



# City of San Marcos 2017 Amendment to the Analysis of Impediments to Fair Housing produced March 2013



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## Executive Summary

### Introduction

In 2013, as part of the Five Year Consolidated Plan process, the City of San Marcos developed an Analysis of Impediments to Fair Housing Choice (“AI”). In normal circumstances, there would not be another AI completed for five years when the next five year consolidated plan was due. However, 2015 turned out to not be a normal year.

The City of San Marcos was inundated with historic flash and river flooding on two separate occasions within six months of each other in 2015. The first event, now called the “Memorial Day Floods”, occurred overnight on May 23rd and early May 24th. May 2015 has been documented by the National Weather Service as the wettest month in Texas History, with well above-normal rainfall during the first two to three weeks of the month. A persistent area of low pressure over the western United States brought multiple rain events throughout the month of May that saturated soil throughout south-central Texas. By the time Memorial Day weekend arrived, much of the region was at least 2-4 inches (100-300%) above normal. These wet antecedent conditions meant that any new rain, and especially heavy rain, would become rapid run-off directly into rivers, streams, and flash flood prone areas.

This “worst-case” scenario came to pass Memorial Day weekend. A thunderstorm cluster organized west of Hays County on Saturday afternoon and produced upwards of 12 inches of rain in less than 6 hours. The majority of this rain fell in the upper reaches of the Blanco River watershed at rates that exceeded 4 inches per hour as thunderstorms merged and regenerated for hours over southern Blanco and eastern Kendall Counties. San Marcos was severely impacted, including flooding that damaged housing and other property.

The U.S. Department of Housing and Urban Development (HUD) allocated \$25,080,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) funds directly to the City to assist with ongoing recovery needs from the flooding. Several things had to occur in order for the City to expend the funds. The grant required the city to submit an action plan that addressed how the CDBG-DR funds would benefit the community. That plan was approved on November 9, 2016. In addition, the City had to update their 2013 AI to reflect changes to the community and impacts from the storm. These documented changes to the community will determine funding decisions and impact planning and policy strategies.

This Update will not stop or delay the ongoing responses to the Impediments identified in the 2013 AI. The City responded directly to the impediments to fair housing choice by adopting an action plan that addressed many of the remedial actions suggested. San Marcos has a visible and active fair housing program. During the review process, many of the prior impediments, such as high levels of poverty and high rents, were confirmed again and reviewed for current impacts.

This update provides more focus on the new HUD rule related to affirmatively furthering fair housing ("AFFH"). To that end, this update will look at concentration of poverty and how that impacts schools and fair housing choice.

### Community Profile

San Marcos is growing in population. The 2015 American Community Service estimates have placed the population at 54,712 residents. The Quickfinder documentation places the 2015 estimate at 60,684 residents. This means that since the last AI was completed in 2013 the population has grown between 21% and 35%, prompting local media to declare San Marcos as the fastest growing city in Texas in 2014-2015. San Marcos remains a majority minority population for purposes of affirmatively furthering fair housing. The census estimates indicate that 86.6% of San Marcos residents are White. However, the distinction between race and ethnicity account for this seeming disparity in determining that San Marcos is a majority minority city. Whites are classified into two categories: of Hispanic or Latino Origin or not. HUD and the census bureau refer to Whites of Hispanic or Latino Origin as an ethnicity. HUD looks at fair housing as protecting classes of people. Even though ethnicity is not directly mentioned as a protected class, it has been read to be included in protected classes.

Part of the growth of San Marcos can also be tied to Texas State University student population growth. This impacts housing and the overall age of the population. The population heavily trends toward a younger age. 61% or 33,437 residents in the city are estimated to be between age of 15 and 34. This also leads to the housing to trend to significantly more renters than owner-occupied homes. According to the estimates, 72.4% of residents rent rather than own homes. Another group that should be accounted for in fair housing concerns are persons with special needs. The special needs population is estimated to be approximately 5,786.

## Metropolitan Statistical Areas (MSAs)

San Marcos is in the Austin-Georgetown-San Marcos MSA. The median income for this MSA is \$76,800. Benefits like flood recovery programs and housing support frequently require that the benefits go to people who are low-to-moderate income (LMI) or at 80% or less of the MSA median income. Some areas struggle to meet this objecting, but in San Marcos, 85.7% of individuals are under the MSA median income. When looking at people who are considered very low income, defined as 30% of the MSA median income, 51.5% of residents who rent housing make under \$24,999 which in a family of four is very-low income. This includes 13.3% of the rental population that makes less than \$5,000 per year. According to estimates, residents of all races and ethnicity classes exceed a 30% poverty rate except for those declaring as two or more races. The number has risen slightly for people of Hispanic Origin.

Sections 1.7 and 1.8 of the Update focus on racial and ethnic concentration of poverty in primary school districts and the population in general. Several school boundaries have a concentration of racial and ethnic in poverty. Two census tracts have concentrations of poverty that exceed 45% racial and ethnic concentrations of poverty.

The State of Texas estimates the workforce in San Marcos to be around 33,892 with a 3.90% unemployment rate which is below the national average. Utilizing the ACS estimates, the civilian workforce in San Marcos has grown by 35%. African Americans have the lowest participation rate<sup>1</sup> with 47.6%. Most other race or ethnicity categories are near or above 60%.

People drive where they want to go for the most part in San Marcos as 88.6% of workers 16 years and older report as driving to work. More people walk to work than take public transportation, at 4.2% and 2.6% respectively. Only 3% of working people say that they do not have access to a vehicle with 28.2% saying they have 3 vehicles available. For those who do take public transportation, CARTs is available in the community.

The lack of affordable housing is considered a problem in the community; however total housing units increased by 5,169 units up to a total of 22,473 units. Of those units, 2,318 are vacant. The median rent is \$939. This is an increase from the median rent in 2010 of \$644. The increasing rental practice of renting bedrooms rather than units could account for this increase. For instance, the Woods of San Marcos has 945 bedrooms for rent. In April of 2017 you could get a bedroom in a two bedroom

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<sup>1</sup> Native Hawaiians or Pacific Islanders show an estimated population of 21 and 0% in the workforce.

apartment for \$715 dollars a bedroom or \$1,430 per apartment. If you prefer to have a larger group living arrangement, in a four bedroom unit, each bedroom is \$635 or an aggregate of \$2,540. Regardless of how the rent is apportioned, 67.4% of renters currently live in housing that is considered non-affordable by HUD standards. HUD defines affordable housing as where the rent does not take over 30% of the gross income of the resident—whether for rental or owner occupied. For owner occupied, 31.9% have housing costs above 30%.

All schools in the San Marcos CISD met standards as ranked by the Texas Education Agency. A not-for-profit ranking system called Schooldigger ranked the San Marcos CISD as the 708<sup>th</sup> rated school district in Texas out of 932 districts—an increase of 40 places over the prior year. The school district has 7,555 students but not all of those live in San Marcos. The high school student population is comprised of 79% minorities. In addition, 62% of the high school population participates in the Economically Disadvantaged Program.

## Fair Housing Act

### Disparate Impact

Since the 2013 AI, fairly significant changes have occurred to the implementation of the Fair Housing Act. HUD has passed to major rules that directly relate to community standards on the review of Fair Housing. The first rule is the Disparate Impact Rule. This rule provides a mechanism to determine if racial and ethnic minorities have been harmed by government or other practices even if the harm was unintentional. If a decision has caused a concentration—especially with poverty—of racial or ethnic housing, then it can be a form of discrimination in violation of the affirmatively furthering fair housing rule, which has been interpreted to look at breaking up concentration of poverty and segregation that can harm the residents and children who live in the concentrated communities. This rule allows for a statistical approach to determining that the FHA has been violated.

### ICP et al v. TDHCA et al.

A Texas case made national news when it went to the U.S. Supreme Court. Inclusive Communities Project (“ICP”) is a Dallas based organization funded from the Dallas Public Housing Authority. ICP has a goal of assisting the people who were within the class of people harmed to find less urban housing with access to higher opportunities including schools and employment opportunities. They filed a federal lawsuit using the Disparate Impact Rule to show that the Texas Department of Housing and Community Affairs (“TDHCA”) intentionally discriminated against people of color by placing an above average

number of tax credit units in areas where the community had high poverty and concentrations of minorities. The case was originally decided in favor of ICP without any finding of intentional discrimination on the part of TDHCA. Eventually, the case made it up to the U.S. Supreme Court to determine if HUD exceeded its authority in establishing the Disparate Impact Rule. The Court, by a 5-4 vote determined that HUD had the authority to make such a rule to enforce the Fair Housing Act. In the majority opinion, Justice Kennedy said that the underlying case (ICP v. TDHCA) was not a good example of disparate impact but instead looked like a policy disagreement. When it returned to the District Court in Dallas, the suit was dismissed as not consistent with the Court ruling.

#### Affirmatively Furthering Fair Housing Final Rule

Shortly after the Supreme Court decided that the Disparate Impact Rule was valid (Court decision was in June and the Rule was issued in July of 2015) HUD released the Affirmatively Furthering Fair Housing Rule that provide the first clear guidance of HUDs expectations of the affirmatively furthering fair housing requirement in the Fair Housing Act. This was considered to be long awaited teeth in the requirement that HUD grantees follow the Fair Housing Act or a huge government overreach that is the latest chapter in social engineering. For grantees of either argument, it created requirements to change how the grantee reviewed their communities. Specifically, it eliminated the traditional Analysis of Impediments to Fair Housing and instructed grantees to conduct a Fair Housing Assessment using the Fair Housing Tool and HUD MSAs and Datasets when submitting subsequent Consolidated Plan. The new tool focuses on concentration of racial and ethnic minorities who live in poverty. San Marcos will need to file its first AFH in 2019. This update addresses some of the new process' key topics, such as R/ECAPs.

#### Fair Housing Enforcement

Residents in the City generate very few Fair Housing complaints to the city staff for referral, to the Texas Workforce Commission, or to HUD. Disability discrimination claims under the FHA are the most frequent complaints at the national level. Texas overall generates the most complaints in the country, accounting for approximately 14% of the national complaints to HUD despite having an estimated 8.62% of the population.

The City maintains an active code enforcement to ensure that housing that is constructed and maintained within the City remains in compliance. In addition, the recently reviewed and updated San Marcos Code included concepts from the AI as part of the revision. There is a significant dedication to affordable housing in the code and providing incentives for maintaining low income housing for a 30

year period, as well as development fee waivers for established not-for-profit home builders like Habitat for Humanity or people working with CDBG funding.

## Community Input

### Process

The AI team looked at potential people and groups that could provide diverse insight in the community during interviews. Unlike the 2013 AI that held an all-day group session prior to drafting the AI, the focus on this 2017 Update was individual interviews to determine if the same type of viewpoint was shared in a non-group setting. The targeted interviews were largely with social services groups working with low income populations and civil rights interests. Meetings were held with key city staff but not with current elected officials. The goal of the meetings was not to prove items as inherently true or false, but rather to get a general perception from the community on previously identified impediments and other limits on fair housing choice.

The interviews were held at locations requested by the interviewee in San Marcos and generally were one-to-one interviews unless the interviewee added additional people. All interviews were held in April of 2017 over a three week period.

The development community was not interviewed because their input to recent code changes could be reviewed. Lenders were also not interviewed, as the national financial data did not show any census tracts in San Marcos were underserved or in distress. In addition, the AI found no pattern of discriminatory lending practices based on racial or ethnic concerns. In fact, Hispanics had a slightly higher rate of approval than non-Hispanic whites in the 2013 review.

In addition, the Update team held a public meeting on May 10, 2017 where they made a presentation to any interested community members and allowed for them to add to comments or address any issue in the AI. Comments from this meeting were added to the Update prior to posting for public comment on May 15, 2017.

### Summary of Outreach

The people interviewed during the community engagement interviews were clear that San Marcos does not have tensions due to racial or ethnic concerns, even when asked in a few different ways. They also believe that people can live where they want if they have the money. When asked if the city is divided,

the issues raised were mainly economic or regional in nature (Northern/Western versus Southern/Eastern areas of town).

The largest divide was between the Texas State students and the community. The Interviewees largely have a great deal of respect for Texas State University, but also believe that the students pose a threat to available affordable housing and potentially drive up the cost of housing because of supply and demand principals. The general belief was that the student population had driven up the cost of affordable housing in rental or single family homes. Many cited the rent-by-the-bedroom rental arrangement that take units off the market for families—even though the apartments remain technically available to them.

The community believes that the number one impediment to obtaining fair housing choice is the amount and cost of housing that is available. They believe that despite efforts of the City, more affordable housing is needed. This is especially true for people who live on fixed incomes or people with special needs. Public housing units have long waits and the Section 8 waiting list at the San Marcos PHA is actually closed due to voucher limitations. There is a mixed view if more publicly supported multi-family housing is the answer. Tax credit properties were viewed as generally positive, but they also did not appear to be affordable to some based on the income requirements. This not only drives up the cost of housing for rental by reducing the stock available, but also causes purchase prices to increase because of the ability to repay higher mortgage payment when a “per room” rental is available. One of the ways that housing is being taken off the market, according to many of the interviewed people, is that speculators are buying single family properties to convert them to student housing even in established older neighborhoods.

There exists a split opinion on whether the enforcement of local neighborhood codes is positive or negative. Most interviewees thought it was good to have enforcement to maintain housing, while some thought that increased enforcement could potentially lead to people not being able to meet the standards and being forced out of their homes. At least two people noted an opinion that the City was too aggressive in conducting tear downs of property.

Most thought the city was making the effort to bring in businesses to create new jobs. There was a general sentiment that the city should seek full time jobs that paid at least \$15 per hour. Many admitted that that the competition for relocations made the job difficult. Local apartment managers

noted challenges to securing tenants, specifically due to application requirements that households have monthly income that is three times the cost of rent.

Most of the discussion around transportation centered on congestion based on the amount of traffic. General agreement by most that CARTS is a reasonably effective system, especially with the scheduled service possibilities. A small concern exists about the amount of time it takes to get to a location that requires a transfer to a separate route. Also, the Update team heard some concerns about any ability to travel to San Antonio since it is out of the Capital Area Metro area.

The primary concern from the community on financial services is the problem of predatory lending. One of the respondents called it a "plague on the community"; some of the social services providers said they often try to help people with other bills so that their clients can pay off a predatory loan. On the other hand, interviewees did not see a problem with the banking industry. One respondent called the local banking community "vibrant." Most people did not see any issues other than income preventing loan or any redlining in the community. None of the respondents continued to see foreclosures as a problem.

There is still a need for special needs housing and transitional housing. Those that commented on the issue felt there needed to be more support for accommodating special needs people. The PHA is "moving toward" making all units accessible. A concern about the limitations on housing for people who have been convicted of felonies but served their time did come up as a problem in general with no specific case discussed.

#### Knowledge of the Fair Housing Act

Most of the commenters believed people knew more about the Americans with Disability Act than Fair Housing. The group universally thought that there was not sufficient awareness about the FHA and their rights. Most felt that there needed to be more education on the subject so that people can understand their rights and responsibilities.

## Impediments

For purposes of the Update the Impediment discussion is split in two sections. The first is a look at the impediments identified in the 2013 AI. The City took the impediments listed in the AI and developed an action plan that was approved by the council in 2014. The report goes through each impediment identified in the Action Plan, the Goals of the Action Plan and then the strategies used to meet the goals to address the identified impediments. The City has been very active in addressing the strategies with many of the issues already covered by ongoing programs utilizing the city resources, CDBG funds, and attracting additional funds to support activities.

The second part of the review is in Chapter 6.2. This section looks at what changes need to be reviewed as the city moves toward implementation of the Affirmatively Furthering Fair Housing Final Rule. In this section, the Update team looked at the demographic patterns focused on concentrations of poverty impacting racial and ethnic populations. This review found two census tracts that had more than 45% of racial and ethnic population in poverty. In addition, six other census tracts had poverty concentrations among racial and ethnic minority populations that were between 30%-45% of the tract population. Similar reviews were done for the school zones at the primary level to determine any impacts due to racial or ethnic concentrations involving poverty.

Affordable housing remains a key impediment to fair housing choice. The MSA median income was \$76,800. As was discussed earlier, 85.7% of San Marcos Households are under the MSA median average. The median income of \$24,142 for San Marcos rental households is below the extremely low family of four income limit of \$24,250 or 30% of the MSA median income. Rents are increasing; the median contract rent increased from \$644 to \$939 in the AI. In addition, 67.4% of renters exceed the HUD target of affordability of no more than 30% of gross income going to housing costs. Additional housing stock is needed as well as some assistance to make rents more affordable.

While not necessarily a direct impediment, a more regional approach to looking at housing—like the school district and the San Marcos Greater Partnership could be conducted for the next AFH, which is due in 2019. In addition to potential cost sharing, this regional strategy could broaden the approach to housing for people unable to access affordable housing. However, regional planning will take effort and cooperation. The goal should be to start early to identify possible partners.

Public awareness of the FHA is still an issue. In addition to looking for addition community training, the City should make the process easier by highlighting how to file a Fair Housing complaint readily on the

website. Links to the Texas Workforce Commission should be included in both English and Spanish. The City should also outline which staff and public volunteers would benefit from training on the new AFFH rule and provide this training as possible.

Although not a direct factor in the FHA, in a survey of the city boards, committees and commissions of the 196 positions 102 chose not to answer the question. Of those that did answer, 72 were White Not of Hispanic or Latino origin, twelve were White of Hispanic or Latino Origin, six were African American/Black, three were Other race, and one was Asian. While this is not unusual, the ones who did answer show a significant disparity in balance compared to the population as a whole.

# Section 1:

## Community Profile

## Section 1. Community Profile

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The clear demographic change since the March 2013 community profile in the Analysis of Impediments to Fair Housing Choice ("AI") is the population growth of San Marcos as a community. The 2013 AI used the 2010 U.S. Census as the most current information available. This update to the 2013 AI ("Update") relies on the American Fact Finder 2015 estimates. In addition to population growth within the 2010 boundaries, the San Marcos city limits have expanded since the 2013 AI as is indicated in Map 1.1. The total population of the city in the 2010 U.S. Census was 44,894<sup>2</sup>. According to the U.S. Census QuickFacts for the City of San Marcos the total population as of July 1, 2015 is 60,684 or an increase of almost 35%<sup>3</sup>. The growth was so dramatic *Texas Monthly* published an article to document the changes as "*The Fastest Growing City in the Country is Actually San Marcos*<sup>4</sup>," in 2014. As the population continued to swell KXAN news broadcast a similar story in 2015 titled "*San Marcos is nation's fastest-growing city*<sup>5</sup>."

One demographic factor that is not measured by the U.S. Census or the American Community Survey directly, but must be considered in any discussion about San Marcos' population is the student population at Texas State University.<sup>6</sup> During discussions during the community engagement interviews, the student population and its impact on affordable housing for the non-student low income residents was frequently brought forward as having impacts on housing choice as will be discussed later in this Update. In 2010, the total Texas State University student population was 32,572. By 2016 that number had increased to 37,979 under graduate and graduate students or an increase of approximately 17%<sup>7</sup>.

The demographic chapter of the Update will examine race and ethnic population estimates present in San Marcos. The changes in population will reflect the 2015 estimates compared to the 2010 baseline used in the AI.

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<sup>2</sup> *City of San Marcos Analysis of Impediments to Fair Housing* March 2013 at page 3

<sup>3</sup> United States Census, <http://www.census.gov/quick-facts/table/PST042115/4865600>

<sup>4</sup> The Texas Monthly at <http://www.texasmonthly.com/the-daily-post/the-fastest-growing-city-in-the-country-is-actually-san-marcos/> Dan Solomon May 23, 2014

<sup>5</sup> KXAN at <http://kxan.com/2015/05/20/san-marcos-is-nations-fastest-growing-city/> Eric Jansen and Sophia Beausoleil May 20, 2015

<sup>6</sup> Next City <https://nextcity.org/features/view/san-marcos-fastest-growing-city-texas-state-university-affordable-housing> Daniel J. McGraw April 18, 2016

<sup>7</sup> Texas State University Common Data Sets for years 2010-2011 and 2015-2016 at <http://www.ir.txstate.edu/reports-projects/common-data-set.html> data

### 1.1. Demographics

San Marcos grew in similar demographic patterns to the 2010 Census information with a slightly heavier increase in White population including a 2.7% growth in persons of Hispanic Origins. Table 1.1 reviews the changes in population from the 2010 Census and the 2015 American Fact Finder estimate<sup>8</sup>. The overall population increases have not significantly altered the demographic make-up of San Marcos which continues to be a majority White city with approximately 40% of the White population being of Hispanic Origin. Based on the 2015 estimates and assuming other race is a non-white selection, the city has a majority minority population of 57.7%.

A notable part of the demographic change is the increase in people likely to need housing in San Marcos. The city is predominately female with women making up 52% of the population. The population is younger with 33,437 or 61% of residents being between the age of 15 and 34 years old with a median age in San Marcos of 23.5 years. Obviously, not all Texas State students live in or claim to be residents of San Marcos, but college age students likely surge this population segment. The population over 60 is 5,498 or approximately 10% of the population<sup>9</sup>.

Table 1.1  
Total Population by race and ethnicity for San Marcos 2010 to 2015

Race/Ethnicity	2010		2015 <sup>10</sup>		% Change 2010-2015
	#	%	#	%	
White	35,221	78.5%	47,382	86.6%	8.1
African-American	2,465	5.5%	3,140	5.8%	0.3
Asian or Pacific Islander	383	0.9%	1,752	3.2%	2.3
American Indian and Alaska Native	752	1.7%	826	1.5%	0.2
Other Race	6,073	13.5%	3,682	6.7%	-6.8
Total	44,894	100%	54,712	100%	
Hispanic origin (ethnicity)	16,967	37.8%	22,177	40.5%	2.7

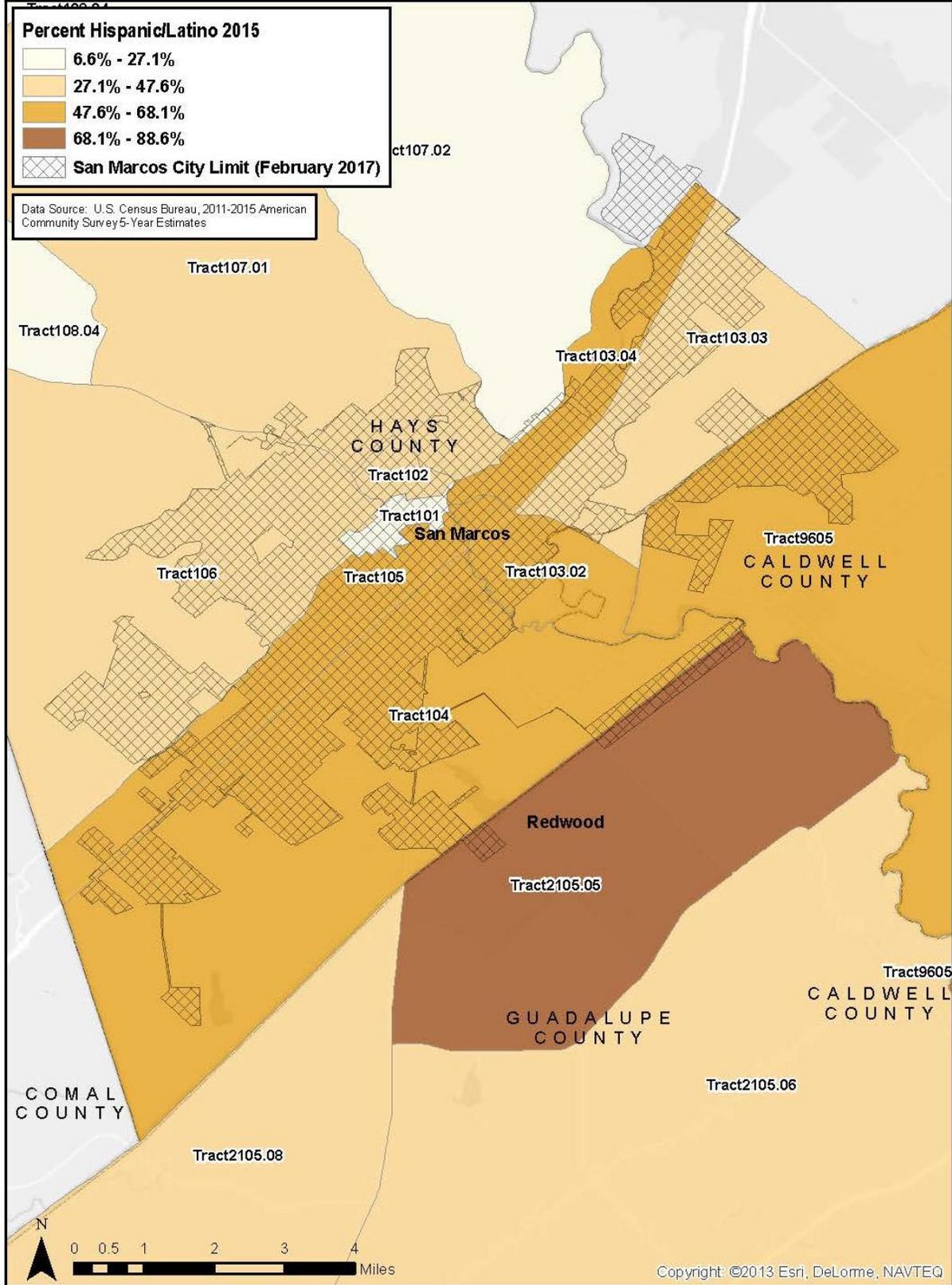
Maps 1.1-1.4 show the population totals by major race and ethnicity located in census tracts based on the concentrations of the demographic group.

<sup>8</sup> The American Fact Finder *ACS Demographic and Housing Estimates 2011-2015 American Community Survey 5-Year Estimates*.

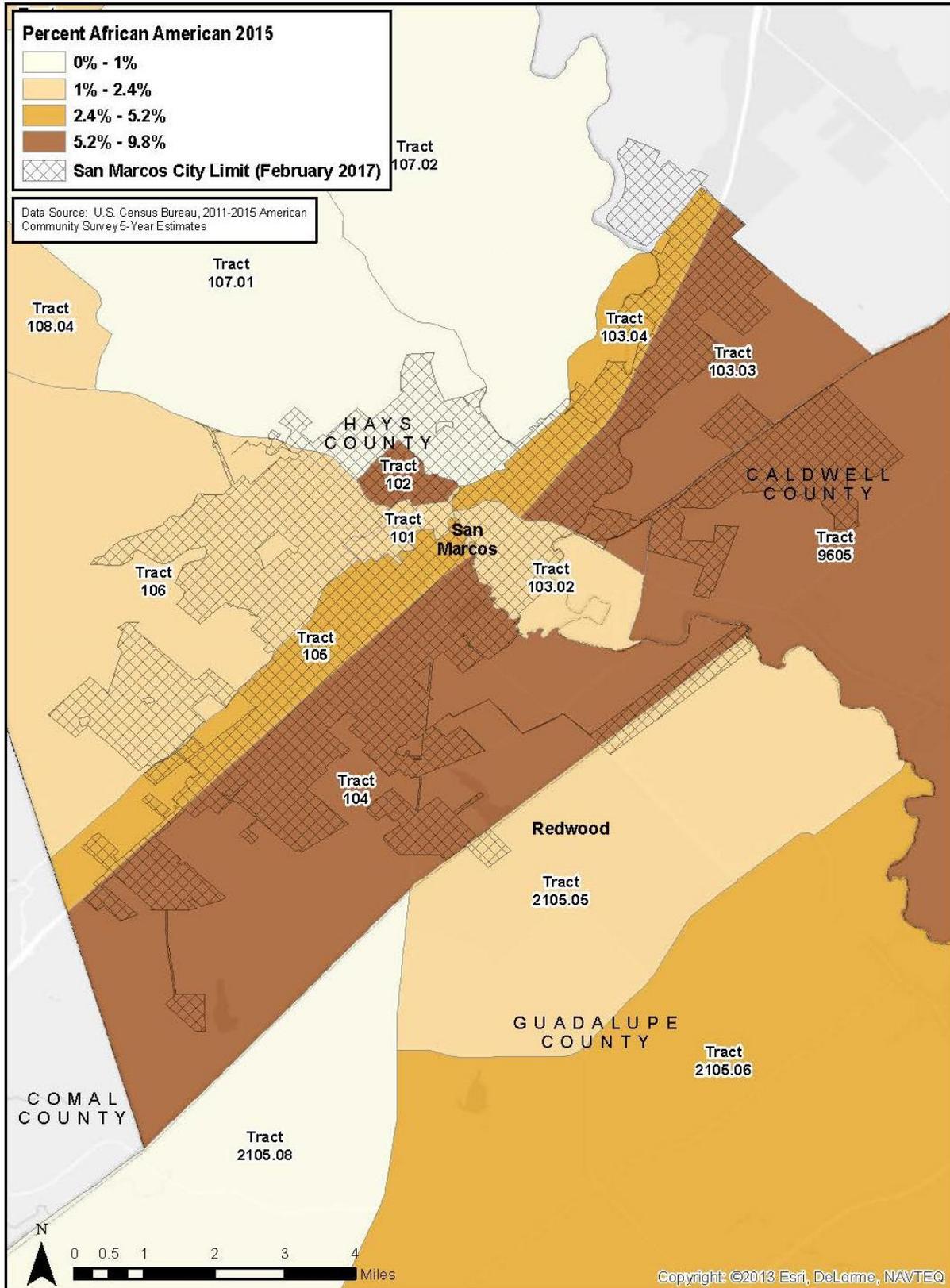
<sup>9</sup> American Fact Finder *ACS Demographic and Housing Estimates 2011-2015 American Community Survey Estimates*

<sup>10</sup> The QuickFacts population of 60,684 is higher than the American Community Survey Information which bases the demographic breakout based on an estimate of 54,712.

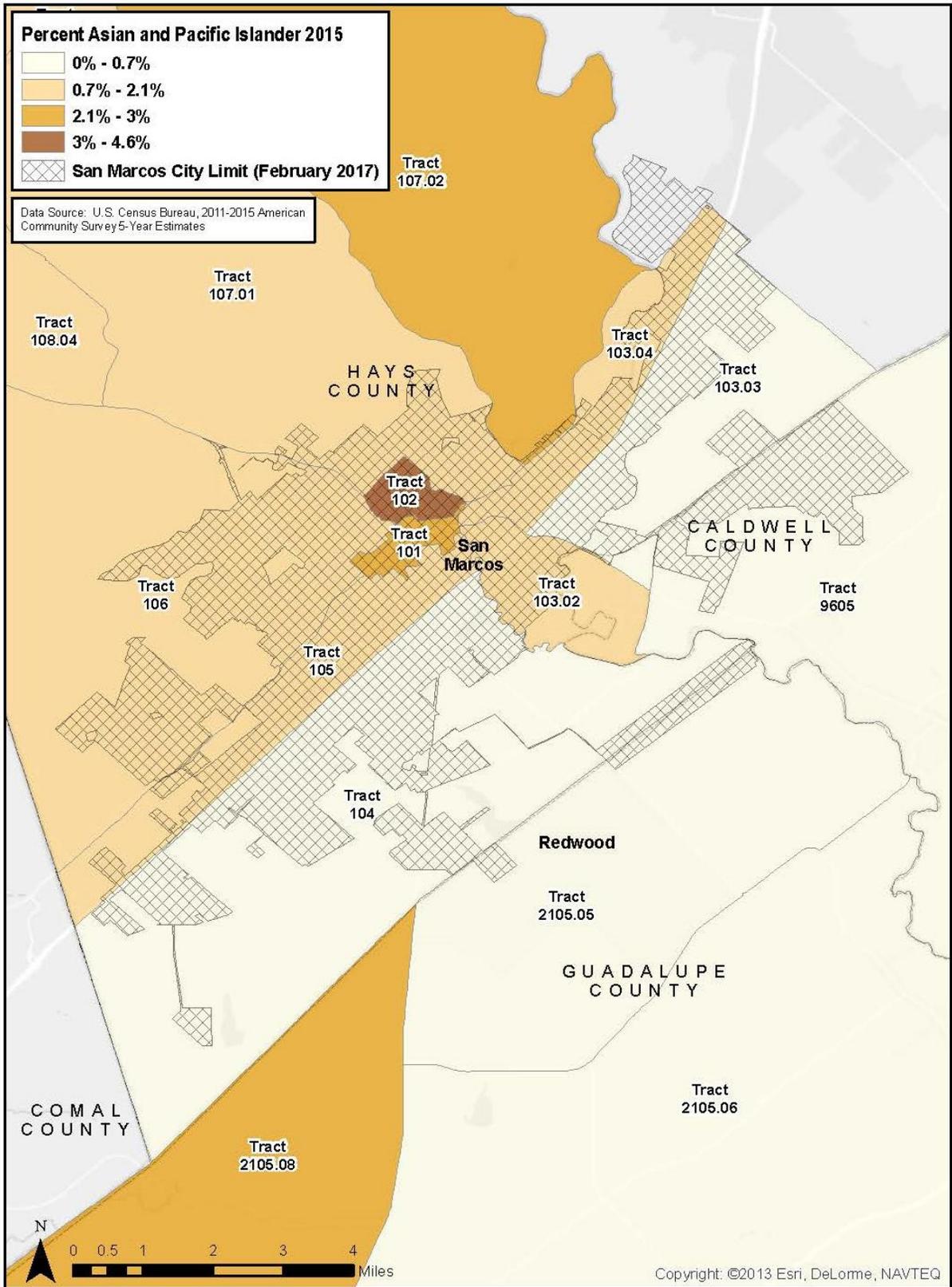
Map 1.1  
Percent of Population Identifying as Hispanic/Latino



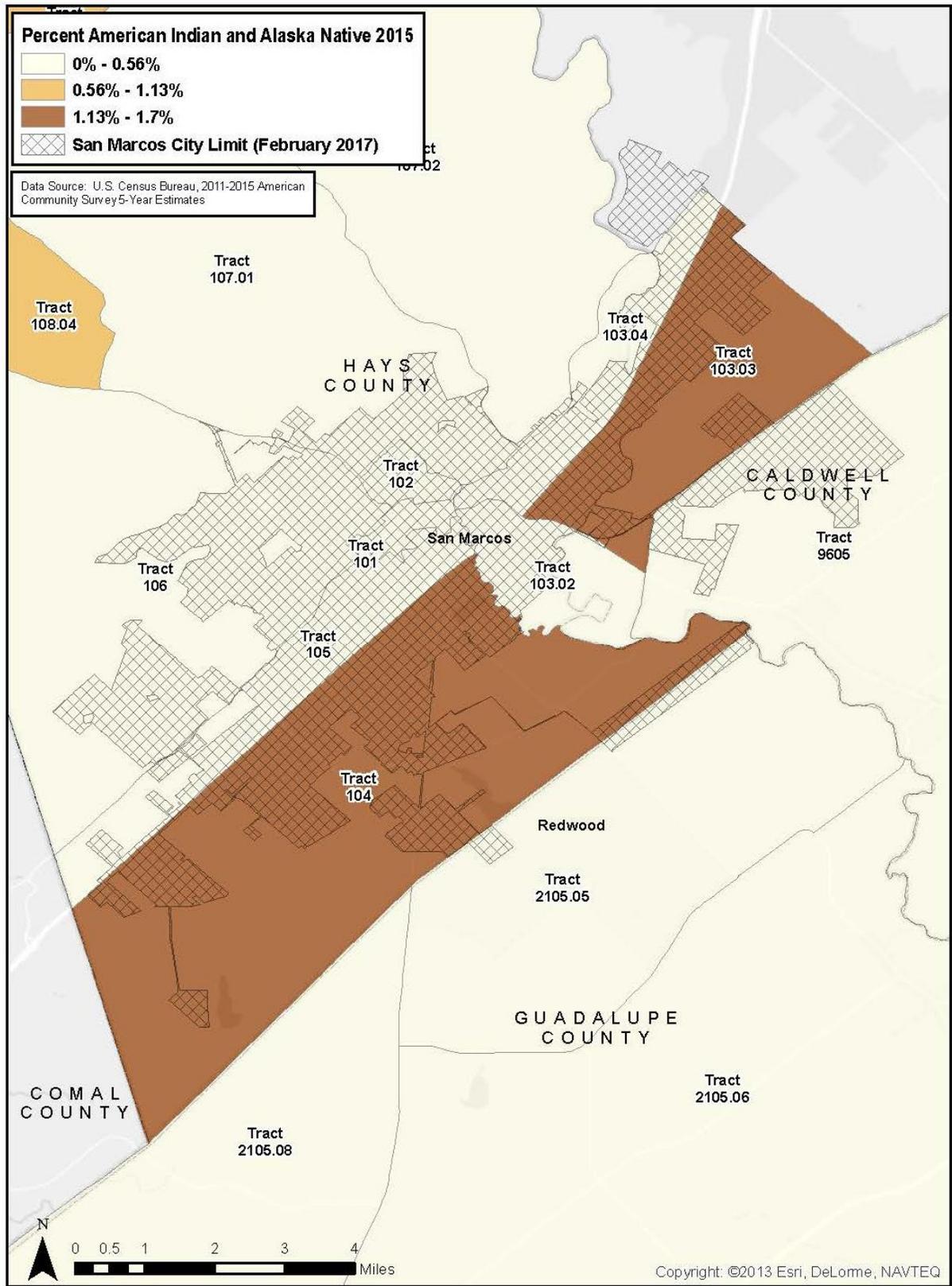
Map 1.2  
 Percent of Population Identifying as African American



Map 1.3  
 Percent of Population Identifying as Asian/Pacific Islander



Map 1.4  
 Percent of Population Identifying as American Indian/Alaska Native



The special needs population is estimated to be 5,786 in San Marcos. In public outreach conversations, the greatest limit to fair housing choice for this community is the lack of available affordable housing. At least some members of the disability community live in non-independent settings not because of lack of impairments to major life functions, but a combination of low incomes and lack of available housing. Even though people with no disability have a greater level of poverty, income still impacts almost 30% of the population with disabilities. The Public Housing wait list can be more than a year for the extremely low income person. There currently is no Section 8 wait list with the housing authority. Table 1.2 shows the special need population in relation to poverty.

Table 1.2  
Disability Status and Poverty<sup>11</sup>

Disability Status	Estimates #	Less than 50% of the poverty level percentage	Less than 100% of the poverty level
With any disability	5,786	14.8%	29.6%
No Disability	42,727	21.5%	38.1%

## 1.2 Income and Racial and Ethnic Poverty

San Marcos is in the Austin-Round Rock San Marcos MSA for purposes of Income Limits. The income limits trend higher for the MSA than incomes in San Marcos alone. Table 1.3 shows the income limits for the MSA in 2015 for comparison to Table 1.4 which is the income by household in San Marcos. Based on the American Fact Finder estimates, 85.7% of San Marcos Households are under the MSA median average. The median income for San Marcos rental households of \$24,142 is below the extremely low family of four income limit of \$24,250. We do not have a complete comparison of household size compared to income, but 51.5% of all rental households show an income under \$24,999 and 13.2% have an income of less than \$5,000. Based on the HUD Area Median Income for the Austin-Georgetown-San Marcos MSA in Table 1.3 and comparing it to Table 1.4 of San Marcos household income estimates for the past 12 months 85.7% of the households estimated in San Marcos are under the MSA median income. Based on Table 1.4 for household income, assuming a household of at least 2 people, nearly 72% of the households in San Marcos are below the 80% of AMI levels. The city in its programs relies on a San Marcos based income average that is lower than the MSA totals, thus ensuring that households in San Marcos with the greatest need are prioritized.

<sup>11</sup> American Fact Finder *Selected Characteristics of People at Specified Levels of Poverty in the 12 Months 2011-2015* American Community Survey

Table 1.3  
FY 2015 Income Limits Summary<sup>12</sup>

FY 2015 Income Limit Area	Median Income	FY 2015 Income Limit Category	1 Member	2 Members	3 Members	4 Members	5 Members	6 Members	7 Members	8 Members
Austin-Round Rock-San Marcos Texas MSA	\$76,800	Very Low 50% Income	\$26,900	\$30,750	\$34,600	\$38,400	\$41,500	\$44,550	\$47,650	\$50,700
		Extremely Low 30% Income	\$16,150	\$18,450	\$20,750	\$24,250	\$28,410	\$32,570	\$36,730	\$40,890
		Low 80% Income Limits	\$43,050	\$49,200	\$55,350	\$61,450	\$66,400	\$71,300	\$76,200	\$81,150

Table 1.4  
Household Income in the Past 12 Months<sup>13</sup>

	Occupied Housing units #	Owner-Occupied Units #	Renter Occupied Units #
Total Occupied Units	20,155	5,555	14,600
Household Income Range	Occupied Housing units %	Owner-Occupied Units %	Renter Occupied Units %
Less than \$5,000	9.9%	1.4%	13.2%
\$5,000-\$9,999	7.1%	4.7%	8.1%
\$10,000-\$14,999	8.6%	2.8%	10.8%
\$15,000-\$19,999	8.6%	6.1%	9.5%
\$20,000-\$24,999	8.5%	4.8%	9.9%
\$25,000-\$34,999	14.4%	9.6%	16.3%
\$35,000-\$49,999	14.8%	16.0%	14.3%
\$50,000-\$74,999	13.8%	22.4%	10.5%
\$75,000-\$99,999	6.3%	13.1%	3.7%
\$100,000-\$149,999	5.0%	9.8%	3.1%
\$150,000 or more	3.0%	9.2%	0.7%
Median HH Income (dollars)	\$28,923	\$56,766	\$24,142

One area of focus since the passage of the Affirmatively Furthering Fair Housing Rule is the racial and ethnic concentrations of poverty which is covered in more detail in Section 1.8 of this Update. In 2015, the number of people in poverty was 17,978. Of those, 14,392 were between the ages of 18-64. There were 470

<sup>12</sup> FY 2015 Income Limits Documentation System at <https://www.huduser.gov/portal/datasets/il/il2015/2015summary.odn>

<sup>13</sup> American Fact Finder *Financial Characteristics* 2011-2015 American Community Survey 5-Year Estimates

residents 65 and older in poverty and 3,116 children under the age of 18 in poverty<sup>14</sup>. Table 1.5 breaks out poverty by race and ethnicity. White residents make up the largest number of people in poverty with 15,387 and of those 6,548 identify as being of Hispanic or Latino origin<sup>15</sup>. Other race alone is the highest level of poverty at 45.3%, the largest number of people in poverty are White with White of Hispanic or Latino Origin a close second in raw population, but with a higher percentage at 39.2%. Poverty is a problem in San Marcos across the board with most races and ethnicities over 30%. The one exception is American Indian and Alaska Natives which have no people estimated to be in poverty, however there are only 305 residents in the race category.

Table 1.5  
Households in Poverty by Race or Ethnicity<sup>16</sup>

Race/Ethnicity	Total Households with Income Estimates	Below Poverty Level	
		#	%
White	41,278	15,387	37.3%
African-American	1,780	688	38.7%
Asian or Pacific Islander	782	259	33.1%
American Indian and Alaska Natives	305	0	0%
Other Race Alone	2,723	1,234	45.3%
Two or More Races	1,733	410	23.7%
Hispanic origin (ethnicity)	20,247	7,939	39.2%
White Non-Hispanic	24,433	8,839	36.2%

The poverty status by race in the AI showed that there were 12,987 people in poverty in 2010 and Table 1.5 shows that in 2015 there are 17,978. In the AI the poverty rate was 40.0% for Whites, Hispanics were at 32.3% and the Black population was at 39.7%.

### 1.3 Employment

The AI identified employment and therefore income issues as an impediment for fair housing choice and listed employment as a remedial action for San Marcos political and civic organizations. Some of the specific programs and employer recruiting will be discussed later in the results addressing the identified remedial actions section of this Update. The total San Marcos civilian workforce aged 16 and over in 2015 was

<sup>14</sup> American Fact Finder *Poverty Status in the Past 12 Months* 2011-2015 American Community Survey 5-Year estimate.

<sup>15</sup> Hispanic origin numbers include people who are identified as non-white but of Hispanic origin the total population of White of Hispanic origin is 6,548 with the other 1,391 estimated to be another race or Two or more races.

<sup>16</sup> The total number of the population for whom poverty status is determined is 48,601 rather than the estimated population totals in Table 1.1. Table is based on American Fact Finder *Poverty Status in the Past 12 Months* 2011-2015 American Community Survey 5-Year Estimates.

estimated to be 27,771 representing 14,382 males and 13,389 females<sup>17</sup>. The State of Texas estimates the total workforce to be 33,892 with an unemployment rate of 3.90%<sup>18</sup>. In the 2013 AI, the employed civilian workforce was estimated to be 20,501<sup>19</sup>. This represents a growth in employment of approximately 35%. The Workforce is broken out by category by race and gender in Tables 1.6-1.9. Map 1.5 demonstrates the number of households in San Marcos that are headed by females and the prominent role in the community of that issue.

Table 1.6  
Occupation by Gender for Civilian Employed Population 16 years+

Position Category	Total Employed	Male Employed	Female Employed
Management, business, and financial occupations	2,434	1,111	1,323
Computer, engineering, and science occupations	935	562	373
Education, legal, community service, arts, and media occupations	3,188	1,518	1,670
Healthcare practitioner, and technical occupations	905	231	674
Service Occupations	6,561	2,988	3,573
Sales and office occupations	8,894	3,649	5,245
Natural resources, construction and maintenance occupations	2,027	1,943	84
Production, transportation, and material moving occupations	2,827	2,380	447
Civilian employed population 16 years and over	27,771	14,382	13,389

Table 1.7  
Employment Status by Gender<sup>20</sup>

Employment Status Civilian work force 16 years +	Total	Male	Female
Employed	26,672	14,098	12,574
Unemployed	2,477	1,407	1,070

Table 1.8  
Work Experience in past 12 months

Work Experience	Total #	Below Poverty Level	
		#	%
Worked Full time in past 12 months	13,760	1,103	8.0%
Worked Part time or part year in the past 12 months	17,858	9,247	51.8%
Did not work	9,964	4,799	48.0%

<sup>17</sup> American Fact Finder *Occupation by Sex for the Civilian Employed 16 Years and Over* 2011-2015 American Community Survey 5 year estimates

<sup>18</sup> <http://www.texassitesearch.com/community-profile.html>

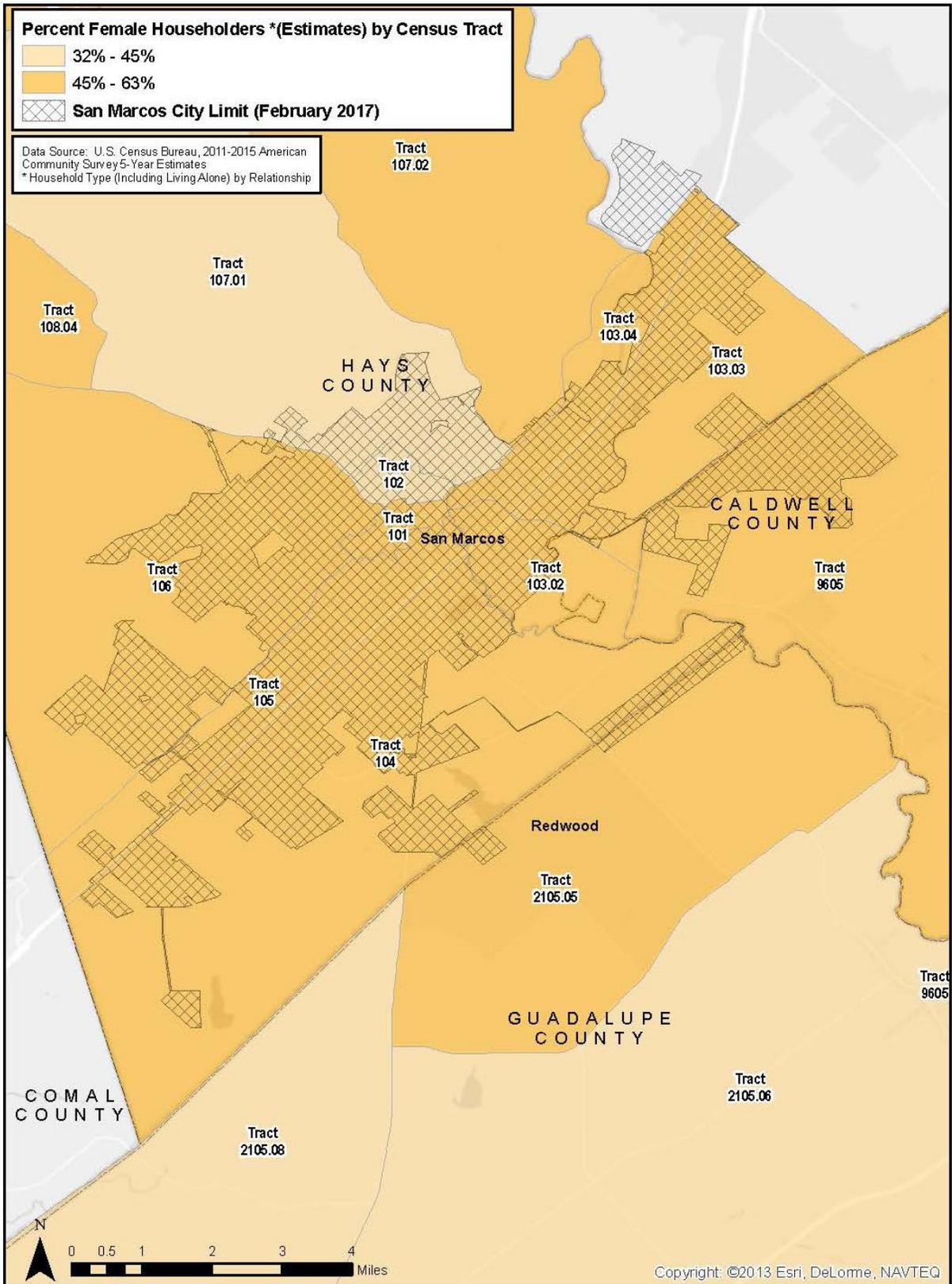
<sup>19</sup> 2013 AI Table 1.5 at page 15

<sup>20</sup> American fact Finder *Poverty Status in the Past 12 Months* 2011-2015 American Community Survey 5-Year Estimates

Table 1.9  
Employment Status by Race and Ethnicity

Race or Ethnicity	Estimated #	Labor Force Participation Rate	Employment/Population Rate
White	39,903	65.7%	59.0%
Black or African American	2,332	47.6%	43.2%
American Indian or Alaska Native Alone	305	100%	100%
Asian Alone	901	74.0%	63.4%
Native Hawaiian and other Pacific Islander	21	0.0%	0.0%
Some Other Race Alone	2,618	59.5%	55.3%
Two or More Races	1,397	67.6%	63.0%
Total	47,477	n/a	n/a
Hispanic of Latino Origin	17,704	67.7%	62.5%
White Alone—Not Hispanic or Latino	25,446	63.5%	56.3%

Map 1.5  
 City of San Marcos Female Householders by Census Tract  
 ACS 2015 Estimate



## 1.4 Public Transportation

The Capital Area Rural Transportation System (CARTS) is a rural transit system that serves San Marcos for its public transportation system. Local Residents with special needs may schedule appointments by filling out an ADA Application for door to door services by calling CARTS at 800-456-RIDE (7433) for eligibility requirements and to schedule a ride. Rides are scheduled from 7:00 a.m. until 4:00 p.m. In reviewing the methods of transportation, overwhelmingly workers are going to work in personal privately owned vehicles. During community interviews, the need for better mass transit was identified as a problem for low-income persons—especially for persons with disability. Map 1.6 contains the San Marcos bus routes according to CARTS.

Without knowing the cause—whether for limitations on mass transit routes or proximity to employment locations—more people report walking to work than take public transit according to the American Community Survey Estimates. Cars are available to those employed in San Marcos as only 3% of households identify that there are no vehicles available in the household.

Table 1.10  
Means of Transportation for Work<sup>21</sup>

Subject	Total/Percentage	Raw Numbers
Workers 16 years and older (estimate)	27,394	n/a
Means of Transportation to Work	--	--
Car, truck, or van/Carpool	88.6%/ 9.6%	24,271/2,629
Public Transportation (excluding taxicabs)	2.6%	712
Walked	4.2%	1,150
Bicycle	1.3%	356
Taxicab, motorcycle, or other means	1.3%	356
Worked at Home	2.1%	575

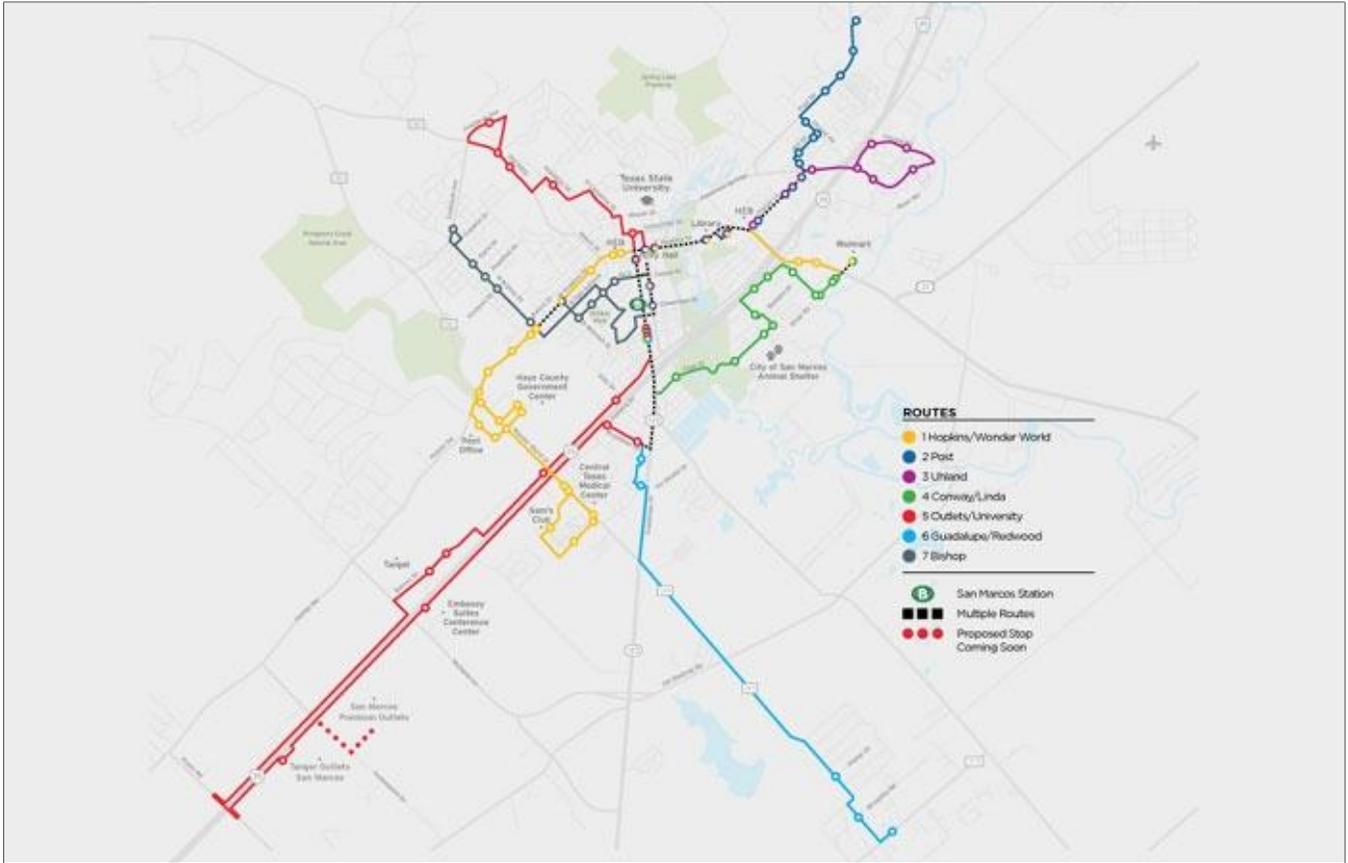
Table 1.11  
Vehicles Available for Workers 16 years and Over in Households<sup>22</sup>

Vehicles Available	%	#
No Vehicle	3.0%	790
1 vehicle available	26.9%	7,084
2 vehicles available	41.9%	11,034
3 vehicles available	28.2%	7,427
Total Households	100%	26,335

<sup>21</sup> American Fact Finder *Community Characteristics by Sex* 2011-2015 American Community Survey 5-year Estimates

<sup>22</sup> Id

Map 1.6  
Local San Marcos Bus Routes<sup>23</sup>



### 1.5 Housing

The AI identified the amount housing and the amount of affordable housing as a key impediment to affordable housing choice in San Marcos. In 2000, there were 13,320 housing units and that number had grown to 17,304 by 2010. In 2015, San Marcos contained a total of 22,473 units with 2,318 units currently vacant or an occupancy rate of 89.7% with 3.1 of owner occupied units being vacant. There is a conflict between the American Community Survey and what the city shows as new construction in the community. The survey estimates that only 34 new structures have been added to the housing inventory whereas the City has had large projects such as multi-family housing and Kissing Tree senior developments in new housing starts since 2013.

<sup>23</sup> <http://www.ridecarts.com/images/sized/images/uploads/services/CARTS-San-Marcos-Map-Web2-700x450.jpg>

San Marcos is predominately a town of renters. Of the 20,155 units that are occupied, the community survey estimates that 14,600 or 72.4% are rental units and 5,555 or 27.6% are owner occupied units. The cost of housing does place a significant burden on low income residents as Table 1.12 and Table 1.13 indicate.

Table 1.12  
Monthly Housing Costs<sup>24</sup>

Monthly Housing Costs	Total Occupied Units %	Owner Occupied Units %	Renter occupied Units %
Less than \$300	2.6%	5.8%	1.4%
\$300 to \$499	6.3%	16.0%	2.6%
\$500 to \$799	24.0%	22.3%	24.7%
\$800 to \$999	24.1%	8.5%	30.1%
\$1,000 to \$1,499	27.4%	27.1%	27.5%
\$1,500 to \$1,999	10.6%	15.3%	8.8%
\$2,000 to \$2,499	2.6%	2.4%	2.7%
\$2,500 to \$2,999	0.7%	1.6%	0.4%
\$3,000 or more	0.5%	1.0%	0.3%
No Cash Rent	1.1%	n/a	1.5%
Median (dollars)	\$938	\$931	\$939

HUD defines affordable housing as housing that requires no more than 30% of your gross income. In 2013, the AI determined that 60.5% of renter households paid more than 30% of their income for housing. The 2013 AI utilized CHAS data for housing burden. However, in utilizing the CHAS Data Tool, HUD research team has loaded new data that although it is an update from the information utilized in the AI, the information is not as current as is available in the American Community Survey data. Table 1.11 shows the Monthly Housing Cost as a percentage of Household Income in the Past 12 Months. Table 1.13 shows the gross rent payments based by income levels. Table 1.13 highlights the cost of rent as a percentage of income. Collectively, the tables demonstrate that rents in San Marcos are not affordable for a majority of renters. According to the estimates, 67.4%<sup>25</sup> of rents exceed 30% of renter's gross income.

<sup>24</sup> American Fact Finder *Financial Characteristics* 2011-2015 American Community Survey 5-Year Estimates

<sup>25</sup> Tables 1.13 and 1.15 have a discrepancy in comparison. Table 1.13 shows a total of greater than 30% of income spent on housing while Table 1.15 shows a total of 72.4% in the same category.

Table 1.13  
Monthly Housing Costs as a Percentage of Income<sup>26</sup>

Income level	Total Units			Owner Occupied Units			Renter Occupied Units		
	< 20% of income	20%-29% of income	≥30% of income	< 20% of income	20%-29% of income	≥30% of income	< 20% of income	20%-29% of income	≥30% of income
Less than \$20,000	0.4%	0.9%	28.9%	0.5%	2.8%	11.6%	0.4%	0.1%	35.4%
\$20,000 to \$34,999	0.9%	3.0%	18.8%	2.4%	4.2%	7.8%	0.3%	2.6%	23.0%
\$35,000 to \$49,999	1.7%	5.3%	7.3%	4.1%	4.4%	7.5%	0.9%	5.7%	7.3%
\$50,000 to \$74,999	6.8%	4.4%	2.5%	12.7%	5.2%	4.5%	4.6%	4.0%	1.7%
\$75,000 or more	11.5%	2.8%	0.1%	26.7%	6.0%	0.5%	6.0%	1.2%	0.0%

Table 1.14  
Gross Rent<sup>27</sup>

Occupied Units Paying Rent	Estimated #	%
Less than \$500	577	4.0%
\$500 to \$999	7,995	55.6%
\$1,000 to \$1,499	4,021	28.0%
\$1,500 to \$1,999	1,292	9.0%
\$2,000 to \$2,499	394	2.7%
\$2,500 to \$2,999	53	0.4%
\$3,000 or more	42	0.3%
Median	939	n/a
No Rent Paid	226	n/a
Total	14,374	100%

Table 1.15  
Gross Rent as a Percentage of Household Income<sup>28</sup>

Occupied Units Paying Rent	Estimated #	%
Less than 15%	859	6.3%
15.0% to 19.9%	922	6.8%
20% to 24.9%	910	6.7%
25% to 29.9%	1,076	7.9%
30% to 34.9%	1,263	9.3%
35% or more	8,588	63.1%
Not Computed	982	n/a
Total	13,618	100%

<sup>26</sup> American Fact Finder *Financial Characteristics* 2011-2015 American Community Survey 5-Year Estimates

<sup>27</sup> American Fact Finder *Selected Housing Characteristics* 2011-2015 American Community Survey 5-Year Estimates

<sup>28</sup> Id.

Tables 1.16 and 1.17 demonstrate that housing over-crowding is not a problem in San Marcos according to HUD standards. San Marcos has a zoning policy that limits the number of unrelated people living together in the same unit. There are exceptions in the zoning ordinance to the limitation on unrelated persons sharing units for housing for persons with special needs.

Table 1.16  
Units in Structure<sup>29</sup>

Units in Structure	Estimated #	%
1-Unit Detached	7,057	31.4%
1-Unit Attached	827	3.7%
2 Units	1,026	4.6%
3 or 4 Units	2,334	10.4%
5 to 9 Units	3,038	13.5%
10 to 19 Units	3,312	14.7%
20 or more Units	3,797	16.9%
Manufactured Housing	1,082	4.8%
Total Housing Units	22,473	100%

Table 1.17  
Occupants per room<sup>30</sup>

Occupants per Room	Estimated #	%
1.00 or less	19,466	96.6%
1.01 to 1.50	449	2.2%
1.51 or more	240	1.2%
Occupied Housing Units	20,155	100%

## 1.6 Educational Opportunities

As part of the Affirmatively Furthering Fair Housing Final Rule, educational opportunities are to be examined and determine if education is a limitation to Fair Housing choice. Table 1.18 indicates that the younger the population the higher level of education attainment. The major force in education in the community is Texas State University with almost 38,000 students. The exact number of Texas State students that claim to be residents of San Marcos is not a known quantity. In looking at Table 1.18 below the number of people between the age of 18-24 who have attained at least a high school diploma is 19,739. Not included on the chart, but available in the same data set, 16,923 members of this population indicate that they not only have

<sup>29</sup> Id.

<sup>30</sup> Id.

graduated high school, but have some college or associate's degree. This would indicate that many students that were attending the university in 2015 are included in the overall data collection efforts.

The San Marcos CISD also provides education to a substantial amount of the county. The district is looking to relieve over-crowding in class rooms through a 2017 Bond Referendum. The school District is estimated to have 7,755 students. Recently, the independent ranking group SchoolDigger ranked the SMCISD as the 708<sup>th</sup> best school district of 932 districts in Texas.<sup>31</sup>

Table 1.18  
Educational Attainment for Population 18 and over<sup>32</sup>

Age Group	Total Population	Population that is High School Graduate or Higher	Population with Bachelor's degree or Higher	Percentage of population with at least High School (Or GED)
18 to 24 years	22,495	19,739	2,016	96.7%
25 to 34 years	9,277	8,497	3,053	91.6%
35 to 44 years	4,399	3,743	1,823	85.1%
45 to 64 years	6,154	5,107	1,823	83.0%
65+ years	4,049	3,109	1,210	78.8%

Table 1.19  
Race and Hispanic Origin by Educational Attainment<sup>33</sup>

Race or Ethnicity by educational attainment	Total Population	Population that is High School Graduate or Higher	Population with Bachelor's degree or Higher	Percentage of population with at least High School (Or GED)
White Alone	20,270	17,219	6,252	84.9%
White alone, Not Hispanic or Latino Origin	11,893	11,263	4,991	94.7%
Hispanic or Latino Origin	9,980	7,284	1,597	73.0%
Black Alone	1,056	968	252	91.7%
American Indian or Alaska native Alone	171	171	21	100.0%
Asian Alone	545	525	351	96.3%
Native Hawaiian or Pacific Islander Alone	7	7	0	100.0%
Some Other Race Alone	1,273	1,044	249	82.0%
Two or More Races	557	522	244	93.7%

<sup>31</sup> <https://www.schooldigger.com/go/TX/districtrank.aspx?t=name>

<sup>32</sup> American Fact Finder *Educational Attainment* 2011-2015 American Community Survey 5-Year Estimates

<sup>33</sup> Id.

Table 1.20  
Poverty Rate for the Population 25 Years and Over Determine by Educational Attainment<sup>34</sup>

Level of Education	Percent in Poverty
Less than High School	33.9%
High School (includes equivalency)	18.1%
Some College or associate's degree	24.9%
Bachelor's degree or higher	9.5%

The district met standards according to the Texas Education Agency 2015-2016 Texas Academic Performance Report at all campuses and as a district overall in 2016<sup>35</sup> but received a "Needs Assistance" status for the 2016 Special Education Determination. The San Marcos High School had 2,162 students with the largest class being the 9<sup>th</sup> grade class. Advanced Placement Classes are available and 26% of the students are registered.<sup>36</sup> The total minority enrollment in the high school is 79% minority with 5% of the students identified as black, 72% are Hispanic and the balance being Asian or two or more races. Sixty-two percent of the high school student population participates in the Economically Disadvantaged Program.

The dropout rate is higher in the San Marcos CISD that the state average as is indicated in Tables 1.21 and 1.22.

Table 1.21  
Annual Dropout Rates, by Grade Span, 2014-15,  
Calculated with Statutory Exclusions Applied for State Accountability,  
San Marcos CISD<sup>37</sup>

Grade span	Dropouts	Students	Rate (%)
Grades 7-8	-	<1,300	0.5
Grades 9-12	-	<2,400	3.7
Grades 7-12	92	3,594	2.6

<sup>34</sup> Id.

<sup>35</sup> According to Texas Education Agency website. The Juvenile Justice Campus was not rated and is not included in the ranking.

<sup>36</sup> Based on the 2014-2015 academic school year <https://www.usnews.com/education/best-high-schools/texas/districts/san-marcos-cisd/san-marcos-high-school-19853>

<sup>37</sup> [http://tea.texas.gov/Reports\\_and\\_Data/](http://tea.texas.gov/Reports_and_Data/)

Table 1.22  
Annual Dropout Rates, by Grade Span,  
Texas Public Schools, 2014-15<sup>38</sup>

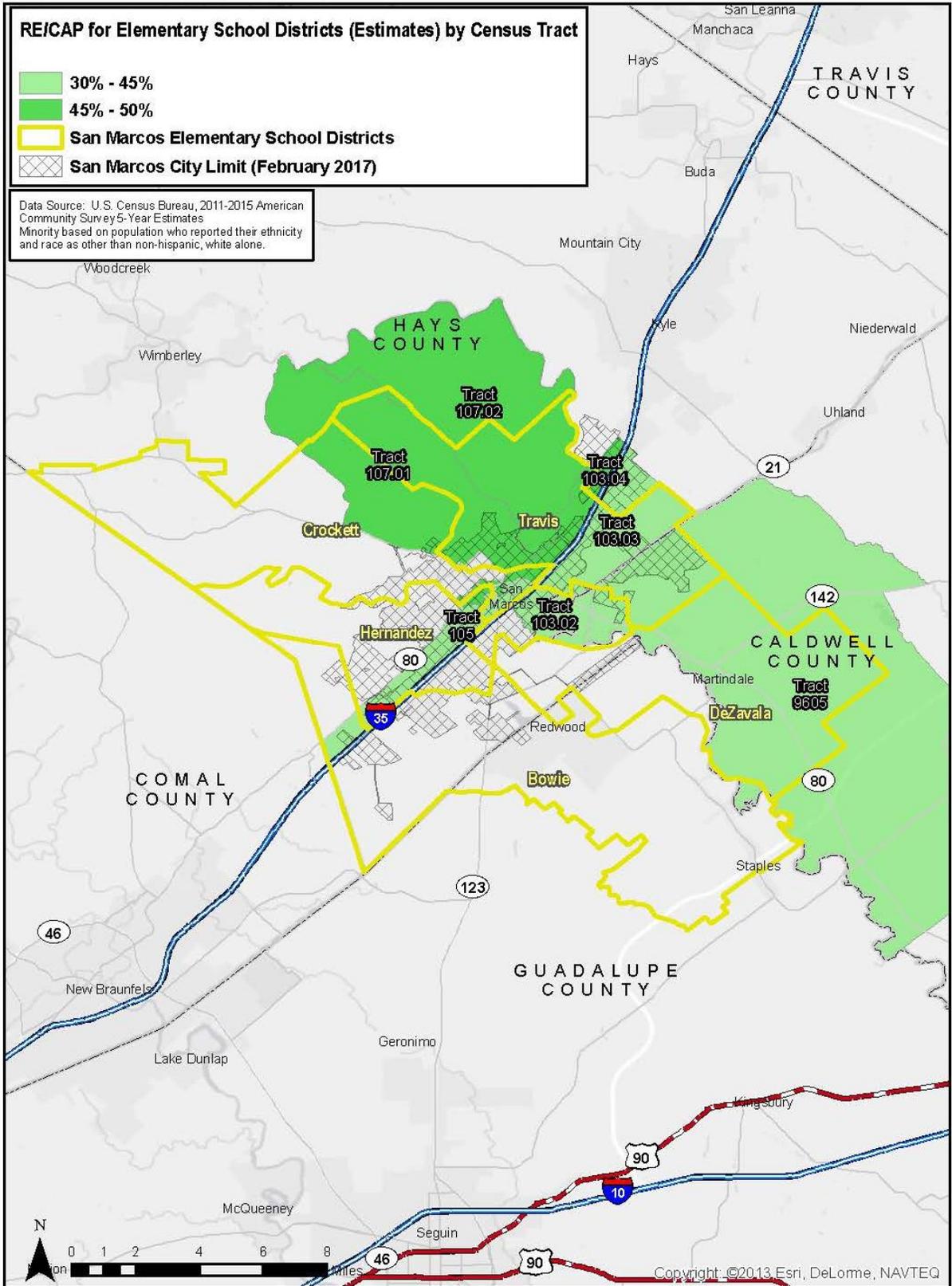
Grade span	Dropouts	Students	Rate (%)
Grades 7-8	2,584	788,815	0.3
Grades 9-12	30,853	1,495,294	2.1
Grades 7-12	33,437	2,284,109	1.5

Some elementary schools in San Marcos have large areas where there are concentrations of racial and ethnic poverty that exceed 30% as is shown in Map 1.7. All schools have met standards as identified by TEA, but Crockett Elementary has received Academic Achievement in English Language and Post-Secondary Readiness distinction designations. In addition, Hernandez Elementary also received a distinction designation in Academic Achievement in Science. Also, Travis elementary received distinction designations Academic Achievement in English, Language Arts/Reading, Academic Achievement in Mathematics, Top 25 Percent: Student Progress.

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<sup>38</sup> Id.

Map 1.7  
 RE/CAP by Elementary School District

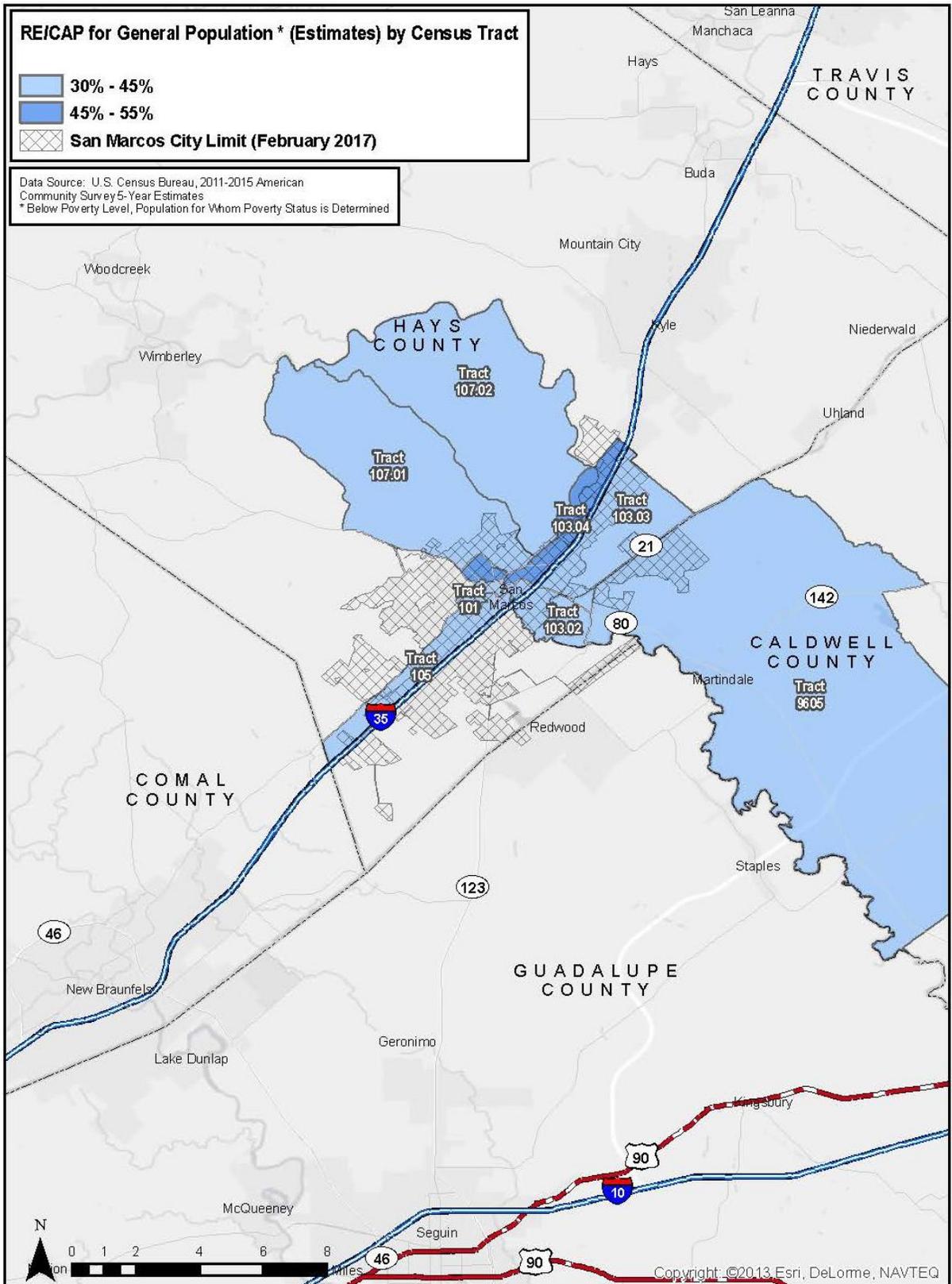


## 1.7 Race/Ethnic Concentrations of Area Poverty

For purposes of defining racial and ethnic concentrations of area poverty (R/ECAP) this Update has identified those areas with racial and ethnic poverty that exceed 30%. For purposes of determining R/ECAPs in this Update, we reviewed census tracts for a majority racial and ethnic population in the tract. When those tracts were determined, we calculated the percentage of people in poverty within the racial and ethnic community in that census tract to determine the concentration of poverty in each census tract. In the upcoming AFH, the trends will be analyzed to determine HUD identified R/ECAPs.

People of Hispanic or Latino Origin make up a large element of the concentrations in the city. As is indicated in Map 1.8 below, due to the city's 30%+ poverty rate across most racial and ethnic categories there are several census tracts that are R/ECAPs with more than 30% of racial and ethnic minorities being below the poverty level. Census Tract 103.04 is a particular concern as it has a concentration of poverty between 45-55%. The AI shows that the number of people in poverty that are part of the Hispanic origin population has increased. The poverty level of the Black population and the White population went down by 1% and 2.8% respectively. There is a potential conflict in the information in that the AI lists poverty in terms of numbers and the Update states poverty percentages in terms of households. The R/ECAPs identified in the below map should be considered as a base line for the AFH to be prepared.

Map 1.8  
RE/CAPs by Census Tract



## 1.8 Damage from the 2015 Storms

### Summary of Unmet Need for Housing

After the storms, the city need continues to be the lack of affordable housing – especially rental units, as well as the need to prevent continued damage from future floods. Though few units are lacking plumbing or kitchen facilities, there is a need for minor to moderate housing rehabilitation to prevent further deterioration as well as a need to demolish and reconstruct unsafe/unsound housing. The chart below summarizes the City’s funding sources during the recovery period, and represents an estimate of unmet need related to housing to the best of our ability with the current data; discussions with the public and with City leadership will continue to refine this information and prioritize the assistance needed. The city requested of HUD in the Action that the priority for utilization of CDBG-DR funding (related to housing) will be for housing rehabilitation and for the implementation of repetitive loss and hazard mitigation activities which includes buyouts and housing elevation.

Table 1.23 City of San Marcos  
Action Plan Housing Needs Assessment

<b>Remaining Unmet Housing Need</b>	
<b>Total Need</b>	<b>\$</b>
Cost to repair	\$42,332,928.00
Hazard Mitigation needs	\$14,900,000.00
<b>Previous Benefits</b>	<b>\$</b>
FEMA IA provided	(\$4,333,990.00)
SBA Loans	(\$3,357,700.00)
NFIP claims **	(\$17,037,400.00)
Other Sources	(\$461,000.00)
<b>Total Unmet Housing Need</b>	<b>\$32,042,838.00</b>

More than 1,500 homes were damaged as a result of these two floods. Of these, a disproportionately high number of the homes were located within or immediately adjacent to the flood affected neighborhoods, and, as a result, the City anticipates most of the applicants for the recovery Housing programs will come from those locations.

The City has allocated \$7,524,000 of its CDBG-DR funds to the following Housing activities and does not anticipate funding more than approximately 100 homes:

- Single-Family, Owner Occupied Housing Rehabilitation or Reconstruction
- Single-Family, Owner-Occupied Housing Reconstruction (for homes incurring damage that amounts to greater than 50% of the home’s pre-storm value the home will be elevated as required);

- Single-Family, 1-4 Unit Rental Housing Substantial Rehabilitation or Reconstruction for which Elevation will be required
- Elevation w/ Minor Repair; and
- Buyout

# Section 2:

Update to Fair Housing  
Law, Court Cases,  
Policies, and  
Regulatory Complaint  
Analysis

## Section 2. Update to Fair Housing Law, Court Cases, Policies, and Regulatory Complaint Analysis

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### Introduction

The Fair Housing Act (“FHA”) was passed in 1968 to provide people of similar incomes to have similar access to location, availability, and quality of housing. In addition to access, the Supreme Court has found that one of the purposes of the FHA was replacing ghettos with truly integrated living environments<sup>39</sup>. The FHA directly prohibits discrimination based on, Race, Color, Religion, National origin, Sex, Disability, and Familial status. It covers housing based on Rental Sales, Lending, Zoning and land use, intimidation and coercion relating to fair housing rights by landlords, real estate agents, lenders, cities, counties, and states, and by individuals.

The San Marcos Analysis of Impediments to Fair Housing in 2013 (“AI”) conducted a traditional review of the FHA. The FHA has been enforced since the late 1960s. Even after nearly 50 years, HUD still finds violations that result in findings of FHA violations. Below are a few examples of HUD recorded violations on traditional FHA causes of action in 2017 alone:

Table 2.1  
HUD Fair Housing Agreements or Settlements 2017<sup>40</sup>

FY2017 Case Number and Name		Basis
06-15-0910-8	<u>Bracelin v AMH 2015-1 Borrower, LLC, et al.</u>	Disability
09-16-5484-8	<u>Conciliation Agreement between David Gottlieb et al</u>	National Origin
17-JM-0009-FH-001	<u>Dove Carden and Disability Law Center v. Amy Sloan, et al.</u>	Disability
08-15-0190-8	<u>Carden v. BJJ Enterprises, LLC</u>	Disability
08-15-0178-8	<u>Disability Law Center v. BJJ Enterprise, LLC</u>	Disability
16-JM-0143-FH-016	<u>Jacob and Theresa Carter, Edward Fedor et al.</u>	Familial Status
07-15-0152-8	<u>McPherson v. Schmidt/Pritchard/Northridge Apartments, et al.</u>	Familial Status
5/16/4884	<u>Hope Fair Housing Center &amp; Alpine Bank &amp; Trust</u>	Race, National Origin
04-13-0910-8	<u>Mack, Mack &amp; Waltz Insurance Group</u>	Race, National Origin
04-13-0910-8		Race, National Origin

<sup>39</sup> *Trafficante v. Metropolitan Life Insurance Co.*

<sup>40</sup> HUD Fair Housing Enforcement Actions

[https://portal.hud.gov/hudportal/documents/huddoc?id=fy17\\_16chargesapril18.pdf](https://portal.hud.gov/hudportal/documents/huddoc?id=fy17_16chargesapril18.pdf)

	<u>McGowan &amp; Company, Inc.</u>	
04-14-0311-8	<u>National Fair Housing Alliance v. Bank of America Corp, et al.</u>	National Origin
03-15-0314-9	<u>PathStone Housing Corporation of Pennsylvania, et al.</u>	Race, National Origin, Disability, and Familial Status
03-15-0314-6	<u>PathStone Housing Corporation of Pennsylvania, et al.</u>	Race, National Origin, Disability, and Familial Status
03-15-0314-8	<u>PathStone Housing Corporation of Pennsylvania, et al.</u>	Race, National Origin, Disability, and Familial Status
04-13-0855-8	<u>Loveless v. Wesley Apt. Homes (EURAMEX)</u>	Race
10-14-0194-8	<u>Ashley and Ryan Sytsma v. Apple Properties</u>	Familial Status

Section 2.5 of this Update will discuss the number of Complaints nationally, the number of complaints in HUD Region VI for Texas and the number of complaints received by the Texas Workforce Commission—the official investigation unit of Fair Housing Complaints made to the State of Texas.

## 2.1 Fair Housing Law—Moving to a New Standard in Affirmatively Furthering Fair Housing Post Westchester and Texas Conciliation Agreements

Even though all indications are that we have not ended discrimination and not yet obtained the goal identified in the AI of fair housing by giving people the ability with similar incomes to have similar access to location, availability, and quality of housing, this Update is going to focus are the new trend from HUD of looking at Affirmatively Furthering Fair Housing (“AFFH”). HUD requires that each program that it funds certify that it will affirmatively further fair housing. The City, taken as a whole, must affirmatively further fair housing, not just with the HUD funds. A failure to do this means that a HUD grantee is vulnerable to loss of funding, suspension of funding, a lawsuit, and/or a case brought by the United States Department of Justice.

Significant changes to how the Fair Housing Act is enforced have occurred since the City of San Marcos Analysis of Impediments to Fair Housing in 2013 (AI) was adopted. One of the cases mentioned in the AI was the case styled *United States of America, ex. rel., et al v. Westchester County, New York*. The result of that case began a sprint to the Affirmatively Furthering Fair Housing (“AFFH”) Final Rule. The basis of the suit was that Westchester County had violated the Federal False Claims Act by failing to affirmatively further fair housing in fact, but stating that the county had done so, when the Westchester County Executive signed the county’s HUD Consolidated Plan—a sworn federal document. One of the key issues was that the county continued to build low-income housing in primarily minority communities and did not construct housing in less concentrated minority areas. With that evidence before the court, the court agreed that Westchester

County was not meeting its AFFH requirement and therefore the statement on the Consolidated Plan was a false claim. As part of the settlement<sup>41</sup> Westchester County was required to:

- Pay a total of \$62.5 million dollars to resolve the case including \$2.5 million in attorney's fees
- Spend \$51.6 million to develop at least 750 units of affordable housing for working families
- Place at least 84% of units in municipalities with an African-American population of less than 3% and a Latino population of less than 7%.
- Adopt as policy the recognition that "the location of affordable housing is central to fulfilling the commitment to AFFH because it determines whether such housing will reduce or perpetuate residential segregation. "
- Assess the means by which the County can maximize the development of affordable housing that affirmatively further fair housing "in the eligible municipalities and census blocks with the lowest concentrations of African American and Hispanic residents."
- Affirmatively market affordable housing units throughout the metropolitan area
- Adopt a policy to eliminate de facto residential segregation in the County.

During the Westchester legal action settlement period, the State of Texas had an administrative complaint and fair housing violation complaint filed by Austin area housing and civil rights advocacy groups. The complaints related to the expenditure of funds from the Hurricane Ike and Dolly CDBG-DR funds. The basis of the complaint was that the state had not adequately addressed affirmatively furthering fair housing and that the funding pattern had a disparate impact on the minority communities most impacted by the hurricanes. Those filings with HUD ended in a Conciliation Agreement signed by the State of Texas in 2010 that required certain expenditures for low income and public housing and an agreed expenditure pattern for the CDBG-DR funding<sup>42</sup>. The Conciliation Agreement is still in place until all Hurricane funds from Ike and Dolly are expended.

In 2014, the City of Dallas signed a Conciliation Agreement that required the city to conduct regional communications on fair housing with other governmental entities, continue to develop a program for increasing the availability of affordable housing in high opportunity areas, and introduce a program at a public meeting that encouraged allowing the use of low income vouchers (Section 8) in high opportunity areas. Both of these agreements are Texas based, but HUD has signed numerous Conciliation Agreements

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<sup>41</sup> <http://homes.westchestergov.com/images/stories/pdfs/housingsettlement2009.pdf>

<sup>42</sup> <http://texasrebuilds.org/Documents/Conciliation%20Agreement.pdf#search=Conciliation%20Agreement>

outside of these two covering several different protected classes which can be found online at the web address below:

[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/enforcement/11DecreasesConciliation](https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/enforcement/11DecreasesConciliation)

*Inclusive Communities Project, et al v. Texas Department of Housing and Community Affairs, et al. ("ICP")*

ICP I<sup>43</sup> Lower Courts (Northern District of Texas and Fifth Circuit Court of Appeals)

As was mentioned in the AI, as a result of the *Walker v. HUD* litigation, a fund was created to provide the ability for people of color that were previously compacted into areas by the Dallas Housing Authority to have "mobility" and relocate to higher opportunity zones. Inclusive Communities Project (ICP) was the agent for the *Walker* funding and represents people of color who desire to relocate to high opportunity zones. ICP filed a complaint against the Texas Department of Housing and Community Affairs, Executive Director and Board members (TDHCA) for what they felt was a discriminatory intent to keep people of color concentrated into urban areas that had traditionally been populated by people of color. ICP sued TDHCA to establish that the state intentionally kept minorities in concentrate communities in violation of the FHA. The judge in the case determined that the FHA had been violated, but not intentionally based on current law. The State of Texas appealed the lower court ruling. The Fifth Circuit applied a different standard and remanded the case back to the lower Court.

ICP II United State Supreme Court

(styled as: *Texas Department of Housing and Community Affairs, et al. v. Inclusive Communities Project, et. al*<sup>44</sup>)

The issue before the Supreme Court was whether the Disparate Impact Rule was a valid interpretation of the Fair Housing Act by HUD. The underlying case regarding TDHCA was not directly in question even though the State of Texas was arguing the case before the Court. The issue really became whether an FHA violation could be proven based on disparate impact to a class of people. The court held 5-4 that HUD had properly used its rule making authority in creating the Disparate Impact Rule. In writing for the majority however, Justice Kennedy said that while the Disparate Impact Rule was valid, it must be limited. A key passage of the ruling says:

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<sup>43</sup> The ICP I, II, and III designations are for the purposes of this Update. Throughout the opinions issued by the courts the cases will be referenced as ICP I through ICP VI.

<sup>44</sup> 135 S. Ct. 2507 (2015) 576 US \_\_\_\_\_ (2015) Decided June 25, 2015

Unlike the heartland of disparate-impact suits targeting artificial barriers to housing, the underlying dispute in this case involves a novel theory of liability. See Seicsh-naydre, *Is Disparate Impact Having Any Impact? An Appellate Analysis of Forty Years of Disparate Impact Claims Under the Fair Housing Act*, 63 Am. U. L. Rev. 357, 360–363 (2013) (noting the rarity of this type of claim). This case, on remand, may be seen simply as an attempt to second-guess which of two reasonable approaches a housing authority should follow in the sound exercise of its discretion in allocating tax credits for low-income housing.<sup>45</sup>

The case was then remanded to the lower courts for a decision based on the Supreme Court opinion.

#### ICP III Northern District of Texas

When remanded for a decision, the district court found that based on the Supreme Court decision, there were elements outside of the control of TDHCA and that the policy decision to rebuild communities in urban areas was not a violation of the Fair Housing Act. The lower court said that the people seeking legal redress must show a specific cause. The court in its opinion<sup>46</sup> said:

This causality requirement is “robust” to ensure that “defendants do not resort to the use of racial quotas” to avoid liability for statistical disparities. *Id.* The plaintiff must demonstrate that the statistical disparity is caused by the defendant’s policy or policies, rather than by other factors. *Id.* (citing CFR § 100.500(c)(1) (2014)). Accordingly, to establish a prima facie case of disparate impact, ICP must prove facts that plausibly demonstrate a causal link between the challenged policy or practice and a statistical disparity.

The Court dismissed the case after the remand because there were policies outside of TDHCA control that potentially impacted the concentration of racial and ethnic minorities in poverty analysis (which the court identified as disparate treatment rather than impact) and there was a reasonable policy decision as identified in the case before the U.S. Supreme Court as to whether to improve the current neighborhood or provide high opportunity relocations.

#### Disparate Impact Rule

HUD developed the Disparate Impact Rule and published it in 2013 to be used a mechanism to determine if HUD grant recipients were meeting the AFFH requirements. The rule allows a statistical application to the Fair Housing Act to determine if a protected class is being discriminated against through expenditure patterns. The Final Rule publication in the Federal Register described the rule’s policy intent:

This rule formally establishes the three-part burden-shifting test for determining when a practice with a discriminatory effect violates the Fair Housing Act. Under this test, the charging party or plaintiff first bears the burden of proving its prima facie case that a practice results in, or would

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<sup>45</sup> *Id.*

<sup>46</sup> Case 3:08-cv-00546-D Document 271 Filed 08/26/16 Page 1 of 32 Page ID 9844

predictably result in, a discriminatory effect on the basis of a protected characteristic. If the charging party or plaintiff proves a prima facie case, the burden of proof shifts to the respondent or defendant to prove that the challenged practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. If the respondent or defendant satisfies this burden, then the charging party or plaintiff may still establish liability by proving that the substantial, legitimate, nondiscriminatory interest could be served by a practice that has a less discriminatory effect<sup>47</sup>.

The rule provided a mechanism to challenge unintentional discrimination that nevertheless results in a discriminatory result for protected classes.

#### Affirmatively Furthering Fair Housing Final Rule

Prior to the Supreme Court decision in *ICP*, HUD released the AFFH Draft Rule for public comment in July of 2013<sup>48</sup>. The rule sought to revise the way that HUD grantees and recipients assessed Fair Housing in their communities. The new rule required a revised look at a community (also encouraged regional communities to come together) for a new document to replace the Analysis of Impediments to Fair Housing called an Assessment of Fair Housing ("AFH"). This new assessment required looking at housing, any concentrations of racial and ethnic poverty (R/ECAPs), along with educational, transportation, and employment opportunities. The AFH also requires a more intensive review of fair housing community impacts to the disability community. To assist with the process, HUD developed a new tool to develop the AFH called the Assessment of Fair Housing Tool. In addition, HUD created mapping and data tools that indicate where and how a community should address fair housing concerns. The rule received many comments about the process and tools.

One suggested component allowed HUD 60 days to approve the AFH or reject it. If HUD does neither, then the AFH is accepted. If rejected, the community will need to change the AFH to comply with the comments prior to receiving funding. It is important to note that acceptance or adoption means only that the AFH meets the requirements of the rule, not that the community has met their AFFH requirements.

After the Disparate Impact Rule was upheld by the U.S. Supreme Court in June of 2015, HUD published the AFFH Final Rule in July of 2015<sup>49</sup>. They adopted the AFH tool and AFFH Data and Mapping Tool in 2015/2016 as well. San Marcos will be required to file an AFH for approval prior to 280 days before the next Five Year Consolidated Plan is due in 2019.

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<sup>47</sup> Federal Register / Vol. 78, No. 32 / Friday, February 15, 2013 / Rules and Regulations Page 11460.

<sup>48</sup> Federal Register / Vol. 78, No. 139 / Friday, July 19, 2013 / Proposed Rules Page 43710

<sup>49</sup> Federal Register / Vol. 80, No. 136 / Thursday, July 16, 2015 / Rules and Regulations Page 42272

When the Draft AFFH Rule was first published, several commenters to the rule believed that the rule was social engineering and executive branch overreach and that thought continued to the Final Rule. In the *National Review* under an article titled: *Massive Government Overreach: Obama's AFFH Rule is out*<sup>50</sup> the author had a strong reaction to the AFFH Final Rule by saying:

In effect, AFFH gives the federal government a lever to re-engineer nearly every American neighborhood — imposing a preferred racial and ethnic composition, densifying housing, transportation, and business development in suburb and city alike, and weakening or casting aside the authority of local governments over core responsibilities, from zoning to transportation to education.

Supporters of the rule however argue that the AFFH Final Rule is clarifying for grantee communities existing obligation to affirmatively further fair housing under the Fair Housing Act and to ensure the goals of the FHA are being met.

## 2.2 Enforcement

The official Fair Housing Investigation unit for the State of Texas is the Texas Workforce Commission (“TWC”). The TWC has a process for submitting complaints and the public should be made aware of how to contact the TWC. The TWC website contains a description of Fair Housing and what constitutes a n actionable offense. To contact the TWC:

### How to Submit a Complaint

You must submit your complaint within one year (365 calendar days) from the date of the discrimination.

You can submit a housing discrimination. The preferred method for submitting a housing discrimination complaint form is through our Online Housing Discrimination Complaint Form.

Complaints cannot be provided over the telephone.

New Contact Information (as of January 9, 2017):

Email: [HousingComplaint@twc.state.tx.us](mailto:HousingComplaint@twc.state.tx.us)

Fax: 512-482-8465

Address: 1215 Guadalupe St, Austin, TX 78701

Call: 512-463-2642 or (Texas only) 888-452-477

Several units of local government in Texas conduct their own enforcement but San Marcos maintains a referral system to HUD and/or the TWC.

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<sup>50</sup> <http://www.nationalreview.com/corner/420896/>

Even though the City of San Marcos does not investigate and enforce FHA complaints, they accept FHA complaint calls and refer the calls to HUD, other agencies, or otherwise counsel clients if they can assist them. As part of the process, the City of San Marcos maintains a file log of calls received a copy of which is recreated below omitting names and contact numbers that could identify the caller.

Table 2.2 Fair Housing Log<sup>51</sup>  
Part B. Complaints / Issues raised alleging discrimination in housing

Date	Type of Contact	Type of Issue	Action Taken	Comments
7/19/2011	Telephone call to Janis Hendrix	Alleged discrimination due to race in treatment by PHA staff (she white-they Hispanic)	Provided HUD Fair Housing contact information. Caller will pursue prescribed eviction contest process; advised her to keep written record of events.	
9/19/2011	Telephone call to Janis Hendrix	Alleged discrimination against college students (disabled vets)	Provided HUD link to find electronic complaint form; provided link to FHEO website. Requested Legal office review regulations from Fair Housing standpoint	Code violation – R-1 Regulation; complaints had been filed with Nbrhd Services
8/16/2013	Telephone call to Janis Hendrix	Disabled – Reasonable accommodation	Referred to Austin Tenant’s Council & San Marcos Code Enforcement	Wants to move into Public Housing but can’t get out of her lease. Issues with bldg. maintenance, mgmt. responsiveness
10/14-16/2014	Telephone call to Dalinda Newby/Janis Hendrix	Apartment Mgr refuses to renew lease	Contact referral information given to Austin Tenant’s Council, TDHCA how to file a complaint link (tax credit units), HUD FHEO website.	Unclear if this would qualify as a fair housing issue although Ms. Foster does have a disability as does her minority child.
10/7-8/14	Telephone to Dalinda Newby	Bad treatment by two different apartment locators	Referred to HUD hotline. They told her not a fair housing issue.	
4/6/2015	Phone message	Has doctor’s order for an emotional support pet, but the apt. refused to consider it.	She called HUD first who told her it is a FH violation. Recommended she contact Austin Tenants Council for assistance.	She will call them and let me know if she can’t get help from them.
2/5/16	E-mail and telephone	Believes she is being discriminated against by Mgt. because of her race.	Referred her to HUD-website & SA FHEO office and to Austin Tenant’s Council. Follow up phone call indicates she is meeting with ATC on 2/9/16. She has also filed a complaint with Texas Workforce Commission.	
8/19/16	Phone	Believes he is being discriminated against because of familial status	He feels that he is being harassed because they are a family with 2 kids in a complex that is primarily single, college students. Referred to HUD website or phone Number.	

<sup>51</sup> The names are included on the log in city for return contact, but eliminated here for privacy concerns.

HUD Region VI also investigates Fair Housing complaints. As outlined in Table 2.2 above, San Marcos appears to refer more complaints to HUD than to the TWC.

### Education and Outreach

The San Marcos Website does have a page dedicated to Fair Housing. It might receive more attention if there was a link to file a Fair Housing complaint on the front page of the website. In addition, direction on how to contact the local fair housing advisor (Dalinda Newby is the contact on the Web Site) is somewhat buried on the Fair Housing Page having to read most of the page before the contact number is apparent. In addition, the TWC is not listed at all on the website as a potential investigative agency for fair housing violations.

As identified below, San Marcos has a significant, if traditional, public outreach and education campaign each year. The city also runs ads in a local newspaper each year highlighting their Fair Housing commitment. The housing program has recently changed leadership, but is also working on a significant CDBG-DR funding program.

Table 2.3 Fair Housing Log  
Part A. Actions taken to Affirmatively Further Fair Housing

Program Year 2013 Starts			
10/01/2013	Subrecipient training	Public awareness / education	HUD Fair Housing Brochure distributed to all subrecipients along with a brief explanation of the FH Act
10/07/2013	Press Release advertising FH 101 workshop	Public awareness	
10/08/2013	Press release published in SM Daily Record	Public awareness	Posted on page 3
10/17/2013	Fair Housing 101 Workshop	Public awareness / education	Invitation distributed to realtors, property managers, apartment complexes, non-profits
04/06/2014	English/Spanish Annual Notice Published	Public awareness / education	
04/15/2014	Fair Housing Proclamation	Public awareness / education	PHA, realtors, City participated
04/21/2014	Press Release – Proclamation Photo & Caption	Public awareness / education	
Program Year 2014 Starts			
10/20/2014	Press Release – Fair Housing Workshop – Reasonable Accommodation	Public awareness / education	
10/11th	Mailed invitations to workshop to over 90 property management, apartments, mortgage /banker companies.	Outreach	In addition to mailed invitations, e-mails were sent to SMABoard of Realtors for distribution, Chamber of Commerce, and Non-profits
10/23/2014	Daily Record story regarding workshop	Outreach	
10/29/2014	Workshop presented by Austin Tenants Council	Education	PHA well represented, as was City staff-Sam, Cindy C, Steve Van Patton, Dalinda, Janis
2014-2015	Community Needs electronic survey included Fair Housing Needs survey	Outreach	90 responses were received

03/23/2015	Forwarded TDHCA Webinar invitation to non-profits and City staff	Education	
04/07/2015	Fair Housing Proclamation	Outreach / Education	
09/29/2015	Subrecipient Training	Outreach / Education	Workshop included a Fair Housing element
<b>Program Year 2015 Starts</b>			
10/22/2015	Homebuyer Education Program – Library	Education	Program included fair housing education
2015	Staff completed a National Fair Housing Alliance Training Webinar regarding Fair Lending	Staff Education	
04/03/2016	Fair Housing Ads – Spanish & English	Outreach / Education	
04/05/2016	Fair Housing Proclamation	Outreach / Education	Proclamation accepted by City staff, PHA residents & staff, banking, realtors.
Summer 2016	Fair Housing Fact included in The City Exchange	Outreach / Education	Quarterly newsletter distributed to all utility billing customers and as handouts at various locations

### 2.3 Production and Availability of Affordable Units

As part of addressing the noted impediments in the AI, the city has taken several steps to increasing the number of affordable units available. The city adopted an Affordable/Workforce Housing Policy on July 1, 2014. In addition, the city is undergoing a review of vacant lots and looking at in-fill for affordable housing throughout the city. Each of these programs will be discussed more in Section 6 during the review of impediments status from the AI.

The city runs or coordinates with several other housing programs including a 2017 First-Time Homebuyer Program, Residency Incentive Loan Programs, City Employee Residency Incentive, Texas State Professors, Housing Rehabilitation Program through Southside Community Center, Habitat for Humanity San Marcos Area, and Public Housing.

One source of affordable housing is the Texas Department of Housing and Community Affairs Low Income Housing Tax Credit program. San Marcos has many units of tax credit housing, and in fact exceeds the standard of having more than two times per capita the state average of tax credit units. In order to build additional units, the city must provide a resolution to be submitted with the tax credit application<sup>52</sup>. An interesting note on the tax credit units is that in general, students are not eligible for the program and therefore those developments provide affordable non-student housing.

In addition to the ongoing housing programs, the city is committing \$7.524 million of CDBG-DR to housing programs. These funds will be used to address the needs identified by the applicants impacted by the storm.

<sup>52</sup> Tex. Gov't. Code 2306.6703(a)(4)

## 2.4. Regulatory and Public Policy Review

The City underwent a review by an outside legal team to address potential code changes; that review has already been placed out for public comment. The latest version was released on January 6, 2017<sup>53</sup>. When the city placed the code changes out for public comment it received numerous comments which were addressed as part of the approval process. The public comments and how they were addressed is available online at <http://www.sanmarcostx.gov/modules/showdocument.aspx?documentid=20966> .

When meeting with the San Marcos Planning and Development Services staff, it was stated that the AI was considered in the review of the code. San Marcos has a policy limiting unrelated housemates to not more than two per household. However, there is a code exception for up to six people living in a group home in Section 5.1.4.2 Group Living.

## 2.5 Analysis of Housing Complaints

San Marcos directly received approximately six potential Fair Housing complaints since 2013 according to Table 2.2 of the Update. In reviewing the logged items since 2013, the break out is:

Table 2.4  
Fair Housing Complaints Received in San Marcos

Basis of Complaint	# of Complaints
Disability	2
Race	1
Familial Status	1
Sex	0
National Origin	0
Retaliation	0
Religion	0
Color	0
Not a Violation	2

Source: the City of San Marcos

The Texas Workforce Commission also receives complaints for Fair Housing violations. They have the authority to investigate any claims based as they are a designated Fair Housing Assistance Program. The TWC records show that the break out for claims is:

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<sup>53</sup> <http://www.sanmarcostx.gov/index.aspx?page=1429>

Table 2.5  
Fair Housing Complaints Received at TWC

Basis of Complaint	FY 2015	FY 2016
Disability	1	2
Race	1	2
Familial Status	0	0
Sex	0	0
National Origin	1	0
Retaliation	0	0
Religion	0	0
Color	0	0

Source: the Texas Workforce Commission

In the 2016 report to Congress, HUD's FHEO report showed that there were 8,385 Fair Housing complaints in the U.S. Of those, the largest number of complaints came from Texas with 1,172 complaints which represents 14% of all complaints despite Texas only having 8.62% of the U.S. population. Nationally, as has been the case for some time, Fair Housing claims based on disabilities have been the number one complaint filed by a fairly large margin. According to the 2014-2015 FHEO Report to Congress, the following complaints (by protected class) were received:

Table 2.6  
Fair Housing Complaints Received at HUD Nationally

Basis of Complaint	FY 2014	FY 2015
Disability	4,621	4,605
Race	2,383	2,291
Familial Status	1,051	1,031
Sex	879	915
National Origin	1,067	898
Retaliation	867	832
Religion	223	225
Color	146	151

Source: the 2016 FHEO Report to Congress

HUD also tracks specific areas for complaints. Listed below in Table 2.7 are the complaints received for the City of San Marcos between 2014 and 2016. Table 2.8 represents the disposition of these claims. As you can see most are resolved by conciliation agreement or with a showing of no cause.

Table 2.7  
Fair Housing Complaints Received at HUD for San Marcos

Basis of Complaint	FY 2014	FY 2015	2016/17
Disability	17	4	5
Race	3	2	1
Familial Status	0	0	2
Sex	0	0	0
National Origin	1	0	0
Retaliation	0	0	0
Religion	0	0	0
Color	0	0	0

Source: Region 6 Open Records Request

Table 2.8  
Fair Housing Complaints Determination Status at HUD for San Marcos<sup>54</sup>

Determination	FY 2014	FY 2015	2016/17
Complaint withdrawn by complainant without resolution	2	1	1
No cause determination	7	4	4
Conciliation/settlement successful	11	1	1

Source: Region 6 Open Records Request

## 2.6 Conclusions and Implications for Fair Housing Impediments and Barriers

The City of San Marcos is committed to the FHA in principal. Based on the community maps and the R/ECAPs found in the city, there are issues of poverty and being a minority majority community that will need persistent attention to overcome affirmatively furthering fair housing issues. The city has adopted a fair housing policy, an Affordable/Workforce Housing Policy and conducts training for its subrecipients while promoting fair housing in the community.

San Marcos works with the community to fund housing rehabilitation (Southside Community Center that also provides additional funding and St Bernard Project), First Time Homebuyer programs, and the demolition of unsafe structures.

The efforts by San Marcos to ease processes and fund programs are building housing and maintaining housing in the city. The need for examining AFFH considerations will be addressed in the review of

<sup>54</sup> The numbers of determinations may not match the total number of complaints as some complaints have multiple basis for complaints like a single complaint filed for Race, Disability and National Origin would only show one resolution.

impediments in Chapter 6 of this AI. San Marcos is in need of additional affordable housing. The growth in the student population puts pressure on community based housing, even as the development community continues to build more units aimed at the student population.

In speaking with the public during community interviews, there does not seem to be overt racial tension in the community. The lack of complaints in the tables in this section related to San Marcos, suggest that the largest issue for housing in the community is affordability and the need for extremely low income housing.

San Marcos has developed a comprehensive plan and reviewed the city code for compliance with state and federal laws. This third-party review provided the city with guidance on changes necessary. The red flag issue of limits to housing that could impact persons with disabilities appears to be addressed in the code. Affordable housing is actively encouraged within the San Marcos Code with fee waivers for recognized not-for-profit builders like Habitat for Humanity developing low-income housing. There is an entire code section to promote and maintain affordable housing construction for long term access to affordable housing, with limitations place on the possibility that it could become student housing with an age restriction of being over 25 years of age to qualify.

# Section 3:

## Community Engagement

## Section 3. Community Engagement

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### Introduction

The people interviewed for this Update believe that San Marcos is not a city with racial and ethnic prejudice or conflict. The white, black and Hispanics interviewed were generally very positive about community relationships between the residents. However, the city needs “more” is the theme for most of the key topics: More housing; more affordable housing; more rental and homebuyer assistance; more education on Fair Housing Act rights; more jobs; more income; and of course more funding. In this way San Marcos is not different than other cities. The city spends its federal funds generally on items consistent with the direct needs. The social services agencies interviewed however say that they cannot fill the need routinely requested in the community. The city generally gets credit for trying to help improve the economy and create jobs and a general belief that the city has a plan for the future.

The City of San Marcos Analysis of Impediments to Fair Housing from March 2013 (“AI”) conducted three round table discussions and then additional interviews. For purposes of this Update to the City of San Marcos Fair Housing Analysis of Impediments (“Update”) a series of 14 interviews were conducted asking similar questions to determine different perceptions in the community. In addition, three city staff members were interviewed about specific areas including housing and planning and permits. Any comments on this section received at the public meeting to be held on May 10, 2017 will be added to this section as a special section which currently reflects only a heading without comments.

The goal for the interviews was to focus on the most impacted communities. Based on the findings in the AI, the focus was on people interacting with those looking for housing and/or assisting in housing related activities and civil rights organizations. To this end, the majority of the interviews were conducted with social service groups, civil rights groups, and housing support programs. The personal interviews were designed to allow people to speak freely without feeling community pressure to be agreeable. The information gathered has been synthesized into general thoughts based on the whole of input without regard to agreement with the Update information in any other section. For example, there are racial and ethnic concentrations of poverty, but the community does not see this as a concern.

As the interviewees were told that their specific comments would not be part of the Update by name, where a concern would identify the subject interviewed, the direct comment has not been included, but has been incorporated into the general discussion. In certain areas, there is contradictory information from one interviewee to the next, but where there is a split, the prevailing comments will be identified but dissenting

viewpoints will be included. These comments are designed to provide a snap shot into the views of the targeted community and are not intended to be a comprehensive review of San Marcos public perception or any form of a poll of the community.

Two areas of focus in at least one of the roundtables in the AI were not included in the initial gathering of public comment. Generally, the real estate community was not included in the interviews. This included the builders or developers, the financial services industry, and real estate services. In some cases, during surveys of multi-family communities, the comments of managers were noted and while not a full interview, are noted in the public comments. Part of the decision of reducing the comments of the real estate community was the decision made to not update the Home Mortgage Disclosure (HMDA) Data Analysis section in the AI Section 4. The Update concentrates on the rental community as it is the largest segment of the population in San Marcos. In addition, despite attempts to reach out to organizations that would be active in advocacy for the Black or African American communities we were unable to obtain interviews with any civil rights representatives (Texas State NAACP and community churches were contacted). As part of the social services agencies interviews, though direct questions asked by the interviewer, it was clear that these organizations work with the Black/African American community at levels that represent their demographic representation in the overall city population. We attempted to meet with a representative of Texas State University, but due to timing constraints were unable to timely re-schedule the interview when the interview had to be canceled at the request of the interviewee. Calls to a representative of the real estate sales and leasing community were not returned.

The following information is not presented for the truth of the matter asserted by those being interviewed, but their opinions and views. In some cases, the information may not be in sync with the other information provided in this Update. Each interview had the prior AI impediments identified and a request to say if these issues were still a problem today. Each of the general topics will be included to demonstrate the community perception of whether the problem is still and issue in San Marcos.

The following comment summaries are an attempt to pull together various comments in a cohesive manner. Where specific comments can be included to provide the flavor and tenor of the discussion without attribution to the commenter, it will be included.

A list of the community members and the city staff that were interviewed is included in Appendix A of the Update. In addition, a log of people contacted regardless of whether they were interviewed is included along with a blank copy of the questionnaire for community members.

## Interview Comment Summary

### Community Relationship

Based on the interviews, the community does not believe that there are racial or ethnic tensions in San Marcos—including fair housing choice limitations. In two separate questions, the interviewees were asked about relationships between racial and ethnic groups. In response to one of the questions asking “Do you agree or disagree with the statement that San Marcos is open regardless of race, ethnicity, disability or income.” All but one respondent agreed that the city was open as to race, ethnicity and disability. Respondents stated there are community openness issues related income, largely because it limits ability to find housing. One person believed that, historically, divisive attitudes on race and ethnicity have not been an issue, but with recent changes in national leadership, some student population may be demonstrating more verbal animosity in that area toward the Hispanic or Latino communities.

A more general question “Do you feel that San Marcos is a divided community,” created a more diverse viewpoint. Asked as an open ended question, it generated similar responses that the city is not divided by race or ethnicity. However some divides in the community were identified, but not in a traditional tensions between majority populations and protected classes. A common response was that there is a divide between the community and university students (explored further in this section). Several people identified a divide between the pro-growth/development population and environmental concerns about growth. Limited responses include that there was a territorial (Northern/Western versus Southern/Eastern) division that at least one person thought could also be a subtle ethnic issue between the white and Hispanic populations. There were also references to potential economic divisions including a reference to a neighborhood they called “Snob Hill.” One person also identified a potential divide between “BISM” (born in San Marcos) residents and new inhabitants as a conflict since the long term residents do not like to see changes in the how San Marcos operates.

### Students in the Community

Students are not a protected class under the Fair Housing Act. However there is a strong feeling that the student population is limiting fair housing choice by driving up the cost of rental and owner occupied housing and further restricting current housing stock choice. Most of the interviews included an unprompted discussion of the respect for Texas State University, but a strong concern about students and their housing and some discussed student entertainment options. Concerns included the amount of student housing being built, the acquisition of available single family homes by investors to be converted to student housing, the

trend to “rentals by the room” that creates a higher cost per unit and drives affordable housing out of the market for families, and the devolution of traditional neighborhoods when students obtain housing there.

One person interviewed, when asked about in-fill affordable housing, felt that unless there was a way to keep students from being housed there, they were opposed to the program. One comment about how the student housing was harming the single family homes was that homes near Guadalupe and I-35 have dramatically increased in cost due to investors “going from \$45,000 to around \$90,000.” Of a lesser concern but mentioned, was the student population overtaking downtown and otherwise creating congestion. Specifically, many of the people interviewed expressed concern about the Woods of San Marcos.

### Affordable Housing

The lack of affordable housing is considered to be the biggest concern to fair housing choice in San Marcos by everyone interviewed. This was a topic in the AI and the people interviewed generally do not believe it has gotten better. There is still a need identified for both affordable housing and rental assistance in the community. Those interviewed who have housing programs or housing assistance programs believe that the city needs more affordable housing, needs additional rent assistance programs, additional PHA availability, additional special needs housing, elderly housing, and transitional housing. The Community Action, Inc. of Central Texas team said during their interview that they get five to seven calls a week, including one recent day, where they received 15 calls seeking rental assistance—which is generally not a program the agency offers.

The general sentiment is that part of the problem for San Marcos to have enough affordable housing is the market place principle of supply and demand raising the rental costs because of city growth (including student population) and the number of units of housing. The higher student rents have increased the market rate and made rentals unaffordable. Some believe that the city also needs to provide infrastructure improvement to keep housing available from flooding—specifically in Blanco Gardens.

There seems to be a mixed view on whether there should be more multi-family housing—especially tax credit units. The city already has to pass resolutions in support of tax credits developments as it has more than twice the number of units per capita of the statewide average<sup>55</sup>. Some of the responses included a desire to increase the number of public housing units. The length of wait for a public housing unit hurts people with limited incomes and special needs. A special needs social service advisor said that because there can be a

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<sup>55</sup> Texas Government Code 2306.6703(a)(4) discusses that cities that have more than twice the statewide average must pass a resolution on behalf of a project or it is not an eligible project.

year delay for a PHA unit once you are on the list, people with special needs can lose their ability to live independently because to afford housing, they must move in with relatives or other temporary situations living with others. There is no Section 8 voucher waiting list although four-to-five people a day call to be placed on the non-existent list. The PHA stops taking applications for PHA units when the list hits 300.

Another subject brought up in the AI roundtable was that improved enforcement or “regulatory controls” were necessary. There are also mixed views on this subject. Some respondents see the value of strict code enforcement to improve neighborhoods and keep housing livable preventing deterioration of affordable housing. Others expressed a concern that the “double edged sword” of tight code enforcement can price people out of house because they cannot afford the upkeep. Some believe the city has committed to code enforcement and dedicated more resources.

### Transportation

In general, people are mixed on the question of transportation in the city. Many are supportive of the CAP Metro/CART system, but acknowledge difficulties in using the system. The greatest concerns seem to be the length of travel time, connection issues and the limited hours the system runs. Also because it is the Capital Metro System, there are ways to get into Austin, but going south to San Antonio is more difficult with “only Greyhound” as an option. Others feel the system is accessible and allows people to navigate the city.

### Social Economic System

In the interviews, the social economic discussion focused on how the city is working on improving the economic fortunes of its residents. There was support for the San Marcos Partnership and the regional efforts to improve jobs. Several mentioned that a minimum pay rate of \$15 per hour should be sought. Generally, the group agreed that the city is making efforts to improve the economy and increasing opportunities. Most cited the example of Amazon and new service sector opportunities as city wins in job creation. Many think that the job of creating economic vitality is a difficult job. One recipient said that seeking new jobs for the community is made more difficult because of the education concerns. For example, for the Epic Piping jobs, the person said that some people could not be offered a job because they could not pass a third grade math test.

In speaking with apartment managers, the predominant view was that the ability of many people to have three times income to rent ratios they require can be difficult. One apartment location identified a problem for potential working low income persons is that when they receive overtime, they are still low income, but have too high an income to meet the income limits in tax credit housing.

Many of the issues raised in the AI regarding social economic issues like rent subsidies and affordable have been covered in the affordable housing section above.

#### Financial and Lending Issues

The issue of predatory lending is very troubling for most of the people interviewed—with one person calling it a plague in the community. Several of the social services groups said that they work with their clients to assist them in eliminating loans when they can. There is some confusion as to how payday lenders can operate and what restrictions are placed on them.

The AI also listed foreclosures as a problem in 2012/13. With the caveat that discussions were not held with the banking community, it was not identified as a problem for any of the interviewees in 2017. One social service provider said he had not more than five people in five years and Habitat for Humanity commenter stated that they did not have any foreclosures in his time with the program. Many believed that lending was an issue because of lack of income and the costs of housing increasing in the community. One person did discuss what he thought was a vibrant local banking community.

#### Knowledge of Fair Housing Act and Americans with Disabilities Act

There was universal agreement that people are not aware of fair housing rights and do not know how to report it when they feel they are being discriminated against. Many felt that there should be more education in the community including non-profits providing additional materials to their clients. There was a general feeling fair housing violations happen, but people do not understand or report the violations.

Given that one of the most prevalent Fair Housing Act violations reported in recent years is discrimination to persons with disabilities, the questions included asking about the community's knowledge of the ADA. There was a belief by those working with the special needs population that more accessible housing is needed. Many thought that people were generally aware of the ADA, but also acknowledge a lack of funding for corrective actions is available. One commenter credited the city with beginning a more aggressive curb cut program to assist mobility challenge residents. The SMPHA has a form for new residents giving them the opportunity to request reasonable accommodations in their units at the time they move in to the community.

#### Special Needs Housing

There was a general consensus that there is a shortage of special need and transitional housing. Several people identified Southside Community Center as providing a limited homeless shelter. Also identified was

the Women's shelter program for transitional housing. Several people discussed accessibility programs including barrier removal programs. There is not sufficient funding for these programs. In addition, generally groups in contact with those in need of temporary housing agreed that there is still a need for additional transitional housing. The PHA says that it is moving toward making all units accessible if possible.

### Other Issues

Several people mentioned the issues surrounding former convict housing. Those commenting generally felt that restrictions on anyone who has ever been a convict not being able to rent an apartment was too severe and caused a hardship and a limitation to housing choice.

Individual comments to topics not on 2013 list:

- Need the political will to improve housing funding
- People want out of pockets of poverty but do not have anywhere to go
- Preventing students from moving in (to established neighborhoods) is more important than creating affordable housing with in-fill
- People want to stay where they are, but can't because of floodplains
- Challenge for people kicked out of housing to find anywhere else to go because of credit damage
- Increase student housing and higher income housing to move people out of affordable housing and free it up for low income residents
- Rents are not really affordable

During the interviews to determine the openness of the city, interviewees were asked about park space and its availability to all residents. Most of the interviewees felt there was ample park space and that the community could access it freely. Two commenters thought there needed to be additional park space, but still thought it was open. On the negative side, three commenters thought that the river parks were over used and had too many outsiders during the summer. One commenter would like to look at fees for non-residents.

Reserved for Public Comments

The public meeting was held on May 10, 2017 and six people were in attendance. No additional comments were received at that time.

No comments were received during the posting period when posted to the City of San Marcos Website from May 11, 2017 until the Council hearing on June 6, 2017.

The San Marcos City Council held a public hearing on June 6, 2017 where no comments were received.

# Section 4:

## Cost of Housing in San Marcos

## Section 4. Cost of Housing in San Marcos

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In the 2013 Analysis of Impediments to Fair Housing (“AI”), Section 4 focused on the ability of persons to receive mortgages looking for any trends that demonstrated racial or ethnic discrimination. In many communities this racial and ethnic bias is a problem, but it does not appear to be so in San Marcos. As part of this Update, we determined not to review the HMDA information for two reasons. First, the AI Home Mortgage Disclosure Act (HMDA) analysis found no noticeable discrimination based on the race or ethnicity of the applicant as applicants of Hispanic or Latino origin were slightly more likely to be approved. Secondly, as Table 4.1 shows, rental issues are far more significant to the residents of San Marcos as residents here are more than twice as likely to rent rather than be a home owner. San Marcos is slightly under twice as likely to rent than the Texas average.

Table 4.1  
San Marcos Housing Information<sup>56</sup>  
Census Based Housing Information

Index	San Marcos	Texas	National
Median home price	\$134,800	\$131,400	\$175,700
Median rent asked	\$919	\$870	\$920
Avg. people per household	2.4	2.8	2.6
Owner occupied households	27.2%	62.7%	64.4%
Renter occupied households	72.8%	37.3%	35.6%

According to AreaVibe website, San Marcos has a 10.3% vacancy rate. During a survey of area apartment communities, the vacancy rate was between 95% and 98%. In addition the website contained the following comparisons between San Marcos and the national average<sup>57</sup> :

- The median home price in San Marcos is 23% lower than the national average.
- The median rent asked in San Marcos is equal to the national average.
- The average number of people per household in San Marcos is 6% lower than the national average.
- The number of owner occupied households in San Marcos is 58% lower than the national average.
- The number of renter occupied households in San Marcos is 104% higher than the national average.

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<sup>56</sup> Area Vibes <http://www.areavibes.com/san+marcos-tx/housing/>

<sup>57</sup> Id.

As part of the Update process, the Update team visited with multi-family communities selected at random in San Marcos. The goal was examine different types of apartments and provide a snapshot of rents. With the exception of the tax credit property which uses the state scale on income and rent limits, the managers suggested that they would require three times the contract rent rate for the length of the contract. Table 4.2 is a summary of the apartments/townhomes.

Table 4. 2. City of San Marcos<sup>58</sup>  
Actual Rents by Apartment Type

Apt. Type	1 bedroom	2 bedroom	3 bedroom	4 bedroom	Per Bedroom	Zip Code
Market	n/a	\$969-\$1,099	n/a	n/a	NO	78666
Student	n/a	\$715	\$670	\$630	YES	78666
Market	\$930-\$1,095	\$1,190-\$1,315	\$1,535-\$1,740	n/a	NO	78666
Student	\$909	\$633	\$565	\$525	YES	78666
Student	\$880	\$680	\$605	\$580	YES	78666
Tax Credit <sup>59</sup>	\$438-\$876	\$525-\$1,051	\$607-\$1,214	\$677-\$1,354	NO	78666
Market	\$920-\$1,064	\$1,225-\$1,379	\$1,510-\$1,591	n/a	NO	78666

Table 4.3 Hays County<sup>60</sup>  
Census based Housing Information

Census Tract Code	Total Housing Units	1-4 MF Units	Average Home Age (Years)	Owner Occupied Units	Vacant Units	Owner Occupied 1-4 MF Units	Renter Occupied Units
0101.00	1027	689	41	304	84	280	639
0102.00	580	347	41	116	89	116	375
0103.02	1768	1341	32	432	179	432	1157
0103.03	2149	930	12	502	141	502	1506
0103.04	2830	937	27	225	263	214	2342
0104.00	2908	1643	16	1074	323	1069	1511
0105.00	1386	1092	25	311	78	311	997
0106.00	3839	3670	24	2668	232	2668	939
0107.01	3520	1626	20	894	201	894	2425
0107.02	1130	784	22	604	174	604	352
0108.03	2350	2325	18	1523	451	1523	376
0108.04	4560	4512	19	3480	744	3480	336
0108.05	1672	1672	7	1565	38	1565	69
0108.06	1286	1270	15	1107	51	1107	128
0108.07	816	816	21	570	156	570	90
0108.08	2265	2247	17	1771	226	1771	268
0108.09	1868	1868	17	1659	104	1659	105
0109.01	2815	2805	19	2544	127	2544	144
0109.02	3220	3178	15	2534	250	2534	436
0109.05	1717	1717	19	1307	166	1307	244
0109.06	2806	2806	7	2254	142	2254	410
0109.07	2996	2984	11	2166	299	2166	531
0109.08	1730	1730	6	1544	19	1544	167
0109.09	1537	1537	0	1194	88	1194	255
0109.10	2413	2303	9	1893	84	1893	436

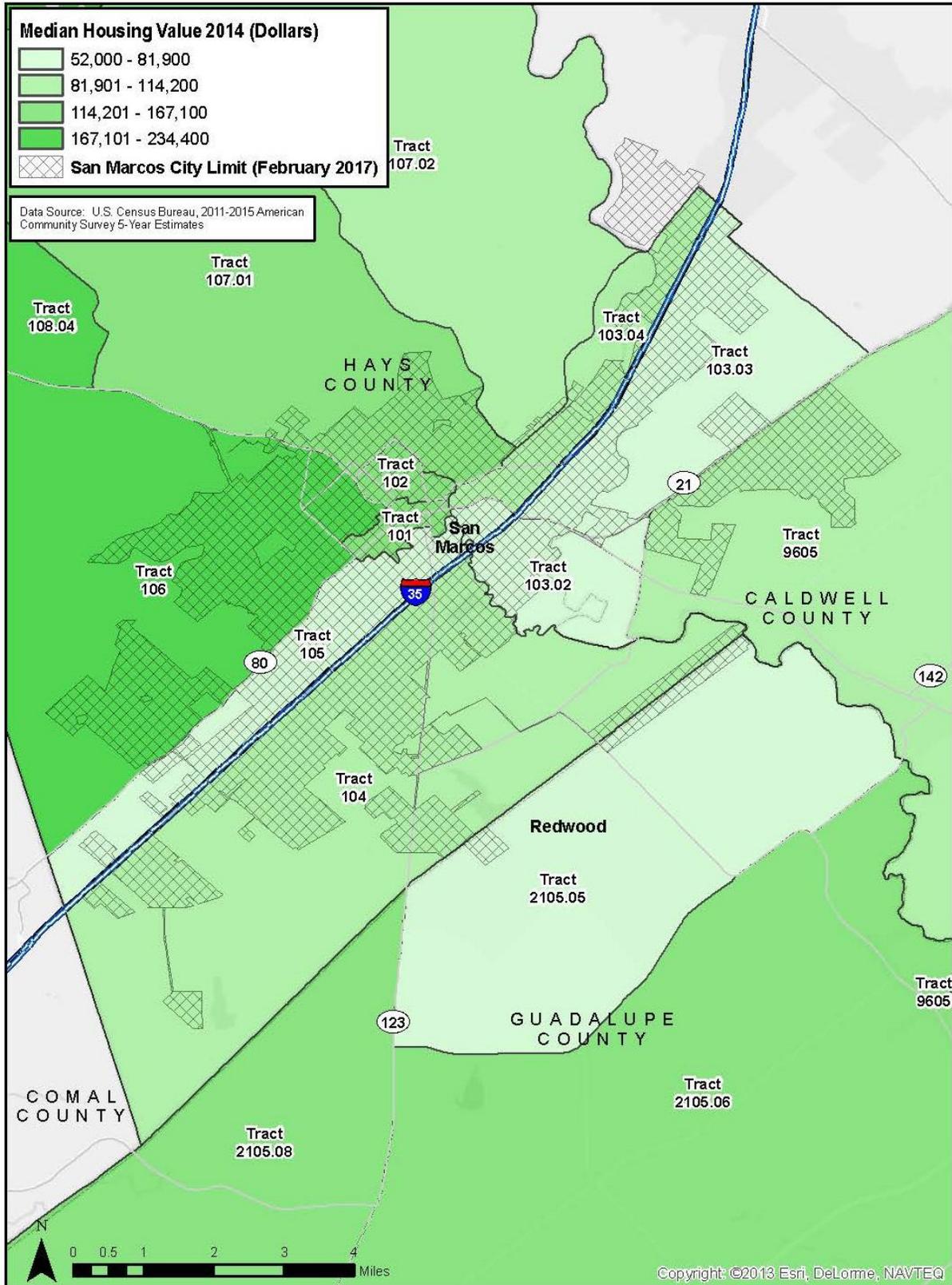
<sup>58</sup> Information gathered in person in April 2017

<sup>59</sup> The amount of rent may vary based on income levels and utility allowances.

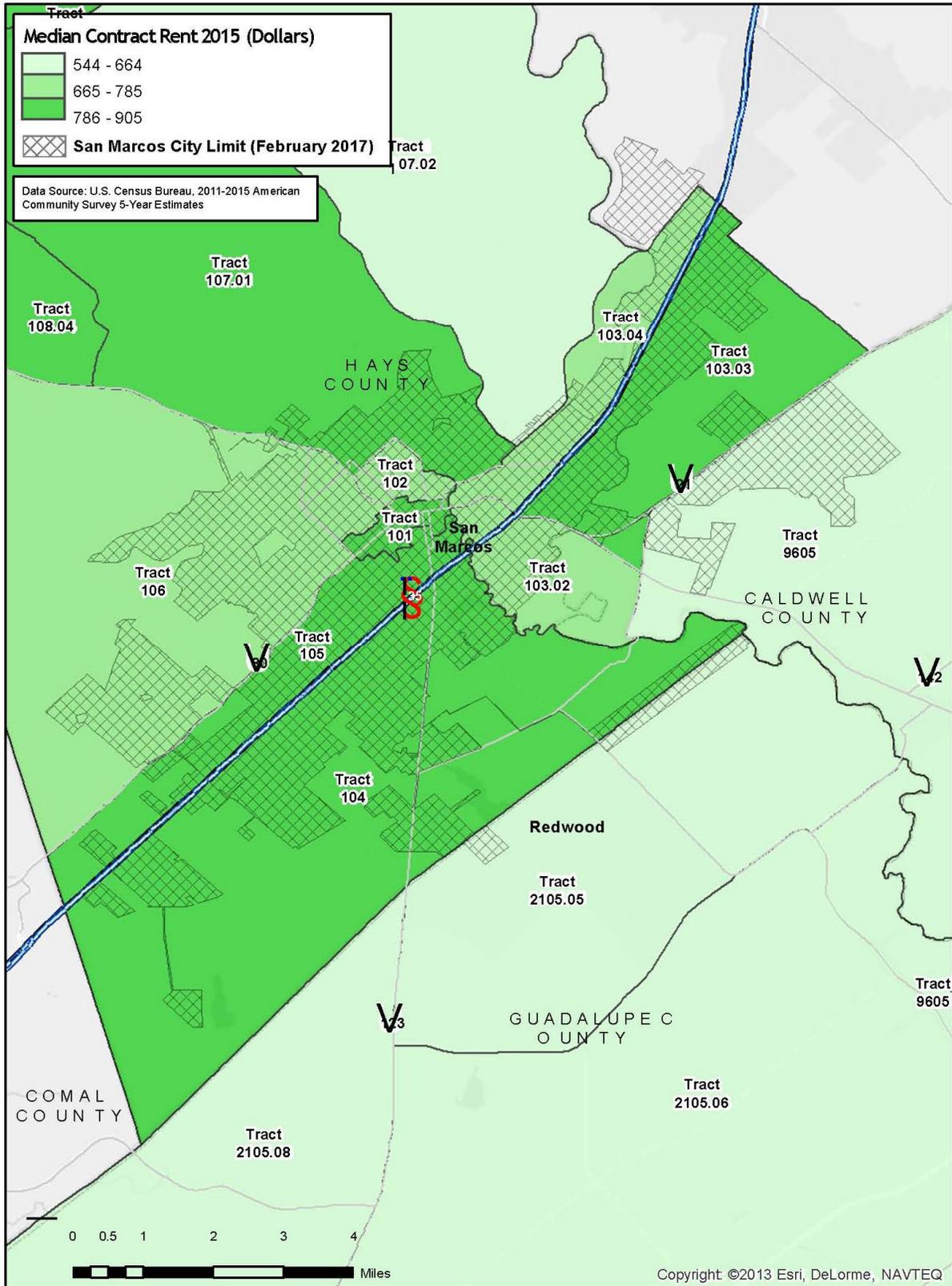
<sup>60</sup> 2016 FFEIC Census Report Summary Census Housing Information Hays County

The cost of Housing in San Marcos does vary by area. Maps 4.1 and 4.2 below show the Value of Housing and the Rental Contract Rates. The values assigned by the ACS 2011-2015 Survey Five Year Estimates. These are estimates by census tracts.

Map 4.1 City of San Marcos  
Median Housing Values 2015



Map 4.2 City of San Marcos  
Median Contract Rent 2015



# Section 5:

## Fair Housing Index

## Section 5. Fair Housing Index

### Introduction

When the Analysis of impediments to Fair Housing (“AI”) was drafted in 2013, the analysis of Home Mortgage Disclosure Act was conducted (“HMDA”) and showed that there was no disparate impact on the lending decisions of home loans (both primary or secondary) for racial or ethnic reasons. That review specified that redlining may be occurring in some neighborhoods, but due to a 72.4% renter population Section 4 was repurposed to a discussion on rental housing.

With limited data available for this review, and with the income levels in San Marcos directing people away from home purchases, Section 5 was not updated. However, the chart below is provided to show that the Federal Financial Institutions Education Council shows that no areas in the community are in Distressed or Underserved.

Table 5.1 2016 FFIEC Census Report  
Summary Census Demographic Information  
MSA/MD: 12420- AUSTIN-ROUND ROCK,  
County: 209 - HAYS COUNTY

Tract Code	Tract Income Level	Distressed or Under Served Tract	Tract Median Family Income %	MSA Median Income	2015 Estimate of Tract Median Income	2010 Estimate of Tract Median Income	Total Tract Pop.	% Tract Minority Pop	Tract Minority Pop	Owner Occupied	1-4 MF Units
0101.00	Moderate	No	75.43	\$77,800	\$58,685	\$54,013	2249	29.35	660	304	689
0102.00	Moderate	No	51.02	\$77,800	\$39,694	\$36,538	6030	36.60	2207	116	347
0103.02	Moderate	No	51.03	\$77,800	\$39,701	\$36,540	4356	71.85	3130	432	1341
0103.03	Moderate	No	75.35	\$77,800	\$58,622	\$53,958	6569	48.53	3188	502	930
0103.04	Low	No	45.17	\$77,800	\$35,142	\$32,344	5233	53.53	2801	225	937
0104.00	Moderate	No	72.66	\$77,800	\$56,529	\$52,029	7934	56.59	4490	1074	1643
0105.00	Moderate	No	55.28	\$77,800	\$43,008	\$39,583	3453	69.42	2397	311	1092
0106.00	Middle	No	102.30	\$77,800	\$79,589	\$73,252	9265	30.29	2806	2668	3670
0107.01	Upper	No	127.87	\$77,800	\$99,483	\$91,563	7234	27.66	2001	894	1626
0107.02	Middle	No	97.18	\$77,800	\$75,606	\$69,583	2991	28.72	859	604	784
0108.03	Middle	No	119.27	\$77,800	\$92,792	\$85,400	4478	19.32	865	1523	2325
0108.04	Middle	No	112.80	\$77,800	\$87,758	\$80,774	8985	10.88	978	3480	4512
0108.05	Upper	No	158.25	\$77,800	\$123,119	\$113,317	5738	18.33	1052	1565	1672
0108.06	Upper	No	169.33	\$77,800	\$131,739	\$121,250	3655	12.39	453	1107	1270
0108.07	Middle	No	82.05	\$77,800	\$63,835	\$58,750	1962	16.56	325	570	816
0108.08	Upper	No	122.36	\$77,800	\$95,196	\$87,619	5844	17.08	998	1771	2247
0108.09	Upper	No	147.07	\$77,800	\$114,420	\$105,308	4950	16.32	808	1659	1868
0109.01	Upper	No	171.08	\$77,800	\$133,100	\$122,500	7769	20.54	1596	2544	2805
0109.02	Upper	No	133.89	\$77,800	\$104,166	\$95,875	10095	36.83	3718	2534	3178
0109.05	Middle	No	116.36	\$77,800	\$90,528	\$83,317	5639	46.87	2643	1307	1717
0109.06	Middle	No	85.20	\$77,800	\$66,286	\$61,009	11434	64.42	7366	2254	2806
0109.07	Moderate	No	74.98	\$77,800	\$58,334	\$53,690	10854	73.63	7992	2166	2984

# Section 6: Impediments to Fair Housing and Remedial Actions

## Section 6. Impediments to Fair Housing and Remedial Actions

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### Introduction

The heart of an Analysis of Impediments to Fair Housing is to take the collected information and analyze what the impediments are that limit Fair Housing choice for residents in the community. The City of San Marcos Analysis of Fair Housing Impediments in March of 2013 (AI) looked at factors that may be a condition of discriminatory effect on individuals or community impacts that have an indirect impact on housing choice as issues, discussed how the issues could impact communities, and then discussed remedial actions. Section 6.1 will address the issues raised in the AI and what steps the city has used to take ameliorative actions.

The city has made strong efforts to address the impediments brought forward in the AI. As discussed in Section 2 of the Update, HUD continues to encourage communities to prevent discrimination and actively pursues actions that directly discriminate against individuals or protected classes. Current law<sup>61</sup> requires community to focus on community disparate acts to protected classes even if no intentional racism is found. There can be reasonable policy decisions—like repairing existing communities rather than providing new higher opportunity zones—for persons protected by the Fair Housing Act. In Section 6.2, this update will look at some areas for attention to meet the challenge of affirmatively furthering fair housing in anticipation of the Assessment of Fair Housing anticipated for submission to HUD for approval by the City in 2019 with the new Consolidate Plan 5 year Plan.

### 6.1 Update/Action from 2013 AI

The AI looked at five major categories of impediments with one having more than one impediment within the major impediment. The identified impediments are:

1. Lack of affordability and insufficient income
2. Increased public awareness of fair housing rights should be evaluated
3. Impacts of Subprime Mortgage Lending Crises and increased Foreclosures
4. Predatory lending and other industry practices
5. Poverty and low income
6. Limited Resources to assist lower income, elderly and indigent homeowners maintain their homes and stability in neighborhoods.

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<sup>61</sup> Part of the challenge is determining with the change in administration the ongoing support for the Disparate Impact and Affirmatively Furthering Fair Housing Rules. It is important to note that these rules have a private right of action allowing housing and civil rights advocates to pursue legal action even if HUD does not pursue a complaint.

## AI Impediment Review

Rather than place the AI on a shelf, the City of San Marcos analyzed the identified impediments and turned them in to the 2014 Analysis to Impediments to Fair Housing Choice Action Plan<sup>62</sup>. The Action Plan listed the following activities which track the impediments identified in the AI (included below each strategy is the city response(s) to the passed Action Plan):

### Impediment 1. Lack of affordability

"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."

Goal 1. Expand the housing stock of affordable housing

Strategy 1. Offer an Infill Housing program to provide incentives to developers to build and sell housing that meets the program's standard for affordability.

- Ø The City is identifying properties that will be eligible for housing in existing Neighborhoods
- Ø Passed RESOLUTION NO. 2014-96R A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN AFFORDABLE/WORKFORCE HOUSING POLICY

Strategy 2. Purchase and/or donate property to non-profit builders (such as Habitat for Humanity) for construction of affordable housing.

- Ø This is being done, however Habitat is only able to build one house per year with existing funding—low cost lots will make the cost of houses less expensive.

Strategy 3. Reduce the cost of constructing affordable housing through policies that waive or reduce development permit fees and impact fees.

- Ø Application fees are waived in the draft Code under §2.3.1.1F. 3. For CDBG recipients, Habitat for Humanity, San Marcos Reinvestment Corporation and the Public Housing Authority. This waiver lowers the cost of houses according to a Habitat of San Marcos participant.

Goal 2. Continue/ expand homebuyer assistance programs

Strategy 1. Provide direct homebuyer assistance through programs that provide down Payment and/or closing cost assistance to targeted homebuyers.

- Ø Currently operates a First Time Homebuyer Program, Texas State Professor Program and City Employee Residency Program are ongoing programs

Strategy 2. Place links to other, non-city homebuyer programs on the "Housing" page of the City's website.

### Impediment 2. Insufficient income for the local cost of housing

Goal 1. Reduce living expenses to allow more funds to be available for rent/mortgage payments

Strategy 1. Sponsor and support programs that encourage energy efficiency.

- Ø The City offers an extensive energy conservation program available on the website: Jan Klein, Conservation Coordinator 512.393.8310
  - Free Energy Audits
  - Energy Efficient Home Rebate Program
  - Commercial Lighting Retrofit Program

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<sup>62</sup> A full version of the resolution is attached as Appendix B in this Update.

- Distributed Generation Rebate Program
- Links/Resources

Strategy 2. Seek sources for weatherization grants that could be available to San Marcos residents. If not sponsored/ offered by the City, links to more information should be added to the "Housing" webpage.

Strategy 3. Support non-profit organizations that assist low income persons with paying utility bills.  
 Ø The City works with Southside Community Center, Society of St. Vincent de Paul at St. John's Catholic Church, and Community Action, Inc. of Central Texas which all provide some utility assistance.

Goal 2. Increase the number of jobs in San Marcos that pay a living wage and provide benefits

Strategy 1. Work with the Chamber of Commerce, Greater San Marcos Partnership, and other economic development organizations to encourage the location of new businesses or the expansion of existing businesses in San Marcos.

- Ø The City works closely with and funds portions of the Greater San Marcos Partnership to help increase or improve jobs in the community. It has had success since the AI in attracting new business or upgrading existing—including at least one minimum wage guaranty. Activities listed on the economic development transparency page include the following:

<a href="#">2014-170R / 12-16-2014</a>	Epic Piping	N/A / Relocate the company's manufacturing facility to the former Butler Mfg facility / 140 jobs by 12/31/2016 70 jobs each subsequent yr until 2019 mini 210 jobs 12/31/17 mini 280 jobs 12/31/18 Total jobs - 350 12/31/2019	80% of Additional Prop Taxes
<a href="#">2015-94R / 7-21-2015</a>	Amazon.com	\$60M Capital Inv't \$131M Pers Property / 855,000 Sq Ft bldg warehouse and distribution space / Min. 350 jobs by 12/31/17 Maintained for term. Aggregate payroll approx \$11,284,000	40% real property taxes 85% personal property taxes 15%-85% sales tax revenues (incrementally)
<a href="#">2015-91R / 7-21-2015</a>	Springtown Shopping Center	\$27.5M Capital Inv't \$7M Tenant Capital Inv't / Redevelop site as a "Class A" retail shopping center / N/A	Based on additional property and sales taxes Declining scale from year 1 to year 10 Ex: yr 1 - 100% Prop Taxes and 90% Sales Taxes yr 10 - 20% Prop Taxes & 20% Sales Taxes Grant pymts subject to reduction if Cap Inv't is less than \$27M
<a href="#">2015-93R / 7-21-2015</a>	Tanger Properties	\$6M Additional Retail Space \$2.11M Additional Enhancements / Redevelop site 24,000 Sq Ft new retail space / N/A	75% additional real property taxes within site 75% additional sales taxes within site Subject to reductions if tenants relocate Grant Pymts not to exceed \$2.5M
<a href="#">2016-112R / 8-16-2016</a>	BestBuy.com	N/A / Occupy ~10,000 sf existing call-center space / 50 "Jobs" by 2020 (>30 hours per week, minimum wage of \$15.00 per hour, including health insurance)	50% of personal property tax revenue 75% of sales tax revenue

Goal 3. Assist low income homeowners with rehabilitation expenses

Strategy 1. Provide funding for homeowner occupied rehabilitation programs.

- Ø The CDBG Program funds housing rehab through the Southside Community Center. It also has plans to perform rehabs for LMI population using CDBG-DR funds that it will directly administer.

Strategy 2. Maintain a list of organizations that may provide assistance with minor rehabilitation or accessibility projects and make it available to persons needing assistance.

Impediment 3. Lack of public awareness affair housing rights

Goal 1. Provide fair housing education and outreach activities

Strategy 1. Host an annual Fair Housing Workshop targeted toward those working in the housing industry.

- Ø The city has sponsored workshops and participated in others:

10/17/2013	Workshop	Fair Housing 101	Public awareness & education invitation distributed to realtors, property managers, apartment complexes, non-profits
10/20/2014	Press Release – Fair Housing Workshop – Reasonable Accommodation	Public awareness & education	
10/11/2014	Mailed invitations to workshop to over 90 property management, apartments, mortgage /banker companies.	Outreach	In addition to mailed invitations, e-mails were sent to SMABoard of Realtors for distribution, Chamber of Commerce, and Non-profits
09/29/2015	Subrecipient Training	Outreach / Education	Workshop included a Fair Housing element

Strategy 2. Host or participate in homebuyer education workshops that include fair housing as one of the covered topics.

- Ø The City has held at least one First Time Homebuyer Program and has documentation on the website on how to apply and qualify:

10/22/2015	Homebuyer Education Program – Library	Education	Program included fair housing education
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Strategy 3. Increase public awareness of their fair housing rights through a number of outreach actions including maintaining an up-to-date Fair Housing section on the website, adding contact information to all housing brochures; publishing information ads periodically; and issuing an annual Fair Housing Month proclamation.

- Ø The city maintains a page on the Website for Fair Housing that provides information on what the Fair Housing Act Protects and how to file a complaint with HUD. In addition, the city runs community ads in the newspapers that discuss Fair Housing at least annually. The City does issue an annual Fair Housing proclamation.

Strategy 4. Periodically survey the community to assess any changes in general knowledge and familiarity with fair housing rights. Review fair housing complaint data from all available sources to see if any new patterns emerge.

- Ø The city has conducted at least one survey of the community:

2014-2015	Community Needs electronic survey included Fair Housing Needs survey	Outreach	90 responses were received
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Goal 2. Develop fair housing outreach activities targeted to youth

Strategy 1. Host a Fair Housing Poster Contest and provide participants with fair housing basics.

Strategy 2. Offer bilingual Fair Housing posters to SCMCISD to post in each school.

Goal 3. Maintain an up-to-date City of San Marcos Fair Housing policy

Strategy 1. Conduct a periodic review of the City's Fair Housing Ordinance/Policy to ensure that it complies with current federal fair housing policy guidelines.

Strategy 2. Provide opportunities for City Staff to participate in Fair Housing Training programs.  
 Ø The City has provided opportunities for staff to attend:

10/29/2014	Workshop presented by Austin Tenants Council	Education	PHA well represented, as was City staff-Sam, Cindy C, Steve Van Patton, Dalinda, Janis
03/23/2015	Forwarded TDHCA Webinar invitation to non-profits and City staff	Education	
2015	Staff completed a National Fair Housing Alliance Training Webinar regarding Fair Lending	Staff Education	

Strategy 3. Ensure that all personnel who work with housing programs have a thorough understanding of fair housing regulations.

Goal 4. Increase awareness of fair housing rights and resources in the young adult population

Strategy 1. Work with Texas State University and apartment locator services to disseminate fair housing information to their clients/students.

Strategy 2. Make Fair Housing Rights information available to new utility customers.

Ø The city provided all utility companies with Fair Housing information:

Summer 2016	Fair Housing Fact included in <u>The City Exchange</u>	Outreach / Education	Quarterly newsletter distributed to all utility billing customers and as handouts at various locations
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Impediment 4. Impact of subprime lending practices / increased foreclosures

Goal 1. Increase public awareness of available programs that help reduce mortgage default rates

Strategy 1. Update "Housing" website page to add resources for people facing foreclosures, such as the FHA Resource Center, contact information for housing counseling agencies, and HUD's webpage regarding predatory Lending.

Strategy 2. Include the *Don't be a Victim of Loan Fraud* fact sheet and/or brochure in all Housing incentive applications.

Strategy 3. Review HMDA data annually to see if there appears to be disparities in loan originations and interest rates among borrowers of different protected classes exist. If problems are found, target education focus toward those classes having issues.

Impediment 5. Impact of predatory lending

Goal 1. Increase public awareness about predatory lending practices

Strategy 1. Include Predatory Lending prevention information on "Housing" page of City web site.

Strategy 2. Conduct surveys of homebuyer incentives after the loans close regarding their experiences with the homebuyer process.

Impediment 6. Low income residents have limited resources to maintain homes and neighborhood stability (Note: Actions covered under the Lack of Affordable Housing impediment may also address this impediment)

Goal 1. Support programs that help maintain neighborhood stability

Strategy 1. Sponsor neighborhood cleanup activities.

- Ø The city has a calendar of neighborhood cleanups that can be scheduled along with the Community Connect Trailer that includes had tools like gardening gear and other clean-up tools and is available to neighborhoods. In addition, the city is sponsoring the "Community Clean Up" that allows residents to drop off bulky material that is difficult to dispose of like tires, and household cleaners that can create a clutter problem because of inability to easily dispose of the items.

Strategy 2. Support the Texas State annual *Bobcat Build* community service project.

- Ø Bobcat Build was to have more than 5,000 volunteers on April 2017 to help do repairs and clean-up in the community. It is an annual event sponsored by Texas State University. It is the second largest one-day community support event in the state.

Strategy 3. Identify and take steps to require removal or repair of substandard structures, which may include providing funding for demolition and clearance activities.

- Ø The city has worked to remove unsafe housing. During community interviews some were concerned if at one point the city was too aggressive in this program. Part of the in-fill program mentioned above relates to this program.

Goal 2. Support programs that provide opportunities for neighbors to work together to improve the appearance of their neighborhood

Strategy 1. Allow City-owned vacant lots to be used for community garden projects.

- Ø Community garden in Alamo Neighborhood is planned for 2017 Fiscal year. During a community survey in 2014 and acted upon by the Council in 2015, Community Gardens did not receive very high support by the community but were able to be funded.

Strategy 2. Support "Adopt a Spot" programs such as the *Keep San Marcos Beautiful Program*.

- Ø The city sponsors public meetings to recruit people and companies to do these clean-up programs by committing to "adopt" a location to keep clean inside the community as well as bring in support for the Keep San Marcos Beautiful programs.

Strategy 3. Host/support free or low cost programs that made it convenient to clean-up properties such as a Brush Drop Off, Household Hazardous Waste Collection Site, and Green Guy Recycling program that accepts tires, Freon-containing appliances, and electronics.

- Ø The city is sponsoring the “Community Clean Up” that allows residents to drop off bulky material that is difficult to dispose of like tires, and household cleaners that can create a clutter problem because of inability to easily dispose of the items.

Strategy 4. Host/support community events that improve neighborhoods such as Texas Trash Off, National Planting Day, and Texas Arbor Day.

- Ø The City is supportive of these type events. KSMB has the resources to assist groups and individuals with planning and supplying, in order to undertake specific area cleanups. Don't Mess with Texas Trash-Off is the single largest one-day cleanup for the state of Texas. This event serves as Texas' signature event for the Keep America Beautiful Great American Cleanup. Challenge SMTX is a city-wide anti-litter campaign challenging residents to pick up one piece of litter a day and putting it in the either a recycling or trash container.

Goal 3. Reduce rehabilitation costs through fee waivers

Strategy 1. Continue policy of waiving construction permit fees for CDBG-funded rehab programs and for Public Housing Authority projects.

- Ø Application fees are waived in the draft Code under §2.3.1.1F. 3. For CDBG recipients, Habitat for Humanity, San Marcos Reinvestment Corporation and the Public Housing Authority. This waiver lowers the cost of houses according to a Habitat of San Marcos participant.

The City has aggressively pursued the impediments identified in the AI, but there are some additional items that could continue the progress being made.

Impediment 1. Goal 2. Strategy 2. The City provides its own first time home buyer program. The Action Plan calls for other first time homebuyer program links on the housing page. A cursory review of the housing website showed an absence of these links. Another program could be the Texas Department of Housing and Community Affairs first time homebuyer program. They are intended to be low interest loans for people attempting to gain their first home, or for those who have not owned a home in three years in some circumstances. A person can also be eligible for deferred forgiveness down payment assistance grants.

Impediment 2. Goal 1. Strategy 2. Again, the housing webpage does not feature these links prominently. A program that may provide weatherization assistance for the community could be the Hays Combined Community Action. This program is funded through the Texas Department of Housing and Community Affairs weatherization grant program. The City will need to verify program service areas. Similar programs are funded in other counties.

Impediment 3. Goal 1. Strategy 3. The web site page dedicated to Fair Housing is up and active and provides information on Fair Housing rights. The contact information—even in link form—to the Texas Workforce Commission (TWC) should be included on the page. TWC is the official Fair Housing Assistance Program

agency for the State of Texas. Some people might feel that TWC has less bureaucracy than HUD and might be more inclined to file a complaint there. There should also be a link on the page to the San Marcos Fair Housing Policy. Other suggestions are included in Section 6.2.

Impediment 3. Goal 3. Strategy 3. To meet the impediment resolution strategy of “*Ensure* that all personnel who work with *housing* programs have a thorough understanding of fair housing regulations” (emphasis added) there needs to be some clarification of how to ensure (job description, part of the review process, etc.) employees meet the requirement. In addition, is the term “housing” limited to only the people who work directly with the CDBG program or other housing development programs? The planning Department, Code Enforcement, Economic Development, senior city staff developing planning documents all work with housing that may have direct impact on housing programs. Are these staff members included in Fair Housing training? If so, how is it documented?

Impediment 4. Goal 1. Strategy 1. Links to foreclosure assistance are not featured on the housing web page. A program that may provide foreclosure could be a separate heading in the program.

## 6.2 Affirmatively Furthering Fair Housing Impediments, and Potential Actions

### Introduction

This portion of the Impediments to Fair Housing and Remedial Actions will look toward population trends and the potential for concerns being raised regarding affirmatively furthering fair housing (“AFFH”). The new AFFH rule focuses in on racial and ethnic concentration of poverty, as well as community impacts on persons with special needs. As Section 6.1 described, San Marcos embraces the concept of fair housing. That commitment is demonstrated through the 2014 Action Plan addressing the AI identified impediments approved by the council and the accomplishment of many of the strategies of that plan already being implemented. As was discussed in Section 3, during community interviews, those interviewed thought there was very little to no community tensions based on race or ethnicity. This accomplishment should be highlighted and not overlooked. In this section however, the goal is to look to items that could potentially raise concerns based on a statistical review of the population. This type of review—utilizing some concepts of the Assessment of Fair Housing (“AFH”) tool (currently required for San Marcos in 2018/2019)—will look for trends and concentrations of poverty. Sections 1.6 and 1.7 of this Update focused on concentrations of poverty in school districts and census tracts that overlap with large numbers of racial and ethnic minorities.

HUD calls these areas R/ECAPs under the AFFH Final Rule and make up a significant portion of the AFH preparation and the questions raised by the AFH Tool.

The HUD AFFH Final Rule is not embraced by everyone. Many commenters to the rule found it to be social engineering aimed at using Section 8 to force diversity. It has garnered much debate in communities and in some quarters remains very unpopular. At least through anecdotal information, some HUD grantees have discussed not accepting HUD funds to avoid the rule. This Update is not intended to challenge or support the merits of the AFFH Final Rule. At present, it is a rule that is a condition precedent on obtaining federal funds from HUD. The potential actions listed below allow for the city to apply their local perspective and community norms. As a city that appears to be absent racial and ethnic tensions, San Marcos starts from a much more positive place than some communities.

The City of San Marcos is a majority minority community according to the 2015 American Community Survey estimates. In 2010, the racial and ethnic populations totaled 59.5%<sup>63</sup>. Using 2015 estimates, the racial and ethnic population totaled 57.7%. In 2015, the number of people identifying as “other race” dropped from 13.5% to 6.7%, while the Hispanic/Latino increased by 2.7%. The general population growth is somewhere between 21% and 35% since there is a difference of 5,974 residents between the American Community Service data and U.S. Census QuickFacts of total population.

A challenge identified in the AI is the lack of income. The number of people in poverty in 2010 was 12,987. The estimates in 2015 were that 17,978 households were in poverty in San Marcos, for a difference of 4,991 households. Using the larger population estimate, poverty as a percentage remains at approximately 30%<sup>64</sup> overall even with the growth of the city population. Hispanics had the largest growth in the number of people who were estimated to be in poverty in 2015 compared with 2010.

Personal economic limitations places extreme pressure on the city as nearly one-third of the population is living in poverty, creating choice limiting options on finding affordable housing, transportation alternatives and primary school options. One expected result of low income is that 72.4% of San Marcos residents rent their housing. Of the total rental units, 63% are estimated to pay more than 30% of their gross income to housing costs. According to HUD, this means that 63% of the renters in the city live in housing that is not considered affordable, regardless of the actual rent costs. The HUD standard for affordable rent is not more than 30% of gross income. This standard also translates into many financial decisions by the rental

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<sup>63</sup> The 13.5% of other race is included to determine that the city was a majority minority as is the 6.7% in 2015.

<sup>64</sup> The poverty rates by race in table 1.5 collectively will exceed the 30% estimate based on 17,978 people in poverty in a city population of 60,684 (29.6%) rather than the 48,601 Households measured which would be a poverty rate of 36.9%

community. Without a guarantor, a fairly standard valuation according to the managers interviewed in San Marcos is that a potential renter needs to make three times rent to qualify for a lease. The median rental cost in San Marcos according to the ACS estimates is \$939 per month. This number is likely impacted by the “per bedroom” lease arrangement. At the time of this publication, a 2 bedroom unit in the Woods of San Marcos community was priced at \$715 per room or \$1,430 per unit. A four bedroom unit in the same facility was priced at \$670 per bedroom for a total \$2,680. The median estimated rents in the ACS survey actually range between \$544 and \$905.

Based on these factors, the following seven impediments have been identified based on statistical reviews and the public comments during interviews:

#### 6.2.1 Racial and Ethnic Concentrations of Area Poverty (“R/ECAPs”)

R/ECAPs are a concern for HUD. In the AFFH Final Rule, HUD emphasizes why a R/ECAP analysis is important when considering fair housing. They concluded that “a large body of research found that the problems associated with segregation are greatly exacerbated when combined with concentrations of poverty. Neighborhoods of concentrated poverty may isolate residents from the resources and networks needed. Concentrated poverty has also been found to have a long term effect on outcomes for children growing up in these neighborhoods related to a variety of indicators, including crime, health and education and future employment and a lifetime of earnings<sup>65</sup>.”

The information in the AFH tool was based on census data from 2010, so this Update did not consider the trend data given the growth of San Marcos. To determine R/ECAPs (See Map 1.10 in this Update) for this Update, the Update team looked at a base of 30%-45% of the racial and ethnic minorities within a census tract living in poverty to determine that poverty was concentrated within the community. Within the City, seven census tracts met this definition. Tract 101, 105, 103.02, 103.03, 107.01, 107.02 and tract 9605 have between 30% and 45% of the racial and ethnic populations living in poverty. Much of tracts 107.01, 107.02 and 9605 are outside of the San Marcos City Limits. It appears that two census tracts within the city limits, tracts 102 and 103.04, have a concentration of poverty of the racial and ethnic community of between 45% and 55%. According to data from Federal Financial Institutional Examination Council (“FFIEC”), Census tract 103.04 has a low income level a 53.53 racial and ethnic minority population with 2,830 housing units of which 1,511 units currently rental units (note that 323 units are vacant).

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<sup>65</sup> HUD AFFH Rule Guidebook at page 63.

Potential Action:

The city has a significant amount of population living in poverty and low to moderate income. Tracts 102 and 103.04 would be an excellent test to determine the causes of the poverty in the area. However, any of the nine tracts with greater than 30% would be a good target for a pilot program. Given the locations of several of the tracts, the possibility of a large student population who filled out ACS surveys inflating the poverty rate is a possibility. This type of local knowledge would be useful in addressing the R/ECAP questions in the AFH program in 2018/2019.

Considering the level of poverty in the area, an analysis of the existing housing should be reviewed to see its quality and affordability. HUD suggests some contributing factors to R/ECAPs in the AFH tool. They are:

- Community Opposition (opposing relocations or changes)
- Deteriorated and abandoned properties
- Displacements of residents due to economic pressures (high rents)
- Lack of Community revitalization strategies
- Lack of private investments in specific neighborhoods
- Lack of regional cooperation
- Land use and zoning laws
- Location and type of affordable housing
- Occupancy Code and restrictions
- Private discrimination<sup>66</sup>

The goal of this project would be to place a focused city staff task force to identify the causes of poverty. These could include student populations, predominance of lower cost housing directs extremely low income people to the area when compared with other areas, flooding patterns, residents aging in place reliant on social security payments as sole income. Part of the effort is to survey the people within the area to determine if the information is accurate.

The task force analysis would evaluate if it would be beneficial to provide a preference in public funds to the area to determine if programs could help provide relocation or redevelopment, if appropriate. This dedication of funds could include targeting funds from CDBG-DR to flood impacted people in the census tract.

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<sup>66</sup> HUD Assessment of Fair Housing Tool at page 3.

The task force should be created as quickly as possible with a 90 day turn-around time to take advantage of FY 2017 and FY 2018 prior to the AFH program.

#### 6.2.2 R/ECAPs in Primary Level School Zones

One of the factors to consider when conducting the AFH is the Educational Opportunities availability in R/ECAPs. As Map 1.9 demonstrates, the primary school districts have a varied level of poverty in the districts. HUD looks at the correlation between education opportunities and employment and lifetime earnings. One of the most concentrated poverty areas according to Map 1.9 is the Travis Elementary Zone. The overall school district generally has a met standards level of success. However, Travis elementary who has one of the largest racial and ethnically concentrated areas of poverty received distinction designations Academic Achievement in English, Language Arts/Reading, Academic Achievement in Mathematics, Top 25 Percent: Student Progress.

#### Potential Action:

Working with the SMCISD, determine achievement scores of the students that live within San Marcos and coordinate them to a census tract while still maintaining their Personally Identifiable Information confidentiality. The project would be two fold. First you would get an accurate reading as to educational opportunities for San Marcos residents rather than the system as whole. This would be consistent with information to determine the ability of students to excel within the school system.

Depending on the results of the analysis, additional consideration may be to target programs for after school programs or tutorial efforts. In addition, targets for in-fill housing or home ownership in these areas could be considered based on improving schools. Some research indicates that the more stable the home, the better a child performs in schools. It is understood that school attendance zones are a matter for the school board and not a city. The goal would be to reduce the higher than state average dropout rate by achieving early success in primary grade schools.

#### 6.2.3 Affordable Housing

All of the community members interviewed stated that affordable housing was still a primary concern as it was in the AI. In speaking with the Habitat for Humanity of San Marcos president, he felt the organization could only build one home per year—largely due to financial concerns. Southside Community Center repairs houses and utilizes volunteer groups that come to San Marcos as a destination mission to assist in the repair of housing. The city has identified approximately 44 infill lots that are under consideration for potential

affordable housing. These programs largely are directed at homeowner occupied units. However as Table 1.4 indicates, 72.4% of the population is in a rental unit and 67.8% of those have an income of less than \$35,000. Looking at Tables 6.2.1 and 6.2.2, the housing projects went to rehabilitation or owner occupied programs. These projects are consistent with creating more affordable housing.

Table 6.2.1 CDBG Funded Projects  
2013 CAPER Submission to HUD

2013 CAPER Priority	Project Name	Description	CDBG Funds Committed	City Fund Committed	Objectives	Outcomes
Housing	Southside Housing Rehab - 2013	The rehabilitation of 7 owner-occupied houses	\$99,700	\$10,300	Decent Housing	Sustainability
Housing	1 <sup>st</sup> Time Homebuyer	Down payment & Closing Cost Assistance Program – 2013 Loan Six from PY 2012	\$33,764 \$7,436.59	\$1,000 \$0.00	Decent Housing	Affordability
Housing	Habitat for Humanity	Acquisition of two or more lots to construct affordable housing	\$32,939	\$0.00	Decent Housing	Affordability
Clearance	Substandard Structure Program	Demolition of vacant substandard structures	\$40,000	\$0.00	Suitable Living Environment	Sustainability

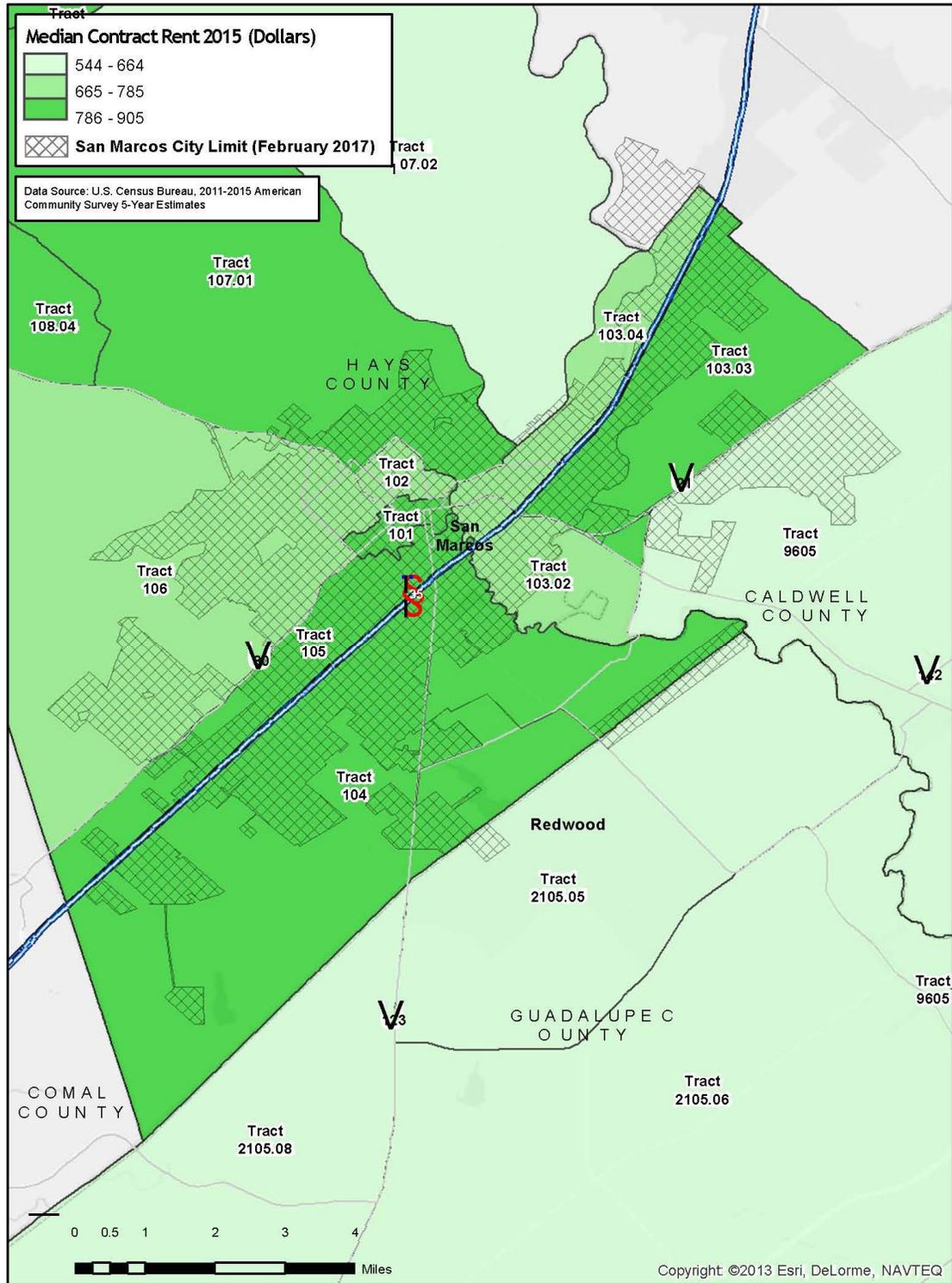
Table 6.2.2 CDBG Funded Projects  
2014 CAPER submission to HUD

2014 CAPER Priority	Project Name	Description	CDBG Funds Committed	City Fund Committed	Objectives	Outcomes
Housing	Southside Community Center's Housing Rehabilitation Program	The rehabilitation of up to 7 owner-occupied houses	\$100,000	\$100,000	Decent Housing	Sustainability
Housing	1st Time Homebuyers	Direct Assistance for down payment and closing costs	\$49,425	\$21,125.00	Decent Housing	Affordability
Housing	Habitat for Humanity	Land Acquisition – activity will remain open until two houses have been completed and sold to eligible homebuyers	\$32,100	\$0.00	Decent Housing	Availability
Housing	Southside Community Center 2013	Housing rehab of owner-occupied units	\$101,017	\$13,026.79	Decent Housing	Sustainability

The balance of the funding went to non-housing programs that received community support during public hearings.

Of the 72.4% who are renters in San Marcos, 67.8 percent have incomes less than \$35,000. If the requirement is that the potential renter have three times the income of the annual rent would mean that 67.8% of all renters could not afford the median rental rate of \$939. As Map 6.2.1 indicates, the average rental by census tract is less than the median.

Map 6.2.1 City of San Marcos  
 Median Contract Rents<sup>67</sup>  
 ACS 2015 Estimate



<sup>67</sup> U.S. Census Data Sets, American Community Service

Even though all rates in Map 6.2.1 are lower than the median rental rate<sup>68</sup> Table 1.4 estimates that 67.4% of renters regardless of income exceed HUD affordability measure of 30% of gross income going to housing.

There were very few suggestions during the community interviews for dealing with the lack of affordable housing. Two issues that did come up dealt with redirecting users from existing housing to more suitable units. The first suggestion was to increase the number of “student” units near the campus to attract students out of neighborhoods and lower cost housing into more traditional student housing. The second was to also look at attracting development of slightly higher income housing with the interest of creating movement from existing housing thereby allowing more existing housing stock in a moderately priced housing.

#### Potential Action:

In the AI, when discussing the housing impediment, the median contract rent was identified at \$644 per month. The current median rent is \$939 per month. If true, this represents a significant increase in the cost of housing in a relatively short period of time when inflation has remained relatively low between 2010 and 2015. Based on the total number of households renting in 2010 average, 60.5% were in units that were not considered affordable. Today that number has increased to 67.8% which is approximately a 12% decline in having affordable housing.

As part of the AFH planning process, the city should reaffirm that its existing funded programs are the priority of the community at large through a survey process. Such a survey was conducted in FY 2014. During the community interviews, the question of “What should the city do with its funding?” was generically asked. Some answered only in terms of HUD funds; others provided a more general response. Those who expressed an opinion had two items more clearly than other choices. Raised about equally in the interviews were Affordable Housing projects and flooding prevention-infrastructure (generally to protect housing), transportation, shelter facilities (presumably temporary homelessness since the Southside Community Shelter was identified as the only one available). Two comments were what the city should not spend funding on. One respondent felt the city spent too much on park space and a second believed that the city should not spend money on a population control program for feral cats. Two people indicated that they believed that the “river parks” represented a funding opportunity as they were potentially over used and a

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<sup>68</sup> One interesting factor could be to determine if the ACS rental rates are figured on one unit or per bedroom as a single contract rental rate. If room rate it would be consistent with a charge of \$550-710 per bedroom although the entire unit would be 2-3-or 4 times the per bedroom charge.

parking fee would raise revenue to support parks and reduce the pressure on the park space. The upcoming five year Consolidated Plan process would be an ideal time over the next two years to review:

- Need for rental assistance programs
- Park Funding
- Other revenue stream opportunities
- Meet with Planning, Economic Development and Housing to review the White House *Housing Redevelopment Toolkit* put out in September of 2016 to discuss barriers to construction and affordability
- Tax Credit developments and targeted growth patterns
- Targeted Growth for single family programs.

Developing a list of topics is a low-effort task, even if somewhat controversial. Affordable housing is very difficult and sometimes the direct goals conflict. Based on the *ICP* case in Section 2, having a discussion and identifying a strategy—even if there is disagreement—can provide the City with the support it needs to demonstrate a well-thought out policy to address the community needs.

#### 6.2.4 AI Call for Inclusionary Zoning

In the AI, one of the remedial issues listed for the lack of affordable housing and insufficient income was a suggestion to adopt inclusionary zoning policies. The suggestion was not included in the 2014 Action Plan and should not have been as described in the AI. The San Marcos Development code addresses the proper way to meet the requirements of the Texas Government Code §214.905 which limits inclusionary zoning practices<sup>69</sup>. In Chapter 4 Article 3, the City has a comprehensive policy to encourage affordable housing with a 30 year land use restriction. The City also has included guidance on what constitutes affordable housing in §4.1.4.2 of the Code.

#### Potential Action:

Make the system for monitoring the annual reports required under Chapter 4.3.1.4 2. readily available to the public. They should also be included in any fair housing reporting activity. If the reports do not already do so, they should include HUD style classifications under the Fair Housing Act including: race, ethnicity, single female head of household, family, and special needs occupants.

#### 6.2.5 Regional Planning for AFH

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<sup>69</sup> <http://www.sanmarcostx.gov/modules/showdocument.aspx?documentid=20957>

The City of San Marcos is required to submit an AFH in the near future. HUD encourages collaborating with other entities to prepare a joint or regional AFH. The AFH Rule Guidebook states that “not only do many fair housing issues cross jurisdictional boundaries, but all program participants will be required to conduct a regional analysis whether or not they chose to work with regional partners. Things to take into account when considering a joint or regional collaboration include<sup>70</sup>.”

- Do the fair housing issues in my jurisdiction overlap with another program participant? (SMPHA, Hayes County, etc.)
- Do any publicly supported housing service areas overlap with my jurisdiction?
- Have we already worked together on project successfully?
- Does addressing certain fair housing issues in my area rely on coordination with other entities?
- Will collaboration help reduce burden (staff time and financial) or reduce duplication efforts.

#### Potential Action:

The City should discuss the best approach internally for the next submission with the Five year Consolidated Plan. As part of that process, the staff should evaluate the time and cost benefits along with the constraints of collaborating with one of more related jurisdictions versus the loss of control of the process and its timing. If a decision is made by the fall, that allows time to reach out to other jurisdictions to gauge interest.

#### 6.2.6 Public Awareness of Fair Housing Act

The community interviews and the AI show a belief that there is not enough knowledge about the Fair Housing Act in San Marcos. With the increase in awareness about the American with Disabilities Act and reasonable accommodation requirements, disability claims make up the largest number of Fair Housing Act complaints. As was stated, Texas has the largest number of complaints filed of any state—even more than California which has a substantially larger population.

In Texas, relatively few people are aware that Texas has a substantially similar Fair Housing Act<sup>71</sup> to the federal FHA and that the Texas Workforce Commission (TWC) is tasked with administering the Act including investigations<sup>72</sup>. The TWC produces newsletters for both housing and labor rights.

The City does many traditional activities that promote FHA awareness. The city annually runs a Fair Housing ad in English and Spanish in local media. In conjunction with SMCISD there is a student poster contest. The Council passes a Fair Housing Month resolution annually. There are presentations provided to third parties recipients and training received by some city staff, although who receives and gives presentations may not be

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<sup>70</sup> Affirmatively Furthering Fair Housing Rule Guidebook at page 17.

<sup>71</sup> Texas Property Code Chapter 301 Texas Fair Housing Act

<sup>72</sup> Texas Property Code §301.0015

well documented. The Fair Housing web page provides various information and links to make the information accessible. There is one link to HUDs website in Spanish at the bottom of the page.

#### Potential Action:

It is our understanding that the City website is undergoing a modification. Entering Fair Housing in the current search function will get a user to a list of documents but the fair housing page is the first page that is available for selection. Otherwise, to reach a way to file a Fair Housing Act complaint a user needs to go to Departments, Planning and Development Services, CDBG then the Fair Housing will be on the left hand list and on that page there is a local contact and a HUD link. It would be preferable to have a Fair Housing Complaint button on the front page, or under the " I want to" drop down list. Wherever the complaint button is added, it should be in both English and Spanish. The Spanish version can be a direct link to the TWC or HUD Spanish language versions. HUD has been addressing Limited English Proficiency concerns for non-native speakers. The link should suffice to meet the standard as these are the places that would ultimately be taking the complaint. In addition, the staff resource to receive and refer a Fair Housing complaint should be at the top of the page rather than in the middle.

The AFFH Final rule is a relatively new rule. As discussed, it has a broader application than prior enforcement because, combined with the Disparate Impact Rule, looks at non-intentional discriminatory practices that potentially occur due to neutral actions that result in discriminatory effect. As was called for under the 2014 Action Plan approved by the council, anyone involved in housing should be familiar with the Fair Housing Act—and that now includes AFFH Final Rule. The City should consider a training session for staff members who are involved in all aspects of housing—housing staff, planning department, code enforcement, infrastructure teams, and the city management team. In addition, new council members (or any council member who has not already attended a training course since July of 2016) should consider training. Depending on the actual mission of the boards, the following appointed officials should be reviewed for inclusion in training: Comprehensive Plan Oversight Committee, Construction Board of Appeals, Economic Development, Historic Preservation Commission, Housing Authority Board, For staff, much like other Human Resources required courses, there should be away to verify the staff have completed the training.

#### 6.2.7 Recruit more diverse members for appointed city positions

This suggestion is not looking for quotas or otherwise suggesting that the city boards and commission structure is not representing the city as a whole. The city has had numerous people of color as elected

officials—including two who were interviewed as part of the community representatives with one serving as mayor. As has been said repeatedly in this Update and the prior AI, the community has little to no racial or ethnic tensions.

Prior to the community reviews, in reviewing the AI, several committees were listed and their racial and ethnic make-up was noted. This prompted a question to determine the participation by the community in the governing of city through appointments. We requested that city staff assist us with the review of committees. While not a systematic review of every appointment, the snap shot taken in April/May 2017 time frame showed that there were approximately 196 positions on Boards and Commissions. Our review did not take into account who appointed the members or the length of terms or “ex-officio” type appointments. Of the 196 positions, 102 chose not to answer the question. Of those that did answer, 72 were White Not of Hispanic or Latino origin, twelve were White of Hispanic or Latino Origin, six were African American/Black, three were Other race, and one was Asian.

Potential Action:

There is no particular Action to take here in forms of policy, rules or other official action. In discussing U.S. Supreme Court cases on diversity, they acknowledge that diversity should not be a hard set-aside, but that it can provide more open discussions<sup>73</sup>.

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<sup>73</sup> See, *Fisher v. University of Texas*, 579 U.S. \_\_\_\_ (2016); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989);

# Section 7: Oversight, Monitoring, and Maintenance of Records

## Section 7. Oversight, Monitoring and Maintenance of Records

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### Introduction

This section summarizes any additional responsibilities or changes since the Analysis of Impediments to Fair Housing (“AI”) was approved in 2013. There are key changes that have occurred administratively. The first is a change in leadership on City Staff. Long-time San Marcos staff member and CDBG director Janis Hendrix has retired and been replaced with Stacy Brown, the new Housing and Community Development Manager.

Also creating a change is the CDBG-DR influx of grant funds in the excess of \$25M for flooding damage in 2015. The funds were awarded directly to the city. This means that in addition to the IDIS recording of the regular CDBG funds, the city will also need to enter in programs in the DRGR system. The DRGR system requires more planning and can and will shut down and be closed for up to days at a time.

This Update was coordinated with Stacy Brown as Director of Housing and Community Development with the support of an independent consultant.

The City needs to establish a policy for record keeping for documents in support of the 2014 Action Plan addressing the AI impediments.

The Housing division keeps a Fair Housing Activity Table and a complaint log of fair housing referrals. Each needs to be updated on a more frequent basis. Each of the activities that are addressing an impediment identified in the AI should be included on the table.

Staff training on Fair Housing should be tracked and kept in personnel files.

The City should consider a Fair Housing review for planning programs.

# Exhibit A

Conducted

Community Reviews

Exhibit A  
Conducted Community Interviews

Name	Organization	Address/Contact	Date of Interview
Albert Sierra	San Marcos Public Housing Authority	1201 Thorpe, San Marcos 78666	3/24/2017
Michelle Harper	United Way	P.O Box 1728 San Marcos 78667	3/13/2017
Phil Hutchinson	Habitat for Humanity San Marcos	1350 I.H. 35 N San Marcos 78667	3/14/2017
Chris Laugelli	SBP	<a href="mailto:CLaugelli@SBPusa.org">CLaugelli@SBPusa.org</a>	4/25/2017
Ben Ulcak	Society of St. Vincent Depaul St. John's Catholic Church	624 E. Hopkins Street San Marcos 78666	4/27/2017
Warner Davis	Society of St. Vincent Depaul St. John's Catholic Church	624 E. Hopkins Street San Marcos 78666	4/27/2017
John Diaz	Business Interest	225 Cheatham San Marcos 78666	4/27/2017
Carol Belver	Community Action, Inc. of Central Texas	101 Umland Road, Suite 107 San Marcos 78667	4/13/2017
Margery Marshall	Community Action, Inc. of Central Texas	101 Umland Road, Suite 107 San Marcos 78667	4/13/2017
Vanesa Vought	Community Action, Inc. of Central Texas	101 Umland Road, Suite 107 San Marcos 78667	4/13/2017
Alvin Sinclair	ARCIL	618 South Guadalupe #103 San Marcos 78666	4/13/2017
Frank Arredondo	LULAC		4/25/2017
Ruben Garza	Southside Community Center	518 Guadalupe San Marcos 78666	4/24/2017
City Staff	Function	Location	Date
Stacy Brown	Housing and Community Development Manager	630 Hopkins San Marcos, 78666	4/13/2017
Dalinda Newby	Community Initiatives Coordinator	630 Hopkins San Marcos, 78666	4/13/2017
Abigail Gillfillan	Planning	630 Hopkins San Marcos, 78666	4/14/2017
Kevin Burke	Economic Development Administrator	630 Hopkins San Marcos, 78666	4/24/2017

Contacts for Potential Community Interviews

Group	Address	Notes
Community ACTION Council	101 Umland Road Suite 107, San marcos, Texas, 78677-0748	April 13 3:30 Carol Silver
Hayes Caldwell Women's Council	P.O. Box 234 San Marcos, Texas 78677	LM Johnson/4//11/17
United Way of Hays & Caldwell Counties	174 South Guadalupe Suite 105, San Marcos, Texas 78677-6860	Michelle Harper LM 4/1117 April 13 10:00
San Marcos Housing Authority	1201 Thorpe Lane, San Marcos, Tx 78666	9:30 April 24th Albert Sierra Thorpe Lane
ARCIL San Marcos	618 South Guadalupe, Suite 103, San Marcos Texas 78666	April 13 2:00 Alvin Sinclair
TSU NAACP Chapter	601 UNIVERSITY DRIVE San Marcos, Tx 78666	
Habitat for Humanity	P.O. Box 1594, San Marcos, Texas 78667	
Abundant Life Christian Church	20131 San Marcos Hwy (Hwy 80), San Marcos, TX 78666	Sent Email 4/11/17
St John's Catholic Church	624 E. Hopkins Street San Marcos, Texas 78666	Closed on 11th
Dianne Davis, Former Real Estate Agent		No Response
Texas State University	601 UNIVERSITY DRIVE San Marcos, Tx 78666	Cancelled Appoint personal emergency
John Diaz, businessman and former elected official	225 Cheatham San Marcos 78666	Scheduled
Frank Arredondo, LULAC		Scheduled
Southside Community Center	518 South Guadalupe	Scheduled
SBP (Rehab organization)		Scheduled

# Exhibit B

## 2014 Action Plan

EXHIBIT B  
2014 Action Plan

**RESOLUTION NO. 2014-102R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS ADOPTING THE 2014 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE ACTION PLAN; AND DECLARING AN EFFECTIVE DATE.**

**RECITALS:**

1. The U.S. Department of Housing and Urban Development ("HUD") requires that cities receiving federal housing funds conduct an Analysis of Impediments ("AI") to fair housing choice and take appropriate actions to overcome the effects of any impediments identified through the AL

2. In accordance with HUD requirements, the City has developed an Action Plan to address impediments identified through the AI.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The attached 2014 Analysis of Impediments to Fair Housing Choice Action Plan is hereby approved.

**PART2.** This Resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on July 15, 2014.

  
Daniel Guerrero  
Mayor

Attest:

  
Jamie Lee Pettijohn  
City Clerk

# 2014 Analysis to Impediments to Fair Housing Choice Action Plan

## Background

The San Marcos City Council approved the *2013 Analysis of Impediments to Fair Housing Choice* (AI) on June 18, 2013 through the adoption of Resolution No. 2013-88R. The AI was prepared by the consulting firm of J- QUAD Planning Group, from Addison Texas.

The City is committed to furthering fair housing and addressing the impediments that were identified in the AI. The following Action Plan outlines the City's plan for addressing the identified impediments. The City will report its progress each year in the CAPER.

### **Impediment 1. Lack of affordability**

"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."

Goal 1. Expand the housing stock of affordable housing

Strategy 1. Offer an Infill Housing program to provide incentives to developers to build and sell housing that meets the program's standard for affordability.

Strategy 2. Purchase and/or donate property to non-profit builders (such as Habitat for Humanity) for construction of affordable housing.

Strategy 3. Reduce the cost of constructing affordable housing through policies that waive or reduce development permit fees and impact fees.

Goal 2. Continue/ expand homebuyer assistance programs

Strategy 1. Provide direct homebuyer assistance through programs that provide down payment and/or closing cost assistance to targeted homebuyers.

Strategy 2. Place links to other, non-City homebuyer programs on the "Housing" page of the City's website.

### **Impediment 2. Insufficient income for the local cost of housing**

Goal 1. Reduce living expenses to allow more funds to be available for rent/mortgage payments

Strategy 1. Sponsor and support programs that encourage energy efficiency.

Strategy 2. Seek sources for weatherization grants that could be available to San Marcos residents. If not sponsored/ offered by the City, links to more information should be added to the "Housing" webpage.

Strategy 3. Support non-profit organizations that assist low income persons with paying utility bills.

Goal 2. Increase the number of jobs in San Marcos that pay a living wage and provide benefits

Strategy 1. Work with the Chamber of Commerce, Greater San Marcos Partnership, and other

economic development organizations to encourage the location of new businesses or the expansion of existing businesses in San Marcos.

Goal 3. Assist low income homeowners with rehabilitation expenses

Strategy 1. Provide funding for homeowner occupied rehabilitation programs.

Strategy 2. Maintain a list of organizations that may provide assistance with minor rehabilitation or accessibility projects and make it available to persons needing assistance.

**Impediment 3. *Lack of public awareness affair housing rights***

Goal 1. Provide fair housing education and outreach activities

Strategy 1. Host an annual Fair Housing Workshop targeted toward those working in the housing industry.

Strategy 2. Host or participate in homebuyer education workshops that include fair housing as one of the covered topics.

Strategy 3. Increase public awareness of their fair housing rights through a number of outreach actions including maintaining an up-to-date Fair Housing section on the website, adding contact information to all housing brochures; publishing information ads periodically; and issuing an annual Fair Housing Month proclamation.

Strategy 4. Periodically survey the community to assess any changes in general knowledge and familiarity with fair housing rights. Review fair housing complaint data from all available sources to see if any new patterns emerge.

Goal 2. Develop fair housing outreach activities targeted to youth

Strategy 1. Host a Fair Housing Poster Contest and provide participants with fair housing basics. Offer

Strategy 2. bilingual Fair Housing posters to SMCISD to post in each school.

Goal 3. Maintain an up-to-date City of San Marcos Fair Housing policy

Strategy 1. Conduct a periodic review of the City's Fair Housing Ordinance/Policy to ensure that it complies with current federal fair housing policy guidelines.

Strategy 2. Provide opportunities for City staff to participate in Fair Housing training programs.

Strategy 3. Ensure that all personnel who work with housing programs have a thorough understanding of fair housing regulations.

Goal 4. Increase awareness of fair housing rights and resources in the young adult population

Strategy 1. Work with Texas State University and apartment locator services to disseminate fair housing information to their clients/ students.

Strategy 2. Make Fair Housing Rights information available to new utility customers.

**Impediment 4. *Impact of subprime lending practices I increased foreclosures***

Goal 1. Increase public awareness of available programs that help reduce mortgage default rates

Strategy 1. Update "Housing" website page to add resources for people facility foreclosures, such as the FHA Resource Center, contact information for housing counseling agencies, and HUD's webpage regarding Predatory Lending.

Strategy 2. Include the *Don't be a Victim of Loan Fraud* fact sheet and/or brochure in all housing incentive applications.

Strategy 3. Review HMDA data annually to see if there appears to be disparities in loan originations and interest rates among borrowers of different protected classes exist. If problems are found, target education focus toward those classes having issues.

**Impediment 5. *Impact of predatory lending***

Goal 1. Increase public awareness about predatory lending practices

Strategy 1. Include Predatory Lending prevention information on "Housing" page of City web site.

Strategy 2. Conduct surveys of homebuyer incentives after the loans close regarding their experiences with the homebuyer process.

**Impediment 6. *Low income residents have limited resources to maintain homes and neighborhood stability***

*Note: Actions covered under the **Lack of Affordable Housing** impediment may also address this impediment*

Goal 1. Support programs that help maintain neighborhood stability

Strategy 1. Sponsor neighborhood cleanup activities.

Strategy 2. Support the Texas State annual *Bobcat Build* community service project

Strategy 3. Identify and take steps to require removal or repair of substandard structures, which may include providing funding for demolition and clearance activities.

Goal 2. Support programs that provide opportunities for neighbors to work together to improve the appearance of their neighborhood

Strategy 1. Allow City-owned vacant lots to be used for community garden projects.

Strategy 2. Support "Adopt a Spot" programs such as the *Keep San Marcos Beautiful Program*.

Strategy 3. Host/ support free or low-cost programs that make it convenient to clean up properties such as the Brush Drop Off, Household Hazardous Waste Collection Site, and Green Guy Recycling program that accepts tires, Freon-containing appliances, and electronics.

Strategy 4. Host/ support community events that improve neighborhoods such as Texas Trash Off, National Planting Day, and Texas Arbor Day

Goal 3. Reduce rehabilitation costs through fee waivers

Strategy 1. Continue policy of waiving construction permit fees for CDBG-funded rehab programs and for Public Housing Authority projects.

## Section 6: Impediments to Fair Housing and Remedial Actions

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### 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.<sup>1</sup> 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 Grantfunding.

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 ethnicities<sup>2</sup>. 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 greater<sup>3</sup>. 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 assistance.<sup>4</sup> 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 groups<sup>5</sup>. 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.

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<sup>1</sup> Community Profiles page 20.

<sup>2</sup> 2006 - 2010 ACS Census homeownership rates for the City of San Marcos , page 21 of the Community Profiles.

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

<sup>4</sup> 2006 - 2010 ACS Census, Table 1.3 on page 11.

<sup>5</sup> 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 practices<sup>6</sup>. 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

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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 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:

- o 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
- o 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.
- o 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.

- o 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.
  
- o 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.