

Analysis of Impediments to Fair Housing Choice
Lafayette/West Lafayette/Tippecanoe County,
Indiana

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Prepared by City Consultants, LLC
Under contract with the Lafayette Housing Consortium

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I: Introduction

The Cities of Lafayette and West Lafayette are considered “Entitlement” communities under the U.S. Department of Housing and Urban Development’s (HUD) Community Development Block Grant (CDBG) Program, which provides redeveloping communities with supplemental federal resources intended to either benefit low-income persons and/or alleviate slums and blight (Figure 1). Together, along with the Town of Battle Ground and Tippecanoe County (representing unincorporated areas), they have formed a Consortium that is treated as a Participating Jurisdiction (PJ) under HUD’s HOME Program, which provides additional resources for affordable housing within the larger community (see Figure 2). As a requirement of receiving these funds, these communities have to take steps to assure that discriminatory actions, either explicit or implicit, that constrain the choices of people to procure adequate housing are being identified and mitigated. This new Analysis of Impediments (AI) to Fair Housing Choice document is but one step in this process.

The Cities of Lafayette and West Lafayette are also required to complete Consolidated Plans, each containing an analysis of the housing and community development needs in the community, as well as a strategic plan outlining goals to address the needs found. The Cities’ current Consolidated Plans cover the program years 2020-2024, beginning July 1, 2020 and ending June 30, 2024. This AI will run in conjunction with the Consolidated Plan years. For the purpose of these documents, a program year is defined as July 1 – June 30.

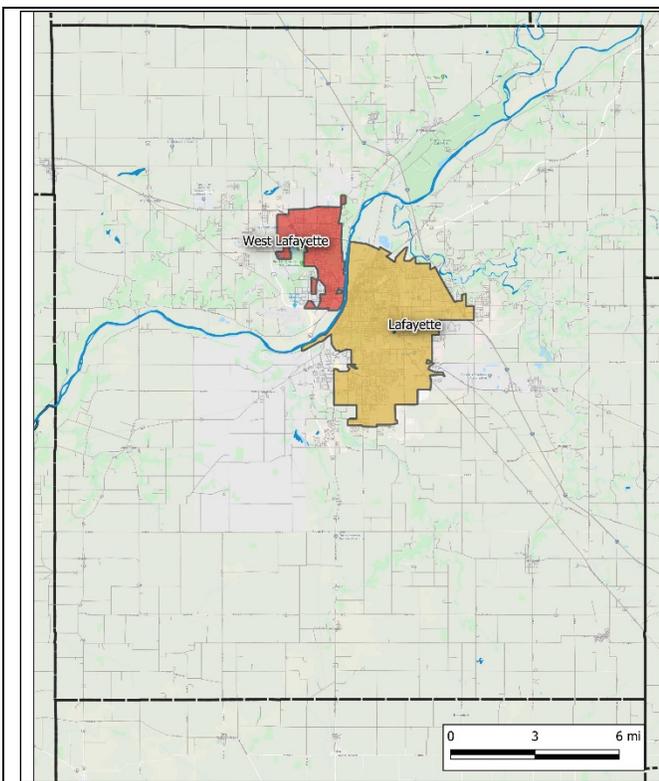


Figure 1: CDBG Entitlement Communities

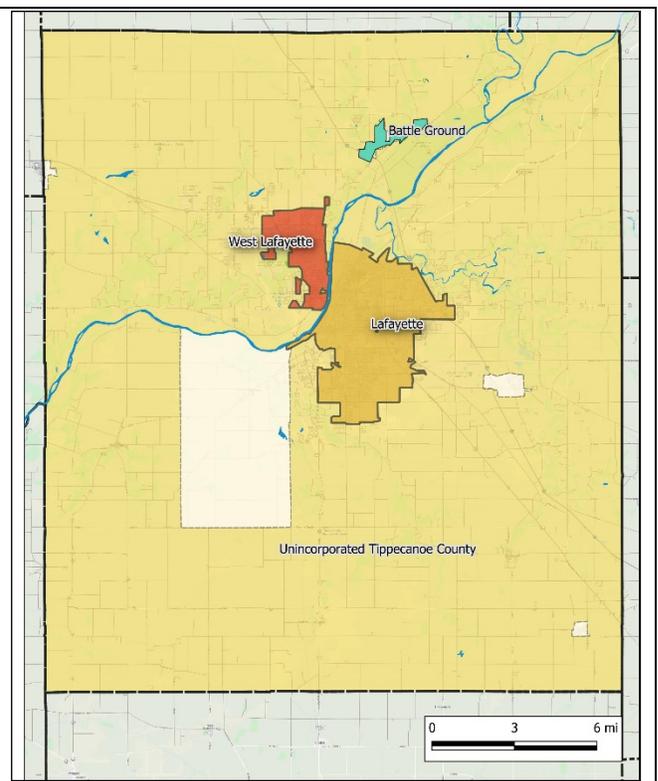


Figure 2: HOME Consortium Members

History of the Fair Housing Act

The Fair Housing Act, passed by the U.S. Congress in 1968, is an extension of the Civil Rights movement to protect certain classes of people from discrimination when trying to locate housing. HUD, through its Office of Fair Housing and Equal Opportunity, enforces the Act to prevent discrimination and intimidation of people in their homes, apartments and condominium complexes and in nearly all housing transactions related to the rental or sale of housing and provision of mortgage financing. The Act only exempts owner-occupied buildings with no more than four units, single family housing sold or rented without the use of a real estate agent or broker and housing operated by organizations and private clubs that limit occupancy to members (US Department of Housing and Urban Development). The protected classes in the Act include race, color, religion sex, disability, familial status and national origin. Income level is not a protected class in the Act; however, many of the protected classes do have a higher proportion of people with lower incomes, so this document will examine the location of households based on income, as well as the protected classes listed in the federal housing act.

The Act prevents the following activities based on race, color, religion, sex, disability, familial status or national origin:

- Refusal to rent or sell a property;
- Refusal to negotiate on housing;
- Refusal to make housing available;
- Denial of housing;
- Setting different terms, provisions or conditions for the sale or rental of the housing;
- Providing different housing services or facilities;
- Persuading a person to sell their home or rent their home by suggesting a certain race has moved into the community;
- Denial of a person access to membership or participation in an organization, facility or service on the basis or related to the sale or rental of housing;
- Refusal to provide a mortgage;
- Refusal to provide information on mortgages;
- Imposing different terms for mortgages;
- Appraising property differently;
- Refusal to purchase a loan or mortgage;
- Intimidation or interference with anyone exercising fair housing or assisting others with fair housing;
- Refusal to provide homeowners insurance;
- Providing different insurance rates or terms related to insurance;
- Refusal to provide all terms of homeowner's insurance or all information regarding available insurance;

- Making or printing any information regarding the sale or rental of housing, including mortgage and insurance information that indicates a preference or limitation to one of the protected classes.

State of Indiana Fair Housing Acts

The primary fair housing enforcement agency for the State of Indiana is the Indiana Civil Rights Commission. The agency was established in 1961 as the Indiana Fair Employment Practices Commission. The agency lacked ability to enforce decisions or laws and had a limited scope. In 1963, the scope expanded to include civil rights, and the agency was renamed to the Indiana Civil Rights Commission (ICRC). The agency's ability to enforce laws, prosecute and make administrative decisions expanded at that time. The ICRC further expanded its jurisdiction in 1965 to include Housing.

In 1991, the State of Indiana General Assembly passed the Indiana Fair Housing Act. Enacting the Indiana Fair Housing Act and promulgating rules and regulations were part of a process that allowed the agency to be certified as a substantially equivalent fair housing enforcement agency with the U.S. Department of Housing and Urban Development (HUD). The Indiana Fair Housing law prohibits activities like blockbusting and discriminatory advertising, which have the effect of making it harder for a person to live in a neighborhood or individual housing unit of their choice. The Indiana Fair Housing Act is considered substantially equivalent to the federal Fair Housing Act.

Fair Housing Provisions in Tippecanoe County

Title VI of the U.S. Civil Rights Act states that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Neither the City of Lafayette nor the City of West Lafayette has a local fair housing ordinance. However, both have ordinances forming Human Relations Commissions, the Board that oversees housing and other discrimination complaints.

Tippecanoe County has a fair housing ordinance that includes the formation of a Human Relation Commission. The Town of Battle Ground has established a Fair Housing Ordinance (General Ordinance 05-437) that clarifies the Town's policy. Three of the four jurisdictions (Lafayette, West Lafayette, and Tippecanoe Counties) include sexual orientation as a protected class, beyond the requirements of the state and federal acts.

The City of Lafayette Human Relations Commission was created in 1968, and consists of nine (9) citizens appointed by the Mayor and approved by the City Council. The Commission's main objectives are to end prejudice, intolerance, bigotry, and discrimination in the City of Lafayette, to encourage respect and understanding of all individuals and groups, and to investigate complaints of discrimination in the City of Lafayette. The Commission is concerned with any discrimination based on race, sex, religion, color, physical or mental handicap, familial status, national origin, or sexual

orientation, and is available to investigate discriminatory acts in the areas of employment, access to public accommodations, and the purchase or rental of housing.

The City of West Lafayette also has a Human Relations Commission (HRC), established to protect the rights of our citizens and to ensure that West Lafayette remains a fair and inclusive community. The Commission is made up of nine (9) members, who are appointed by the mayor and serve without pay. The powers and authorities of the Commission are set forth by City Ordinance 11-68 as amended, in accordance with Indiana state law. The Commission is authorized to consider complaints of discrimination on the basis of the classes described above in the areas of housing, employment, education, and public accommodation (any public space or place of business that is open to the public). Any incident which occurs within the West Lafayette city limits is subject to the Commission's jurisdiction.

The City of West Lafayette defines discrimination as any difference in the treatment of a person solely in the basis of their age, sex, race, religion, national origin, ancestry, disability status, familial status, sexual orientation, gender identity, gender expression, veteran status, or status with regard to public assistance.

Research Methodology

City Consultants and Research, LLC (CCR) drafted this Analysis of Impediments to Fair Housing Choice on behalf of Tippecanoe County, Indiana. The Fair Housing Planning Guide, Volume 1 guided CCR to prepare this document. The scope of work included:

1. Project Initiation: This included a meeting with staff from both Cities to begin the project. Meeting topics included communicating important stakeholders' contact information for consultation interviews, the review of previous actions taken and collected other relevant data.
2. Community Data Review: CCR conducted a community profile review using 2000 and 2010 U.S. Census information, the 2017 American Community Survey, data from the U.S. Bureau of Labor Statistics and the Indiana Business Research Center. Information was broken down into demographic information, income information and household type.
3. Housing Profile: CCR conducted a review of the housing market of the Cities of Lafayette and West Lafayette. Information and data were collected from the 2010 U.S. Census, the 2013-2017 American Community Survey, data from the National Low Income Housing Coalition and U.S. Department of Housing and Urban Development CHAS data sets, 2007-2011. CCR also examined reports analyzing Home Mortgage Disclosure Act (HMDA) data and foreclosure information to determine if any racial disparities occurred.

4. Compliance Profile: CCR examined legal documents such as zoning regulations, zoning variance procedures, fair housing education programs and reporting to determine if any legal structures exist that prohibit fair housing choice.
5. Survey and Community Input: CCR also conducted face-to-face interviews of stakeholders to determine the housing issues with greatest need as it pertains to fair housing choice. The survey and results are included in Section VI below.
6. Self-Evaluation and Identification of Impediments: CCR reviewed all sections of the analysis to identify any impediments to fair housing choice.
7. Strategic Plan: CCR worked with local stakeholders to develop a strategic plan for addressing fair housing choice as part of the Consolidated Planning process. CCR worked to develop goals that would be realistic and achievable, based on the progress made from previous AI documents.

Several methodological issues, particularly pertaining to data collection, should be noted at this point:

- The Cities of Lafayette and West Lafayette and the Town of Battle Ground are incorporated municipalities located in Tippecanoe County. Several categories of information, such as commuting data, are available only at the County level; these data are used where applicable, under the assumption that their general conclusions also apply to the municipalities specifically.
- Several other data categories are only available at the level of Census Block Groups and Census Tracts, which are small area classifications used by the U.S. Census Bureau. These geographies do not exactly match up with the corporate boundaries of the municipalities; maps in this document using Block Groups and Tracts will display units that are within and in the immediate environs of the municipalities. Analyses using Block Groups and Tracts will use those units that fall partially or completely within the municipalities' corporate boundaries.
- The Town of Battle Ground is geographically small relative to the relevant Census Tracts and Block Groups used in this analysis, and its statistics are therefore difficult to discern.

Fair Housing Assessment

The U.S. Department of Housing and Urban Development (HUD) has released a new rule to change the format of fair housing analysis documents. This new rule was published on July 16, 2015. The new format will provide data and tools to state and local governments receiving HUD funding to assess the state of fair housing and set locally determined goals and priorities. This includes providing open data to HUD grantees and the public on patterns of integration and segregation, racially and ethnically concentrated areas of poverty, disproportionate housing needs and disparities in access to opportunity such as quality schools, transportation and other public amenities. This new assessment will be required of all Cities upon implementation of their next Consolidated Plan after October 31, 2020.

Acknowledgements

City Consultants and Research, LLC would like to thank the many people who helped complete this document, especially Amy Nelson with the Fair Housing Center of Central Indiana for information about fair housing testing, state laws regarding fair housing and issues facing the community. A complete list of the key personnel interviewed for this document are listed within Appendix B of the final draft, many of which helped with research and identified useful reports on fair housing issues.

II: Community Profile

This section of the AI analyzes the demographic makeup of the Lafayette Housing Consortium and illustrates the socioeconomic geography to create a background for analysis of the housing and lending profiles that follow in this report. At this time the most comprehensive data set available is the 2013-2017 American Community Survey (ACS), which will serve as the primary source and basis for this statistical study, unless otherwise noted. It should be recognized, however, that these figures represent the demographics of two years ago. Because the County and its municipalities continues to grow, the trends noted in this report may indicate a direction and rate of change, but may also under-represent the current conditions.

Context

Figure 3 (below) shows the County and its municipalities, while Figure 4 shows the context within the State of Indiana. Tippecanoe County is a community of roughly 500 square miles located in the central-northwest portion of the State. In addition to the three HOME Consortium communities (Battle Ground, Lafayette, and West Lafayette), the County also includes the Towns of Clarks Hill, Dayton, Otterbein, and Shadeland.

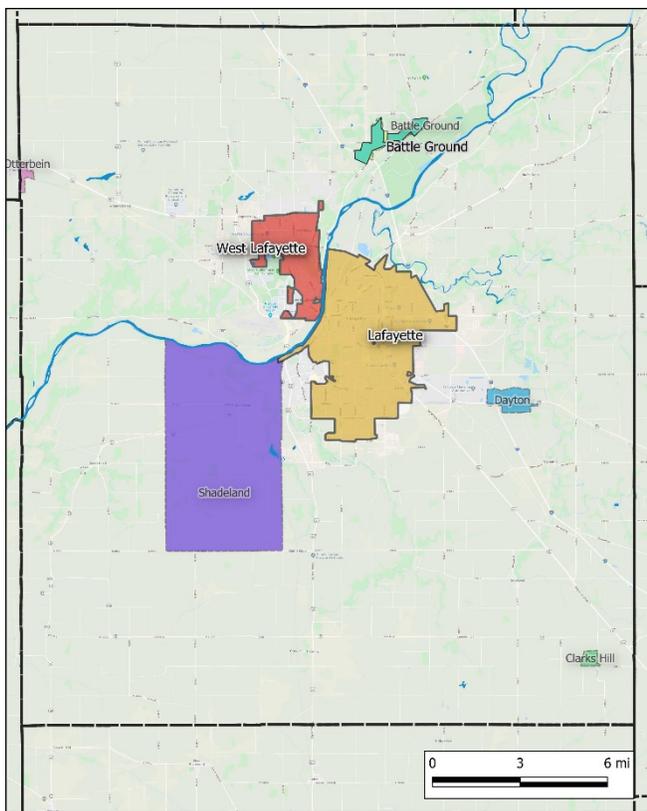


Figure 3: Base Map

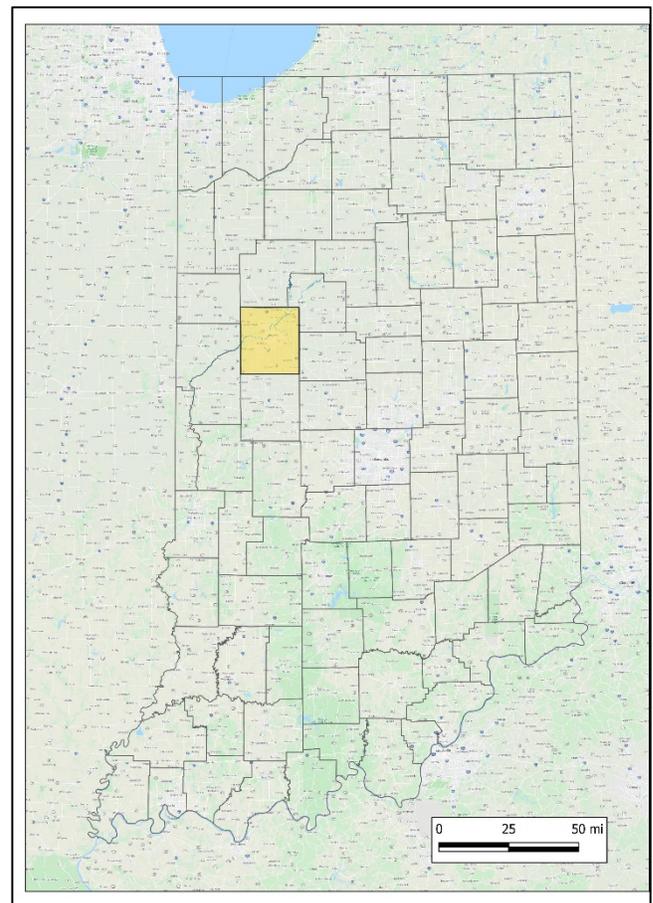


Figure 4: Statewide Context

The County has ready access to I-65, with access to major Interstate corridors at Indianapolis (I-69, I-70, I-74, and I-465) and Gary (I-80, I-90, and I-94). Other major roadways include US Highways 52 and 231, and State Roads 25, 26, 28, 38, 43, and 225.

Figure 5 shows the expansion of the Census urbanized area, based primarily upon residential density, for the successive Census years of 2000 and 2010. Generally, the urban area has modestly expanded to the north, east, and south, with the largest areas of increase located north of US 52/Sagamore Parkway.

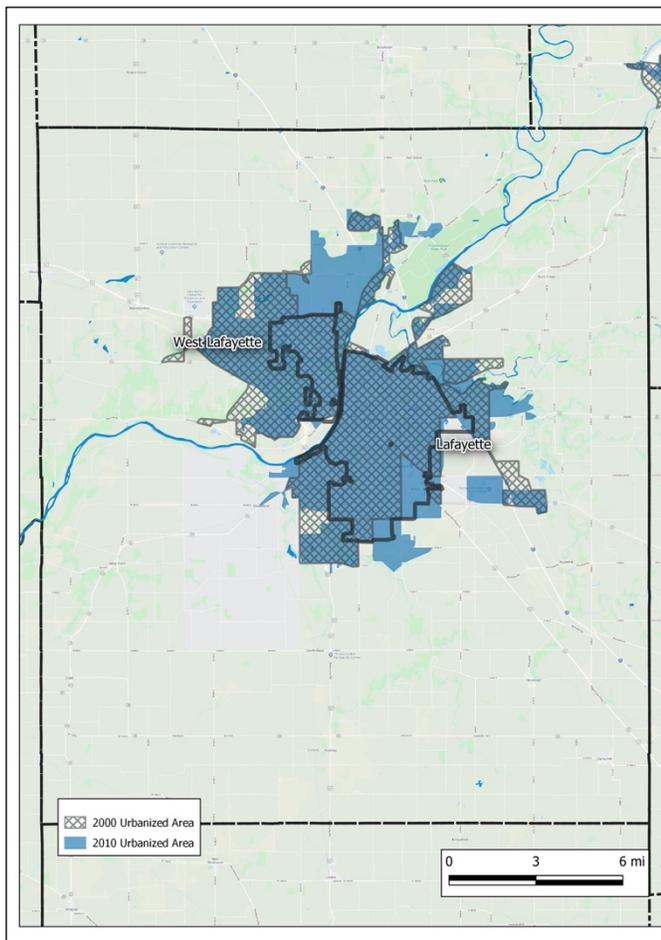


Figure 5: Growth of the Urbanized Area

In summary, the municipalities within the County have an interesting mix of older urban areas and newly suburbanizing neighborhoods. Most of the older sections are centrally located around the Wabash River, which abuts the Central Business Districts of Lafayette and West Lafayette.

Population

The County's most recent (2017) population estimate is 191,199 people. The population trend over time is shown below in Figure 6. The most rapid rates of population change were in the 1940's. Overall, population has increased by an average of about 13,500 people every 10 years.

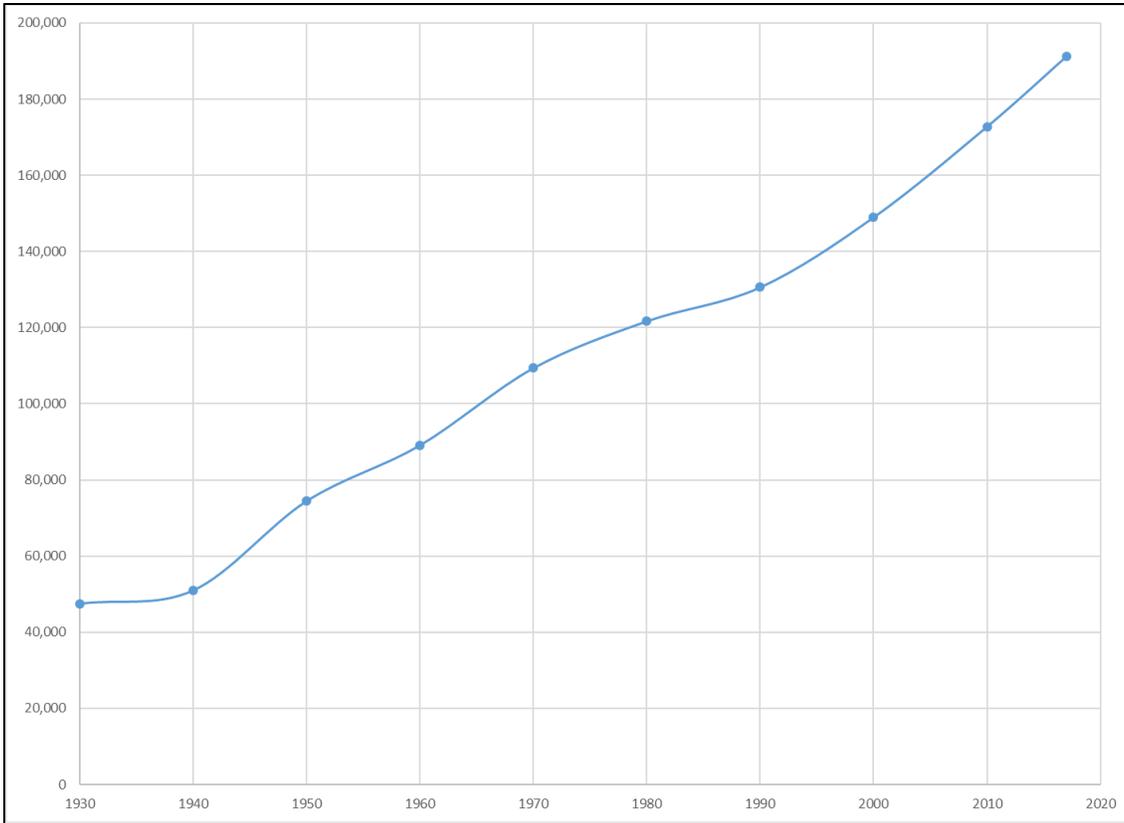


Figure 6: Tippecanoe County Historical Population Growth

Race

Figure 7 shows the proportion of races represented in the County. The majority (83%) of residents are Caucasian, followed by Asian (8%), and African-American (5%). Other racial categories represent about 2%, and another 2% have multiple racial backgrounds.

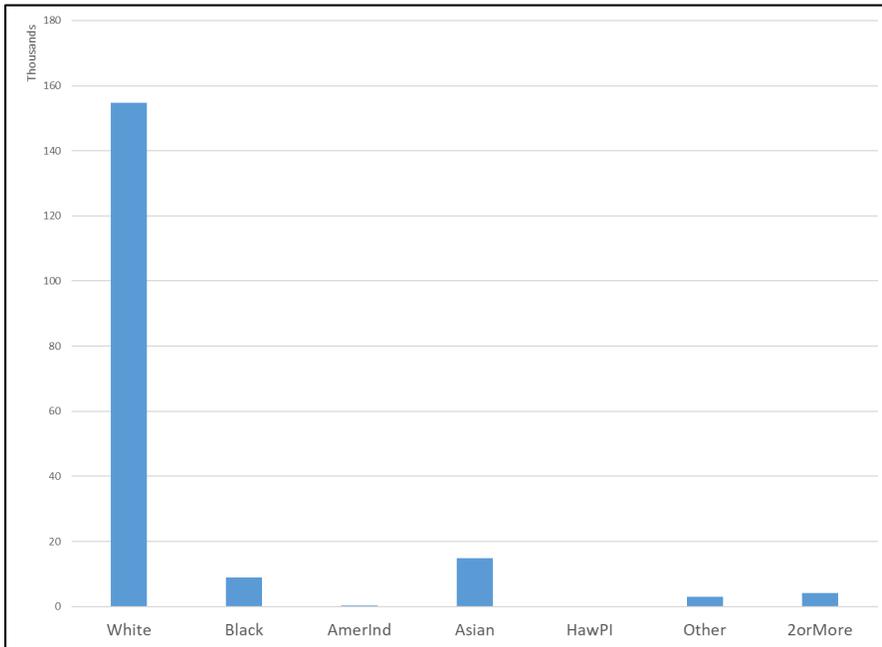


Figure 7: Racial Makeup of Tippecanoe County

Figure 8 shows the distribution of the minority population within the County. Most of the minority populations are clustered on the boundaries of the urban areas.

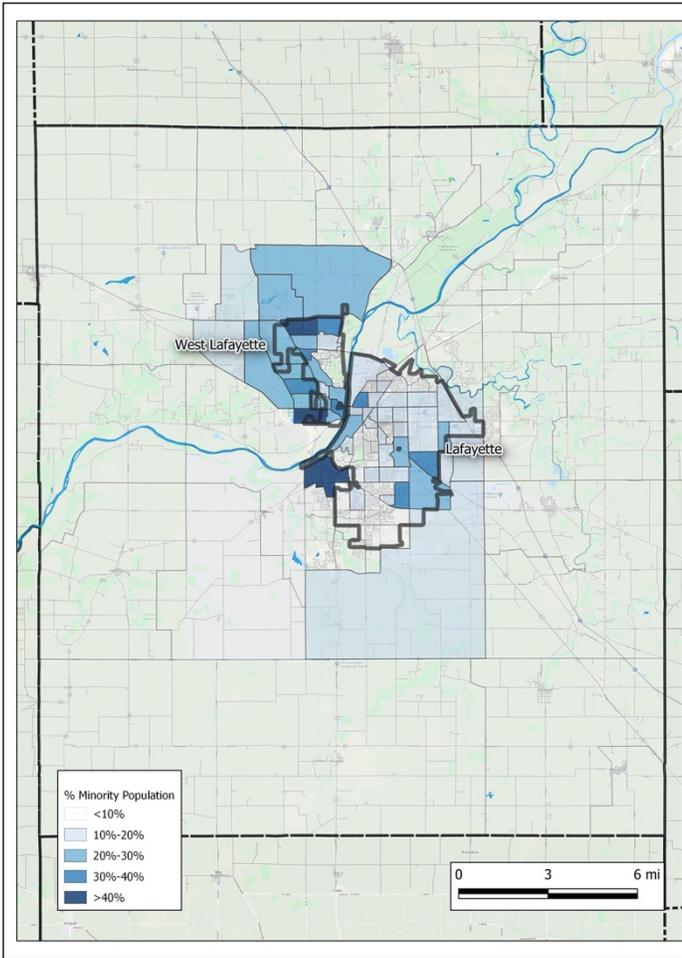


Figure 8: Minority Population Concentration

Ethnicity

Hispanic is an ethnic category measured by the U.S. Census Bureau, not a racial group. A person who identifies himself or herself as Hispanic must also identify themselves by a race, which may be White, African American or another racial category. About 8% (15,135) of the County's population is Hispanic. Figure 9 shows the location of Hispanic residents; as with minority populations, Hispanic groups seem to cluster on the boundary of the urbanized municipalities.

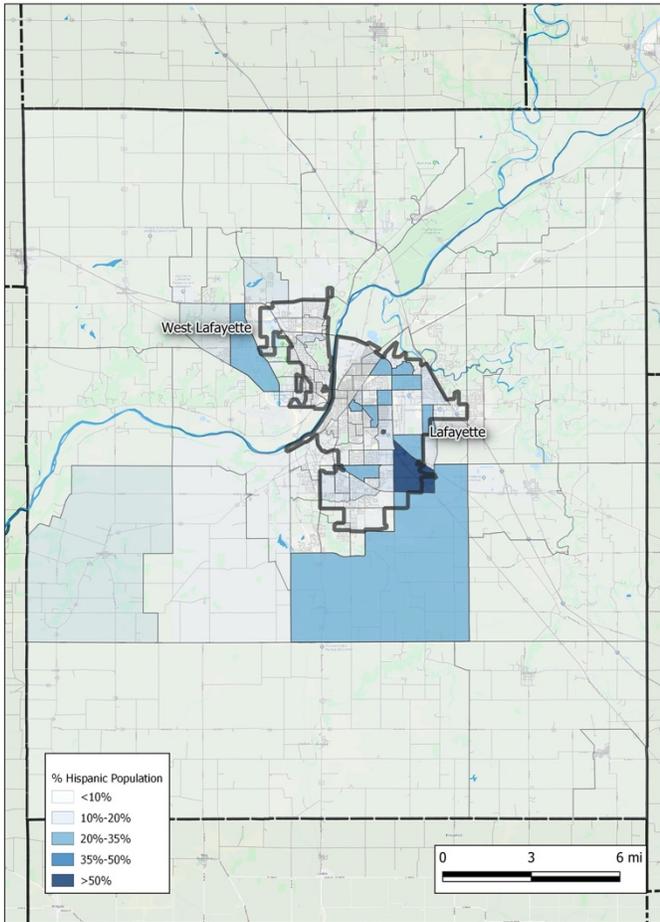


Figure 9: Hispanic Populations

Income

Figure 10, below, shows the relative concentrations of households that are considered low-income (below 50% of the area median) or moderate-income (below 80% of the area median). Note that the boundaries of the Census Block Groups can lead to misleading impressions, particularly on the developing fringes of the community. Inner-city areas show a large proportion of low-mod households, but there are a number of neighborhoods on the developing western boundary of West Lafayette that also fit into this category. Roughly half of the area of Lafayette consists of low- to moderate-income neighborhoods.

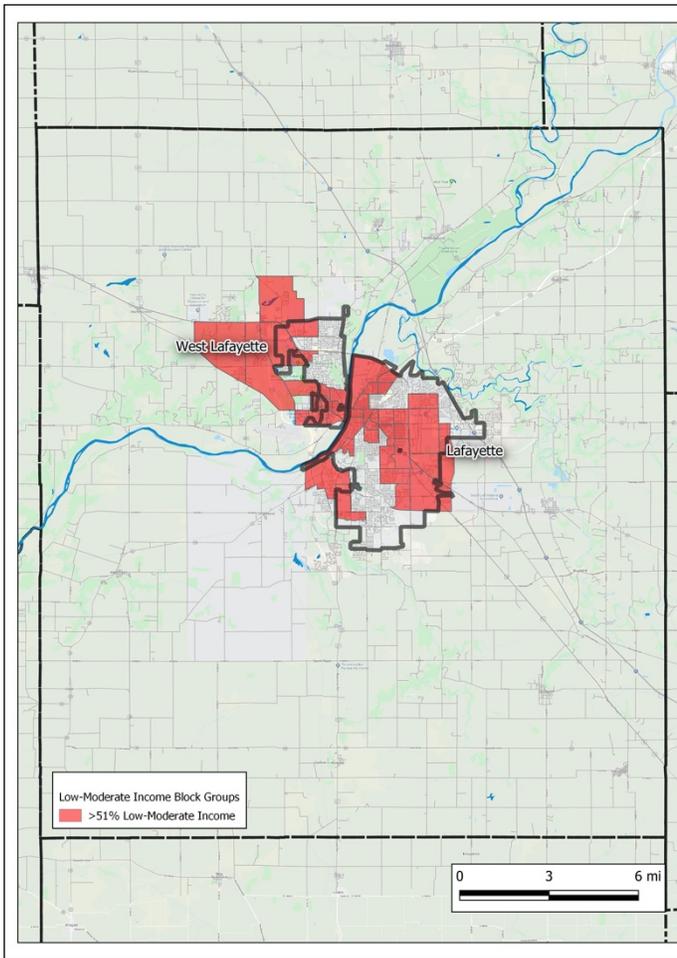


Figure 10: Low- to Moderate-Income Areas

Disabilities

In 2017, of the population over age 16, a total of 6,209 persons (4.2%) had some kind of self-care limitation. About 3,311 (1.8% of the total population) report some kind of vision limitation, and 5,158 (2.5%) report a hearing limitation. Figure 11 and Figure 12 show the distributions of these populations within the County; vision and hearing-impaired populations tend to cluster within the urban areas, while populations with self-care limitations are more broadly distributed around the northern two-thirds of the County.

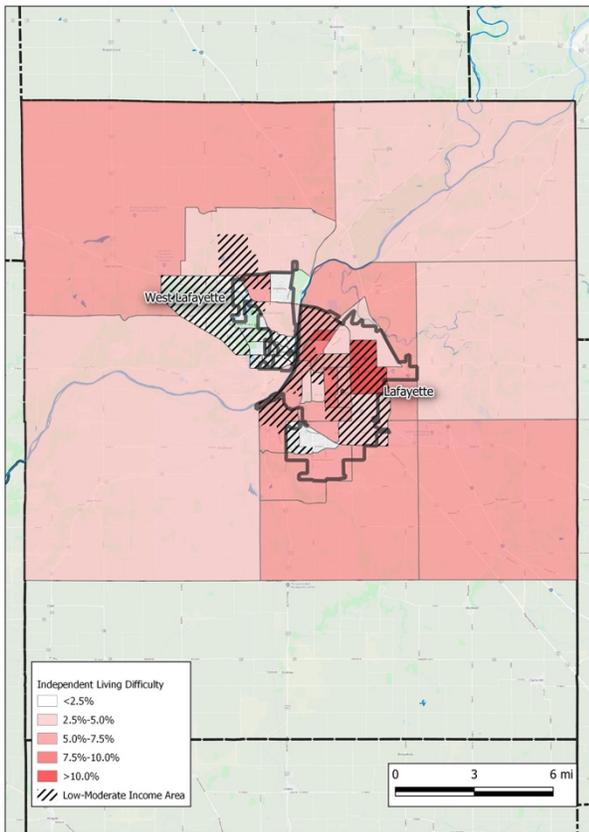


Figure 11: Independent Living Difficulties

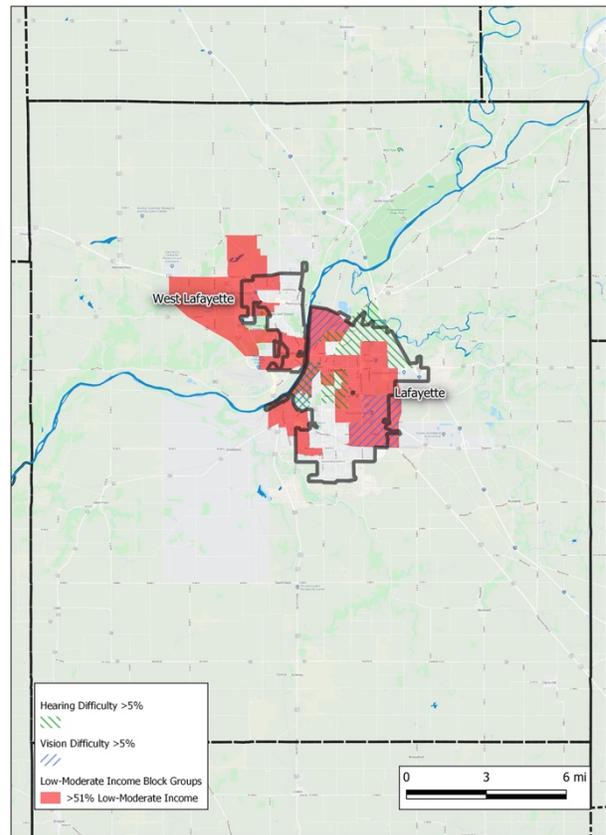


Figure 12: Vision or Hearing Difficulties

Household Characteristics

There are 65,532 households (2017 ACS) in the County, which corresponds to an average household size of 2.42 persons. Of these households, 37,003 (56%) are family households, and 6,427 (10%) are female-headed households. Figure 13 shows the location of households with a sole female head, and contrasts that information to the location of low- to moderate-income areas in the community. There appears to be a strong relationship between the two variables.

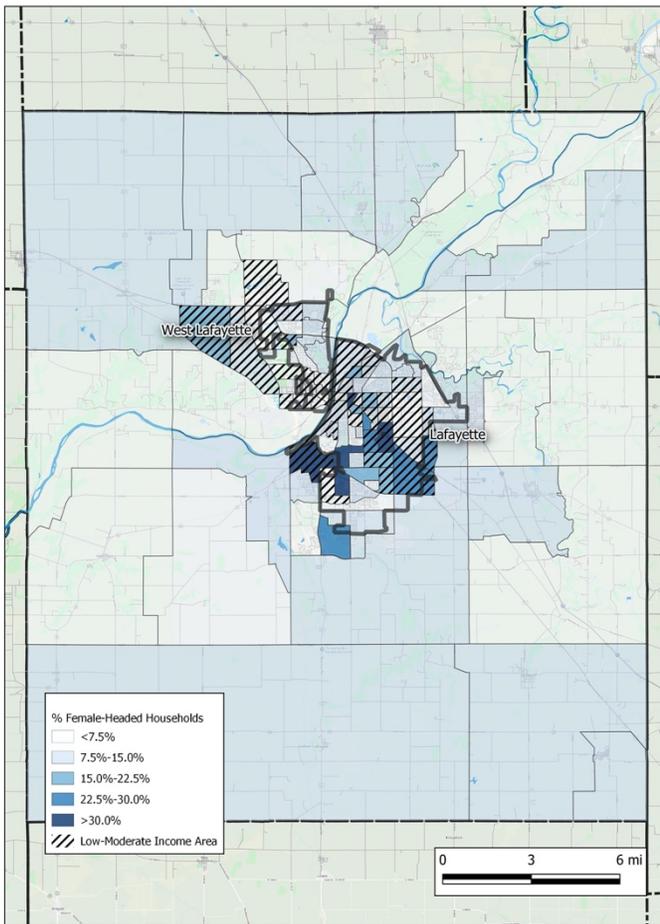


Figure 13: Female Heads of Household by Low-Mod Areas

Figure 14 shows the location of the population living in group quarters, including group homes, retirement facilities, and the like. Group quarters also includes dormitories, resulting with large amounts around Purdue University campus. There appears to be a strong relationship between the location of group quarters residents with low- to moderate-income areas.

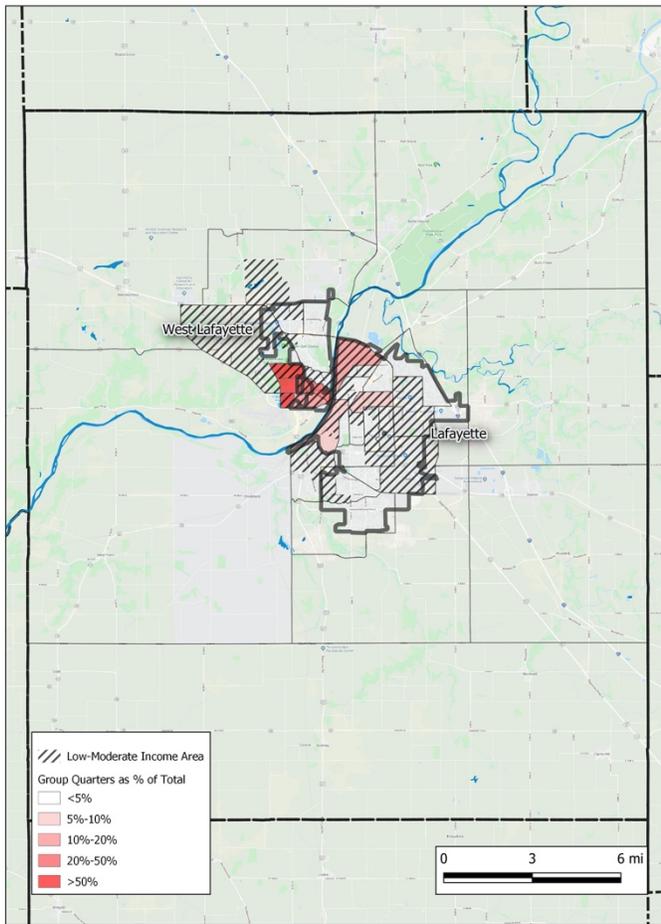


Figure 14: Group Quarters Population

Economic Status

The Indiana Business Review 2019 forecasts for the County

(<https://www.ibrc.indiana.edu/ibr/2018/outlook/lafayette.html>) makes the following introductory statement:

The Lafayette Metropolitan Statistical Area (MSA) enjoyed another year of continuous growth. In 2018, most industries experienced both employment and wage increases, and the region maintained low unemployment rates. The tightening housing market may cause affordability to be an issue within the region if relief does not occur via new construction. Likewise, economic growth could be hampered by lack of labor as area employers continue to expand.

With population, labor force, and employment all steadily increasing, the report notes the relative lack of housing construction, with housing listings dropping by 3.2% over the year before, and the inventory of homes for sale dropping by 6.3%.

Employment and Commuting

The vast majority (93%) of Tippecanoe County residents work within the County; a slightly smaller (86%) of jobs are filled by County residents. The County acts as an employment generator for several smaller, more rural counties that surround it, including Carroll, Clinton, and White Counties.

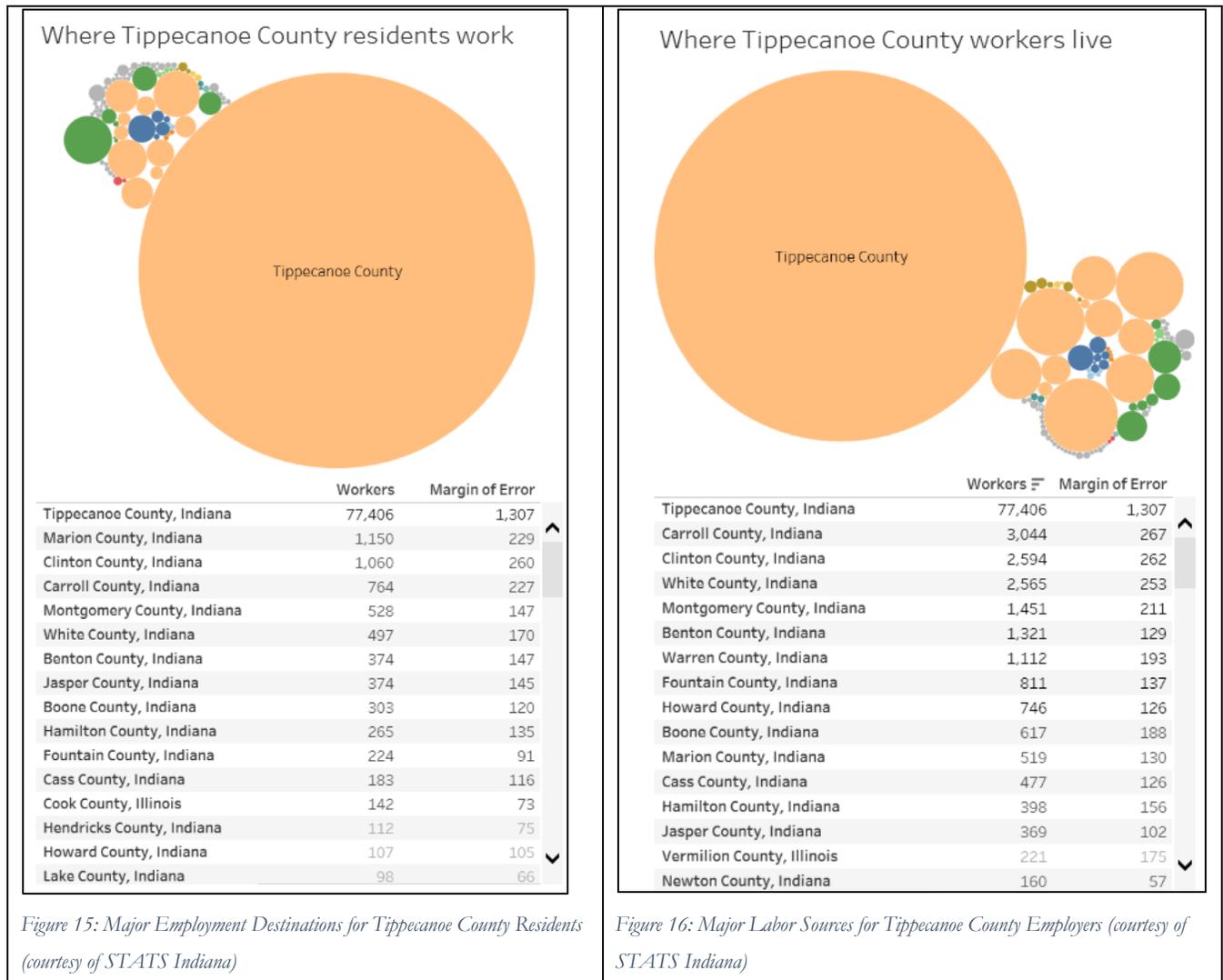


Figure 15: Major Employment Destinations for Tippecanoe County Residents (courtesy of STATS Indiana)

Figure 16: Major Labor Sources for Tippecanoe County Employers (courtesy of STATS Indiana)

Median Household Income

Figure 17 shows the 2017 median household income for the study area by Census Block Group. Generally, incomes within the Cities are lower than those found elsewhere. Areas with a high number of students in West Lafayette have lower incomes, as do areas on the east and southwest sides of Lafayette.

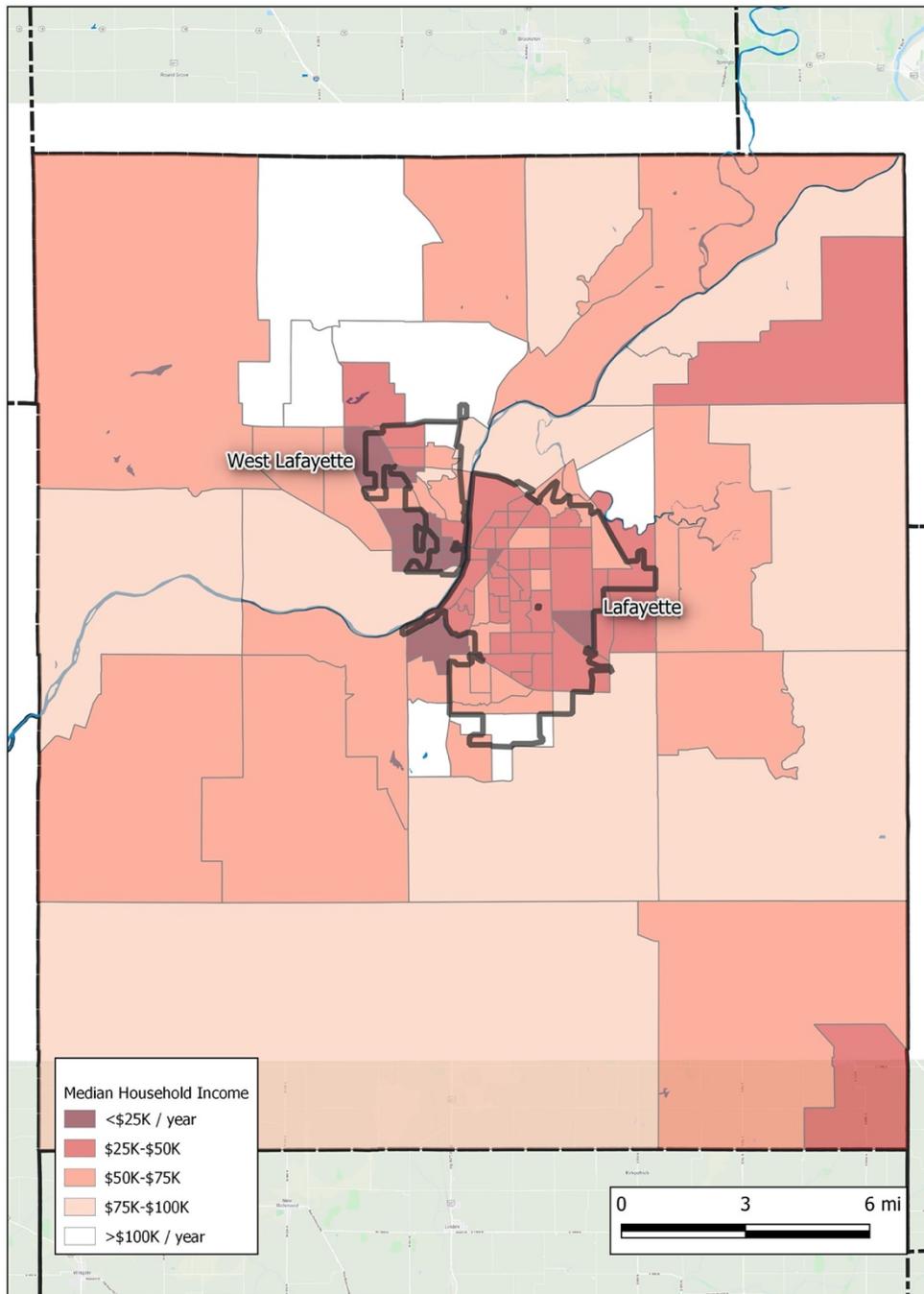


Figure 17: Median Income by Census Block Group

III: Housing Profile

General Characteristics of the Housing Stock

As of the 2017 ACS, Tippecanoe County had 74,721 housing units, broken into three categories, renter occupied, owner occupied, and vacant. Figure 18 shows the breakdown by these categories for the County.

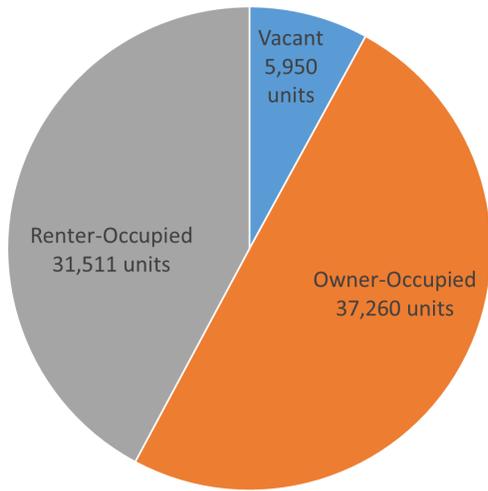


Figure 18: Tenure of Housing Units

Figure 19 (Renter-occupied, as a percentage of occupied units) and Figure 20 (Vacant units, as a percentage of all units) show the distribution of units by type within the County (owner-occupied are not directly shown, as they are the inverse of renter-occupied units). Renter-occupied units are more prevalent in the urbanized areas, both downtown and on the developing fringe. The area to the northeast of the urbanized areas, encompassing the Town of Battle Ground, shows an unusually high vacancy rate exceeding 30%.

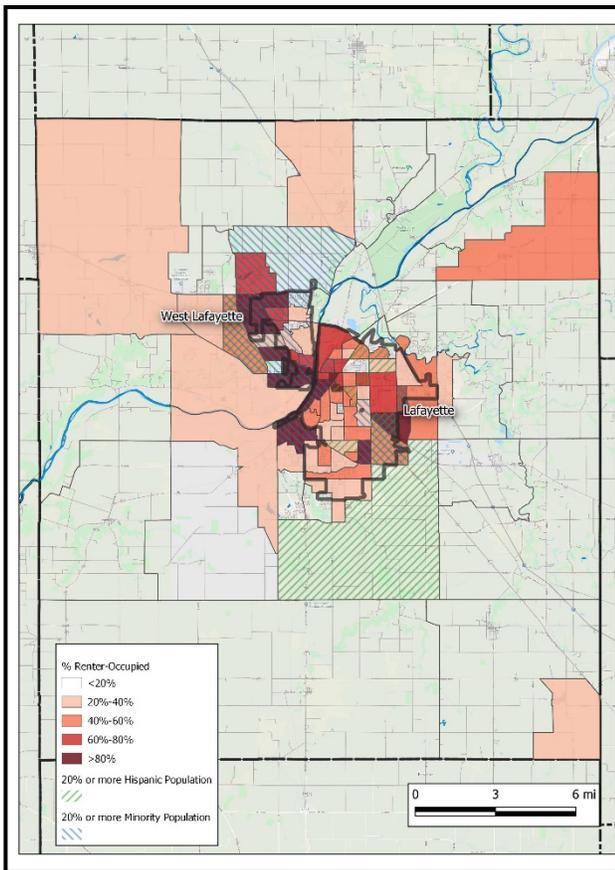


Figure 19: Renter-Occupied Housing Units

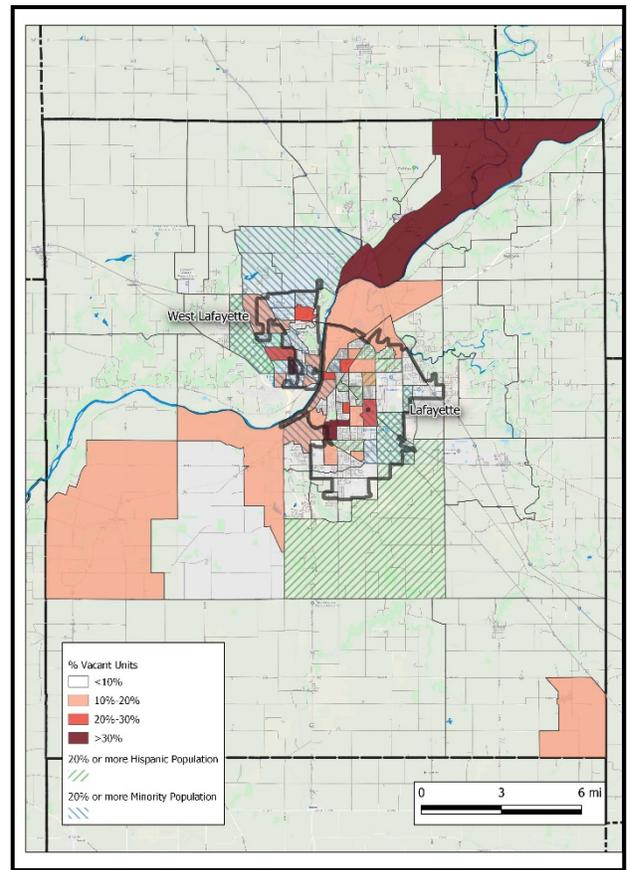


Figure 20: Vacant Units

The Indiana Fair Housing Act requires all "covered multifamily dwellings" designed and constructed for first occupancy after March 13, 1991 to be accessible to and usable by people with disabilities. It is not clear how many of Tippecanoe County's multi-family dwellings currently meet this standard. Figure 21 shows the issuance of single- and multi-family building permits since 1990. Over this time period, there have been 18,000 single-family unit permits issues, compared to about 11,000 for multi-family. The spike in multi-family permits in the last year of analysis is quite interesting.

Figure 22 shows the incidence of overcrowding for units within Tippecanoe County. For purposes of this analysis, "overcrowded" means between 1 and 1.5 persons per room, while "severe overcrowding" means more than 1.5 persons per room. Note that these areas generally correspond to low- to moderate income areas found in "Figure 10: Low- to Moderate-Income Areas" suggesting that families are responding to higher rents by "packing" larger households, or multiple households, into smaller units.

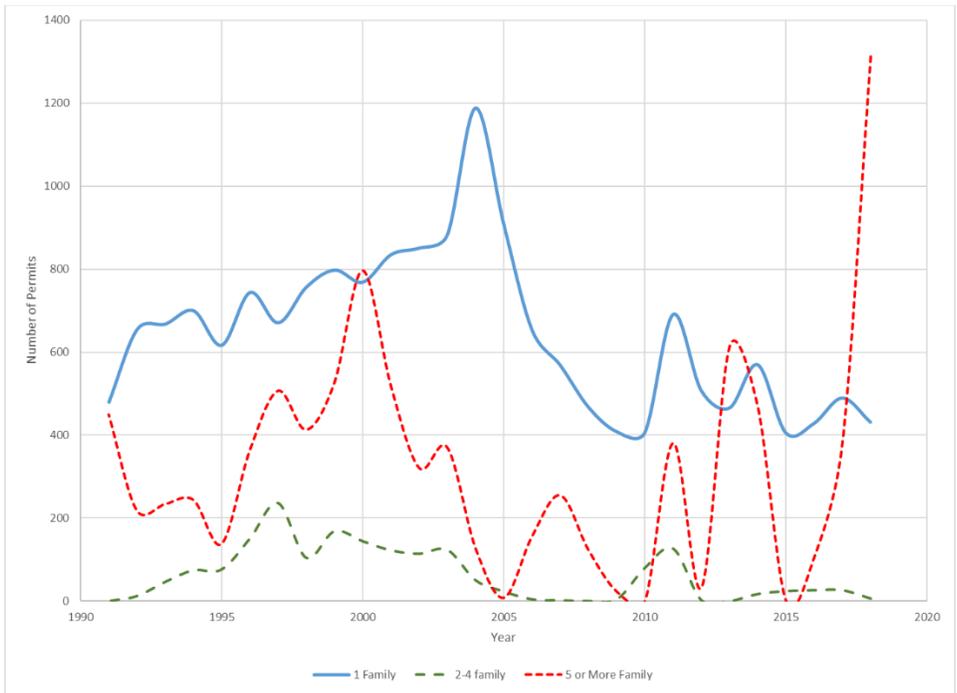


Figure 21: Building Permits by Year

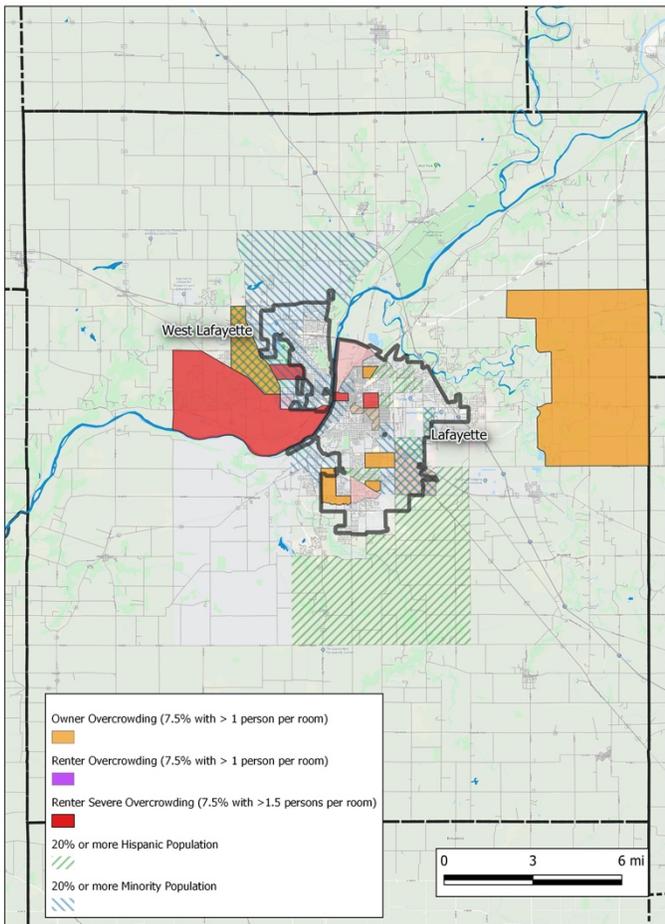


Figure 22: Overcrowding and Severe Overcrowding

Figure 23 shows the median rent by Census Block Group. Generally, higher rents are evident outside of the urbanized areas, although neighborhoods with high student populations also experience higher rents. Figure 24 shows that owner-occupied unit values are higher outside of the urbanized areas, particularly in the areas to the northwest of West Lafayette. Figure 25 shows how rent burden (as a percentage of median gross income) is generally higher in West Lafayette and its environs.

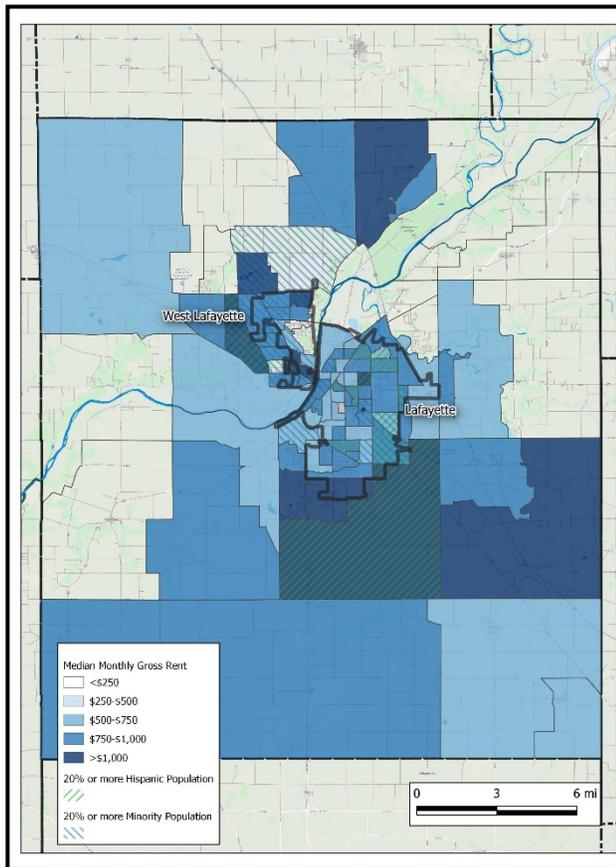


Figure 23: Median Rent

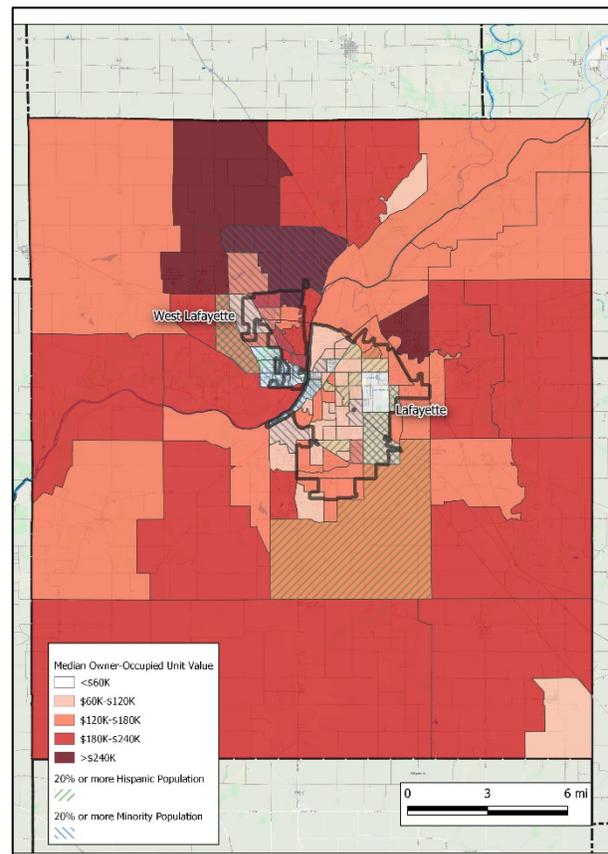


Figure 24: Owner-occupied Housing Value

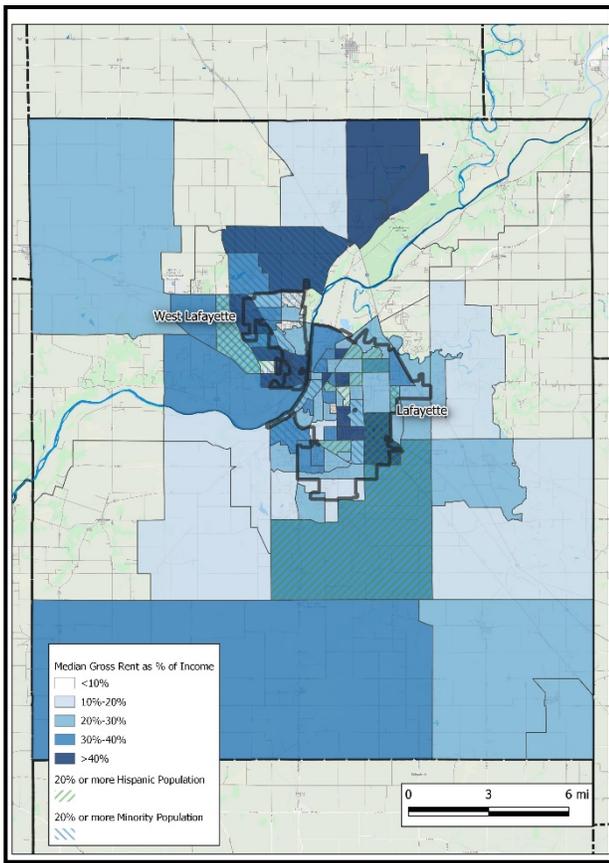


Figure 25: Rent as Percentage of Income

Marketing and Target Populations

The Fair Housing Act prohibits housing advertisements that indicate a preference based on protected classes (race, ethnicity, female head of household, children, religion, etc.). Nevertheless, many landlords and builders are unaware of this prohibition, leading to frequent violations or near-violations of the law. Education would be helpful to landlords and builders in avoiding inadvertent legal pitfalls.

Evictions

Figure 26 shows eviction statistics by Census Block Group for the County. Eviction rates are generally higher in areas with high quantities of rental housing (as per Figure 18, above). Eviction rates for the County appear commensurate with State and national figures.

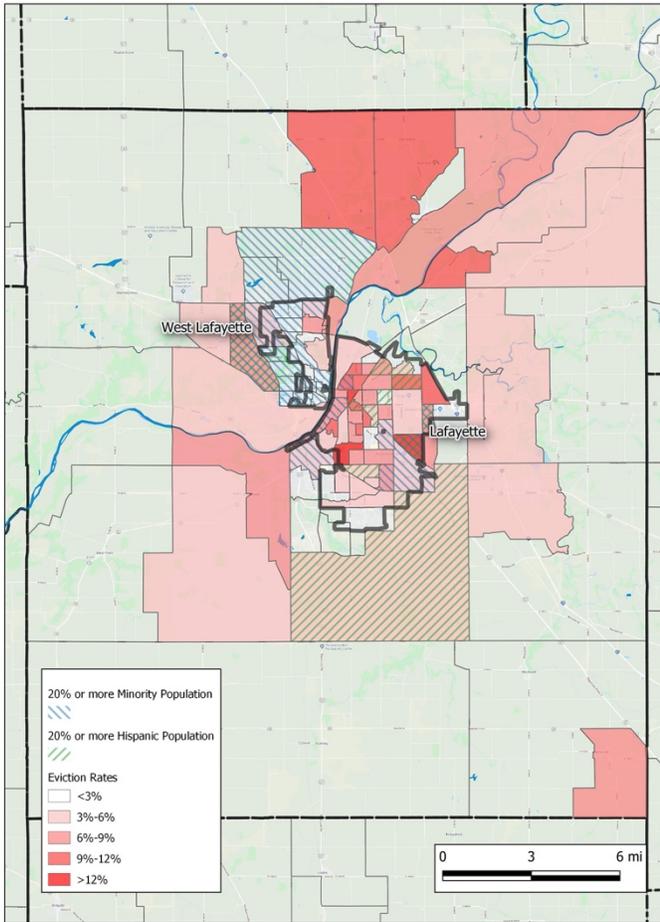


Figure 26: Evictions by Census Block Group, 2016

Source: Evictionlab.com

Living Wage

Recent news and debate have taken place on the need to increase the minimum wage to a living wage. While there are two sides of the debate with many people on each side, it brings to light that the minimum wage is different from a living wage. The National Low Income Housing Coalition conducts an annual study called *Out of Reach*. *Out of Reach* documents the significant gap between renters' wages and the cost of rental housing across the United States. A brief look at the *Out of Reach* Study for 2019 from the National Low Income Housing Coalition states the mean renter's wage in Tippecanoe County is \$12.10 per hour and would require the renter to work at least 53 hours per week to afford a 2 bedroom apartment. This is a much higher wage than the minimum wage of \$7.25 per hour. No rent levels are affordable to households earning a minimum wage in Tippecanoe County. Even for an efficiency apartment, a household with a minimum wage will need to work at least 65 hours to afford the rent at fair market. To only work 40 hours per week and afford a two-bedroom apartment in the Tippecanoe County, a worker must earn \$16.60 per hour. This is often referred to in the *Out of Reach* report as a living wage.

HMDA Analysis

Information contained in the following tables comes from the online reports available from the Federal Financial Institutions Examination Council (FFIEC). The FFIEC is responsible for the collection and administration of the Home Mortgage Disclosure Act (HMDA) reporting data that financial institutions are required to submit. The most recent data available comes from the 2017 calendar year.

Figure 27 overlays the same minority categories used in Figure 8, above, on the dollar value of loan denials per Census Tract. There does not appear to be a spatial correlation between the value of loan denials and high concentrations of minority populations.

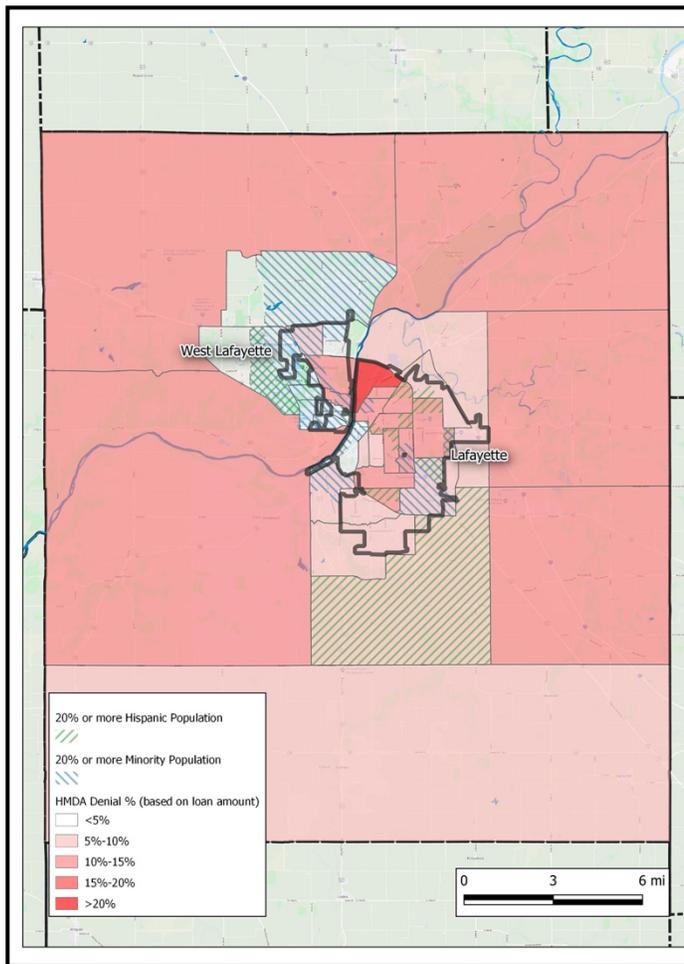


Figure 27: HMDA Denial Analysis

IV: Land Use Profile

This section of the Analysis of Impediments to Fair Housing Choice (AI) analyzes the land use for Tippecanoe County and evaluates the public policies regarding land use and planning to determine the result in any impediments to fair housing choice.

Existing Land Use

Data sources for existing land use are scarce. Tippecanoe County's Area Plan Commission includes the City of Lafayette, the City of West Lafayette, the Town of Battle Ground, the Town of Clarks Hill, and the Town of Dayton, as well as remaining unincorporated areas within the County. The Land Use Plan has not been updated (excepting amendments) since 1981, and the most recent amendment covering the Town of Battle Ground dates to 1998. There does not appear to be a current land use database available.

Zoning Regulations

The Tippecanoe County Area Plan Commission maintains its zoning maps online at <https://maps.tippecanoe.in.gov/Html5/index.html?viewer=Zoning>. The web mapping application does not allow for Countywide viewing of the zoning maps, making it impossible to post a version here, or to do analysis of the areas of zoning districts. However, the majority of districts are residential, primarily single-family districts, with allowances for two-family structures in more dense inner-city neighborhoods.

Variance requests to the zoning ordinance are heard by the Board of Zoning Appeals, which typically meets once a month. Variances can be requested for the applications of development standards (e.g., setbacks, etc.) and uses (e.g., residential, retail, etc.). Requests for variances are considered when the strict application of the applicable zoning district creates a "hardship" for the applicant, in the sense that the property cannot be utilized to its best potential. Economic considerations are generally not considered a hardship, unless the property becomes undevelopable. Larger considerations of the appropriateness of zoning classifications for a particular area are typically reviewed in context of the County's comprehensive plan (next section).

Comprehensive Plan

The County's Comprehensive Plan was last updated in 1981, although a number of amendments have been adopted since that time. There do not appear to be summary goals or objectives outlined in the Comprehensive Plan.

Planning and Recording Fees

Fees are charged by the Tippecanoe Area Plan Commission to process certain petitions. A list of fees is provided below; these do not include sign costs for required public notices.

- Single-family residential use variance: \$100 + \$50 for each additional request
- All other use variances: \$500 + \$50 for each additional request
- Standard Rezone: \$500
- Planned Unit Development Concept Plan rezoning: \$1000 for draft review
- Platting Changes or Vacations: \$250
- Primary Plat: \$500
- Secondary Plat: \$500
- Change in Commitments: \$100 per commitment, change, modification, or release

Single-family residential uses receive preferential treatment in many of these categories, with the associated fees being substantially less than their non-single-family counterparts (including multi-family residential).

Building, Occupancy and Health and Safety Codes

The Cities of Lafayette and West Lafayette and Tippecanoe County separately oversee and collect Building Permit fees. These fees appear to be reasonably balanced, with permit fees being somewhat greater for multi-family units (\$0.25/s.f.) than for single-family units (\$0.15/s.f.).

Public Transportation

The Greater Lafayette Bus Corporation, aka “Citibus”, is the region’s primary transit provider, operating 20 corridor routes and six “loops” serving the Purdue campus, as shown in Figure 28, below. Area IV Public Transportation of Tippecanoe County provides demand response, curb-to-curb, advance reservation transportation service within Non-Urbanized Tippecanoe County. Door-to-door service is also available upon request for those needing reasonable assistance beyond the curb.

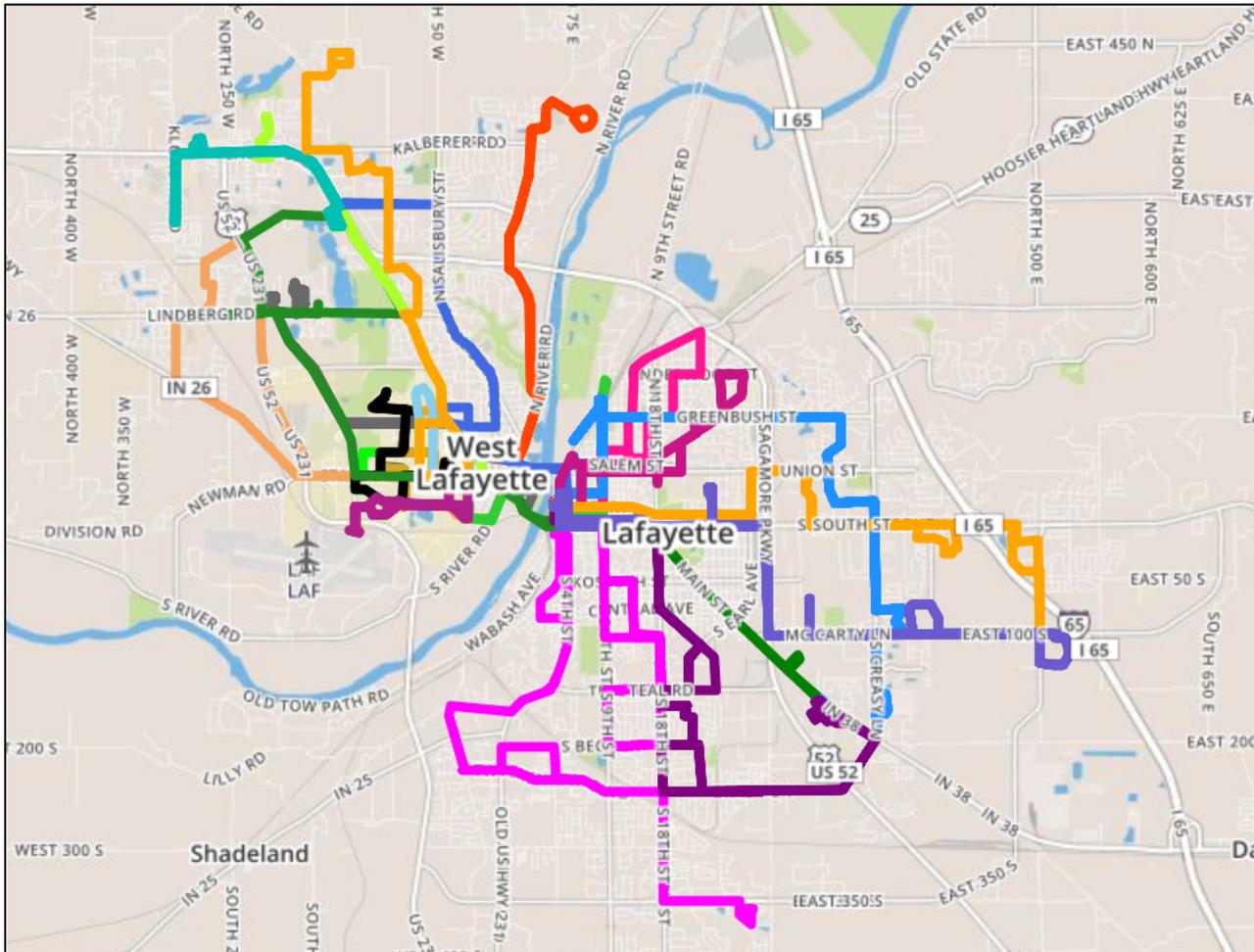


Figure 28: Public Transit

V: Compliance Data

Current Cases

FHCCI, et al v. AMP Residential: *Complaint filed with HUD in July 2016 alleging discrimination due to familial status. Settlement reached in January 2017.*

The groups alleged that AMP has engaged in systemic discrimination against families with children across 20 properties evaluated in three states.

FHCCI, et al v. Bank of America: *Complaint filed with HUD in October 2012 and in federal court in June 2018 alleging discrimination in the maintenance of foreclosed properties in neighborhoods of color vs. white neighborhoods. Status pending.*

The lawsuit alleges the defendants intentionally failed to provide routine exterior maintenance and marketing at Bank of America-owned homes in working- and middle-class African American and Latino neighborhoods in 37 metropolitan areas, while they consistently maintained similar bank-owned homes in comparable white neighborhoods.

FHCCI, et al v. Buckingham: *Complaint filed in federal court in December 2012 alleging discrimination against persons with disabilities in the design and construction of multi-family properties. Settlement reached in December 2014.*

FHCCI, et al v. Capitol Station/United Church Homes: *Complaint filed in federal court in February 2016 alleging discrimination due to disability. Resolved in February 2017.*

The complaint alleges that the defendants did not take timely action to repair the only elevator in an apartment building which housed residents age 62 years or older. Many residents of Capitol Station had mobility issues which were readily apparent, for whom taking the stairs was dangerous or impossible. This suit alleges that Capitol Station was without a working elevator for five and a half weeks in August and September 2015 resulting in harm to residents with disabilities.

FHCCI, et al v. Casas Baratas Aqui/Marshall Welton, et al: *Complaint filed in federal court in April 2018 alleging discrimination due to race, color, and national origin under the federal Fair Housing Act, as well as violations under the federal Equal Credit Opportunity Act, the Truth in Lending Act, and Indiana state laws. Status pending.*

The complaint alleges that the Defendants violated civil rights and consumer protection laws, including the federal Fair Housing Act, the federal Equal Credit Opportunity Act, the Truth in Lending Act, and several Indiana state laws. The complaint involves almost 1,000 houses in Marion County, Indiana. Welton is sued in his personal capacity and as the manager or president of the defendant LLCs. Other defendants are also named.

FHCCI, et al v. Deutsche, Ocwen Financial, and Altisource: *Complaint filed with HUD in July 2017 and in federal court February 2018 alleging discrimination in the marketing and maintenance of foreclosed properties in neighborhoods of color vs. white neighborhoods. Pending.*

NFHA alleges that Deutsche Bank AG, Deutsche Bank National Trust, Deutsche Bank Trust Company Americas, Ocwen Financial Corporation, and Altisource Portfolio Solutions, Inc. fail to provide required routine maintenance on bank-owned homes in middle- and working-class African American and Latino neighborhoods, while Deutsche/Ocwen/Altisource consistently provide routine maintenance on similar bank-owned homes in white neighborhoods.

FHCCI, et al v. Fannie Mae: *Complaint filed with HUD in May 2015 alleging discrimination in the marketing and maintenance of foreclosed properties in neighborhoods of color vs. white neighborhoods. Pending.*

The lawsuit alleges that Fannie Mae purposely fails to maintain its foreclosures (also known as real estate owned or “REO” properties) in middle- and working-class African American and Latino neighborhoods to the same level of quality it does for foreclosures it owns in white middle- and working-class neighborhoods. The data supporting the federal lawsuit, which includes substantial photographic evidence, shows a stark pattern of discriminatory conduct by Fannie Mae in the maintenance of its foreclosures.

FHCCI, et al v. Grandville Cooperative/Kirkpatrick Management: *Complaint filed in federal court in February 2016 alleging discrimination due to disability and familial status. Resolved August 2017.*

The complaint alleges that the defendants refused to rent to a family that included a person with disabilities stating that “...it will be a liability to offer [the person with a disability] a unit that is not accommodating to everyone in the household.”

FHCCI, et al v. Shiloh Estates: *Complaint filed in federal court in May 2015 alleging housing discrimination due to race, color, national origin, disability, and familial status. Resolved August 2017.*

The suit follows a years-long investigation by the FHCCI and alleges that Shiloh Estates; its owner and management company, Colorado-based FR Community; and its former manager, Pamela Ziemer, engaged in unlawful

discrimination against current and former tenants on the basis of race, color, national origin, familial status, and disability.

FHCCI, et al v. Smitley Family Trust: *Complaint filed in federal court in April 2016 alleging discrimination due to disability and familial status. Pending.*

The FHCCI and Carolyn McGuffin, represented by attorneys from Indiana Disability Rights and Brancart & Brancart, previously filed a lawsuit against Carolyn Smitley and the Smitley Family Trust in April 2016 alleging that the Defendants discriminated against Ms. McGuffin in violation of the federal Fair Housing Act. On July 3, 2018, Judge William T. Lawrence in the United States District Court for the Southern District of Indiana entered judgment requiring the Defendants to pay \$219,747.75 as a result of the discrimination.

FHCCI, et al v. Wells Fargo: *Complaint filed with HUD alleging discrimination in the maintenance of foreclosed properties in neighborhoods of color vs. white neighborhoods. Settlement reached in June 2013.*

Fair Housing Groups Announce Fair Housing Settlement with Wells Fargo to Address Maintenance of Foreclosed Properties: Indianapolis neighborhoods of color will receive \$1.42m in community relief from a national fair housing settlement announced today. This settlement is the first of its kind and the result of work by the Fair Housing Center of Central Indiana and its partners in a filed fair housing complaint which alleged that Wells Fargo's REO (Real Estate Owned or foreclosed) properties in white areas were much better maintained and marketed by Wells Fargo than REO properties in Indianapolis African-American and Latino neighborhoods.

The United States of America v. Union Savings Bank and Guardian Savings Bank: for engaging in a pattern or practice of unlawful redlining by structuring its business so as to avoid the credit needs of majority-black neighborhoods in its residential mortgage lending from at least 2010 through 2014, and thereby engaging in acts or practices directed at prospective applicants that discouraged applicants in these neighborhoods from applying for credit. Settlement reached in December 2016.

The Justice Department filed a consent order today to resolve allegations that Union Savings Bank and Guardian Savings Bank engaged in a pattern or practice of "redlining" predominantly African-American neighborhoods in and around Cincinnati; Columbus, Ohio; Dayton, Ohio; and Indianapolis. "Redlining" is the discriminatory practice by banks or other financial institutions of denying or avoiding providing credit services to consumers because of the racial demographics of the neighborhood in which the consumer lives.

Property Taxes

In March 2008, the Indiana General Assembly passed bill SB 001 to limit the amount of property taxes beginning in 2012 for the entire state of Indiana. The limit for homeownership properties will be one percent of the assessed value. The limit for rental properties will be two percent of the assessed value. The limit for commercial properties will be three percent of the assessed value.

Proponents of the new tax law argue the single tax rate across the State of Indiana will eliminate disparities between properties based on location. In Tippecanoe County, there are 39 different taxing districts, including the following:

District	Name
001	FAIRFIELD TWP-LSC-B
002	FAIRFIELD TWP-TSC
003	FAIRFIELD TWP-TSC-B
004	LAFAYETTE-FAIRFIELD TWP-LSC-B
005	LAFAYETTE-FAIRFIELD TWP-TSC-B
006	JACKSON TWP-TSC
007	LAURAMIE TWP
008	CLARKS HILL TOWN
009	PERRY TOWNSHIP-TSC
010	PERRY TOWNSHIP-TSC-B
011	RANDOLPH TOWNSHIP-TSC
012	SHEFFIELD TOWNSHIP-TSC
013	DAYTON TOWN-TSC
014	SHELBY TOWNSHIP-BSC
015	SHELBY TOWNSHIP-TSC
016	OTTERBEIN TOWN-BSC
017	TIPPECANOE TOWNSHIP-TSC
018	TIPPECANOE TOWNSHIP-TSC-B
019	BATTLE GROUND TOWN-TSC
020	SHADELAND TOWN-TSC
021	SHADELAND-TSC-B
022	WABASH TOWNSHIP-TSC
023	WABASH TOWNSHIP-TSC-B
024	WABASH TOWNSHIP-WLCS-B
025	WEST LAFAYETTE CITY-TSC-B
026	WEST LAFAYETTE CITY-WLSC-B
027	WASHINGTON TOWNSHIP-TSC
028	WAYNE TOWNSHIP

029	WEST LAFAYETTE-WABASH-TSC-B
030	WEA TOWNSHIP-TSC
031	WEA TOWNSHIP-TSC-B
032	LAFAYETTE CITY-WEA TOWNSHIP-LS
033	LAFAYETTE CITY-WEA TOWNSHIP-TS
034	WEST LAFAYETTE CITY-TSC-B-C
035	WEST LAFAYETTE-WLSC-B-C
036	LAFAYETTE SHEFFIELD TSCB
037	LAF WEA TSC-B ANNEX
038	LAFAYETTE PERRY-TSC
039	WEST LAFAYETTE TIPPECANOE TSC

According to the 2018 tax rates available on the Indiana Department of Local Government Finance web page (<https://www.in.gov/dlgf/2339.htm>), not every district taxes every property the same and the rates vary by location. Some properties are taxed at a rate as low as 1.117 percent while others are taxed at a rate of 2.875 percent. For a property valued at \$100,000, the variance could equal as much as \$1,760 annually dependent on the location of the property.

The single tax rate does have potential problems. Higher taxes for rental properties may be passed along to the end consumer, or the lessee of the property, in the form of higher rents. This could have an adverse effect on lower income individuals renting properties with higher property taxes. While not all low-income individuals are minorities, those individuals in the protected classes tend to rent their housing more than own housing. The ramifications of the property tax overhaul may have an adverse effect on the protected classes if those individuals or households are primarily renters.

Government Programs and Education

The Indiana Civil Rights Commission (ICRC) serves as the primary investigative and resolution agency for fair housing complaints for the State of Indiana. The ICRC is contracted by the U.S. Department of Housing and Urban Development (HUD) to investigate fair housing discrimination. The ICRC has substantial equivalence certification, meaning they enforce a fair housing law that provide substantive rights, procedures, remedies and judicial review provisions that are substantially equivalent to the Fair Housing Act. HUD may refer complaints of housing discrimination to the ICRC, as the nearest federal fair housing office is located in Chicago, IL.

Complaints may follow an eight-step process; however, most complaints are resolved within the first three steps. Figure 29 demonstrates the complaint and resolution process.

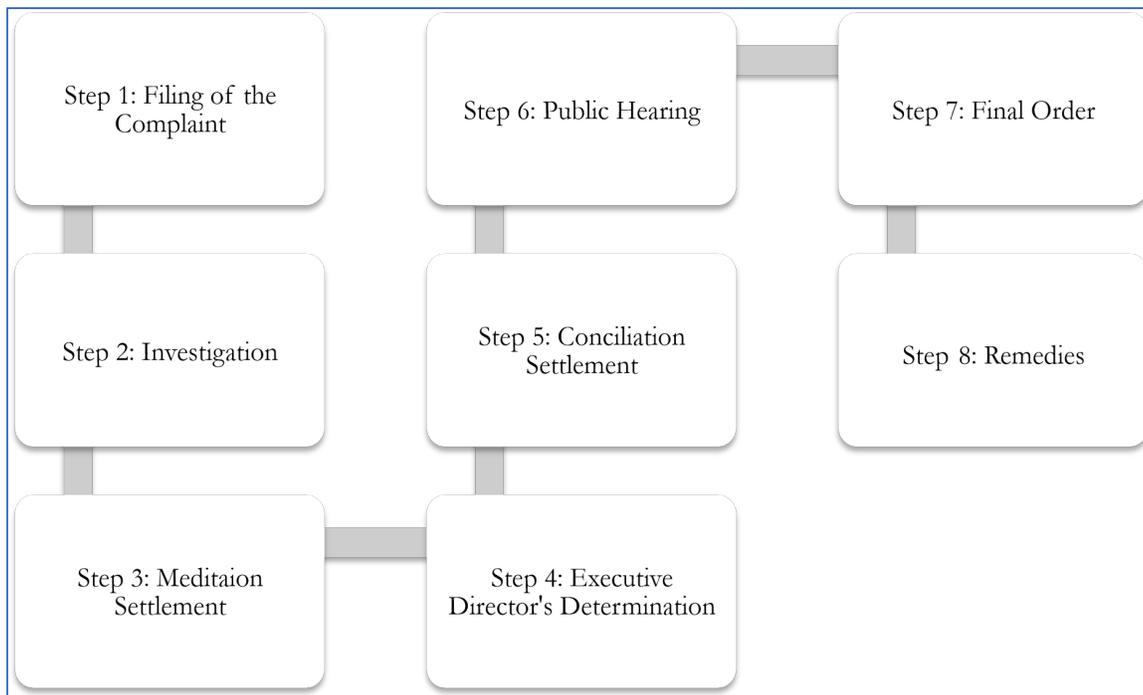


Figure 29: Complaint Process for the Indiana Civil Rights Commission

“Complainants” identities are confidential except to the extent necessary to complete the investigation. If it is necessary to disclose the complainant’s identity to the alleged person who may have discriminated or a third-party, the ICRC must first obtain the complainant’s written consent. The ICRC must also obtain the complainant’s written consent before providing a copy of the complaint to any other individual(s) involved with the investigation.

Appeals of the decisions made by the ICRC may be filed with the Department of Justice in Washington DC.

Any investigation not within the jurisdiction of the ICRC is referred to the appropriate federal or state investigative organizations.

According to the 2019 Indiana Civil Rights Commission Annual Report, the ICRC received 367 discrimination housing or real estate complaints or inquiries. Of those inquiries, 83 of those became formalized complaints. HUD referred an additional 13 inquiries that became formalized complaints in 2019. The ICRC, during 2019, had 310 active cases or cases receiving probable/reasonable case.

The ICRC also conducts public outreach programs and educational programs. During the 2019, the ICRC conducted 67 different events, workshops and programs across the state, with a total attendance of 88,757 people.

Advocacy and Testing

The ICRC conducts advocacy, education, enforcement and outreach activities statewide. Currently, no systematic testing is known to be conducted in Tippecanoe County. Paired testing is a procedure where two individuals are individually sent inognito to solicit rents from rental properties. These individuals are matched in every relevant aspect except for the characteristic that is being tested. For example, in a race test a matched pair test would be conducted with a Person of Color and a White tester making contact with and visiting the same property within a short time period of each other. The testers would have similar characteristics for income, family size and other relevant factors. The matching of testers is important because it removes any financial or business justifications for rejecting the protected group tester. Equally qualified individuals seeking the same kind of housing should receive similar treatment and be given similar information. If there is only one difference (in this case, race), that is likely to be the factor causing any differential treatment.

Testers must ask questions and observe treatment. The eight primary categories FHCCI utilizes for comparison results include:

1. Difference in rental amount
2. Difference in information regarding the availability of units
3. Difference in security deposit amount
4. Difference in move in specials offered
5. Difference in treatment during the onsite appointment
6. Difference in access to the rental application
7. Difference in treatment before or after onsite visit
8. Steering

The consultant team recommends testing to be conducted to get a better picture of what types of treatment are found in Tippecanoe County.

Self Evaluation

The Cities of Lafayette and West Lafayette included the previous goals of the Analysis of Impediments to Fair Housing Choice (AI) as part of their 2005-2009 Consolidated Plan and congruent Action Plans. The cities have worked together to address the confusion created by three separate Human Relations Commissions and fair housing complaint outlets. However, they have not consistently addressed the goals and recommendations of the previous AI. Documentation of efforts outside the Consolidated Annual Performance and Evaluation Report to address the recommendations is lacking.

State Law and Impediments to Fair Housing Choice

Although not within either City's direct control, there are many State laws and regulations that impact, both positively and negatively, upon fair housing choice. Some of these laws and regulations may merit both Cities' participation in advocacy efforts. The following list is not exhaustive, but instead is intended to give a flavor of the types of issues that a City fair housing advocacy program might pursue:

- In 2014, the State Legislature passed a bill allowing local units of government to pass referenda for funding mass transit projects, but arbitrarily restricted the types of projects to exclude rail-based transit. Because the law eliminates certain categories of high-capacity transit without justification, thus making it more difficult for low-income households in Tippecanoe County to access jobs in Indianapolis, it has been argued that the law constitutes an impediment to fair housing choice. In 2019, House Bill 1365 was passed that repealed the prohibition by a vote of 89-5. The bill then went to the Senate for consideration, where it failed to get a hearing.
- Land contracts constitute one way that low-income homebuyers can purchase housing, by foregoing the loan industry and buying the house from the seller directly in installments. These arrangements can prove problematic, however, as the seller typically withholds transferring title of the property until all the payments have been made, leaving the buyer in a vulnerable position. During the 2019 legislative session, House Bill 1495, which provided consumer protections for contract homebuyers, passed both chambers, but the House and the Senate were unable to reconcile their different versions of the bill before the legislative session ended.
- Also during the 2019 session, Senate Bill 524 was filed that would extend the time in which a tenant has to pay past-due rent before the landlord can terminate the lease from 10 days to 14 days. The bill would prevent a landlord from initiating eviction proceedings or terminating a tenant's lease unless the landlord gives the renter at least 14 days' notice and a chance to fix the alleged violation. The bill did not get a hearing.
- During the 2018 legislative session, Senate Bill 240 was filed, which allows a landlord to challenge the right of tenant who is not "visibly handicapped" to the use of an emotional support animal in the domicile. The bill further criminalizes a tenant falsely claiming to need an emotional support animal. The bill was passed and signed into law. The explicit authorization of the landlord's exercise of this power based upon the tenant's appearance is troubling.
- In 2017, the Legislature passed HB 558, which bans cities from passing ordinances to promote inclusionary zoning as it relates to affordable housing, as well as allows landlord to deny leasing to households that exceed an occupancy threshold set in the statute.

- “Inclusionary zoning” promotes mixed-income opportunities within housing development, and has historically been advanced as a strategy to affirmatively promote fair housing (*cf* <https://www.fhcci.org/wp-content/uploads/2014/07/FHCCL-FS-14-Affordable-Housing.pdf>).
The passage of HB 558 removed an important tool for local communities to enhance fair housing.
- The occupancy limitation was the subject of a letter from HUD’s Director of Fair Housing to the Indiana Civil Rights Commission, wherein the lack of a tenant’s ability to challenge being denied housing was seen as a potential violation of fair housing laws.

VI: Community Input

This Analysis of Impediments (AI) process sought input from a broad array of citizens and professionals on the severity and types of fair housing issues being faced by the County. This section documents the types of outreach that were conducted, and summarizes the findings.

Professional/Stakeholder Interviews

Interviews with community representatives and professionals were conducted jointly with those for the Lafayette and West Lafayette Consolidated Plans. A list of persons and organizations who were interviewed are included in Appendix B.

The following observations were made by these participants:

Affordable Housing:

- Tenant Based Rental Assistance is an essential program to provide housing assistance to low and extremely low-income renters.
- H38 will open, creating much needed, more affordable units.
- The community, and its leaders, have become more comfortable with supporting the development of rental housing than in previous years.
- Tracts of land for development is scarce, with owners not wanting to sell or donate property for affordable housing development, even if the land is underutilized or not utilized at all.
- Both Cities are working to include more stakeholders at HPIN meetings to talk about affordable housing and the need for affordable housing throughout the region.
- The City of Lafayette is investigating the idea of a land trust to preserve affordable housing development.
- The amount needed to develop a single affordable home for homeownership has increased, even with sweat equity and volunteers helping with the building of the home.
- Need for partnerships to help support families as they prepare for Habitat homes prior to the build.
- Impossible or near impossible to meet after-rehab value regulations when working on homes in the City of West Lafayette.
- Acquisition costs continue to challenge the City's ability to develop affordable housing in West Lafayette.
- Gaps in affordable housing are biggest for rentals and first-time homebuyers.
- Scattered site, affordable rental housing might be good for the area but that type of project does not score well on applications.
- Seniors who cannot live independently or age in place need more affordable options for nursing or skilled care.

- For seniors who are able to stay in their home, the community needs pools of volunteers to help with regular upkeep to homes.
- Quality of life is a main factor for attracting employers. Affordable housing is key to need.
- Programs that help renters become first-time home buyers are needed.
- Many apartments are priced out of range for a housing choice voucher holder to use.
- Still seeing a need for foreclosure counseling, but not as big as a few years ago.
- Many households are interesting in buying a home because it is cheaper, but rent is so high, the household cannot save for the purchase.
- Many families hit hard by the last economic crunch may not make it through the next economic crunch.
- No single demographic stands out as having the greatest need.
- Need a landlord mitigation fund to encourage more landlords to house the most vulnerable.

Fair Housing

- Begin testing to enable the community to educate property managers and other community members about issues of fair housing.
- Education is required to recruit more landlords who will accept housing choice vouchers.
- NIMBY or Not in My Back Yard is the biggest issue to develop affordable housing.
- Both Cities should act as an advocate when addressing affordable housing development in neighborhoods.
- Both Cities should focus fair housing education to elected officials, appointed councils and approval committees.
- More stakeholders need to be at the table to better fair housing advocacy to maximize the voice of the community.
- Some renters have a fear of filing a fair housing complaint because of possible retribution from the landlord.
- Need to deconcentrate people living in poverty but how will this be accomplished without pulling them away from amenities?

Public Input

2020 Consolidated Plan Survey

The *Consolidated Plan* is a document created by both Cities, Lafayette and West Lafayette, that allocates three major grants from the U.S. Department of Housing and Urban Development. The grants are the Community Development Block Grant, an allocation received by each City, and the HOME Investment Partnerships Program, received by both Cities together. Together, these grants total nearly \$1.95 million dollars of annual funding to the area.

The Cities posted a survey, in English and Spanish, on August 1, 2019 to collect general input from the community on the challenges facing their neighborhood as well as the City at-large. Both Cities posted a direct link to the survey on social media sites, Twitter and Facebook, and emailed a link via an e-newsletter. The Mayors from both Cities posted a video on youtube.com to encourage participation. The Cities collected 735 surveys in English and 3 surveys in Spanish from the community in the two months it was posted to surveymonkey.com. The findings from the survey were:

- 7.50 percent were told by the landlord that they would not accept tenants with children or tenants with more than one child.
- 27.5 percent were told by the landlord that units are no longer available in person after told units were available via the phone.
- 8.75 percent were told by the landlord that the unit could not accommodate a person with a disability.
- 13.75 percent were told by the landlord that they would not accept your rental subsidy because it's too much regulation.
- 21.88 percent were told by a realtor that a neighborhood you like would not suit your needs or not be appropriate for you.
- 20.63 percent were told by a landlord that the print advertisement you saw or have is wrong and the rent is actually higher.
- 63.13 percent were told by a landlord that there is a strict, no pet policy, with no exceptions.
- 7.50 percent were told by a landlord or realtor that there is a lot of traffic in this area, and it's not appropriate for children.
- 7.50 percent had seen fliers for housing with language such as "No Children," "No Minorities," "Hispanics Need Not Apply," or other such exclusions.
- 18.75 percent had been threatened with eviction if you filed a complaint for a landlord not making repairs in a timely manner
- 19.52 percent of respondents knew where to report housing discrimination.

As a note, without further detail, any of the above statements could violate fair housing laws.

VII: Fair Housing Impediments, Recommendations and Action Plan

This section outlines the actions and strategies that the Cities will implement, along with recommended timetables, to address the impediments and challenges that have been noted thus far.

Table 1: Findings and Recommendations

Impediment/Challenge	Resolution/Outcome	City/Organization Undertaking the Resolution	Proposed Accomplishment Date
Housing problems localized in areas of low to moderate income households.	Fund a mixed development that includes affordable housing and market rate housing.	West Lafayette & Lafayette	Complete by the end of the program year 2024.
Housing problems localized in areas of low to moderate income households.	Advocate for housing vouchers and landlords to accept housing vouchers to be used outside of low to moderate income areas.	Lafayette	Annually for the next five years.
It is unknown whether multi-family housing is being constructed in accordance with accessibility requirements in the Indiana Fair Housing Act.	Undertake an analysis of the accessibility of multi-family units in the County, and advocate for accessibility requirements to be included in the zoning and subdivision regulations.	West Lafayette	Complete an analysis by the end of program year 2023 and advocate with the Area Planning Commission annually for the next five years.
Lack of affordable housing affects housing choice and may adversely affect the protected classes	Encourage local units of government to create and complete a rental housing unit registry and annual inspection process to ensure all units for all families are safe and decent places to live.	West Lafayette	Continue the rental housing inspection program annually over the next five years.
Lack of affordable housing affects housing choice and may adversely affect the protected classes	Publish a listing of rental properties that will accept housing choice vouchers and other housing assistance to	Lafayette	Maintain annually.

Impediment/Challenge	Resolution/Outcome	City/Organization Undertaking the Resolution	Proposed Accomplishment Date
	help households locate affordable housing in the Tippecanoe County		
Lack of knowledge of fair housing laws and their impact on advertising.	Provide educational programming for landlords and homebuilders on advertising requirements of the Fair Housing Act.	West Lafayette & Lafayette	Create materials by the end of program year 2021 and distribute annually thereafter.
Knowledge of fair housing laws and where to report vary in the community.	Begin a testing program of multi-family communities to ensure property managers are following fair housing laws.	West Lafayette & Lafayette	Complete one test by the end of program year 2024.
Knowledge of fair housing laws and where to report vary in the community.	Provide educational programming for public officials on fair housing issues.	West Lafayette & Lafayette	Annually beginning in the year 2022.
Knowledge of fair housing laws and where to report vary in the community.	Provide educational materials through local fairs and markets to increase awareness in the community.	West Lafayette & Lafayette	Annually for the next five years.
Institutional and regional coordination of enforcement and advocacy needs to improve.	Work with partners to actively promote fair housing testing within the Tippecanoe County rental housing community.	Lafayette & West Lafayette	Complete by the end of program year 2024.