

“Social justice should be the underlying goal of all humanity.”

-Alan V. Lowenstein, Institute Founder



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**do social justice.**

January 6, 2021

The Honorable Lieutenant Governor Sheila Y. Oliver

Commissioner

New Jersey Department of Community Affairs

101 South Broad Street

P.O. Box 800

Trenton, NJ 08625-0800

**Re: Comments on Draft of New Jersey's 2020-2024 Analysis of  
Impediments to Fair Housing**

Dear Lt. Governor Oliver:

Thank you for the opportunity to provide comments on the draft of the State of New Jersey's 2020-2024 Analysis of Impediments to Fair Housing.

The New Jersey Institute for Social Justice (the "Institute") is a legal advocacy organization that works to ensure that urban residents live in a society that respects their humanity, provides equality of economic opportunity, empowers them to use their voice in the political process, and protects equal justice.

The Institute writes to ask that you more explicitly focus on race-based barriers to fair housing choice in New Jersey's 2020-2024 Analysis of Impediments to Fair Housing and encourages you to pursue additional initiatives to specifically prevent housing discrimination against Black people and other people of color. Further, while we applaud your powerful efforts to create affordable housing in the state – a crucial need for economically vulnerable families – we believe that fair housing efforts should be distinct from and complementary to affordable housing initiatives.

More can and must be done to increase homeownership among Black people and other people of color in New Jersey. Homeownership rates for Black people lag behind white homeownership rates nationwide. In New Jersey, the homeownership rate for Black New Jerseyans is just 41% compared to 77%

for white New Jerseyans.<sup>1</sup> Recently, the Institute released a housing report, [Erasing New Jersey's Red Lines: Reducing the Racial Wealth Gap through Homeownership and Investment in Communities of Color](#), which chronicles how redlining and other exclusionary policies devastated New Jersey's communities of color, especially African-American communities, and led to the segregation and devastating gaps in homeownership and wealth that we see by race today.<sup>2</sup> Our analysis highlights how racial barriers to housing access began at the founding of our state when African Americans were denied the opportunity to accumulate wealth through property ownership due to slavery.<sup>3</sup> Furthermore, New Jersey was the last Northern state to abolish slavery.<sup>4</sup> While rooted in history, barriers to fair housing choice, racial segregation, and racial discrimination remain crucial to understanding housing access and homeownership disparities in the state today.

We were hopeful that the State's Analysis of Impediments would include several race-conscious solutions to the issues that prevent Black and Brown New Jerseyans from achieving homeownership at the same rates as white New Jerseyans. Instead, the analysis appears to conflate affordable housing with fair housing. For example, the draft of the Analysis of Impediments states the following:

The State of New Jersey is committed to affirmatively furthering fair housing opportunities. DCA has demonstrated this commitment during the period covered by the 2015-2019 Analysis of Impediments by providing housing assistance to help extremely-low and very-low-income families access neighborhoods of high opportunity, by funding the construction of low- and moderate-income housing, by awarding federal and State project-based vouchers to low poverty areas and making changes to the Low-Income Housing Tax Credit Program to increase the number of affordable units being constructed in high opportunity areas.<sup>5</sup>

While expansion of affordable housing is crucial, it is not sufficient for removing barriers to fair housing. In 2010, Public Advocate of New Jersey Ronald Chen wrote [a letter](#) to all New Jersey HUD Grantees to make them aware of the outcome of [U.S. ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, N.Y., 668 F.Supp.2d 548 \(S.D.N.Y. 2009\)](#).<sup>6</sup> Mr. Chen noted

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<sup>1</sup> RYAN P. HAYGOOD ET AL., N.J. INST. FOR SOC. JUSTICE, ERASING NEW JERSEY'S RED LINES: REDUCING THE RACIAL WEALTH GAP THROUGH HOMEOWNERSHIP AND REINVESTMENT IN COMMUNITIES OF COLOR 4 (2020), [https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/689/attachments/original/1588358478/Erasing\\_New\\_Jersey's\\_Red\\_Lines\\_Final.pdf?1588358478](https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/689/attachments/original/1588358478/Erasing_New_Jersey's_Red_Lines_Final.pdf?1588358478).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 8.

<sup>4</sup> *Id.* at 7.

<sup>5</sup> N.J. DEP'T OF CMTY. AFFS., STATE OF NEW JERSEY 2020-2024 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING DRAFT 5 (2020), <https://www.nj.gov/dca/announcements/pdf/DRAFT%20New%20Jersey%20Analysis%20of%20Impediments%202020.pdf>.

<sup>6</sup> Letter from Ronald Chen, Public Advocate, to New Jersey HUD Grantees, "Recent Fair Housing Decision & Settlement in United States v. Westchester County and Implications for Local Consolidated Plan Submissions," in THE ANTI-POVERTY NETWORK, THE UNCOMFORTABLE TRUTH: RACISM, INJUSTICE, AND POVERTY IN NEW JERSEY, Appendix A, 78-80 (2010), <http://www.antipovertynetwork.org/resources/Documents/The%20Uncomfortable%20Truth%20Final%20->

that [the U.S. District Court rejected Westchester County's identification](#) of a “lack of affordable housing” as its “greatest impediment to fair housing” as well as its intent to resolve its fair housing issues with an increase in affordable housing supply for “moderate and middle income families.”<sup>7</sup> Mr. Chen observed that the Court relied on the [HUD Fair Housing Planning Guide](#) to conclude that building or rehabilitating affordable housing was not enough to “affirmatively further fair housing;” instead, fair housing and affirmatively furthering fair housing requires that jurisdictions “analyze ‘actions, omissions or decisions’ that ‘restrict housing choices or the availability of housing choices’ or have the effect of doing so, based on ‘race, color, religion, sex, disability, familial status, or national origin.’”<sup>8</sup>

New Jersey’s 2020-2024 Analysis of Impediments to Fair Housing identified seven substantial impediments to fair housing, but they do not have sufficient emphasis on preventing discrimination against people from legally protected classes, and only one of the impediments mentions race explicitly.<sup>9</sup> The analysis also mentions few race-conscious solutions to these impediments.<sup>10</sup>

While blatant race-based housing discrimination [has become less prevalent since the 1960s and 1970s, subtle forms of race-based housing discrimination persist in the present](#).<sup>11</sup> For example, *Newsday’s* undercover investigation published in 2019 found pervasive discrimination against non-white prospective homebuyers on Long Island, New York. In particular, Black prospective homebuyers faced unequal treatment [49% of the time that they sought a real estate agent’s services when purchasing a home](#).<sup>12</sup> In New Jersey, the draft of the Analysis of Impediments to Fair Housing reveals substantial racial barriers to home ownership in the state. For one, the Analysis found that Black people were denied for conventional mortgages at an overall rate of 16% (compared to 7% of white applicants), while higher-income Black people were more likely to be

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[%20web.pdf](#); U.S. Ex Rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, 668 F. Supp. 2d 548 (2009).

<sup>7</sup> *Westchester Case*, Anti-Discrimination Center, <http://www.antibiaslaw.com/westchester-case> (last visited Jan. 5, 2020 5:10PM); Chen, *supra* note 6, at 79.

<sup>8</sup> U.S. DEP’T OF HOUS. & URB. DEV. OFF. OF FAIR HOUS. AND EQUAL OPPORTUNITY, FAIR HOUSING PLANNING GUIDE (Vol. 1 1996); Chen, *supra* note 6, at 79.

<sup>9</sup> N.J. DEP’T OF CMTY. AFFS., *supra* note 5, at 4-5. These impediments include: 1. “declining housing affordability” especially for low-income households; 2. an increase in people with Limited English Proficiency who may have difficulty understanding the “home rental or purchase process;” 3. a concentration of subsidized housing in high-poverty neighborhoods; 4. a lack of public information about fair housing law rights and a “lack of dialogue among groups with similar interest in access to fair housing and fair housing protections;” 5. “land use and zoning barriers to the production of housing for low-income households in some localities;” 6. housing for “special needs populations, including the disabled, veterans, and the homeless;” and 7. “Racial and Ethnic Housing Concentration.”

<sup>10</sup> *Id.* at 71-76.

<sup>11</sup> See, e.g., Monsy Alvarado, *Meet North Jersey's 91-Year-Old Fair Housing Champion*, *Northjersey.com* (Aug. 13, 2018), <https://www.northjersey.com/story/news/new-jersey/2018/08/13/meet-north-jerseys-91-year-old-fair-housing-champion/868178002/> (article discussing the past and current fair housing efforts of the Fair Housing Council of Northern New Jersey and its executive director since its founding in 1959).

<sup>12</sup> Ann Choi et al., *Long Island Divided*, *NEWSDAY* (Nov. 17, 2019), <https://projects.newsday.com/long-island/real-estate-agents-investigation/#open-paywall-message>.

denied conventional mortgages at a rate of 12% compared to lower-income whites (10%).<sup>13</sup> In addition, Black and Latina/Latino applicants were also substantially more likely to be denied single-family loans compared to white and Asian applicants.<sup>14</sup> Black loan recipients also had the highest share of subprime loan originations, and Black and Latina/Latino home loan recipients were “more than 3 times as likely to be subprime relative to White and Asian loan recipients.”<sup>15</sup> With this crucial knowledge, we should identify barriers and create solutions that explicitly address continuing racial disparities and discrimination in housing and homeownership opportunities.

We also would like to have seen greater community engagement in the process of the development of the Analysis of Impediments draft. Such engagement could have highlighted barriers experienced in Black and other communities of color in the state. While we understand that public health concerns due to the pandemic made it impossible to host community engagement events in-person, we agree with the draft’s assessment that “low participation rate overall points to an area of improvement in community engagement and communications in the future.”<sup>16</sup> Still, 54% of respondents to the English language community member fair housing survey expressed that they were aware of instances of housing discrimination and stated that income level and race were the most frequent sources of housing discrimination, followed by criminal background.<sup>17</sup> In addition, participants in stakeholder interviews identified a lack of affordable housing as an issue, but they also noted that “[t]he most common causes of discrimination...were race, being homeless, and having a voucher.”<sup>18</sup> Greater access and transparency in the community engagement process would aid in ensuring that diverse voices are able to provide valuable insights into fair housing impediments in the state, particularly in regards to racial discrimination and barriers due to race.

Lastly, we commend the recent initiatives of the New Jersey Division of Civil Rights in combating housing discrimination, particularly for families who utilize housing assistance, and look forward to working collaboratively with you and across agencies in New Jersey to further important fair housing initiatives for communities of color in the state that will address the troubling findings in the draft Analysis.<sup>19</sup>

Thank you again for the opportunity to provide comments on the Analysis of Impediments draft. We hope that you will consider adjusting the 2020-2024 Analysis of Impediments to Fair Housing to incorporate more specific barriers to fair housing for Black and other people of color in order to develop and implement appropriate solutions to our ongoing racial segregation and housing and homeownership disparities in the state.

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<sup>13</sup> N.J. DEP’T OF CMTY. AFFS., *supra* note 5, at 46.

<sup>14</sup> *Id.* at 52.

<sup>15</sup> *Id.* at 57.

<sup>16</sup> *Id.* at 11.

<sup>17</sup> *Id.* at 15.

<sup>18</sup> *Id.* at 19.

<sup>19</sup> Press Release, N.J. Off. of the Att’y Gen., Div. of Civ. Rts., Year-Long ‘Project HOME’ Initiatives Includes Enforcement Efforts and Related Strategies to Address Discrimination Based on Tenants’ Sources of Lawful Income (Sept. 9, 2020), <https://www.nj.gov/oag/newsreleases20/pr20200909a.html>.

We greatly appreciate your work to encourage affordable housing and homeownership in New Jersey and look forward to working with you to expand fair housing efforts in the state.

Respectfully,

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Mellon/ACLS Public Fellow and Policy Analyst  
New Jersey Institute for Social Justice