1939 or earlier	611	3.5%
Total:	17,304	100.0%

Source: 2006 - 2010 American Community Survey

According to the 2006 - 2010 ACS data shown in Table 1.10, homeownership rate among Whites was 25.1 percent, compared to 31.3 percent among Hispanics, and 28.3 percent among African-Americans.

Table 1.10
Tenure by Race in San Marcos, 2006 - 2010 (5-Year Average)

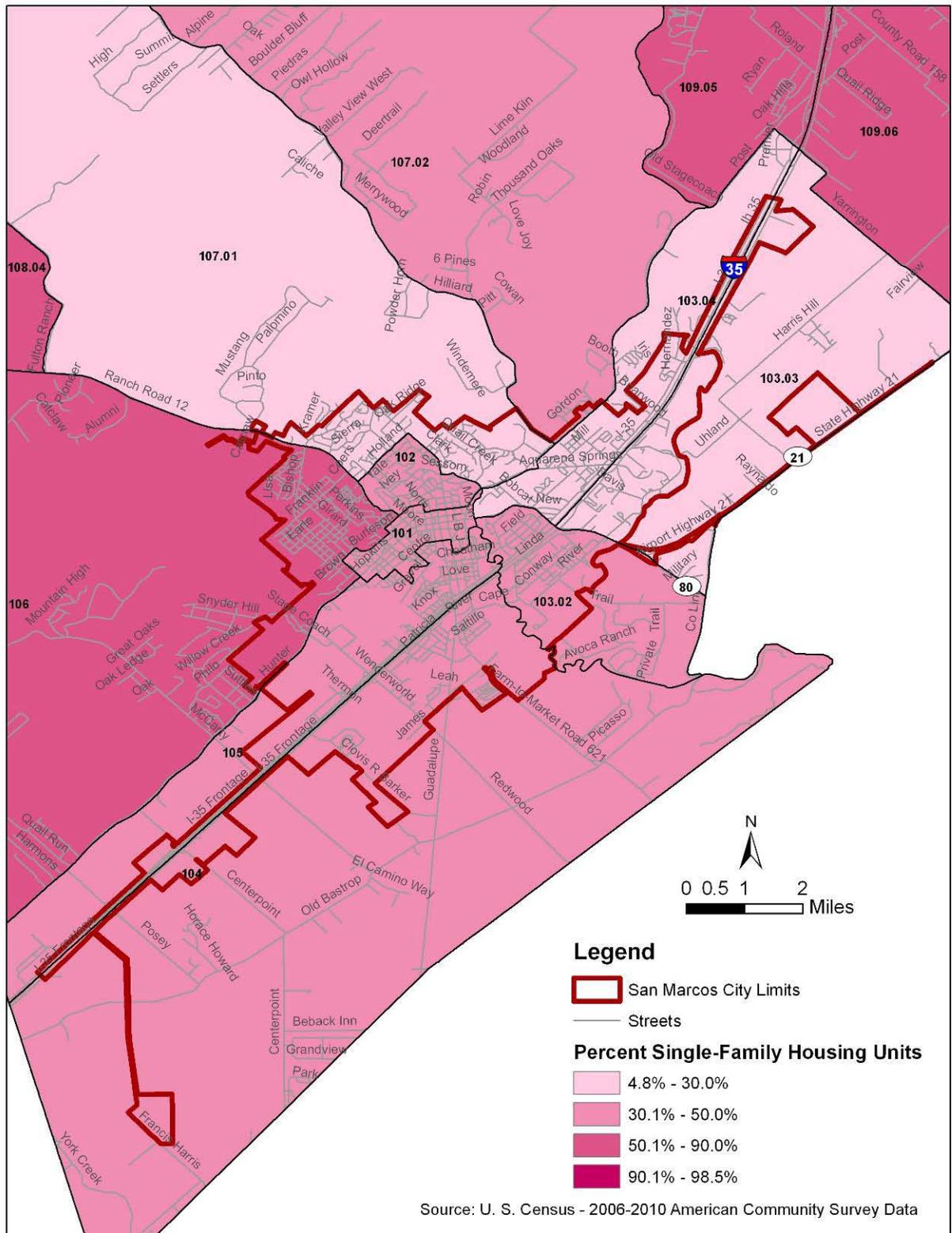
Tenure by Race	Owner-occupied		Renter-occupied	
	#	%	#	%
White	2,402	25.1%	7,156	74.9%
Hispanic	1,649	31.3%	3,627	68.7%
African-American	179	28.3%	454	71.7%

Source: 2006 - 2010 American Community Survey

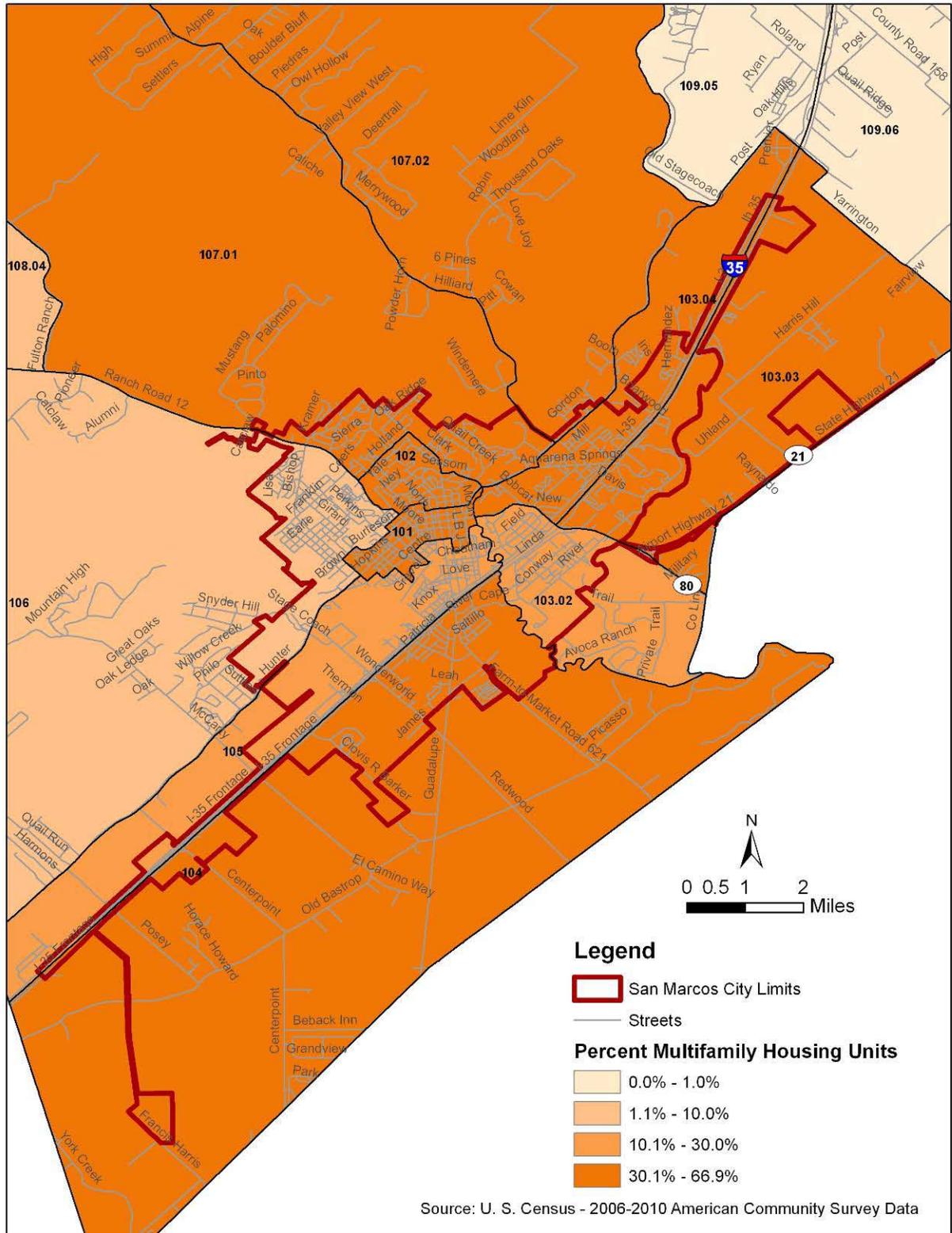
Therefore, our analysis noted that White households had lower homeownership rates, and no disparate impact on homeownership rates based on race and ethnicity. All three groups are experiencing similar percentages of their population becoming homeowners.

Maps 1.10, on following page, and Map 1.11, on page 23, indicate the distribution of single-family and multifamily housing across the city. Map 1.12, on page 24, provides a geographic representation of the distribution of the oldest housing stock in the city. Maps 1.13 and 1.14, on pages 25 and 26, provide a geographic depiction of the distribution of housing values and rents across the city.

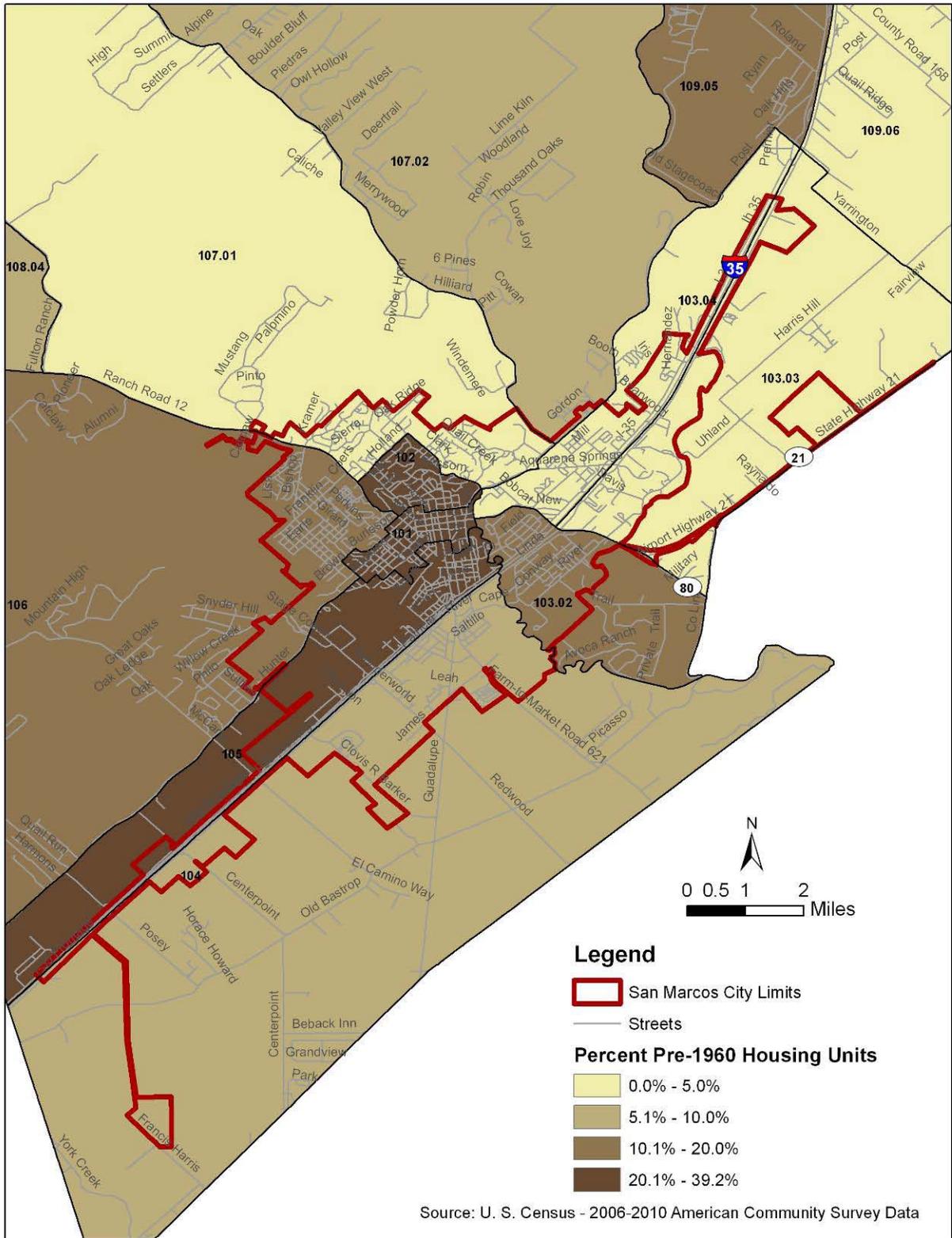
Map 1.10: Percent Single-Family Housing Units, 2006 - 2010



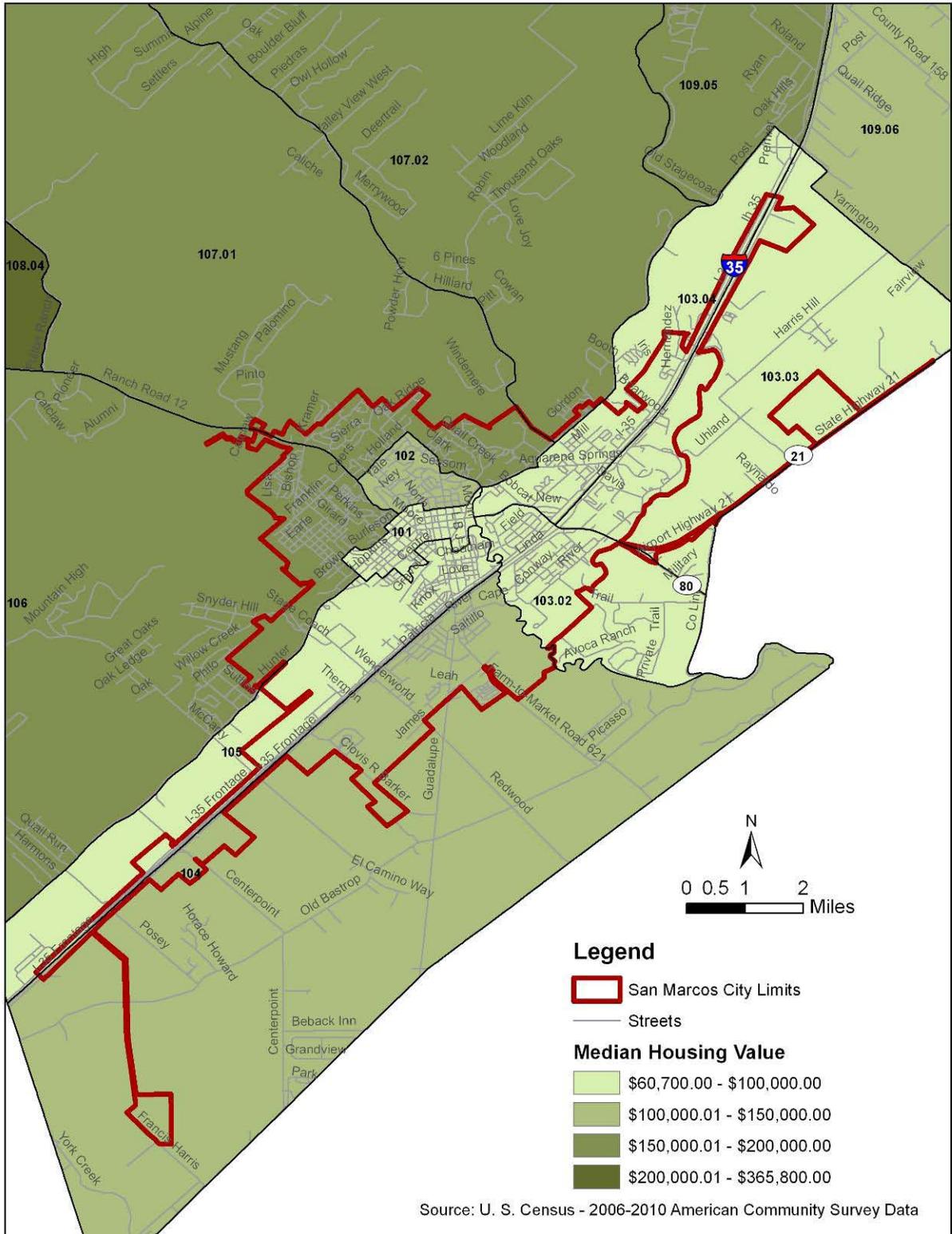
Map 1.11: Percent Multifamily Housing Units, 2006 - 2010



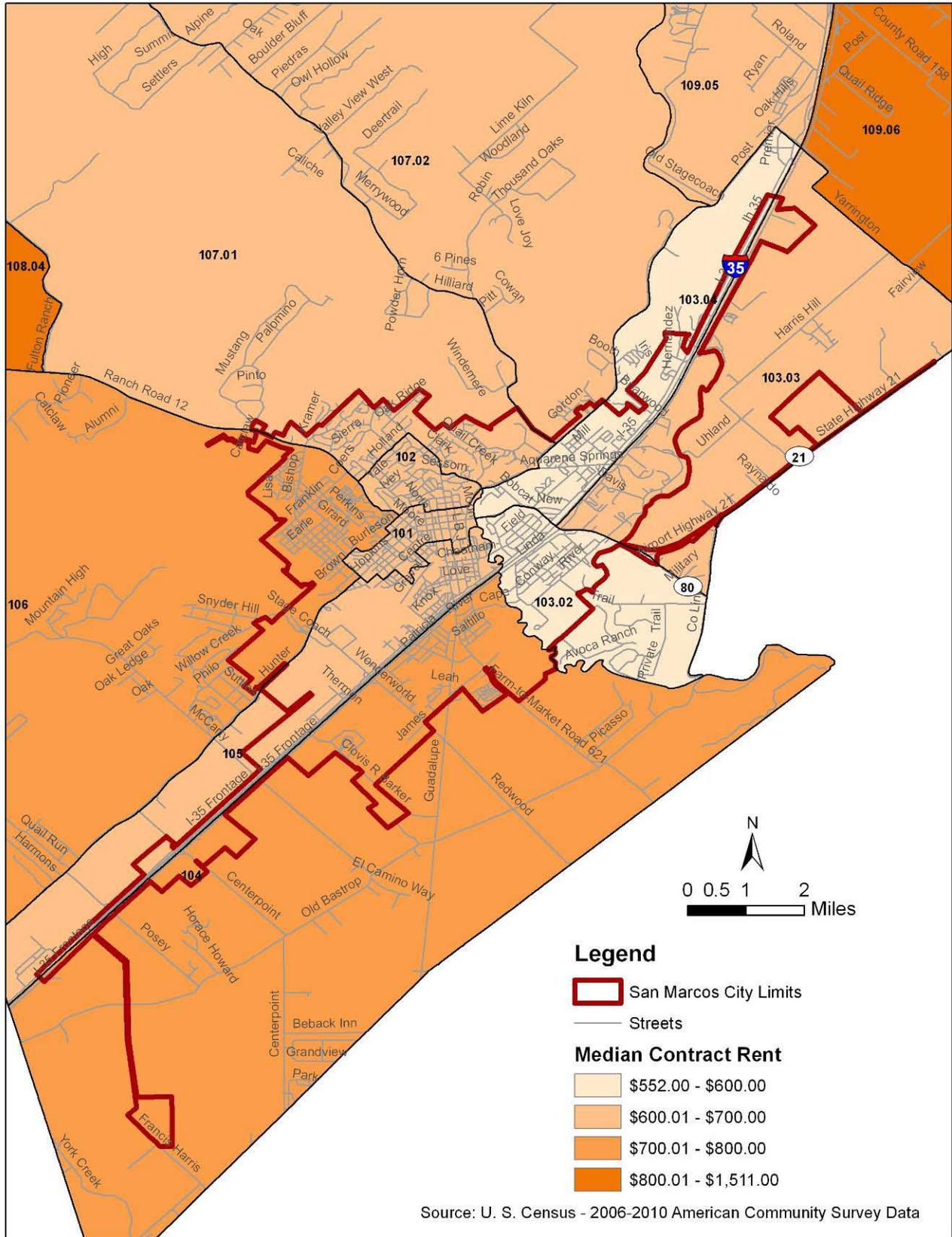
Map 1.12: Percent Pre-1960 Housing Stock



Map 1.13: Median Housing Value, 2006 - 2010



Map 1.14: Median Contract Rent, 2006 - 2010



Source: U. S. Census - 2006-2010 American Community Survey Data

Data contained in the Comprehensive Housing Affordability Strategy (CHAS) Table for the year 2000, duplicated in Table 1.10, on the following page, indicates that the impact of housing costs on household incomes is very severe on low- and very low-income households. The table shows that 81.9 percent of all very low-income renters (those earning between 0 percent and 30 percent of the median family income) and 74.5 percent of very low-income homeowner households paid more than 30 percent of their income on housing expenses. Furthermore, 72.8 percent of very low-income renters and 49.7 percent of very low-income homeowners paid more than 50 percent of their incomes on housing expenses in 2000.

Looking at the “Other Low-Income” households (those earning between 31 percent and 50 percent of the median family income), 76.9 percent of low-income renters and 46.2 percent of low-income homeowners paid more than 30 percent on housing expenses in 2000. Also, 16.1 percent of renters and 16.8 percent of homeowners paid more than 50 percent on housing expenses.

In 2000, the moderate-income category (those earning between 51 percent and 80 percent of the median family income), shows 24.0 percent of renters and 31.1 percent of homeowners had rent burdens in excess of 30 percent, and 2.2 percent renters and 6.6 percent of homeowners paid more than 50 percent on housing expenses.

Table 1.11
Cost Burden by income and tenure, 2000

Very Low-Income (Household income <=30% MFI)		
Renters	% Cost Burden > 30%	% Cost Burden > 50%
Elderly	58.5	36.8
Small Related	77.5	66.5
Large Related	47.4	23.7
Other	86.1	79.2
Total Renters	81.9	72.8
Owners		
Elderly	69.2	40.4
Small Related	85.5	65.2
Large Related	0	0
Other	84.2	63.2
Total Owners	74.5	49.7
Total Households	81.1	70.6

Other Low-Income (Household income >30 to <=50% MFI)		
Renters	% Cost Burden > 30%	% Cost Burden > 50%
Elderly	55.7	15.9
Small Related	69.6	8.8
Large Related	51.8	13.2
Other	83.2	18.5
Total Renters	76.9	16.1
Owners		
Elderly	29.7	13.5
Small Related	58.1	16.8
Large Related	36.8	0
Other	56.5	34.8
Total Owners	46.2	16.8
Total Households	69.4	16.3

Moderate Income (Household income >50% to <=80% MFI)		
Renters	% Cost Burden > 30%	% Cost Burden > 50%
Elderly	9.5	9.5
Small Related	15.5	2.1
Large Related	15.9	0
Other	29.4	1.7
Total Renters	24	2.2
Owners		
Elderly	15	0
Small Related	31.2	6.7
Large Related	23.6	8.1
Other	58.6	13.8
Total Owners	31.1	6.6
Total Households	26.3	3.6

Source: HUD Comprehensive Housing Affordability Strategy (CHAS) Tables, 2000

According to the 2006 - 2010 ACS estimates, as shown in Table 1.12 to the right, 60.5 percent of renter households paid more than 30 percent of their household income towards rent. About 79 percent of the renter households with household income of less than \$10,000, 93.9 percent of the renter households that earned between \$10,000 to \$19,999, and 65.7 percent of the renter households that earned between \$20,000 to \$34,999 spent more than 30 percent of their households income towards rent during the five-year period.

As shown in Table 1.13, to the right, 10.0 percent of owner households were under 30 percent cost burden and 3.4 percent of the owner households were under 50 percent cost burden during the same period.

Overall, our analysis of the demographic characteristics and disparate impact analysis including income, poverty, unemployment, and homeownership do not show disadvantages for minorities as compared to Whites in the city, with the exception of household structure and

Table 1.12
Gross Rent as a Percent of Household Income in San Marcos, 2006 - 2010 (5-Year Average)

Gross Rent as a Percent of Household Income	Number of Households	Cost Burden 30%
Less than \$10,000	2,914	
Less than 30.0 percent	48	
30.0 percent or more	2,292	78.7%
Not computed	574	
\$10,000 to \$19,999	2,709	
Less than 30.0 percent	78	
30.0 percent or more	2,545	93.9%
Not computed	86	
\$20,000 to \$34,999	2,633	
Less than 30.0 percent	853	
30.0 percent or more	1,730	65.7%
Not computed	50	
\$35,000 to \$49,999	1,722	
Less than 30.0 percent	1,297	
30.0 percent or more	351	20.4%
Not computed	74	
\$50,000 or more	1,545	
Less than 30.0 percent	1,472	
30.0 percent or more	50	3.2%
Not computed	23	
Total Renter Households	11,523	
Less than 30.0 percent	3,748	
30.0 percent or more	6,968	60.5%
Not computed	807	

Source: 2006 - 2010 American Community Survey

Table 1.13
Owner Housing Costs as a Percent of Household Income in San Marcos, 2006 - 2010 (5-Year Average)

Housing Cost as a Percent of Household Income	Number of Owner Households	Percent
Less than 30.0 percent	3,078	24.9%
30.0 percent or more	1,235	10.0%
50.0 percent or more	419	3.4%
Not computed	25	0.2%
Total Owner-Occupied households	4,338	35.1%

Source: 2006 - 2010 American Community Survey

educational attainment, and poverty among young children. However, the disparate impact of even these demographic characteristics are likely influencing housing choices relative to the geographical location and condition of housing and neighborhoods, housing type, cost of housing, decisions to become or remain a renter versus a homeowner, and unduly contributed the housing of some minorities and protected class members housing choice being a cost burden or creating overcrowded conditions for their household.

According to the 2010 Census estimates, the total population of San Marcos was 44,894, a 29.3 percent increase between 2000 and 2010. Table 1.1, below, shows the distribution of population by race and ethnicity in the city. The White population increased by 39.8 percent, and their percentage of the total population increased from 72.6 percent to 78.5 percent between 2000 and 2010. African-Americans increased by 544 persons, and made up 5.5 percent of total population in 2010. San Marcos experienced a 33.9 percent increase in the Hispanic population between 2000 and 2010. The percentage of Hispanic population of the total population increased from 36.5 percent in 2000 to 37.8 percent in 2010, 1.3 percentage point increase. As minority populations continue to increase, impediments to fair housing and their impacts relative to disparities may increase as well.

Section 2: Fair Housing Law, Court Case, Policies, Regulatory and Complaint Analysis

Introduction

It is important to examine how the City of San Marcos's laws, regulations, policies and procedures will ultimately affect fair housing choice. Fair housing choice is defined, generally, as the ability of people with similar incomes to have similar access to location, availability and quality of housing. Therefore, impediments to fair housing choice may be acts that violate a law or acts or conditions that do not violate a law, but preclude people with varying incomes from having equal access to decent, safe, and affordable housing.

The first part of this section, Section 2.1, will address the existing statutory and case law that work to remove impediments and promote fair housing choice. The Federal Fair Housing Act can be effective in mitigating barriers to fair housing choice, depending upon enforcement efforts. Relevant judicial court case decisions pertaining to fair housing were reviewed and are incorporated in the analysis. Other related regulations and case law that provide further interpretation, understanding, and support to the Federal Fair Housing Act were considered and will also be discussed.

The City of San Marcos has enacted local fair housing legislation however it is not considered substantially equivalent to Federal Fair Housing Law in the area of enforcement. Therefore, our analysis of applicable fair housing laws focused on the State of Texas Fair Housing Act. In the analysis the State of Texas statutes were compared to the Federal Fair Housing Act to determine whether they offered similar rights, remedies, and enforcement to the federal law and might be construed as substantially equivalent. Pertinent related laws, such as the Community Reinvestment Act and Home Mortgage Disclosure Act, were reviewed with respect to how they can

facilitate fair lending. Section 2.2 summarizes the level of fair housing enforcement activity in the City of San Marcos.

A more difficult, but intertwined, aspect of evaluating barriers to fair housing choice involves an analysis of public policy, programs and regulations that impact the availability of affordable housing. Our analysis centered on how governmental actions impact fair housing choice and the availability of adequate, decent, safe, and affordable housing for people of all incomes. We examined government subsidies and public funding appropriations used to provide housing assistance for very low- and low-income households. This included an analysis of city operated housing programs provided in Section 2.3. Numerous documents were collected and analyzed to complete this section. The key documents are Consolidated Plans, current and previous Annual Action Plans, the Consolidated Annual Performance Evaluation Reports (CAPER), San Marcos Housing Authority Five Year and Annual Plans and documentation on various housing programs and projects. City staff also provided information on its current and future initiatives to develop affordable housing and acquire additional funds.

Our analysis of development regulations, City advisory board actions and public policy documents are presented in Section 2.4. This section focuses on building codes, zoning ordinances, land use plans, local initiatives and governmental actions relative to development and incentives that stimulate development. The analysis of public policy includes decisions by San Marcos City Council and advisory boards and commissions such as the San Marcos Housing Authority, CDBG Advisory Committee, Zoning Board of Adjustment and Appeals, Planning and Zoning Commission, Historic Preservation Commission, and the Neighborhood Commission.

Section 2.5 provides an analysis of fair housing complaints filed with HUD. Section 2.5 also contains conclusions about fair housing barriers based on the existing law, enforcement efforts, complaint analysis, and the availability of affordable housing. The HUD Fort Worth, Texas Regional Fair Housing and Equal Opportunity (FHEO) Office

has responsibility for fair housing enforcement in San Marcos. Official compliant date was received from the HUD Fort Worth, Texas Regional Office, Fair Housing Equal Opportunity Division.

2.1. Fair Housing Law

The Federal Fair Housing Act (the Act) was enacted in 1968, and amended in 1974 and 1988 to add protected classes, provide additional remedies, and strengthen enforcement. The Act, as amended, makes it unlawful for a person to discriminate on the basis of race, color, sex, religion, national origin, handicap, or familial status. Generally, the Act prohibits discrimination based on one of the previously mentioned protected classes in all residential housing, residential sales, advertising, and residential lending and insurance. Prohibited activities under the Act, as well as examples, are listed below.

It is illegal to do the following based on a person's membership in a protected class:

- Misrepresent that a house or apartment is unavailable by:
 - ✓ Providing false or misleading information about a housing opportunity,
 - ✓ Discouraging a protected class member from applying for a rental unit or making an offer of sale, or
 - ✓ Discouraging or refusing to allow a protected class member to inspect available units;
- Refuse to rent or sell or to negotiate for the rental or sale of a house or apartment or otherwise make unavailable by:
 - ✓ Failing to effectively communicate or process an offer for the sale or rental of a home,
 - ✓ Utilizing all non-minority persons to represent a tenant association in reviewing applications from protected class members, or
 - ✓ Advising prospective renters or buyers that they would not meld with the existing residents;
- Discriminate in the terms, conditions, or facilities for the rental or sale of housing by:

- ✓ Using different provisions in leases or contracts for sale,
- ✓ Imposing slower or inferior quality maintenance and repair services,
- ✓ Requiring a security deposit (or higher security deposit) of protected class members, but not for non-class members,
- ✓ Assigning persons to a specific floor or section of a building, development, or neighborhood, or
- ✓ Evicting minorities, but not whites, for late payments or poor credit;
- Make, print, publish, or post (direct or implied) statements or advertisements that indicate that housing is not available to members of a protected class;
- Persuade or attempt to persuade people, for profit, to rent or sell their housing due to minority groups moving into the neighborhood by:
 - ✓ Real estate agents mailing notices to homeowners in changing area with a listing of the homes recently sold along with a picture of a Black real estate agent as the successful seller, or
 - ✓ Mailed or telephonic notices that the "neighborhood is changing" and now is a good time to sell, or noting the effect of the changing demographics on property values;
- Deny or make different loan terms for residential loans due to membership in a protected class by:
 - ✓ Using different procedures or criteria to evaluate credit worthiness,
 - ✓ Purchasing or pooling loans so that loans in minority areas are excluded,
 - ✓ Implementing a policy that has the effect of excluding a minority area, or
 - ✓ Applying different procedures (negative impact) for foreclosures on protected class members;
- Deny persons the use of real estate services;
- Intimidate, coerce or interfere; or
- Retaliation against a person for filing a fair housing complaint.

The Fair Housing Act requires housing providers to make reasonable accommodations in rules, policies, practices, and paperwork for persons with disabilities. They must

allow reasonable modifications in the property so people with disabilities can live successfully. Due to the volume of questions and complaints surrounding this aspect of the federal act, in March 2008, the Department of Justice (DOJ) and the Department of Housing and Urban Development (HUD) released a joint statement to technically define the rights and obligation of persons with disabilities and housing providers.

In addition to prohibiting certain discriminatory acts, the Act places no limit on the amount of recovery and imposes substantial fines. The fine for the first offense can be up to \$11,000; the second offense within a five year period, up to \$27,500; and for a third violation within seven years up to \$55,000.

The prohibition in the Fair Housing Act against advertising that indicates any "preference, limitation or discrimination" has been interpreted to apply not just to the wording in an advertisement but to the images and human models shown. Ad campaigns may not limit images to include only or mostly models of a particular race, gender, or family type.

As a test to determine if advertising relative to housing and real estate in the local housing market have impediments to fair housing, a review of local advertisements in real estate publications from August and September 2012 was conducted. These types of advertisements cover an area larger than just San Marcos, and the time-period is insufficient to conclusively establish a pattern of discrimination. The data does however provide an accurate snapshot of the advertising available, and a general overview of the state of compliance with fair housing law. The advertising, especially those with images of prospective or current residents was reviewed, with a sensitivity toward:

- Advertising with all or predominately models of a single race, gender, or ethnic group;
- Families or children in ad campaigns depicting images of prospective residents;
- Particular racial groups in service roles (maid, doorman, servant, etc.);
- Particular racial groups in the background or obscured locations;

- Any symbol or photo with strong racial, religious, or ethnic associations;
- Advertising campaigns depicting predominately one racial group;
- Campaigns run over a period of time, including a number of different ads, none or few of which include models of other races;
- Ads failing to contain Equal Housing Opportunity (EHO) statements or logos, or contains the statement or logo, but it is not readily visible; and
- Ad campaigns involving group shots or drawings depicting many people, all or almost all of whom are from one racial group.

Publications advertising the sale or rental of housing directed toward persons in the greater San Marcos area were reviewed including Apartment Finder, The Real Estate Book, Revista – GET HOMES, and various local real estate sales publications such as Randall Morris & Associates - Property Publication. There were no major concerns revealed. Some publications made blanket statements at the front of the publication stating that the magazines as well as their advertisers are subject to the Federal Fair Housing Act. Most of the advertisers advertise with the equal housing opportunity logo or slogan. Including the logo helps educate the home seeking public that the property is available to all persons. A failure to display the symbol or slogan may become evidence of discrimination if a complaint is filed. Additionally, most of the images included in the selected materials either represented racial, ethnic or gender diversity among the models selected.

Fair Housing Assistance Program (FHAP) Agencies

The U. S. Department of Housing and Urban Development (HUD) provides funding to state and local governmental agencies to enforce local fair housing laws that are substantially equivalent to the Fair Housing Act. Once a state and a city or county in that state have a substantially equivalent fair housing law, they can apply to become certified as a Fair Housing Assistance Program (FHAP) Agency and receive funds for investigating and conciliating fair housing complaints or a Fair Housing Initiatives Program (FHIP) Agency and receive funds for education, promoting fair housing, and

investigating allegations. It should be noted that a county or city must be located in a state with a fair housing law that has been determined by HUD to be substantially equivalent. Then, the local jurisdiction must also adopt a law that HUD concludes is substantially equivalent in order to participate in the FHAP Program. The local law must contain the seven protected classes - race, color, national origin, sex, religion, handicap, and familial status - and must have substantially equivalent violations, remedies, investigative processes, and enforcement powers.

In addition, the process for investigating and conciliating complaints must mirror HUD's. HUD's process begins when an aggrieved person files a complaint within one year of the date of the alleged discriminatory housing or lending practice. The complaint must be submitted to HUD in writing. However, this process can be initiated by a phone call. HUD will complete a complaint form, also known as a 903, and mail it to the complainant to sign. The complaint must contain the name and address of the complainant and respondent, address and description of the housing involved, and a concise statement of the facts, including the date of the occurrence, and the complainant's affirmed signature. Upon filing, HUD is obligated to investigate, attempt conciliation, and resolve the case within 100 days. Resolution can be a dismissal, withdrawal, settlement or conciliation, or a determination as to cause.

The FHAP certification process includes a two-year interim period when HUD closely monitors the intake and investigative process of the governmental entity applying for substantial equivalency certification. Also, the local law must provide enforcement for aggrieved citizens where cause is found. It can be through an administrative hearing process or filing suit on behalf of the aggrieved complainant in court. The FHAP certification process is contingent on the type of funding for which the agency is applying. There are four programs to which an agency can apply; Fair Housing Organizations Initiative (FHOI), Private Enforcement Initiative (PEI), Education Outreach Initiative (EOI), and Administrative Enforcement Initiative (AEI). Currently, there is no funding under the AEI status.

The State of Texas Property Code Chapter 301, Texas Fair Housing Act, was amended most recently in 1993. This Act declares it illegal to discriminate in the sale, rental, advertising, financing, or providing of brokerage services for housing. The Texas Statute parallels the Federal Fair Housing Act, and has been determined to contain all of the requisite provisions to pass HUD's scrutiny as a substantially equivalent law. The City of San Marcos has enacted local fair housing legislation, however, it does not provide for local enforcement and therefore is not considered substantially equivalent to federal fair housing law.

Court Decisions

Walker v. HUD represents a landmark case, settled by consent decree, and establishing precedent as to HUD, PHA and City responsibilities and culpability for insuring the elimination of segregation in public and assisted housing. - The **Walker** public housing/Section 8 desegregation litigation began in 1985 when one plaintiff, Debra Walker, sued one Dallas, Texas area suburb, Mesquite. The lawsuit contended that Mesquite's refusal to give its consent for DHA to administer Section 8 certificates within Mesquite violated the 14th Amendment and the other civil rights law prohibiting racial discrimination in housing. The early stage of **Walker** resulted in the entry of the 1987 consent decree involving DHA and HUD without any liability findings. The suit was subsequently amended to bring in DHA, HUD, and the City of Dallas and to provide for a class of Black public housing and Section 8 participants who contended that the Dallas Housing Authority segregated person in public housing by race leading to racial concentrations of African Americans in minority concentrated areas. The suburbs, with the exception of Garland, gave their consent to the operation of DHA's Section 8 program within their jurisdiction and were dismissed from the case. The City of Dallas was subsequently found liable for its role in the segregation of DHA's programs in the Court's 1989 decision, **Walker III**, 734 F. Supp. 1289 (N.D. Tex. 1989).

HUD and DHA were subsequently found liable for knowingly and willingly perpetuating and maintaining racial segregation in DHA's low income housing programs. HUD was

found liable not just for its failure to affirmatively further fair housing under the Fair Housing Act but also for purposeful violations of the Fifth Amendment to the U.S. Constitution, Title VI of the 1964 Civil Rights Act, 42 U.S.C. §§ 1981, 1982, and 1983. The district court found that the defendants had the remedial obligation to not only cease any present discrimination but to also eliminate the lingering effects of past segregation to the extent practical.

Court orders entered in this case have provided the following desegregation resources:

(a) approximately 9,900 new assisted units have been made available to **Walker** class members.

(b) approximately \$22 million was made available for the creation of housing opportunities in predominantly white areas of the Dallas metroplex.

(c) \$2 million was provided for the operation of a fair housing organization that focused on the problems of low income minority families.

(d) Hope VI funding for 950 units in the West Dallas project.

(e) \$94 million was provided by the City of Dallas for neighborhood equalization and economic development in the public housing project neighborhoods.

(f) \$10 million was provided for mobility counseling to be used in connection with the Settlement Voucher program.

Similar to the Walker case, Young v. HUD represents a landmark case, settled by consent decree, and establishing precedent as to HUD, PHA and City responsibilities and culpability for insuring the elimination of segregation in public and assisted housing. The Young case involved 70 plus housing authorities in 36 counties in East Texas, HUD, and the State of Texas. The litigation did not end until 2004. The remedy involved the equalization of conditions including the provision of air conditioning in the

segregated black projects, desegregation of the tenant population in previously segregated black and white projects, use of the public housing and Section 8 programs and funding for a private fair housing organization to provide over 5,000 desegregated housing opportunities in predominantly white areas, equalization of neighborhood conditions around the predominantly black projects, injunctions against local cities blocking the development of public housing in white neighborhoods, sale of the Vidor public housing and the use of the proceeds for housing opportunities in white areas that were accessible by black public housing tenants, and \$13 million in State funding for neighborhood equalization. Most of the relief was obtained only after the record of HUD's violations of previous remedial orders was compiled and presented to the Court.

Some of the orders, agreements, and reports from this case that are attached are:

A. The final judgment that was entered by the Court in 1995,

B. The order modifying final judgment entered in 2004. This order includes a HUD manual on creating desegregated housing opportunities as exhibit 3 to the order,

C. The agreement between the plaintiffs and the State of Texas for the last \$4.4 million of the total \$13 million that the State contributed to the neighborhood equalization activities required by the Final Judgment.

At the inception of the Fair Housing Act, insurance companies took the position that they were not covered by the Act. However, in 1992 a Wisconsin Appeals Court determined that the Act "applies to discriminatory denials of insurance and discriminatory pricing that effectively preclude ownership of housing because of the race of an applicant." The case was a class action lawsuit brought by eight African-American property owners, the NAACP, and the American Civil Liberties Union against the American Family Insurance Company. The plaintiffs claimed they were either denied insurance, underinsured, or their claims were more closely scrutinized than Whites.

American Family's contention was that the Act was never intended to prohibit insurance redlining. The appeals Court stated, "Lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable." A 1998 court verdict against Nationwide Insurance further reinforced previous court action with a \$100 million judgment due to illegally discriminating against black homeowners and predominantly black neighborhoods.

Another case was settled for \$250,000 in Maryland when Baltimore Neighbors, Inc., a non-profit organization, alleged that real estate agents were steering. Fine Homes' real estate agents were accused of steering prospective African-American buyers away from predominantly White neighborhoods and Whites were almost never shown homes in predominantly African-American zip codes.

In 2009 a landmark housing discrimination case was settled between the Connecticut Fair Housing Center and the New Horizons Village Apartments. In this case, the State of Connecticut Office of Protection and Advocacy for Person with Disabilities sued New Horizons Village, an apartment complex which provides independent housing for people with severe physical disabilities. Under the consent decree, New Horizons will no longer be allowed to require tenants to open their private medical records for review and require them to prove they can "live independently". CT Fair Housing Center stated "The Fair Housing Act is clear that it is impermissible to limit the housing choices of people with disabilities based on stereotypes about their ability to care for themselves; people with disabilities are entitled to the same freedom to choose how and where they want to live as people without disabilities."

In *County of Edmonds v. Oxford House*, the United States Supreme Court ruled that the Fair Housing Amendments Act of 1988 prevents communities from excluding group homes for the handicapped from single-family residential zones. The Oxford House is a nonprofit umbrella organization with hundreds of privately operated group homes throughout the country that house recovering alcoholics and drug addicts. Recovering alcoholics and drug addicts, in the absence of current drug use or alcohol consumption,

are included under the protected class of handicapped in the Fair Housing Act as amended in 1988. In *Oxford House v. Township of Cherry Hill*, 799 F. Supp. 450 (D. N.J. 1991), the federal court rejected a state court ruling that recovering alcoholic and drug addicted residents in a group home do not constitute a single-family under the Township's zoning ordinance. In *Oxford House-Evergreen v. County of Plainfield*, 769 F. Supp. 1329 (D. N.J. 1991) the court ruled that the county's conduct, first announcing that the Oxford House was a permitted use only to deny it as a permitted use after neighborhood opposition, was intentionally discriminatory.

"Unjustified institutionalization of persons with mental disabilities...qualifies as discrimination." - was stated as the majority opinion of the U.S. Supreme Court. In a landmark decision by a 6-3 vote, the U.S. Supreme Court ruled in June 1999, that a state may not discriminate against psychiatric patients by keeping them in hospitals instead of community homes. The court said that the Americans with Disabilities Act (ADA) may require that states provide treatment in community-based programs rather than in a segregated setting. This case, known as the *Olmstead* case, ruled that community placement is a must when deemed appropriate by state professionals, agreed to by the individual with the disability, and resources available are sufficient. The courts agreed with "the most integrated setting" provision of the ADA.

In a historic federal settlement order to resolve a lawsuit brought by the Anti-Discrimination Center (ADC) against Westchester County, NY. Westchester County conducted its own Analysis of Impediment to Fair Housing and did not examine race and its effects on housing choice. Only income was studied from a demographic perspective. Westchester did not believe that racial segregation and discrimination were the most challenging impediments in the County. ADC filed lawsuit against Westchester stating that the entitlement is not taking appropriate steps to identify and overcome impediments of fair housing. The Court stated that grant recipients must consider impediments erected by race discrimination, and if such impediments exist, it must take appropriate action to overcome the effects of the impediments. The settlement order

issued in August 2009 found that Westchester had “utterly failed” to meet its affirmatively furthering fair housing obligations throughout a six-year period. All entitlements receiving federal funds must certify that they have and will “affirmatively further fair housing.” Because of the tie to federal funds, a false certification can be seen as fraudulent intent. Westchester was ordered to submit an implementation plan of how it planned to achieve the order’s desegregation goals. One major outcome from the landmark agreement is the construction of 750 units of affordable housing in neighborhoods with small minority populations.

In 2003, a settlement was ordered by the District Court in New Jersey for the owner of the internet website, www.sublet.com, who was found guilty of publishing discriminatory rental advertisements which is prohibited by the Fair Housing Act. It was the first of its kind to be brought by the Justice Department. It was thought to be imperative that the federal laws that prohibit discriminatory advertising should be enforced with the same vigor with regard to internet advertising as it would for print and broadcast media. The court ordered the site to establish a \$10,000 victim fund to compensate individuals injured by the discrimination. They were also ordered to pay a civil penalty of \$5,000, adopt a non-discrimination policy to be published on the website, and require all employees to undergo training on the new practices.

Under the Fair Housing Act, apartment complexes and condominiums with four or more units and no elevator, built for first occupancy after March 13, 1991, must include accessible common and public use areas in all ground-floor units. An apartment complex near Rochester, New York was ordered to pay \$300,000 to persons with disabilities for not making its housing facility fully accessible, with \$75,000 set aside for the plaintiffs. They were required to publish a public notice of the settlement fund for possible victims and pay a \$3,000 civil penalty.

In 2005, the Connecticut Commission on Human Rights and Opportunities (CHRO) issued a charge of discrimination on the basis of disability when an apartment manager refused to rent to a person with a disability on the first floor of the complex due to the

absence of access ramp. The apartment manager was unwilling to make a modification to add a ramp. The court recognized that the renter has a disability and the defendant knew the fact and refused to make accommodations. The court concluded that the renter was entitled to compensatory and emotional distress damages of \$10,000 and imposed a civil penalty of \$1,000.

In 2007, the 9th Circuit Court of Appeals gave a decision in support of Fair Housing Council of San Fernando Valley that Roommates.com has violated the fair housing laws by matching roommates by gender, sexual orientation, and parenthood. By asking prospective roommates to put in their status on these criteria and allowing prospective roommates to judge them on that basis is a violation of Fair Housing Act.

In 2005, the National Association for the Advancement of Colored People (NAACP), The National Association of Home Builders (NAHB), and the Home Builders Association (HBA) of Greater Austin, filed a federal lawsuit against the City of Kyle, Texas. The plaintiffs contended that ordinances passed by the Kyle City Council, imposing requirements such as all-masonry construction, expanded home size, and expanded garage size, drive up the cost of starter homes by over \$38,000 per new unit. The allegation is that this increase has a disproportionate impact on minorities and this effect violates the Fair Housing Act. The City of Kyle filed a motion to dismiss, asserting that both NAACP and NAHB lack standing. The federal district court recognized the plaintiff's standing in 2006. Thereafter, the cities of Manor, Round Rock, Pflugerville, and Jonestown, all moved to join the litigation on the grounds that they each have ordinances similar to the one being challenged in Kyle and that any positive decision in this case would allow NAHB and NAACP to sue them at some later date. In May the court decided that the cities could participate as friends of the court but may not join in the litigation otherwise.

On March 30, 2009, the federal district court determined that while the FHA prohibits municipalities from using their zoning powers in a discriminatory manner, "a dollar

impact on home construction costs alone" does not establish a prima facie case of discriminatory effect. The NAACP, NAHB and the HBA of Greater Austin filed a notice of appeal to the federal Fifth Circuit Court of Appeals April 29, 2009. On Nov. 11, 2010, the Fifth Circuit issued its decision, determining that both NAHB and the NAACP did not prove standing on both the substantive and retaliation claims.

Homelessness and the Fair Housing Act

Homelessness is defined as lacking a fixed, regular, and adequate night-time residence; or where the primary night-time residence is:

- A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
- An institution that provides temporary residence for individuals intended to be institutionalized; or,
- A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The Fair Housing Act's definition of "dwelling" does not include overnight or temporary residence, so mistreatment of the homeless is not generally covered by Fair Housing Law. The ability of persons to find affordable housing is a protected right of Fair Housing; therefore the inability of people to find affordable housing which may lead to homelessness, is in conflict with the Fair Housing Law.

Unfair Lending Practices

Unfair lending practices are more difficult to detect and to prove. However, there are laws, other than the fair housing law, to assist communities in aggressively scrutinizing fair lending activity. One such law is the Home Mortgage Disclosure Act (HMDA), which requires banks to publish a record of their lending activities annually. Frequently, fair housing enforcement agencies and nonprofits use this data to help substantiate a discrimination claim or to determine a bank's racial diversification in lending. Another

law frequently utilized by community organizations is the Community Reinvestment Act (CRA). When a bank wants to merge with or buy another bank or establish a new branch, the community has an opportunity to comment. Usually, the CRA commitments made by the bank are analyzed, utilizing other data such as HMDA, to determine adherence. The community can challenge the action if the bank has a poor record. Sometimes agreements can be reached with the bank promising a certain level of commitment to the community. Additionally, the Equal Credit Opportunity Act (ECOA) prohibits discrimination in lending generally and can be quite significant when it comes to securing information about unfair lending practices and imposing remedies, which may include up to one percent of the gross assets of the lending institution.

The U.S. Supreme Court ruled in June 2009 that states may investigate national banks to determine if they have discriminated against minorities seeking home loans. Furthermore states may charge accused violators if found guilty. The new legislation stemmed from a discrimination investigation of national banks by the New York attorney general. The federal Office of the Comptroller of the Currency (OCC) sought legal action through the courts to stop the attorney general's investigation because legal principals suggested that only federal regulators can require national banks to conform to regulations and practices that discourages unfair lending. The Supreme Court overturned this ruling giving state government power to enforce consumer-protection and lending policies.

2.2. Enforcement

It has long been settled that fair housing testing is legal and that non-profits have standing to sue so long as certain criteria are met. These decisions make it feasible for non-profits to engage in fair housing enforcement activities.

The Department of Housing and Urban Development (HUD) enforce local, state and federal fair housing laws which prohibit discrimination in the buying, selling, rental or

enjoyment of housing because of race, color, national origin, religion, sex, disability or familial status.

The Regional HUD Office in Fort Worth conducts investigations of fair housing complaints that are reported directly to their office. Texas is part of HUD's five state Region VI that includes Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. When HUD Regional Office investigates complaints of discrimination, an investigator generally spends time in the city, on-site, interviewing the complainant, respondents, and witnesses, reviewing records and documentation, while observing the environment. A detailed discussion of the complaints filled with HUD follows in Section 2.5.

When a complaint is filed with any of the jurisdictions, HUD is notified of the complaint. HUD will notify the violator of the complaint and permit all parties involved an opportunity to submit an answer. HUD will conduct investigations of the complaint to determine whether there is reasonable cause to believe the Federal Fair Housing Act and or Texas Ordinance has been violated. The complainant is then notified. A detailed discussion of the complaints filed with HUD follows in Section 2.5. A case is typically heard in an Administrative Hearing unless one party wants the case to be heard in Federal District Court.

Education and Outreach

The City of San Marcos Community Initiatives Division directs fair housing complaints to and makes referrals to HUD for enforcement. This division is also responsible for conducting public education, training and outreach of fair housing rights and remedies in San Marcos. Education of the public regarding the rights and responsibilities afforded by fair housing law is an essential ingredient of fair housing enforcement. This includes outreach and education to the general public, landlords and tenants, housing and financial providers, as well as citizens, concerning fair housing and discrimination. It is important that potential victims and violators of housing and/or lending discrimination law be aware of fair housing issues generally, know what may constitute a violation, and what they can do in the event they believe they have been discriminated against.

Likewise, it is important for lenders, housing providers, and their agents to know their responsibilities and when they may be violating fair housing law.

Often, people may be unaware of their fair housing rights. Present day housing discrimination tends to be subtle. Instead of saying that no children are allowed, they may impose unreasonable occupancy standards that have the effect of excluding families with children. Rather than saying, “We do not rent to Hispanics,” they may say, “Sorry we do not have any vacancies right now, try again in a few months,” when, in fact, they do have one or more vacancies. Printed advertisements do not have to state, “no families with children or minorities allowed” to be discriminatory. A series of ads run over an extended period of time that always or consistently exclude children or minorities may very well be discriminatory. In addition, a person who believes he/she may have been discriminated against will probably do nothing if he/she does not realize that a simple telephone call can initiate intervention and a resolution on his/her behalf, without the expenditure of funds or excessive time. Thus, knowledge of available resources and assistance is a critical component.

2.3. Production and Availability of Affordable Units

An assessment of characteristics affecting housing production, availability, and affordability in San Marcos was conducted, including the adequacy and effectiveness of housing and housing related programs designed and implemented by the City of San Marcos and the Public Housing and Section 8 Voucher Programs operated by the San Marcos Housing Authority. The assessment evaluated the programs’ ability to reach their target markets and how effective they are in identifying and serving those who have the greatest need. We also assessed the extent to which the agencies prioritized funding and utilized programs to address impediments identified in the City’s Fair Housing Impediment Analysis conducted prior to FY 2012. Our analysis for this section is based on the San Marcos Housing Authority Five Year Plan, Annual Plan, Annual Contributions Contract, and Section 8 Management and Assistance Plan; and the City of San Marcos’s Consolidated Plan, Annual Action Plan, Consolidated Annual

Performance Evaluation Report, and other documentation provided by the city and housing authority.

The 2011 Annual Action Plan submitted to HUD by the Community Initiatives Division indicated that the City of San Marcos received approximately \$479,634 in Community Development Block Grant (CDBG) funding for FY 2011.

- Housing Rehabilitation: \$100,000
- Senior Center Expansion: \$132,634
- Cephas House Rehab: \$155,000
- Program Administration: \$92,000
- Total: \$479,634

2.4. Regulatory and Public Policy Review

The City of San Marcos has enacted local fair housing legislation however it does not provide for local enforcement and therefore not considered substantially equivalent to federal fair housing law. Having a local fair housing ordinance, especially one that is substantially equivalent to the federal Fair Housing Act, exemplifies a jurisdiction's local commitment to enforcing fair housing regulations and it provides public awareness of individuals' rights under the Fair Housing Act.

The city zoning ordinance, development code and public policies were examined to reveal any current ordinances or policies that impede fair housing choice. San Marcos's land development codes and zoning regulations address affordable housing and the provision of making allowances through the code to allow the construction of a variety of types of housing including single family and multifamily housing. The regulations provide for the consideration of variances to development barriers that affect the feasibility of producing housing within the jurisdictions.

2.5. Analysis of Fair Housing Complaints

Fair housing complaint information was received from the Fort Worth, Texas FHEO Division of the Regional Office of the U.S. Department of HUD. The data provides a

breakdown of complaints filed for Hays County and San Marcos from January 1, 2007 through June 30, 2012. During this period, sixteen complaints were filed according to one or more of seven bases, including; National Origin, Color, Religion, Familial Status, Handicap, Sex, and Race. Table 2.1 below provides a breakdown of those complaints, by year filed and complaint basis. The actual total number of cases by basis sums to more than sixteen, since some complainants filed cited more than one basis or protected classes in their complaint.

Table 2.1: Number of Complaints by Protected Class by Year (2007 - 2012)

Protected Class	Race/ Color	National Origin	Familial Status	Disability	Sex	Religion	Totals
2007				1			1
2008			1	2			3
2009				4			4
2010	1	1	3	1			6
2011				1			1
2012		1					1
Totals	1	2	4	9			16

Source: HUD Fort Worth Regional Office, FHEO

Table 2.2, below, shows the tally of the case closure types by year the case was closed. Of the 16 complaints, all were closed with a satisfactory resolution.

Table 2.2: Complaints Closure by Year (2007 - 2012)

Type of Closure	2007	2008	2009	2010	2011	2012	Totals
Case Conciliated		1	1	3		1	6
No Probable Cause		1		5	1		7
Withdrawn		1			1		2
Lack of Jurisdiction							
Complainant failed to cooperate	1						1
Unable to Locate the complainant							
FHAP judicial dismissal							
FHAP judicial consent order							
Totals	1	3	1	8	2	1	16

Source: HUD Fort Worth, Texas Regional Office, FHEO

2.6. Conclusions and Implications for Fair Housing Barriers and Impediments

The City of San Marcos has enacted local fair housing legislation however it does not provide for local enforcement and therefore not considered substantially equivalent to federal fair housing law. The State of Texas has enacted fair housing law that is substantially equivalent to the Federal Fair Housing Act. The State of Texas ordinance disallows the same activities prohibited under the federal act. Having a fair housing ordinance, especially one equivalent to the federal Fair Housing Act, evidences a jurisdiction's commitment to fair housing choice. Between January 2007 and June 2012, a total of 16 complaints have been received and investigated through the HUD FHEO Regional Office in Fort Worth, Texas.

The City of San Marcos Community Initiatives Division provides referral of fair housing complaints to HUD for investigation and enforcement and is responsible for conducting public education, training and outreach of fair housing rights and remedies in San Marcos.

Real estate related publications advertising the sale or rental of housing and advertising home improvements and remodeling, directed toward persons in the greater San Marcos area were reviewed. Some publications made blanket statements at the front of the publication stating that the magazines as well as their advertisers are subject to the Federal Fair Housing Act. Some advertiser included EHO statements and/or logos. Including these logos can be a means of educating the home seeking public that the property is available to all persons.

The 2011 Annual Action Plan submitted to HUD by the Community Initiatives Division indicated that the City of San Marcos received approximately \$479,634 in Community Development Block Grant (CDBG) funding for FY 2011.

- Housing Rehabilitation: \$100,000
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- Program Administration: \$92,000
- Total: \$479,634

Based on San Marcos City's utilization of these funds for fair housing, community development and housing related programs, they are already addressing some of the impediments relative to housing advocacy, availability, affordability, rehabilitation, homeownership, and financial literacy, as identified in this AI conducted in FY 2012.

The city zoning ordinance and public policies were examined to reveal any current ordinances or policies that impede fair housing. No concerns were noted as a result.

Section 3: Focus Group Sessions and Community Engagement

Introduction

This section will report on the results from three focus group sessions held on August 23, 2012 at the City of San Marcos Recreation Hall, 170 Charles Austin Drive, San Marcos, Texas 78666. Participants in the focus groups sessions and supplemental interviews included City Staff, Mayor and City Council Members, San Marcos Housing Authority personnel and other government representatives; administrators from local colleges, universities, and school districts; non-profit organizations, home builders, housing and social service agencies representatives; real estate and financial industry representatives; and the general public and other community representatives.

Attendees were gathered through invitations sent to select resident and community leaders, organizations, industry professionals and public officials and a public meeting notice published in the local newspaper. At each focus group session, general issues related to the housing market, neighborhoods and concerns pertaining to fair housing choice in San Marcos were discussed. Supplemental interviews were conducted with various community, professional and industry representatives to obtain information from those unable to attend the sessions on August 23. The Focus Group sessions were hosted by the City of San Marcos Community Initiatives Division of the Department of Development Services.

It should be noted that the comments summarized in this section represent the comments and views of the focus group participants and those participating in supplemental interviews. JQUAD has made every effort to document all comments as a matter of record, and to ensure that the comments, as presented on the following pages, have not been altered to reflect our analysis, investigation or substantiation of information obtained during these sessions.

Focus Group comments and information obtained during interviews were later analyzed and to the extent substantiated or corroborated by the data and analysis, included in Section Six: Impediments and Remedial Actions. Comments from Focus Group participants included the following.

3.1. Focus Group Concerns and Comments

Social-Economic Conditions

Among the social-economic issues frequently mentioned in the focus group sessions and interviews was the perception that the supply of affordable housing is inadequate and the cost to purchase homes or to rent housing continues to soar beyond the range affordable to many local area residents. Others believed that poverty and the number of persons lacking sufficient income for housing was on the rise, severely impacting housing choice for the lowest income households. Participants indicated that poverty is not only a concern with regard to social equity and the plight of renters, but poverty and limited incomes are also having an adverse impact on the condition and quality of single family owner occupied housing in some areas.

In areas where a majority of homeowners cannot afford routine maintenance and rising utility costs, poor housing conditions may quickly become the prevalent state of affairs. The impact of a lack of job opportunities and insufficient incomes to afford decent housing were cited as contributing factors to housing and neighborhood decline.

Focus group participants wanted to have a greater emphasis placed on financial assistance to acquire housing suitable to meet the needs of the changing demographics in the city and specific problems faced by residents and the working poor relative to foreclosure. Participants also felt that increased housing counseling-both pre-purchase and post purchase support-was needed to help

applicants qualify for financing and to remain current with mortgage payments and home maintenance needs. Increased funding should be identified to provide rental assistance to those needing assistance with rent and utilities and security deposits necessary to initiate a lease. Homebuyers will need assistance with providing greater down payments and equity investments when buying a home, to replace the loss of private mortgage insurance. Participants emphasized the need for increased funding for project based rental assistance due to limitations in the Section 8 Vouchers program. HUD established Section 8 fair market rents are often times inadequate to acquire quality multifamily rental housing and rental multifamily and single family rental rates continue to increase as demand for rental housing by the student population increases and inflates prices. Additional development funding for new scattered site public and assisted housing units is also needed.

Housing Supply, Neighborhood Conditions, and Infrastructure and Regulatory Controls

Participants' desired greater emphasis is placed on building codes and regulatory controls being utilized to improve housing conditions, cost and accessibility. Multifamily housing conditions were of particular concern. Participants recommended incorporating energy efficiency and green building standards in construction of affordable housing; the need for infrastructure to support new housing development and emergency repair funding for owner occupied housing; and assurance that zoning regulations provide variances, when necessary, to induce vacant lot infill housing in developed neighborhoods. Acquisition and utilization of vacant lots, homebuyer subsidies for repairs, drainage, sidewalks, and increased emphasis on code enforcement were also cited as needs.

Public Policy and Public Awareness of Fair Housing

Participants cited public awareness of fair housing rights as a concern. They felt that despite programs funded by the City, some residents appear to be unaware of their rights under fair housing law and that the number of violations reported

and cases substantiated may be much lower than the number of violations actually occurring. Others felt that residents often fear retaliation by those who violate the laws. For example, attendees and persons interviewed felt that in some instances, people do not register fair housing complaints for fear of retaliation by their landlords, or if they report violations such as housing code, enforcement will result in higher rents or evictions actions by their landlords.

Participants also felt that residents needed increased access to homebuyer education and counseling when considering purchase of a home and rental housing and tenant's rights counseling and advocacy for renters. They were concerned that first-time home buyers often do not know where to go for help or how to start the process of purchasing a home. Anecdotal accounts by attendees and those interviewed included obstacles faced by renters such as denial of rental applications based on having no prior address, and/or frequent gaps in their rental histories. Others cited housing barriers faced by the "untouchables", persons such as ex-offenders, convicted sex offenders and others recently discharged from the criminal justice system.

Access to Banking and Financial Institutions Products, and Basic Goods and Services

Predatory lending practices were identified as a major issue. Perception were that predatory lenders are absorbing much of the market formerly controlled by FDIC insured banks and other reputable financial institutions and fast becoming lenders of choice in some low income and minority concentrated areas. In other instances, persons facing economic hardships are being preyed upon due to their inability to qualify for traditional lending and banking services. For example, predatory businesses provide individuals with loans backed by the title to their car or house at relatively high interest rates. Lenders are quick to foreclose in the event the borrower misses a payment. Attendees were concerned that a growing number of people have fallen prey to sub prime loans because they have a poor credit rating or limited to no credit history.

Others expressed concerns that lower income residents are paying higher prices for food and household supplies due to a lack access to basic goods and services. For example, healthy food choices are sometimes limited resulting in resident in low income and minority concentrated neighborhoods having diets lacking in fresh vegetables and fruits and other commodities being priced outside their affordability. Neighborhood markets and grocery stores in the neighborhoods are sometime limited to convenience stores charging exorbitant prices, taking advantage of persons with limited mobility or access to public transportation.

Lending, Foreclosures and the Mortgage Industry

The inability to obtain home mortgages was seen as a major barrier that limits housing choice. Criminal background histories and immigration status are relatively new factors contributing to the inability to qualify for home purchases and rental housing leases. Credit issues appeared to be the major barrier, based on focus group participants' comments. Both a lack of qualified applicants and an adequate pool of applicants for mortgages, coupled with the inability of some housing units to qualify based on lending program guidelines were cited as barriers. Participants felt that greater emphasis should be placed on credit counseling and financial literacy being accessible to a broader population including youth and young adults age eighteen to thirty. Greater emphasis should be given to preventing damage to one's credit history and providing a solid foundation that could prevent future financial problems. Persons with a criminal felony record and those convicted of sex crimes are having particular problems finding housing to rent as well as qualifying for mortgages.

Other participants cited instances in which elderly and other owners of affordable housing are no longer able to afford routine maintenance on their home. Any major systems failure such as roof replacement, foundation problems or even heating and air conditioning replacement can render their home a health and safety risk or place the homeowner in violation of local property standards codes.

Special Needs Housing

Participants were concerned that greater funding be provided for the elderly to age in place, and to provide housing for others in need of special needs housing. Participants cited statistics relative to the growth expected in the elderly population over the next decade which will elevate this problem. Without such funding elderly and disabled persons are sometimes placed in nursing homes prematurely, even though they could otherwise continue to live on their own with some limited assistance or ADA accessibility modifications where they currently reside. Participants were also concerned that limited options exist for persons in need of transitional housing whether they be recently paroled, victims of domestic violence, mentally ill, physically handicapped, and homeless or at risk of becoming homeless. Others cited a need for more permanent supportive housing. Participants felt that more public resources should also be identified and dedicated to homeless programs, shelters and supportive services to the homeless and elderly.

Participants were also concerned with limitations in available rental housing for the disabled and a lack of emphasis on building code standards that require new home construction to meet “visitable housing” standards. Some were concerned that information as to availability of ADA compliant housing is not readily available to those in need. These standards include insuring that at least one main entry into the dwelling and at least one bathroom, downstairs bedroom and hallway are handicapped accessible.

Housing for the homeless and those persons at risk of becoming homeless was cited as an important issue that needs to be addressed. Housing for the homeless, victims of domestic violence and others were seen as particularly needed due to the limited supply of shelter, transitional and permanent housing and housing services in San Marcos. Others were concerned with limitations in funding for existing agencies providing services to the homeless.

Public Transportation and Mobility

Participants cited limited mobility and public transportation as impediments to housing choice. These limitations also included a concern for elderly and disabled persons in need of public transportation to access supportive services. Public transportation was deemed inadequate, for persons commuting to major employment centers.

3.2. Other Issues and Solutions

Attendees indicated a need for increased emphasis on mitigating the impacts of increased incidents of discrimination or impediments to housing for persons with disabilities, renters with past criminal records or prior convictions for sexual abuse related crimes, those in need of special needs housing or facing evictions, foreclosures and homelessness.

Participants voiced support for a greater emphasis on credit education and housing consumer counseling. Increased financial literacy courses taught in high schools was a best practice identified by the facilitator for the focus group session and well received by participants.

Participants cited the need for additional funding for fair housing outreach, education and enforcement, fair housing training for landlords and homeowner associations and other at risk of violating fair housing law.

Section 4: Home Mortgage Disclosure Act (HMDA) Data Analysis

Introduction

The Federal Financial Institutions Examination Council (FFIEC) gathers data on home mortgage activity from the federal agencies that regulate the home mortgage industry. The data contain variables that facilitate analysis of mortgage lending activity, such as race, income, census tract, loan type, and loan purpose. The FFIEC provides the Home Mortgage Disclosure Act (HMDA) databases and retrieval software on compact disk. Data can be summarized within the software package or downloaded in its raw form for analysis. For this analysis, the FFIEC databases were utilized for 2004 through 2009.

The data reported here are summarized by a variety of methods. Tables 4.1 and Tables 4.2 provide information for the City of San Marcos and Hays County. Table 4.4 provides information for Hays County. Tables 4.3 and the charts present the data by census tract income groups. The maps, provided at the end of this section, present data according to census tracts for Hays County.

4.1. Analysis

Table 4.1 examines home loan activities in Hays County and the City of San Marcos. The data are presented by loan type, ethnicity, income, and loan purpose. In Hays County, White applicants represented the largest number of loan applicants at 25,209. Origination rates (the percentage of applications that result in loans being made) for Whites were about 67 percent. Hispanics were the next largest applicant group with 4,154 applications submitted and an origination rate of about 69 percent. Asian origination rates were 63 percent with 924 applications reported. African-Americans submitted 591 applications and had an origination rate of 62 percent. High-income applicants showed both the highest number of applications at 20,228, and the highest origination rate, about

78 percent. Both the number of applications and the origination rates drop significantly for all other income groups, with 3,766 applications from middle-income applicants and an origination rate of over 63 percent. Conventional loans account for the largest number of applications for loan type at 34,515 and an origination rate of over 57 percent. Refinance loans show the highest number of applications for loan purpose, at 18,397, and the origination rate of over 56 percent. Home improvement loans had an origination rate of about 62 percent with 6,126 loan applications. Home purchase loans had over 54 percent origination rate with 15,354 applications.

Isolating the census tracts within San Marcos, for Loan Type, "Conventional" shows the highest number of loan applications at 3,613, and an origination rate of over 57 percent. The origination rate for FHA loans was about 49 percent. An evaluation of loan purpose reveals that refinance loan applications were 2,029 with an origination rate of about 58 percent. The origination rate for home improvement loans was over 63 percent and for home purchase loans, about 53 percent. In San Marcos, White applicants had an origination rate of 64 percent, and the highest number of loan applications, about 2,566. Hispanics had 468 applications and an origination rate of about 66 percent. The origination rate for Asians was 58 percent with 30 applications. The origination rate for African-Americans was about 59 percent for 176 applications. The origination rate for the very low-income group was 46 percent compared to about 62 percent among high-income applicants.

Table 4.1

**Home Mortgage Disclosure Act (HMDA) Analysis
Comparison of Number of Loan Applications and Origination Rates
City of San Marcos and Hays County
2004 - 2009**

	San Marcos		Hays County	
	Number of App.s	Origin. Rate	Number of App.s	Origin. Rate
Loan Type:				
Conventional	3,613	57.1%	34,515	57.3%
FHA	465	48.5%	4,073	45.9%
VA & Other	114	54.3%	1,409	60.9%
Ethnicity:				
Native	25	50.1%	142	57.7%
Asian	30	58.0%	924	63.0%
Black	176	59.1%	591	62.0%
Hispanic	468	65.8%	4,154	69.0%
White	2,566	64.0%	25,209	66.9%
Other	240	55.4%	2,362	49.4%
Not Provided	450	26.6%	1,848	25.7%
Unknown	236	5.6%	4,767	2.3%
Income:				
<51% median (very low)	342	46.0%	1,342	30.2%
51-80% median (low)	499	49.7%	3,309	36.3%
81-95% median (moderate)	629	52.1%	3,631	55.0%
96-120% median (middle)	912	58.9%	3,766	63.4%
>120% median (high)	1,728	61.9%	20,228	77.7%
Unknown	81	12.8%	7,721	10.5%
Loan Purpose:				
Home Purchase	1,716	52.7%	15,354	54.3%
Home Improvement	439	63.1%	6,126	61.7%
Refinance	2,029	57.6%	18,397	56.1%
Totals	4,191	56.1%	39,997	56.3%

Table 4.2 displays the HMDA data for the same data categories (Loan Type, Ethnicity, Income, and Loan Purpose). On this table, however, percentages are taken within category, rather than demonstrating the percentage of applications that result in loan originations. For example, the first percentage in the “% of Originations” column indicates that 87.9 percent of originations in the county were for conventional loans compared to 57.3 percent origination rate from Table 4.1. For comparison, ethnic percentages were included under the “% Pop.” column to compare the percentage of originations by ethnic group to their percentage in the population.

Within the “Loan Type” category, “Conventional” shows the highest percentage, about 88 percent of all originations in Hays County. FHA loans, which are government insured and have more stringent lending criteria, were about eight percent of all originations. Referring back to Table 4.1, the origination rates were about 46 percent for FHA versus approximately 57 percent for conventional.

For Ethnicity, “White” shows the highest percentage of origination at 75 percent of the total originations in the county. The percentage of Whites in the population was just over 75 percent. Hispanic applicants represented about 13 percent of originations with over 15 percent of the total population in the county. Asian applicants accounted for 2.6 percent of all originations, with 2.2 percent of the total population in the county. African-American applicants accounted for 1.6 percent of all originations, with about 2.9 percent of the total population in the county.

The highest income group (>120% median) displays the highest percentage of originations, at about 70 percent of all originations. In contrast, the very low-income group accounts for less than two percent of all originations.

The loan purpose data for the county shows that refinance loans were the most frequent purpose at about 46 percent. Home purchase loans accounted for over

37 percent of the originations. Home improvement loans accounted for about 17 percent of all originations.

In San Marcos, about 88 percent of all originations were from conventional loans. FHA loans were about 10 percent of all originations. In the city, Whites had the highest percentage of originations, about 70 percent of the total. The percentage of Whites in the population was over 78 percent. Hispanic applicants accounted for about 13 percent of originations, while their presence in the population was about 38 percent of all residents. Asian applicants represented 0.7 percent of originations with about 0.9 percent of the total population. African-American applicants accounted for over four percent of all originations, with over five percent of the total population. Native American applicants represented 0.5 percent of originations with 1.7 percent of the total population. The highest income group (>120% median) displays the highest percentage of originations, over 45 percent of all originations in the city. In contrast, the very low-income group accounts for about seven percent of all originations. The loan purpose data show that refinance loans were the most frequent purpose, about 50 percent of all originations in the city. Home purchase loans accounted for about 39 percent of the originations. Home improvement loans accounted for about 12 percent of all originations in the city.

Table 4.2

**Home Mortgage Disclosure Act (HMDA) Analysis
Comparison of Originations Within Categories
City of San Marcos and Hays County
2004 - 2009**

	San Marcos			Hays County		
	# of Originations	% of Originations	%Pop.	# of Originations	% of Originations	%Pop.
Loan Type:						
Conventional	2,063	87.7%		19,784	87.9%	
FHA	226	9.6%		1,869	8.3%	
VA & Other	63	2.7%		857	3.8%	
Ethnicity:						
Native	13	0.5%	1.7%	82	0.4%	0.6%
Asian	17	0.7%	0.9%	582	2.6%	2.2%
Black	104	4.4%	5.5%	366	1.6%	2.9%
Hispanic	308	13.1%	37.8%	2,866	12.7%	15.5%
White	1,642	69.9%	78.5%	16,865	74.9%	75.1%
Other	133	5.7%	13.5%	1,167	5.2%	19.5%
Not Provided	120	5.1%		475	2.1%	
Unknown	13	0.6%		110	0.5%	
Income:						
<51% median	158	6.7%		405	1.8%	
51-80% median	248	10.5%		1,201	5.3%	
81-95% median	328	13.9%		1,998	8.9%	
96-120% median	537	22.8%		2,388	10.6%	
>120% median	1,070	45.5%		15,717	69.8%	
Unknown	11	0.5%		801	3.6%	
Loan Purpose:						
Home Purchase	904	38.5%		8,342	37.1%	
Home Improvement	277	11.8%		3,780	16.8%	
Refinance	1,166	49.6%		10,321	45.9%	
Totals	2,351	100.0%		22,510	100.0%	

Table 4.3 examines the HMDA data more closely with respect to the possibility of redlining within the county and the city. Redlining relates to the avoidance of certain locations by mortgage lenders in response to undesirable characteristics of the area. Assuming that these negative characteristics can be epitomized by the lowest income census tracts (<51% median in the tables), a comparison of origination rates within these tracts to higher income tracts should shed some light on the probability of redlining. Origination rates for San Marcos indicate that Very Low-Income applicants (<51% median) were successful 46 percent of the time, Low-Income applicants (51-80% median) were successful 50 percent of the time, and Moderate Income applicants (81-95% median) were successful about 52 percent of the time, Middle Income applicants (96-120% median) about 59 percent of the time, and High Income applicants (>120% median) 62 percent of the time. When isolating the Very Low Income census tracts, the origination rates change significantly. Moderate Income applicants were successful 20.7 percent of the time, over 31 percentage points lower than their overall success in city. Higher income applicants in very low-income tracts experienced much lower rates, as well. High Income applicants in very low-income tracts had a 35.5 percent origination rate, more than 26 percentage points lower than in the overall rate for the city.

Comparing Very Low-Income tracts to High Income tracts, large differences are noted between origination and denial rates. Within High Income tracts, Very Low Income applicants were successful 48.8 percent of the time, about 25 percentage points higher than High Income applicants in the Very Low-Income tracts. High Income applicants were successful 65.7 percent of the time in High Income tracts, over 30 percentage points higher than in Very Low Income tracts. Origination rates for Middle Income applicants in High Income tracts were 33.1 percentage points higher than in the Very Low Income tracts. While this analysis does not provide conclusive proof that redlining exists, the expectation for higher income applicants would be for relatively equal origination rates across all

census tracts. The large differences in origination rates between Very Low and High-Income tracts suggest that some redlining may be occurring.

Table 4.3

**Analysis of Home Mortgage Disclosure Act Data, 2004-2009
Analysis of Redlining in Low-Income Census Tracts**

	Hays County Number of Applications	Origination Rate
Low-Income Tracts		
<51% median	321	24.3%
51-80% median	767	23.4%
81-95% median	219	20.7%
96-120% median	382	27.0%
>120% median	699	35.5%
Unknown	618	22.3%
High-Income Tracts		
<51% median	948	48.8%
51-80% median	1,979	50.6%
81-95% median	2,840	53.8%
96-120% median	3,443	60.4%
>120% median	11,600	65.7%
Unknown	889	26.4%
Difference Between High and Low Tracts (percentage point difference)		
<51% median		24.5%
51-80% median		27.2%
81-95% median		33.1%
96-120% median		33.4%
>120% median		30.2%
Unknown		4.1%
Origination Rates for San Marcos		
<51% median		46.0%
51-80% median		49.7%
81-95% median		52.1%
96-120% median		58.9%
>120% median		61.9%
Unknown		12.8%

Table 4.4 compares origination rates between minorities and White applicants for the various loan purposes and income groups. For all loan purposes shown, minority origination rates are marginally higher than Whites. For home purchase loans, origination rates were 49 percent for Whites and about 51 percent for minorities, a difference of two percentage points. White applicants for home improvement loans are successful almost four percentage points lower than minorities. The rates for refinance loans show a two percentage point difference.

Looking at the income group comparison, minorities have marginally higher origination rates to Whites in all income groups. In the High Income group (>120% MFI), White origination rates are 1.2 percentage points lower than minorities. Within each income group, Whites and minorities are entering the loan markets with relatively equal incomes.

**Table 4.4
Analysis of Home Mortgage Disclosure Act Data**

HMDA Activity for Hays County, 2004-2009

	# Apps.	% of Apps.	% Denied	% Orig.
Home Purchase Loans				
Minorities	4,082	26.6%	29.7%	50.6%
White	6,954	45.3%	14.2%	49.0%
Not Provided	4,319	28.1%	33.0%	11.1%
Home Improvement Loans				
Minorities	2,065	33.7%	49.9%	58.0%
White	2,895	47.3%	24.4%	53.9%
Not Provided	1,166	19.0%	47.9%	21.5%
Refinance Loans				
Minorities	6,188	33.6%	45.8%	56.8%
White	10,871	59.1%	30.7%	55.1%
Not Provided	1,339	7.3%	18.8%	17.0%
Income Groups				
<51% MFI				
Minorities	435	32.4%	50.3%	39.0%
White	747	55.6%	46.4%	38.2%
Not Provided	161	12.0%	57.6%	10.8%
51 to 80% MFI				
Minorities	1,131	34.2%	41.9%	45.3%
White	1,944	58.8%	37.2%	44.6%
Not Provided	233	7.1%	52.8%	15.4%
81 to 95% MFI				
Minorities	1,568	43.2%	39.5%	53.0%
White	1,916	52.8%	28.9%	52.0%
Not Provided	148	4.1%	45.4%	18.3%
96 to 120% MFI				
Minorities	1,416	37.6%	34.0%	57.5%
White	2,168	57.5%	24.9%	56.0%
Not Provided	183	4.8%	44.3%	21.1%
>120% MFI				
Minorities	9,584	47.4%	27.1%	51.4%
White	9,836	48.6%	13.1%	50.2%
Not Provided	808	4.0%	34.0%	29.1%

Chart 4.1 provides a look at origination rates by census tract income for the loan types: conventional, FHA, and VA. Conventional loans have higher origination rates in all income groups than government insured loans.

Chart 4.1: Origination Rates by Loan Types by Income of Census Tracts

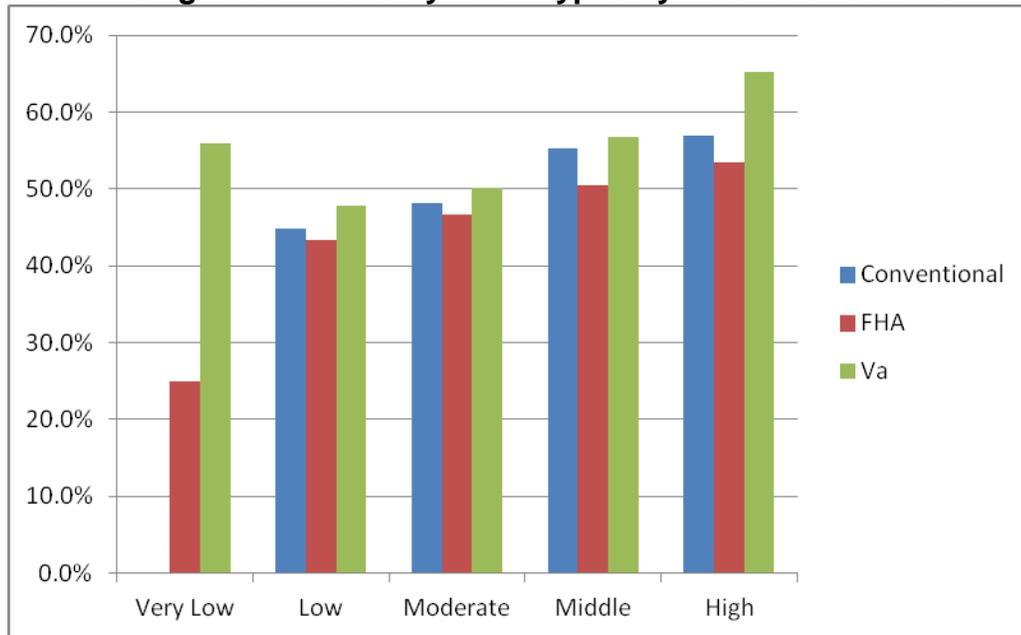


Chart 4.2 shows origination rates by ethnicity and income of the census tract. Hispanics show the highest origination rates of all races in all income groups of tracts except Low-Income tracts and Middle-Income tracts. White show the highest origination rates in Low- and Middle- Income tracts.

Chart 4.2: Origination Rates by Ethnicity by Income of Census Tracts

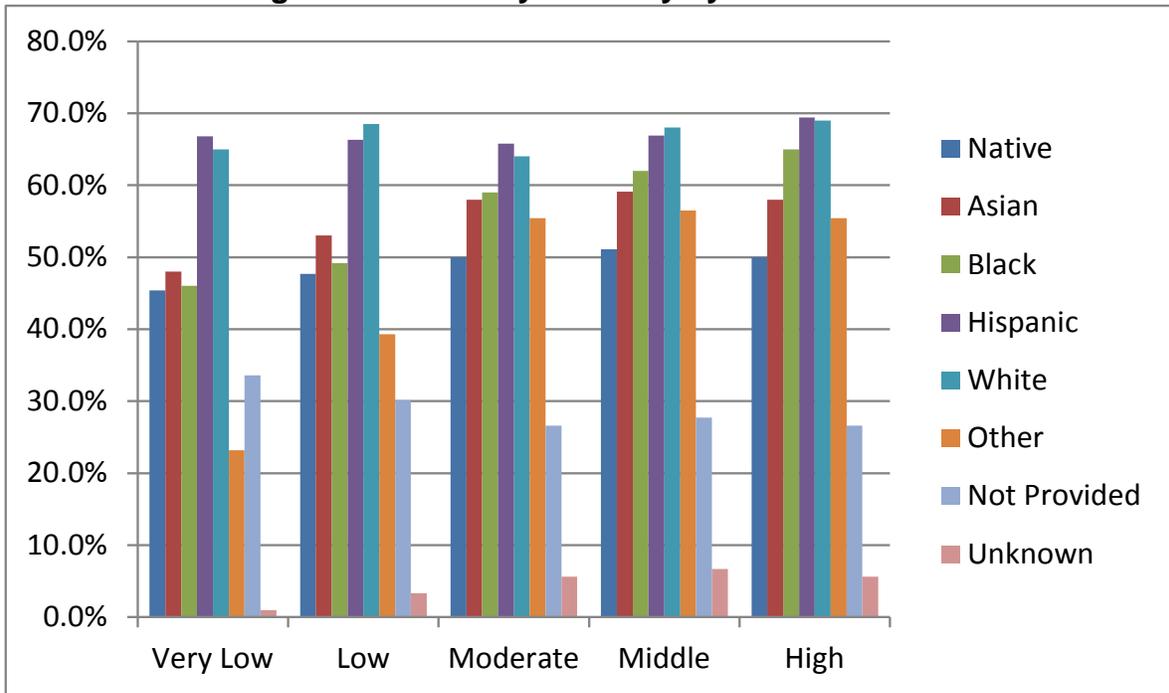


Chart 4.3 looks at origination rates by the income of the applicant and the income of the census tract of the property for which the loan would be applied. Ideally, origination rates should be similar among same income groups regardless of the income for the census tract where the subject property is located. The origination rates of all the income groups increase as the tract income increases. This indicates that families with similar income are more likely to originate a loan for property in a higher income census tract. Therefore, redlining may be occurring in lower income tracts in the community. The relatively small number of applications in the lower income tracts, however, makes any conclusive determination of redlining impossible.

Chart 4.3: Origination Rates by Applicant Income by Income of Census Tracts

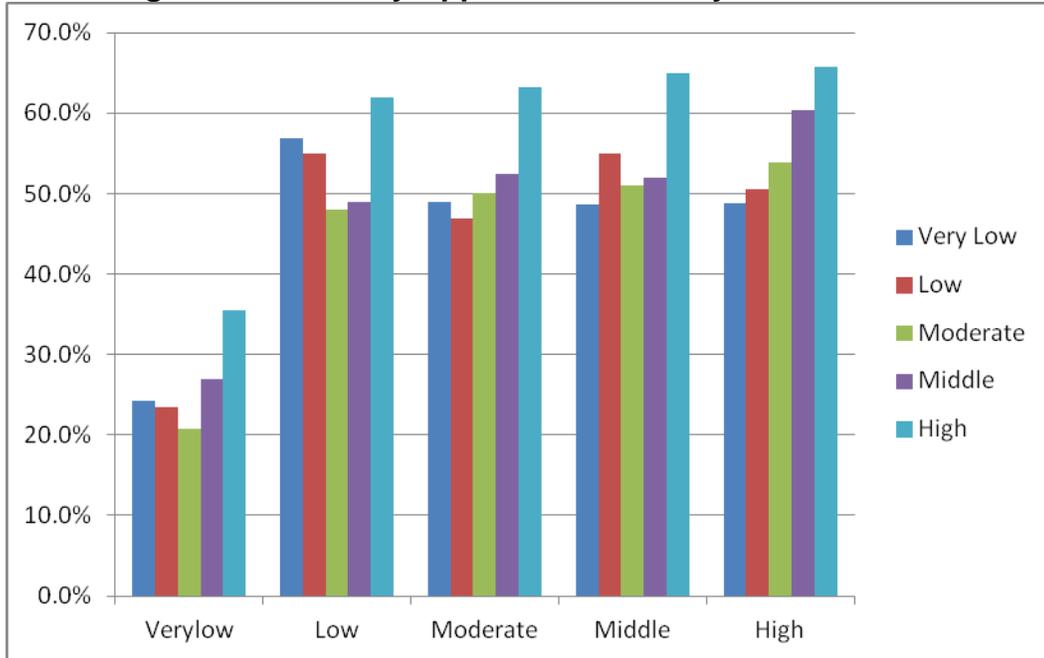
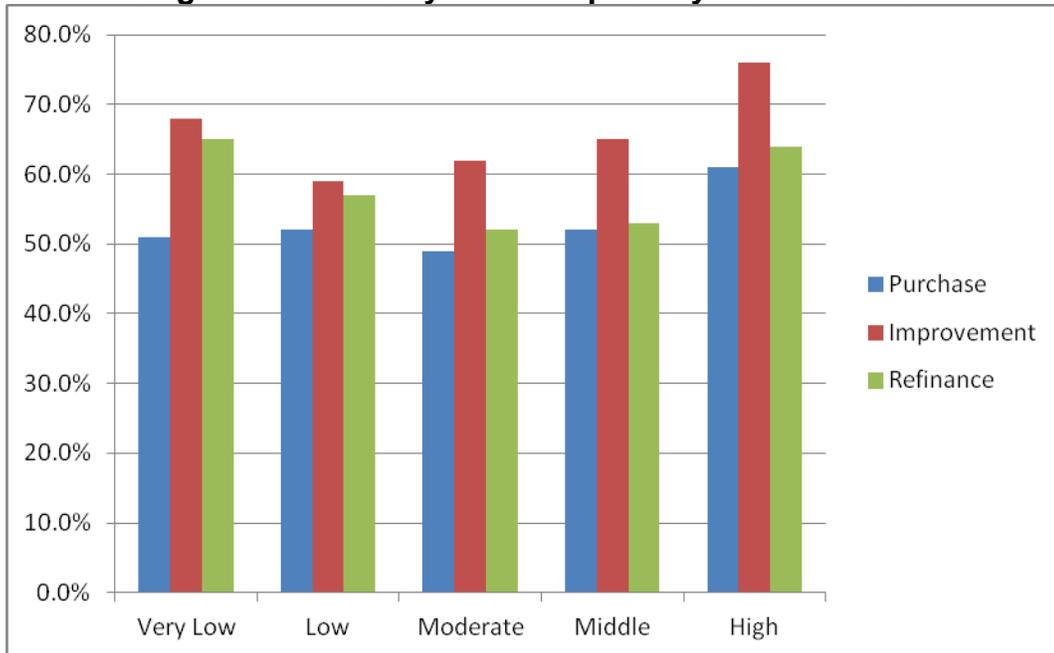


Chart 4.4 looks at origination rates by loan purpose and income of the census tract. Applications for all loan types have a higher success rate as the tract income increases, including home improvement loans, peaking at 75 percent for the High-Income tracts. Home Purchase loans have the lowest origination rates and home improvement loans show the highest origination rates in all income tracts.

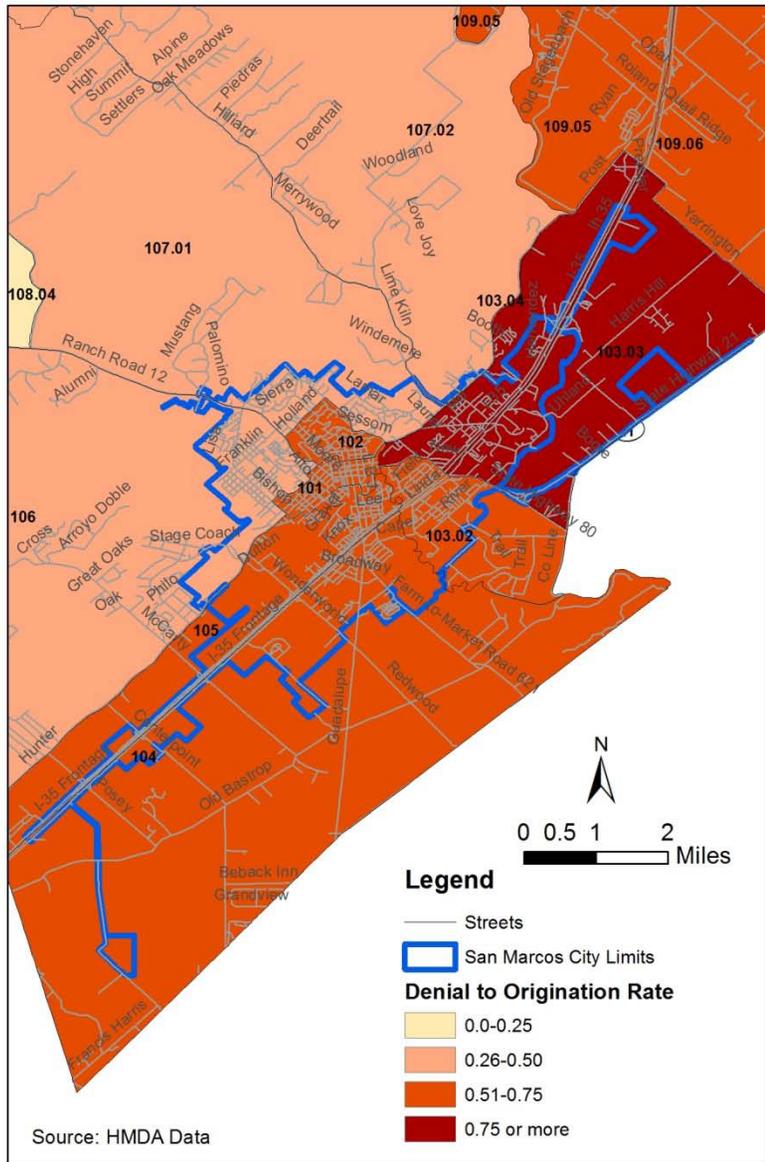
Chart 4.4: Origination Rates by Loan Purpose by Income of Census Tracts



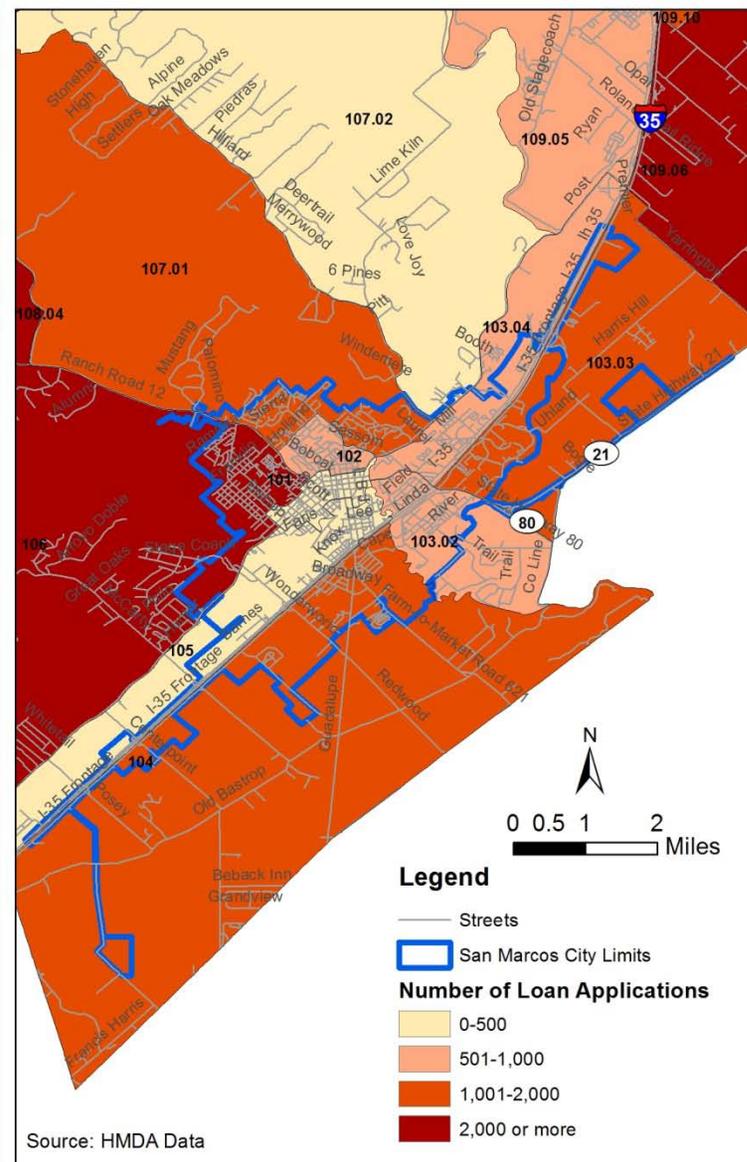
Maps 4.1 through 4.6 provide loan activity by census tract. The ratio of denials to originations was calculated for each loan purpose and loan type. Tracts shown in the darkest red indicate those areas where 75 or more applications are denied for every 100 applications that are originated. The orange areas show 50 to 75 applications denied for every 100 applications originated. The light brown areas show 25 to 50 applications denied for every 100 applications originated. The beige areas show 0 to 25 applications denied for every 100 applications originated.

Map 4.2 shows the total number of loan originations by census tract. Less active areas are shown in the lighter colors, with the most active areas in dark red. Unlike the other maps, the light areas are meant to indicate areas of concern, either for a lack of loan activity or for their low rate of application originations in relation to denials. Maps 4.3 and 4.4 compare the ratio of loan denials to originations for Conventional loans and Government Backed loans. Maps 4.5 and 4.6 compare the ratio for home purchase loans and home improvement loans.

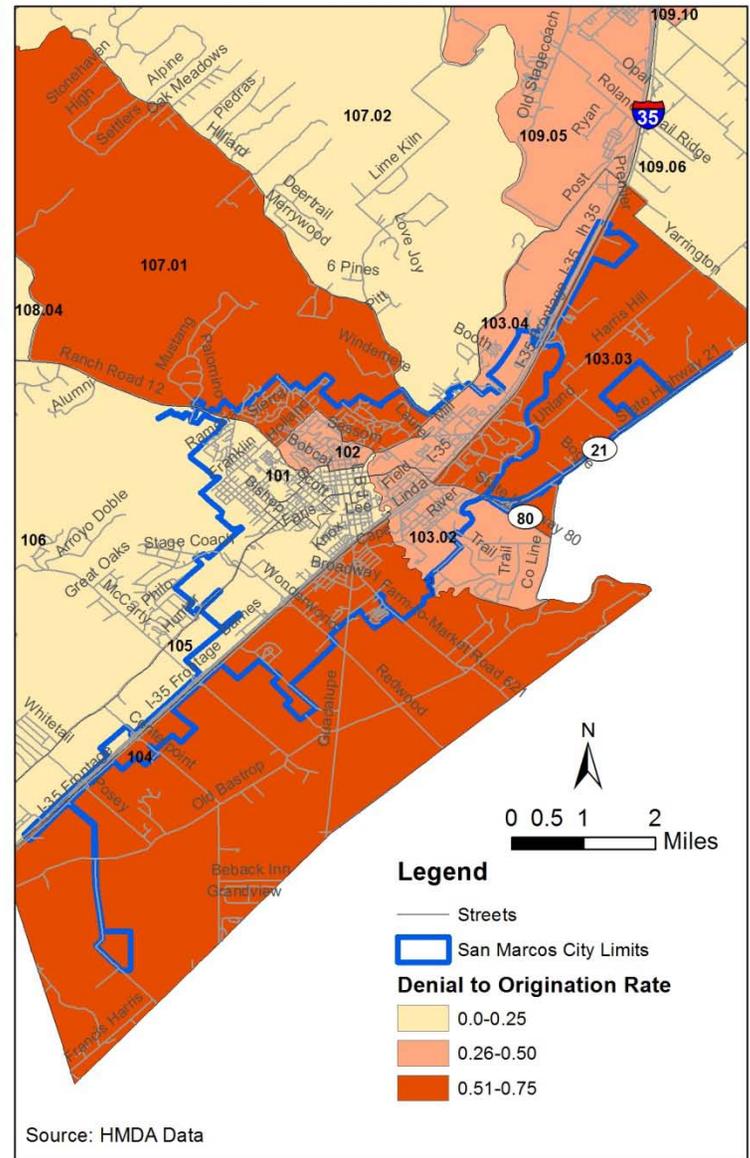
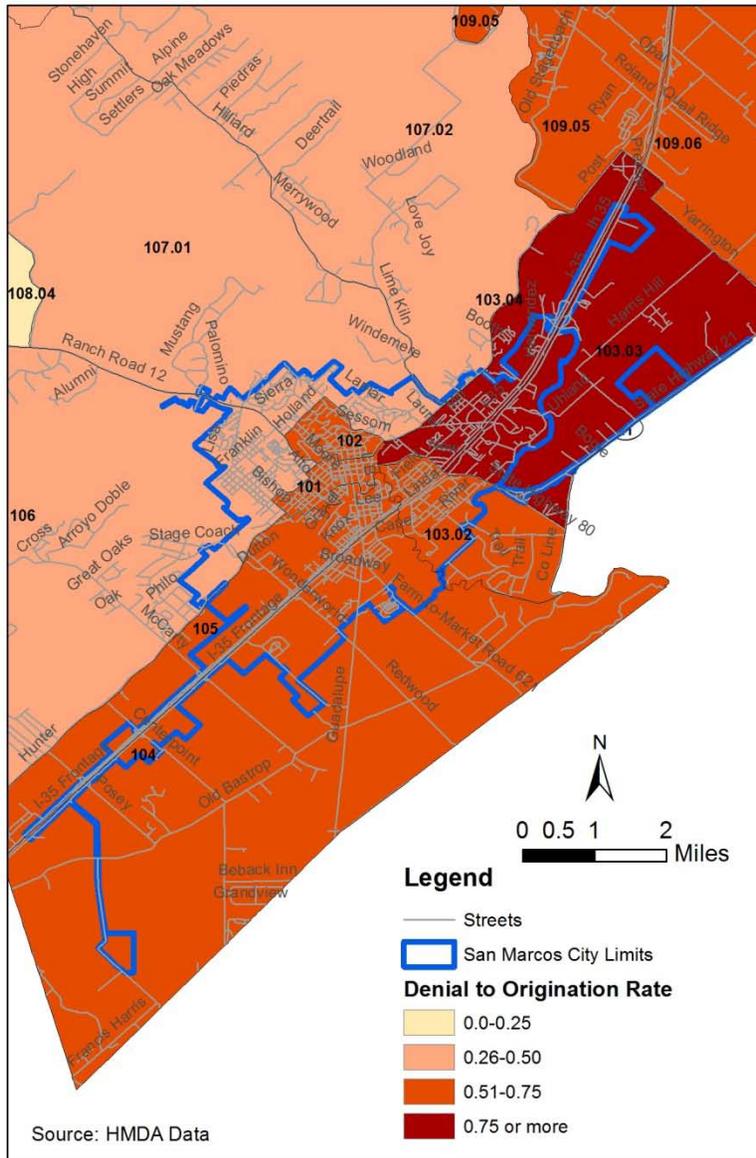
Map 4.1: Ratio of All Loan Denials to Originations, 2004-2009



Map 4.2: Total Number of Loan Applications, 2004-2009

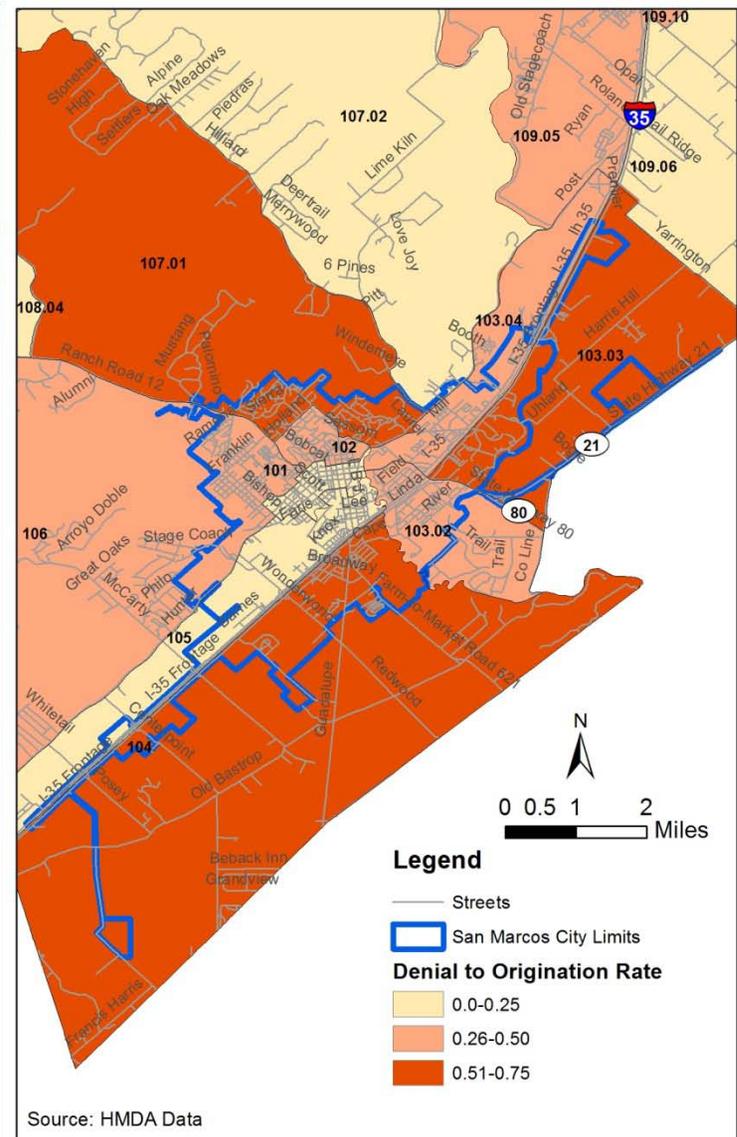
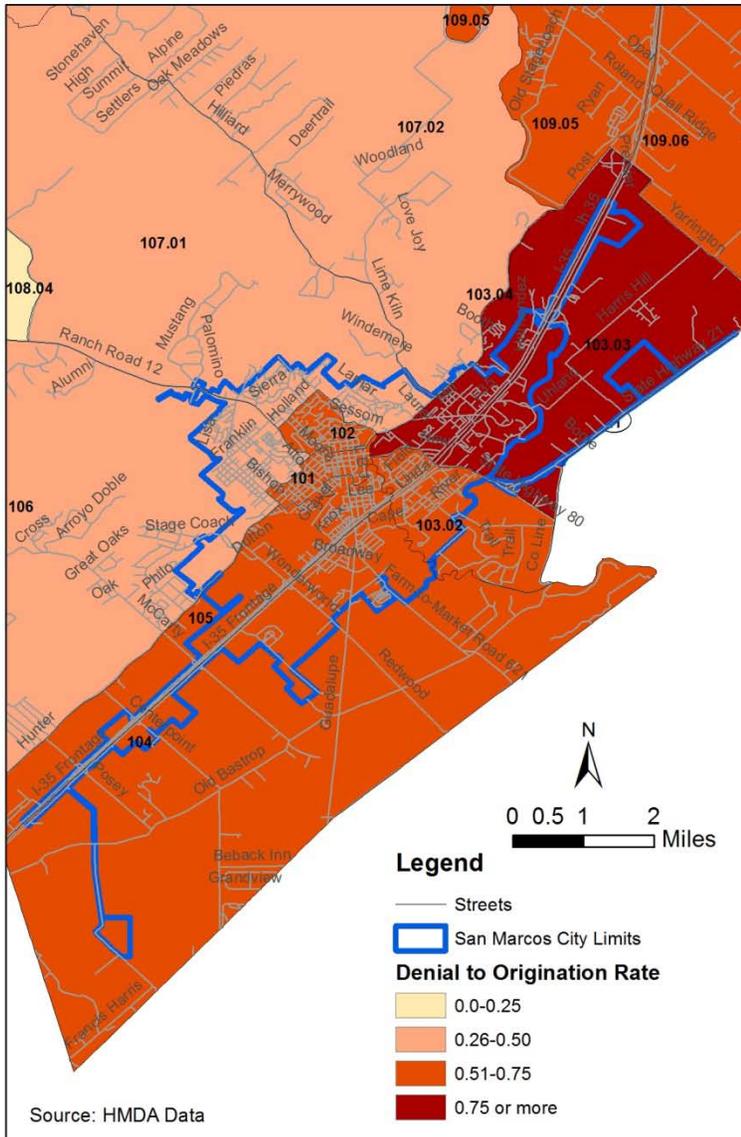


Map 4.3: Ratio of Conventional Loan Denials to Originations, 2004-2009 Map 4.4: Ratio of Government Backed Loan Denials to Originations, 2004-2009



Map 4.5: Ratio of Home Purchase Loan Denials to Originations, 2004-2009

Map 4.6: Ratio of Home Improvement Loan Denials to Originations, 2004-2009



A look at reasons for denial showed that the majority related to the applicants credit history or their debt-to-income ratio. In San Marcos, over 950 (68.2%) denials were based on the applicant's credit history in the six years of the study. About 330 (23.7%) denials were based on the applicant's debt-to-income ratio in that same year and more than 110 (8.0%) were based on collateral concerns. Those three categories accounted for just over 76 percent of the denials for the study period.

4.2. Conclusions

In Hays County and the City of San Marcos, the highest success in loan origination was found in the home improvement loan sector and the least success was in the home purchase loan sector. There was no evidence of disparate impact of lending decisions on persons based on race or ethnicity.

Overall, the origination rates among minorities were marginally higher than Whites in home purchase, home Improvement and refinance loans. Refinance loans were the most frequent loan type in the county and San Marcos. During the period between 2004 and 2009, the majority of loan denials for all applicants were related to the applicants' poor credit history, or higher debt-to-income ratio.

While the analysis offered does not provide conclusive evidence of redlining, the data tend to suggest some characteristics of redlining may exist. Ideally, origination rates should be similar among same income groups regardless of the income for the census tract where the subject property is located. However, the origination rates for all the income groups increases as the tract income increases and decreased as the tract income decreased. This indicates that families with similar income are more likely to originate a loan for property in a higher income census tract in the county and the city. While it is expected that very low-income applicants tend to have lower origination rates, within the very low-income census tracts, even high-income applicants showed a poor success

rate. However, due to very low number of applications in the lower income census tracts, any conclusive determination of redlining is impossible for Hays County or San Marcos City.

The higher denial rates for lower income groups, coupled with the possibility that characteristics of redlining may be adversely impacting originations in lower income concentrated census tracts, are indicative of impediments to fair housing.

Section 5: Fair Housing Index

Introduction

The Fair Housing Index is a measure developed specifically for Analyses of Impediments to Fair Housing. The index combines the effects of several demographic variables with Home Mortgage Disclosure Act (HMDA) data and maps the results by census tract. Data for ten variables, shown in the Fair Housing Index table are standardized and added to classify the conditions in various census tracts in Hays County into degree of problems that may cause impediments to fair housing choice. The map provides a general indication of geographic regions within San Marcos where residents may experience some level of housing discrimination or have problems finding affordable, appropriate housing. The discussion is highly technical and contains statistical techniques that may be beyond the statistical experience of some readers.

5.1. Methodology

Data for ten variables for all census tracts in Hays County were gathered for analysis. These ten variables were: percent minority, percent female-headed households with children, median housing value, median contract rent, percent of the housing stock constructed prior to 1960, median household income, percent of the population with less than a high school degree, percent of the workforce unemployed, percent using public transportation to go to and from work, and the ratio of loan denials to loan originations for 2004 through 2009 from the Home Mortgage Disclosure Act (HMDA) report published by the Federal Financial Institutions Examination Council. With the exception of the HMDA data, all data were found in the 2006-2010 American Community Survey (ACS) 5-Year estimates of Population and Housing. Each variable contained data for every census tract in the city as defined by the ACS estimates.

When the database was complete, Pearson correlation coefficients (a statistical measure that indicates the degree to which one variable changes in relation to changes in another variable and range in value from -1 to 1) were calculated to assure that all variables displayed a high relationship to each other. It is important, in this type of analysis, that the variables selected are measuring similar aspects of the population. The results of the calculations showed that all variables displayed moderate to high degrees of correlation with other variables in the model, ranging up to 0.7468.

Once the relationship of the variables was established, each variable was standardized. This involves calculating a Z-score for each record by variable. For instance, for the variable percent minority, a mean and standard deviation were calculated. The mean for the variable was subtracted from data for each census tract and divided by the standard deviation. The result was a value representing the distance that the data point lay from the mean of the variable, reported in number of standard deviations. This process allows all variables to be reported in the same units (standard deviations from the mean) and, thus, allows for mathematical manipulations using the variables.

When all variables were standardized, the data for each census tract were summed with negative or positive values given to each variable to assure that effects were being combined. For instance, in a fair housing environment, high minority concentrations raise suspicions that there may be problems relative to housing conditions and housing choices in the area based on correlations between these variables found in the census data. Therefore, the percent minority variable would be given a negative value. Conversely, in areas of high housing values, the current residents are likely not having problems with fair housing choice. High housing value, therefore, would be assigned a positive value. Each variable was considered in this light and assigned an appropriate sign, thus combining effects. This new variable, the total for each census tract, was then standardized as described for the original ten variables above.

The standardized form of the total variable provides a means of identifying individual census tracts where fair housing choice is at high risk due to demographic factors most often associated with housing discrimination. With the data presented in standardized form, the results can be compared to the standard normal distribution, represented by a bell curve with a mean of 0 and a standard deviation of 1. The analysis shows High Risk areas as those census tracts with standard scores below -2.00 . Scores between -1.99 and -1 are designated Moderate Risk areas. Scores between -0.99 and 0 are reported as Low Risk and above 0 as Very Low Risk. The results are summarized in the following section.

It should be emphasized that the data used to perform this analysis do not directly report fair housing violations. The data were utilized in order to measure potential problems based on concentrations of demographic groups who most often experience restrictions to fair housing choice. Areas identified as having extreme problems are those where there is a high concentration of minorities, female-headed households, unemployment, high school dropouts, low property values, and, most likely, are areas where a large proportion of loans (conventional home mortgages, FHA or VA home mortgages, refinance, or home improvement) have been denied.

Included following the map is the correlation table (Table 5.1). MedValue is the median home value according to the 2006-2010 ACS estimates. MedRent is the median contract rent. XMinority is the percent minority. XFemHH is the percent female-headed household. XPre60 is the percent of housing built prior to 1960. MedHHI is the median household income. XLessHS is the percent of the population 25 years of age and older that has less than a high school degree. XUnemp is the unemployment rate for the population aged 16 and older considered being in the labor force. XPubTrans is the percent utilizing public transportation to get to and from work. AllRat is the ratio of denials to originations from the HMDA data from 2004 to 2009.

5.2. Findings

Looking first at the correlation table (Table 5.1), the percentage not graduating from high school has a strong negative correlation to median household income (-0.7468). The percentage not graduating from high school has a strong negative correlation to housing value (-0.6463), which indicates that non-high school graduates live in much lower value housing. The median income has a high negative correlation with unemployment rate (-0.7373) and has a moderate positive correlation with median value (0.6374) and median rent (0.5974). These correlations indicate that lower income groups and unemployed persons are more likely to live in housing with lower values and rents in the city.

The ratio of home loan denials to originations had a moderate negative correlation with median household income (-0.6735). This correlation indicates that lower income groups are less likely to receive a home loan approval than higher income groups. The ratio of home loan denials to originations had moderate positive correlations with the percentage of less than high school education (0.6641) and unemployment rate (0.5857). These correlations indicate that unemployed persons and persons with no high school degree have lower likelihood of receiving loan originations.

The correlation between the percentage minority and percentage female-headed households with children is high and positive (0.6102); which indicates that the minority community has a higher rate of female-headed households with children than the non-minority community. The percentage of female-headed households has a moderate negative correlation with median housing value (-0.5683), which indicates that single mothers are more likely to live in housing with lower values.

The percentage of population using public transportation has a moderate negative correlation with income (-0.6575) which indicated that lower income groups are more likely to use public transportation.

As indicated on Map 5.1, the central census tracts in the City of San Marcos are designated as having high risk of fair housing related problems. The census tracts having moderate to Low risk of fair housing problems are located in the northwest and southeast areas of the city.

These areas of greatest concern contain the housing stock, most likely in poor condition, with lower housing values and rents, and are primarily occupied by lower income households that have higher percentages of households headed by females with children than that of other census tracts or areas. There is a higher than average unemployment rate and lower than average level of educational attainment.

Map 5.1: Fair Housing Index

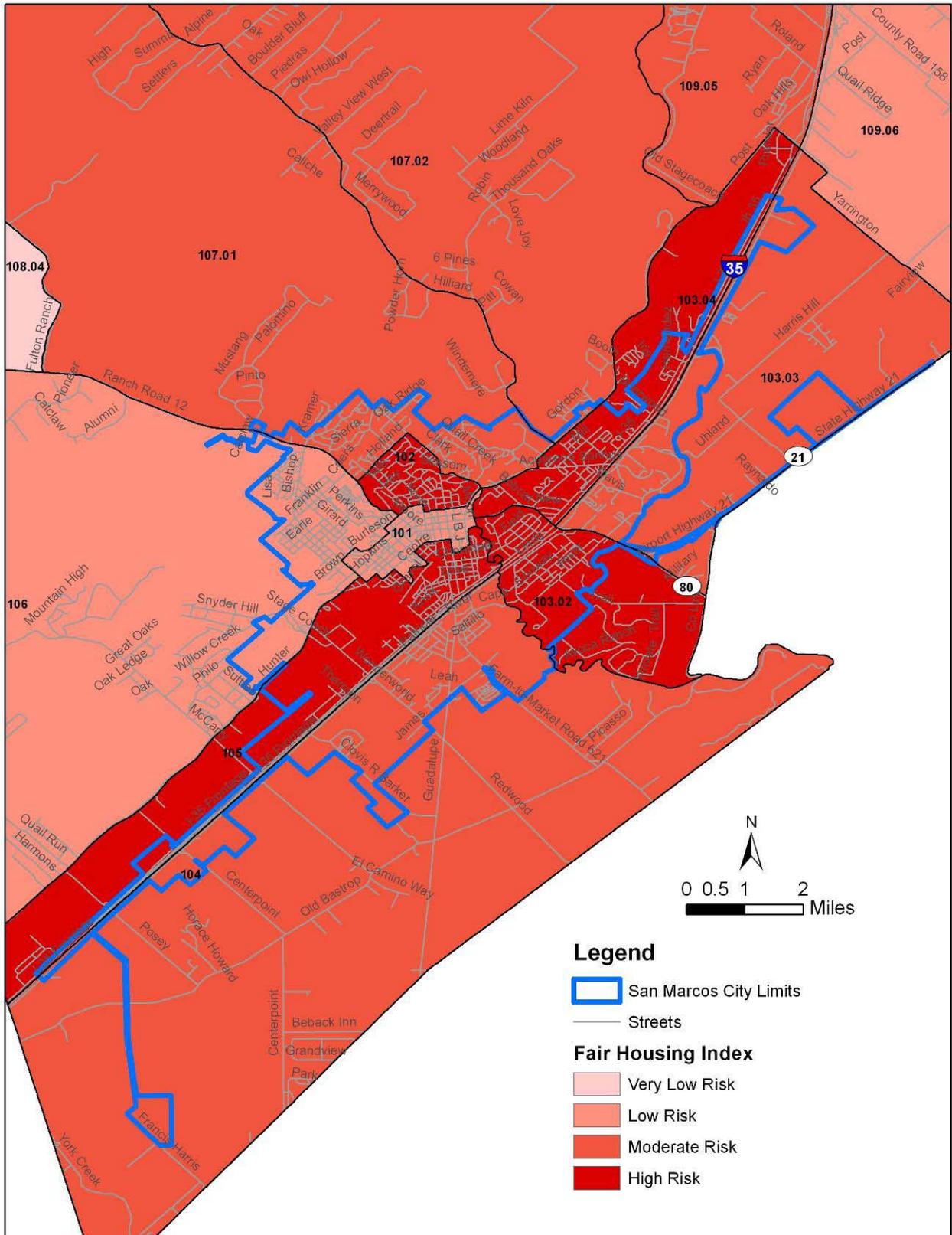


Table 5.1

Correlation Table of Index Variables

	AllRat	XPubTrans	XLessHS	XUnemp	MedHHI	XPre60	MedRent	MedValue	XMinority	XFemHH
AllRat	1.0000									
XPubTrans	0.5827	1.0000								
XLessHS	0.6641	0.4353	1.0000							
XUnemp	0.5857	0.3046	0.2745	1.0000						
MedHHI	-0.6735	-0.6575	-0.7468	-0.7373	1.0000					
XPre60	0.3685	0.2046	0.5463	0.1467	-0.4003	1.0000				
MedRent	-0.6035	-0.3334	-0.2264	-0.2456	0.5974	-0.2944	1.0000			
MedValue	-0.2564	-0.3675	-0.6463	-0.4746	0.6374	-0.3273	0.4845	1.0000		
XMinority	0.4936	0.4636	0.2004	0.3745	-0.3583	0.2154	-0.1537	-0.4107	1.0000	
XFemHH	0.3646	0.2113	0.2856	0.2244	-0.4636	0.3885	-0.3843	-0.5683	0.6102	1.0000

Variable	Definition
XFemHH	% Female-Headed Households, 2006-2010
XMinority	% Minority, 2006-2010
MedValue	Median Home Value, 2006-2010
MedRent	Median Contract Rent, 2006-2010
XPre60	% of Housing Built Prior to 1960, 2006-2010
MedHHI	Median Household Income, 2006-2010
XLessHS	% Less than High School Degree, 2006-2010
XUnemp	% Unemployed, 2006-2010
XPubTrans	% Taking Public Transportation to Work, 2006-2010
AllRat	Ratio of Denials to Originations, All Loan Types, 2004-2009

Section 6: Impediments to Fair Housing and Remedial Actions

Introduction

This section draws on the information collected and analyzed in previous sections to provide detailed analyses of fair housing impediments in San Marcos. Five major categories of impediments were analyzed: Real Estate Impediments; Public Policy Impediments; Neighborhood Conditions as Impediments; Banking, Finance, and Insurance Related Impediments; and Socioeconomic Impediments. For each impediment identified, issues and impacts are detailed. Remedial actions are suggested to address impediment. Some remedial actions recommended in this section are conceptual frameworks for addressing the impediments. These actions will require further research, analysis, and final program design by the City of San Marcos for implementation.

Evaluating fair housing is a complex process involving diverse and wide-ranging considerations. The role of economics, housing markets, and personal choice are important to consider when examining fair housing. The effects on persons of a particular race, ethnicity, or members of the protected classes under fair housing law are comparatively analyzed to determine any disparities. San Marcos has relatively few impediments to fair housing. However, some issues were identified.

The City of San Marcos' commitment to furthering affordable housing, community initiatives, planning and CDBG funded service program design and implementation is noteworthy. These efforts will continue to improve and help maintain stability, and strengthen its older and lower income areas. The City and its nonprofit partners are encouraged to expand these efforts into other neighborhoods as a primary means of expanding fair housing choice. The impediments identified in this section can be directly linked to and supported by data and analysis from the previous sections. In some instances, footnotes have provided links to the corresponding sections should the reader need to refer to those sections for more details.

6.1 Real Estate Impediments

Impediment: Lack of affordability and insufficient Income.

Issues: Lack of affordability, that is households having inadequate income to acquire housing currently available in the market, may be the most critical impediment faced by all households in San Marcos. The median housing value in the city was \$121,700 and the median contract rent was \$644 between 2006 and 2010.¹ The average income required to qualify for a mortgage based on the median home price of \$121,700 is approximately \$32,000 to \$40,000 in household income and the average income to qualify for a contract rent of \$644 is \$28,000 to \$30,000. When you factor in housing related expenses other than mortgage or rent payments such as taxes, insurance, and utilities, home ownership and rental housing is not attainable to many in the City. In fact, an estimated 49.4 percent of White households, 35 percent of African-American households and 45.2 percent of Hispanic households have incomes of less than \$25,000. The entire City of San Marcos is comprised of census tracts where the majority of household incomes are below 80% of the area median, making the entire City eligible under HUD guidelines for Community Development Block Grant funding.

The modal income class, the income classes with the highest number of households, for Whites was the less than \$10,000 category with 20.9 percent of Whites in this income range. The modal income class for Hispanic households was the \$15,000 to \$24,999 range with 18.0 percent of households in this range. The most frequently reported income for African-American households was also the less than \$10,000 range with 26.2 percent of households in this range.

According to the 2006 - 2010 ACS estimates, the median household income was \$25,492 for White households, \$28,733 for Hispanic households, and \$29,877 for African-American households, compared to \$26,734 for the overall city. We do acknowledge that median and modal income are not the only factors to be considered in an assessment of persons ability to qualify for mortgages and that other indicators and underwriting criteria are important. It is also noteworthy that we found no disparate impacts relative to income for the protected class members. However the median and modal income for each of the three major racial/ethnic groups and for the city underscores that many earn incomes that are insufficient to acquire housing in the current market regardless of race or ethnicity, and resulting in a significant cost burden for others.

One of the most revealing indicators that income limitations are impacting a persons' ability to obtain housing of their choice is the category of homeownership. According to the 2006 - 2010 ACS data, homeownership rate among Whites was 25.1 percent, compared to 31.3 percent among Hispanics, and 28.3 percent among African-Americans. Again, our analysis noted that White households had lower homeownership rates compared to minorities, and no disparate impact on homeownership rates based on race and ethnicity. All three groups are experiencing similar percentages of their population becoming homeowners.

We therefore have identified a shortage of affordable housing as a primary impediment to fair housing in San Marcos. In addition to lack of income, other wide ranging and interconnected issues influence the development, pricing and affordability of housing. These issues include the rapidly rising cost of land, materials, and construction; development fees; or the investment needed to rehabilitate substandard housing. Focus group participants voiced particular concern that the supply of affordable homes for working families were in short supply in the areas where they are needed which is only adding to the overall affordable housing shortage.

Impacts: Affordable housing impacts the structure and stability of neighborhoods. Income diversified neighborhoods and neighborhoods that are accessible to a mix of incomes have shown a greater potential to maintain themselves as a viable community. That is, people are most likely to maintain housing they own or when it is their housing of choice. In 2010, there were low percentages of homeownership among all races and ethnicities². Most important, a declining housing market and the lack of income to acquire housing limit housing choice and increase the probability of cost burdens. To the extent that household income correlates to housing value, this limitation is even greater³. The Census data reveals high percentages of the city's overall population fall into the lowest income groups and household incomes are insufficient to qualify for the housing in San Marcos at any price without public assistance⁴. An analysis of household income and cost burden suggests that there is a strong need for additional affordable housing to meet the needs of lower-income households in the City.

Without adequate affordable housing, San Marcos households have also shown higher incidents of cost burdened with regard to their monthly mortgage (principal, interest, taxes, insurance, and utilities) or rent payments for all income groups⁵. Based on 2006 – 2010 ACS data the cost of housing has drastically increased. While the 2010 median household income increased between 2000 and 2010, for many households, it was lower than the income required to acquire the median home priced at \$121,700 and the median contract rent at \$644 in 2010.

¹ Community Profiles page 20.

² 2006 – 2010 ACS Census homeownership rates for the City of San Marcos, page 21 of the Community Profiles.

³ Fair Housing Index Table 5.1 on page 85, shows a strong correlation between lower income groups relative to housing values and rents.

⁴ 2006 – 2010 ACS Census, Table 1.3 on page 11.

⁵ Comprehensive Affordability Strategy (CHAS) data presented in Table 1.11 on page 28 of the Community Profile in year 2010.

Remedial Actions: San Marcos should continue to work with local banks, developers and non-profit organizations to expand the stock of affordable housing. The City has had success with its partnerships with banks and non profits in leveraging federal funds with additional funding for affordable housing from non entitlement fund sources. A continuation of these efforts should increase the production of new affordable housing units and assistance toward the purchase and renovation of housing in existing neighborhoods. Greater emphasis should also be placed on capacity building and technical assistance initiatives aimed at expanding non-profit, faith based organizations and private developers' production activities in the City. Alternative resources for housing programs should be sought from Fannie Mae, U.S. Department of Treasury Community Development Funding Institution (CDFI) program, Federal Home Loan Bank and other state and federal sources.

It is recommended that the City aggressively seek resources and explore opportunities to expand funding for first time homebuyer mortgage assistance program. This would support eligible person in the market in acquiring affordable housing within the community and support those responsible for providing financing and engaged in affordable housing development.

In an effort to expand local resources, we also recommend that the City initiate an effort to research and consider one particular policy change, inclusionary zoning, as one alternative means of promoting balanced housing development. Inclusionary zoning has been used in other communities to ensure that some portion of new housing development is affordable. As housing prices rise, low to moderate-income residents may be displaced or unable to afford new housing in mixed income areas of the City without the use of Inclusionary Zoning provisions. Mixed-income housing broadens access to services and jobs and provide opportunities

for lower-wage earning families to buy homes in appreciating housing markets and, as a result, accumulate wealth.

Inclusionary Zoning, also known as **inclusionary housing**, can be implemented by enacting provisions in the local Zoning or Development Ordinances that require a given share of new construction houses be affordable to people with low to moderate incomes. The term *inclusionary* zoning is derived from the fact that these ordinances seek to counter *exclusionary* zoning practices which aim to exclude affordable housing from a jurisdiction through the zoning code. In practice, these policies involve placing restrictions on 10% - 30% of new houses or apartments in a given development in order to make the costs of the housing affordable to lower income households. The mix of "affordable" and "market-rate" housing in the same neighborhood is seen as beneficial by many, especially in jurisdictions where housing shortages have become acute. Inclusionary Zoning is becoming a common tool for local jurisdictions in the United States to help provide a wider range of housing options than the market provides on its own. The zoning code must be amended to include this provision and can also be applied when residential planned unit development zoning is requested. Implementation is triggered at the building permitting phase. Inclusionary Zoning could increase the resources for affordable housing through private developer built units or developer dollars allocated in lieu of building units. Inclusionary Zoning could also generate additional resources for affordable housing since the federal grant programs cannot address all of the City's needs for affordable housing. Based on the current level of build out in the City and limited development opportunities, it is recommended that the City consider Inclusionary Zoning in its future development plans.

Inclusionary Zoning Ordinances vary substantially between jurisdictions. These variables can include:

- Mandatory or voluntary ordinance. While many cities and counties require inclusionary housing, many more offer zoning bonuses, expedited permits, reduced fees, cash subsidies, or other incentives for developers who voluntarily build affordable housing.
- A percentage of units dedicated as inclusionary housing. This varies quite substantially between jurisdictions, but appears to range between 10-30%.
- Minimum size of development that the ordinance applies. Most jurisdictions exempt smaller developments, but some require that even developments incurring only a fraction of an inclusionary housing unit pay a fee.
- Whether inclusionary housing must be built on site. Some programs allow housing to be built nearby, in case of hardship.
- Whether fees can be paid in lieu of building inclusionary housing. Fees-in-lieu allow a developer to "buy out" of his/her inclusionary housing obligation. This may seem to defeat the purpose of inclusionary zoning, but in some cases the cost of building one affordable unit on-site could purchase several affordable units off-site.
- Income level or price defined as "affordable," and buyer qualification methods. Most ordinances seem to target inclusionary units to low- or moderate-income households, earning approximately the regional median income or somewhat below. Inclusionary housing typically does not create housing for those with very low incomes.
- Appearance and integration of inclusionary housing units. Many jurisdictions require that inclusionary housing units be indistinguishable from market-rate units, but this can increase costs.
- Longevity of price restrictions attached to inclusionary housing units, and allowable appreciation. Ordinances that allow the "discount" to expire essentially grant a windfall profit to the inclusionary housing buyer, preventing that subsidy from being recycled to other needy households. Therefore, many programs restrict annual price appreciation, often tying it to inflation plus market value of home improvements, striving to balance

the community's interest in long-term affordability with the homeowner's interest in accruing equity over time.

The City, in coordination with the Chamber of Commerce, should encourage major employers and lenders to consider Employer-Assisted Housing (EAH) programs, encouraging employers to work with employees in their efforts to purchase housing. In some instances, the City and the Chamber will have to help raise the awareness among local employers and increase their understanding that not all wage levels permit ready entry into homeownership, without some sort of subsidy. This is important in that the private sector and employment community often view the use of subsidies to help low to moderate income households achieve homeownership as a public responsibility. In reality, with limited resources, the city government can only assist a small percentage of those in need. The Chamber can play a critical role in researching this issues and encouraging local businesses, local school districts, universities and local hospitals to consider implementing such programs for their employees. Employer-Assisted Housing programs benefit employers, employees, and the community. Employers benefit through greater employee retention. Employees receive aid to move into home-ownership. Ultimately, communities benefit though investment in the neighborhoods where the employers and employees are located. The most common benefits provided by employers are grants, forgivable loans, deferred or repayable loans, matched savings, interest-rate buy downs, shared appreciation, and home-buyer education (provided by an employer-funded counseling agency). Successful EAH programs use a combination of some of the benefits listed above. One program that has met with success was developed by Fannie Mae, which not only has their own EAH program, but also helps employers implement EAH programs. Fannie Mae's own EAH program has made it possible for 2,200 of its employees to become

homeowners. The City of Waco, Texas has implemented an EAH program and made it eligible to all city employees.

6.2 Public Policy Impediments

Impediment: Increased public awareness of fair housing rights should be evaluated.

Issues: The City of San Marcos has enacted a local Fair Housing Ordinance. However, the local law is not substantially equivalent to the federal Fair Housing Act because it does not provide for local enforcement. Therefore, our analysis of applicable fair housing laws focused on the State of Texas Fair Housing Act. In the analysis the state statutes were compared to the Federal Fair Housing Act. Our Analysis determined that state statute offered similar rights, remedies, and enforcement to the federal law and might be construed as substantially equivalent. The City of San Marcos is part of the enforcement geography afforded enforcement coverage by the Fort Worth Regional HUD FHEO Office. While the current system provides an acceptable process for filing and investigating fair housing complaints, increased local fair housing outreach, education and training would be an important step toward raising local awareness and establishing more effective local Fair Housing Policy.

Fair housing complaint information was received from the Fort Worth, Texas FHEO Division of the Regional Office of the U.S. Department of HUD. The data provides a breakdown of complaints filed for Hays County and San Marcos from January 1, 2007 through June 30, 2012. During this period, sixteen complaints were filed according to one or more of seven bases, including; National Origin, Color, Religion, Familial Status,

Handicap, Sex, and Race. While we were unable to determine what factors attributed to the low number of complaints filed over the past 5 years, we are concerned that the public's awareness relative to their fair housing rights may be a major contributing factor. We believe that local fair housing outreach, education and training must be increased, as an important step toward raising local awareness and establishing more effective local Fair Housing Policy.

Impacts: Most communities benefit greatly from having local fair housing legislation, effective outreach, education and training, and local enforcement. Most jurisdictions also have benefited from enforcement and outreach through a State having received FHAP and FHIP funding from HUD to enhance its fair housing education and outreach programs, enforcement and activities. However, these efforts have not generated significant filing of fair housing complaints. With little knowledge of their rights, the general public and potential buyers or tenants may not realize that their rights have been violated or how to seek remedies offered by federal and state enforcement agencies.

Remedial Actions: The City of San Marcos should continue increasing fair housing education and outreach in an effort to raise awareness and increase the effectiveness of its local fair housing ordinances. The City should target funding to fair housing education and outreach to the rapidly growing Hispanic and other immigrant populations. The City should also continue organizing fair housing workshops or information sessions to increase awareness of fair housing rights among immigrant populations and low income persons who are more likely to be entering the home-buying or rental markets at a disadvantage. Other alternatives for increasing awareness and effectiveness of fair housing include providing local enforcement. However, community development resources are limited and therefore local enforcement would necessitate additional funds

for investigation and enforcement and expansion of outreach and education. We do not recommend this approach at the current time assuming HUD continues its' enforcement services in the local jurisdiction.

Future consideration should be given to a regional approach to local enforcement, perhaps through a partnership of other local jurisdictions and the City of San Marcos, and a joint application for FHAP and FHIP funding being submitted to HUD.

6.3 Banking, Finance, Insurance and other Industry related impediments

Impediment: Impacts of the Subprime Mortgage Lending Crises and increased Foreclosures.

Issues: The housing foreclosure rates across the country continue to soar and the impacts are being felt in Texas as well. Numerous web sites are providing numerical counts and locations for homes with foreclosure filings across the country and for jurisdictions in the State of Texas. RealtyTrac.com shows 36 properties with foreclosure filings in December 2012 for San Marcos, 474 filings for Hays County and 46,529 properties foreclosure for the State of Texas in December 2012, representing 1 in every 1417 homes in Texas in foreclosure.

The rise in foreclosures may relate to the rise and fall of subprime lending market. Subprime lenders offer loans to less-creditworthy borrowers, borrowers that lack sufficient down-payments to afford the property, and risk based borrowers that speculate on the real estate market by acquiring real estate with no equity investment/down-payment in hopes that the property will appreciate in value over a short period of time. These loans are generally offered at higher interest rates or through products involving

adjustable interest rates and balloon payments. When the borrower cannot meet the increased mortgage payment they default and the property goes into foreclosure.

Neighborhood Housing Services, NHS, and Neighbor Works America are two national housing intermediaries that have created innovated programs in Chicago, Baltimore, and New York City designed to reduce the impacts of foreclosures and subprime lending in those affordable housing markets.

Remedial Actions:

The City of San Marcos should continue pursuing CDBG and State HOME and Neighborhood Stabilization Program (NSP) funding if it becomes available to provide home buyer assistance and subsidies to homebuyers to acquire foreclosure property and get it back into commerce. Some of the buyers that have already acquired housing in San Marcos utilizing entitlement funds from the City and State will likely face the issues of foreclosure. The City, if successful in obtaining additional funding, should consider expanding its program goals to consider initiatives that reduce mortgage defaults and foreclosure rates among low and moderate income home buyers.

The City should work with the State, National Non-Profit Housing Intermediaries and HUD to identify funding that can help reduce the mortgage default rate and foreclosure rates among low and moderate income home buyers and existing home owners. These programs offer initiatives such as loan default prevention programs based on providing counseling to affected borrowers, assistance with identifying alternative products that helps borrowers avoid subprime lending, and assistance with re-negotiation for more favorable terms for borrowers with subprime loans. These programs identify government assistance programs that also serve to assist distressed borrowers and are currently evaluating the

feasibility of creating a maintenance and replacement reserve account for affordable home buyers assisted with the entitlement and other federal funds to insure that funds are escrowed to help cover the cost of major repairs. Other alternatives being evaluated include the feasibility of creating a mortgage default and foreclosure prevention account for affordable home buyers assisted with federal funds to insure that funds are escrowed to help cover the cost of unexpected income/job loss and to write down interest rates.

Impediment: Predatory lending and other industry practices.

Issue: Predatory lending is a widespread concern in San Marcos. Several incidents were cited, by person interviewed and those attending the focus group sessions, suggesting unfavorable lending practices⁶. In some of the minority neighborhoods, lending institutions display an insignificant presence in the community. In other low-income neighborhoods, traditional banking and lending relationships have been relegated to an overabundance of pay-day loan, check-cashing, and title-loan stores due to a lack of traditional lending institutions. Focus Group participants also complained of extremely high interest rates being charged by not only neighborhood predatory lenders, but traditional banks and financial institutions for credit cards, auto loans, and other consumer loans. In some instances, the low-income population may be subject to predatory lending because they have a poor credit rating and limited credit history.

Others participating in the Focus Group sessions and interviews provided anecdotal comments that they believed that recent homes built in older neighborhoods and minority concentrated areas are sometimes priced lower than comparable units in other areas based on industry appraisals. Appraisals generally determine value based on comparable units in close proximity to the subject property, Older neighborhoods tend to have

⁶ Focus Group Sessions page 56

limited or sometimes no recently built units for use in making a value comparison. If comparable units are limited to the immediate area, the values may be distorted in favor of comparisons to older homes that are the same square footage but have less amenities and updated features and therefore lower values. In other instances, participants were concerned the influences of the foreclosure rates and sub prime lending on mortgage approvals and higher private mortgage insurance for small loans.

Impact: Predatory lending practices often result in a lower-income household losing their home, automobile or other collateral. In some cases, Focus Group participants cited instances where homeowners who had already paid off their original mortgage were losing their home when used as collateral on a loan for a small fraction of the home's value. With low approval rates when submitting loan applications to traditional lenders, residents are more likely to utilize the services of subprime lenders and check-cashing stores that may charge exorbitant interest rates and have severe default penalties. Predatory lending may further impair an individual's credit and monopolize more of a low-income person's monthly income with high interest rates and finance charges, leaving less money for housing and necessities. Consumers felt that they had little recourse to address adverse industry practices that impact their housing choice.

Remedial Actions: The City should encourage lending institutions to provide greater outreach to the low income and minority communities. Greater emphasis on establishing or reestablishing checking, saving, and credit accounts for residents that commonly utilize check-cashing services is desired. This may require traditional lenders and banks to establish "fresh start programs" for those with poor credit and previous non-compliant bank account practices. Lending institutions should therefore be

encouraged to tailor products to better accommodate the past financial deficiencies of low income applicants with credit issues.

City Officials should help raise awareness among the appraisal industry concerning limited comparability for affordable housing products. Industry representatives should be encourage to perform comparability studies to identify real estate comparables that more realistically reflect the values of homes being built in low income areas.

6.4 Socio-Economic Impediments

Impediment: Poverty and low-income.

Issues: For many households, low or no income is a major factor preventing their exercise of housing choice. All racial and ethnic populations in the city are confronted with large numbers of their population living in poverty. The ACS data shows the incidence of poverty among Hispanics was 32.3 percent and African-Americans were 39.7 percent of the total population between 2006 and 2010. Among White persons, the data reported 40.0 percent lived in poverty between 2006 and 2010. In comparison, the poverty rate for the city was 36.9 percent during the period.

There is one notable exception where poverty has a disparate impact based on race and ethnicity, The poverty data in Table 1.4 of the Community Profile shows the incidence of poverty for persons under the age of 5 years for African-Americans was a staggering 69.5 percent of the their total population between 2006 and 2010. Among White persons, the data reported 5.8 percent, and among Hispanics 39.6 percent of children under the age of 5 years lived in poverty between 2006 and 2010.

Impacts: Households experiencing a severe lack of income and those unemployed typically must accept housing in the lowest income census tracts or rely on public assistance and public and assisted housing wherever it is available. Housing tends to be segregated by income class and sometimes by race or ethnicity, where the housing stock is most likely in poor condition, there are higher reported incidents of criminal activity, and opportunities for improving a person's quality of life are low. Children from these households grow up in an environment that sometimes dooms them to replicate their community's living standards, continuing the cycle of poverty for generations to come. Focus group participants voiced a perception that certain areas of the City are home to a disproportionate number of low-income persons, living in substandard and crime ridden multifamily housing developments. Participants indicated that the concentration of poverty is not only a concern with regard to social equity and the plight of renters, but poverty is also having a significant impact on the condition and quality of single family housing in the neighborhoods where there are high concentrations of home owners. In areas where a majority of homeowners cannot afford routine maintenance, poor housing conditions may quickly become the prevalent state of affairs. Lack of job opportunities and lack of sufficient income to afford decent housing were cited as concerns. Both crime and perception of crime were discussed as critical issues that are hindering some residents from living in various areas of San Marcos.

Remedial Actions: The City and Chamber of Commerce should continue to work on expanding job opportunities through the recruitment of corporations, the provision of incentives for local corporations seeking expansion opportunities, assistance with the preparation of small business loan applications, and other activities whose aim is to reduce unemployment and expand the base of higher income jobs. A particular emphasis should be to recruit jobs that best mirror the job skills and

education levels of those populations most in need of jobs. For San Marcos, this means jobs that support person with high school education, GED's and in some instances, community college or technical training. These persons are evident in the workforce demographics and in need of jobs paying minimum wage to moderate hourly wages. The City should also continue to support agencies that provide workforce development programs and continuing education courses to increase the educational level and job skills of residents. The goal should be to increase the GED, high school graduation, technical training, and college matriculation rates among residents. This will help in the recruitment of industry such as "call centers", clerical and manufacturing jobs. Call centers and customer service centers where employees are recruited to process sales or provide customer service support for various industries, have become more and more attracted to areas with similar demographics to that of San Marcos. The combination of well developed and well situated industrial parks and commercial parks available in San Marcos, government incentives for relocation and the workforce to support their industries, have all become incentives in recent years, and San Marcos is poised to continue and take advantage given its assets as well.

The Aflac Insurance Company is a great example of a "call center operation" that relocated to a smaller city, and is making a difference by dramatically expanding employment in Columbus, Georgia for persons from similar demographic groups to those most in need of jobs in San Marcos. In 1998, Aflac opened its Computer Service Center housing 600 employees. In 2001, the company opened its Corporate Ridge office, a 104-acre development housing the company's claim processing and call center operations. Aflac recently opened a new phase of the expansion in 2007, which added 90,000 square feet to the existing Paul S. Amos Corporate Ridge campus building located in Columbus. The City of Columbus provided an incentive package including tax abatement and

land assembly and acquisition subsidies in part through the use of their federal grant funds.

We recommend that the City, in conjunction with the Chamber of Commerce, continue to focus on actively recruiting industries that match the demographics of the populations most unemployed, as a means of improving poverty rates, incomes and home ownership rates in the City. The City should continue providing incentives similar to those the city has used in the past and incentives programs structured by other communities to achieve this goal. Recruiting such industries can assist in increasing the City's tax base and while serving to provide the necessary income for more person to achieve home ownership.

6.5 Neighborhood Conditions Related Impediments

Impediment: Limited resources to assist lower income, elderly and indigent homeowners maintain their homes and stability in neighborhoods.

Issue: Neighborhood decline and increasing instability in San Marcos' older neighborhoods is a growing concern. Neighborhoods relatively stable today with most of its housing stock in good condition will decline if routine and preventive maintenance does not occur in a timely manner. The population is aging, which means more households with decreasing incomes to pay for basic needs. This increase in elderly households coupled with the steady rise in the cost of housing and the cost of maintaining housing means that many residents will not be able to limit their housing related cost to 30 percent of household income and still maintain their property. Rental property owners will be faced with increasing rents to pay for the cost of maintenance and updating units rendering rental units unaffordable to households as well.

Government programs utilizing CDBG and HOME HUD funding and other sources impact only a small percentage of those in need of assistance. Increased support from volunteers and community resources will be needed to close the gap between total needs and resources available.

Impact: Neighborhoods and homeowners and renters must devise a means for residents and landlords to keep pace with the maintenance demands of housing, an aging housing stock, and support those persons unable to maintain their properties on their own. This will enhance and support a healthy neighborhood “Image and Identity” and help attract new residents and retain existing residents and businesses. An essential component of this recommendation will include becoming healthier, sustainable neighborhoods, able to meet the essential quality of life needs of its residents and to improve the physical character of the neighborhood. In some neighborhoods, these attributes are viewed as negative and uninviting both internally by its residents and externally by the community at large. Some neighborhoods are viewed as unsafe and a haven for criminal activities. Whether this is reality or a perception, it has a detrimental effect on the image of the neighborhood either way.

Neighborhood assets must be protected and improved. Structures should be strategically removed if found to no longer contribute to the well being of the community. Maintaining vacant lots, including clearing weed, litter, and junk, and maintaining tree growth, would immediately improve the appearance of neighborhoods. Existing regulatory efforts need to be expanded and additional resources allocated to support enhanced code enforcement throughout the City. Other amenities such as providing streetscape enhancements in the medians and pedestrian areas along residential streets, adding street lighting, sidewalks, shrubs, and new development on vacant lots, would significantly improve the neighborhoods. Most of all, there is a need to revive the “sense of community and trust” and encourage participation and cooperation from

residents to maintain their homes, yards, and surroundings and to actively participate in community empowerment activities such as Crime Watch, neighborhood associations and self help initiatives.

Remedial Actions:

The City should evaluate the design and implement a Centralized Program of Self-Help Initiatives based on volunteers providing housing assistance to designated elderly and indigent property owners and assist them in complying with municipal housing codes. This will require an organized recruiting effort to gain greater involvement from volunteers, community organizations, religious organizations/institutions and businesses as a means of supplementing available financial resources for housing repair and neighborhood cleanups.

While there have been successful initiatives of this nature, initiated and funded both by the City of San Marcos and nonprofit agencies, a more comprehensive effort, perhaps coordinated by the City, needs to be designed and implemented that fully utilizes the resources of the community and area businesses. The program will be based on a case management system where the select needs of area property owners are matched with volunteer resource teams capable of solving the city code violations and other needed exterior repairs for select properties. Requests for assistance would be received from code enforcement officials, housing program administrators, social service agencies, community institutions, and homeowners. Priority will be given to those owners immediately affected by an active code compliance case, a targeted block or area project, and those with life threatening or uninhabitable conditions.

Eligibility for assistance will require verification of income or status as elderly or disabled. Levels of assistance would be based on the specific needs to be addressed and the ability of the property owners and their

family to assist in the effort. The City could possibly fund or seek funding from the private sector for a part-time Program Coordinator designated to conduct home visits of each program participant, evaluate the appropriateness for volunteers to perform the work, and determine and advise the homeowner of their responsibilities in support of the effort. The Program Coordinator, upon securing a match between volunteers and property owner, will coordinate project dates, materials, supplies, and project support for the day of the project. Again, some of these activities may have been initiated in the past, so in some instances, our recommendations are that activities be continued, offer an enhanced level of programming, or that the City apply for funds as they become available. Activities that could be considered for the centralized self-help initiatives program include:

- **Increase self-help initiatives such as "fix-up," "paint-up," or "clean-up" campaigns and "corporate repair projects".** In order to increase resources available for these efforts, neighborhood residents, religious institutions, community organizations, individuals, and corporations would be recruited to participate in the repair to homes occupied by elderly, disabled, and indigent homeowners through organized volunteer efforts involving their members and employees.
- **Implement a Youth Build and Repair Program in conjunction with the local school district or the San Marcos Housing Authority.** Youth Build is a U.S. Department of Housing and Urban Development (HUD) program that teaches young people how to build new homes and repair older ones. HUD offers competitive grants to cities and non-profit organizations to help high-risk youth, between the ages of 16 and 24, develop housing construction job skills and to complete their high school education.

- **Organize a “Compliance Store”** where home builders, building supply stores, merchants, and celebrities, such as radio and television personalities, are used to demonstrate simple, cost effective ways to make improvements to houses and donate building supplies for use in self-help projects. The supplies and storage facility for supplies could be provided to enrollees by building supply stores, contractors, and hardware stores.

- **Organize "adopt-a-block" and "adopt-an-intersection" campaigns** where neighborhood groups, residents, scout troops, and businesses adopt key vistas and intersections to maintain and implement beautification projects, such as flower and shrub plantings and maintenance.

- **Creating Community Gardens as interim uses on select vacant lots** provide an opportunity for neighborhood residents to work together to increase the attractiveness of their neighborhood. Formats for community gardens range from attaching simple window boxes to homes along a street reflecting a common theme, coordinating garden planting, or converting a vacant lot that may previously have been an eyesore in the neighborhood into a flower or vegetable garden tended by members of the community. Naturally, ownership of a vacant lot is an issue to be resolved before gardening begins. The City Assessor can provide information on the ownership of the property, including a mailing address. If the lot is privately owned, permission to use the lot must be received from the owner. If the property is owned by the City or expropriated, ownership of the property might be transferred to a local non-profit organization or neighborhood association. While the costs of plant materials and supplies are an important consideration for community gardens, many nurseries and home improvement stores offer discounts for community improvement projects.

Section 7: Oversight, Monitoring and Maintenance of Records

Introduction

This section summarizes the ongoing responsibilities of the City of San Marcos relative to oversight of efforts to implement the remedial actions recommend in Section Six of this report. It also sets forth the monitoring and maintenance of records procedures that will be implemented by the jurisdictions to insure that implementation efforts can be evaluated and accomplishments reported to HUD in a timely manner.

Oversight and Monitoring

The Analysis of Impediment process has been conducted under the oversight and coordination of the City of San Marcos Community Initiatives Division (CID) of the Planning and Development Services Department (PDSD) with the support of an independent consultant.

The Planning and Development Services Department will be designated as the lead agency for the City of San Marcos with responsibility for ongoing oversight, self-evaluation, monitoring, maintenance and reporting of the City's progress in implementing the applicable remedial actions and other efforts to further fair housing choice identified in this report. The PSDS, as the designated lead agency, will therefore provide oversight, as applicable, of the following activities.

■The PSDS will evaluate each of the recommendations and remedial actions presented in this report, and ensure consultation with appropriate City Departments and outside agencies to determine the feasibility and timing of implementation. Feasibility and timing of implementation will be based on City policies, fiscal impacts, anticipated impact on or remedy to the impediment identified, adherence to federal, state and local regulations, and accomplishment of desired outcomes. The PSDS and its' CID will provide recommendations for implementation to the City Manager based on this evaluation.

■The PDSD will continue to ensure that all sub-grantees receiving CDBG, and other grant funds have an up-to-date Affirmative Fair Housing Marketing Plan; display a Fair Housing poster and include the Fair Housing Logo on all printed materials as appropriate; and provide beneficiaries with information on what constitutes a protected class member and instructions on how to file a complaint.

■The PDSD will ensure that properties and organizations assisted with federal, state and local funding are compliant with uniform federal accessibility standards during any ongoing physical inspections or based on any complaints of non-compliance received by the City.

■The PDSD will continue to support Fair Housing outreach and education activities through its programming for sub-recipients and its participation in community fairs and workshops; providing fair housing information brochures at public libraries and City facilities; and sponsoring public service announcements with media organizations that provide such a service to local government.

■The PDSD will incorporate fair housing requirements in its grant program planning, outreach and training sessions.

■The PDSD will continue to receive fair housing complaints and or direct persons desiring information or filing complaints with the HUD FHEO Regional Office in Fort Worth, Texas.

Maintenance of Records

In accordance with Section 2.14 in the HUD Fair Housing Planning Guide, the CDD will maintain the following data and information as documentation of the City's certification that its efforts are affirmatively further fair housing choice.

■A copy of the 2013 Analysis of Impediments to Fair Housing Choice and any updates will be maintained and made available upon request.

■A list of actions taken as part of the implementation of this report and the City's Fair Housing Programs will be maintained and made available upon request.

■An update of the City's progress in implementing the FY 2013 AI will be submitted to HUD at the end of each program year, as part of the City of San Marcos's Consolidated Annual Performance and Evaluation Report (CAPER).