

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

MONTANA FIVE-YEAR 2015-2020 ANALYSIS OF
IMPEDIMENTS TO FAIR HOUSING CHOICE
PUBLIC MEETING

TRANSCRIPT OF THE PROCEEDINGS

Heard before Jennifer Olson, Presiding Officer
Montana Department of Commerce
301 South Park, Room 228
Helena, Montana

July 29, 2015
11:36 a.m.

REPORTED BY:

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A P P E A R A N C E S

Attendees on Webinar:

Janice Brown
Travis Hoffman
Marcia Lemon
Jim Morton
Michael O'Neil
Trudy Skari
Wendy Thomas
Terry Youngworth
John Firehammer
Traci Sears
Barbara Stiffarm

Attendees in Room 228

Julianna Crowley
Bruce Brensdal

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1 WHEREUPON, the proceedings were had as follows:

2 MS. OLSON: Good morning, everyone. My name is
3 Jennifer Olson. I am the Department of Commerce Community
4 Grants Bureau Chief, and I'd like to welcome you to our
5 first meeting today.

6 If you don't know, we have two public hearings going
7 on today. The first one is regarding our Montana
8 Five-Year Analysis of Impediments to Fair Housing Choice.
9 And so this is part of the development of the documents
10 that we produce on a regular basis, every five years in
11 this case, to meet the requirements of HUD in regards to
12 the Consolidated Plan. So if you don't know, at 1:30
13 we'll be having another public hearing about the Five-Year
14 Consolidated Plan and 2015 to 2016 Annual Action Plan. So
15 I wanted to put that little commercial in there to let
16 everybody know about that meeting.

17 So thank you so much for coming this morning. I
18 appreciate your time and interest in the Analysis of
19 Impediments to the Fair Housing Choice. If you are
20 joining us via webinar, I appreciate you doing that, you
21 can use the computer to type in your questions. We have
22 Stephanie here to help us with translating those
23 questions.

24 But first, before we begin through the presentations,
25 I want to make sure that we have all of the people noted

1 and recorded for our meeting, as we have a court reporter
2 that will be transcribing this public hearing today.

3 We'll go through the room and I'll just introduce who is
4 here, or else they can introduce themselves.

5 So Stephanie.

6 MS. CRIDER: So we have Jim Morton, Marcia Lemon,
7 Michael O'Neil, Terry Youngworth, Travis Hoffman, and
8 Trudy Skari, S-K-A-R-I.

9 MS. OLSON: Thank you so much.

10 And in the room we have, as I said, I'm Jennifer Olson
11 with the Community Grants Bureau, and Stephanie Crider,
12 who is also in the Community Grants Bureau. And we have
13 Sarah Grieb, our legal intern, and Julianna Crowley from
14 Department of Public Health and Human Services, the ESG
15 Program, and Bruce Brensdal with the Housing Division. So
16 thank you all for joining me today.

17 So what you should see on your screen hopefully -- if
18 everything is working right, you should see I've flipped
19 the screen, but if not, please type in a question and ask
20 for help. Stephanie can help you with access in the
21 webinar.

22 So the Analysis of Impediments, or we call it the AI,
23 is part of, like I said, a five-year update. This applies
24 to not only Department of Commerce but also Department of
25 Health and Human Services based on the HUD-funded programs

1 that you see there: Community Development Block Grant,
2 HOME Investment Partnerships Program, and Emergency
3 Solutions Grant.

4 And you can see on the very bottom there's a link to
5 the website. So we have copies available today for you to
6 read here at the public hearing, but then also the
7 document is available online at that website. And we also
8 have 18 repositories across the state that you can also go
9 and visit to review the documents so you don't have to
10 look at them if you have trouble with Internet access or
11 don't want to print them out. And we also provide
12 alternative forms of the document as well.

13 So Montana's certification for affirmatively
14 furthering fair housing to HUD is really what the purpose
15 of the Analysis of Impediments is. The certification that
16 we submit to HUD includes three different elements. It's
17 a complete analysis of the impediments, and so as you go
18 through the document you can see how we've identified
19 those impediments, and I'll get to that in a little bit;
20 what actions we're going to take in order to overcome
21 those effects of the impediments that we've identified;
22 and also, our responsibility is to maintain records
23 reflecting the actions that we've taken in order to meet
24 those goals and actions that we've established to respond
25 to the address of the impediments.

1 So additionally, the AI examines a couple of different
2 things, but all in the realm of housing. So we look at a
3 variety of sources related to housing. We also look at
4 the fair housing delivery system, so how that's being
5 instituted, where those assistance mechanisms lie; the
6 Montana Fair Housing office is a good example of the
7 delivery system. And then also housing transactions that
8 the Department of Commerce takes, and particularly those
9 that are protected under fair housing laws or those people
10 that are part of the housing transaction that are
11 protected under the fair housing law.

12 The definition of an impediment actually comes right
13 directly from our plan. It's any actions, omissions, or
14 decisions taken because of race, color, religion, sex,
15 disability, familial status, or national origin which
16 restrict housing choices or the availability of housing
17 choices; and any actions, omissions, or decisions which
18 have this effect.

19 The other thing that we want to point out is, when
20 we're looking at the analysis of impediments for those
21 housing choices, we look at how that impediment is
22 impacting protected classes. And so we use the definition
23 under the federal Fair Housing Act and also under MCA,
24 which broadens the federal Fair Housing Act definition to
25 include protections based on creed, marital status, and

1 age.

2 So there's several components to the AI as you go
3 through the document. There are ten different sections,
4 and I've listed them here for you: Executive Summary;
5 Introduction; Socio-Economic Context; Fair Housing Law,
6 Study and Case Review; Review of Existing Fair Housing
7 Structures; Fair Housing in the Private Sector; Fair
8 Housing in the Public Sector; Public Involvement; Summary
9 of Findings; and Impediments and Suggested Actions. I
10 won't be going through each one of these sections, but I
11 will discuss the last one because I think that's where we
12 kind of get to where the rubber meets the road: what are
13 the impediments that we identified and what are the
14 actions we're taking in order to overcome them.

15 The draft, like I said, is available online, and the
16 comment period began July 13, 2015, and will end in about
17 two weeks, August 12, 2015. So please make sure that you
18 submit all of your written comments to us about the
19 Analysis of Impediments to Fair Housing Choice in Montana
20 by 5:00 p.m. August 12th. And there will be more
21 information about where and how you can submit that. And
22 again, there's 18 repositories across the state. We did
23 that new this year because we thought that would give a
24 greater access to those people that are using our programs
25 across the state that may not have Internet capabilities

1 or don't have a draft copy of the document to review, so
2 hoping to expand our ability to receive public feedback
3 and comment on this draft.

4 So as I said, there are nine impediments that we
5 identified, and there are 17 actions, which we also
6 identified, to address those impediments. And just as a
7 note, CDBG and HOME and ESG have Barriers to Affordable
8 Housing as part of the Annual Action Plan, which we'll
9 talk about this afternoon. So the Analysis of Impediments
10 has an impact and overlays and informs the Annual Action
11 Plan. So on an annual basis, we'll be looking at that.

12 But I wanted to make sure that you understand that
13 there's a section within the Annual Action Plan that
14 specifically discusses barriers to affordable housing, and
15 it identifies the action items that are not only in the
16 AI, but then are translated or transposed into the
17 analysis -- or into the Annual Action Plan. So we'll
18 continue to review this throughout the next five-year
19 period.

20 Here's our contact information. You can see
21 anybody -- Kelly, myself, or Allison can be of assistance,
22 and also our website. And then our partners in the
23 Analysis of Impediments: Department of Health and Human
24 Services, Jamie and Kane, and not to forget Julianna, who
25 is the room. So there's definitely more people that help

1 us complete these documents.

2 Again, public comment will be accepted through
3 August 12th. But right now, I'd like to open up the
4 comment period for this public hearing to those that are
5 present on webinar or even in the room, to ask questions
6 or provide comment. If you could please make sure, when
7 you are providing comment, to state and spell your name --
8 that not only helps us with our record, but then also for
9 our court reporter -- and then also what organization you
10 are representing, if you are representing an organization.

11 So any comments from anybody in the room? And then
12 we'll go to the webinar.

13 Stephanie, do you have any comments from the webinar?

14 MS. CRIDER: None so far.

15 MS. OLSON: So if you're looking at the document,
16 beginning on page 101 is Section 10, titled Impediments
17 and Suggested Actions. And so here, we have identified
18 those nine impediments. And you'll note, when you look at
19 this section, that there are action items and measurable
20 objects. So what is the action item that the State
21 proposes to take on and then how are we going to measure
22 our ability to meet that objective and how are we going to
23 be able to report that back to HUD in the coming years.

24 So not to say that the first 100 pages of the document
25 aren't important. They are. They provide the supporting

1 documentation to identify how we came to the conclusion of
2 establishing and/or identifying those impediments.

3 MS. CRIDER: We might have a question.

4 MS. OLSON: And again, I think what I'll do is
5 also point out, in the back of the document there are a
6 number of appendices that support the development of the
7 plan and the analysis, so some tables and maps also. You
8 can use that to find out more information about how those
9 impediments were identified. And lastly, the public
10 comments, the appendices are also available online so you
11 can look at them individually.

12 MR. O'NEIL (through S.C.): First, a number of
13 tables in the AI online have data that is illegible.

14 MS. OLSON: And maybe I could ask a question of
15 Michael. By "illegible," you mean the numbers aren't
16 coming through or there's some sort of -- I'd be happy to
17 talk about that. And maybe the hard copies as we've
18 printed them didn't quite translate, so we'll be happy to
19 look into that.

20 So Stephanie is working on modifying the webinar just
21 slightly so that we can allow for the people that are
22 joining us on webinar to speak -- instead of in writing on
23 the computer, speak verbally in response through the
24 conference call that's provided. I'll give her just a
25 moment to work on that.

1 we're getting a little bit of feedback noise, but I
2 think, Michael, you should be able to comment if you would
3 like.

4 MR. O'NEIL: Can people hear me?

5 MS. OLSON: Yep. We can hear you.

6 MR. O'NEIL: A couple things. On the, the tables
7 in the AI, on the online version, you look in some of the
8 tables and it's just kind of squiggly in the data. You
9 can almost make out the number. So it's just a matter of
10 looking on the online version to see why it didn't save
11 right.

12 MS. OLSON: You bet. We'll take a look at those.

13 MR. O'NEIL: So that's just something to draw to
14 your attention.

15 My primary question is related to how the AI deals
16 with the issue of reasonable accommodations and reasonable
17 modifications for people with disabilities. That is the
18 most frequent issue of discrimination we run across on a
19 regular basis.

20 we hear of tales, and sometimes directly experience,
21 landlords reacting in a very negative fashion to requests
22 for reasonable accommodation/modification, making --
23 throwing the onus of responsibility back to the tenant
24 with the disabling condition and often making the tenant
25 feel like they're doing something wrong or underhanded.

1 And I haven't seen that necessarily raised in the AI.
2 I may have missed it. I haven't done a complete review.
3 I particularly would raise the issue of therapeutic
4 animals and support animals.

5 MS. OLSON: Thank you for your comment, Michael.
6 we'll definitely consider that as we develop the final
7 draft.

8 MR. O'NEIL: Is there a section in the AI on
9 reasonable accommodation/modification specifically
10 addressing that concern?

11 MS. OLSON: At this point, you know, like I said,
12 I'm happy to review it as public comments come in, and
13 then we can definitely consider that as part of the final
14 draft submitted to HUD. So I appreciate your comment.

15 MR. O'NEIL: Thanks.

16 MR. MORTON (through S.C.): Have you included any
17 reference to disparate impact?

18 MS. OLSON: Jim, maybe could you further expand
19 on what you mean by "disparate impact"?

20 MR. MORTON: Can you hear me?

21 MS. OLSON: We can. Thanks, Jim.

22 MR. MORTON: Okay. You know, the kinds of impact
23 that some property managers have had on applicants using
24 different pieces of information like credit scores, which
25 then sometimes eliminates people of lower income status,

1 disability, minority.

2 MS. OLSON: And the Analysis of Impediments does
3 include discussion about specific populations, including
4 those, you know, different income populations, also
5 different race populations. And so I am happy that you've
6 provided that comment. we'll definitely consider that in
7 the final draft version as we review all the public
8 comments in order to prepare that to HUD. I think there's
9 probably information in there, but I'm happy to receive
10 any specific comments if there's something that you feel
11 has not been addressed in the AI.

12 MR. MORTON: I'm just thinking, since the
13 Supreme Court upheld the HUD rule, that there will be a
14 lot of confusion and perhaps some changes. And when
15 there's that kind of a change, sometimes confusion ensues
16 and then some of our clientele and participants get
17 disadvantaged, because I think the impact will be that
18 some landlords will change the way they screen applicants.

19 So perhaps the Department could provide some
20 educational opportunities. I know, you know, you support
21 a lot of different educational opportunities; so maybe in
22 the future, on one of those agendas, we could have an item
23 about disparate impact.

24 MS. OLSON: You bet. I appreciate the comment
25 and information.

1 MR. MORTON: That's it for me.

2 MS. OLSON: Thank you, Jim.

3 Well, I appreciate the comments that have been made
4 today and want to encourage you to continue to review the
5 document. It's definitely very important that we receive
6 your feedback and your comments for our consideration to
7 formalize any of those comments to finalize the AI
8 document before submission to HUD.

9 Which brings me to my final slide, which is that
10 written comments on this plan can be submitted to
11 Department of Commerce. You can see the address below,
12 but for the record, P.O. Box 200523, Helena, Montana
13 59620-0523. And if you put it to the attention of the
14 Consolidated Plan, it will definitely be included as part
15 of the public record and we will be able to use that
16 comment.

17 And I have been able to hear that other people are
18 interested in providing comments, so by 5:00 p.m. on
19 August 12th. If that's via e-mail or regular postal mail,
20 please do definitely provide that to us. And the e-mail
21 is DocConPlan@mt.gov.

22 We really appreciate your comments today and taking
23 your time out of your busy schedules to join us. And I
24 again encourage you to attend the second public hearing
25 today about the Five-Year Consolidated Plan and the

2015-2016 Annual Action Plan.

So I'll look to Stephanie to see if there's any other final comments or remarks.

Seeing none, thank you so much for your time, and we'll end the public hearing. Have a great day.

(The proceedings concluded at 11:57 a.m.)

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COURT REPORTER'S CERTIFICATE

STATE OF MONTANA)
COUNTY OF LEWIS AND CLARK) ss.

I, CHERYL ROMSA, Court Reporter, residing in
Helena, Montana, do hereby certify:

That the foregoing proceedings were reported by
me in shorthand and later transcribed into typewriting;
and that the -15- pages contain a true record of the
proceedings to the best of my ability.

DATED this 7th of August, 2015.

s/Cheryl A. Romsa
CHERYL A. ROMSA