Assessing Fair Housing Opportunities for Public Housing Agencies





HOPE Fair Housing Center www.hopefair.org

It's Nice to Meet You!

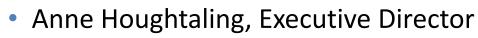


- Maurice J. McGough, Midwest Regional Fair Housing/Equal Opportunity Director
 - HUD Region V





• Sargent Shriver National Center on Poverty Law



HOPE Fair Housing Center



- Kamal Ganjalikhani, Data Analyst
 - HOPE Fair Housing Center



- Yana Karnaukhov Esq., Equal Opportunity Specialist
 - HUD Region V

Overview of Training Session

- Affirmatively Furthering Fair Housing [AFFH]
 - AFFH Obligations for PHAs
 - Fair Housing and other civil rights laws applicable to PHAs
 - Issue spotting in PHA programs, services and policies
 - Data available to assess performance
 - Next Steps
 - Question and Answer Session

AFFH Obligations

- The specific certification requirements detailed at 24 CFR § 903.7(o) provide that a PHA is compliant in affirmatively furthering fair housing if the PHA fulfills section 903.2(b) and takes action to:
 - 1. Examine programs or proposed programs;

2. Identify any impediments to fair housing choice within those programs;

These items will be covered in this PowerPoint

3. Address those impediments in a reasonable fashion in view of the resources available;

4. Work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require PHA involvement;

These items will be covered in the next webinar

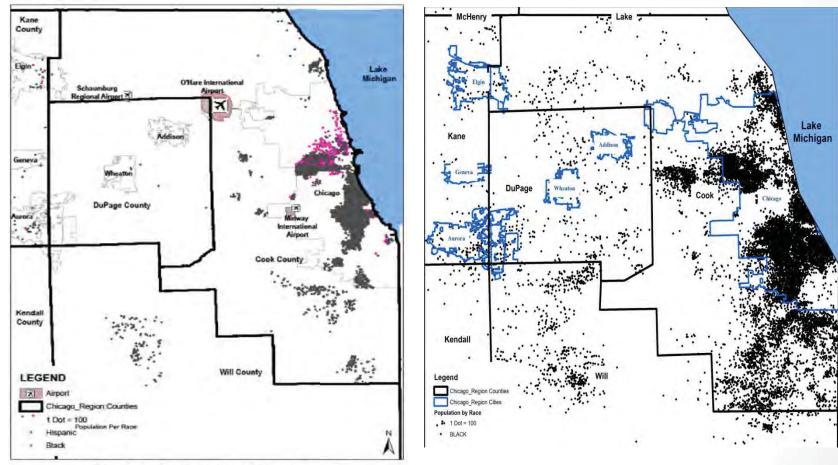
Preventing the Increase of Segregation

- "...the affirmative duty placed on the Secretary of HUD by § 3608(d)(5)... requires that consideration be given to the impact of proposed public housing programs on the racial concentration in the area in which the proposed housing is to be built. Action must be taken to fulfill, as much as possible, the goal of open integrated residential housing patterns and to prevent the increase of segregation, in ghettos, of racial groups whose lack of opportunities the Act was designed to combat."
 - Otero v. New York City Housing Authority, 484 F.2d 1122, 1134 (2d Cir. 1973).

A blast from the past ...



Chicago 1960 - 2010



Greater Chicago Area: 1960 African American & Hispanic Population at Census Traci Level

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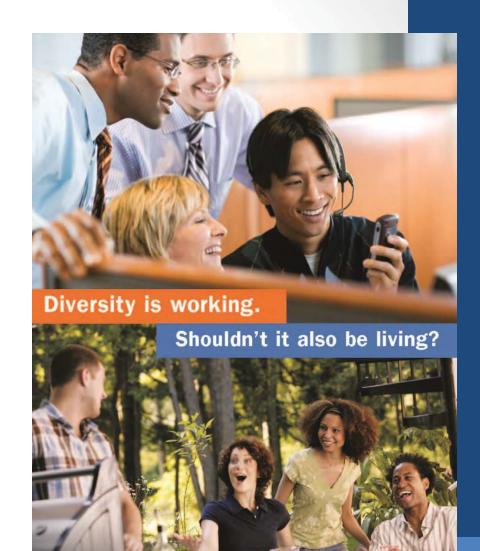
SELECTED CIVIL RIGHTS LAWS FOR PUBLIC HOUSING AGENCIES

Title VIII (the Federal Fair Housing Act as Amended)

- Cannot discriminate *because of*:
 - Race
 - Color
 - Religion
 - National Origin
 - Sex
 - Disability
 - Familial Status
- Check your local state, county or city for additional protections! For example, Illinois state law adds protections based on sexual orientation and for victims of domestic violence, among others.

Dual Purposes of the Law

 Eliminate discrimination in housing and replace the ghettos "by truly integrated and balanced living patterns." (Senator Mondale)



Your workplace thrives on diversity, so why shouldn't your neighborhood? Diversity expands horizons, promotes understanding, prepares our kids. It promises us all a richer life. To better understand how neighborhood diversity will benefit you and your family, please log onto www.ARicherLife.org.



Recipients of Federal \$\$\$

- These additional laws apply to all recipients of federal financial assistance
 - Title VI (race, color national origin)
 - Includes LEP Requirements
 - Section 504 of the Rehabilitation Act of 1973 and the ADA (Persons with Disabilities)
 - Equal Access to Housing based on Sexual Orientation and Gender Identity
 - Violence Against Women Act [VAWA] victims of domestic violence, stalking and dating violence

The Housing Rights of Survivors of Violence

Kate Walz, Director of Housing Justice Shriver Center

Relevant Federal Laws:

- VAWA 2005 and 2013
 Reauthorizations
- The Fair Housing Act

Covered Housing - VAWA

 Key provisions for victims of domestic violence, dating violence, sexual assault, and stalking who live in or are applying for:

Public housing, Project-based Section 8, Housing Choice Vouchers, SECTION 202, 811, 221(d)(3) BMIR, and 236 Housing, Rural 515 housing, LIHTC housing, HOPWA and HOME-funded housing, and, McKinney-Vento Act programs.

- *Sexual assault protection and housing beyond first three added in VAWA 2013.
- *LGBT survivors now covered "affiliated individual"

VAWA – 42 USC § 41411

- Admissions/Termination Protection
- Lease Bifurcation/Portability
- Confidentiality
- Notices
- Transfers/PHA Planning
- 2013 provisions effective now, unless noted
- 2005 Regs (75 Fed. Reg. 66,246) applicable

Admissions

 PHA shall not deny an applicant housing on the basis that an applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Eviction/Termination of Assistance

CANNOT Terminate or evict:

- on the basis she is a survivor;
- For crimes "directly relating to" the abuse;
- an incident of actual or threatened violence (does not constitute a "serious or repeated violation of the lease" or "good cause" for eviction).

Lease Termination/Eviction,

cont.

BUT CAN terminate assistance or evict if:

- If lease violation NOT based on acts of violence against the tenant or member of the tenant's household.
- The PHA can demonstrate an <u>actual and imminent</u> threat to other tenants or those employed at/providing service to the property if that tenant stays at their current housing.
- "Threat" defined as physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. Also consider duration of the risk, nature and severity of the potential harm, the likelihood the harm will occur, and the length of time before the harm would occur. Eviction should occur only IF there is no other action to be taken that would reduce or eliminate the threat.

Lease Bifurcation

- PHA must honor court orders regarding the property or who has a right to the housing and subsidy, including protection orders;
- PHA can "bifurcate" the lease to evict perpetrator and preserve victim's housing. Illinois law also allows for this;
- If the perpetrator is the only household member eligible for housing assistance, victim has time to establish eligibility, move, or establish eligibility for another housing program;
- If both parties present VAWA certification, PHA can ask for third party proof from both;
- For vouchers, PHA must ensure that the "victim retains assistance." 24 CFR § 982.315

Portability

- If a voucher family moves out of unit without PHA permission due to threat of violence, PHA can still provide a voucher and permit the port if the families meets other program obligations.
- If voucher tenant needs to move for safety reasons, PHA cannot deny move based upon prohibition on moving within first year of lease or more than once in a 12 month period. 24 CFR § 982.314

VAWA Proof Requirements

- PHA can take the tenant's word they are a victim;
- Request for "proof" must be in writing and tenant has 14 days, or any extension granted, to provide proof;
- Proof can be VAWA certification form for the HUD programs (but only provide perpetrator name if known and safe to provide);

VAWA Proof Requirements Contd.

- Proof can also be in the form of a police, court, or administrative record, or statement from a third party (victim service provider, medical professional, mental health professional, or attorney).
- PHA cannot require third party proof.
- Third party proof must be signed by the third party and survivor under penalty of perjury.
- Waiver issue.

New Notice Rights

- VAWA 2013 requires HUD to develop a notice of VAWA housing rights for tenants and applicants (not happened yet);
- PHA must issue notice & HUD Certification form to tenants and applicants when denied admission, when admitted, and when given notice of eviction/termination.
- HUD guidance re LEP persons is applicable (translated forms available in numerous languages at <u>www.hud.gov/offices/fheo/lep.xml</u>)

New Transfers & VAWA Vouchers

- VAWA 2013 provides that HUD will create a model emergency transfer plan for use by PHAs and owners; The hope is that survivors can keep their rental subsidies while maintaining their safety by moving.
- VAWA 2013 also provides that HUD will establish policies under which a survivor requesting a transfer can receive a voucher.

Illinois Laws Protecting Victims of Violence

- Illinois Human Rights Act
- Safe Homes Act emergency moving papers, recognition in PHA planning documents.

Confidentiality

- Information given to any housing provider, including the fact that an individual is a victim of violence, must be confidential.
 - NOT entered into any shared database.
 - NOT provided to any other entity.
 - Unless disclosure is requested by the individual in writing.
 - Unless it is required by law.
 - Not available to staff unless necessary.

ISSUES & TROUBLE SPOTTING



Residency "Preferences"

- What are the racial and/or ethnic demographics of the area included as a preference?
- What are the demographics of the area excluded by the preference?
- Is it truly a preference or does it operate as a requirement?
- DATA TO REVIEW

Sample Preference Worksheet

Worksheet 1	: For Resid	dency Prefere	nce		
Demographic Characteristics	Residency Preference Area	City Demographics	Census Tract	Housing Market Area (County? State?)	Expanded Housing (State? Region?) Market Area
% White					
% Black or African- American % Hispanic or Latino					
% Asian					
% American Indian or Alaskan Native					
% Native Hawaiian or Other Pacific Islander					
% Persons with disabilities					
% Families with children					
Other (specify)					

Residency "Preferences"

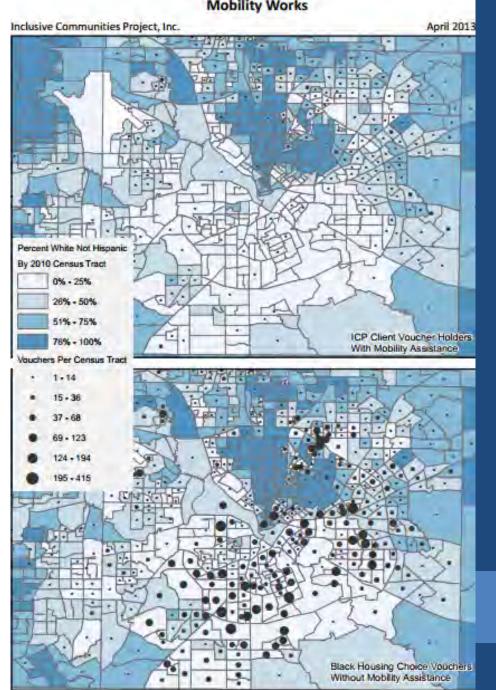
Recent Residency Cases

- DUBUQUE, IOWA: HUD entered into a Voluntary Compliance Agreement (VCA) with the City of Dubuque, IA, settling HUD allegations that Dubuque discriminated against African Americans in the administration of its HCV program.
- A civil rights review conducted in 2011 found the City out of compliance with Title VI. Specifically, FHEO alleged that changes Dubuque made to its voucher program admissions policy had the effect of restricting the ability of African Americans to obtain vouchers and relocate to Dubuque.
- WINCHESTER, CONNECTICUT: Federal court lawsuit settled, alleging residency preference operated as requirement and discriminated based on race, included \$350,000 payment to plaintiffs.

Segregation of HCV Holders

- What does a map of your HCV holders show?
 - In a few slides, we will cover how to create these maps for yourself
 - For PHAs in HOPE's service area, HOPE can create these maps for you
 - Are you in HOPE's service area? Go to <u>www.hopefair.org/AboutUs/whom.we.serve.ht</u> <u>ml</u>

Mobility Works



Dallas Metropolitan Area

Mobility Works

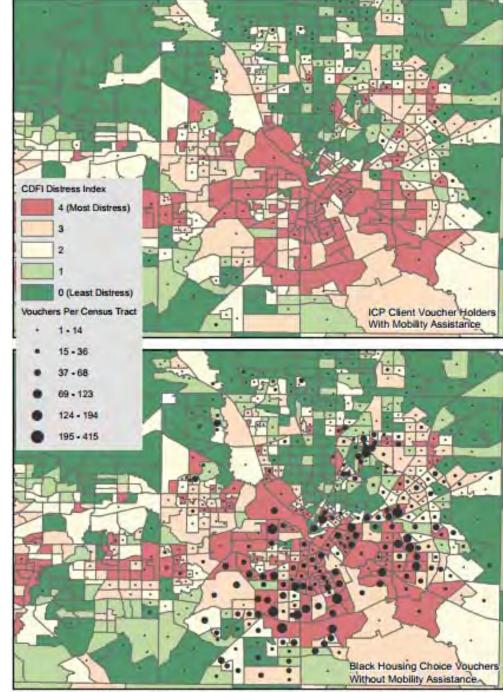
Using GIS maps, Inclusive Communities Project (ICP) illustrated how mobility assistance can move voucher holders to higher opportunity areas and desegregate communities.

These maps show how ICP client voucher holders (top map) are not concentrated in majority minority census tracts like the rest of voucher holders (bottom map) in the Dallas, TX area.

Mobility Works

These maps show how ICP client voucher holders (top map) are concentrated in less distressed areas compared to voucher holders without mobility assistance (bottom map) in the Dallas, TX area.

Low distress areas are those defined as having low poverty, higher income, and high employment.



DHA Report October 2012, Gensus 2000 Tracts, U.S. Treasury Community Development Financial Institutions Distress Indicator Ind

Assisting HCV Holders

- Hammond, Indiana: the HHA's Executive Director, Maria Becerra took steps to increase HCV moves into areas of opportunity and increase integration by helping minority families move into predominately white areas.
- How did the city respond? They fired Ms. Becerra
- Ms. Becerra filed complaints, under both the Fair Housing Act and Title VI, alleging interference with her performance and illegal retaliation for assisting others to assert their fair housing rights.
- Settlement payment to Ms. Becerra of \$200,000, reopening the waiting list for HCV holders, advertising the opening of the waiting list to the community. The mayor was required to make a statement supporting the HCV program publicly.

Segregation in Public Housing

- Create maps of your area, showing demographics, location(s) of public housing, demographics of public housing residents
- Create maps over time, showing any changes in segregation over the past 50 years
- See Thompson v. HUD, a case alleging that HUD failed to take steps to alleviate segregation in Baltimore. In January 2005, after nearly 10 years of litigation, Judge Garbis held that HUD violated the Fair Housing Act by unfairly concentrating African-American public housing residents in the most impoverished, segregated areas of Baltimore City. He found that HUD's programs "failed to achieve significant desegregation" in the Baltimore region and faulted HUD for treating Baltimore City as "an island reservation for use as a container for all of the poor of a contiguous region."

Thompson v. HUD (cont)

- Judge Garbis ruled that HUD must take affirmative steps to implement an effective regional strategy for promoting fair housing opportunities for African-American public housing residents throughout the Baltimore region.
- Information about these affirmative steps can be found at: <u>http://www.naacpldf.org/case-issue/thompson-v-hud</u>
- Later in this presentation, we will show you resources to use to create your own maps
- For PHAs in HOPE's service area, we can assist you in creating these maps.

Public Housing Demolitions and Dispositions

- Generally subject to Section 18 of USHA as amended by QHWRA of 1998. 42 USC § 1437p; 24 CFR § 970.
- Fair Housing Compliance: PHA certification with demo/dispo application – plans in accordance with civil rights laws – Title VI and VIII, Sec. 504, and Title II of the ADA.
- PHAs must also certify AFFH compliance.

FHA Certifications Considerations

- Consideration of PHA's deconcentration policy
- Submission of a relocation plan where every displaced tenant receives a full range of housing choices and receiving adequate counseling to fully explore these choices.
- Consideration of the discriminatory effect of demolishing and not replacing public housing

FHEO & PIH Joint Review Protocol

- Since 2011, FHEO and PIH/SAC jointly review demo/dispo applications. HUD PIH 2012-7.
- FHEO can recommend SAC approve or disapprove and make civil rights recommendations or raise concerns.
- Woonsocket Housing Authority.

FHA Litigation concerning Demo/Dispo

- Fraction, Hayes, and HOPE v. AHA:
- Letter of finding by FHEO, VCA

• Jones v. HUD:

-Consent decree requiring mobility counseling and replacement of majority demolished public housing units.

Siting of New Public Housing

- Section 18: permits the redevelopment of replacement public housing units on original public housing site or same neighborhood, but only if significantly fewer units.
- Fair Housing/AFFH considerations.
- CNI: one for one unless exempt unit onsite, within 25 miles, economic opportunities, and not in minority/poverty concentrated areas.

Assisting Persons with Disabilities

- Applicable Laws: Fair Housing Act, Section 504, Title II of the ADA and the Architectural Barriers Act of 1968
 - Areas to review: ACOP, application and admissions processes, designated accessible housing units, including common areas, housing programs and activities, Reasonable Accommodation Policy, Transfer Policies and Waiting List
 - Providing Access do you have important materials available in alternate formats?
 - Have you assessed your housing stock for accessibility?
 - See HUD VCA with Jacksonville County (IL) Housing Authority for examples of steps to undertake, available at <u>www.hopefair.org</u> under "Resources and Links" > "PHA Resources"
 - Visit <u>www.virtualcil.net</u> to locate a locate center for independent living in your area

Section 504 Compliance

- HUD's webpage dedicated to 504: <u>http://portal.hud.gov/hudportal/HUD?src=/program_offices/f_air_housing_equal_opp/disabilities/504keys</u>
- Needs Assessment: conduct a needs assessment of income eligible persons with disabilities in your area, which should include data and may include surveys. Data should include mobility impairments, hearing impairments and vision impairments. NOTE – this should be about *needs* and not diagnosis or condition! Please don't ask for that information.
- In conducting a needs assessment, is there an opportunity to affirmatively further fair housing? Example, 504 requires that a minimum of 5% of units be accessible for persons with mobility impairments. Your income eligible population reveals 12% of persons have mobility impairments. Increasing the number of accessible units to 12% would affirmatively further fair housing opportunities for persons with disabilities.

Compliance with VAWA

- PHA Planning & Best Practices
 - Annual Plans: PHAs must include a statement of any PHA DV programs.
 - Five Year Plans: PHAs must describe goals, objectives, policies or programs they use to serve survivors' housing needs.
 - Best practice: CHA worked with DV advocates and Shriver Center to implement model policies for survivors.

Fair Housing & Domestic Violence

- Actions or policies which discriminate against victims of violence may constitute sex discrimination;
- 2/9/11 FHEO Memo on Assessing Claims of Housing Discrimination Against Victims of Violence.
- Metro N. Owners v. Thorpe; Meister v. Kansas Housing Authority.

Language Access for Limited English Proficiency

• HUD's LEP Guidance requires analysis of:

a) The number or proportion of LEP persons eligible to be served or likely to be encountered by a program,

b) The frequency with which LEP persons come into contact with a program,

c) The nature and importance of a program, and

d) The resources available to carry out a program and the costs of providing LEP services.

- In a few slides, there will be information regarding data sets you can use to obtain this data.
- Nebraska Department of Economic Development entered into a VCA with HUD after a Letter of Finding found noncompliance with Title VI.

Language Access Plan

Developing a Language Access Plan (LAP) to address the needs identified in the Four-Factor Analysis, which shall include (in part):

a. Procedures to identify LEP persons, the size of LEP populations, and the languages of LEP populations,

- b. Points and types of contact,
- c. Ways in which language assistance will be provided,
- d. A plan for outreach,
- e. A list of vital documents to be translated,
- f. A plan for translating informational material,
- g. A plan for providing translated notices, and

h. A plan for providing interpreters for large, medium, small, and one-on-one meetings.

LGBT Guidance Compliance

- Have you updated your definition of family to comply with HUD's new equal access in housing rule?
- Do not discriminate in decisions, housing availability or terms and conditions based on actual or perceived sexual orientation or gender identity.
- Do not inquire about applicant's sexual orientation or gender identity in making housing available
- If you have questions in Region V about this, please contact Yana Karnaukhov at HUD,

yana.karnaukhov@hud.gov

Harassment in Housing Is Illegal

- One form of harassment is sexual harassment
 - It can occur by physical conduct or through words
 - It can be done by employees or residents
 - It can occur when there's a trade-off proposed, or where the harassment is so pervasive and severe that it becomes a term or condition of housing
- Monitor employees
- Respond immediately to any allegation
- Have a policy regarding illegal harassment

Racial Harassment is Illegal

- Racial harassment can occur in housing as well.
 - It is generally experienced as being pervasive and severe so that it amounts to either a term or condition of housing, or as an interference with the right to live free from discrimination in housing.
- What about one tenant harassing another, what should an apartment manager do?
 - Implement a "Zero Tolerance Policy"
 - Communicate Zero Tolerance Policy to tenants, and communicate procedures to report violations
 - Implement a graffiti removal policy
- See US v. Boston Housing Authority <u>http://www.justice.gov/crt/about/hce/documents/bostonsettl</u> <u>e.php</u>

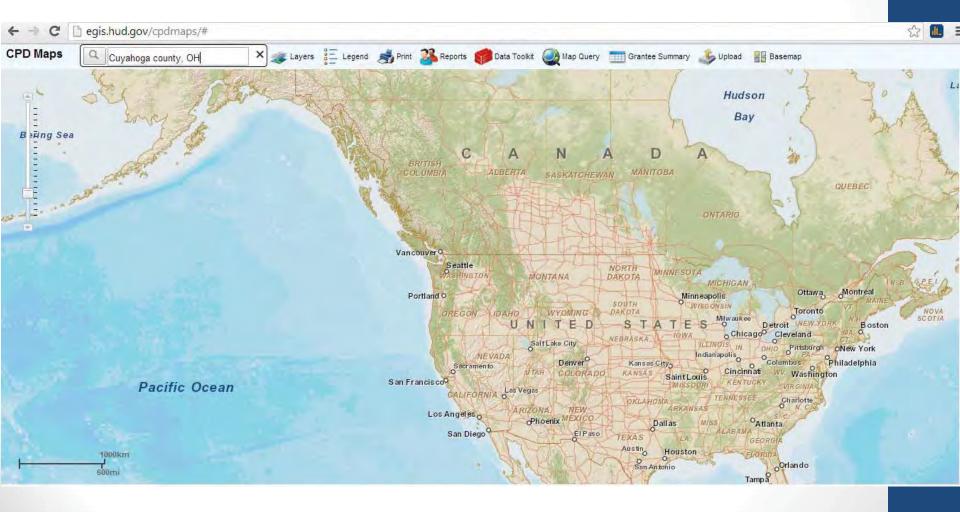
GIS Mapping Tools

- Online Resources
 - CPD Maps: <u>http://egis.hud.gov/cpdmaps/</u> Not good for multiple layers
 - Promise Zone Maps: <u>http://www.huduser.org/PZ/promiseZone.h</u> tml

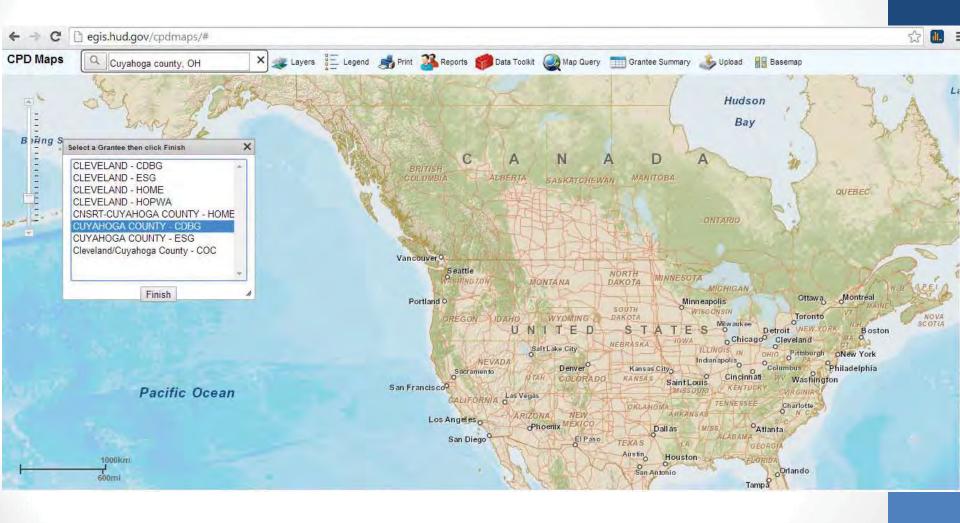
Only block group/tract level data and poverty

• ESRI: ArcGIS 10.1

HUD CPD Maps Go to: http://egis.hud.gov/cpdmaps/#



HUD CPD Maps (Cont.) Type in your jurisdiction

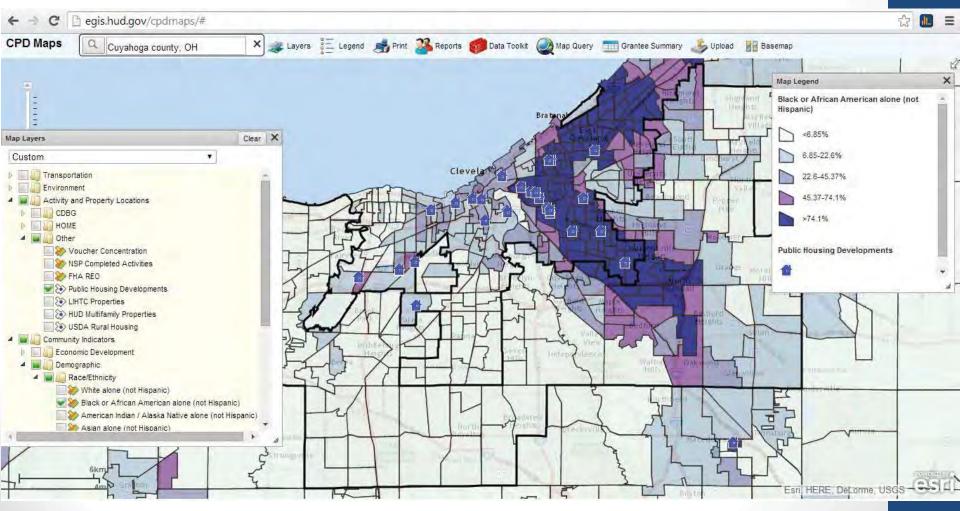


HUD CPD Maps (Cont.) You can add different layers to the map Best to add one shaded layer at a time to avoid confusion

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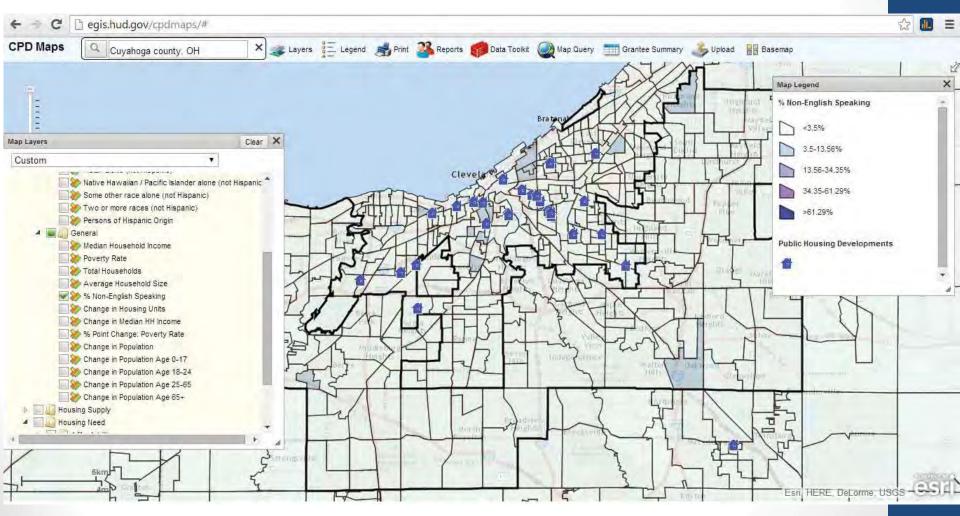
HUD CPD Maps (Cont.)

Black or African American Alone Public Housing Developments



HUD CPD Maps (Cont.)

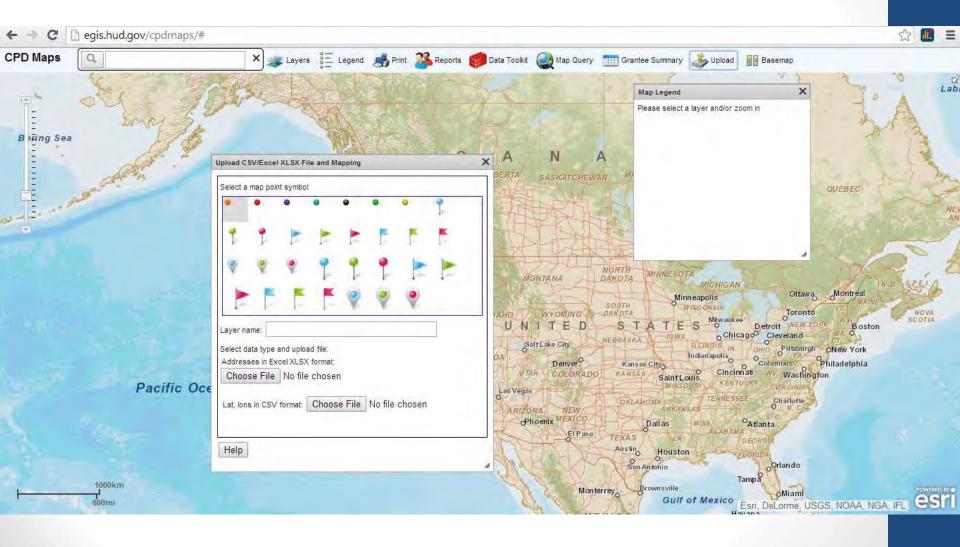
Percent Non-English Speaking Public Housing Developments



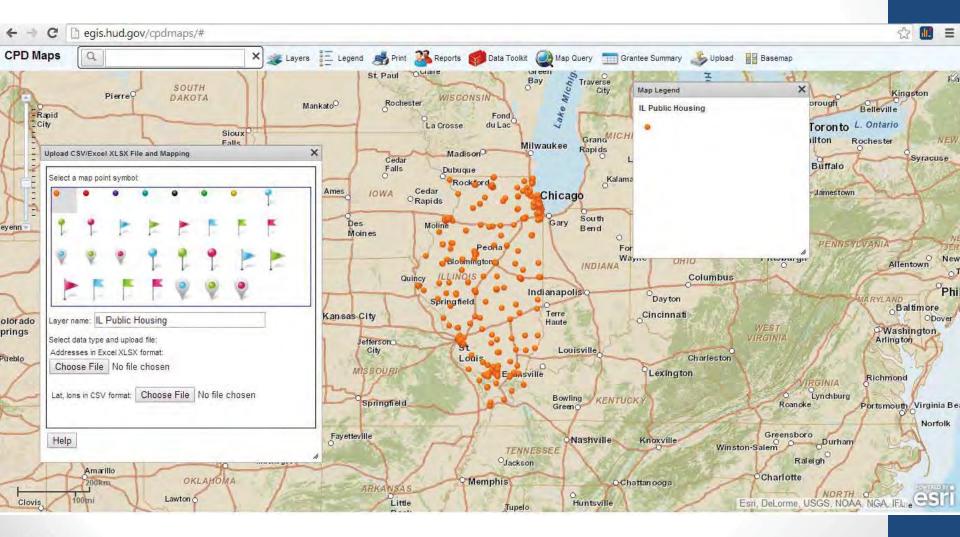
HUD CPD Map Layers to Consider

- Race and/or national origin
- Income
- Percent non-English speaking
- Average household size
- Voucher concentration
- Public housing developments

Upload your own data: Must be in XLSX or CSV format and have XY coordinates



Upload your own data: Imported layer shows up on map and legend as the symbol you select.

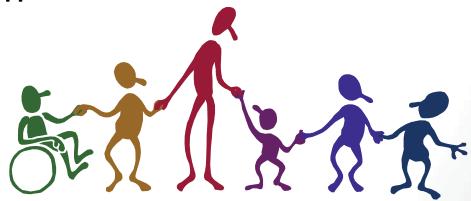


Data to Upload

HCV Holders



- Demographics of HCV Holders
- Demographics of Public Housing Residents
- Languages Spoken



Other Data Sets

Languages Spoken – Census data



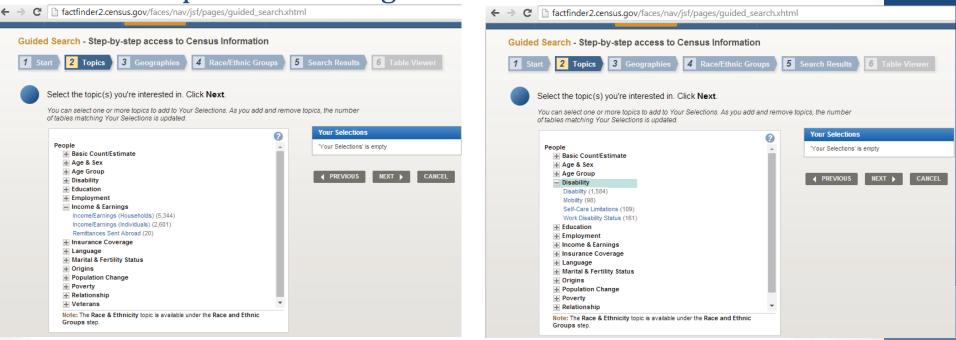
- Persons with disability needs (categories of impairments such as mobility, vision and hearing) – Census data
- Accessibility of current housing stock
- Review your jurisdiction's consolidated plan, does it support the PHA's goals?



Census Data Retrieval

All Census data can be downloaded at **American FactFinder2**: <u>http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml</u>

You can find specific data using Advanced Search or Guided Search



Census Data Retrieval (Cont.)

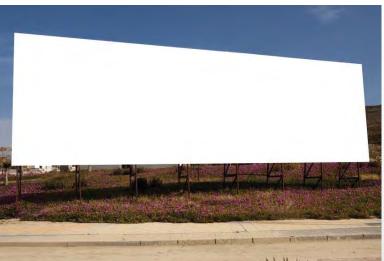
After you select your topics, geographies, and race/ethnic groups, it gives you a list of files matching your selections.

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See the Advanced Search to view all 14 search results matching the contents of 'Your Selections':

Affirmative Marketing Plans

- Have you reviewed your affirmative marketing plan recently?
- There is an on-line resource for Affirmative Marketing Plans and Tenant Selection Policies for Affordable Housing Providers (it covers federal laws and identifies some areas where Connecticut law provides additional protections)
- <u>http://www.ctfairhousing.org/wp-content/uploads/CFHC-</u> <u>AffirmFurthGuideProviders.pdf</u>



Next Steps

- For PHAs in HOPE's service area, please contact HOPE to arrange a data and policy analysis meeting (630) 690-6500 or info@hopefair.org
- For other PHAs, please contact HOPE and we will provide technical assistance to the maximum extent feasible
- Stay tuned!
 - In May, 2015 we will hold a second webinar. That webinar will provide:
 - A list of essential PHA policies to ensure civil rights compliance
 - A menu of best practices to affirmatively further fair housing
 - A toolkit with policies, best practices and resources

Contact Information

- For more information related to VAWA, demolition or siting, please contact Kate Walz, Director of Housing Justice, at the Sargent Shriver National Center on Poverty Law, <u>katewalz@povertylaw.org</u> or 312.368-2679
- For more information related to data, please contact Kamal Ganjalikhani, Data Analyst, HOPE Fair Housing Center, <u>kamal@hopefair.org</u> 630-690-6500
- For more information about any of this information, please contact Anne Houghtaling, Executive Director, HOPE Fair Housing Center, <u>anne.houghtaling@hopefair.org</u>, 630-690-6500

Questions?

