

# bae urban economics

Berkeley Analysis of Impediments to Fair Housing Choice

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# 1. INTRODUCTION

## 1.1 Purpose of the Analysis of Impediments to Fair Housing Choice

The *Analysis of Impediments to Fair Housing Choice (AI)* identifies barriers to residents' ability to choose housing in an environment free from discrimination, presents recommendations that may be adopted to overcome these barriers, and monitors progress in achieving the adopted recommendations. The U.S. Department of Housing and Urban Development (HUD) defines impediments to fair housing choice as:

- Any actions, omissions or decisions taken because of race, color, religion, sex, disability, familial status or national origin which restrict housing choices or the availability of housing choices; or
- Any actions, omissions or decisions that have the effect of restricting housing choices on the basis of race, color, religion, sex, disability, familial status or national origin.

As an entitlement jurisdiction for federal Department of Housing and Urban Development (HUD) funds through the Community Development Block Grant (CDBG), HOME Investment Partnership (HOME), and Emergency Solutions Grant (ESG) programs, the City of Berkeley is required to update the City's AI on a regular basis. The AI is generally updated on a five-year cycle to coincide with updates to the City's Consolidated Plan.

### ***Protected Classes and Discriminatory Practices***

Both federal and California fair housing laws govern the treatment of protected classes by a variety of housing professionals in nearly every aspect of the purchase and rental of housing. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as Amended, (1988) makes it unlawful to "refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person" (42 U.S.C. §§ 3601 – 3619; 3631) because of their:

- Race
- Color
- Religion
- National Origin
- Sex
- Familial Status (families with children under 18 and/or who are expecting and/or adopting a child)
- Disability

In addition to federal statutes, the California State Human Rights Laws include the following protected classes:

- Age
- Ancestry
- Sexual Orientation
- Medical Condition
- Marital Status
- Arbitrary Characteristics
- Source of Income

Federal statutes, State statutes, and case law define discriminatory practices or acts in housing. The practices predominantly discussed are in the following broadly defined categories:

- Different Terms & Conditions
- Refusal to Rent, Sell or Lend
- False Denial of Availability
- Intimidation and Coercion
- Interference With Rights
- Brokers Services
- Financing
- Advertising or Discriminatory Statements
- New Construction Accessibility for Persons with a Disability
- Reasonable Modification for a Disability
- Reasonable Accommodation for a Disability

## 1.2 Methodology

The following activities were performed in preparing this AI:

- Review of current studies, surveys, articles, and statistical materials.
- Collection and review of public documents to identify existing impediments.
- Analysis of publicly-available data sources regarding housing, demographic, economic, and mortgage lending patterns.
- Interviews with individuals that provide services to members of protected classes in Berkeley.

## 1.3 Organization of the AI

This Analysis of Impediments to Fair Housing Choice is divided into five chapters. Following this Introduction, the AI contains:

- **Chapter 2: Background Data.** This chapter describes the demographic profile,

economic profile, housing stock characteristics, and housing market trends in Berkeley.

- **Chapter 3: Impediments to Fair Housing Choice.** This chapter summarizes the key public and private impediments to fair housing choice.
- **Chapter 4: Current Fair Housing Programs and Activities.** This chapter outlines the current efforts in the City of Berkeley that help to further fair housing choice.
- **Chapter 5: Recommendations.** The final chapter of the AI provides recommendations for specific actions for the City of Berkeley to consider to remove impediments and affirmatively further fair housing choice.



## 2. BACKGROUND DATA

This section provides demographic, housing, and employment information for the City of Berkeley based on quantitative data from a variety of sources and qualitative information from various organizations and community stakeholders. Quantitative data sources include the United States Census Bureau, including decennial Census data, American Community Survey data, and the Census building permit database; the Association of Bay Area Governments; and Nielsen, a private demographic data vendor. The American Community Survey data used in this AI was collected between 2009 and 2013, and therefore do not represent conditions in any one year. However, these data do provide meaningful estimates related to current conditions and trends over time. Data from Comprehensive Housing Affordability Strategy (CHAS) data, which provide detailed cross-tabulations of income and housing data, are based on 2007-2011 ACS data, the most recent time period for which this dataset is available. In addition to quantitative data sources, information gained through interviews with local fair housing and related service providers and real estate professionals is incorporated into this section supplement the analysis.

To the extent that data are available, this section provides information on the City of Berkeley along with information on Alameda County and the nine-county Bay Area to provide context for the trends identified in the City of Berkeley.<sup>1</sup> In addition, this section provides some data for specific neighborhoods in Berkeley, which are defined as shown in Figure A-1. Neighborhood delineations used in this AI are the same as the neighborhoods defined for a recent Health Status Report by the City's Public Health Division. Individual neighborhoods are composed of groupings of Census Tracts.

Due to an undercount of UC Berkeley students living in dorms during the 2000 Census, some of the data on trends in Berkeley between 2000 and 2013 is likely to be somewhat skewed. In addition to typical complications associated with surveying students living in dorms for the Census, the 2000 Census is reported to have missed most of an entire campus dorm building, counting only one of 1,406 students living there.<sup>2</sup> Based on 2000 Census population figures for Berkeley, the estimated population of Berkeley would have been approximately 1.4 percent higher had every student in the skipped dorm been counted. Because students in dorms are counted as persons living in group quarters, this undercount impacts data related to the population as a whole, such as total population counts and age distribution, but does not affect data on households, such as household income and the prevalence of housing cost

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<sup>1</sup> The nine-county Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

<sup>2</sup> (San Jose Mercury News; "College students pose census concerns"; March 18, 2010; [www.mercurynews.com/ci\\_14701844](http://www.mercurynews.com/ci_14701844); accessed Feb 21, 2015).

burden. Trends for which the data may be misleading due to the undercount are identified in the relevant sections below.

## 2.1 Demographic Profile

### *Population and Households*

Berkeley has experienced significant recent population growth. According to 2009-2013 ACS data, Berkeley had a population of slightly more than 114,000 and nearly 45,500 households, which is an increase of 11 percent over 2000 Census estimates (Table 2-1). Although the actual increase in Berkeley's population was slightly smaller than indicated by these figures due to dorm undercount in the 2000 Census (see discussion above), the data indicate that population growth during this period was nonetheless significant, exceeding the growth rate in Alameda County (six percent) and the Bay Area (seven percent).

The rate of household growth did not keep pace with population growth during this period; the number of households in Berkeley increased by only one percent between 2000 and 2013. Although some of Berkeley's population growth took place in dorms, and was therefore counted as population in group quarters rather than households, the City's population growth also resulted in an increase in household size from 2.16 to 2.27 persons between 2000 and 2013, as shown in Table 2-1. During the same period, the Bay Area as a whole saw a modest increase in household size, increasing from 2.69 to 2.72 persons per household on average.

The rate of recent population and household growth has varied substantially between Berkeley neighborhoods. As shown in Table 2-1, the Greater Downtown neighborhood had the highest rate of growth between 2000 and 2013, with a 33 percent increase in population and a four percent increase in households. While the high rate of population growth and less robust household growth in the Greater Downtown resulted in larger household sizes in 2013 (2.1 persons on average) than in 2000 (1.8 persons on average), the average household size in the Greater Downtown neighborhood remains lower than the Citywide average (2.3 persons).

West Berkeley was among the neighborhoods with the most significant recent household growth, with a growth rate of just under four percent between 2000 and 2013, but experienced a slight (one percent) decrease in population during this period. These trends were reflected in a decrease in the average household size in West Berkeley during this period, making the average household size in Berkeley similar to the Citywide average in 2013.

South East Berkeley was the only neighborhood in Berkeley in which the number of households decreased during this period, with almost a five percent decrease between 2000 and 2013. During the same period, the population increased by thirteen percent in South East Berkeley. Some of this population growth may be attributable to growth in the number of students in dorms (i.e. group quarters population) rather than the population in households.

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**Table 2-1: Population and Household Growth, 2000 - 2013**

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	Population			Households			Average HH Size	
	2000	2013	% Change	2000	2013	% Change	2000	2013
<b>City of Berkeley</b>	102,743	114,037	11.0%	44,955	45,423	1.0%	2.16	2.27
Central	20,481	21,673	5.8%	9,677	9,701	0.2%	2.10	2.22
Greater Downtown	18,944	25,348	33.8%	8,267	8,600	4.0%	1.76	2.10
North East	18,393	18,877	2.6%	7,821	7,871	0.6%	2.35	2.39
South	20,456	21,526	5.2%	8,757	9,062	3.5%	2.30	2.33
South East	17,567	19,789	12.6%	7,636	7,282	-4.6%	2.20	2.30
West	6,902	6,824	-1.1%	2,797	2,907	3.9%	2.43	2.30
<b>Alameda County</b>	1,443,741	1,535,248	6.3%	523,366	545,071	4.1%	2.71	2.76
<b>Bay Area (a)</b>	6,783,760	7,257,501	7.0%	2,466,019	2,613,055	6.0%	2.69	2.72

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Notes:

The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

Refer to Figure A-1 for delineation of neighborhoods within Berkeley.

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Sources: ACS 2009-2013; BAE, 2015.

### ***Projected Population and Household Growth***

Table 2-2 below summarizes the City's projected population and household growth according to projections produced by the Association of Bay Area Governments (ABAG). These projections use a baseline year of 2010, but were prepared and published in 2013.

Over the 30-year period from 2010 to 2040, Berkeley's population and household count are each projected to grow at an average annual rate of 0.7 percent, less than the projected rates for both Alameda County and the Bay Area as a whole. These projections translate into a net population gain of 23,500 new residents from 2015 to 2040. Over the next 25 years, the City is projected to add over 8,300 new households.

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**Table 2-2: Population and Household Projections, 2010 - 2040**

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	2010	2015	2020	2025	2030	2035	2040	% Change 2010-2040	Annual % Change 2010-2040
<b>Population</b>									
Berkeley	112,580	116,600	120,700	124,900	129,200	134,600	140,100	24.4%	0.7%
Alameda County	1,510,271	1,580,800	1,654,200	1,730,100	1,810,300	1,897,200	1,987,900	31.6%	0.9%
Bay Area (a)	7,150,739	7,461,400	7,786,800	8,134,000	8,496,800	8,889,000	9,299,100	30.0%	0.9%
<b>Households</b>									
Berkeley	46,029	47,660	49,350	50,960	52,660	54,290	55,980	21.6%	0.7%
Alameda County	545,138	571,370	598,430	624,300	651,720	678,080	705,330	29.4%	0.9%
Bay Area (a)	2,608,023	2,720,410	2,837,680	2,952,910	3,072,920	3,188,330	3,308,090	26.8%	0.8%

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Note:

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties

Sources: ABAG Plan Bay Area Projections, 2013; BAE, 2015.

### ***Household Income***

As shown in Table 2-3 below, the median household income in Berkeley was \$63,312 in 2013, lower than the median income for households in either Alameda County (\$72,112) or the Bay Area (\$79,290). To some extent, Berkeley's low median household income reflects the City's large student population, much of which has little or no income. While these data are based on household income and therefore do not capture data on students living in dorms, the data do capture students living in private housing units in Berkeley. These household income data do not provide sufficient information to determine household income among student households separately from household income among non-student households.

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**Table 2-3: Household Income, 2013**

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	<b>City of Berkeley</b>	<b>Alameda County</b>	<b>Bay Area (a)</b>
Less than \$35,000	14,654	138,174	595,644
\$35,000 to \$74,999	10,750	143,130	655,712
\$75,000 to \$149,999	10,812	158,737	779,522
\$150,000 or More	9,207	105,030	582,177
<b>Total</b>	<b>45,423</b>	<b>545,071</b>	<b>2,613,055</b>
<b>Median HH Income</b>	<b>\$63,312</b>	<b>\$72,112</b>	<b>\$79,290</b>
Less than \$35,000	32.3%	25.3%	22.8%
\$35,000 to \$74,999	23.7%	26.3%	25.1%
\$75,000 to \$149,999	23.8%	29.1%	29.8%
\$150,000 or More	20.3%	19.3%	22.3%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
<b>Median HH Income</b>	<b>\$63,312</b>	<b>\$72,112</b>	<b>\$79,290</b>

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**Notes:**

The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Sources: ACS 2009-2013; BAE, 2015.

**Areas of Low-Income Concentration**

For planning purposes, households are categorized by HUD as extremely low-income, very low-income, or low-income, based on percentages of the County's Area Median Income (AMI). HUD calculates the AMI for different household sizes on an annual basis. The HUD income categories are defined below:

- Extremely Low-Income: Up to 30 percent of County AMI
- Very Low-Income: 31 percent to 50 percent of County AMI
- Low-Income: 51 percent to 80 percent of County AMI

HUD defines low-income concentration as any block group where 51 percent or more of households have incomes equal to 80 percent of AMI or less. There are four neighborhoods in Berkeley that fall under this definition, as shown in Figure A-2. Households with incomes equal to 80 percent of AMI or less comprise 67 percent of households in Greater Downtown, 57 percent of households in South East Berkeley, 54 percent of households in West Berkeley, and 53 percent of households in South Berkeley. Berkeley's significant student population likely accounts for a large share of the lower-income households in these neighborhoods as well as other areas of Berkeley, particularly in the Greater Downtown and South East neighborhoods, which are close to campus.

### Poverty Status

Poverty status data indicate that Berkeley has a significantly higher portion of residents living below the federal poverty line than surrounding areas, as shown in Table 2-4. As of 2013, 19 percent of Berkeley residents were below the poverty line, compared with 13 and 11 percent of the Alameda County and Bay Area populations, respectively.

However, nearly half (48 percent) of these Berkeley residents were between the ages of 18 and 24, suggesting that Berkeley's poverty count largely reflects the presence of a significant population of university and college students. Excluding this age group, the City's poverty rate is reduced to 10 percent; this is comparable to surrounding areas where the poverty rate excluding residents ages 18 to 24 are 10 percent for Alameda County and nine percent for the Bay Area. Nearly 1,300 senior residents in Berkeley (age 65 or above) were below the poverty line in 2013; this accounted for seven percent of the total population below the poverty line.

**Table 2-4: Poverty Status by Age, 2013**

	Individuals Below Poverty Line					Total	Percent of Total
	Under 18	18 - 24	25 - 44	45 - 64	65 & Older		
City of Berkeley	1,562	9,388	4,397	2,826	1,291	19,464	18.7%
Alameda County	52,695	31,557	52,282	36,684	15,283	188,501	12.5%
Bay Area (a)	213,336	121,640	215,108	161,560	74,707	786,351	11.0%

Notes:

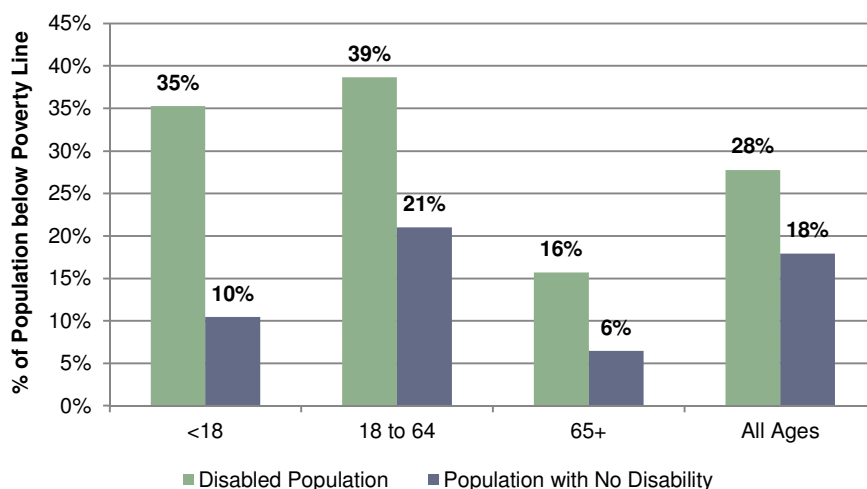
The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Sources: ACS 2009-2013; BAE, 2015.

Data show a significant correlation between poverty and disability status for Berkeley residents. Figure 2-1 illustrates that, as of 2013, persons with disabilities were living below the poverty line at a much higher rate than persons without a disability. Among all age groups, 28 percent of persons with a disability in Berkeley were living below the poverty line, compared to 18 percent of the population with no disability.

**Figure 2-1: Poverty Status by Disability Status and Age, 2013**



Note: Population includes civilian noninstitutionalized population for whom poverty status is determined.  
Sources: ACS 2009–2013; BAE, 2015.

### Age

Berkeley’s population is much younger than the population in surrounding areas. As of 2013, the City’s median age was 32, compared with a median age of nearly 37 and 38 for Alameda County and the Bay Area, respectively.

**Table 2-5: Median Age, 2000 - 2013**

	2000	2013
City of Berkeley	32.5	31.8
Alameda County	34.5	36.8
Bay Area (a)	35.6	38.0
City of Berkeley	32.5	31.8
Alameda County	34.5	36.8
Bay Area (a)	35.6	38.0

**Notes:**

The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Sources: ACS 2009-2013; BAE, 2015.

### Race and Ethnicity

Berkeley is home to an ethnically diverse population;

Table 2-6 shows that as of 2013, 20 percent of residents were of Asian descent; 10 percent were Latino; and eight percent were African-American. However, Berkeley was more ethnically homogenous than surrounding areas, with a majority of Berkeley residents (56 percent) identifying as White. In Alameda County and the Bay Area, no ethnic group made up a majority of the population, and Whites accounted for 34 percent and 42 percent of the population, respectively.

While the share of residents identifying with racial and ethnic minority groups remained similar between 2000 (45 percent) and 2013 (44 percent), the relative share of the population among various racial and ethnic groups comprised shifted during this period. Between 2000 and 2013, Berkeley's Latino population grew by over 1,800 residents, while the City's Asian population grew by over 6,000 residents. Notably, the City's African-American population reduced significantly between 2000 and 2013 in both absolute and relative terms; as of 2013 the City had over 4,100 fewer African-American residents and African-Americans made up eight percent of the population, down from 13 percent in 2000. Both Alameda County and the Bay Area as a whole also showed reductions in the African-American population during this same period.

**Table 2-6: Race and Ethnicity, 2000 - 2013**

	<b>City of Berkeley</b>		<b>Alameda County</b>		<b>Bay Area (a)</b>	
	<b>2000</b>	<b>2013</b>	<b>2000</b>	<b>2013</b>	<b>2000</b>	<b>2013</b>
Hispanic/ Latino (b)	10,001	11,804	273,910	345,847	1,315,175	1,711,158
Not Hispanic/Latino	92,742	102,233	1,169,831	1,189,401	5,468,585	5,546,343
White	56,691	63,915	591,095	517,764	3,392,204	3,047,321
Black/ African American	13,707	9,560	211,124	181,315	497,205	456,896
Native American	293	246	5,306	4,484	24,733	20,408
Asian	16,740	22,793	292,673	408,556	1,278,515	1,704,791
Native Hawaiian/ Pacific Islander	121	345	8,458	12,230	33,640	42,603
Other	598	442	4,676	4,399	18,451	20,912
Two or More Races	4,592	4,932	56,499	60,653	223,837	253,412
<b>Total</b>	<b>102,743</b>	<b>114,037</b>	<b>1,443,741</b>	<b>1,535,248</b>	<b>6,783,760</b>	<b>7,257,501</b>
Hispanic/ Latino (b)	9.7%	10.4%	19.0%	22.5%	19.4%	23.6%
Not Hispanic/Latino	90.3%	89.6%	81.0%	77.5%	80.6%	76.4%
White	55.2%	56.0%	40.9%	33.7%	50.0%	42.0%
Black/ African American	13.3%	8.4%	14.6%	11.8%	7.3%	6.3%
Native American	0.3%	0.2%	0.4%	0.3%	0.4%	0.3%
Asian	16.3%	20.0%	20.3%	26.6%	18.8%	23.5%
Native Hawaiian/ Pacific Islander	0.1%	0.3%	0.6%	0.8%	0.5%	0.6%
Other	0.6%	0.4%	0.3%	0.3%	0.3%	0.3%
Two or More Races	4.5%	4.3%	3.9%	4.0%	3.3%	3.5%
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

Notes:

The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

(b) Includes all races for those of Hispanic/Latino background.

Sources: ACS 2009-2013; BAE, 2015.



### **Areas of Minority Concentration**

The proportion of individuals that identify with racial and ethnic minority groups varies throughout the City. HUD uses three metrics to measure whether neighborhoods should be considered “areas of minority concentration”. Using HUD’s definitions, an area of minority concentration is a neighborhood where:

- 1) the percentage of persons of a particular racial or ethnic minority is at least 20 percentage points higher than that minority's percentage in the Metropolitan Statistical Area (MSA) as a whole;
- 2) the total percentage of minority persons is at least 20 percentage points higher than the total percentage of minorities in the MSA as a whole; or
- 3) the total percentage of minority persons exceeds 50 percent of the population.

Berkeley is in the San Francisco-Oakland-Hayward MSA, which includes the counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo. Table 2-7 shows the racial and ethnic distribution of the population of the MSA and the six Berkeley neighborhoods shown in Figure A-1 **Error! Reference source not found.**

HUD provides local jurisdictions with flexibility in defining areas of minority concentration for the purposes of the AI, allowing jurisdictions to use some or all of the three definitions provided above. In the San Francisco-Oakland-Hayward MSA and other regions where the minority population constitutes more than 50 percent of the population, definition (3) above is not especially meaningful in identifying areas of minority concentration because areas that meet this threshold reflect the diversity of the wider region rather than a particularly large concentration of racial or ethnic minorities. As a result, this AI uses definitions (1) and (2) above to determine whether neighborhoods in Berkeley should be identified as areas of minority concentration.

As shown in Table 2-7, none of the neighborhoods in Berkeley are areas of minority concentration under definitions (1) or (2). The extent to which these definitions of minority concentration apply to Berkeley is described in more detail below.

**Table 2-7: Race and Ethnicity, Berkeley Neighborhoods and MSA, 2013**

	Berkeley Neighborhood						MSA Total	MSA 20% pt. Greater Threshold (b)
	Central	Greater Downtown	North East	South	East	West		
	Hispanic/ Latino (a)	8.0%	9.4%	4.4%	13.3%	9.7%		
Not Hispanic/Latino	92.0%	90.6%	95.6%	86.7%	90.3%	69.4%	78.0%	98.0%
White	62.5%	46.0%	79.8%	45.1%	56.9%	39.3%	41.3%	61.3%
Black/ African American	7.1%	4.3%	1.6%	24.0%	1.6%	16.6%	7.6%	27.6%
Native American	0.1%	0.1%	0.0%	0.5%	0.2%	0.6%	0.2%	20.2%
Asian	16.2%	35.2%	10.3%	11.3%	27.2%	9.2%	23.9%	43.9%
Native Hawaiian/Pacific Islander	0.6%	0.1%	0.2%	0.2%	0.4%	0.9%	0.7%	20.7%
Other	0.6%	0.4%	0.7%	0.1%	0.3%	0.1%	0.4%	20.4%
Two or More Races	<u>5.0%</u>	<u>4.5%</u>	<u>3.2%</u>	<u>5.5%</u>	<u>3.7%</u>	<u>2.6%</u>	<u>3.9%</u>	23.9%
Total	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	
Total Minority Population	37.5%	54.0%	20.2%	54.9%	43.1%	60.7%	58.6%	78.6%

Notes:

The American Community Survey (ACS) data used in this table are based on statistical sampling conducted continuously between 2009 and 2013.

(a) Includes individuals of all races that reported Hispanic or Latino ethnicity.

(b) These figures are 20 percentage points higher than each racial or ethnic group's share of the population in the MSA as a whole.

Sources: ACS 2009-2013; BAE, 2015.

1) **The percentage of persons of a particular racial or ethnic minority is at least 20 percentage points higher than that minority's percentage in the MSA as a whole.** There are no neighborhoods in Berkeley that are areas of minority concentration according to this definition. Neighborhoods that come closest to meeting this threshold include Greater Downtown, South Berkeley, and West Berkeley. South Berkeley has a Black/African American population that exceeds the share of the Black/African American population in the MSA by 16 percent. Greater Downtown has an Asian population that exceeds the share of the Asian population in the MSA by 11 percent. West Berkeley has a Hispanic/Latino population that exceeds the share of the Hispanic/Latino population in the MSA by nine percent.

2) **The total percentage of minority persons is at least 20 percentage points higher than the total percentage of minorities in the MSA as a whole.** There are no neighborhoods in Berkeley that are areas of minority concentration according to this definition. Since racial and ethnic minorities comprise 59 percent of the population in the MSA as a whole, a neighborhood in which racial or ethnic minorities comprise 79 percent or more of the population would be considered an area of minority concentration under this definition. West Berkeley is the neighborhood that comes closest to meeting this threshold, with racial and ethnic minorities accounting for 61 percent of the population.

**Language Spoken at Home**

Table 2-8 shows that over one quarter of Berkeley residents spoke a language other than English at home as of 2013. The most commonly spoken languages other than English were in the Asian or Pacific Islander category (such as Chinese, Vietnamese, Korean, or Tagalog),

followed by Spanish and other Indo-European languages (such as Hindi, Farsi, Urdu or European languages).

**Table 2-8: Language Spoken at Home, 2013**

	<b>City of Berkeley</b>		<b>Alameda County</b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
English	80,916	73.9%	817,782	56.9%
Spanish	7,427	6.8%	241,152	16.8%
Indo-European	7,595	6.9%	103,117	7.2%
Asian or Pacific Islander	12,264	11.2%	259,120	18.0%
Other	1,357	1.2%	16,555	1.2%
<b>Total</b>	<b>109,559</b>	<b>100.0%</b>	<b>1,437,726</b>	<b>100.0%</b>
<b>English not First Language (a)</b>		<b>26.1%</b>		<b>43.1%</b>

**Notes:**

Data are for all persons age 5 and older.

The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

(a) This percentage counts all persons five years and older, who speak a language other than English at home.

Sources: ACS, 2009-2013; BAE, 2015.

**Persons with Disabilities**

Berkeley is home to a sizeable disabled population; Table 2-9 shows that eight percent of the City’s population reported having one or more types of disability as of 2013, compared to nine percent of Alameda County residents. The most commonly reported disability type for Berkeley residents was ambulatory difficulty, followed by living difficulty and cognitive difficulty. Living difficulty as referenced in the table refers to persons who have difficulty doing errands alone due to any physical, mental, or emotional condition.

**Table 2-9: Persons with Disabilities, 2013**

Type (a)	City of	
	Berkeley	Alameda County
Ambulatory Difficulty	4,294	74,729
Living Difficulty	3,817	58,103
Cognitive Difficulty	3,785	52,188
Hearing Difficulty	2,357	34,975
Self-Care Difficulty	2,113	33,825
Vision Difficulty	1,787	23,603
Total Reported (b)	18,153	277,423
<b>Total Persons w/ Disability</b>	<b>8,960</b>	<b>139,044</b>
% Total Population (c)	7.9%	9.1%

Note:

(a) Refers to six census-designated disability type categories.

(b) Total disabilities reported exceed total persons with disabilities because individuals may report more than one disability type.

(c) Percentage calculated from universe of non-institutionalized civilians.

Sources: American Community Survey, 2009-2013; BAE, 2015.

Data showing the distribution of persons with disabilities by age – shown in Table 2-10 – indicate that 4,060 Berkeley residents over the age of 65 reported one or more disability type as of 2013. This accounted for nearly half of the total 8,960 Berkeley residents who reported one or more type of disability.

**Table 2-10: Persons with Disabilities by Age and Type of Disability, 2013**

	Age <5		Age 5-17		Age 18-64		Age 65+		Total Population (a)	
	City of Alameda		City of Alameda		City of Alameda		City of Alameda		City of Alameda	
	Berkeley	County	Berkeley	County	Berkeley	County	Berkeley	County	Berkeley	County
Total Population	4,477	97,482	10,019	243,352	84,990	1,009,503	14,170	172,431	113,656	1,522,768
<b>With Any Disability (b)</b>	<b>47</b>	<b>594</b>	<b>309</b>	<b>7,710</b>	<b>4,544</b>	<b>70,171</b>	<b>4,060</b>	<b>60,569</b>	<b>8,960</b>	<b>139,044</b>
Hearing Difficulty	0	398	1	895	810	12,204	1,546	21,478	2,357	34,975
Vision Difficulty	47	270	33	1,140	911	11,604	796	10,589	1,787	23,603
Cognitive Difficulty	N/A	N/A	262	5,945	2,253	29,706	1,270	16,537	3,785	52,188
Ambulatory Difficulty	N/A	N/A	8	788	1,744	34,194	2,542	39,747	4,294	74,729
Self-Care Difficulty	N/A	N/A	77	1,624	934	14,234	1,102	17,967	2,113	33,825
Independent Living Difficulty	N/A	N/A	N/A	N/A	1,650	26,865	2,167	31,238	3,817	58,103

Notes:

(a) Total population universe includes civilian noninstitutionalized population.

(b) Total disabilities reported exceed total persons with disabilities because individuals may have more than one disability type.

Sources: U.S.Census, American Community Survey 2009-2013; BAE, 2015.

## 2.2 Employment Profile

The top 10 employers in Berkeley account for over 40 percent of all jobs located in the City.

The University of California, Berkeley is the City's largest employer, with over 14,800

employees in 2014, or 23 percent of the City's total jobs. As of 2014, the Lawrence Berkeley National Laboratory was the next largest employer and accounted for five percent of all jobs. Sutter East Bay Hospitals, Berkeley Unified School District, and the City of Berkeley account for the remainder of the City's top five major employers.

**Table 2-11: Major Employers, 2014**

<b>Top 10 Principal Employers</b>	<b>Percent of Total City</b>	
	<b>Employees</b>	<b>Employment</b>
University of California, Berkeley	14,808	22.6%
Lawrence Berkeley National Laboratory	3,443	5.3%
Sutter East Bay Hospitals	2,393	3.7%
Berkeley Unified School District	1,772	2.7%
City of Berkeley	1,323	2.0%
Bayer Corporation	1,208	1.8%
Kaiser Permanente Medical Group	585	0.9%
Berkeley Bowl Produce	532	0.8%
Pyramid Acquisition II Management LLC	504	0.8%
Berkeley Young Men's Christian Association	403	0.6%
<b>Total</b>	<b>26,971</b>	<b>41.1%</b>

Source: City of Berkeley CAFR, FY2014; BAE, 2015.

Table 2-12 below summarizes the City's projected employment growth according to projections produced by the Association of Bay Area Governments (ABAG). Note that these projections use a baseline year of 2010, but were prepared and published in 2013.

Over the 30-year period from 2010 to 2040, Berkeley's employment base is projected to grow at an average annual rate of 0.8 percent, less than the projected rates for both Alameda County and the Bay Area as a whole. These projections mean that Berkeley is expected to add 17,200 new jobs from 2015 to 2040.

**Table 2-12: Employment Projections, 2010 - 2040**

	2010	2015	2020	2025	2030	2035	2040	<b>Annual % Change</b>	
								<b>2010-2040</b>	<b>2010-2040</b>
Berkeley	77,110	82,130	87,530	89,900	92,340	95,780	99,330	28.8%	0.8%
Alameda County	694,460	757,010	826,790	850,610	875,390	910,650	947,650	36.5%	1.0%
Bay Area (a)	3,385,300	3,669,990	3,987,150	4,089,320	4,196,580	4,346,820	4,505,230	33.1%	1.0%

Note:

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma counties.

Sources: Plan Bay Area Projections 2013; BAE, 2015.

## 2.3 Housing Profile

### *Housing Units*

Multifamily housing units comprise a relatively large share of Berkeley's housing inventory. According to 2009-2013 ACS data, there were approximately 49,000 housing units in

Berkeley, 53 percent of which (approximately 26,000 units) were multifamily units. The share of multifamily units was considerably smaller in Alameda County (38 percent) and the Bay Area (35 percent) overall.

**Table 2-13: Housing Units by Type, 2013**

<b>Type of Residence</b>	<b>City of Berkeley</b>	<b>Alameda County</b>	<b>Bay Area (a)</b>
Single Family Detached	21,286	308,056	1,499,522
Single Family Attached	1,831	45,449	250,262
Multifamily 2 Units	4,221	24,773	102,775
Multifamily 3-19 Units	13,918	106,028	502,406
Multifamily 20-49 Units	4,875	39,511	155,780
Multifamily 50+	3,053	53,066	226,869
Mobile Home/Other (c)	238	7,769	59,191
<b>Total</b>	<b>49,422</b>	<b>584,652</b>	<b>2,796,805</b>
<b>Single Family Housing Units</b>	<b>23,117</b>	<b>353,505</b>	<b>1,749,784</b>
<b>Multifamily Housing Units</b>	<b>26,067</b>	<b>223,378</b>	<b>987,830</b>

<b>Type of Residence</b>	<b>City of Berkeley</b>	<b>Alameda County</b>	<b>Bay Area (a)</b>
Single Family Detached	43.1%	52.7%	53.6%
Single Family Attached	3.7%	7.8%	8.9%
Multifamily 2 Units	8.5%	4.2%	3.7%
Multifamily 3-19 Units	28.2%	18.1%	18.0%
Multifamily 20-49 Units	9.9%	6.8%	5.6%
Multifamily 50+	6.2%	9.1%	8.1%
Mobile Home/Other (c)	0.5%	1.3%	2.1%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
<b>Single Family Housing Units</b>	<b>46.8%</b>	<b>60.5%</b>	<b>62.6%</b>
<b>Multifamily Housing Units</b>	<b>52.7%</b>	<b>38.2%</b>	<b>35.3%</b>

**Notes:**

The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Sources: ACS 2009-2013; BAE, 2015.

**Housing Condition and Age**

Berkeley has an older housing stock compared to Alameda County and the Bay Area. Over half of the City's housing (52 percent) was built prior to 1939. In contrast, only 21 percent of the housing stock in Alameda County and 15 percent of the housing stock in the Bay Area was built before 1939.

Data on housing age reflects relatively limited new housing development in Berkeley between 1980 and 2000. Approximately 38 percent of the City's housing stock was built between 1940 and 1979, and only 11 percent of the housing stock was built after 1980. In contrast, a higher proportion of homes were built after 1980 in Alameda County (27 percent) and the Bay Area (31 percent). However, there has been a recent increase in residential building activity in

Berkeley in more recent years, with well over 2,000 units built since 2000 and more residential units in the development pipeline.

**Table 2-14: Housing Units by Year Built, 2013**

<b>Year Built</b>	<b>City of Berkeley</b>	<b>Alameda County</b>	<b>Bay Area (a)</b>
1939 or earlier	25,461	122,213	428,535
1940 to 1949	4,685	46,948	201,730
1950 to 1959	5,559	77,608	394,427
1960 to 1969	4,641	79,530	403,587
1970 to 1979	3,579	98,373	503,784
1980 to 1989	1,974	64,039	346,957
1990 to 1999	1,258	48,792	254,409
2000 to 2009	2,186	45,048	253,829
2010 or later	79	2,101	9,547
<b>Total</b>	<b>49,422</b>	<b>584,652</b>	<b>2,796,805</b>
1939 or earlier	51.5%	20.9%	15.3%
1940 to 1949	9.5%	8.0%	7.2%
1950 to 1959	11.2%	13.3%	14.1%
1960 to 1969	9.4%	13.6%	14.4%
1970 to 1979	7.2%	16.8%	18.0%
1980 to 1989	4.0%	11.0%	12.4%
1990 to 1999	2.5%	8.3%	9.1%
2000 to 2009	4.4%	7.7%	9.1%
2010 or later	0.2%	0.4%	0.3%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

**Notes:**

The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Sources: ACS 2009-2013; BAE, 2015.

Despite the prevalence of older units in Berkeley, the City’s housing stock is in good condition, according to the Draft Housing Element for the 2015-2022 planning period. The City has implemented a variety of programs to upgrade and rehabilitate housing, including home rehabilitation loan programs and the Rental Housing Safety Program. Based on the success of these programs, along with the rapid increase of property values and availability of home equity loans, the City believes a very small number of housing units, particularly single-family homes, have significant rehabilitation needs.

**Housing Tenure and Size**

Berkeley has a large number of renter households, which comprise a majority of all households in the City. In 2013, 58 percent of Berkeley households were renters, compared to 42 percent that were owner households. In contrast, Alameda County and the Bay Area have a higher ratio of owner than renter households (Table 2-15).

The distribution of units by tenure varies between areas in Berkeley. As shown in Figure A-3, areas close to UC Berkeley have the highest shares of rental units, while areas in North East Berkeley have notably smaller shares of rental units. South and West Berkeley also have high shares of renter households, with over 60 percent of households in both areas in rental units.

**Table 2-15: Tenure, 2013**

	<b>City of Berkeley</b>	<b>Alameda County</b>	<b>Bay Area (a)</b>
<u>Number</u>			
Owner	19,128	289,960	1,461,348
Renter	26,295	255,111	1,151,707
Total Occupied Units	<b>45,423</b>	<b>545,071</b>	<b>2,613,055</b>
<u>Percent</u>			
Owner	42.1%	53.2%	55.9%
Renter	57.9%	46.8%	44.1%
Total Occupied Units	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Notes:

The American Community Survey (ACS) publishes demographic estimates based on statistical sampling conducted continuously between 2009 and 2013.

(a) The Bay Area includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

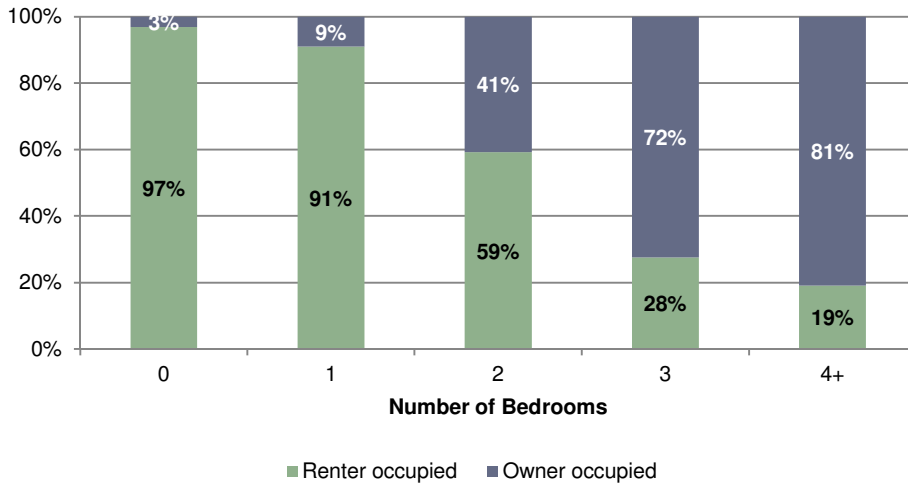
Sources: ACS 2009-2013; BAE, 2015.

The size of housing units varies between renter- and owner-occupied homes, with rental units typically having fewer bedrooms than owner-occupied units.

Figure 2-2 shows the breakdown of housing units in Berkeley by tenure for various unit sizes. As shown, smaller units are most often rental housing, while most of the larger units (three or more bedrooms) are owner-occupied. At the far ends of the spectrum, 97 percent of studio units were rental units, and 81 percent of homes with four or more bedrooms were owner occupied in 2013. These data suggest that housing choices are somewhat limited by the housing types available at various income levels, with limited options for large households in the rental market. This pattern is not unique to Berkeley; similar housing market conditions can be seen throughout much of the Bay Area's housing market.



**Figure 2-2: Percentage of Units by Size and Tenure, 2013**



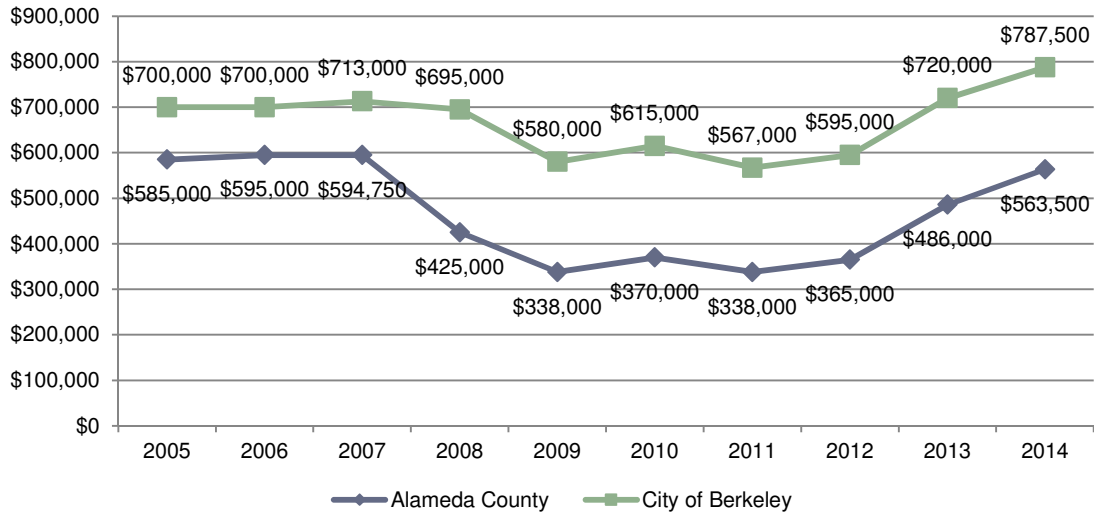
Sources: 2013 American Community Survey, Table B25042; BAE, 2015.

Overall, the City's rental stock is primarily comprised of one- and two- bedroom units. One-bedroom units constitute 42 percent of rental units, while two-bedrooms comprise 31 percent of the City's rental housing. In total, one- and two-bedroom units comprise 73 percent of the City's housing inventory. There are relatively few studios in Berkeley, which make up only 12 percent of Berkeley's rental housing. The city may wish to expand rental studio housing and other small unit types to serve smaller households, including single-person households and special needs populations.

### **Home Sale Trends**

Following a decline in housing prices during the most recent recession, Berkeley home prices have risen sharply in recent years, surpassing pre-recession levels. Figure 2-3 shows the median home sales price in Berkeley and Alameda County between 2005 and 2014. Between 2005 and 2007, home prices in Berkeley were somewhat flat, reaching a high of \$713,000 in 2007. Berkeley home prices fell during the recession, averaging \$587,000 between 2009 and 2011. After 2011, prices have been increasing consistently, with the 2014 median home price reaching \$787,500, approximately 10 percent higher than the pre-recession peak.

**Figure 2-3: Median Home Price, Berkeley and Alameda County, 2005-2014**



Sources: DQNews, 2005-2015; BAE, 2015

The median home price in Berkeley has consistently been higher than in Alameda County, which illustrates the relative strength of Berkeley’s housing market. Alameda County experienced a sharp drop in home prices between 2007 and 2008, while prices only declined moderately in Berkeley. In 2011, the year with the lowest median sale price in Berkeley during the recent recession, Berkeley’s median home price was only 14 percent lower than the pre-recession high. In Alameda County, the median home price fell 43 percent lower than the pre-recession peak.

### ***Rental Market Overview***

Berkeley’s market-rate residential rental inventory is bifurcated between units that are subject to the City’s rent stabilization ordinance and those that are not subject to the ordinance. The rent-stabilized and non-rent stabilized inventories are discussed separately below.

### ***Rental Units Subject to Rent Stabilization***

In June 1980, Berkeley residents approved the Rent Stabilization and Eviction for Good Cause Ordinance (Berkeley Municipal Code Chapter 13.76). In general, the Ordinance limits annual rent increases for units built before June 30, 1980. However, landlords are allowed to charge market rate rents when a unit is vacated and leased to a new tenant.<sup>3</sup> As of March 2015,

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<sup>3</sup> Vacancy decontrol was mandated after the State legislature passed the Costa-Hawkins Rental Act in 1995, which allows rent to increase to market rates when a qualifying vacancy occurs and reinstates rent control for a new tenant.

approximately 19,150 rental units in Berkeley were covered by the rent stabilization ordinance.

The Berkeley Rent Stabilization Board, which implements the rent stabilization law, collects and reports data on rental rates for units subject to rent stabilization on a quarterly basis. A summary of recent rent-stabilized market data is shown in Table 2-16. The Rent Stabilization Board data tracks rents for both “all units” subject to rent stabilization, as well as those in the subset representing “new tenancies” after a unit is vacant and leased again. As shown, the average rent for all units ranged from \$1,524 per month. Not surprisingly, the rents for new tenancies were higher, as landlords establish new market rate rents when units are vacated and leased to a new tenant; the average rent for new tenancies was \$1,787 per month.

**Table 2-16: Average Rent for Units Subject to Rent Stabilization, Berkeley, March 2015**

Unit Type	New Tenancies 2015 YTD (a)		All Units, 2015 (b)	
	Average Rent	Units	Average Rent	Units
Studio	\$1,340	74	\$1,069	3,858
1-Bedroom	\$1,705	112	\$1,314	7,928
2-Bedroom	\$2,245	62	\$1,797	6,004
3-Bedroom	\$2,331	8	\$2,495	1,027
<b>All Units</b>	<b>\$1,787</b>	<b>258</b>	<b>\$1,524</b>	<b>19,150</b>

Notes:

(a) Data on new tenancies reflect all new tenancies that started between January 1, 2015 and March 12, 2015.

(b) Data on all units are shown as of March 12, 2015.

Sources: Berkeley Rent Stabilization Board, 2015; BAE, 2015.

***New Market Rate Rental Units Not Subject to Rent Stabilization***

At the other end of the market spectrum, Berkeley has experienced a rise in new multifamily rental developments in recent years. Monthly rents at new developments are substantially higher than citywide rents for the older units built before 1980 that are subject to rent stabilization. Table 2-17 summarizes current market data for a sample of ten multifamily developments in Berkeley that were constructed in 2001 or later. As shown, average rents in the fourth quarter of 2014 ranged from \$2,146 for studios to \$4,500 for three-bedroom units.

Current rental rates for units that are not subject to rent stabilization reflect considerable recent increases. Between 2012 and 2014, monthly rents increased by 15 percent, for studios, 22 percent for 1-bedrooms, and 25 percent for two-bedrooms.

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**Table 2-17: Rental Housing Market Overview for Units Built in 2001 or Later, Q4 2014**

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<b>Current Market Data - Q4 2014</b>					
<u>Unit Type</u>	<u>Number</u>	<u>Percent of Mix</u>	<u>Avg. Sq. Ft.</u>	<u>Avg. Rent</u>	<u>Avg Rent/ Sq.Ft.</u>
Studio	37	3.2%	522	\$2,146	\$4.11
1 BD / 1 BTH	560	48.8%	642	\$2,505	\$3.90
2 BD / 1 BTH	314	27.4%	679	\$3,037	\$4.47
2 BD / 1.5 BTH	10	0.9%	720	\$3,233	\$4.49
2 BD / 2 BTH	185	16.1%	947	\$3,427	\$3.62
2 BD / 2.5 BTH	9	0.8%	1558	\$6,205	\$3.98
3 BD / 2 BTH	3	0.3%	1100	\$4,500	\$4.09
<b>All Units</b>	<b>1,148</b>	<b>100.0%</b>	<b>703</b>	<b>\$2,819</b>	<b>\$4.01</b>

<b>Average Rent History Annual</b>						
<u>Unit Type</u>	<u>2010</u>	<u>2012</u>	<u>2010-2012 % Change</u>	<u>2014</u>	<u>2012-2014 % Change</u>	<u>2010-2014 % Change</u>
Studio	\$1,814	\$1,876	3.4%	\$2,150	14.6%	18.5%
1 BD / 1 BTH	\$1,849	\$1,987	7.5%	\$2,433	22.4%	31.6%
2 BD / 1 BTH	\$2,268	\$2,458	8.4%	\$2,998	22.0%	32.2%
2 BD / 2 BTH	\$2,547	\$2,677	5.1%	\$3,337	24.7%	31.0%
3 BD / 2 BTH	\$3,983	\$4,273	7.3%	\$4,386	2.6%	10.1%

<b>Occupancy Rate</b>	
<u>Year</u>	<u>Average Vacancy</u>
2010	15.5%
2011	5.4%
2012	5.6%
2013	7.8%
2014	2.9%

<b>Age of Housing Inventory by Complex for Complexes in Sample</b>	
<u>Year</u>	<u>Percent of Complexes</u>
2000s	60.0%
2010s	40.0%

Source: real Answers; BAE, 2015

Rental properties in Berkeley generally have low vacancy rates. Among properties surveyed by realAnswers, a private data vendor which surveys projects with 50 units or more, the vacancy rate was 2.9 percent in 2014. While this sample only represents a portion of the rental stock in Berkeley, it offers a general benchmark for vacancy rates in the City. Housing economists generally consider a rental vacancy of five percent as sufficient to provide adequate choice and mobility for residents and sufficient income for landlords. Higher rates result in a depressed rental market, while vacancy rates below five percent tend to restrict resident mobility and indicate an extremely tight housing market.

### ***Affordability of Market-Rate Housing***

Housing affordability is generally discussed in terms of housing costs that are affordable to households in different income groups, as defined by the relationship between household income and the median income for the area. As discussed in the previous section, households

are categorized by HUD as extremely low-income, very low-income, or low-income based on household size and how household income compares to the Area Median Income (AMI) for other households of the same size, with income limits for each household size and income group established annually by HUD. Federal, State, and local affordable housing programs generally target households earning up to 80 percent of AMI, though some programs also provide assistance to households earning up to 120 percent of AMI.

**Affordability of Ownership Units.** Table 2-18 shows the affordable home sale price for four-person households with extremely low-, very low-, and low- incomes and for a four-person, median-income household. The maximum sale price was calculated using household income limits published by HUD, the average rate for a 30-year fixed-rate mortgage in February 2015, and assuming that households provide a 20 percent down payment and spend 30 percent of gross income on mortgage payments, taxes, and insurance. Appendix B shows the detailed calculations used to derive the maximum affordable sales price.

Most Berkeley households do not have incomes that are high enough to afford to buy a home in Berkeley. As shown in Table 2-18, the maximum affordable sale price for a median-income, four-person household in Alameda County is approximately \$388,000, slightly less than half of the 2014 median sale price in Berkeley (\$787,500; see Figure 2-3). Because the median income among Berkeley households (\$63,312) is lower than the County median for a four-person household (\$92,900) the sale price that most Berkeley households can afford is approximately one quarter to one third of the median home sale price in Berkeley, putting homeownership out of reach for many.

In addition, down payment requirements are often a significant barrier to homeownership for lower-income households. The calculations shown in Table 2-18 are based on a 20 percent down payment, which many lower-income households are not able to afford. Households that purchase homes with less than a 20 percent down payment will have a lower maximum affordable sale price than indicated in the table because a greater share of the home price will be covered by mortgage payments. Moreover, households that do not have a down payment equal to at least 20 percent of the home price are required to pay mortgage insurance, further increasing homeownership costs and decreasing the maximum affordable sale price.

**Table 2-18: Affordable Sale Price by Income, Alameda County, 2015**

<b>Income Level</b>	<b>Income Limit (a)</b>	<b>Max. Affordable Sale Price (b)</b>
Extremely Low-Income (30% AMI)	\$27,850	\$66,418
Very Low-Income (50% AMI)	\$46,450	\$158,268
Low-Income (80% AMI)	\$71,600	\$282,463
Median Income (100% AMI)	\$92,900	\$387,646
Median Sale Price		
Number of Units Sold		

Notes:

(c) 2015 Household income limits for a a four-person household in Alameda County, as published by HUD.

(b) Mortgage terms:

Annual Interest Rate (fixed)	3.71%
Term of mortgage (years)	30
Percent of sale price as down payment	20%
Initial property tax (annual)	1.27%
Mortgage Insurance as percent of loan amount	0.0%
Annual homeowner's insurance rate as percent of sale price	0.38%
Percent of household income available for housing costs	30%

Sources: HUD, 2015; Freddie Mac, 2015; California Department of Insurance, 2015; Alameda County Auditor-Controller, 2014; BAE, 2014.

For some households, affordability challenges are exacerbated by lending terms that have become more restrictive in response to the recent recession. Along with increasing home prices, lender requirements for a minimum down payment or credit score present additional obstacles for prospective buyers. The Federal Housing Administration (FHA) offers loans with lower down payment requirements that are insured by the federal government and have allowed lower-income households to purchase a home that they could not otherwise afford. However, some sellers and loan officers prefer to work with buyers with conventional mortgages because of the added time and effort associated with processing and securing approval on a FHA loan, making it difficult for prospective buyers to use FHA loans in a competitive market.

**Affordability of Rental Units.** Table 2-19 shows a comparison of the maximum affordable monthly rent for households of various sizes and income levels with the average market rate rents in Berkeley. The average rent shown in the table is a weighted average of rental rates for several recently-constructed large projects in Berkeley, along with the rental rates reported by the Berkeley Rent Stabilization Board.<sup>4</sup> These two data sources are combined and averaged,

<sup>4</sup> Data on newer properties are provided by realAnswers, which surveys rental properties with 50 units or more. The realAnswers inventory includes a total of ten properties in Berkeley, all built between 2001 and 2012, with a total of 1,148 units. The Rent Board provides data on the 19,150 units in Berkeley that were covered by the rent stabilization ordinance as of the first quarter of 2014, all of which were built in 1980 or earlier. Rents for new tenancies were used to compute the weighted average among

in order to reflect overall market rate rents in the pre- and post-1980 housing inventory. Maximum affordable monthly rent assumes that households pay 30 percent of gross household income on rent and utilities. Utility costs are based on utility allowances published by the Berkeley Housing Authority.

As shown, average market rents in Berkeley exceed the maximum affordable rents for extremely low-, very low-, and low-income households. For households with incomes equal to 80 percent of AMI, the affordability gap shown in Table 2-19 ranges from \$134 per month for a one-person household in a studio apartment to \$775 per month for a three-person household in a two-bedroom apartment. The affordability gap shown for extremely low-income households ranged from \$900 to \$1,759 per month. These findings suggest that extremely low-, very low-, and low-income households face significant barriers to securing affordable rental housing in Berkeley. As a result, many lower-income households have high rent burdens, leaving less money available to meet other needs, or live in overcrowded housing units to afford housing costs. In some cases, student households may constitute an exception to these trends, since many student households are able to afford housing due to financial support from student loans or family members that is not reported as household income.

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rent-stabilized properties to reflect the average cost of an apartment for a household beginning a tenancy in Berkeley in 2015. Together, the units surveyed by realAnswers and the Rent Board are estimated to comprise 77 percent of all rental units in Berkeley.

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**Table 2-19: Affordability of Market Rate Rent, City of Berkeley, 2015**

	Household (Unit) Size			
	1 Person (Studio)	2 Person (1 Bedroom)	3 Person (2 Bedrooms)	4 Person (3 Bedrooms)
Average Market-Rate Rent (a)	\$1,354	\$1,757	\$2,324	\$2,338
Utility Costs (b)	\$34	\$48	\$62	\$75
<b>Maximum Affordable Monthly Rent</b>				
<b>Extremely Low Income (up to 30% AMI)</b>				
Household Income (c)	\$19,500	\$22,300	\$25,100	\$27,850
Max. Affordable Monthly Rent (d)	\$454	\$510	\$566	\$621
Amount Above (Below) Market Rate Rent	(\$900)	(\$1,248)	(\$1,759)	(\$1,716)
<b>Very Low Income (31-50% AMI)</b>				
Household Income (c)	\$32,550	\$37,200	\$41,850	\$46,450
Max. Affordable Monthly Rent (d)	\$780	\$882	\$984	\$1,086
Amount Above (Below) Market Rate Rent	(\$574)	(\$875)	(\$1,340)	(\$1,251)
<b>Low Income (51-80% AMI)</b>				
Household Income (c)	\$50,150	\$57,300	\$64,450	\$71,600
Max. Affordable Monthly Rent (d)	\$1,220	\$1,385	\$1,549	\$1,715
Amount Above (Below) Market Rate Rent	(\$134)	(\$373)	(\$775)	(\$623)

**Notes:**

- (a) Based on a weighted average of rents among rent-controlled properties and among newer properties. Average rents for rent-controlled properties are based on rents for new tenancies between January 1 and March 12, 2014, as reported by the Rent Stabilization Board. Average rents for newer properties are based on information reported by realAnswers, which collects data on properties with 50 units or more, including 10 properties with a total of 1,148 units in Berkeley, all of which were built in 2001 or later.
  - (b) Utility costs based on utility allowance for multifamily dwellings established by the Berkeley Housing Authority in 2014. Utility cost estimates assume that water, sewer, and trash collection costs are included in monthly rental amount.
  - (c) Household income limits published by HUD for Alameda County, 2015.
  - (d) Assumes 30 percent of income spent on rent and utilities.
- Sources: HUD, 2015; Berkeley Housing Authority, 2014; BAE, 2014.

**Overpayment**

According to HUD standards, a household is considered “cost-burdened” (i.e., overpaying for housing) if it spends more than 30 percent of gross income on housing-related costs. Households are “severely cost burdened” if they pay more than 50 percent of their income on housing costs.

Due to Berkeley’s high housing costs relative to incomes, a high percentage of renter and owner households experience housing cost burden. An estimated 55 percent of rental households and 46 percent of owner households overpaid for housing in the City of Berkeley, according to 2007-2011 CHAS data. Table 2-20 presents a detailed breakdown of the prevalence of overpayment by household income and type. Households earning less than 80 percent of area median income had the highest rate of overpayment among all categories and across tenure, with 77 percent of renter households and 65 percent of owner households overpaying for housing in the City. The need for affordable housing is particularly acute for renters. Among those earning less than 80 percent of area median income, there were



12,254 renters that were cost burdened, compared to 2,580 owners who paid more than 30 percent of their income on housing related costs.

Elderly non-family households and small-related households earning less than 80 percent of area median income had the highest rate of overpayment among renter household types, with approximately 73 percent and 76 percent of these households, respectively, overpaying for housing. Coupled with demographic data that shows the population over age of 65 as a growing segment of Berkeley's population, this suggests the need for more senior housing and smaller, affordable units to accommodate these household types.

**Table 2-20: Cost Burdened Renter Households by Household Type, Berkeley, 2011**

	Renters					
	Elderly 1 & 2 Member Households	Small Related (2 to 4 Members)	Large Related (5 or more Members)	Elderly Non-Family	All Other Households	Total Renters
<b>Household Income &lt;=50% MFI</b>	<b>260</b>	<b>2,020</b>	<b>140</b>	<b>1,745</b>	<b>7,345</b>	<b>11,515</b>
<b>Household Income &lt;=30% MFI</b>	<b>115</b>	<b>1,175</b>	<b>115</b>	<b>1,275</b>	<b>5,180</b>	<b>7,865</b>
% with any cost burden	52.2%	74.5%	95.7%	78.4%	78.0%	77.4%
Cost Burden >30% to <=50%	43.5%	13.6%	0.0%	26.7%	2.5%	8.6%
Cost Burden >50%	8.7%	60.9%	95.7%	51.8%	75.5%	68.7%
<b>Household Income &gt;30% to &lt;=50% MFI</b>	<b>145</b>	<b>845</b>	<b>25</b>	<b>470</b>	<b>2,165</b>	<b>3,650</b>
% with any cost burden	44.8%	81.7%	16.0%	71.3%	91.5%	84.2%
Cost Burden >30% to <=50%	31.0%	38.5%	16.0%	50.0%	28.9%	33.8%
Cost Burden >50%	13.8%	43.2%	0.0%	21.3%	62.6%	50.4%
<b>Household Income &gt;50 to &lt;=80% MFI</b>	<b>45</b>	<b>890</b>	<b>110</b>	<b>280</b>	<b>2,985</b>	<b>4,305</b>
% with any cost burden	66.7%	71.9%	22.7%	51.8%	75.5%	71.9%
Cost Burden >30% to <=50%	66.7%	51.1%	22.7%	26.8%	56.8%	53.0%
Cost Burden >50%	0.0%	20.8%	0.0%	25.0%	18.8%	18.9%
<b>Household Income &gt;80% MFI</b>	<b>180</b>	<b>2,775</b>	<b>85</b>	<b>640</b>	<b>5,880</b>	<b>9,565</b>
% with any cost burden	11.1%	13.3%	0.0%	7.0%	19.9%	16.8%
Cost Burden >30% to <=50%	11.1%	11.9%	0.0%	7.0%	18.0%	15.2%
Cost Burden >50%	0.0%	1.4%	0.0%	0.0%	1.9%	1.6%
<b>Total Households</b>	<b>485</b>	<b>5,685</b>	<b>335</b>	<b>2,665</b>	<b>16,210</b>	<b>25,385</b>
% with any cost burden	36.1%	45.3%	41.5%	57.2%	58.3%	54.6%
Cost Burden >30% to <=50%	29.9%	22.3%	8.7%	26.1%	21.7%	22.3%
Cost Burden >50%	6.2%	23.0%	32.8%	31.1%	36.6%	32.3%

**Definitions:**

Cost Burden: Cost burden is the fraction of a household's total gross income spent on housing costs.

Household types:

Elderly family (2 related persons, with either or both age 62 or over)

Small family (2 related persons, neither person 62 years or over, or 3 or 4 related persons)

Large family (5 or more related persons)

Elderly non-family

Other household type (non-elderly non-family)

Totals may not add due to independent rounding.

Sources: HUD, CHAS special tabulations from American Community Survey 2007-2011; BAE, 2015

**Table 2-21: Cost Burdened Owner Households by Household Type, Berkeley, 2011**

	Owners					Total Owners
	Elderly 1 & 2 Member Households	Small Related (2 to 4 Members)	Large Related (5 or more Members)	Elderly Non-Family	All Other Households	
<b>Household Income &lt;=50% MFI</b>	<b>285</b>	<b>445</b>	<b>85</b>	<b>915</b>	<b>570</b>	<b>2,295</b>
<b>Household Income &lt;=30% MFI</b>	<b>105</b>	<b>170</b>	<b>20</b>	<b>420</b>	<b>310</b>	<b>1,025</b>
% with any cost burden	81.0%	79.4%	75.0%	84.5%	67.7%	78.0%
Cost Burden >30% to <=50%	33.3%	0.0%	0.0%	21.4%	8.1%	14.6%
Cost Burden >50%	47.6%	79.4%	75.0%	63.1%	59.7%	63.4%
<b>Household Income &gt;30% to &lt;=50% MFI</b>	<b>180</b>	<b>275</b>	<b>65</b>	<b>495</b>	<b>260</b>	<b>1,270</b>
% with any cost burden	77.8%	83.6%	84.6%	48.5%	84.6%	69.7%
Cost Burden >30% to <=50%	19.4%	10.9%	0.0%	17.2%	36.5%	19.3%
Cost Burden >50%	58.3%	72.7%	84.6%	31.3%	48.1%	50.4%
<b>Household Income &gt;50 to &lt;=80% MFI</b>	<b>300</b>	<b>560</b>	<b>90</b>	<b>540</b>	<b>180</b>	<b>1,670</b>
% with any cost burden	40.0%	61.6%	38.9%	44.4%	86.1%	53.6%
Cost Burden >30% to <=50%	15.0%	20.5%	22.2%	22.2%	13.9%	19.5%
Cost Burden >50%	25.0%	41.1%	16.7%	22.2%	72.2%	34.1%
<b>Household Income &gt;80% MFI</b>	<b>3,365</b>	<b>7,430</b>	<b>595</b>	<b>2,175</b>	<b>1,995</b>	<b>15,555</b>
% with any cost burden	16.2%	28.5%	20.2%	24.4%	33.8%	25.6%
Cost Burden >30% to <=50%	13.1%	19.1%	13.4%	16.1%	23.8%	17.8%
Cost Burden >50%	3.1%	9.4%	6.7%	8.3%	10.0%	7.8%
<b>Total Households</b>	<b>3,950</b>	<b>8,435</b>	<b>770</b>	<b>3,630</b>	<b>2,745</b>	<b>19,520</b>
% with any cost burden	22.5%	33.5%	29.2%	37.6%	45.9%	33.6%
Cost Burden >30% to <=50%	14.1%	18.6%	13.0%	17.8%	22.6%	17.8%
Cost Burden >50%	8.5%	14.9%	16.2%	19.8%	23.3%	15.8%

Definitions:

Cost Burden: Cost burden is the fraction of a household's total gross income spent on housing costs.

Household types:

Elderly family (2 related persons, with either or both age 62 or over)

Small family (2 related persons, neither person 62 years or over, or 3 or 4 related persons)

Large family (5 or more related persons)

Elderly non-family

Other household type (non-elderly non-family)

Totals may not add due to independent rounding.

Sources: HUD, CHAS special tabulations from American Community Survey 2007-2011; BAE, 2015

## Overcrowding

The U.S. Census defines “overcrowding” as more than one person per room, excluding bathrooms and kitchens. In the City of Berkeley, three percent of households were overcrowded in 2013. Of the overcrowded units, 15 percent were living in owner-occupied units and 85 percent were living in renter-occupied units. The incidence of overcrowding is low in Berkeley compared to the County, where six percent of households lived in overcrowded conditions.

**Table 2-22: Overcrowding by Tenure, 2013**

	Owner Households		Renter Households		Total Households	
	Number	%	Number	%	Number	%
<b>Berkeley City</b>						
1.51 or more persons per room (Severely Overcrowded)	181	1.0%	449	1.7%	630	1.4%
1.01 to 1.50 (Overcrowded)	21	0.1%	664	2.4%	685	1.5%
1.00 or less	18,711	98.9%	26,004	95.9%	44,715	97.1%
<b>Total</b>	<b>18,913</b>	<b>100.0%</b>	<b>27,117</b>	<b>100.0%</b>	<b>46,030</b>	<b>100.0%</b>
<b>% Overcrowded by Tenure</b>		<b>1.1%</b>		<b>4.1%</b>		<b>2.9%</b>
<b>Alameda County</b>						
1.51 or more persons per room (Severely Overcrowded)	2,102	0.7%	7,565	3.0%	9,667	1.8%
1.01 to 1.50 (Overcrowded)	6,727	2.3%	15,330	6.0%	22,057	4.0%
1.00 or less	281,131	97.0%	232,216	91.0%	513,347	94.2%
<b>Total</b>	<b>289,960</b>	<b>100.0%</b>	<b>255,111</b>	<b>100.0%</b>	<b>545,071</b>	<b>100.0%</b>
<b>% Overcrowded by Tenure</b>		<b>3.0%</b>		<b>9.0%</b>		<b>5.8%</b>

**Notes:**

The U.S. Census defines overcrowded an unit as one occupied by 1.01 persons or more per room (excluding bathrooms and kitchens). Units with more than 1.5 persons per room are considered severely overcrowded.

Sources: U.S. Census American Community Survey, Table B25014, 2009-2013; BAE, 2015.

## 2.4 Linkages between Housing and Employment Centers

Impediments to fair housing choice may exist when poor linkages exist between the locations of major employers and affordable housing. Under these conditions, persons who depend on public transportation, such as lower-income households, seniors, and persons with disabilities, would be more limited in their housing options. Because of this need, affordable housing developments and community care facilities should be located in transit accessible areas to the extent feasible.

In general, Berkeley residents are well-served by public transit, which is available via a network of rail, bus, and shuttle service. Public transit routes that serve Berkeley are summarized below and shown in Figure A-4. In addition, Berkeley is a relatively small city in terms of geographic area, and as a result destinations within the City are reasonably close to each other even when located in different areas of the City.

***Bay Area Rapid Transit (BART)***

BART provides rail service in Alameda, Contra Costa, San Francisco, and San Mateo counties. The City of Berkeley has three BART stations, which provide service to regional employment nodes in San Francisco, Oakland, and elsewhere.

***AC Transit***

AC Transit provides bus service in Alameda County and Western Contra Costa County and to the San Francisco Transbay Terminal. AC Transit has relatively extensive coverage in Berkeley, connecting residents to employment nodes and other transit systems within Berkeley and elsewhere in the region.

***Alta Bates Shuttles***

A system of four shuttles that connects the Herrick and Alta Bates campuses in Berkeley and the Merritt, Summit, and 3100 Telegraph offices in Oakland to the MacArthur and Ashby BART stations. Shuttles run every 20 minutes from 4:30 am until 9:00 pm and are available on-call from 9:00 pm until 2:00 am with service to the Ashby station. Shuttles do not run on weekends or holidays.

***East Bay Paratransit Services***

East Bay Paratransit provides transportation to people who have a disability or a health condition that prevents them from using buses or BART trains. BART and AC Transit established this service to meet the requirements of the Americans with Disabilities Act. East Bay Paratransit provides rides in a sedan or lift-equipped van, covering the same service area as AC Transit.

***West Berkeley Shuttle***

Funded by Bayer HealthCare and Wareham Development through the Berkeley Gateway Transportation Management Association, the West Berkeley Shuttle connects various parts of the West Berkeley Area during weekday commute hours.

## 3. IMPEDIMENTS TO FAIR HOUSING CHOICE

This chapter provides an analysis of actual and potential impediments to fair housing choice in Berkeley based on fair housing complaints, mortgage lending patterns, available housing resources, and public sector regulations and procedures. As discussed in more detail below, data on fair housing complaints and mortgage lending patterns suggest differential access to housing for some members of protected classes.

### 3.1 Fair Housing Violations

This section outlines the federal fair housing complaint process and provides data on the number of fair housing complaints filed with HUD's Office of Fair Housing and Equal Opportunity (FHEO) since 2009.

Complaints regarding potential fair housing violations in California that are filed with HUD are automatically filed with the California Department of Fair Employment and Housing (DFEH) as well. In most cases, HUD sends the complaint to DFEH for investigation as part of a contractual agreement between the two agencies. Similarly, if a complaint is filed with DFEH and is jurisdictional with HUD, it will be filed at the federal agency as well.

Complaints may be filed directly with FHEO by the complainant, or individuals may opt to file a complaint with a local fair housing services provider, which will then file the official complaint with FHEO and/or DFEH on the complainant's behalf.<sup>5</sup> However, many complaints filed with local fair housing service providers are resolved at the local level without the complaint ever getting filed with FHEO or DFEH.

#### ***Fair Housing Complaint Process***

Fair housing rights are protected under the Fair Housing Act of 1968. Individuals may file complaints about violations with HUD through the following process:<sup>6</sup>

- **Intake.** Any entity, including individuals and community groups, may file fair housing complaints at no cost by telephone, mail, or via the internet. An intake specialist will interview the complainant, usually by telephone, and determine whether the matter falls within FHEO jurisdiction.

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<sup>5</sup> The City has a contract with the East Bay Community Law Center to address potential fair housing complaints in Berkeley. <http://www.cityofberkeley.info/ContentDisplay.aspx?id=12142>.

<sup>6</sup> U.S. Department of Housing and Urban Development, HUD's Title VIII Fair Housing Complaint Process, <http://www.hud.gov/offices/fheo/complaint-process.cfm>

- **Filing.** If HUD accepts the complaint for investigation, the investigator will draft a formal complaint and provide it to the complainant, typically by mail. The complainant must sign and return the form to HUD. HUD will then send the complaint to the respondent, who must submit an answer to HUD within 10 days.
- **Investigation.** As part of the investigation, HUD will interview the complainant, the respondent, and pertinent witnesses, as well as collect relevant documents and conduct onsite visits when appropriate. HUD has the authority to take depositions, issue subpoenas and interrogatories, and compel testimony or documents.
- **Conciliation.** The Fair Housing Act requires HUD to attempt to bring the parties together to see if they can reach conciliation. The choice to conciliate the complaint is voluntary on the part of both parties. If a conciliation agreement is signed, HUD will end its investigation.
- **No Cause Determination.** If HUD's investigation finds no reasonable cause to believe that housing discrimination has occurred or is about to occur, HUD will issue a determination of no reasonable cause and close the case. Complainants who disagree with the decision may request reconsideration. If complainants disagree with HUD's no cause determination in the reconsideration, the complainant can file a civil court action in the appropriate U.S. district court.
- **Cause Determination and Charge.** If the investigation finds reasonable cause to believe that discrimination has occurred or is about to occur, HUD will issue a determination of reasonable cause and charge the respondent with violating the law. A HUD Administrative Law Judge will then hear the case unless either party elects to have the case heard in federal civil court.
- **Hearing in a U.S. District Court.** If either party elects to go to federal court, the Department of Justice will commence a civil action on behalf of the complainant in U.S. District Court. If the court finds that a discriminatory housing practice has or is about to occur, the court can award actual and punitive damages as well as attorney fees.
- **Hearing before a HUD Administrative Law Judge (ALJ).** If neither party elects to go to federal court, a HUD ALJ will hear the case. An attorney from HUD will represent the complainant before the ALJ. The ALJ will decide the case and issue an initial decision. Either party may petition the initial decision to the Secretary of HUD for review.

### ***Federal Fair Housing Complaints***

Table 3-1 summarizes fair housing complaint data obtained from HUD's Office of Fair Housing and Equal Opportunity (FHEO). From 2010 through 2014, 23 fair housing complaints were

filed with FHEO by or on behalf of complainants in Berkeley, for an average of less than five complaints per year.

Table 3-1 also provides data on the bases for these fair housing complaints. The number of reported bases for complaints is slightly greater than the total number of complaints filed, because complainants may indicate multiple bases for a complaint and some complaints were filed regarding alleged discrimination toward more than one protected class. Disability status was the most common basis for fair housing complaints, being a factor in more than half of all the complaints. Race was the second most common basis, being part of 22 percent of complaints, while familial status and retaliation each were listed as a complaint basis for 17 percent of fair housing complaints.

**Table 3-1: Fair Housing Complaints by Basis, 2010-2014**

Complaint Basis	Year					Total for Basis (a)	Percent of Total
	2010	2011	2012	2013	2014		
Disability	2	3	3	3	2	13	56.5%
Race	1	1	1	2	-	5	21.7%
Familial Status	2	-	1	-	1	4	17.4%
National Origin	1	-	-	-	-	1	4.3%
Retaliaton	2	-	1	-	1	4	17.4%
Sex	-	-	-	1	-	1	4.3%
Religion	-	-	-	-	-	0	0.0%
<b>Total Bases for Complaints</b>	<b>8</b>	<b>4</b>	<b>6</b>	<b>6</b>	<b>4</b>	<b>28</b>	
<b>Total Complaints</b>	<b>5</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>3</b>	<b>23</b>	

Notes:

(a) Total Complaints by basis count is greater than the count of total fair housing complaints because petitioners may indicate multiple bases for a single complaint. Percent of total based on total complaints, not total bases for complaints.

Sources: HUD, Office of Fair Housing and Equal Opportunity (FHEO) San Francisco Regional Office; BAE, 2015.

As shown in Table 3-2, a determination of no cause was the most common resolution of HUD investigations, as the resolution of 30 percent of complaints filed with FHEO from 2010 through 2014. Slightly more than one-quarter of investigations were resolved with conciliation and a settlement between the complainant and respondent. An additional 17 percent of complaints were withdrawn after resolution. There was one complaint each where the complainant failed to cooperate with the investigation, a judicial consent order was issued, HUD reported lack of jurisdiction, or the complaint was withdrawn without resolution, for an additional 17 percent of all complaints. Two complaints had no resolution recorded.

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**Table 3-2: Fair Housing Complaints by Resolution, 2010-2014**

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Resolution	Year					Total Complaints	Percent of Total
	2010	2011	2012	2013	2014		
No Cause	-	3	1	1	2	7	30.4%
Conciliated/Settled	1	1	1	3	-	6	26.1%
Withdrawn After Resolution	1	-	2	1	-	4	17.4%
Complainant Failed to Cooperate	-	-	1	-	-	1	4.3%
Judicial Consent Order	1	-	-	-	-	1	4.3%
Lack of Jurisdiction	-	-	-	1	-	1	4.3%
Withdrawal Without Resolution	-	-	-	-	1	1	4.3%
No Resolution Recorded	2	-	-	-	-	2	8.7%
<b>Consortium Total (b)</b>	<b>5</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>3</b>	<b>23</b>	<b>100.0%</b>

Sources: HUD, Office of Fair Housing and Equal Opportunity (FHEO) San Francisco Regional Office; BAE, 2015.

### **Local Fair Housing Enforcement and Complaints**

Data on complaints handled by the East Bay Community Law Center (EBCLC) indicate that the total number of fair housing complaints in Berkeley far exceeds the number of complaints reported to HUD. During the 2012, 2013, and 2014 fiscal years, EBCLC served 181 residents with fair housing complaints. Of these, EBCLC investigated 77 complaints, and provided advice and counsel or a brief service (typically a letter to the property owner or manager to resolve the issue) in response to the remaining complaints. Of the 77 complaints that were investigated further, EBCLC successfully mediated 34 and resolved 39 with a brief service such as a complaint letter to HUD or DFEH. The remaining cases that EBCLC investigated are either still pending or cases in which the client withdrew or did not return to future pursue the investigation.<sup>7</sup>

Similar to the fair housing complaints reported to FHEO, complaints of discrimination based on disability status comprised the largest share of complaints to EBCLC. As shown in Table 3-3, the primary protected classes cited by complainants to EBCLC were disability (75 percent of complaints), followed by national origin (seven percent of complaints) and race (six percent of complaints).

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<sup>7</sup> Jennifer Vasquez, City of Berkeley Health, Housing and Community Services Department. Phone and email communication with BAE, April 3, 2015.

Laura Lane, Executive Director, East Bay Community Law Center. Email communication BAE, April 2, 2015.



**Table 3-3: Fair Housing Complaints Filed with EBCLC, Berkeley, FY 2012 through FY 2014**

	Fiscal Year			3-Year
	2012	2013	2014	Total
Persons Served	76	56	49	181
Basis for Complaint				
Disability	81%	70%	73%	75%
Familial Status	2%	0%	0%	1%
Age	0%	9%	6%	4%
Gender	3%	4%	0%	2%
Marital Status	2%	2%	0%	1%
National Origin	3%	7%	12%	7%
Race	6%	5%	6%	6%
Sexual Orientation	0%	2%	0%	1%
Source of Income	3%	2%	2%	2%

Sources: City of Berkeley, Draft 2015-2023 Housing Element, December 2014; BAE, 2015.

Local service providers report that many incidents of discrimination may not be reported because individuals are not always aware of differential treatment. Furthermore, variations in outreach and cultural differences can affect whether a person will report a potential fair housing violation. For these reasons, data on complaints is likely to provide an underestimate of the prevalence of fair housing violations.

### 3.2 Lending Policies and Practices

#### *Home Mortgage Disclosure Act (HMDA)*

Enacted by Congress in 1975, the Home Mortgage Disclosure Act requires lending institutions to publically report home loan data. Lenders must provide information on the disposition of home loan applications and disclose applicant information, including their race or national origin, gender, and annual income. HMDA data indicates which banks are lending in communities and provides insight into lending patterns, including denial rates and the types of loans issued (e.g., home improvement loans, home purchase loans). These data, however, cannot be used to conclude definite redlining or discrimination because many factors, such as income, income-to-debt ratio, credit rating, and employment history affect approval and denial rates.

As shown in Table 3-4, there were 4,970 home loan applications submitted in Berkeley in 2013. Overall, 74 percent of all housing loan applications in Berkeley were approved; in comparison, the approval rate for the Alameda County/Contra Costa County Metropolitan Division was lower, at 71 percent of loan applications.<sup>8</sup>

<sup>8</sup> This includes loans that were originated as well as applications approved but not accepted.

**Table 3-4: Disposition of Home Loans by Race/Ethnicity in Berkeley, 2013**

<b>CITY OF BERKELEY</b>	<b>Total Number of Loan Applications</b>	<b>Action Type</b>		
		<b>Approved (a)</b>	<b>Denied</b>	<b>Other (b)</b>
<b>Non-Hispanic</b>				
American Indian or Alaska Native	15	66.7%	20.0%	13.3%
Asian	465	71.8%	17.8%	10.3%
Black or African American	164	66.5%	20.7%	12.8%
Native Hawaiian or Other Pacific Islander	22	72.7%	22.7%	4.5%
White	3,093	77.1%	11.9%	11.0%
<b>Hispanic, Any Race</b>	174	65.5%	18.4%	16.1%
Information not provided by applicant	915	65.2%	16.1%	18.7%
Not applicable	122	79.5%	12.3%	8.2%
<b>Total</b>	<b>4,970</b>	<b>73.7%</b>	<b>13.8%</b>	<b>12.5%</b>
<b>ALAMEDA/CONTRA COSTA COUNTIES</b>				
	<b>Total Number of Loan Applications</b>	<b>Action Type</b>		
		<b>Approved (a)</b>	<b>Denied</b>	<b>Other (b)</b>
<b>Non-Hispanic</b>				
American Indian or Alaska Native	554	64.3%	18.2%	17.5%
Asian	41,714	73.5%	15.0%	11.5%
Black or African American	5,973	61.6%	22.2%	16.2%
Native Hawaiian or Other Pacific Islander	1,493	65.7%	19.6%	14.7%
White	69,626	74.9%	12.4%	12.7%
<b>Hispanic, Any Race</b>	13,487	64.7%	19.3%	16.1%
Information not provided by applicant	29,951	62.2%	14.1%	23.8%
Not applicable	1,438	92.0%	4.8%	3.2%
<b>Total</b>	<b>164,236</b>	<b>70.9%</b>	<b>14.3%</b>	<b>14.8%</b>

(a) Includes loans originated and applications approved but not accepted.

(b) Includes applications withdrawn by applicant, incomplete applications, and preapproval requests denied.

Sources: Home Mortgage Disclosure Act (HMDA), 2013; BAE, 2015.

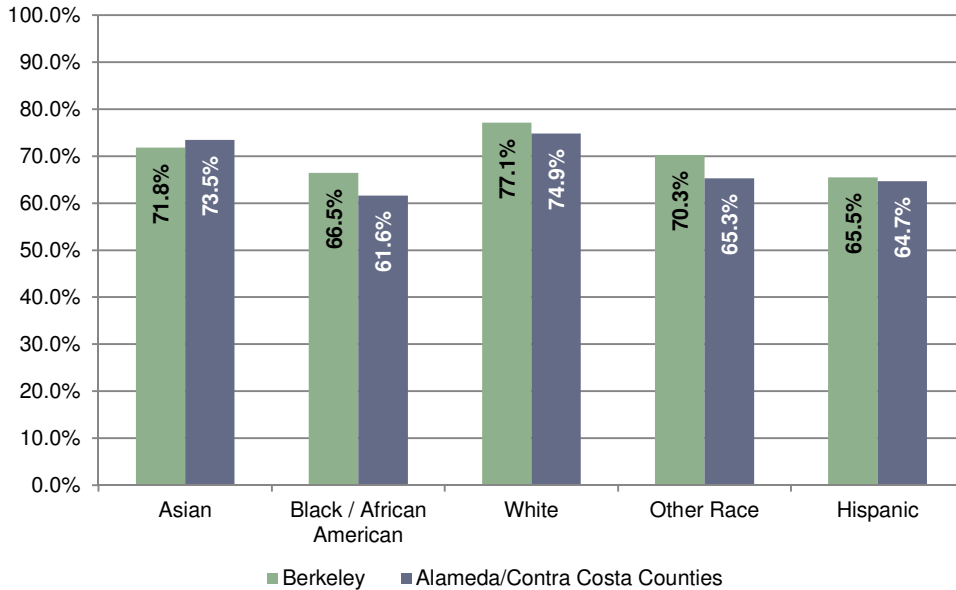
Success rates for home loans in Berkeley varies across racial and ethnic groups, as illustrated by Figure 3-1. HDMA categorizes race data according to the following groups: American Indian/Alaska Native, Asian, Black/African American, Native Hawaiian/Pacific Islander, White, and Race Not Available. “Ethnicity,” a different breakdown, includes Hispanic/Latino populations, Non-Hispanic/Latino populations, and populations for whom ethnicity data is not available. It should be noted that the race and ethnicity data are available for multiple applicants on the same loan (e.g., both partners in a married couple); the analysis here is based on the race/ethnicity of the first listed applicant, and combines the race and ethnicity data such that all Hispanic/Latino applicants are grouped together regardless of race. The listings by race are inclusive only of non-Hispanic applicants.

White applicants had the highest approval rate, at 77 percent of loan applications. Asians had 72 percent of loans approved, and the “other race” category, which included groups for which there were less than 100 total applications in Berkeley, had 71 percent of loans approved<sup>9</sup> African Americans had 66.5 percent of loans approved, and Hispanic/Latinos had 66 percent

<sup>9</sup> Includes American Indian or Alaska Native and Native Hawaiian or Other Pacific Islander.

approved. With the exception of Asians, the approval rates were higher in Berkeley by race/ethnicity than for the two-county metropolitan region.

**Figure 3-1: Home Loan Application Success Rate by Ethnicity, 2013**



Note: Alameda and Contra Costa Counties comprise the Oakland Metropolitan Division per Census/OMB definition.

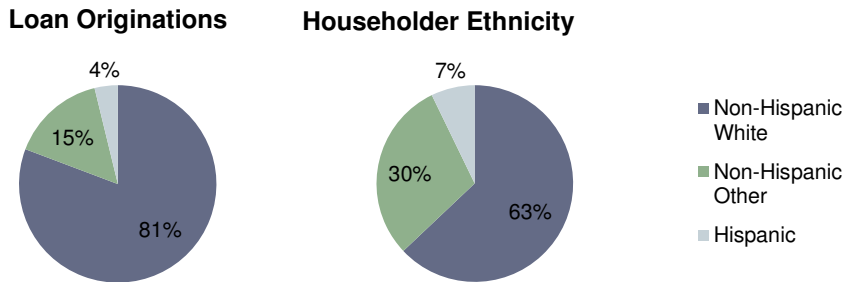
Source: HMDA Data, 2013; BAE, 2015.

The pattern of successful home loans is demonstrated in Figure A-5, which shows the number of home loans per 1,000 residential units for each of the census tracts in the City of Berkeley during 2013. It appears that the number of loans per thousand units is greatest in those tracts with high owner occupancy and a high proportion of single-family homes. Tracts near downtown and the University, with a high proportion of students and others in rental units, have the lowest rates of loan origination.

**Market Share of Home Loans**

White Non-Hispanics are over-represented among loan originations in Berkeley, while Hispanics and other minorities are underrepresented, as shown in Figure 3-2. While 63 percent of householders identified as White Non-Hispanic, they were responsible for 81 percent of loan originations in 2013. Thirty percent of householders were Non-Hispanic of other races, but only accounted for 15 percent of loan originations; seven percent of householders were Hispanic or Latino, but this group only had four percent of loan originations.

**Figure 3-2: Percent of Market and Number of Householders by Ethnicity, Berkeley, 2013**



Note: Non-Hispanic by race other than white is not available in the American Community Survey.

Sources: HMDA, 2013; 2009-2013 American Community Survey; BAE, 2015.

**Amounts Borrowed by Race/Ethnicity**

Based on HMDA data from 2013, the average amount borrowed for home loans by Berkeley households was \$425,235 (see Table 3-5). The average loan amount for Non-Hispanic Asian and White borrowers was slightly above the overall average, while the average for Hispanic borrowers was slightly below the overall average. For African-American, Hawaiian/Pacific Islander, and Native American borrowers, the average was well below the citywide figure; for African Americans, the average loan amount was only \$344,542, and for the other race category which combines Hawaiian/Pacific Islander, and Native American borrowers, the average was \$330,708.

These findings do not necessarily point to a fair housing issue, as mortgage applications and approvals are functions of household income, access to down payment funds, and other factors. Nevertheless, the data show that some minority groups in Berkeley are significantly underrepresented in home loan activity considering their share of the population, and typically borrow less than the overall average loan.

**Table 3-5: Average Originated Loan Amount by Race/Ethnicity, 2013**

<b>Non-Hispanic</b>	
Asian	\$438,825
Black / African American	\$344,542
White	\$428,567
Other Race	\$330,708
<b>Hispanic</b>	\$411,125
<b>All Berkeley Households</b>	\$425,235

Includes all originated loans in Berkeley in 2013 for applicants where a race/ethnicity is specified. Other Race includes American Indian or Alaska Native and Native Hawaiian or Other Pacific Islander.

Sources: HMDA, 2013; BAE 2015.

### **3.3 Housing Challenges for Special Needs Populations and Protected Classes**

Local service providers who assist various special needs populations, including the elderly, individuals with disabilities, homeless individuals and families, and limited English proficiency (LEP) individuals consistently report that one of the greatest barriers to housing choice for these populations is the lack of affordable housing in Berkeley and elsewhere throughout the Bay Area. The extremely limited availability of adequate affordable housing for special needs populations has only intensified during the rapid housing market recovery that began in the Bay Area in 2011. Further analysis of the impediments to fair housing choice related to affordable and subsidized housing access is provided in a subsequent section of this chapter.

In addition to the limited availability of housing affordability, special needs populations face particular challenges in securing suitable housing, as discussed below.

#### ***Seniors***

Elderly residents often face a unique set of housing needs, largely due to physical limitations, fixed incomes, health care costs, and limited mobility. Important housing considerations for elderly residents include home maintenance requirements and accessibility to transit, health care, and other services. Housing affordability also represents a key issue for seniors, many of whom are living on limited incomes, and many elderly residents in Berkeley have high housing costs relative to income, as discussed in more detail in Chapter 2.

In addition to housing affordability, senior households face challenges in securing adequate housing units that can accommodate unique mobility and physical limitations. Because of the high prevalence of disabilities among seniors, many impediments related to in-home care providers and reasonable accommodation requests (described below) also affect senior households.

Affordable housing providers report a need for additional housing units for seniors in Berkeley, as well as in other jurisdictions throughout the Bay Area. Affordable senior housing units in Berkeley typically have waiting lists and, similar to other affordable units, do not turn over frequently. Some seniors in Berkeley have reported difficulty with maintaining their status on the waiting lists for senior units, some of which require that people on the waiting list proactively contact property management on a periodic basis in order to remain on the waiting list.

#### ***Persons with Disabilities***

Persons with disabilities have a wide range of housing needs that vary substantially based on the type and severity of disability and frequently face significant challenges in securing adequate housing. Some persons with disabilities are able to live in a standard home without

requiring modifications to make the home more accessible, while others will require homes that are wheelchair-accessible or have grab bars or other accessibility features. Some individuals with developmental disabilities may reside in licensed care homes that provide support 24 hours per day, seven days per week, while others may receive full-time in-home care in their residence, which can often be difficult to accommodate in rental housing units.

For individuals with disabilities that interfere with their ability to earn enough income to pay for market-rate housing costs, housing affordability is often a key issue. Individuals with disabilities that have Supplemental Security Income (SSI) as their primary or only income source need deeply affordable units in order to afford housing. Affordable housing developments rarely include units that are affordable to households with incomes below 30 percent of AMI, and are therefore not typically affordable to households with SSI as the only source of income.

Housing support service providers that work with individuals with developmental disabilities report that this population is largely misunderstood and commonly stigmatized. Given the tight housing market in Berkeley, these individuals may be passed over by landlords who immediately receive multiple applications for any open unit.

Persons with disabilities that require accessibility features often face considerable challenges in finding suitable affordable units. Staff from the Berkeley Housing Authority report that the limited supply of accessible units, coupled with high market-rate housing costs, presents difficulties even for those individuals with disabilities that have Section 8 Tenant-Based Vouchers. Housing Authority staff have found that market-rate rents often exceed the payment standard for Tenant-Based Vouchers, creating a disincentive for property owners to rent to potential tenants with Section 8 Vouchers. As a result, much of the limited stock of accessible units exceeds the affordability threshold for lower-income individuals with disabilities. These difficulties are likely to be more acute for individuals with disabilities that do not have Section 8 Tenant-Based vouchers but are in need of affordable housing because they do not have vouchers to assist with housing costs.

Persons with physical or developmental disabilities who are able to find housing may experience discriminatory treatment by property owners or managers. In addition to difficulties related to reasonable modification and accommodation requests described below, representatives of the East Bay Community Law Center and agencies that work with residents to resolve fair housing violations elsewhere report that two relatively common patterns of housing discrimination include discriminatory practices related to service companion animals and in-home caregivers.

Fair housing law guarantees an individual's right to keep a doctor-approved service animal. However, many landlords and property owners fail to understand the medical nature of the service animal, as the role of these animals differ from accepted service animals for the vision

and hearing impaired. Agencies that work provide supportive services to individuals with disabilities report numerous cases of landlords or property managers requiring pet deposits, imposing animal weight limits, or sending notice to the tenant of a violation of no-pet clauses in the lease. Landlords or property managers also often request a significant level of confidential personal information regarding the tenant's medical history and conditions.

Live-in caregivers are also cited as a frequent source of conflict and discriminatory treatment. Landlords may attempt to classify in-home caregivers as an additional roommate and therefore request additional rent payments for the second individual or claim that the disabled person is in violation of lease terms. Invasions of privacy due to requests for confidential medical information can also be a concern.

### ***Accessibility Challenges for Seniors and Persons with Disabilities***

**Reasonable Modification.** The Fair Housing Act requires housing providers or homeowners' associations to provide reasonable modifications when such modifications are necessary to afford persons with disabilities full enjoyment of the premises. A reasonable modification is a structural change made to existing premises and can include changes to interiors and exteriors of dwellings, as well as to common and/or public use areas. There must be an identifiable relationship or nexus between the requested modification and the individual disability. Examples of reasonable modifications include widening doorways and installing ramps for wheelchair accessibility, installing grab bars in bathrooms, and lowering kitchen cabinets for persons in wheelchairs. While the Fair Housing Act requires housing providers to permit the reasonable modification, the tenant is responsible for paying the costs of the modification. In addition, the landlord can require that the tenant restore the unit to its original condition before moving if it is reasonable to do so.<sup>10</sup>

The East Bay Community Law Center is the primary agency that works with tenants in Berkeley to resolve disputes related to requests for reasonable modifications. Staff from the East Bay Community Law Center report that while most disputes over reasonable modifications in Berkeley are resolved by issuing a formal letter to the landlord, a small percentage requires further action.

**Reasonable Accommodation.** Federal and State fair housing laws also require housing providers to allow for reasonable accommodations to rules, policies, practices, and services when such accommodations are necessary to afford people with disabilities equal opportunity

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<sup>10</sup> U.S. Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications Under the Fair Housing Act, March 5, 2008.

[http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf)

to use and enjoy a dwelling. A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service.<sup>11</sup>

Under the Fair Housing Act, a person requesting a reasonable accommodation must demonstrate that they have a disability if it is not already known or obvious. Verification of a disability can be provided by any reliable third party in a position to know about the individual's disability, such as a doctor, peer support group, or service agency. However, in many cases the disability is already verified and on record, and further proof should not be requested.

Once the disability is established, the request for an accommodation must show a connection between the person's disability and the request for the accommodation. Finally, the request must be reasonable. These requests are typically made to allow parking close to where a tenant lives, to allow a tenant to have a companion or service animal, to pay rent on a different schedule or in a different place, or other conditions that help the disabled person have equal enjoyment of their housing.

As with reasonable modification, the East Bay Community Law Center provides assistance in securing reasonable accommodations, and staff indicate that failures to grant reasonable accommodation requests are a common impetus for fair housing complaints. Resistance by landlords related to service animal and in-home caregiver needs for persons with disabilities are a common example of failure to grant reasonable accommodation requests.

**Accessible Units.** Many individuals with mobility disabilities need accessible units that are located on the ground floor or have elevator access, as well as larger kitchens, bathrooms, and showers that can accommodate wheelchairs. Housing support service providers indicated that the supply of available accessible units is inadequate to meet the needs of the disabled population in Alameda County. Though buildings built after 1992 are typically designed to be compliant with the Americans with Disabilities Act (ADA), less than seven percent of units in Berkeley were built after 1992, as indicated in Table 2-14.

Affordable housing providers report a need for additional affordable accessible units in Berkeley. However, housing providers also report that this is a regional issue, and that affordable and accessible housing is in short supply throughout the Bay Area.

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<sup>11</sup> U.S. Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations under the Fair Housing Act, May 14, 2004.

[http://www.justice.gov/crt/housing/jointstatement\\_ra.php](http://www.justice.gov/crt/housing/jointstatement_ra.php)



### ***Families with Children***

Fair housing law prohibits discrimination based on familial status. However, staff from the East Bay Community Law Center report that households with children are often discriminated against, particularly when searching for rental housing. While some landlords and property managers may decide not to rent to a particular applicant due to the presence of children in the household, others may steer households with children to less desirable units such as units at the back of a complex or a downstairs unit. Other common forms of discrimination against families with children include requiring additional security deposit payments, harassment in the form of notices to neighbors or in common spaces displaying arbitrary rules and boundaries for children, and threats of eviction based on unverified complaints by neighbors. Staff at the East Bay Community Law Center report that differential treatment on the basis of familial status is a common fair housing issue in Berkeley as well as other jurisdictions.

### ***Homeless Persons***

The primary barrier to housing choice for homeless individuals is insufficient income. Interviews with service providers in Alameda County indicate that many homeless individuals rely on Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), which do not provide enough income to qualify for most subsidized housing programs and affordable housing developments. In addition, both affordable and market-rate property managers often screen out individuals with a criminal record, history of evictions, or poor credit, creating a significant barrier for many families and individuals attempting to transition from homelessness. Homeless service providers report that some homeless individuals experience difficulty in securing rental housing because they are unable to provide a current address on rental applications or because their current address is at an emergency shelter or in transitional housing. Homeless families often face the same challenges as homeless individuals, but may also experience additional barriers due to occupancy restrictions, potential landlord biases against households with children, and the more limited supply of larger units.

Housing with accessibility to employment and services is particularly important to homeless individuals and those transitioning out of homelessness. Many homeless individuals do not own private vehicles and must rely on public transportation to go to work and places that provide social services. Many of the services in Berkeley that are available to people who are homeless or transitioning from homelessness are located in or near downtown Berkeley, which is highly accessible by BART and AC Transit.

### ***Limited English Proficiency (LEP) Households***

In addition to the obstacles that others face in securing housing, households with Limited English Proficiency (LEP) may experience challenges as a result of linguistic barriers. LEP individuals can encounter fair housing concerns because their language skills lead to discrimination on the basis of national origin, and fair housing service providers report that property managers have been found to steer LEP households to less desirable units.

Linguistic barriers may also present challenges for individuals seeking subsidized rental housing because of the complex application forms and procedures necessary to demonstrate eligibility.

The City of Berkeley requires that affordable housing units in properties with five or more units are affirmatively marketed to LEP households if the properties receive assistance from the Berkeley Housing Trust Fund or HOME funds. Affirmative marketing procedures include translating marketing materials into non-English languages and working with print media, radio stations, television stations, and faith-based and community organizations that serve non-English speakers. The City of Berkeley also advises Housing Trust Fund recipients to conduct outreach activities at adult education centers or during English language classes and informs Housing Trust Fund recipients about resources related to addressing the needs of LEP households.

### ***Racial/Ethnic Minority Households***

Fair housing service providers indicate that housing discrimination based on race or ethnic background can often go unrecognized, and is likely to be underreported. Staff from the East Bay Community Law Center indicate that although cases of blatant discrimination on the basis of race or ethnicity occur, many cases of discrimination may go unnoticed because persons subject to less overt forms of discrimination, such as being offered less desirable rental terms than another applicant, are often unaware of the differential treatment. The East Bay Community Law Center reports receiving complaints of suspected discrimination on the basis of race or ethnicity, (for example, complaints that a property manager falsely claimed that a unit was unavailable), but staff often have difficulty verifying whether discrimination has taken place.

Audit testing provides a means to gauge the extent and pattern of discriminatory practices in the housing market and can be the only way to identify less overt manifestations of discriminatory treatment. Audits consist of two or more testers contacting a housing provider as possible buyers or renters of property. The testers are intentionally nearly identical in terms of qualifying for the property, but vary by protected class. Comparisons of the treatment of the testers allow an agency to measure whether the housing provider is treating both persons equally as required by law.<sup>12</sup>

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<sup>12</sup> HUD's *Housing Discrimination Against Racial and Ethnic Minorities 2012* showed that African-American and Hispanic/Latino renters face significant discrimination in rental and sales markets nationwide. While there was no significant difference in getting an appointment and learning about at least one unit, African Americans and Hispanics/Latinos were on average told about or shown fewer available units than Whites. In nationwide tests, Hispanics/Latinos were told about 11 percent fewer units than Whites, and shown four percent fewer units. African Americans were told about 17 percent fewer units than Whites, and shown 18 percent fewer units.

The East Bay Community Law Center conducts two to three audit tests each year to investigate discrimination complaints in Berkeley. However, staff report that test results are often inconclusive because of the small number of tests conducted.

### **3.4 Access to Affordable and Subsidized Housing**

While Berkeley has a substantial inventory of affordable and subsidized housing, demand for affordable units considerably exceeds supply. Berkeley's housing stock includes a substantial number of residential units with affordability restrictions that are subsidized through local, State, and/or federal funding programs. In addition, some households in Berkeley receive Section 8 Housing Choice vouchers to rent market-rate units.

#### ***Affordable Housing***

The City of Berkeley has assisted in the development of 1,248 rental units and 142 ownership units using the City's Housing Trust Fund. Among the rental units, 45 percent serve extremely low- and low-income households, 35 percent serve extremely low- and low-income seniors, and 20 percent serve a targeted special needs population such as formerly homeless, victims of domestic violence, people with physical or developmental disabilities, people with HIV or AIDS, and youth aging out of foster care. Homeownership units assisted through the City's Housing Trust Fund serve low- to moderate-income households and are subject to regulatory agreements that restrict the resale of the home to require sale to another low-income first-time homebuyer during the affordability period.

In addition, there are a number of affordable units in Berkeley that have been constructed without assistance from the City's Housing Trust Fund. These include affordable units in market-rate developments that were constructed as a result of the City's Inclusionary Ordinance, projects developed or acquired by affordable housing developers that did not receive assistance from the Housing Trust Fund, and units that comprised the the City's public housing inventory and have now been transitioned to the Project-Based Section 8 voucher program.

#### ***Section 8 Vouchers***

Some of Berkeley's lower-income households receive rental assistance through the Section 8 Voucher program, which is funded through HUD and administered by the Berkeley Housing Authority (BHA). Eligibility for the voucher is based on a family's household income. Seventy-five percent of new vouchers issued must be made available to families earning less than 30 percent of the area median income (AMI). The family searches for a rental unit in the private market with a landlord willing to accept the voucher.

The voucher covers a portion of the rent and utilities with the tenant paying the balance. The tenant's share of rent is an affordable percentage of their income, generally between 30 to 40

percent of their monthly-adjusted gross income for rent and utilities. The subsidy is paid to the landlord directly by BHA on behalf of the participating family. The family then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program. A family can move without jeopardizing their participation in the program as long as they notify BHA ahead of time, terminate the existing lease in accordance with the lease provisions and find acceptable alternate housing.

Based on the “Picture of Subsidized Households,” as reported by HUD, in 2013 there were a total of 1,889 vouchers available in the City of Berkeley.<sup>13</sup> Demand greatly exceeds supply; the Section 8 voucher wait list was last opened in March, 2010, with over 37,000 applications received.<sup>14</sup> From these applicants, 1,500 were selected at random and placed on the tenant-based voucher wait list, and an additional 1,500 were randomly selected for the project-based voucher wait list.

Figure A-6 shows the distribution of Section 8 vouchers by Census Tract for the City. As shown, the highest concentrations of Section 8 Voucher holders are found in South Berkeley, in Tracts 4234 and 4240.01, south of Dwight Way, west of Martin Luther King Jr. Way, and east of Sacramento. With the exception of downtown, the other tracts with high concentrations are located west of M.L. King Jr. Way and south of Cedar, or west of San Pablo. The UC Berkeley campus tract and two tracts in North Berkeley have no reported Section 8 vouchers.

Of the voucher households in Berkeley, 78 percent are minority households.<sup>15</sup> This is over twice the City’s proportion of minority households; households where the householder is other than White Non-Hispanic make up only 37 percent of the City’s households.<sup>16</sup> Over 40 percent of the voucher household residents in the City reported a disability, considerably higher than the eight percent of the overall City population reporting a disability, as shown in Table 2-9.<sup>17</sup>

### **3.5 Regulatory Impediments to Fair Housing Choice**

Government regulations can affect housing availability and costs by limiting the supply of buildable land or allowable densities for development, and exacting development fees. These regulations can lead to fair housing concerns by creating barriers that limit the development of housing or by limiting access to suitable housing for certain segments of the population. In

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<sup>13</sup> *Picture of Subsidized Households, 2013*, found at <http://www.huduser.org/portal/datasets/assthsg.html>; accessed by BAE on 3/3/2015.

<sup>14</sup> [http://www.ci.berkeley.ca.us/BHA/Home/Section\\_8\\_Wait\\_List.aspx](http://www.ci.berkeley.ca.us/BHA/Home/Section_8_Wait_List.aspx), accessed by BAE on 3/3/2015. Total includes Berkeley residents and non-residents.

<sup>15</sup> *Picture of Subsidized Households*, huduser.org, 2013; BAE, 2015.

<sup>16</sup> Based on American Community Survey 2009-2013 data.

<sup>17</sup> *Picture of Subsidized Households*, huduser.org, 2013; BAE, 2014.

order for the private market to adequately meet housing needs and demand, local governments need regulatory systems and land use plans that provide adequate opportunities for, and do not unduly constrain, housing development.

This section examines public sector constraints and evaluates impacts on housing choice in the City of Berkeley. The City recently evaluated policies that limit housing production in the Draft Housing Element for the 2015-2023 planning period. The following narrative is adapted from the Draft Housing Element, and also draws from other materials, including the Zoning Ordinance. To identify potential constraints to housing production, a thorough review was completed of local ordinances and permit procedures for housing development.

Most public sector constraints have been addressed by existing City programs. The development record and densities of approved projects are the best evidence that there are no significant constraints to housing production. However, housing policies were added in the Draft Housing Element for the 2015-2023 planning period to mitigate potential government constraints, which are included in this section.

This analysis is organized into the following categories: local land use controls and regulations, processing and permit procedures, zoning, fees and exactions, housing types, and other regulations.

### ***Local Land Use Controls and Regulations***

**Neighborhood Preservation Ordinance.** The Neighborhood Preservation Ordinance was adopted in 1973 by voter initiative, and it limits the City's ability to approve projects "by-right." Generally, new residential development in Berkeley requires discretionary approval, either with an administrative use permit or a use permit. An administrative use permit requires public notice, action by the Zoning Officer, and potential appeal to the Zoning Adjustment Board (ZAB). A use permit requires public notice, a public hearing, action by the ZAB, and potential appeal to the City Council.

Because most new housing is subject to a use permit, proposals are evaluated for their impacts on the surrounding neighborhood. When discretionary approval is required, findings must be made that the project meets the "non-detriment" criterion, which means that the proposed development will not cause detriment to the "health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City."

This process takes time and can impose some additional costs to a project. However, the discretionary review process has the added benefit of protecting neighbors, which is important in a city that is built out and values community participation. In addition, the permit process

ensures that neighborhoods do not decline as a result of a bad development, thereby protecting the quality of the housing stock.

In order to ensure that this process does not constrain housing production, the City convened a “Mayor’s Task Force on the Permit Process”, and has implemented the following changes:

- **Improved pre-application processes.** Applicants are encouraged to meet with neighbors prior to the submittal of a use permit application, which creates an opportunity to discuss issues and minimize future conflict. Pre-application meetings and “pre-application review” with the ZAB are encouraged, which provides an opportunity for applicants to get direct feedback. City staff also convenes regular “roundtables” with departments that make recommendations on applications early in the design process. This allows for improved coordination and raises code compliance and other issues early in the design process.
- **Expedited processing** is available for applicants who request and pay for this service. This allows the City to effectively allocate resources and provide applicants with a faster review process.
- **New guidelines for density bonuses** were put into effect, which clearly specifies the “base project” when computing a project’s density bonus award. The City was able to clearly communicate its goals and expected outcomes, and this created more transparency for the development community.
- **Augmented information on planning processes:** Berkeley initiated an extensive public outreach campaign between 2005 and 2008 among stakeholders, including contractors, developers, brokers, and realtors. The City convened three working groups and distributed information about the permit process, forms, and the application process. The website was improved to show more detailed information about the permit process, with access to forms and information about pending applications. In addition, applicants are encouraged to request zoning research letters to get definitive answers to complex problems.

**Density.** Berkeley does not have minimum density standards, and most Zoning Districts do not have maximum density standards. Instead, maximum density is determined by a combination of setback, height, FAR, parking, and usable open space standards. In general, these standards are not a constraint to development since there is no maximum lot coverage, setbacks are not required in all zoning districts, and height and FAR are generous. Developers are provided flexibility to work within these guidelines.

Multifamily residential, defined as housing containing two or more separate households, is permitted in multiple zoning districts throughout the City. It is allowed in many residential zoning districts (R-1A, R-2, R-2A, R-3, R-4, R-5, R-S, and R-SMU), the mixed-use residential district, and all of the City’s commercial zoning districts. The only zoning districts where multi-

family housing is not permitted are generally single-family residential and manufacturing districts (R-1, ES-R, M, MM, and MU-LI).

Berkeley's zoning regulations have historically supported the development of high density housing, particularly along the City's commercial corridors. Between 1999 and 2009, mixed-use projects approved in the City have averaged over 100-units per acre. Residential growth has been concentrated on commercial and transit corridors, where recent development densities range from 69 to 202 dwelling units per acre for mixed-use projects approved between 2010 and 2014.

**Parking Requirements.** Parking requirements may constrain housing development by increasing development costs and reducing the amount of land available for amenities or additional units. In areas with high parking ratios, developers may be deterred from building new housing due to the costs associated with these requirements.

Berkeley's parking requirements are generally low and are not a constraint to development. In the majority of commercial districts, parking requirements can be modified by the Zoning Adjustments Board (ZAB), and a project applicant can choose to pay an in-lieu fee rather than provide parking units on -site. Many mixed-use projects have been granted parking reductions, particularly in downtown and along major transit corridors. Housing developments have been built with less than one parking space per dwelling unit, with some projects containing no parking at all.

Berkeley was also one of the first cities in the county to allow double and triple stacked lifts to satisfy residential parking requirements. This reduces the footprint needed for parking, thereby lowering the costs associated with building multifamily housing.

**Codes and Enforcement.** The City's building regulations are the same as the California Building Code, which is based on the International Building Code, as amended and adopted by the City of Berkeley. The City has passed local amendments that apply to residential construction, including live-work occupancy regulations that codify state standards that have not been adopted by the California Building Code, fire protection measures for buildings in Fire Zones, and restrictions on wood burning appliances. With the exception of fire protection requirements, which address basic health and safety considerations for residences in areas with the highest fire danger, the local building code amendments do not adversely impact the cost of construction or constrain housing production.

**Conclusion.** Local land use controls and regulations generally do not pose a constraint to development. The City's Zoning Ordinance provides flexibility for the development of dense residential developments, which have averaged over 100 units per acre for mixed-use projects between 2010 and 2014. Berkeley has also implemented progressive parking measures, providing the option to waive existing parking standards, particularly in high transit-corridors,

which lowers overall costs for development. As discussed above, the City continues to seek out ways to address potential constraints to residential development resulting from land use controls and regulations, as demonstrated by programs incorporated into the City's 2015-2023 Housing Element.

### ***Processing and Permit Procedures***

**Design Review.** Development within all non-residential Zoning Districts and certain projects in residential Zoning Districts are subject to design review. Design review is conducted by the Design Review Committee (DRC), which is a subcommittee to the ZAB. The DRC does not approve or deny projects, but makes recommendations for design approval or conditional approval based on City-wide design guidelines. Design review is completed for projects requiring an AUP or Zoning Certificate or by staff if only administrative approval is needed.

For projects requiring DRC review, there are two phases to the process: preliminary design review and final design review. Generally, the preliminary review consists of two to three meetings, depending on the project size. The outcome is a recommended project design to the ZAB and in some cases, conditions for the final design review. The final design review involves review of more detailed plans to confirm the design conditions have been met, and is typically completed within one meeting.

The Planning Department administers the design review and land use and building permit entitlement processes at the same time, which streamlines the process. Preliminary design review typically occurs concurrently with the Use Permit or Administrative Use Permit (AUP) process, which covers the period from complete application to action by the ZAB. The final design review is usually done while construction documents are being prepared for building permit review. By running these processes at the same time, design review does not delay the project review process.

Although Design Review requires a higher level of detail in design drawings upfront, the benefits of early design enables conformance with design guidelines and ensures projects meet the expectations of the community, DRC, and ZAB. Applicants are required to submit plans with a greater level of detail than might otherwise be required for a use permit entitlement. However, these submittal requirements are consistent with other cities' requirements for design review plans, and the level of detail is necessary for any project that a developer intends to build. For this reason, the City does not consider the upfront cost of preparing design review plans to be a constraint on development.

To improve this process, the City plans to encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations. According to Policy H-12 in the Draft Housing Element for the 2015-2023 planning period, these areas have a number of housing opportunity sites. Creating new density and parking guidelines for



these areas would make the review process more consistent and timely for development. This can also ensure that development on dense, transit-served corridors transitions well into adjacent lower-density residential zones and minimizes impacts on the interior neighborhoods. In addition, the City is considering creating a “fast-track” review process for projects in the downtown core.

**Historic Preservation.** The City first adopted a Landmarks Preservation Ordinance (LPO) in 1974. The LPO establishes the duties of the Landmarks Preservation Commission (LPC). The LPO grants authority to the Landmarks Preservation Commission (LPC) to make landmark, structure of merit, and historic district designations. The LPC also reviews permit applications for alteration, construction, or demolition of landmarks, structures of merit, and structures in historic districts. These actions are all subject to appeal to the City Council. Generally, the LPC considers federal, state, and local criteria in evaluating historic resources, and the Secretary of the Interior standards as criteria for evaluating alterations.

In cases where a project is undergoing the process for preservation designation and an application for residential development is initiated, the landmark review process may delay the development project review process. This may prevent the City from reviewing a project within the required timeline of the Permit Streamlining Act (PSA). If the project is requesting designation as a historic resource, the applicant may also be subject to an environmental review for potential impacts to the historic resource. As a result, initiation of a site with a pending project as a historic resource could potentially constrain development of housing due to uncertainty about the historic status and delay in the project review process. In order to mitigate delays and uncertainty, the Berkeley Planning Department attempts to identify potential historic resources early in the project review process.

**Conclusions.** Berkeley’s permitting processes are designed to balance the expectations of private developers with neighborhood concerns and considerations of the general public and is streamlined to the extent practicable while meeting these objectives. Berkeley has incorporated many improvements to streamline the permit process, which includes running reviews on concurrent schedules and increasing transparency about timing and procedures. The result is that although the permit process involves a series of steps, the City continues to experience a sustained level of affordable and market-rate development, and the permit process does not seem to be a hindrance on housing development. Policy H-35A in the Draft Housing Element indicates that the City will continue to improve and streamline the development review process, and evaluate regulations to identify and reduce unnecessary impediments to housing development and affordable housing projects. In addition, the City will encourage development of multi-family housing along major transit corridors, including applicable area plans and design review guidelines (Housing Element Policy H-12).

## ***Fees and Exactions***

**Development Impact and Entitlement Fees.** Impact fees provide a means for the City to pay for planning and entitlement services, provide the infrastructure required by new development, and, in the case of housing impact fees, assist in providing new affordable housing. In Berkeley, development fees include those related to development permit processing and building permit review, water and sewer infrastructure and connections, housing impact fees, and fees related to street improvements and park development (Downtown only). While fees and exactions can add to the cost of housing, Berkeley's fees are not excessive and do not constitute an unnecessary constraint to housing production.

Compared to other cities, which frequently charge impact fees for transportation, schools, public art, and other capital improvements, Berkeley's impact are more limited and do not cover the full cost of providing services. When fees are adopted by the City Council, an analysis is completed to demonstrate that fee rates do not exceed the reasonable cost of providing service. According to the Draft Housing Element for the 2015-2023 planning period, Berkeley's fees to process use permits and other land permits only cover approximately 50 percent of the actual cost.

As of 2013, the City estimated that the total per-unit building permit, planning review, and sewer connection fee for a single family dwelling was \$28,398, and \$10,518 per unit for a multiple-family dwelling. If applicable, the Affordable Housing Mitigation Fee was \$20,000 per unit (reduced by City Council from the adopted fee of \$28,000 per unit through April 16, 2015), and \$2,010 for the Streetscape and Open Space Improvement Fee, for a total cost of \$32,527 per unit for a multi-family building.

The City Council has the authority to grant building permit fee deferrals or waivers for projects with at least 25 percent low or moderate income housing. In addition, the City has deferred fees until after construction completion to assist applicants. Since 2000, the City has deferred at least \$2 million in permit fees for 12 to 15 residential projects.

**Affordable Housing Mitigation Fee.** The City of Berkeley adopted an inclusionary ordinance in 1973, which was codified in the zoning ordinance in 1987, requiring rental and for-sale developments of five units or more to reserve 20 percent of the units for affordable housing.

In 2009, the California State Appellate Court ruling in the *Palmer/Sixth Street Properties vs. City of Los Angeles* case effectively invalidated inclusionary housing requirements for rental housing in California. In response, Berkeley commissioned an impact fee nexus study in 2010, which quantified the need for affordable housing created by the development of new market rate rental housing. In 2011, the City Council adopted an Affordable Housing Mitigation Fee (AHMF) on new market-rate rental units. Revenue generated by the affordable housing impact fee is deposited in the City's Housing Trust Fund, which supports affordable

housing. Alternatively, a developer can elect to reserve 10 percent of the units for affordable housing.

The City is currently updating the nexus study to consider an increase to the current fee rate and include potential affordable housing mitigation fees for ownership housing.

The Affordable Housing Mitigation Fee is not a constraint to development and has not deterred new residential development, as reflected by the number of new residential development applications the City has received. The 2010 nexus study found the AHMF charged in Berkeley was comparable to other East Bay cities such as Oakland and Hayward. Moreover, revenue generated by the fee is used to support affordable housing activities.

**Conclusion.** Berkeley charges fewer development and impact fees than many neighboring jurisdictions, and the fees that are charged do not exceed the reasonable cost of providing service. Fee rates do not constitute an unnecessary constraint to development.

### ***Housing Types***

California state law requires cities to demonstrate that sites within their land inventory can provide for a variety of housing types. This section discusses how the City accommodates different types of housing through its Zoning Ordinance.

**Factory-Built Housing.** Factory-built, or “pre-fab” housing is often less expensive to construct than homes built by more traditional construction methods and can therefore provide a more affordable housing option for seniors and other households and provide a gateway to home ownership for lower-income families. The City’s zoning ordinance does not treat factory-built housing units different from other housing units. It allows modular or manufactured homes in all districts where residential units are permitted, subject to the same requirements as other homes in the same district.

**Second Units.** Second units, also known as accessory dwelling units (ADUs) are self-contained apartments with a kitchen, bathroom, and sleeping facilities that are attached to a single-family residence or located on the same property as the principal residence. Due to their smaller sizes, second units may provide affordable housing opportunities for lower-income households, seniors, and/or disabled individuals.

State law requires local jurisdictions to either adopt ordinances that establish the conditions under which second units will be permitted or to follow the State law provisions governing second units (Government Code, Section 65852.2). In conformance with State law, the City of Berkeley allows accessory dwelling units with ministerial approval (“by-right”) in all residential districts on lots that meet certain development standards. An ADU that does not meet these requirements may be permitted with an administrative use permit (AUP), which is a discretionary approval. Applicants can also request for certain standards to be relaxed with an

AUP, including waiving the parking requirement when parking is detrimental to open space, allowing tandem parking, or reducing setbacks.

The City is exploring changes to reduce barriers to the development of Accessory Dwelling Units in order to bolster the production of ADUs and reduce barriers to development. These changes include lowering the minimum lot size, allowing larger ADUs, reducing setback requirements, and waiving parking when the new ADU is close to transit. The City Council considered these changes in 2014 and continued the item to a workshop in February 2015 for further analysis.

**Single Room Occupancy (SRO) Units.** Single room occupancy units (SROs) often provide affordable housing opportunities for lower-income residents. SROs are rooms meant for occupancy by one or two individuals and may have shared bathroom and kitchen facilities or provide small bathrooms and/or kitchenettes within each unit. Berkeley permits SROs in several residential zoning districts, the mixed-use residential district, and all commercial zoning districts, subject to the development standards of the district in which they are located, and are subject to a use permit. The Berkeley Housing Authority provides financial assistance through HUD's Moderate Rehabilitation Housing Program to support 98 units of SRO housing in the City.

**Emergency Shelters, Supportive Housing, and Transitional Housing.** Local land use controls could potentially constrain the availability of emergency shelters, supportive housing, and transitional housing for homeless individuals if these uses are not permitted in any zoning district or if additional discretionary permits are required for their approval. SB2, a State law that became effective on January 1, 2008, helped to address this potential constraint by requiring all jurisdictions to identify a zone where emergency shelters are permitted by right without a conditional use permit or other discretionary permit.

In accordance with SB 2, the City adopted an Emergency Shelter Ordinance in 2013 that allows the establishment of emergency shelters without discretionary approval in appropriate locations. Emergency shelters are allowed "by right" in the R-4, R-5, R-S, and R-SMU residential districts, and in all commercially zoned districts. According to the City's Draft Housing Element for the 2015-2023 planning period, Berkeley had 115 emergency shelter beds available year round, and about 170 available in winter months.

In addition, SB 2 requires that transitional and permanent supportive housing be considered a residential use and subject only to those restrictions that apply to other residential uses of the same type in the same zone. According to the Berkeley zoning ordinance definitions, transitional and supportive housing fall in one of two categories and are considered either "dwelling units" or "group living accommodations" depending on the facility's size and location. Dwelling units are allowed in all residential zoning districts. Group living

accommodations are allowed in some residential zoning districts, the mixed-use residential district, and all commercial zoning districts.

**Housing for Persons with Disabilities.** Both the Federal Fair Housing Act and the California Fair Employment and Housing Act impose an affirmative duty on cities and counties to make reasonable accommodations in their zoning and land use policies when such accommodations are necessary to provide equal access to housing for persons with disabilities. Reasonable accommodations refer to modifications or exemptions to particular policies that facilitate equal access to housing. Examples include exemptions to setbacks for wheelchair access structures or reductions to parking requirements.

In 2001, Berkeley adopted a Reasonable Accommodation Ordinance that establishes administrative procedures for reviewing and approving requests for modifications to planning or building regulations when necessary to accommodate the needs of persons with disabilities. No fees are charged for requests for reasonable accommodation.

With respect to community care facilities, Berkeley's Zoning Ordinance is compliant with State law. The Lanterman Developmental Disabilities Services Act requires local jurisdictions to treat licensed group homes and residential care facilities with six or fewer residents no differently than other permitted residential uses. Cities must allow these licensed residential care facilities in any area zoned for residential use and may not require conditional use permits or other additional discretionary permits.

Berkeley's Zoning Ordinance permits community care facilities in all residential districts subject to the same discretionary review standards as other housing types. Conversion of an existing dwelling unit to a community care facility, regardless of the number of residents, is allowed by right. New construction is subject to a use permit, which is the same requirement applicable to the construction of a new single family home.

**Conclusion.** Berkeley's zoning and land use ordinances allow for a multitude of housing types in accordance to State law and the City has included a number of programs in the 2015-2023 Housing Element to make the development of housing for populations with special needs more feasible. Policy H-13 of the Draft Housing Element proposes evaluating the ADU regulations to identify and remove possible constraints, and adjusting zoning to allow for more ADUs and second units, particularly in areas well-served by public transit. The City is also committed to providing emergency shelters and transitional housing, and will maintain zoning districts where emergency shelters will be allowed as of right, including a year round emergency shelter (Housing Element Policy H-19). In addition, the City's zoning and land use ordinances do not impede housing development for people with disabilities. Berkeley will continue to encourage the provision of an adequate supply of suitable housing to meet the needs of people with disabilities, including developmental, behavioral mental, and physical disabilities, consistent with Housing Element Policy H-18.

### ***On- and Off-Site Improvements***

Residential developers are responsible for constructing road, water, sewer, and storm drainage improvements to serve new housing sites. Where a project has off-site impacts, such as increased runoff or added congestion at a nearby intersection, additional developer expenses may be necessary to mitigate impacts.

Most housing opportunity sites in Berkeley are infill sites that already have infrastructure and services in place. On and off-site improvements may include frontage improvements and sanitary and storm water connections. As documented in the 2001 General Plan Environmental Impact Report and the 2009 Downtown Area Plan Environmental Impact Report, the City's sewer and storm water collection systems, EBMUD's treatment and disposal facilities, and water supplies are adequate, with sufficient capacity to accommodate additional development.

Panoramic Hill is a neighborhood that has significant infrastructure constraints. The area is proximate to the Hayward fault, is in a high fire hazard zone, has substandard water resources for fire suppression, and has limited accessibility for emergency services. In 2008, the City Council adopted an urgency ordinance imposing a moratorium on development in the area. There were 14 legally established vacant lots, most of which did not meet the minimum lot size. The City formulated and implemented some near term actions to address these public safety issues, which included modifications to the zoning ordinance to limit development until the infrastructure problems were resolved. In 2010, the City passed an ordinance prohibiting any new residential unit in this district until the City Council adopted a specific plan in compliance with all applicable law that shows the proposed distribution, location, and extent of land uses in the ES-R zone, and the location and extent of the public facilities and services required to serve the land uses described in the Panoramic Hill Specific Plan. No specified timeline has been proposed for the development of this Plan.

**Conclusion.** With the exception of the Panoramic Hill area, all Berkeley parcels where housing opportunities are possible can be served by the City's water, sewer, and road systems. While the sewer, water, and road infrastructure issues in the Panoramic Hill area are a constraint to the production of housing, very few buildable properties are affected. Although the moratorium is a constraint to the production of housing, it is necessary to ensure that new development does not occur without adequate infrastructure in place.

## 4. CURRENT FAIR HOUSING PROGRAMS AND ACTIVITIES

This chapter outlines actions that the City of Berkeley has taken to address fair housing issues. Because housing affordability is closely linked to fair housing issues, this chapter includes information on actions that the City has taken to support access to affordable housing in addition to information on actions that directly promote fair housing choice.

Pursuant to California State law, the City of Berkeley recently adopted a Housing Element Update that includes a plan to address the City's current and projected housing needs during the 2015-2023 planning period. The Housing Element provides information on new and ongoing actions that the City will take during the planning period to increase the availability of housing for households at all income levels and households with special needs. The Housing Element also outlines a plan to address other housing objectives such as fair housing, housing safety, and energy efficiency. Actions detailed in the Housing Element that specifically address fair housing choice and access to affordable housing are summarized below.

### 4.1 Programs and Activities that Promote Fair Housing Choice

The City of Berkeley engages in a number of activities that promote fair housing choice, including contracting with a nonprofit agency to provide fair housing services and ensuring that City policies and ordinances promote fair housing choice.

#### *Fair Housing Services*

Berkeley has maintained a contract with the East Bay Community Law Center (EBCLC) since 2011 to provide fair housing services to Berkeley residents. Services offered by the East Bay Community Law Center include:

- **Multilingual Outreach:** EBCLC staff present and provide written information in English, Spanish, and Chinese. EBCLC also ensures that outreach staff has the capacity to provide information in languages other than English, particularly Spanish, Cantonese and Mandarin.
- **Educational Trainings:** EBCLC provides trainings on fair housing issues to property managers and owners, and community-based organizations. EBCLC prioritizes trainings to agencies that serve Berkeley residents whose primary language is Spanish or Chinese. The City is currently working with EBCLC to determine whether EBCLC might be able to contract with another agency to provide trainings for realtors and lending institutions.
- **Fair Housing Counseling:** EBCLC provides fair housing counseling services to Berkeley households within 48 business hours of requests for information. EBCLC staff work with residents to assess potential fair housing violations and advise on actions that can be taken in response to potential violations.

- **Investigation of Fair Housing Complaints:** EBCLC conducts housing discrimination complaint investigations, which include researching the property cited in the complaint, interviewing witnesses and/or initiating testing, and analyzing owner practices and resident documents. EBCLC discusses the analysis and options with the client to assist in determining next steps, including assistance with filing a complaint to HUD FHEO, DFEH, or referral to related legal services.
- **Tenant/Landlord Mediation:** EBCLC provides mediation sessions to resolve conflicts between landlords and tenants.
- **Audits/Testing:** EBCLC typically conducts two to three fair housing audits each year and provides training and follow-up to noncompliant property owners and/or property managers.

Berkeley's 2015 Housing Element provides information on activities undertaken by EBCLC in the 2012, 2013, and 2014 fiscal years. During this period, EBCLC provided fair housing counseling to 181 people, successfully mediated 58 fair housing complaints, provided 12 trainings, and conducted outreach to 515 stakeholders.

#### ***Activities to Support Housing for Households Special Needs***

In addition to supporting fair housing services, the City of Berkeley engages in a number of activities that support access to housing for households with special needs. These activities and policies include:

- **Senior and Disabled Home Rehabilitation Loan Program:** The City's Rehabilitation Loan Program provides funding that enables seniors and people with disabilities to make health and safety repairs and accessibility modifications to their homes.
- **Funding for Center for Independent Living's Residential Access Project and Rebuilding Together:** The City of Berkeley provides funding for Center for Independent Living's Residential Access Project and Rebuilding Together, both of which provide accessibility modifications for people with disabilities.
- **Funding for supportive services for seniors and persons with disabilities:** The City of Berkeley provides funding for a wide range of supportive services for seniors and persons with disabilities and operates an Aging Services division of the Health, Housing & Community Services Department that includes three daytime senior service centers.
- **Permanent Supportive Housing:** The City funds permanent supportive housing services for formerly homeless individuals, particularly those with disabilities, including Shelter Plus Care grants and the Square One Supportive Housing Program.
- **Affirmative Marketing:** The City of Berkeley requires that developers that receive loans through the City's Housing Trust Fund submit and follow an affirmative marketing plan that identifies steps that will be taken to ensure equal access to the City's diverse population, including providing multilingual marketing materials.
- **Reasonable Accommodation Ordinance:** The City of Berkeley adopted a reasonable accommodation ordinance in 2001 to establish a process for addressing requests for



modifications of the requirements of the City's Zoning Ordinance or Subdivision Ordinance that may act as a barrier to fair housing opportunities due to a resident's disability. No fees are charged for requests for reasonable accommodation.

- **Universal Design:** The City encourages Housing Trust Fund recipients to exceed minimum accessibility requirements.

Additional details on City of Berkeley activities that support access to housing for households with special needs are provided in the City's 2015-2023 Housing Element.

## 4.2 Programs and Activities that Support Access to Affordable Housing

As discussed in Chapter 2, recent increases in residential rental rates and home sale prices have made housing in Berkeley increasingly unaffordable to very low- and low-income households. At the same time, low rental vacancy rates indicate a shortage of available rental units, suggesting that households searching for homes in Berkeley often have limited options. These housing market trends can exacerbate fair housing issues.

The City of Berkeley engages in a wide range of ongoing activities that support access to affordable housing and has outlined additional programs to increase access to affordable housing in the 2015-2023 Housing Element. These actions include:

- **Adequate sites:** Pursuant to State law, the City ensures that it has sufficient sites to accommodate projected housing need, including sufficient sites zoned to densities that facilitate affordable housing.
- **Section 8 Housing Assistance:** The Berkeley Housing Authority provides tenant-based and project-based rental assistance through the Section 8 voucher program. The Housing Authority recently transitioned 75 units of Low Income Public Housing to the Project-Based Section 8 voucher program, and the units underwent a major rehabilitation under the program in 2014. The Housing Authority plans to work with property owners to attract additional properties to the Section 8 tenant-based voucher program and is considering increasing the payment standard for vouchers to 115 percent to 120 percent of the fair market rent.
- **Condominium Conversion Ordinance:** The City's Condominium Conversion Ordinance limits the number of condominium conversions in the City to a maximum of 100 per year and charges a mitigation fee to offset the loss of affordable housing due to conversions. The City last amended the ordinance in 2009, and has since approved the conversion of 142 units and received a total of \$1.4 million in mitigation fees.
- **Demolition Controls and Unit Replacement Requirement:** The City's Demolition Controls and Unit Replacement requirements limit the ability of property owners to demolish or eliminate existing units, with additional requirements for the demolition of rent-controlled units, and require one-to-one replacement of demolished units.
- **Housing Trust Fund:** The City of Berkeley Housing Trust Fund pools funds for affordable housing from a variety of sources – including Redevelopment Agency Tax

Increment Set-Aside Funds, HOME funds, CDBG funds, and housing mitigation fees – and makes these funds available to support affordable housing projects.

- **Inclusionary Housing Ordinance and Affordable Housing Mitigation Fee:** The City of Berkeley adopted an inclusionary housing ordinance in 1973. In response to a 2009 court ruling that invalidated inclusionary requirements for rental housing in California, the City adopted an Affordable Housing Mitigation Fee on new market-rate rental units, which provides revenue to the City’s Housing Trust Fund. The City is currently in the process of updating the nexus study for the fee to consider a possible fee increase.
- **Mortgage Credit Certificate Program:** The City of Berkeley participates in the Mortgage Credit Certificate Program administered by Alameda County, which provides low-income homebuyers with a tax credit on their annual mortgage interest paid on their home loan.
- **Permit Fee Deferrals for Affordable Housing:** When possible, the City provides permit fee waivers or deferrals for projects in which at least 25 percent of units are affordable to low- or moderate-income households.
- **Preserving Restricted Units at Risk of Conversion to Market Rate:** The City of Berkeley has successfully worked with a number of property owners to maintain rent restrictions on properties that were at risk of conversion to market rates, and continues to monitor units at risk of conversion and potential resources to preserve affordability.
- **Rent Stabilization and Tenant Protections:** As discussed in greater detail in Chapter 2, the City of Berkeley limits rent increases on units built before 1980 to the extent allowed by State law. The Rent Stabilization and Good Cause for Eviction Ordinance also provides eviction controls and defines just causes for eviction.
- **Accessory Dwelling Units:** The City of Berkeley allows ministerial approval of Accessory Dwelling Units, subject to certain development standards. The City is currently considering a package of zoning changes to reduce barriers to the development of Accessory Dwelling Units.

Additional details on City of Berkeley activities that support access to affordable housing are provided in the City’s 2015-2023 Housing Element.

## 5. RECOMMENDATIONS TO SUPPORT FAIR HOUSING CHOICE

As discussed the preceding chapters, there is an ongoing need to address fair housing issues in the City of Berkeley, given concerns about affordability, access, and potential discrimination. The following policies and actions respond to the fair housing needs identified in the AI and reinforce the current fair housing programs and activities described in Chapter 4. Moreover, the actions correspond to Berkeley's fair housing strategies as detailed in other documents, primarily the State-mandated Housing Element.

A shortage of available funding for new and expanded housing and community services activities is expected to serve as a primary constraint that will impede the City's ability to engage in all activities that could address fair housing issues and related housing needs. As a result, the City will consider and implement the recommendations in this section to the extent feasible given funding limitations and other factors.

### **Policy 1: Support Local Fair Housing Activities and Services**

#### **Action 1.1: Continue to fund fair housing outreach, education, investigation, and enforcement.**

The City of Berkeley will continue to contract with fair housing service providers such as the East Bay Community Law Center to provide fair housing services to Berkeley residents. Fair housing services will continue to include educating home seekers and property managers regarding fair housing law and recommended practices, offering multilingual outreach on fair housing issues, providing fair housing counseling and landlord/tenant mediation services, investigating fair housing complaints, and conducting fair housing audit testing. Consider opportunities to expand outreach to locations such as community centers, schools meetings, or church events, where residents are likely to be even if not seeking services.

**Action 1.2: Consider expanding fair housing testing and audits.** The City of Berkeley will consider expanding ongoing fair housing testing activities to include more tests on an annual basis. The East Bay Community Law Center currently conducts one to three fair housing tests per year, but the number of tests that are conducted is insufficient to gauge the extent and pattern of discrimination toward members of protected classes. The City will consider working with the East Bay Community Law Center to conduct additional testing on an annual basis to better identify problems that are in need of further attention. Alternatively, the City could consider working with ECHO Housing, which conducts testing related to a specific fair housing topic in Alameda County each year, to expand testing in Berkeley. Most other jurisdictions in Alameda County currently contract with ECHO Housing, which provides a potential opportunity for Berkeley to partner with other nearby jurisdictions to support additional testing.

**Action 1.3: Consider mandatory notification policies for fair housing services.** The City of Berkeley will consider identifying appropriate opportunities to require notification to tenants and homeowners of available fair housing services, such as mediation and fair housing complaint services. The Berkeley Rent Stabilization Board currently provides this information to tenants in units that are covered by rent control, so this program would address units that are not covered by rent control. Potential requirements to consider include notification of available services in documents such as lease addenda, rent increase notifications, statements of neighbor complaints, or notices to vacate or of eviction.

**Action 1.4: Consider options to increase participation in fair housing trainings by landlords and property managers.** The City of Berkeley will consider opportunities to incentivize the participation of landlords and property owners, particularly those in the small- or family-run business sector, to complete at least one fair housing training session. For example, the City could consider including requirements regarding fair housing training as a condition of discretionary actions that the City takes related to rental properties.

**Action 1.5: Continue to include fair housing requirements in City contracts.** The City of Berkeley will continue to require that affordable housing units in properties with five or more units that are developed with assistance from the Housing Trust Fund are affirmatively marketed to lower- and moderate-income households. The City will also continue to require affirmative marketing plans from all Housing Trust Fund loan recipients, incorporate affirmative marketing in all Development Loan Agreements, monitor borrowers annually to request copies of affirmative marketing efforts and activities, and inform Housing Trust Fund borrowers of the need to translate marketing materials into non-English languages.

## **Policy 2: Support Special Needs Housing**

**Action 2.1: Continue to provide financial support for reasonable modifications to residential units and explore opportunities to expand support.** The City will continue to operate the Senior and Disabled Home Rehabilitation Program, the Center for Independent Living's Residential Access Project, and Rebuilding Together to provide accessibility modifications for people with disabilities. The City will consider increasing financial support for these activities as feasible based on available funding.

**Action 2.2: Encourage universal design in new housing.** The City will encourage universal design in new housing that exceeds minimum accessibility requirements. The City currently encourages universal design in projects that are funded through the City's Housing Trust Fund, and will expand these activities to encourage universal design in all new housing developments in the City.

### **Policy 3: Support Fair Lending Practices and Access to Credit**

**Action 3.1: Support financial training and homebuyer assistance programs.** As resources allow, support and/or publicize organizations that provide financial literacy and homebuyer education classes.

### **Policy 4: Continue and Expand Support for Affordable Housing Production**

**Action 4.1: Support local affordable housing development.** The City of Berkeley will continue existing programs to support local affordable housing developers through a variety of strategies such as applications for State and federal funding, entitlement assistance, outreach to the community and other stakeholders, and direct financial support, as detailed in the City's Housing Element. This support shall continue to include specific targets for the development of senior, transitional and supportive housing, and units serving disabled individuals and persons living with HIV/AIDS or severe mental illness.

**Action 4.2: Monitor new funding sources to support affordable housing development.** The City of Berkeley will monitor federal, state, and other public and private funding sources to identify funds that can be used to support affordable housing development, including considering effective ways to use the City's Housing Trust Fund to leverage funds from other sources. These sources could include Affordable Housing and Sustainable Communities funding, the National Housing Trust Fund, and/or Enhanced Infrastructure Financing Districts. These efforts will complement current efforts by Berkeley's Housing Advisory Commission to identify possible new funding sources for affordable housing.

**Action 4.3: Consider an increase to the City's Affordable Housing Mitigation Fee.** Based on the update to the City's Affordable Housing Mitigation Fee Nexus Study, which is currently in progress, consider an increase to the City's Affordable Impact Fee for market-rate rental housing and consider implementation of an impact fee for market-rate ownership housing.

### **Policy 5: Support Access to Affordable and Market-Rate Housing Units**

**Action 5.1: Facilitate access to affordable and below-market-rate units.** The City of Berkeley will continue to assist in providing information on the availability of below-market-rate units and Section 8 vouchers via the city website, the 2-1-1 information and referral phone service, and other media outlets. The City will also facilitate communication between special needs service providers and affordable housing developers, to ensure that home seekers with special needs have fair access to available units.

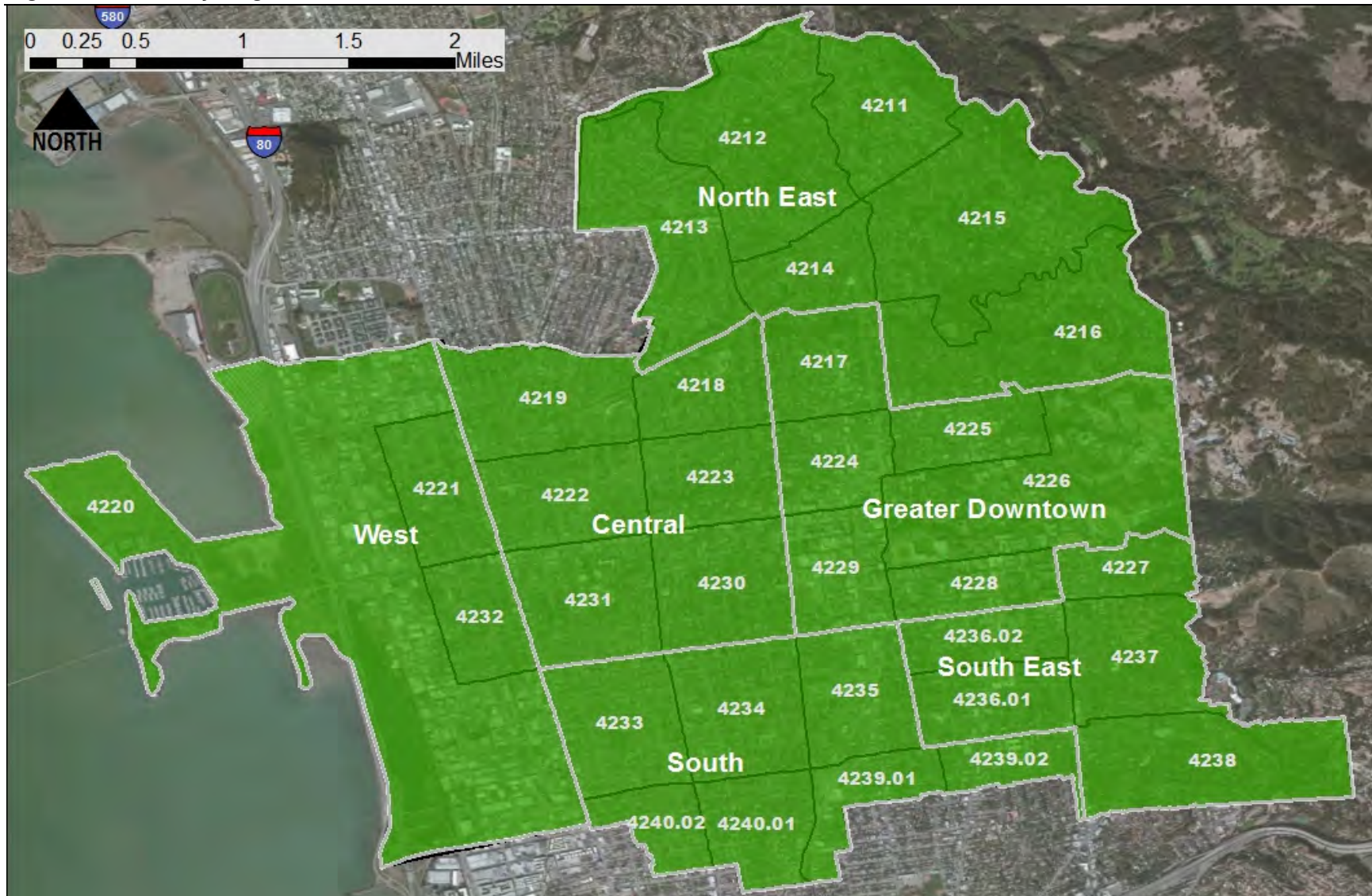
**Action 5.2: Continue to support the Housing Authority in working toward approval for an increase to the payment standard for the Tenant-Based Section 8 Voucher Program.** The City of Berkeley should continue to support the Housing Authority in efforts to gain HUD approval

for an increase in the payment standard for the Tenant-Based Section 8 Voucher Program to 120 percent of fair market rent. Given the City's high and rapidly-escalating market-rate rental costs, the market rent for units in Berkeley is becoming increasingly higher than the fair market rent, presenting challenges for residents using tenant-based vouchers in Berkeley. If the payment standard is increased, the City of Berkeley should also apply these increases to the Shelter Plus Care program implemented by the City's Health, Housing and Community Services Department.

**Action 5.3: Support shared housing opportunities for seniors and other special needs populations.** The City of Berkeley will consider programs to match seniors with underutilized living space with appropriate homeseekers on a voluntary basis. Such programs can serve a dual purpose of providing seniors with minor non-medical assistance and supplemental income and providing homeseekers with an affordable shared housing unit. In addition, shared rental housing can be an appropriate way to increase housing affordability for seniors and non-senior low-income single individuals or small households. Shared housing programs could be administered directly by the City of Berkeley or by contract with local fair housing service providers.

## APPENDIX A: MAPS

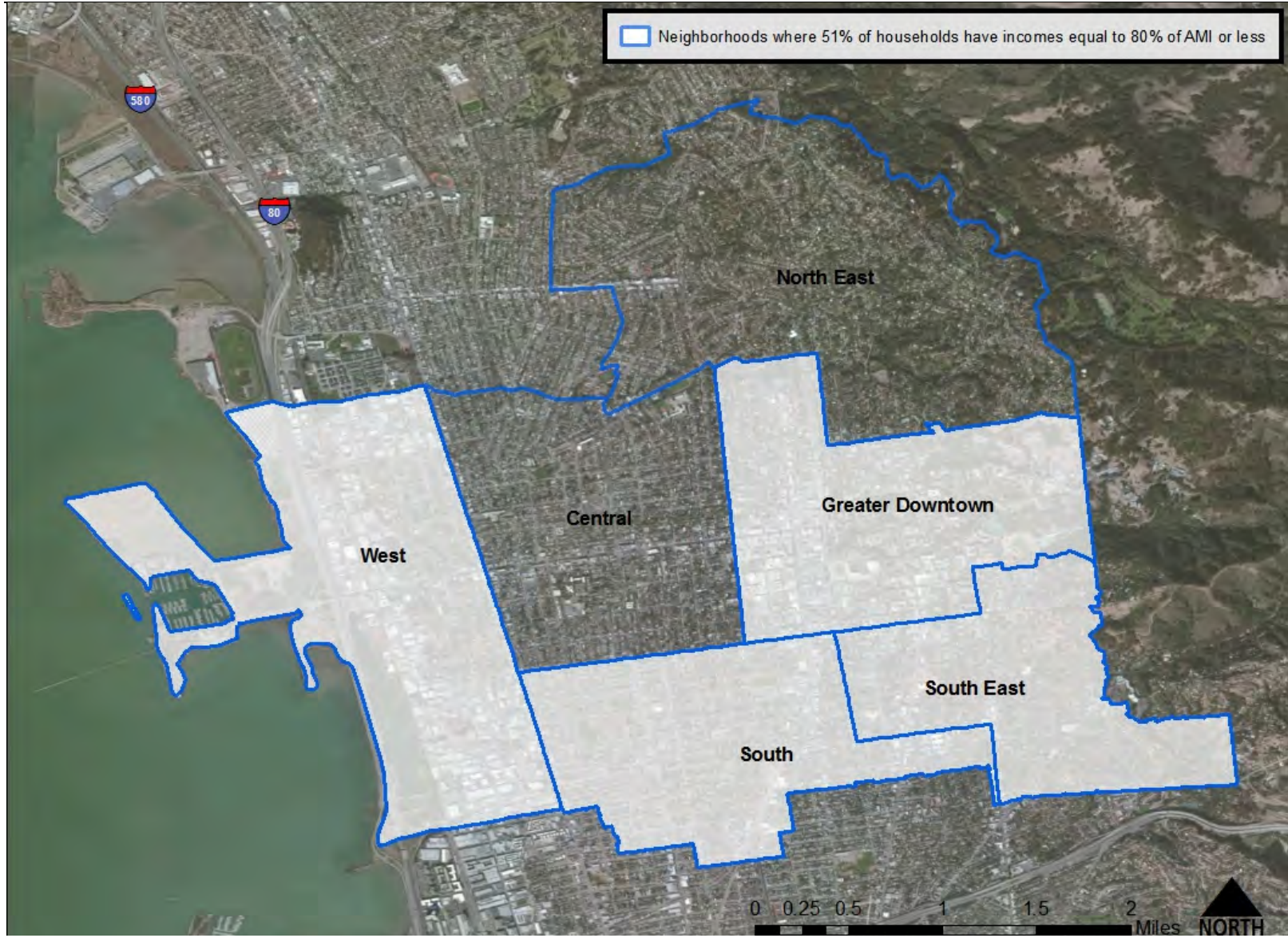
Figure A-1: Berkeley Neighborhoods



Source: ESRI, 2015; US Census Bureau, 2015; City of Berkeley, 2015; BAE, 2015.

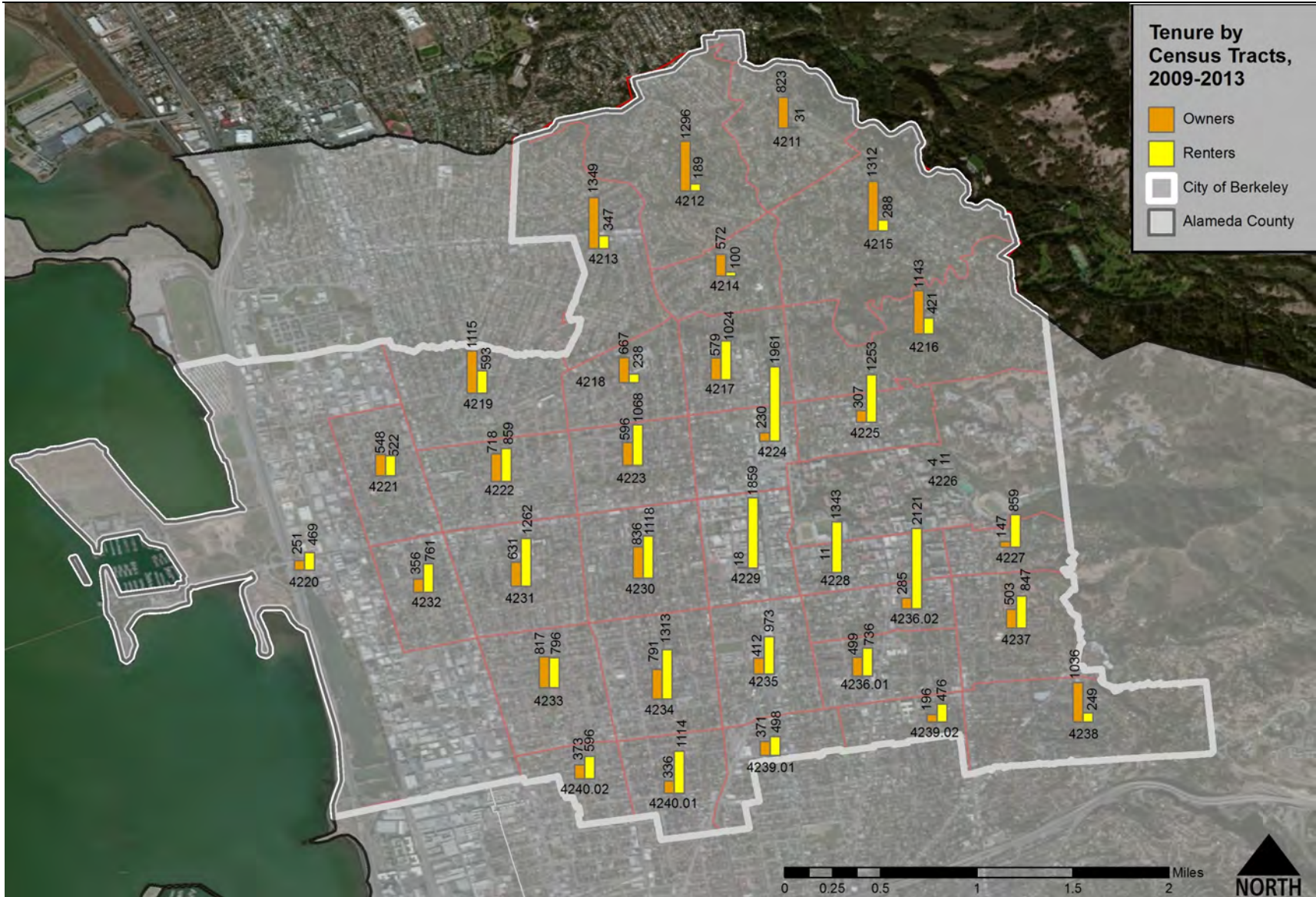


**Figure A-2: Areas of Low-Income Concentration, Berkeley, 2010**



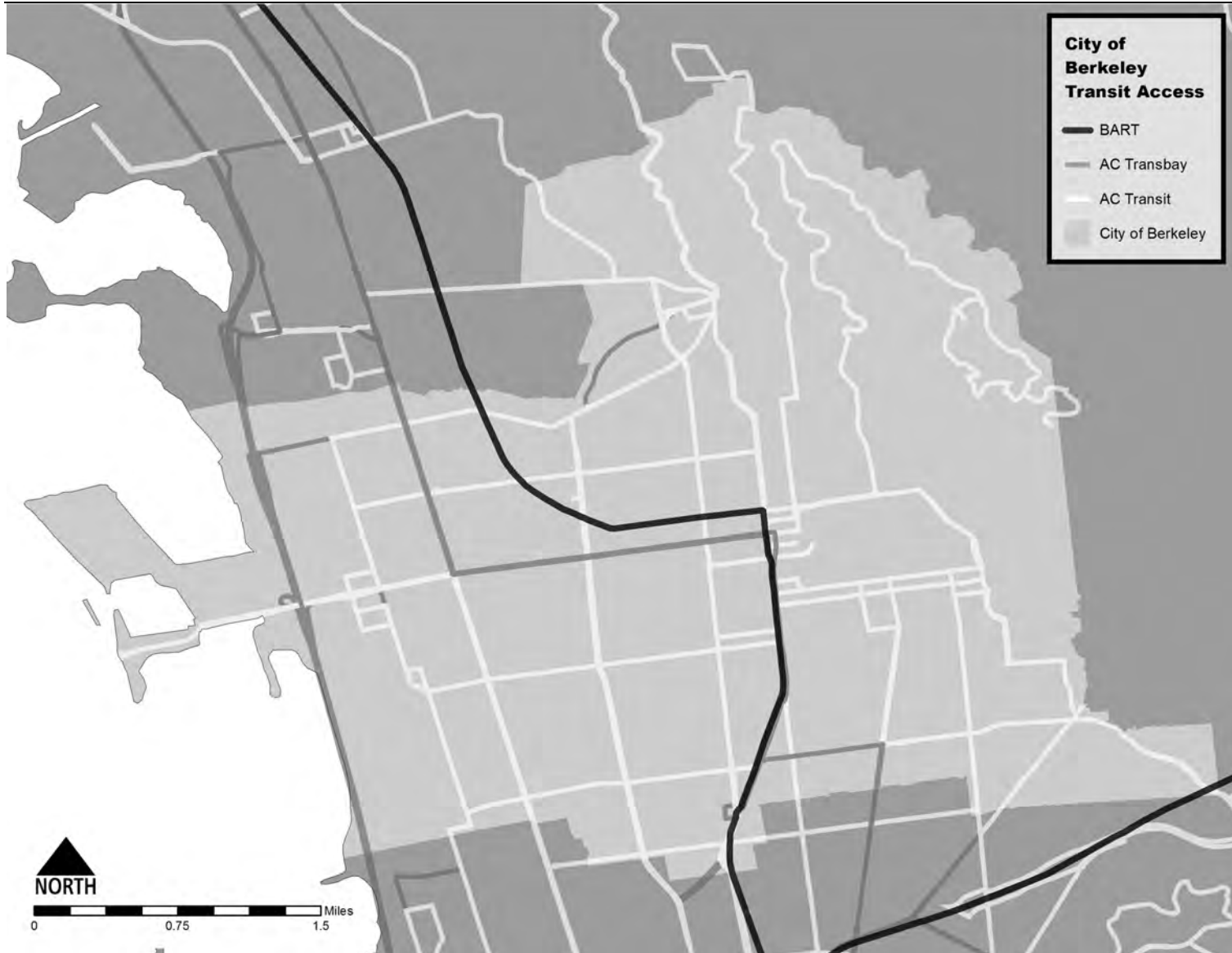
Sources: ESRI, 2015; HUD Exchange, ACS 2006-2010 Low and Moderate Income Summary Data; BAE, 2015.

Figure A-3: Distribution of Housing Units by Tenure, Berkeley, 2013



Sources: ESRI, 2015; ACS, 2009-2013, BAE, 2015.

Figure A-4: Public Transit Routes, Berkeley, 2015



Source: Metropolitan Transportation Commission Bay Area Transit Files, 2015; US Census Bureau, 2010; BAE, 2015.

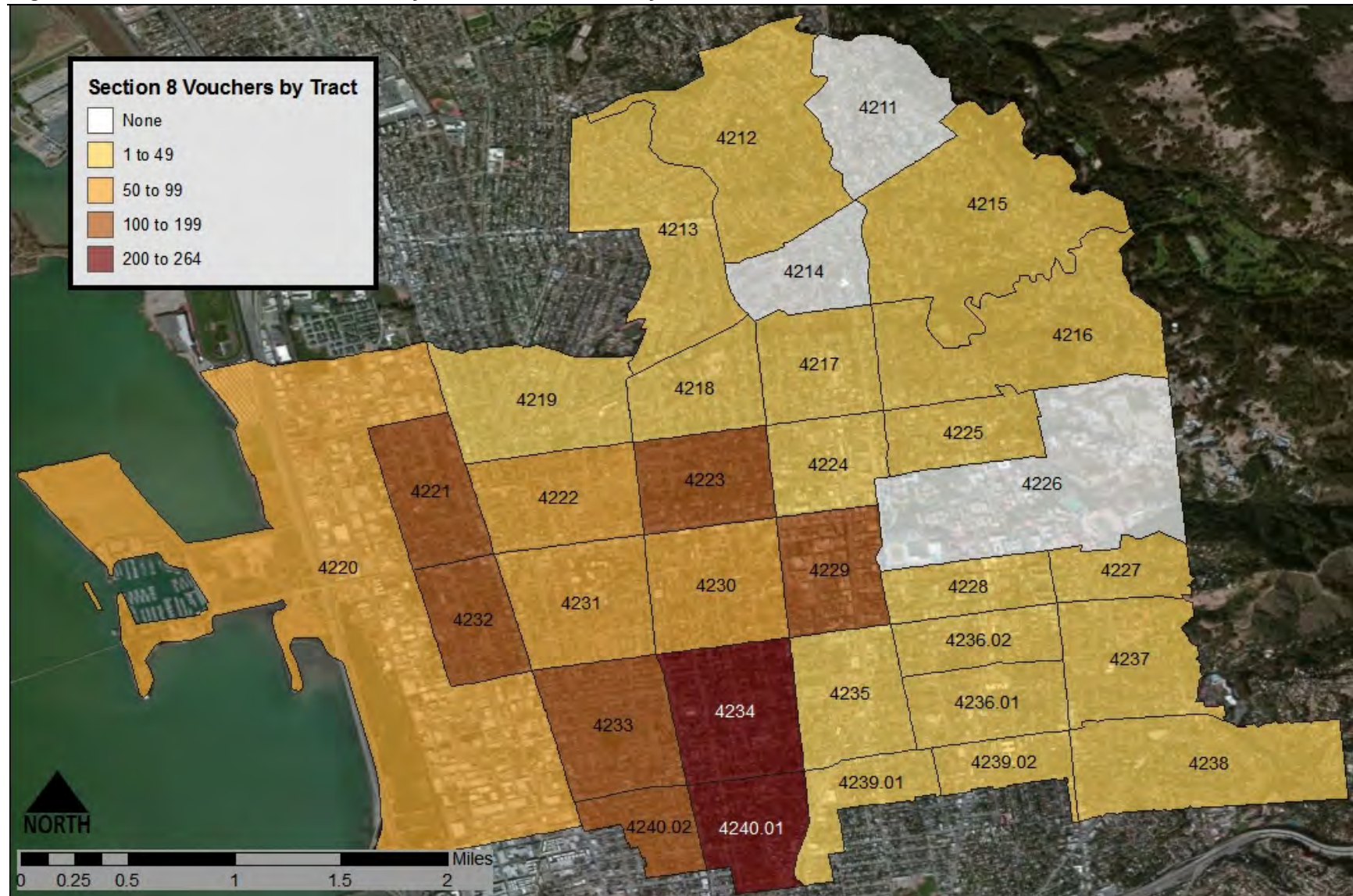
Figure A-5: Loans Originated per 1,000 Units, by Census Tract, 2013



Note: HMDA data from 2013; housing unit count from 2009-2013 American Community Survey.

Sources: ESRI; 2009-2013 American Community Survey; Federal Financial Institutions Examination Council's HMDA data, 2013; BAE, 2015.

Figure A-6: Section 8 Tenant Vouchers by Census Tract, Berkeley, 2013



Sources: ESRI, 2015; Picture of Subsidized Households, huduser.org, 2013; BAE, 2015.

# APPENDIX B: MORTGAGE AFFORDABILITY CALCULATIONS

**Table A-1: Affordable Housing Mortgage Calculations, Berkeley, 2015**

	<u>Household Income (a)</u>	<u>Sale Price</u>	<u>Down Payment (b)</u>	<u>Total Mortgage (b)</u>	<u>Monthly Payment</u>	<u>Monthly Property Tax (c)</u>	<u>Mortgage Insurance (d)</u>	<u>Homeowner's Insurance (e)</u>	<u>Total Monthly PITI (g)</u>
<b>Extremely Low Income (30% AMI)</b>									
4 Person HH	\$27,850	\$66,418	\$13,284	\$53,135	\$244.87	\$70.29	\$0.00	\$21.09	\$696.25
<b>Very Low Income (50% AMI)</b>									
4 Person HH	\$46,450	\$158,268	\$31,654	\$126,615	\$583.50	\$167.50	\$0.00	\$50.25	\$1,161.25
<b>Low Income (80% AMI)</b>									
4 Person HH	\$71,600	\$282,463	\$56,493	\$225,971	\$1,041.38	\$298.94	\$0.00	\$89.68	\$1,790.00
<b>Median Income (100% AMI)</b>									
4 Person HH	\$92,900	\$387,646	\$77,529	\$310,117	\$1,429.17	\$410.26	\$0.00	\$123.07	\$2,322.50

Notes:

(a) Income limits published by U.S. Dept. of Housing and Urban Development for a four-person household in Napa County, 2010.

(b) Mortgage terms:

Annual Interest Rate (fixed)

3.71% February 2015 Freddie Mac average fixed rate

Term of mortgage (years)

30

Percent of sale price as down payment

20%

(c) Initial property tax (annual)

1.27% Alameda County Assessor-Controller

(d) Mortgage Insurance as percent of loan amount

0.00% Only included if down payment is less than 20%.

(e) Annual homeowner's insurance rate as percent of sale price

0.38% CA Dept. of Insurance website, based on average of all quotes, assuming at 16- to 25-year old home and \$400,000 of coverage.

(g) PITI = Principal, Interest, Taxes, and Insurance

Percent of household income available for PITI

30%

Sources: U.S. Dept. of Housing and Urban Development, 2015; Freddie Mac, 2015; Alameda County Assessor's Office, 2015; CA Dept. of Insurance, 2015; California Department of Insurance, 2015; Condos.com, 2014; Zillow.com, 2014; BAE, 2015.