

Open Communities Alliance
Connecticut Fair Housing Data Needs

Introduction

The state of Connecticut has made a commitment to affirmatively furthering fair housing and is legally obligated to do so. Affirmatively furthering fair housing means taking intentional steps to counteract the history of intentional government residential segregation and proactively ensuring that other groups protected by the federal Fair Housing Act have access to housing of their choice. To fulfill this promise, the state needs accurate data enabling it to analyze current obstacles to housing choice, develop a meaningful plan to remove those barriers, and regularly report on the its progress.

Connecticut is already obligated to collect much of the raw information needed to plan to address fair housing issues. But these requirements have created overlaps and gaps, and are missing key data about demographics and the type of housing available. As a result, truly usable data are not available. By reconceiving these existing commitments, Connecticut can develop a results-based approach to fair housing without imposing significant new requirements for state agencies.

Summary

As part of an effort to develop recommendations for a data collection process that produces the core information needed for a meaningful assessment of fair housing barriers, the development of a plan to address them, and generate progress towards identified goals, Open Communities Alliance conducted a detailed review of the state’s current data collection requirements. This review revealed the following:

Connecticut needs better data to make and assess progress on its fair housing commitments

- Under the federal Fair Housing Act of 1968 and related state law, Connecticut is required to affirmatively further fair housing. To fulfill this obligation, the state must analyze current barriers to housing choice, develop a plan to remove those obstacles, and regularly report on its progress toward reducing segregation and promoting inclusivity.
- Better information is crucial to each stage of this process. The state must be able to accurately assess current housing supply and demand, predict future trends, and evaluate the successes of various interventions.

State and federal law already require Connecticut to collect much of the needed information.

Existing federal and state law and regulations already require Connecticut to collect and report data on housing demand, demographics, supply, and more.

- These existing obligations include:
 - **CGS Sec. 8-37bb's** annual report on fair housing choice and racial and economic integration. The Connecticut Housing Finance Authority produces this report cataloging new affordable housing construction, outlining the demographics of tenants in state affordable housing programs, reporting demand among potential tenants, and setting goals for future progress. This is a promising platform on which to build more meaningful data reporting.
 - **CGS Sec. 8-37s** requires the Department of Housing to “monitor the progress of the public and private sector toward meeting housing needs.”
 - **CGS Sec. 8-37ff** requires the Department of Housing to “develop and maintain a comprehensive inventory of all assisted housing.” This report, known as the Affordable Housing Appeals List, annually compiles town-reported lists of deed-restricted housing, data on physical units of government subsidized housing, information on CHFA and U.S. Department of Agriculture-supported mortgages, and locations of tenant-based vouchers, as is required for administration of CGS Sec. 8-30g.
 - **CGS Sec. 8-37qq(A)(4)(b)(viii)** requires the Department of Housing to annually collect information on the racial composition of both occupants and those on the waiting list for each housing project supervised by the state.
 - **CGS Sec. 8-37rrr** requires reporting on the utilization and geographic location of participants in the Rental Assistance Program.
 - **24 CFR Part 91** mandates that jurisdictions receiving HUD funding, including the state of Connecticut and individual municipalities, produce a number of reports on housing need and demographics of program participants:
 - **Consolidated Plan**, which DOH produces every five years, gathers data on housing needs by category of family and available resources, and sets goals for production of new housing to meet increased need.
 - **Annual Action Plans** detail how the Department of Housing plans to execute the goals of each Consolidated Plan.

- **Consolidated Annual Performance and Evaluation Reports (CAPERs)** periodic reports submitted to HUD by the state and recipient municipalities outlining activities undertaken with HUD funding through the Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), Emergency Solutions Grants (ESG), and Housing Opportunities for Persons with AIDS Program (HOPWA).
- In its **Assessment of Fair Housing**, the state and municipal recipients of specific HUD funding must report to HUD on patterns of integration and segregation; racially or ethnically concentrated areas of poverty; disparities in access to opportunity; and disproportionate housing needs. On January 2, 2018 this requirement was suspended for 3-5 years by the Trump administration. This suspension was legally challenged in May of 2018.

Existing obligations do not work together to generate usable data and meaningful goals.

Despite these requirements, Connecticut has fallen short in its efforts to produce comprehensive, usable data needed to meet its fair housing commitment.

- (1) The state appears to have failed to produce some of the mandated data. For example:
 - DOH’s 2015-2016 annual report did not contain mandated information on the racial composition of both occupants and those on the waiting list for the projects and programs it supervises as is required by CGS Sec. 8-37qq(A)(4)(b)(viii).
- (2) In recent years the state has cut back on reporting requirements. For example:
 - Before 2011, the Department of Housing/Department of Economic and Community Development were obligated to produce detailed reports every five years providing an analysis of fair marketing activity. DOH is now exempt from this requirement under 8-37t, and only produces the far less detailed, HUD-mandated Consolidated Plan.
- (3) Current reporting practices do not produce data in the form most usable for truly assessing progress on fair housing goals. For example:
 - **Information is only reported at the aggregate.** DOH’s Affordable Housing Appeals List only publicly reports aggregate data on the amount of subsidized housing in the state by town. More detailed tract-level (yet non-personally-identifiable) data would allow the information to be used in an assessment of whether the state is proactively supporting integration and housing choice.

- **Crucial information about available supply is left out.** CHFA’s 8-37bb report does not include information on bedroom counts – a particularly important metric to assess whether family-appropriate units are being built.
- **Need and supply are never connected.** DOH’s Consolidated Plan identifies populations having a disproportionate need for affordable housing, but does not connect specific housing unit numerical goals to that need.
- **Only non-quantifiable goals are set.** The most recent 2015-2019 Consolidated Plan sets a number of broad objectives. Going forward, it is important to include specific numerical targets allowing the state to measure progress accurately.

Connecticut can build on its existing data-reporting requirements to move toward a results-based accountability framework for fair housing. The state can produce a more streamlined, comprehensive fair housing assessment and goal-setting framework using information it already collects—or at least has an obligation to collect. This report would bring four key components together in one place:

- Assessing current and future housing needs;
- Cataloging existing housing resources;
- Setting measurable goals, and
- Reporting on progress.

In the final section of this report, we outline how Connecticut can build on its *existing* commitments to create a truly comprehensive fair-housing plan.

Connecticut Has Fallen Short on Its Current Legal Obligations to Collect Data on Fair Housing

It is clear that Connecticut is already obligated to collect much of the data necessary to track the state's progress on fair housing. But, as discussed below, there are three major problems with existing data practices:

- (1) The state does not appear to have met all of its existing reporting obligations,
- (2) Several key data points are not required in the state's survey of housing needs and resources, and
- (3) The data that is collected is generally not presented to the public in the most usable form.

Looking ahead, it is critical that DOH, annually gather and combine that information in a useful manner, make it available to the public in a comprehensive manner, and analyze it to determine if the state's investments are promoting fair housing choice. The information should also be consolidated, drawing on data currently collected by DOH, Department of Community and Economic Development (DECD), and Connecticut Housing Finance Authority (CHFA), among other state agencies. The current decentralization of this process makes it difficult for those tracking state progress to see all of the necessary information in one place. Current state silos hinder a truly comprehensive assessment and planning.

Existing State Obligations

1. **CGS Sec. 8-37s:** Under this statute, DOH must, "monitor the progress of the public and private sector toward meeting housing needs." The statute also requires that DOH "collect and annually publish data on housing production in the state."

What is actually happening:

There is not a single document that, taken alone, responds to the Legislature's directive that the Department of Housing annually produce data on housing production. The Department of Economic and Community Development produces an annual Construction Report, which details the number of all units (subsidized and non-subsidized) for which building permits are issued by each town.¹ This list also shows demolitions. This report does not strictly reflect whether those developments granted permits were actually built, and it does not distinguish between homeownership and rental projects. However, it does include unit counts, which can provide an indication of whether a development is more likely to be a multifamily and therefore rental property.

¹ Available through DECD's website under "Housing Reports." <http://www.ct.gov/ecd/cwp/view.asp?a=1105&q=251248>.

The Department of Housing's Annual Report, pulling from the DECD account, also details the housing units created or preserved that year, broken down by number of units and town.² DOH also keeps track of towns' reports of housing that qualifies as "affordable" under CGS Sec. 8-30g.³ However, the public version of the Affordable Housing Appeals list (discussed below under CGS Sec. 8-37ff) only includes summary data by town.

DOH's Annual Report also includes a listing of "Housing Development Contractual Activity." This list delineates the data by project name, municipality, financing levels and sources, total housing units, assisted units, rental units, preserved units, elderly v. family restrictions, funding source, and the number of jobs created or retained. Again, these data do not include information on project address, bedroom counts, or specific targeting information (e.g. percentage of area median income).

The most comprehensive publicly available list of *subsidized* housing units appears in the Connecticut Housing Finance Authority's yearly report, as required under CGS Section 8-37bb. More details on this report are provided below. Following the 2011 amendment to the state statutory obligations, DOH is no longer required to issue a similar report. Providing more complete statistics to the public would allow these data to be used in an assessment of whether the state is proactively supporting integration and housing choice in its programming.

Prior to 2011, CHFA also maintained the Preservation List, which comprehensively detailed all of the state and federal governments' investments in subsidized housing, including information on income targeting and some financing sources. It is the most complete listing of subsidized housing resources. But this list was kept imperfectly over time, and was missing key data such as full financing information, an inventory of Project-Based Section 8, and descriptions of some supportive units. And it is not publicly available without a Freedom of Information Request – and, significantly, has not been updated in more than five years.

Overall, it is important for the Department of Housing to collect and publish detailed data on housing production in the state in a uniform, regular manner. Though much of this information may be collected by other parts of the state government (such as DECD), it is often reported only in aggregate form, and does little to assess how the previous year's investment affects the overall housing stock.

2. CGS Sec. 8-37t: DOH and CHFA are to produce a Consolidated Plan in conformance with HUD requirements pursuant to 24 CFR Part 91, which mandates submission of a detailed housing needs assessment under Section 91.305 in exchange for the receipt of certain federal housing funding. (For more information on "*What is actually happening*" under these obligations, see below at 15.)

² DOH's 2016 Annual Report is available here: http://www.ct.gov/doh/lib/doh/final_annual_report_for_distribution.pdf.

³ The publicly available 2016 Affordable Housing Appeals list is available here: http://www.ct.gov/doh/lib/doh/2016_appeals_list.pdf.

3. CGS Sec. 8-37bb: This statute requires reporting on subsidized housing stock, tenant/waitlist demographics, and progress. Each of these obligations will be reviewed in turn.

8-37bb Housing Stock Reporting: This statute creates an obligation to complete extensive reporting on the state's subsidized housing stock. It originally applied to CHFA and DECD, which previously ran many of the state's housing programs. In 2011, DECD successfully advocated for its removal from the statute, arguing that the report was duplicative of the data required by HUD's Consolidated Plan. This exemption is now applied to the Department of Housing, since its re-establishment by the Legislature in 2012.

While the statute puts considerable emphasis on reporting information about households served, it also mandates reporting by housing development, program, and census tract.

Housing Stock - What is actually happening: CHFA's CGS Sec. 8-37bb report includes relatively comprehensive information about new developments built in the previous year—although critical information like addresses, bedroom counts, and developers' names are missing. The bedroom counts are particularly important to assess whether family-appropriate units (with two bedrooms or more) are being built in areas with high-performing schools and access to other opportunities.

The report also includes a full list of active subsidized developments, broken down by development name, town, and demographic served (elderly v. non-restricted v. supportive). Still, this list is likewise missing critical information like development address, bedroom count, census tract (for multifamily rental), developer name, cost per unit, and financing data. *The omission of census tract information from the multifamily development data explicitly violates the statutory mandate.*

The report is flawed in other ways as well. Claims about developments in higher opportunity areas do not align with disclosures elsewhere in the report about actual production. A lack of distinction between rehabilitated versus new construction and elderly versus unrestricted housing make it difficult to discern if any progress is being made on creating housing that allows children in districts with thriving schools that are disproportionately White.

By exempting DOH from this obligation, the statute fails to catalog at least one major category of subsidized housing: projects in which the state is involved but which include no CHFA support. These projects may be 100% DOH-funded or may also include other capital sources like bonding or private loans. The CHFA report also misses any projects that are created or rehabilitated with a combination of HUD and DOH funds, even though such developments are likely reported separately to HUD.

Furthermore, the exemption of DOH results in no detailed annual reporting on or analysis of the location of households with tenant-based rental assistance – such as RAP and the federal

Housing Choice Voucher program – even though DOH collects this data about the programs it administers. As is discussed below, separate reporting requirements for RAP under CGS Sec. 8-37rrr are not currently being complied in a manner that provides relevant geographic usage data.

Such analyses were made more difficult in 2017 when DOH successfully advocated for a provision restricting access to RAP data except with the permission of the Commissioner.⁴ While this provision was passed with the intention of protecting the privacy of RAP recipients, it makes it impossible for researchers and advocates to access non-personally identifying information on the RAP program through the Freedom of Information Act process without special dispensation from the Commissioner of DOH.

With current exemptions in place, there is no affirmative obligation to collect information from any other state agency that supports affordable housing production or access.

8-37bb Tenant Demographic Reporting: CGS Sec. 8-37bb also requires Connecticut Housing Finance Authority to submit annual reports on tenant demographics in its programs, including:

- An analysis of “the households served under each program by race. ...Each analysis shall include data for all households (1) entering an agency program during the year... and (2) in occupancy or receiving the benefits of an agency rental program. ...The report... shall also identify, by census tract, the number of households served in each program and the total amount of financial assistance provided to such households.”
- “[D]ata on the racial composition of the occupants and persons on the waiting list of each housing project which is assisted under any housing program established by the general statutes or special act or which is supervised by the agency.”

Tenant Demographics - What is actually happening:

CHFA is diligently reporting data on occupancy and waiting list composition, but about 22% of developments apparently still do not report these demographics at all. Approximately 46% of private developments with the reporting obligation report, but fail to provide data. This is true of 33% of the state-sponsored multifamily portfolio. This makes it impossible for other stakeholders to assist with the assessment. Even the data that is collected does not appear to be analyzed to see if, as required by law, affirmative marketing across racial lines is being implemented effectively.

DOH is no longer subject to this requirement, although similar demographic information is required, but not currently reported, under 8-37qqq (see below at 12). Other state agencies have never been required to produce such data. It is therefore impossible to determine if the

⁴ See Public Act No. 17-177 (to be designated CGS Sec. 8-235d), available at <https://www.cga.ct.gov/2017/act/pa/pdf/2017PA-00177-R00HB-07060-PA.pdf>.

marketing efforts of DOH grantees and subsidized developments administered by other agencies are effectively reaching across racial lines.

8-37bb Tracking Progress: CGS Sec. 8-37bb generally requires the state to track its progress each year toward advancing fair housing. This requirement has far less force, however, because the report does not require the state to set concrete benchmarks. The statute requires CHFA to annually,

- “[D]ocument the efforts of the agency in promoting fair housing choice and racial and economic integration and shall include data on the racial composition of the occupants and persons on the waiting list of each housing project which is assisted under any housing program established by the general statutes or special act or which is supervised by the agency.”
- “[A]nalyze the efforts, and the results of such efforts, of each agency in promoting fair housing choice and racial and economic integration.”

Tracking Progress - What is actually happening:

CHFA’s 8-37bb report does not provide any concrete goals for affirmatively furthering fair housing. As a reporting document, it is theoretically not intended to. That said, the 8-37bb report *is* intended to “analyze efforts” to promote fair housing choice. Meaningful compliance with this requirement would, by necessity, involve the creation of goals and targets to measure success. Because the report totally lacks such goals, it cannot

8-37bb Case Study

As part of reporting on its efforts to “Expand Housing Opportunities and Design Choices to Accommodate a Variety of Household Types and Needs,” CHFA cites its support of multifamily development in East Hampton, Fairfield, New Canaan, and Waterford. It is unclear from the report itself which specific developments CHFA is referring to. But all of the developments built in East Hampton and Fairfield are either elderly-only—prohibiting families with children—or supportive housing—which frequently does not include units with two or more bedrooms appropriate for families. Data on bedroom counts is not available, however, so it is difficult to determine this definitively.

There are two listings for New Canaan, one for the presumed redevelopment of Canaan Parish, which includes 60 unrestricted units. Because this is a redevelopment, it does not represent new units of housing that can be affirmatively marketed to support integration. The second New Canaan development is for Canaan PariSupportive Housing, which is listed as “family” housing. But in the absence of data on bedrooms per unit, it is difficult to tell if these units can truly accommodate families. There are no developments listed in Waterford. Thus, even the report’s minimal and incomplete analysis of efforts to promote balance in the location of multifamily housing appears to be inaccurate and misleading.

Interestingly, none of the developments in East Hampton or New Canaan provided reporting on racial demographics, and only some of the Fairfield developments reported such information to CHFA. Those developments in Fairfield that did report such information had virtually no Black or Latino residents. *This is the kind of elementary fair housing analysis the Legislature expected when it passed CGS 8-37bb.*

meaningfully analyze CHFA's efforts or the results of its efforts.

Setting aside progress on goals, there is also no analysis of results to determine if fair housing concerns are at issue. The report should, at minimum, perform the following analyses:

(1) Do the tenant demographics of each subsidized development reflect that of qualifying households by race and ethnicity and other protected class categories?

The lack of meaningful results may in part be due the agency's reliance on the prescriptions of the separately mandated Plan of Conservation and Development (POCD), which each municipality must produce under state law. The 8-37bb report explicitly points to the Plan of Conservation and Development as an overarching guide for the work of CHFA.⁵ But this broad development plan includes no elements that affirmatively further fair housing in a concrete way, as well as several elements that would serve as disincentives to balanced multifamily development. It is inappropriate for CHFA and the state to rely on the POCD requirement to fulfill its obligations to measure progress towards addressing housing need in a way that affirmatively furthers fair housing.

4. CGS Sec. 8-37ee: Connecticut requires participants in programs administered by CHFA and DOH to affirmatively market their properties to groups "least likely to apply"—those who "do not live in the area of the development because of racial or ethnic patterns, perceived community attitudes, price or other factor." These entities are required to submit affirmative marketing plans and report on outcomes per Connecticut Regulation Sec. 8-37ee-1 et seq. It is not clear whether CHFA is subject to these regulations.

In addition, under CGS Sec. 8-37ee, CHFA and DOH are required to "periodically review each plan to assure that to the extent practicable such an applicant pool is created and may require that a plan be revised by the entity submitting it." Presumably, tenant demographic information must be aggregated, analyzed, and, ideally, available to the public in order to complete such a review.

What is actually happening: A separate analysis needs to be undertaken to determine if CHFA and DOH's review of affirmative marketing is currently successful. There are *no public documents* reflecting such a review. For the purpose of this inquiry, it is important to note that *both* agencies have an obligation to collect demographic data, and that CHFA is already doing so and reporting it publicly in the 8-37bb report (albeit without further fair housing analysis).

It is unclear whether DOH has continued to collect such data since it removed itself from the obligation to produce the 8-37bb report. However, two additional sources make clear that DOH's grantees still have demographic-reporting obligations.

⁵ See CHFA 2016 8-37bb Report at Section 8 pg. 2, available at http://www.chfa.org/content/CHFA%20Document%20Library/8-37bb_FINAL.pdf.

First, DOH publishes “Fair Housing Action Plan Guidelines” for its housing subsidy grantees. This Guide, in turn, includes an Affirmatively Furthering Fair Housing Marketing Plan, Form AA-5, which outlines the fair marketing requirements with which grantees must comply.⁶ This form clearly states that, “[o]nce the [housing] project is in occupancy, recipients are required to collect racial and economic data from both tenants and persons on the waiting list.”⁷ When a development is first occupied, there is already a system in place to collect the necessary demographic information from DOH grantees to generate the kind of fair housing analysis required by CGS Sec. 8-37qqq and other mandates.

Second, DOH Fair Housing Regulation 8-37ee-7 also requires that grantees “collect racial and economic data from tenants and persons on waiting lists,” with an accompanying analysis of income groups and races served. Grantees are required to report these data to the Commissioner annually, with specific reporting on the households that entered the housing development over the previous year.⁸

Based on these two sources, DOH housing grantees must produce demographic data when units are first occupied and annually thereafter. These data do not appear to be produced in a DOH publication. Any fair housing analysis, if conducted, is not available publicly.

5. CGS Sec. 8-37ff: This statute requires that DOH “develop and maintain a comprehensive inventory of all assisted housing, as defined by section 8-30g, in the state. Assisted housing, as defined by section 8-30g, includes “housing which is receiving, or will receive, financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing, and any housing occupied by persons receiving rental assistance.”

What is actually happening: This statute mandates the reporting of several types of housing data. DOH meets this obligation in a report it calls the Affordable Housing Appeals List. This list gathers the following information:

(1) Towns annually self-report to DOH the deed-restricted housing that meets the “affordable housing” definition under CGS Sec. 8-30g. DOH maintains comprehensive data on these affordable units, including each unit’s name, address, municipality, number of deed restricted units, date of occupancy, duration of deed restriction, source agency for subsidy, and agency funding program. Based on a version of the fuller database obtained by OCA, this report does not include financing, bedroom counts, new construction v. rehabilitation status, demographic served (elderly v. family v. other). Some of this additional data may not be readily available if the project does not contain any government subsidy support.

⁶ DOH’s Fair Housing Action Plan Guidelines are available at http://www.ct.gov/doh/lib/doh/fair_housing_action_plan_implementation_guidelines_for_housing_jan2014.pdf.

⁷ See Fair Housing Action Plan Guidelines at 23,

⁸ http://www.ct.gov/doh/lib/doh/conappdocs/fair_housing_regulations_only_bg.pdf.

(2) DOH also collects government subsidy data. Based on the compilation of this data obtained by OCA, this collection includes information on municipality, name, total units, and demographic served (“Family,” “Elderly” or “Handicapped”). These data do not include addresses, financing, bedroom counts, duration of subsidy, or affordability targeting information, although presumably address information, at a minimum is accessible to DOH. Additional clarification is necessary to understand if project-based vouchers are included within this summary.

(3) DOH collects data on CHFA and US Department of Agriculture (USDA) supported mortgages.

(4) DOH includes tenant-based voucher locations in the count. It is unclear whether DOH separately determines whether any tenant-based voucher holders are living in deed-restricted unit or subsidized units, so it is possible that DOH’s overall data double-counts qualifying units or households.

From these four sources, DOH produces the Affordable Housing Appeals List—a publicly available compilation with the following breakdowns:

- Total housing units by town as of the most recent census.
- Total governmentally assisted units by town.
- Total tenant rental assistance by town.
- Single family CHFA or USDA mortgages by town.
- A total of all of the assisted units above.
- A calculation of what percentage these total assisted units represent of the total housing units in the state.

Thus, a considerable amount of information is already collected to ensure compliance with 8-30g. However, only aggregate data is made publicly available without a Freedom of Information Act request. Providing the data in a more complete form to the public would be helpful. In addition, including data on bedroom counts and limitations on residency (elderly, families, handicap, supportive, veterans, etc.) in the aggregate list would also allow these data to be used in an assessment of whether the state is proactively supporting integration and housing choice. Furthermore, the report should compare the tenant-based subsidy data against the deed-restricted and government-subsidized data to ensure that there is no double counting.

6. CGS Sec. 8-37qqq(A)(4)(b)(viii): This statute requires that the DOH annual report include information on the racial composition of both occupants and those on the waiting list for “each housing project that is assisted under any housing program established by the general statutes or a special act or that is supervised by the department.” Because this obligation is framed as part of a “summary of the department’s efforts in promoting fair housing choice and racial and economic integration,” this statute should also be seen as a goal-setting and tracking duty.

What is actually happening: These data are not contained in DOH’s 2015-16 Annual Report. Some of the demographic data required under this statute almost certainly overlap with data that are reported by CHFA under CGS Sec. 8-37bb, but there are likely also some data gaps.

Fulfilling this obligation would simply require determining which state subsidized housing investments have neither CHFA nor HUD funding, and ensuring that DOH is collecting the relevant demographic data from its grantees. Given the reality of layered subsidies in most government-funded developments – with CHFA support combined with HUD investment, DOH contributions, bonding, and private investment – the number of developments that include neither HUD support nor CHFA investment is likely very small.

Moreover, it is important for DOH to establish meaningful benchmarks to track its “efforts in promoting fair housing choice and racial and economic integration” under this statute. The Department’s annual report does not include any explicit goals for supporting the development of affordable units outside areas of poverty concentration, or in areas that are disproportionately White and currently have a dearth of affordable options. There is no summary of occupancy or waitlist composition by race and development location, which is clearly required by the statute.⁹

7. CGS Sec. 8-37rrr: This statute requires an annual report on the Rental Assistance Program (RAP). The report must include the number of clients of various agencies who have gained access to RAP, detail the utilization of the program to reflect conformance with CGS Secs. 8-345 to 8-346a. Most significantly, 8-345(e) states that,

The commissioner shall administer the program under this section to promote housing choice for certificate holders and encourage racial and economic integration.

What is actually happening: The last time this annual report was issued was in 2015¹⁰ and neither that iteration nor the one produced in 2014¹¹ provide a geographic analysis on where RAP recipients are located, as is clearly required by CGS Sec. 8-37rrr.

⁹ Data on unit location by race and poverty concentration is provided in the 2015 Analysis of Impediments to Fair Housing Choice. The DOH Annual Report does provide information on other fair housing activity, including support for the education, testing and enforcement work of the CT Fair Housing Center. See 2016 Annual Report at 24.

¹⁰ The 2015 Department of Housing Rental Assistance Program and Section 8 Housing Choice Voucher Program report is available at http://www.ct.gov/doh/lib/doh/doh_rental_assistance_programs_report_sfy_15.pdf.

¹¹ The 2014 Department of Housing Rental Assistance Program and Section 8 Housing Choice Voucher Program report is available at http://www.ct.gov/doh/lib/doh/doh_rental_assistance_programs_report_sfy_15.pdf.

Existing Federal Obligations

1. HUD Consolidated Plan. As required by 24 CFR Part 91, certain HUD grantees are required as a condition of funding to submit a Consolidated Plan (Con Plan) to HUD every five years. It is intended to “help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions.”¹²

As part of its Consolidated Plan, the state is required to separately report on efforts to affirmatively further fair housing via, pre-2015 the Analysis of Impediments to Fair Housing Choice and, post-2015 (excepting the Trump administration’s suspension) the Assessment of Fair Housing.

These fair housing assessments and the Consolidated Plan are companion reports. In fact, as part of the Consolidated Plan, HUD grant recipients must certify that they will affirmatively further fair housing through a full fair housing assessment process: conducting an assessment, taking appropriate actions to overcome any impediments identified through that analysis, and maintaining records of these actions.

Con Plan Housing Need Tracking (Section 91.305): The Con Plan must include an estimate of the number and type of families in need of housing assistance including:

- “(A) Extremely low-income, low-income, moderate-income, and middle-income families;
- (B) Renters and owners;
- (C) Elderly persons;
- (D) Single persons;
- (E) Large families;
- (F) Public housing residents;
- (G) Families on the public housing and Section 8 tenant-based waiting list;
- (H) Persons with HIV/AIDS and their families;
- (I) Victims of domestic violence, dating violence, sexual assault, and stalking;

¹² HUD, Consolidated Plan, Process Grants Programs and Related, HUD Programs, available at <https://www.hudexchange.info/programs/consolidated-plan/consolidated-plan-process-grant-programs-and-related-hud-programs/>.

(J) Persons with disabilities; and

(K) Formerly homeless families and individuals who are receiving rapid re-housing assistance and are nearing the termination of that assistance.

Con Plan, Applicant and Beneficiaries Data (Section 570.490): This federal regulation requires that recipients of funding through the Community Development Block Grant program collect “data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program. The records shall also permit audit of the states in accordance with 24 CFR part 85.”

Con Plan, Information on Available Resources (Section 91.310): This provision requires that the state produce:

- a. A description of the significant characteristics of the state’s housing market, including supply, demand, and cost.
- b. “A brief inventory of facilities and services that meet the needs of homeless persons within the state, particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth.”
- c. An inventory of services for homeless persons and mainstream services that may help homeless persons.
- d. A description of the facilities and services available to those who are not homeless but who required supportive housing

What is actually happening:

1. Details on Housing Stock. The Department of Housing’s 2015-2019 Consolidated Plan does not include a complete, detailed inventory of subsidized housing units available to low-income and homeless residents, nor does it provide the kind of aggregate summary that would best inform a Housing Market Analysis.

The Plan does include the following information about Connecticut’s subsidized and non-subsidized housing inventory:

- An estimate that the state has 132,888 units of housing made affordable through government subsidy, rental assistance, or deed restriction.¹³

¹³ Consolidated Plan at 28.

- Data on expiring use restrictions for subsidized housing stock, projecting that 4,800 affordable units will lose their affordability obligation between 2016 and 2020.¹⁴
- A reference to a report on the Capital Plan for revitalizing the State Sponsored Housing Portfolio. This report, in turn, lists 281 properties considered part of the state's Portfolio. This listing includes the property's CHFA number, municipality, developer, total units, and program type (such as Elderly, Congregate, Moderate Rental, Limited Equity, Section 8, and more).¹⁵
- Real Estate Assessment Center scores reflecting the quality of 34,513 units of federally-supported units.¹⁶

Once again, considerable information is already collected and analyzed for purposes other than a fair housing assessment. These data could be incorporated into a meaningful fair housing analysis.

2. Projections of Housing Need. As required by 24 CFR Part 91, subsection 91.305, this report has a much more limited analysis of housing need than the Long Range Plan required before 2011 by state statute. The report thus provides little usable analysis—and occasionally conflicting conclusions—for those trying to assess progress on the ground in Connecticut. For example, the most recent report finds that,

*The state will need approximately **50,000 additional housing units** (owner-occupied and rental) during the 2015 – 2019 time period to meet the growing needs. This translates to the production of an average of approximately 10,000 units per year, a portion of which must be affordable.¹⁷*

But later, the same report concludes,

*Based on the number of residents spending more than 30% of their income on gross rent in the 2013 ACS (230,934 households) and the number of new households anticipated as a result of the increase in population, approximately **110,000 rental units** need to be created throughout the state. The necessary affordable rental units can also be created by lowering the cost burden of the rental units that currently exist and introducing new construction. To rectify the current affordable renter*

¹⁴ Consolidated Plan at 28.

¹⁵ This report is available at <http://www.chfa.org/Press%20Room/Press%20Releases/pressreleaseviewer.aspx?id=528>.

¹⁶ Consolidated Plan at 32.

¹⁷ 2015-2019 Consolidated Plan for Housing and Community Development at ix, available at http://www.ct.gov/doh/lib/doh/published_conplan_15-19.pdf (emphasis added).

*household need problem by 2020, approximately 22,000 units would have to be created annually.*¹⁸

The initial 50,000 estimate does not break down the projection by rental versus homeownership need, income, or household size. While the second estimate is limited to just the need for rental housing on the part of households spending more than 30% of their income on gross rent, this projection still does not provide more detailed data on income and bedroom count. And, of course, the two estimates do not align. Are just 10,000 units of homeownership *and* rental housing needed annually, or 22,000 for just renters?

The Consolidated Plan also provides little of the information needed to assess fair housing progress. While the report identifies certain populations having a disproportionate need for affordable housing (Blacks, Latinos, single-parent households, people with disabilities), specific housing unit numbers are not connected to that need. The report includes an assessment of expiring units, but there is not an obvious place where this enters into a final calculation for new subsidized housing units needed.¹⁹

3. Goal Setting. The 2015-2019 Consolidated Plan outlines five fair housing-related objectives, with accompanying “outputs,” “outcomes,” and “indicators.” These goals are drawn from the accompanying Analysis of Impediments to Fair Housing Choice (discussed below). This is one of the few planning documents to specifically address housing segregation. Several of the stated outputs are excellent goals. Unfortunately, they are not accompanied by specific numerical targets. The five objectives are:

- a) “Encourage the creation and rehabilitation of affordable housing in a variety of locations through competitive funding rounds.”
- b) “Collaborate with other agencies to affirmatively further fair housing.”
- c) “Convene stakeholders to review potential legislative solutions to existing impediments.”
- d) “Maximize effectiveness of mobility programs.”
- e) “Improve fair housing education and enforcement.”

All of these are laudable goals. In particular, the focus on subsidized housing placements in higher opportunity areas is critically important, and the Department of Housing should be applauded for articulating this vision.

However, the Consolidated Plan sets out few ways to measure those goals in a meaningful way.

¹⁸ Consolidated Plan at 32 (emphasis added).

¹⁹ Consolidated Plan at 28.

For example, to meet objective (a), the state plans to assign high point values in competitive funding rounds to projects in historically underserved communities. According to the Plan, the number of applications received would be used as the first indicator of success. But DOH has not set and specific and meaningful numerical goals for enacting this strategy.

In addition, the Consolidated Plan does not require any specific numerical targets for the state's newly created mobility programs, under objective (d). Following a new state law mandating the use of mobility in state voucher programs, in the 2016/2017 fiscal year DOH signed contracts with two mobility counseling agencies. At current funding levels, this program can serve 300 clients who make moves to higher opportunity areas. With over 30,000 households served by either RAP or Housing Choice Vouchers, the mobility counseling program can thus serve less than 1% of program participants. This program should be scaled up to meet this overwhelming need. But it may be difficult for the state to establish a proven track record. Though the program contract provides specific numerical goals,, the Consolidated Plan as a whole does not.

2. HUD Annual Action Plans. As part of its obligation under the Consolidated Plan, Connecticut is required to generate annual action plans to outline specific steps and report on interim progress.

What is actually happening. The state's recent action plans include some helpful language regarding fair housing choice and access to opportunity. For example, the 2015-2016 Action Plan included as a broad policy goal a recommendation to "increase the access of racial and ethnic minorities, people with disabilities and families with children to the existing supply of housing" could serve to reinforce lines of segregation, given that the existing supply of affordable units are located disproportionately in areas of minority concentration, and participants in subsidized housing programs are disproportionately people of color.²⁰

However, the most recent Action Plans have not explicitly reflected the goals in 2015-2019 Consolidated Plan. And broad policy statements are not enough. It is important for the Action Plan to set real goals for production of subsidized development in areas of high opportunity. When the Action Plan does include specific objectives, these do not clearly delineate a target with regard to the location of subsidized multifamily housing. For example, though the state has committed to encouraging "the creation and rehabilitation of affordable housing in a variety of locations,"²¹ the numerical targets included in the section are never tied to specific goals in areas of high opportunity.

3. Consolidated Annual Performance and Evaluation Reports (CAPERs): CAPERs²² are periodic reports submitted to HUD outlining activities undertaken with HUD funding through the Community Development Block Grant (CDBG), HOME Investment Partnerships Program

²⁰ 2015-2016 Action Plan at 17. See also the 2015 Connecticut Analysis of Impediments to Fair Housing Choice for a review of racial and subsidized housing demographics.

²¹ 2015-2016 Action Plan at 67.

²² CAPERs for Connecticut government entities are available here <https://www.hudexchange.info/programs/consolidated-plan/con-plans-aaps-capers/>.

(HOME), Emergency Solutions Grants (ESG), and Housing Opportunities for Persons with AIDS Program (HOPWA). These reports include data on outcomes for specifically identified goals, as well as racial and economic data on program participants.

What is actually happening: Two aspects of the CAPER system are important to highlight. First, through its CAPER reporting, the state is already collecting racial and economic data on participants in the designated HUD-funded programs. Second, none of the goals the state has articulated to HUD in the CAPER reports focus specifically on creating affordable or subsidized units in higher opportunity areas. In other words, within the CAPER system, the state has not articulated to HUD specific plans to promote integration.

4. Duty to Affirmatively Further Fair Housing (AFFH), 42 U.S.C. §§ 3601-3619:

AFFH Federally Funded Housing Location Data: The regulatory details for this obligation are provided in HUD's 2015 Affirmatively Furthering Fair Housing Rule, 24 CFR Parts 5, 91, 92, et al. Under subsection 5.154, Assessment of Fair Housing (AFH), the state, as a recipient of certain HUD housing support, is required to assess any disproportionate housing needs based on race, color, religion, sex, familial status, national origin, and disability. An inventory of the government-supported subsidized housing stock is a prerequisite for this analysis.

What is actually happening: As part of the Assessment of Fair Housing process, HUD provides extensive data on HUD-supported housing developments, including public housing and Low Income Housing Tax Credit developments. Still, these inventory lists are often missing critical information such as the cost-per-unit and special populations served. Furthermore, there is a very real danger that following the Trump administration's suspension of the Affirmatively Furthering Fair Housing reporting requirement, support and funding of this data will likewise be withdrawn.

AFFH State Funded Housing Location Data: The regulation also requires local data collection, "relevant to the program participant's geographic areas of analysis, that can be found through a reasonable amount of search, are readily available at little or no cost, and are necessary for the completion of the AFH using the Assessment Tool."²³

What is actually happening: For decades, the tool HUD required grantees to use to report on affirmatively furthering fair housing efforts was the Analysis of Impediments to Fair Housing Choice (AI). HUD issued only some guidance on what should be included in these reports. But the requirements were not firm and, in fact, HUD was not obligated to review the reports produced. Starting in 2015, the AI will be replaced with the new requirement for an Assessment of Fair Housing. The state's AFH report was originally due in 2019, however, the Trump administration's January 2, 2018 suspension of the reporting under this rule means that the state's report is now not due until after 2021.

²³ Affirmatively Furthering Fair Housing Regulation, Section 5.152.

These reports have historically not provided enough necessary data to plan and evaluate progress on fair housing. Connecticut's 2006 Update did not map the location of subsidized housing. The state's 2015 AI was an improvement on the previous effort. It mapped the units included on the Preservation List discussed above and showed that there is considerable segregation of subsidized units. The list was updated as of 2012, and provided a strong base for a comprehensive accounting in the 2015 report. However, such an accounting will not possible going forward because CHFA no longer maintains this list. Unless such an inventory is updated with local housing data, it will be difficult for the state to complete a comprehensive report when the next equivalent report—the Assessment of Fair Housing—comes due in October 2019.

The 2015 AI also lacked specific measurable goals to address the deficits identified. In its final chapter the AI articulated five broad actions the state should take—mirroring the set of recommendations in the accompanying Consolidated Plan (described above). In its AI, DOH included additional details on specific actions it would take to meet those objectives, such as altering incentives in competitive applications for subsidized housing funding in order to encourage developments in higher opportunity areas, but the report does not include kind of specific geographic unit development goals needed to make and track meaningful progress on the issue of segregation in Connecticut.

[AFFH Affirmative Marketing Data](#): Under this duty to affirmatively further fair housing, numerous HUD programs also require assessments of affirmative marketing efforts, in order to connect underserved populations with housing in a way that affirmatively furthers fair housing. By necessity, these requirements call for a review of tenant demographics. The programs that require affirmative marketing plans and review include:²⁴

- Section 8 Housing Assistance Payments Program²⁵
- HUD Insured Programs²⁶
- Property Disposition Programs²⁷

What is actually happening: HUD reporting requirements are generally adhered to. So, while OCA has not accessed and reviewed Connecticut's reporting on these programs, it is a fair presumption that the state currently provides demographic reporting to HUD to meet the affirmative marketing requirements. Thus, in the regular course of business the state or its

²⁴ For a summary see, <https://portal.hud.gov/hudportal/documents/huddoc?id=80251x4FHEH.pdf>.

²⁵ See New Construction Processing Handbook, 7420.1 REV.; Substantial Rehabilitation Processing Handbook - 7420.2 REV. 1; Section 8 Additional Assistance Program for Projects with HUD-Insured or HUD-Held Mortgages (HUD Handbook 4352.1); Section 202 Direct Loan Program for Housing for the Elderly and Handicapped, Handbook 4571.1 REV.; Section 811 Supportive Housing for Persons Disabilities, Handbook 4571.2; Handbook 4571.3 - Section 202 Supportive Housing for the Elderly.

²⁶ Single Family Subdivision Processing Handbook (4135.1); Occupancy Requirements of Subsidized Multifamily Housing Programs, dated 11/4/81 Handbook 4350.3; Single-Family Direct Endorsement Program, dated September 1988, Handbook 4000.4 REV-1.

²⁷ Property Disposition Handbook - One to Four Family Properties - Handbook 4310.5; Multifamily Property Disposition Handbook - Management Handbook 4315.1 REV-1, Paragraphs 6-2 and 6-3; Handbook 2210.16, Property Disposition Contracting (Reserved).

grantees presumably already collect the demographic information necessary to conduct a fair housing review of a variety of programs.

Past obligations under state law

1. The 2010-2015 Long Range Housing Report.²⁸ Before 2011, DOH/DECD were obligated to produce reports every five years analyzing projected housing needs in the state. But DOH/DECD successfully lobbied to substitute the original requirements of CGS Sec. 8-37t with a pre-existing obligation to produce the HUD-mandated Consolidated Plan. The last Long Range Housing Report, covering projected need for 2010 to 2015, was produced in 2009. It concluded that, at the time, “[t]he state [would] need approximately 67,888 to 75,893 additional housing units (owner-occupied and rental) during the 2006-2015 time period to meet the growing needs.”²⁹

What actually happened: This report included solid data on then-current family sizes at various income levels and on income levels among homeowners and renters.³⁰ It provided some county-level analysis of housing, including information on substandard and overcrowded housing.³¹ The report’s assessment of future housing needs also included a comparison of the projected need by county.

But the assessment here was incomplete. First, the subsidized housing stock data in the analysis is based on the Connecticut Housing Finance Authority’s Preservation List—a source that, according to the Department of Housing, was itself missing key information. More broadly, the report did not frame the data with any perspective on then-current needs relative to geographical goals on racial integration. While the report considered existing and expiring stock, it seems to not have produced a final projection of needed rental housing stock at various income levels going forward. This report also did not consider housing needs relative to geography and access to other neighborhood resources, like high performing schools and safe communities. Furthermore, to produce a meaningful estimate of the overall affordable housing need, this report would have needed to compare the projected need with the existing and expiring subsidized stock.

2. Reports of the Interagency Council on Affordable Housing. The Interagency Council issued two reports, an *Affordable Housing Market Inventory Study* (November 2013)³² and a *Final Report* for the Council (January 2014).³³

²⁸ 2010-2015 Long Range Housing Report, CT Department of Housing, available at http://www.ct.gov/doh/lib/doh/housing_plans/state_long_range_housing_plan_2010-15_slrhp_-_final_.pdf.

²⁹ 2010-2015 Long Range Housing Report at v.

³⁰ 2010-2015 Long Range Plan, Appendix B at 63.

³¹ Id. at Appendix B 69-70.

³² Available at http://www.ct.gov/opm/lib/opm/hhs/interagency_council_on_affordable_housing/meeting_2013_12-03/final-report-11-12-13.pdf.

³³ Available at http://www.ct.gov/opm/lib/opm/hhs/interagency_council_on_affordable_housing/meeting_2014_01-23/interagency_council_on_affordable_housing_2014_final_report.pdf.

What actually happened: The *Housing Market Inventory Study* provides the most comprehensive assessment of housing needs of which OCA is aware. It concluded that 43,000 units were needed to accommodate the unmet need for rental housing for households earning under 80% of Area Median Income, the overwhelming majority of which earned under 50% AMI.³⁴ This report does not address where such development should occur and does not address racial, ethnic, or economic disparities. It also does not, in its final conclusion, recommend a specific mix of bedroom sizes to accommodate the projected population growth.

The *Final Report of the Interagency Council on Affordable Housing* acknowledges the deep residential segregation in the state and the need for changes to housing program priorities and exclusionary zoning practices. It adopts the need recommendations of the *Inventory Study*.

³⁴ Interagency Council on Affordable Housing, *Housing Market Inventory Study* at 85.

Moving to an Accountability Model of Fair Housing

It is clear that, under both state and federal law, Connecticut housing agencies are obligated to “affirmatively promote fair housing choice and racial and economic integration in all programs” they administer or supervise.³⁵ Without a solid understanding of the location of the existing subsidized housing stock, DOH and CHFA cannot possibly comply with this mandate. The entire notion of affirmatively furthering fair housing is premised on understanding the segregating housing placements of the past and remedying them going forward.

It is also clear that, to a large extent, the state has already collected the data needed to assess the locations of its current and past subsidized housing investments.

The elements needed for a competent fair housing accountability framework include

- Tracking current and future housing need
- Assessing existing housing resources
- Setting measurable goals
- Identifying a process for assessing and reporting on progress towards goals.

(1) Current and Future Housing Need: Assessment of the existing and projected need for housing at various income levels, with particular focus on the needs of historically disenfranchised groups including:

- a. Families with children (noting the need of families of varying sizes)
- b. Single-parent households (noting need based on the type of single-parent – mother, father, other family member, or other caregiver)
- c. Households with a member with a disability (with attention to individuals with mobility challenges and disabilities that are likely to contribute to chronic homelessness)
- d. Households needing supportive housing
- e. Households of color

(2) Existing Housing Resources: A detailed assessment of existing housing resources. This assessment should include both existing physical units of subsidized housing and vouchers or other resources that are attached to tenant households. For each type of resource the following information is needed:

- a. Physical Units of Subsidized Housing
 - i. Development name and contact information
 - ii. Developer name and contact information

³⁵ CGS Sec. 8-37cc.

- iii. Developer for profit v. non-profit status
- iv. Management company name and contact information
- v. Management company for profit v. non-profit status
- vi. Number of units by census tract
- vii. Targeting requirements (percentage of units dedicated to various income requirements)
- viii. Unit population restrictions (elderly, supportive, veterans, people with disabilities, unrestricted)
- ix. Number of bedrooms in each unit
- x. Financing characteristics (sources of financing and amounts, including specifics on government funding programs)
- xi. Date of first occupancy
- xii. Date of subsidy expiration
- xiii. Administering government entity (municipality, housing authority, state, federal agency)
- xiv. Owning entity (private non-profit, private for profit, municipality, housing authority, state, federal agency)
- xv. Type of subsidy investment – new construction v. rehabilitation
- xvi. Displacement plan – percentage of tenants by income level in original development v. percentage in new development
- xvii. Tenant characteristics by race and ethnicity
- xviii. Tenant characteristics by single-parent households (noting the need based on the type of single-parent – mother, father, other family member, or other caregiver)
- xix. Link to most recently produced affirmative marketing plan
- xx. Type of occupancy (homeownership v. rental v. co-op)
- xxi. Occupancy by holders of government housing subsidies in targeted and market rate units, designated by tenant-based v. project-based subsidy.
- xxii. PILOT and tax abatement status

b. Tenant-Based Government Housing Subsidies

- i. Family composition (number of parents or guardians, number of children)
- ii. Household ages for parents and children
- iii. Tenant characteristics by single-parent households (noting the need based on the type of single-parent – mother, father, other family member, or other caregiver)
- iv. Presence of a person in the household with a disability, specifically noting if any household members experience mobility challenges
- v. Race and ethnicity
- vi. Income
- vii. Location by census tract
- viii. Rent and tenant portion
- ix. Utilities
- x. Units in development

xi. Number of bedrooms of unit

- (3) Goals and Reporting.** A set of numerical goals and requirements for periodic reporting on progress. These goals should focus on meeting the state’s housing needs in a manner that permits wider geographic choices for historically disenfranchised populations and promoting fair housing as articulated by the state and federal fair housing acts. Goals should be updated every five years.
- (4) Assessment and Reporting.** An articulated process for assessing and reporting on progress made towards goals. Reports should come out at annually and be made publicly available to the public electronically.