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2014 ANALYSIS OF IMPEDIMENTS  
TO FAIR HOUSING CHOICE FOCUS GROUP

SPONSORED BY MONTANA DEPARTMENT OF COMMERCE  
IN SUPPORT OF MONTANA'S  
FIVE-YEAR CONSOLIDATED PLAN

TRANSCRIPT OF PROCEEDINGS

Robert Gaudin, Facilitator

Guesthouse Inn  
Winchester Room  
Kalispell, Montana

Wednesday, July 16, 2014  
9:02 A.M.

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PENNY COPE  
STEPHANIE CRIDER

1 PROCEEDINGS ~ WEDNESDAY, JULY 16, 2014

2 MR. GAUDIN: Well, good morning,  
3 everyone.

4 MS. COPE: Good morning.

5 MR. GAUDIN: It's good to be  
6 here. My name is Rob Gaudin. I'm the  
7 Director of Research and Planning for Western  
8 Economic Services. It's a consulting  
9 organization out of the city of Portland.

10 The Commerce -- Department of  
11 Commerce has hired my firm to help them with a  
12 couple of different studies for this planning  
13 cycle, one of which is the Analysis of  
14 Impediments to Fair Housing Choice.

15 You know, for a few of you who were  
16 here yesterday, you've probably heard this  
17 already, but I've been working with Commerce  
18 for 28 years, and for the last 20 years we've  
19 been doing this particular study for them  
20 approximately every five years. So we're  
21 embarking upon this effort today.

22 This particular study is a  
23 requirement for receiving money from HUD for  
24 housing and community development purposes.

25 The idea is that they need to certify

1 that they're affirmatively furthering fair  
2 housing. Now, this is not like a little form  
3 you sign and you put it in a drawer and you're  
4 forever good with that.

5           You know, this is actually a  
6 three-step process. You need to actually  
7 conduct this Analysis of Impediments, or AI.  
8 It's a study of both quantitative and  
9 qualitative research, evaluation, inferences  
10 you might make from various qualitative types  
11 of situations. If you identify some  
12 impediments to fair housing choice, you need  
13 to take action and then report back to HUD.  
14 Generally speaking, that would be in your  
15 Consolidated Annual Performance and Evaluation  
16 Report.

17           But I do want to emphasize,  
18 especially for those callers who have -- are  
19 attending, that if you have a question at any  
20 time, just speak up, you know, please  
21 interrupt me. You know, this is really about  
22 an exchange of information. And I'm just not  
23 a speaker or a presenter, but it's also about  
24 how you feel. This is about your community.  
25 So, please, if I'm not being clear or if I'm

1 mistaken about the situation here in  
2 Kalispell, or whatever it is, just please take  
3 the opportunity to let me know how you feel.

4           You know, the intent here -- the  
5 entire purpose, really, is to take a look at  
6 the situation, you know, see if we can  
7 identify some impediments, and then make some  
8 recommendations about which Commerce can act  
9 upon.

10           You know, of course, in this process  
11 we begin to separate, you know, actions that  
12 occur in a private sector, whether that's  
13 banking and lending, or property management,  
14 or appraisals, or real estate agents, or what  
15 have you, and those which also happen in the  
16 public sector.

17           Maybe there's things about local  
18 planning and zoning, or policies and  
19 practices, or ways in which we've allocated  
20 resources and had certain things happen in the  
21 past. But we're really trying to assess, you  
22 know, what barriers there are to housing  
23 choice.

24           So to begin, really, I'm going to  
25 talk a little bit about the context, you know,

1 some fair housing information, what this means  
2 in terms of, you know, our preliminary  
3 findings. And again, as I mentioned, this is  
4 about an opportunity for you to provide input  
5 about this information, about this process,  
6 you know, what it means for you, what it means  
7 for the state, and so on.

8           It's important, however, to  
9 understand fundamentally what an impediment to  
10 fair housing choice means. Now, these are  
11 actions, omissions or decisions -- whether  
12 you're in the private sector or the public  
13 sector -- actions, omissions or decisions  
14 which restrict housing choice due to protected  
15 class status.

16           Now, different jurisdictions can have  
17 different protected classes. If you're a  
18 state or local government you could add them.  
19 Here, both state and federal law have this  
20 group; race, color, creed, religion, familial  
21 status, marital status, age, gender,  
22 disability and national origin.

23           So we're talking about actions,  
24 omissions or decisions which are strict or  
25 have the effect of restricting housing choice

1 for people in these groups.

2           You know, this study, this Analysis  
3 of Impediments, kind of got its start when the  
4 Consolidated Plan first came about, which was  
5 actually the reorientation of four programs,  
6 so that they would be all in the same planning  
7 cycle and application cycle; CDBG, HOME, ESG  
8 and HOPWA. That's when they got consolidated.

9           In the very beginning, you know, it  
10 was to try to make a fairly, you know,  
11 good-faith effort to evaluate these things.  
12 In 1996 HUD came out with a Fair Housing  
13 Planning Guide, you know, about how to do  
14 these. Montana's AI was in that guide. But  
15 over the years there has been a distinct  
16 evolution in what HUD expects to have happen.  
17 This particular evolution really kind of  
18 turned a corner just a few years ago.

19           In New York there's Westchester  
20 County, it's a pie-shaped county with a point  
21 that abuts the City of New York. And all  
22 these folks would drive into the city to work  
23 and then drive home.

24           Well, Westchester County gets money  
25 from HUD, and they're supposed to certify that

1 they're affirmatively furthering fair housing,  
2 when they did their study they said, Oh, man,  
3 we have an affordable housing crisis, we're  
4 gonna build affordable housing. That is also  
5 true. But where they built them and what they  
6 did, the consequence of their actions,  
7 increased concentrations of poverty, increased  
8 concentrations of racial and ethnic minorities.

9           So the Antidiscrimination Center of  
10 New York City sued them for falsely claiming  
11 the certification that they're gonna  
12 affirmatively further fair housing.

13           That started in 2006, it ended in  
14 2009. Westchester County lost, so they had to  
15 pay the \$50 million -- 50, 5-0 -- back to HUD  
16 for all the projects they built that  
17 contributed to the problem. They also had to  
18 spend 51 million more to pay off all the  
19 attorneys. And so the taxpayer had to come up  
20 with a hundred million and they're back to  
21 square one.

22           The fundamental issue for them is  
23 that they have completely lost their  
24 flexibility and their control over their  
25 programs. Now the New York court system tells



1     them how they're gonna spend their money.

2             The rest of us in the county,  
3     however, get to be under HUD's magnifying  
4     glass about what we're doing to make sure we  
5     avoid these kinds of problems. So the  
6     scrutiny is significantly greater since that,  
7     so in the last five years.

8             People at HUD really want to look at  
9     how our decisions are being implemented.  
10    Certain states are reviewing how their  
11    low-income housing tax credits are evaluated,  
12    their QAP, Qualified Application Plan.

13            You know, there used to be a time  
14    when they'd give a little bit more points for  
15    areas of low income. Now they're shying away  
16    from that because we don't want to promote it  
17    just in lower-income areas. So there's been  
18    some shift just across the board.

19            And those expectations from HUD have  
20    also increased. They also, in middle of last  
21    year, in July of last year, they issued a  
22    proposed rule to change it again, you know,  
23    the certification, and that hasn't been  
24    resolved yet, so we're operating under this  
25    little bit of cloud.

1           Some people at HUD are thinking that  
2 we're gonna do it the new way, and some people  
3 are thinking we're gonna do it the old way.  
4 But all those ways are evolving, so it's a  
5 little bit uncertain how this all turns out.

6           But the path we've chosen this time  
7 is to do the non-entitled areas of the state.  
8 You can barely see it. Missoula, Billings and  
9 Great Falls, those tiny little patches of  
10 white, are outside the study because  
11 entitlements, like states, they get funds  
12 directly from HUD, must also do their own AI.  
13 So we don't want to get crosswise with each of  
14 the communities, so we're doing the  
15 non-entitled portions of the state.

16           So the data, nearly everything --  
17 except, of course, the next slide -- nearly  
18 everything else in this presentation relates  
19 to the non-entitled areas of the state.

20           Now, I just want to give some  
21 context. HUD's gonna look at, Hey, look, you  
22 know, we're growing really nicely over the  
23 years. When we begin to look at how the  
24 population has grown, which groups are growing  
25 quickly, which are growing more slowly,

1 non-entitled areas of the state, right? We're  
2 growing at 8.8 percent in the non-entitled  
3 areas, it's a little bit less than the more  
4 urbanized areas.

5           Nevertheless, you know, whites are  
6 growing the slowest. Some of these -- you  
7 know, Native Americans are growing at 9  
8 percent, almost the average, they're the next  
9 largest minority, but Hispanics at 60 percent,  
10 still a small group, less than 20,000 people.

11           But HUD's gonna ask us, Okay, what  
12 about the legacy of decisions -- kind of like  
13 the Westchester County case -- have you  
14 changed in the distribution of the population  
15 from then to now, has there been any change?

16           You know, it's difficult to make good  
17 statements when this is a 2000 data and we  
18 have all these sets of Tribal lands. Well, of  
19 course, there's a reason for that, why there  
20 are high concentrations.

21           Now, throughout this series of  
22 discussions I'm gonna be having these maps  
23 colored in terms of disproportionate share.

24           The jurisdiction average will be in  
25 the -- kind of the light yellow. Ten

1 percentage points above that, which is this  
2 next green here, the 7.1 to 17 percent. If it  
3 gets above 17 percent, 10 percentage points  
4 above the average, that's a disproportionate  
5 share.

6 Do you have a question?

7 A PARTICIPANT: Yeah. It's not  
8 really a question. Is there any way we can  
9 make it a little bit darker, I mean not so  
10 light, so we could see it better?

11 MR. GAUDIN: I think we can turn  
12 the light right there off. Is that correct?

13 A PARTICIPANT: Sorry to  
14 interrupt.

15 MR. GAUDIN: That's quite all  
16 right. I was asked that question yesterday.  
17 Nah, nah, it's fine, so... Not sure it's  
18 clarified, but it's totally fine.

19 MS. CRIDER: And I'd just like to  
20 remind everybody, if you're gonna ask a  
21 question, for the court reporter please state  
22 your name.

23 MR. GAUDIN: While that's been  
24 being worked on, technical details, these  
25 darker colors, this kind of mottled -- the

1 middle one here, blue-green, darker blue,  
2 these are all disproportionate concentrations,  
3 over-concentrations. Now, of course, we have  
4 the Tribal and trust lands and, of course,  
5 there's over-concentration.

6 But the question is, Okay, that's our  
7 legacy; what's happened in the last decade?  
8 We do see some migration and  
9 over-concentration outside some of the Tribal  
10 lands, but not as much.

11 When we look at Hispanic -- I didn't  
12 reproduce this Hispanic map right here -- we  
13 only see one area of over-concentration,  
14 that's West Yellowstone, that has appeared  
15 since 2000.

16 Does that work better for you?

17 A PARTICIPANT: Yeah, thank you.

18 MR. GAUDIN: Okay, great. You  
19 know, so HUD's gonna ask us, Are there certain  
20 things about this migration or this change,  
21 have we affected change positively or not?

22 Also kind of like to take a look at  
23 poverty. You know, you guys are fortunate for  
24 the non-entitled areas of the state, the  
25 poverty rate actually declined a tiny bit

1 between the 2000 and the 2012 American  
2 Community Survey. I'm sure there's a few more  
3 people in poverty, but what we see is a  
4 poverty rate declining.

5 But how is that distributed? Again,  
6 we're gonna use the same concept where these  
7 darker blue ones are over-concentrations of  
8 poverty. This is from 2000. And granted,  
9 2000 and 2012 we also have a different set of  
10 census tracts.

11 But we see higher concentrations and  
12 less distribution. So we're shifting to  
13 higher concentrations of poverty in certain  
14 areas of the state.

15 What we also have at play -- and this  
16 is again -- this is not deflated, this is  
17 nominal values. What we do see, the number of  
18 households by income here. Lower-income  
19 households are substantially fewer in  
20 percentage and higher incomes households are  
21 substantially greater. In fact, those above a  
22 hundred thousand were double in percentage.  
23 So we do have a shifting. But that's not to  
24 say there aren't problems.

25 You know, part of what we're trying

1 to do is encourage, you know, the various  
2 banking laws and so on. We want to encourage  
3 our bankers to invest in all areas of our  
4 communities.

5           So in this exercise, in the last few  
6 years I've begun to gather Community  
7 Reinvestment Act information, right -- our  
8 bankers are supposed to invest in all the  
9 areas of our community -- and just to kind of  
10 take a look at how we can facilitate, you  
11 know, development and attractiveness of our  
12 communities by investing across the range of  
13 them.

14           And this -- the percent of business  
15 loans made in the non-entitled areas of the  
16 state, for those census tracts that are less  
17 than 50 percent of median family there's  
18 almost no investment down here.

19           So for those areas that are poverty,  
20 those areas that have difficulties, you know,  
21 we're basically keeping them there, as opposed  
22 to kind of encouraging some changes. So there  
23 are mechanisms available to us to help  
24 encourage that, maybe some changes in those  
25 investment patterns.

1           I do want to take a look at, you  
2 know, some of our housing choices. We have  
3 this legacy here kind of thing, number of  
4 households in the non-entitled areas of the  
5 state.

6           You know, occupied housing units grew  
7 14 percent, total 17.4 percent. And, you  
8 know, homeownership slipped a little bit.  
9 This generally set the pattern for statewide  
10 as well.

11           But I am a little concerned about  
12 vacant housing units, you know, jumping  
13 36 percent. That's comprised of units that,  
14 of course, are for sale or for rent. But down  
15 here we have these other vacant units. You  
16 know, there's a large portion in the  
17 non-entitled areas of the state, that  
18 35 percent increase.

19           Now, those types of housing units are  
20 those which are not for sale or not for rent  
21 and not available to the marketplace. So we  
22 have some challenges ahead of us.

23           So during this time where we had  
24 total housing units, you know, increasing  
25 faster than our demand, what about some



1 production in terms of where we've placed, you  
2 know, some of our assisted housing?

3 This just kind of responds to  
4 Westchester County. Now in a state, this --  
5 Westchester County is like one of our 56  
6 counties, right, it's just a small county.  
7 They have a lot more people.

8 But the idea here, you know,  
9 project-based Section 8, Commerce gave me the  
10 physical addresses of all their project-based  
11 Section 8, and I attached the longitude and  
12 latitude coordinate to it for those that are  
13 outside of the entitlements and distributed  
14 them across the state. I mean, these can be,  
15 you know, four, eight or 36-unit facilities,  
16 right, they could be small or large.

17 But the idea is, how have our set of  
18 decisions over time distributed these  
19 throughout the state? This tells me we really  
20 haven't presented these things specifically in  
21 concentrated areas, that we do not have the  
22 same problem that Westchester County had.

23 You know, sure, you can't put one of  
24 these units way out in the middle of nowhere,  
25 where there's no infrastructure and there's no

1 sewer or water. At the same time, though,  
2 these are all gonna be in smaller communities.  
3 But it does seem to be distributed throughout  
4 the state.

5 I have a couple different ways to  
6 look at that. Section 8 vouchers, actually  
7 got the vouchers. We tried as best we could,  
8 'cause the voucher is a dot. I mean,  
9 Missoula -- those are actually dots outside of  
10 town, but the dot itself is bigger than the  
11 house 'cause you couldn't see the dot  
12 otherwise.

13 But this is how those are clustered.  
14 More along, you know, where rental housing is  
15 available. But I don't necessarily see a  
16 pattern that they're only being used in a  
17 particular, you know, locale or a particular  
18 concentration associated with poverty. So  
19 this is also a good thing.

20 Sure, I mean, there are areas,  
21 particularly the northwestern part of the  
22 state, where we have a number of them, but  
23 scattered throughout the state. So this is  
24 also a good development.

25 We have some HOME investment. You

1 know, there are some concentrations in certain  
2 geographic areas around up here, around in  
3 Helena, but I don't see them concentrated  
4 necessarily near poverty.

5 Last, but not least, of that series  
6 of maps, low-income housing tax credit issues.  
7 Even with a past low-income QATs, we really  
8 don't see these concentrated in areas of  
9 poverty necessarily, they're distributed well  
10 around the state.

11 So my conclusion is, for Commerce's  
12 ability to influence their decision and their  
13 legacy of decisions, we don't really have the  
14 exposure like Westchester County has had. So  
15 that's actually a real good...

16 But part of this also is to evaluate  
17 a couple other pieces. You know, that's kind  
18 of some of our public decision-making. And it  
19 appears to be in line with our duty to certify  
20 that we're affirmatively furthering fair  
21 housing.

22 But there's also private sector  
23 markets. And first thing I want to do is kind  
24 of take a look at some housing complaint data.

25 The very first time I did this for

1 the State, back in 1994 or '93, I wrote a  
2 letter to HUD, asking for this housing  
3 complaint data 'cause it's controlled by them,  
4 and they didn't reply, didn't reply, didn't  
5 reply and didn't reply. Then I realized, Oh,  
6 that's right, I have to file a Freedom of  
7 Information Act request to get data from them  
8 to report back to them.

9           So once I learned that, then it's  
10 always worked well because they have to do it  
11 within 22 days. The Denver office never  
12 charged anything, Atlanta charged me as much  
13 as \$67.

14           But this is, again, for the  
15 non-entitled areas of Montana. I mean, look  
16 at all these years. We have ten years of  
17 data. 2014, of course, is a partial year.  
18 The total number of complaints is tiny, 125.

19           Now, the bases are those protected  
20 classes. They do follow retaliation in  
21 federal -- these are only federal protections,  
22 not states' protections. Retaliation is just  
23 a tracking mechanism. But in this reporting  
24 system they call it teapots [verbatim] for  
25 some reason. The basis of the complaint, you

1 can have more than one basis per complaint.

2 I sorted it by most frequent bases  
3 here in the state's disability. Disability,  
4 race and familial status are traditionally the  
5 top three nationally, not necessarily in that  
6 record. But disability is certainly the  
7 number one reason for the complaints here.

8 Of course, there are issues  
9 associated with these complaints, like what is  
10 the alleged action that occurred during the  
11 housing transaction. Here we have the total  
12 number of complaints, and you can have  
13 certainly more than one issue per complaint.  
14 There could be several things going on.

15 Failure to make reasonable  
16 accommodation is the most frequent. Granted,  
17 I sorted these, again, by frequency.  
18 Discriminatory refusal to rent, you know,  
19 rental, rental, rental.

20 Generally speaking, all the housing  
21 complaints that flow through HUD are gonna be  
22 related to rental markets. Not so much sales.  
23 Occasionally you'll see something.  
24 Occasionally you'll see some complaint about  
25 local government blocking something. But

1 usually it's about the rental market and it's  
2 a transaction that's gone astray between a  
3 rental provider, a property management  
4 company, or a mom-and-pop group and the  
5 prospective tenant.

6 Yes, ma'am.

7 MS. COPE: Rob, there's a  
8 question on the webinar here. And the person  
9 asking the question is Eric Kohring,  
10 K-o-h-r-i-n-g. He's stating, housing  
11 complaints should be included from Montana  
12 Fair Housing and the Human Rights Bureau and  
13 not just HUD.

14 MR. GAUDIN: That is correct.  
15 Don't hold your breath.

16 MS. COPE: Thank you.

17 MR. GAUDIN: Of those, you know,  
18 a certain number of them have been found to be  
19 with cause. After the complaint goes in, then  
20 HUD will go and take a look at it.

21 This is a pittance compared to the  
22 125, only 47 were found to be with cause. In  
23 some years there were nothing. This implies  
24 that the fair housing infrastructure is not  
25 fully in place.

1           Now, the gentleman who had a comment  
2 was addressing these housing complaints. This  
3 is Montana Fair Housing data. We requested  
4 their information as well. They have the  
5 addition of a few of the state protections.  
6 They also track retaliation and harassment,  
7 and so on.

8           Their total complaints, considerably  
9 higher, approximately 90 complaints higher,  
10 over a similar period. Total number of bases,  
11 309. So it's significantly greater levels of  
12 activity.

13           In the early days here, Montana Fair  
14 Housing was in Missoula and now it's in Butte.  
15 So there may be some geographic fielding of  
16 issues that may have changed there.  
17 Nevertheless, we have some information about  
18 those. Again, just like HUD's data,  
19 disability is far and beyond, you know, the  
20 main issue.

21           Pam Beam [phonetic] tracks design and  
22 construction as a basis in her data system.  
23 It's not really a protected class. But, you  
24 know, disability, familial status definitely  
25 in tune with HUD's information.

1           We have not received anything from  
2 Montana Human Rights Bureau. When we look at  
3 those with cause from Montana Fair Housing, we  
4 find a similar reduction in the number of  
5 complaints that were valid, or were determined  
6 to be with cause. Nevertheless, disability,  
7 familial status still coming out as the most  
8 frequent, but significantly fewer than those  
9 complaints that first came in.

10           But this does tell us some important  
11 things. Even with Montana Fair Housing with  
12 one location in Butte, you know, these last --  
13 look at this. I think they started in Butte  
14 approximately in 2010, can't precisely  
15 remember. But, I mean, this is just not what  
16 I would expect to see across the entire state.  
17 Seven or nine or one, that's a small number.

18           Often a complaint -- this is -- I'm  
19 here in Kalispell and that's in Butte, and I  
20 can go to Denver. Why don't I just go down  
21 the block and find a new place.

22           MS. COPE: Rob --

23           MR. GAUDIN: Yes.

24           MS. COPE: -- there's a request  
25 by Nancy Harte to ask a question.



1 MR. GAUDIN: Please.

2 MS. COPE: Nancy, go ahead.

3 NANCY HARTE: Can you hear me?

4 MS. COPE: Now I can, Nancy, yep.

5 NANCY HARTE: You can hear me?

6 MR. GAUDIN: Yes.

7 NANCY HARTE: Okay, great. Hi  
8 Rob, this is Nancy. The standard that you  
9 have for fair housing is non-entitlement  
10 areas?

11 MR. GAUDIN: That is correct.

12 NANCY HARTE: That is correct,  
13 okay. So that would mean that -- would the  
14 Missoula bias be in there because we know it  
15 wouldn't be in there?

16 MR. GAUDIN: Missoula is not in  
17 this data.

18 NANCY HARTE: Okay. So,  
19 theoretically then, their moving from Missoula  
20 to Butte wouldn't necessarily affect that?

21 MR. GAUDIN: Just because their  
22 one location was there -- in fact, I think  
23 in -- well, originally the fair housing group  
24 was in Great Falls, the Concerned Citizens --  
25 Council for Concerned Citizens. And I think

1 by 2004 they had disbanded and it was only  
2 Montana Fair Housing out of Missoula then.

3 So I do not -- I mean, I do think  
4 that the location has something to do with it.  
5 You know, if someone's in Kalispell, where we  
6 are today, and they need to go to Missoula,  
7 it's easier than going to Butte or going to  
8 Billings or going to Miles City.

9 So the location would be better if  
10 there were multiple locations throughout the  
11 state. But, you know, the issue I mentioned a  
12 few slides ago about the infrastructure being  
13 somewhat limited, it does also mean that maybe  
14 we have not enough places to access the fair  
15 housing system.

16 NANCY HARTE: Right. But the  
17 little Billings and Great Falls aren't in the  
18 data?

19 MR. GAUDIN: No. That's correct.

20 NANCY HARTE: Okay, great.

21 Thanks, Rob.

22 MR. GAUDIN: Uh-huh. Okay.  
23 Well, I'm actually pleased to see that the  
24 question and answer thing works over the  
25 telephones. That's all good. Okay.

1           I also -- I guess my point here is  
2 that, regardless of whether it's HUD or  
3 Montana Fair Housing, and the Human Rights  
4 Bureau hasn't yet replied to our request for  
5 data. I hope they do; sometimes they don't.

6           But nevertheless, what we do see is a  
7 kind of a preponderance for the housing  
8 complaints that run through the rental  
9 markets. And disability and familial status  
10 are kind of the frequent themes, who is  
11 getting discriminated against.

12           Generally speaking, that's gonna be,  
13 you know, refusal to make reasonable  
14 accommodation or modification, or simply  
15 saying, No, we can't have kids, or we can't  
16 have that many kids, something like that.

17           The other piece I wanted to take a  
18 look at is lending. Now, HMDA, Home Mortgage  
19 Disclosure Act, was passed by the U.S.  
20 Congress in the late '70s, and it gave lending  
21 institutions certain rules by which to report  
22 certain types of information for all mortgage  
23 applicants. Whether that was a home purchase  
24 or a home improvement or a refinancing, they  
25 needed to report this information.

1           Now, what I want to look at is those  
2       which is a home purchase, right? I mean,  
3       there's other things that come and go on in  
4       home improvements and funny business in  
5       refinancing, and so on. But, really, we're  
6       trying to find out about our choice to elect  
7       to purchase a home.

8           Within this, the lender, whether it's  
9       a depository or non-depository institution,  
10      they'll get the loan application and they'll  
11      take a look at it and start assessing, you  
12      know, the attributes of the loan applicant.

13           They can make a bunch of different  
14      decisions. I apologize for the slides. There  
15      are probably too many numbers and too many  
16      letters and words, and so on. But these are  
17      all the kind of decisions that they can make.

18           The top one on far left, they can  
19      originate the loan. They can make the loan.  
20      Everybody signs the papers, we go home, we  
21      crack our bottle of champagne and celebrate  
22      when I got my house.

23           They add these other things. These  
24      closed for incompleteness, it's not, you know,  
25      this or whatever.

1           The other one I'm concerned about is  
2 application denied, where the lender says no,  
3 it's a thumbs-down deal. So we have the  
4 originations and the denials, and that gives  
5 us a denial rate.

6           And this is what the denial rates  
7 have been over the last several years. 2012  
8 is currently the most recently available Home  
9 Mortgage Disclosure Act data. It usually  
10 comes out late in the year. Later this year  
11 2013 will come out.

12           But here we are, and the denial rates  
13 have fell way off. Now, denial rates around  
14 15 percent are actually pretty good, so the  
15 denial rate today is nice. But you know  
16 what's interesting about this information, we  
17 know certain things about the applicants.  
18 Their gender, you know, their race, their  
19 ethnicity, where the houses are being applied  
20 for, you know, the census tracts.

21           So when we look at the distribution  
22 of denial rates using the same themes as --  
23 and color themes as I had before, we see where  
24 kind of the concentrations of the denial rates  
25 are.

1           Home Mortgage Disclosure Act shifted  
2 from the 2000 census tracts to the 2010 census  
3 tracts in 2012, so I can't overlay the two.  
4 This is why. We see where denials are  
5 occurring. You know, they're more frequently  
6 up here. In 2012 we also see continuation in  
7 a few areas.

8           You have to be careful here  
9 interpreting a smaller number. When this says  
10 a hundred percent here it could be one loan  
11 that got denied. So I'm more concerned about  
12 the ones that are a little bit less blue.

13           But what I really am concerned about,  
14 it tells us the race and ethnicity of the  
15 borrower, or hopefully the borrower, and what  
16 we see here is who gets denied more often.

17           American Indians are a larger  
18 minority than these others. But whites are  
19 17 percent and American Indians are  
20 34 percent. You know, basically twice the  
21 denial rates.

22           It was probably 15 years ago when we  
23 did this study and we found that certain  
24 lenders were denying American Indians a  
25 hundred percent of the time on manufactured

1 housing that was sold near the Tribal lands  
2 because the banks were afraid that they would  
3 just hook it up to the truck and tow it, and  
4 then they have no recourse for recovery. I  
5 think the University of the Montana Law School  
6 has written some codes, some legal codes, to  
7 resolve that. There's been some resolution of  
8 that, but not in its entirety.

9 Part of the reason I like to choose  
10 2004 in this Home Mortgage Disclosure Act data  
11 is because they actually correctly define  
12 Hispanic beginning that year. Prior to that,  
13 Hispanic, believe it or not, in this data  
14 system was erased. I was wrong. But they  
15 also added some other information about the  
16 attributes of the loan.

17 I got to back up. You know, the  
18 federal reserve says that you cannot  
19 conclusively say that our lenders are being  
20 discriminatory even though these patterns  
21 exist, be that as it may.

22 Now, stepping forward, the other  
23 attributes of the loans, starting in 2004, we  
24 can identify which loans are predatory in  
25 nature. These are HALs, high annual

1 percentage rate loans. They're at least three  
2 percentage points above the comparable  
3 treasury security at the time that the loan  
4 was made.

5 Notice here, when we had the bubble  
6 we had a lot more, almost -- more than  
7 20 percent of all our loans were these  
8 predatory-style loans.

9 Now, here in Kalispell I'm sure that  
10 was more than that. You know, in some  
11 jurisdictions that I was working at at that  
12 time, it was like 35 and 40 percent, and they  
13 had really a bad situation.

14 Notice that we have had a fall-off in  
15 these predatory-style loans. There's been a  
16 little bit of recovery here since the last  
17 couple of years, so I'm a little bit concerned  
18 about that. Other jurisdictions have come  
19 back to be more than 12 percent of the base.  
20 So they're kind of making a resurgence.

21 The problem with this is that who  
22 gets these predatory-style loans. We can  
23 determine that, too. All right? It comes  
24 right back to this. Not only do these guys  
25 here -- not only do the American Indians get



1 one of the higher denial rates, when they get  
2 a loan they get a predatory loan. Almost --  
3 well, a little more than a quarter of all  
4 those loans were predatory-style in nature.

5 Now, I didn't drill down for this  
6 presence, but I'm pretty sure it's the same  
7 story. There are certain lenders that prey on  
8 certain lower-income minority groups.

9 And right now I have AIs in doing New  
10 Mexico and Mississippi, and it's the same  
11 lenders doing different groups. In one group  
12 it's blacks, in the other, in New Mexico, it's  
13 American Indians. But it's the same lenders,  
14 and they're all lending on manufactured  
15 housing. So we have some problems with this  
16 part of our market.

17 Okay, the federal reserve says you  
18 can't say that they're deliberately doing  
19 this, but what can we do to help them avoid --  
20 I mean, what this says here is who carries the  
21 foreclosure burden, right, who's got it on  
22 their back. You know, Hispanics are also a  
23 little bit higher. Blacks and Hispanics --  
24 yes.

25 MS. COPE: Are these storefront

1 lenders or online?

2 MR. GAUDIN: They can be all  
3 kinds of things.

4 MS. COPE: Okay.

5 MR. GAUDIN: They are usually not  
6 the hometown banker. You know, your  
7 established hometown banker. You know, when  
8 we did this for Los Angeles County several  
9 years ago, it turned out to be a guy standing  
10 on the corner, talking in, you know, the same  
11 Spanish dialect and getting people to walk in  
12 the door, they build a trust, and then a --  
13 so a predatory-style thing.

14 So, you know -- but they're a little  
15 bit fly-by-night sometimes. Many of those  
16 kinds of institutions are now gone, they went  
17 out of business, good riddance to them.

18 But nevertheless, you know, these  
19 things, what can we do about it? You know,  
20 sometimes people talk about financial literacy  
21 and what it means, and how do you get good  
22 credit and keep good credit and those kinds of  
23 things.

24 I had a customer in the South one  
25 time say, I want the list, and I can produce

1 the list of who makes these loans, and then --  
2 but they didn't really have the -- you know,  
3 the muscle to go after them. It's a big  
4 muscle.

5 The last piece I want to address  
6 here -- or nearly the last piece of our data  
7 collection, we do have a Fair Housing Survey  
8 ongoing. We started it a little bit later  
9 than the Housing and Community Development  
10 Survey that some of you learned about  
11 yesterday. So we have, as of last week,  
12 slightly less than a hundred.

13 Please, if you can, take a look at  
14 this, send it to your friends and family, and  
15 maybe we can get some more folks. What we do  
16 have, you know, is a fairly broad array of  
17 people participating, and I'm certainly hoping  
18 we can get some more folks.

19 But let's take a look at what these  
20 preliminary things are saying thus far.  
21 Again, this is preliminary. You know, we  
22 start out fairly simple, are these laws  
23 difficult to understand or follow? You know,  
24 enough people are saying yes, it tells me  
25 that -- I mean, these are stakeholders, right?

1 They got solicited by Commerce to participate.  
2 It wasn't Joe Six-Pack who saw it in the  
3 newspaper.

4 So we have stakeholders and enough  
5 stakeholders saying, Yeah, I don't really  
6 understand it that well. So it tells me  
7 there's a little bit of outreach education  
8 issues.

9 Do you think fair housing laws should  
10 be changed? Enough are saying, Well, I don't  
11 know, maybe. No or yes, there's some people  
12 who -- those who say yes will see what they're  
13 saying in a few minutes.

14 Are they adequately enforced? Some  
15 say yes, some say no.

16 One of the other types of things we  
17 ask about -- we had a bunch of private sector  
18 questions, and I just kind of wanted to touch  
19 base with you on these. It's a little bit  
20 early. You know, what kinds of things are  
21 severe impediments, what kinds of things are  
22 not at all impediments?

23 You know, when we look through this  
24 list, what we're really seeing is really very  
25 little that people see as an impediment to

1 fair housing choice.

2           You know, down here, lack of  
3 knowledge, that's the number one thing,  
4 according to our participants in the survey.  
5 Generally speaking, HUD has heard us say that  
6 for 20 years now, and they kind of expect us  
7 to do more than outreach and education. So,  
8 you know, we need to think about what more  
9 there might be for us to do. You know, we  
10 have issues. Sometimes there's people who  
11 build things that don't build completely right  
12 with ADA, you know, so maybe some audit  
13 testing is an appropriate type of thing.

14           But these are private sector issues,  
15 and the people don't see much in the way of  
16 severity. But for those that do, we have some  
17 comments.

18           Public sector issues, you know, the  
19 very severe impediments not really too much.  
20 Inadequate access to public transportation,  
21 that was one of our questions. Generally  
22 speaking, in an urbanized environment with a  
23 mass transit system, you're going to see if  
24 the way in which your mass transit system is  
25 laid out so that people who live in

1 lower-income areas can have access to  
2 employment opportunities. And that's kind of  
3 a way to facilitate, you know, their ability  
4 to choose -- get in a job, then allows them to  
5 have greater opportunity to choose to live  
6 elsewhere if they wish to do so.

7 In a large state like Montana, with  
8 so little infrastructure outside -- you know,  
9 transportation infrastructure outside the  
10 entitlement areas, you know, some of these  
11 questions aren't necessarily quite as valid.

12 Nevertheless, you know, access to  
13 employment opportunities are a problem  
14 sometimes as other things. But we've not  
15 really seen the richness of the narrative  
16 about what the public sector can really help  
17 us accomplish in kind of overcoming some of  
18 our goals.

19 A couple things that we also touch  
20 upon, is the respondent aware of any local,  
21 kind of, city or county fair housing  
22 ordinance. A few say yes, but mostly people  
23 are kind of going, Well, I haven't got -- skip  
24 that question 'cause I don't really know.

25 How about policies or practices to

1 affirmatively further fair housing? A few  
2 yes, a bunch no. You know, this is telling me  
3 we lack, A, some fair housing infrastructure;  
4 B, back to the same thing about outreach and  
5 education. And specific areas, some people  
6 said yes, a lot of people said, Really -- I  
7 don't really know. So we're missing some  
8 information.

9           You know, we asked folks early in the  
10 survey to qualify themselves. Many  
11 professions, whether you're a banker or a  
12 realtor, or so on, you have the opportunity in  
13 your training and your continuing education to  
14 get exposure to fair housing training. And so  
15 we've asked folks, did you have this exposure?  
16 We have a bunch of people that say yes, some  
17 say don't know. Have you participated? Well,  
18 no, not as much.

19           You know -- and then later we're  
20 asking about awareness of testing, and that  
21 just falls right off. You know, there doesn't  
22 seem to be very much, we don't see many  
23 complaints, so why would there be much  
24 testing?

25           Is there sufficient outreach in

1 education? There's always somebody that says  
2 there's too much, so we got one here that said  
3 too much.

4           Generally, the sentiment is there  
5 just isn't quite enough. And fair housing  
6 testing in the state, you know, really, people  
7 don't know because -- again, it comes back to  
8 the fair housing infrastructure. We have a  
9 tiny piece of it to serve a massive geographic  
10 area, and Pam's just like one person in one  
11 office kind of thing. I'm sure she has a  
12 couple people with her.

13           Just some comments that some of our  
14 respondents have shared. You know, people are  
15 talking about adding additional fair housing  
16 protections such as what you might see in  
17 national news, and so on, right now.

18           People also talked about the fact  
19 that, yes, discrimination does exist, that we  
20 have a lack of local resources. Same kind of  
21 theme we're seeing throughout all of this. We  
22 don't have an infrastructure in place to do  
23 anything.

24           And there has been another theme kind  
25 of being brought out. I know it's, so far,



1 only less than a hundred folks have replied.  
2 But landlords simply do not comply or do not  
3 feel they need to comply. It's my property, I  
4 can do whatever I want. And I think it's more  
5 just a lack of awareness of what their rights  
6 and obligations are to prospective tenants and  
7 so on.

8           So at this point I have a kind of a  
9 notions about preliminary findings of  
10 impediments. You know, this list can probably  
11 grow.

12           But in the private sector, of course,  
13 we see, you know, in the rental markets  
14 discriminatory terms and conditions, failure  
15 to make reasonable accommodation, certainly  
16 lack of understanding of fair housing law. We  
17 have higher denial rates, kind of problematic  
18 for our American Indians, and higher incidence  
19 of predatory-style loans for the same groups.

20           The questions are, of course, what  
21 can we do about these things, and that's where  
22 I'm open to ideas. In the public sector, you  
23 know, it's -- Montana is such a huge state,  
24 and how do we kind of put our arms around  
25 this, you know, lack of protections for

1 selected subpopulations. Maybe that's  
2 something we can think about, insufficient  
3 outreach and education, testing of course as  
4 well.

5           So beyond these things, you know,  
6 what roles can the State have? I mean, we are  
7 also -- we haven't quite finished it. We're  
8 also calling a selection of smaller  
9 non-entitlement communities and conducting  
10 interviews about how they define family and a  
11 residential dwelling. We're kind of just  
12 trying to see if there's incidences where  
13 larger families might be discriminated against  
14 because the local regulations say there can't  
15 be more than six people or something like  
16 that. And I'm not gonna say which community  
17 has that 'cause that's not really the point.

18           The point is to see if there's some  
19 frequency associated with that and whether we  
20 need to kind of reach out to some of our  
21 non-entitlement units of local government and  
22 talk to them about kind of coming more in  
23 terms with, you know, our duty to certify that  
24 we're affirmatively furthering fair housing.

25           And, you know, that's really where

1 I'm at with this right now. I'd be happy to  
2 answer any questions, clarify any matters.  
3 It's -- we're not done with this because the  
4 list is a little bit short. I expect to add  
5 some more to both these two things if I can  
6 get a little bit more definition from the  
7 survey about what our public sector  
8 responsibilities are, in particular about how  
9 we might enhance our practices for, you know,  
10 affirmatively furthering fair housing.

11 But I'm open for any questions, any  
12 comments. Nancy, please chime in with  
13 anything you might have and offer on that  
14 respect, even though I know you're in  
15 Missoula.

16 MS. COPE: I'm dying to ask a  
17 little bit more clarity on these vacant houses  
18 in the state. I mean, what is the real  
19 picture of those? They're just -- there's  
20 that many houses sitting there, they're not  
21 seasonal houses, they're not being -- no one's  
22 living there, they're just sitting there; is  
23 that what it is?

24 MR. GAUDIN: Yes. That is  
25 correct.

1 MS. COPE: Is it like the parents  
2 have moved into assisted living, the kids live  
3 out of state, it's just sitting there in case  
4 they want to come back someday, or are they  
5 unlivable or...?

6 MR. GAUDIN: There's all of the  
7 above.

8 MS. COPE: Okay.

9 MR. GAUDIN: For, if you will,  
10 pioneer housing, you know, that was built a  
11 long time ago, and it's outside far away from  
12 services, that's an isolated unit, that will  
13 likely collapse in time.

14 MS. COPE: Those old farmhouses  
15 sitting out there?

16 MR. GAUDIN: Yes, that's right.  
17 And I remember in one of our early focus  
18 groups we were talking about this exact  
19 problem in a small town that had been losing  
20 some population, and these homes were fine,  
21 but they couldn't rent them because there was  
22 no one there to rent, so they're empty.

23 And in time, those units become  
24 dilapidated because there's nobody's there to  
25 take care of them. In those cases, mom and

1 dad, grandma and grandpa have all passed away  
2 or moved away and the kids are in California,  
3 or something. And there's -- may even be an  
4 issue about who actually owns the property  
5 now.

6 On top of all those things -- now,  
7 that's a case where we have some redevelopment  
8 opportunity 'cause they might be homes in the  
9 small area of a part of town.

10 There are also the complications from  
11 the foreclosure crisis. And for those homes  
12 that are caught up in that, sometimes those  
13 homes are so badly trashed now that they're  
14 not worth much to fix. I mean, it's really  
15 difficult to fix.

16 And so there's, you know, an embedded  
17 base now in something that we need to think  
18 about how do we kind of clean up this, if we  
19 can, and what do we do about it. So that's a  
20 housing production issue associated more with  
21 a consolidated plan.

22 MS. COPE: Yep, this is Rob.

23 NANCY HARTE: Rob, this is Nancy.

24 MR. GAUDIN: Yes.

25 NANCY HARTE: Hey, Rob?

1 MR. GAUDIN: Yes.

2 NANCY HARTE: Hi, this is Nancy.

3 I have a comment regarding the question,  
4 really. In Missoula, for the City, we just  
5 finished our AI for the Consolidated Plan, and  
6 just occurred yesterday, great.

7 One of the things that we did was,  
8 Missoula is an entitlement city, but of course  
9 we have all the county area out there. And  
10 our office administer spoke with the City and  
11 the County, so that's part of the reason why  
12 we have an interest in the State plan as well.

13 I think, as you talked about in terms  
14 of checking in with some of those smaller  
15 communities about their regulations is really  
16 important. One of the things that we found in  
17 doing our AI was that there was sometimes a  
18 disconnect between the office that says the  
19 regulations permitting red zones and those  
20 kinds of things and how that plays out in fair  
21 housing.

22 We had a really good discussion and  
23 actually developed an action plan to work with  
24 that other office to make sure that fair  
25 housing is incorporated into -- or at least,

1 you know, on their minds and suppose they're  
2 being written.

3           And sometimes it's really subtle in  
4 the way that it has played out in terms of  
5 it's not an obvious discriminatory act, but  
6 it's something that might lead to that, so...  
7 I find your interest to do that -- and I know  
8 it takes some digging, but I think it's a  
9 really good, important part of the whole  
10 process.

11           MR. GAUDIN: Thank you.

12           If you all think of anything else --  
13 if you're like me, that great question never  
14 comes to me until after the meeting -- please  
15 send Jennifer Olson a note, and I'm sure I'll  
16 get it and I can get back to you, at your  
17 earliest convenience.

18           I want to thank you very much for  
19 coming today. I know you didn't have a whole  
20 lot to say but, you know, I certainly  
21 appreciate your presence here and, you know,  
22 your interest. So thank you very much.

23           MS. COPE: Thank you very much,  
24 Rob. I learned a lot. I really appreciate  
25 it.

1 MR. GAUDIN: You're welcome.

2 MS. COPE: Thank you. Thanks you  
3 guys for coming.

4 A PARTICIPANT: Thanks for having  
5 us.

6 MS. CRIDER: I have some flyers  
7 in the back regarding the surveys. If you  
8 wanted to take some of those, I know that we  
9 would really appreciate it. Especially the  
10 Fair Housing Survey, we really want to get  
11 those numbers out.

12 MS. COPE: And spread them around  
13 to all your e-mail lists and stuff.

14 (Meeting concluded at 9:58 a.m.)

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COURT REPORTER'S CERTIFICATE

STATE OF MONTANA        )  
                                  : ss  
County of Flathead        )

I, NANCY J. SKURVID, Registered  
Professional Reporter, residing in Kalispell,  
Montana, do hereby certify:

That the foregoing proceedings were  
reported by me in shorthand and subsequently  
reduced to writing; that the foregoing pages  
represent a true and accurate record of the  
proceedings to the best of my ability.

DATED this 21st day of August, 2014.

                                  /s/ Nancy J. Skurvid                                    
Nancy J. Skurvid