

Fair Housing: A Summary of Northern Virginia's Progress January, 2019

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The Fair Housing Act “prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, and national origin.”¹ It was updated in 1988 to include disability and familial status. Virginia’s Fair Housing Law is similar to the Federal Fair Housing Law with one exception; it includes ‘elderliness’ – an individual age 55 or older - as a protected class. Since the adoption of the 1968 Fair Housing Act, jurisdictions have failed to meet the goals outlined in the legislation. Communities throughout the nation still experience segregation and discrimination in the rental and homeownership markets.² In 2015, the Department of Housing and Urban Development (HUD) created the Affirmatively Furthering Fair Housing (AFFH) Rule to provide additional guidance and oversight in requiring communities to examine and address barriers to racial integration.

While AFFH has been a requirement of the Fair Housing Act since its inception, there have never been explicit guidelines on compliance. Communities receiving federal housing dollars have had to certify or pledge their adherence to AFFH, resulting in additional reporting for Community Development Block Grant (CDBG) and HOME Investment Partnership Program recipients, and public housing authorities (PHAs).³

In 1995, the planning, application, and reporting processes of the four HUD Block Grant Programs and the Comprehensive Housing Affordability Strategy (CHAS) were merged into a single reporting process called the Consolidated Plan. Jurisdictions complete a consolidated plan every five years and include these seven elements: Housing and Community Development Needs; Housing Market Analysis; Strategic Plan; Anti-Poverty Strategy; Lead Based Paint; Fair Housing; and the Annual Action Plan. The fair housing component requires that jurisdictions certify that they are affirmatively furthering fair housing by creating an Analysis to Impediments (AI) to Fair Housing Choice report; taking action steps to remedy impediments and the consequences; and maintaining records.⁴

To address the absence of explicit guidelines for affirmatively furthering fair housing, the AFFH Rule was proposed by HUD and enacted in 2015 by the Obama administration to create a standard framework for reporting and assessing fair housing.⁵ The deadline to comply with the rule was continually delayed, and was ultimately suspended in 2018 by the Trump administration. Currently, there is a pending lawsuit against HUD Secretary Ben Carson claiming that the rule was unlawfully suspended by not providing adequate public notice for comment.

¹ [HUD Fair Housing Act Design Manual, 1998](#)

² [HUD Fair Housing Planning Guide, 1996](#)

³ [NLIHC Fact Sheet, Final Regulations: Affirmatively Furthering Fair Housing, 2015](#)

⁴ [NLIHC, Consolidated Planning Process Fact Sheet, 2015](#)

⁵ [HUD, Federal Register, Affirmatively Furthering Fair Housing Final Rule, 2015](#)

Even though the AFFH rule implementation was suspended, all jurisdictions receiving federal housing dollars must still complete an Analysis to Impediments (AI) to Fair Housing Choice report. These reports outline current trends, challenges, and efforts related to Fair Housing in the jurisdiction.

This summary review will explore the AI reports from Fairfax County, Arlington County, Loudoun County, and the City of Alexandria to compare and contrast the individual efforts of each jurisdiction as well as provide a snapshot of regional efforts to address barriers to fair housing choice. The Northern Virginia Affordable Housing Alliance acknowledges that racial discrimination - although illegal – still exists in our housing markets. This paper will pay particular attention to efforts in these four Northern Virginia jurisdictions to promote racial equity and inclusion in housing choice.

Northern Virginia

Within the metropolitan Washington area, Northern Virginia is an affluent region with a median household income of \$97,148.⁶ The region offers highly-rated public school systems, a strong job market, a highly skilled workforce and an extensive transit network. Despite the high median income, wages for a significant percentage of the population are not keeping up with the increasing costs of living, making it difficult for many of our neighbors to meet their basic needs, particularly in the case of housing. According to the National Low Income Housing Coalition's *2018 Out of Reach* Report, an individual/set of roommates/couple would need to earn \$62,440 annually, or \$30.02 an hour in order to afford a 1 bedroom rental in Northern Virginia.⁷ In the four jurisdictions in this summary review, there are 166,160 households earning less than \$50,000 annually.⁸ These income disparities prompt the question: who gets to stay and who is forced to live elsewhere?

Barriers to Fair Housing

As outlined above, jurisdictions receiving federal housing dollars must submit a consolidated plan which includes an Analysis of Impediments to Fair Housing Choice. The jurisdiction must conduct the analysis and identify barriers to housing choice, take steps to remedy the barriers, and keep records of the identified barriers and action steps taken. The goals of these objectives are to:

- Analyze and eliminate housing discrimination in the jurisdiction;
- Promote fair housing choice for all persons;
- Provide opportunities for inclusive patterns of housing occupancy regardless of race, color, religion, sex, familial status, disability and national origin;
- Promote housing that is structurally accessible to, and usable by, all persons, particularly persons with disabilities;

⁶ American Community Survey Table B19013-2013-2017 5-Year Estimates

⁷ National Low Income Housing Coalition, *Out of Reach 2018*

⁸ Northern Virginia Affordable Housing Alliance, *Housing Toolkit*

- Foster compliance with the nondiscrimination provisions of the Fair Housing Act.⁹

Housing Costs and Lack of Affordability

The Analysis of Impediments to Fair Housing Choice (AI) reports cited in this summary were the most recent for each of the four jurisdictions. They are as follows: [Fairfax County](#) (2017), [City of Alexandria](#) (2015), [Loudoun County](#) (2014), and [Arlington County](#) (2015). Housing costs and lack of affordability, particularly for residents in lower income brackets, were challenges cited in all four of the AI reports. The Fairfax County report noted that housing is becoming more unaffordable for a growing percentage of people aspiring to live there, as well as for current residents.¹⁰ Single-family detached homes have the greatest affordability gap in the County, with no median-income household earning \$112,102 being able to afford a median valued single-family detached home of \$613,091 per the 2014 data in the report. The median household income has since increased to \$117,515.¹¹

Proximity to Washington, DC makes the City of Alexandria an attractive location, resulting in lower vacancy rates and increased housing costs.¹² As of Alexandria's 2015 AI publication, over 40% of the jobs in Alexandria offer salaries within 60% of the area median income, but less than 15% of the housing stock is affordable to individuals in that income range.

In their 2015 AI report, Arlington County noted a severe lack of housing for individuals and families earning at or below 60% of the area median income, and demonstrated particular concern for individuals with disabilities, many of whom earn well below 60% AMI.¹³ The 2014 Loudoun County report acknowledged its high median income and how that translates into higher housing costs.¹⁴

Racial Disparities

All four reports touched on racial disparities related to either income, housing location, housing cost, or all of the above. The Fairfax County report was the most comprehensive in identifying racial disparities, and was the only report to reference the existence of a dual housing market – one structured to provide very different housing opportunities for persons of color and the white population. In a dual housing market all housing options for white populations are open to those households with adequate income. For people of color, there are many instances where they are limited to certain neighborhoods for their housing, despite their income or wealth. As noted in the AI report, black and African American community members are provided limited access to certain neighborhoods, while white, Latino, and Asian community members are less restricted in where they can live.

⁹ [HUD Fair Housing Planning Guide, 1996](#)

¹⁰ [Planning/Communications, Fairfax County, Virginia Analysis of Impediments to Fair Housing Choice 2016–2020 \(River Forest, IL: Sept. 2017\)](#)

¹¹ US Census Bureau, American Community Survey 5-Year Estimates 2013-2017

¹² [City of Alexandria, Analysis of Impediments to Fair Housing Choice 2015](#)

¹³ [Arlington County, Analysis of Impediments to Fair Housing Choice Report 2015](#)

¹⁴ [Loudoun County, Analysis of Impediments to Fair Housing Choice Report 2014-2018](#)

The Fairfax County report also pointed out that 95% of the over 900 real estate agents in the county are white. Advertisements for housing typically feature pictures of people of a single race which may give potential renters/buyers the impression they are not welcome in the community. *(See graphs of Population Growth by Race/Ethnicity for each jurisdiction at the end of this report)*

Regulatory Constraints

Both Fairfax County and the City of Alexandria reports cite regulatory constraints, namely the Dillon Rule, as limiting housing choice. The Dillon Rule states that a local government only has the power to make changes or carry out activities explicitly granted by the state government.¹⁵ One example is that of jurisdictions that are limited as to how they can negotiate proffers because of state legislation.

A proffer is a voluntary negotiation between a locality and developer for cash or dedication of property for a land use that may impose public costs as a result of a requested rezoning. Some jurisdictions have used the proffer system to secure contributions to local housing trust funds to increase the supply of affordable housing. As a result of the proffer legislation passed by the General Assembly in 2016, jurisdictions have lost the flexibility to negotiate proffers.

Reporting Practices

Fair housing complaints can be filed with HUD, the Virginia Fair Housing Office, or the assigned agency in the jurisdiction. All jurisdictions explored in this report have similar fair housing reporting practices, and each jurisdiction has conducted fair housing testing.

Fairfax County has an Office of Human Rights and Equity Programs (OHREP) that receives and responds to violation complaints of the Fairfax County Human Rights Ordinance and Fair Housing Plan.¹⁶ The website provides a questionnaire to help those persons with complaints identify a course of action. Complainants can also file a housing discrimination complaint directly from the website. The OHREP website provides written materials and a *Fair Housing: Know Your Rights Toolkit*. The OHREP also conducts trainings for landlords, real estate professionals, other housing professionals and the general public. The website does not give a comprehensive list of services related to fair housing, but does list the contact information for the county's Fair Housing Coordinator. In 2012, the county partnered with the Equal Rights Center, a national nonprofit, to conduct their fair housing testing.

Fairfax County also has the following programs and initiatives to address fair housing choice: A Human Rights Ordinance that lists marital status as a protected class; an Affordable Dwelling Unit program; and a Workforce Dwelling Unit program.

Alexandria's Office of Human Rights is the local agency responsible for addressing fair housing complaints. The Office of Human Rights website offers information about the complaint and

¹⁵ [National League of Cities, Cities 101- Delegation of Power, December 13, 2016](#)

¹⁶ [Fairfax County Human Rights and Equity Programs - Housing Discrimination website](#)

investigative process. Under the Renter Resources tab on the Alexandria Office of Housing website, there is basic information about the fair housing testing program. The City provides fair housing training and partners with the Landlord-Tenant Relations Board to host an annual seminar for apartment managers, which includes a session on fair housing.

In addition to the above efforts, Alexandria has a Human Rights Ordinance that includes marital status as a protected class; a list of voluntary rent guidelines; and a Rental Accessibility Modification Program. While there is no mechanism to mandate rent levels, Alexandria does provide landlords with a list of suggested voluntary rent guidelines to encourage rents at a price point affordable to residents. To address issues of accessibility, the City has a Rental Accessibility Modification Program. The program provides grants of up to \$50,000 to assist income-eligible residents with modifications to their homes.

Arlington's Human Rights Commission is the local agency responsible for handling fair housing questions and complaints, and resources about fair housing services. A link to a 2015 Fair Housing report, can be found on the County website. Arlington conducts fair housing testing on 100 rental tests every two years, selecting apartment complexes at random for testing.

Additional resources to address fair housing in Arlington include a fair housing ordinance; a Housing Grants program; housing production and preservation initiatives; a Disabilities Services Division; and a Leasing Barriers Initiative. Arlington's Fair Housing Ordinance includes age, sexual orientation, and marital status as protected classes. The Housing Grants program is funded locally, and provides a rental subsidy to families, people with disabilities, and adults 65 and older who meet the income requirements.

The Affordable Housing Investment Fund (AHIF), and an Affordable Housing Ordinance promote the production and preservation of housing affordability in Arlington. The Disabilities Services Division works to ensure that individuals with disabilities receive the services they need to thrive in the community, outside of an institutional setting. Lastly, the Leasing Barriers Initiative is a task force of county staff and service providers who work to overcome barriers such as evictions, criminal records, or other situations that can make it difficult for clients to find housing.

Loudoun's 2014 AI report states that they do not have a local agency responsible for managing fair housing questions and complaints, and acknowledges the absence of that resource as a barrier to fair housing. In 2018, the Department of Housing and Community Development hosted fair housing trainings, with plans to continue to develop and implement these programs. Fair Housing Management Consultants conducted three county-wide testing studies between 2010-2012, and the Department of Family Services also contracted with the management consultants to review intake forms and operation procedures of several housing programs.

Exemplary Efforts

Fairfax County has been bold in taking the first step to address racial equity in the housing sphere; they have called out persistent implicit bias in housing markets in the county,

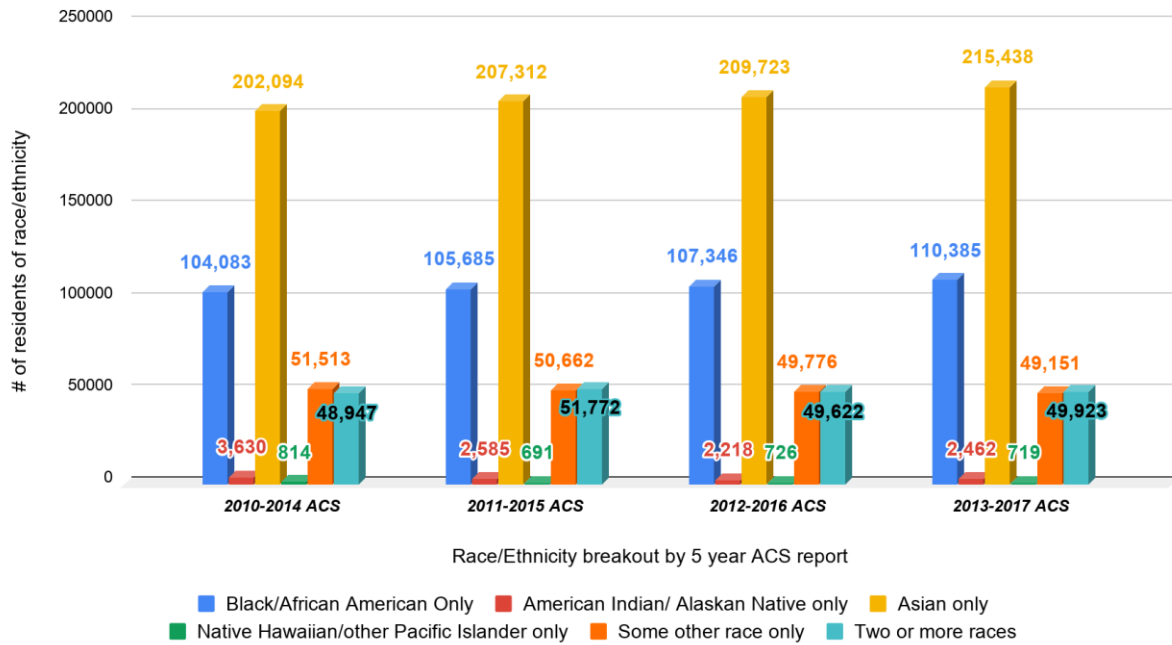
particularly for black and African American residents. The adoption of the One Fairfax Policy is cited as a positive step toward addressing racial equity and a unitary housing market. The Policy requires that the Fairfax County Board of Supervisors and School Board intentionally bear in mind racial and social equity when developing policies. It’s a declaration that all residents deserve an equitable opportunity to succeed – regardless of their race, color, sex, nationality, sexual orientation, income or where they live.¹⁷

The Fairfax County report recommended the creation of a Housing Service Center that would show residents what housing options exist in the community beyond the racial or ethnic neighborhoods where they are directed, or feel limited. The report recommends seeking CDBG funds for this project; expanding advertisement of available properties through DChousingsearch.org, and developing an on-going public campaign promoting residents’ choice in any neighborhood where they find housing they can afford. Additionally, the report encouraged the creation and preservation of homes for moderate and low income residents; and collaboration with landlords, developers, and housing industry leaders to build awareness and understanding of the importance of housing affordability and housing choice.

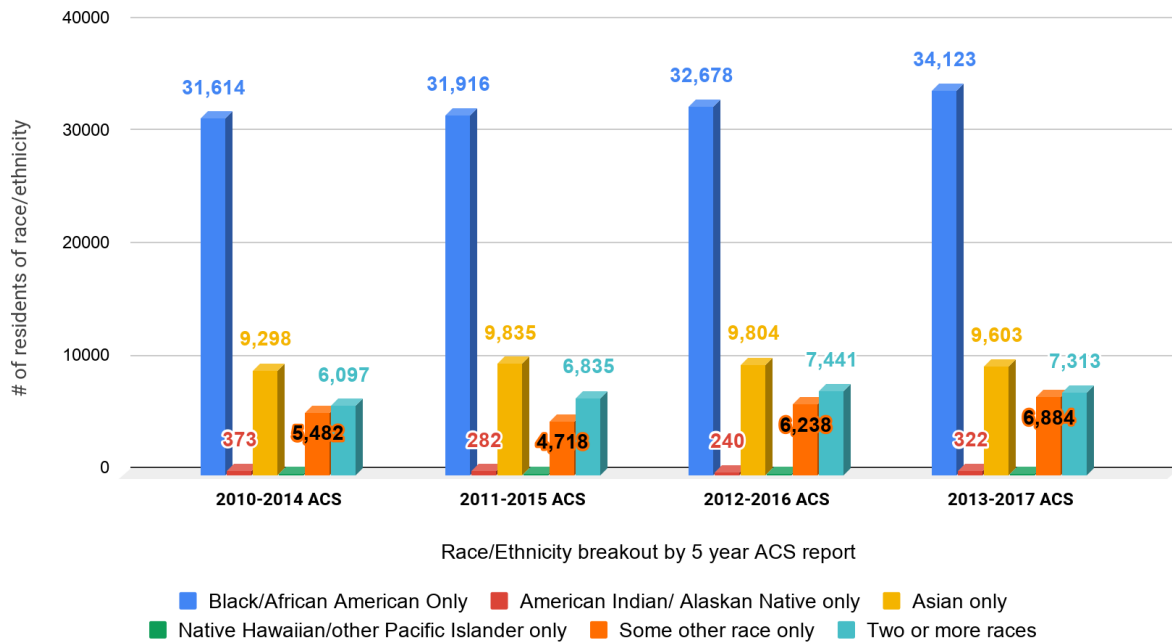
| | Alexandria | Arlington | Loudoun | Fairfax |
|---|-------------------|--------------------|--|----------------|
| Fair Housing Ordinance/Human Rights Ordinance | ✓ | ✓ | | ✓ |
| Designated Agency | ✓ | ✓ | | ✓ |
| Fair Housing Testing | ✓ | ✓ every 2 years | ✓ 3 studies conducted between 2010-2012 | ✓ 2012 |
| Fair Housing Training | ✓ | | ✓ | ✓ |
| Complaint/Reporting Process | ✓ | ✓ | | ✓ |

¹⁷ [Fairfax County website- One Fairfax](#)

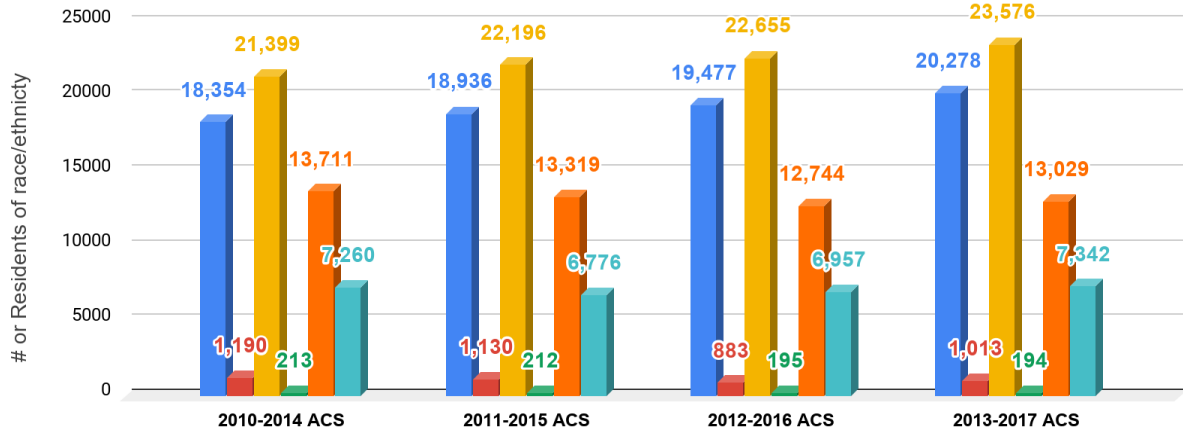
Population Growth by Race/Ethnicity- Fairfax County



Population Growth by Race/Ethnicity- City of Alexandria



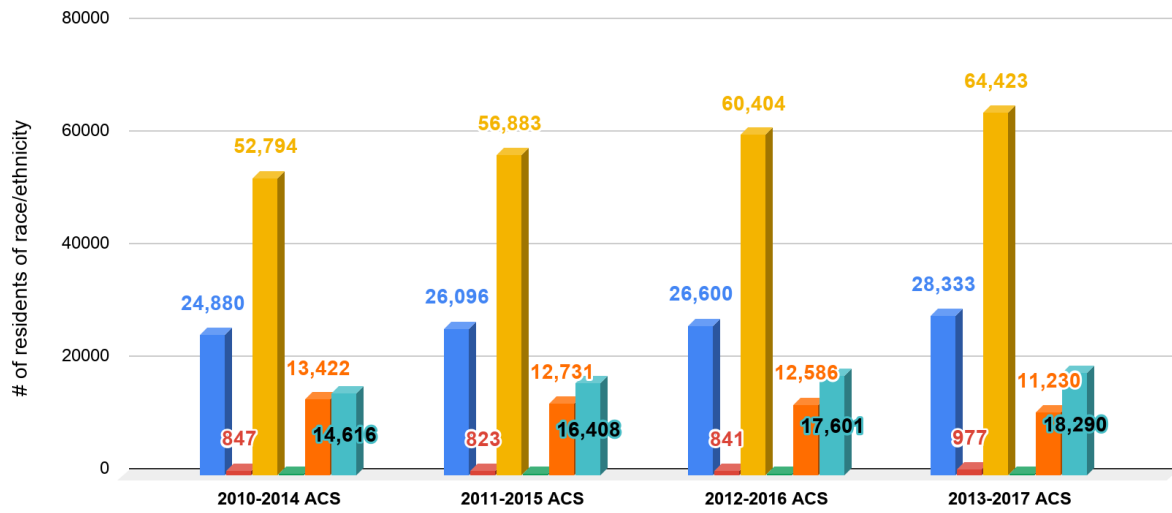
Population Growth by Race/Ethnicity- Arlington



Race/Ethnicity breakout 5 year ACS report

■ Black/African American Only
 ■ American Indian/ Alaskan Native only
 ■ Asian only
■ Native Hawaiian/other Pacific Islander only
 ■ Some other race only
 ■ Two or more races

Population Growth by Race/Ethnicity- Loudoun County



Race/Ethnicity breakout by 5 year ACS report

■ Black/African American Only
 ■ American Indian/ Alaskan Native only
 ■ Asian only
■ Native Hawaiian/other Pacific Islander only
 ■ Some other race only
 ■ Two or more races