DRAFT - FAIRFAX COUNTY

FAIR HOUSING ANALYSIS OF IMPEDIMENTS
FIVE-YEAR FAIR HOUSING PLANNING DOCUMENT
(2011-2015)

EFFORTS TO AFFIRMATIVELY FURTHER FAIR HOUSING

October 19, 2010

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Executive Summary

Fair housing is not only a legal requirement; it is a moral concern and a matter of economics. No community can reach its full potential for economic growth and well being if some of its residents are unable to fully participate in the housing market. Fair housing laws prohibit discrimination in the provision of housing and housing-related services based on race, color, religion, national origin, sex, familial status (the presence of children under 18), disability, in Virginia and the County, elderliness (persons 55 or older) and in the County, marital status. Studies clearly show the relationship between housing and education, jobs, and the ability to build wealth. In an effort to improve the housing conditions for its residents and in response to a requirement of the U.S. Department of Housing and Urban Development, the County of Fairfax contracted with Housing Opportunities Made Equal of Virginia, Inc. (HOME) to conduct an assessment of the barriers to housing choice in Fairfax County and to develop a plan for overcoming the impediments identified. The analysis and drafting of this report was conducted between March and June 2010 and involved three key research activities: interviews, document reviews, and data analysis.

A comprehensive assessment of fair housing should include an analysis of the housing choices available to County residents. Because housing choice implies mobility, the report takes into account jurisdictions adjacent to Fairfax County that are part of the same housing market, although recommendations are made only for Fairfax County. The report provides demographic data, information about the housing market, and a description of the legal framework and issues relating to housing discrimination. Opportunities for rental and home ownership are discussed, and an analysis of lending patterns provided. Throughout the report, special attention is paid to particular groups that most often experience barriers to housing, such as blacks, families with children, Hispanics, and persons with disabilities.

While the County of Fairfax deserves great credit for its accomplishments and significant support for improving the access to decent, affordable housing for its residents, significant impediments to fair housing remain. The County is largely affluent, which significantly impacts housing choice for those of low to moderate incomes. Although homeownership rates in the County are strong with some of the highest in the nation, the County has been severely impacted by the housing financial crisis with its foreclosure rates amongst the highest in Virginia. Minorities within the County remain at substantially lower homeownership levels, yet had disproportionately higher foreclosure rates. Across all income levels, Fairfax County has some of the highest levels of housing burden for homeowners in the nation.

The County has an increasing minority population; however, some of these groups are significantly limited to the affordable areas of the County. Blacks, for instance, live primarily in the eastern portion of the County. Asians and Hispanics on the other hand are fairly evenly distributed throughout the County. Asians are projected to make up the largest minority group in 2030. Hispanics and families with children have difficulty in finding rental housing of sufficient size to support their traditionally larger households. The elderly and those with disabilities are also limited in housing choice within the County. Budget limitations, a lack of

public housing and community based services have disproportionately affected their ability to seek and maintain affordable, accessible housing. The specific impacts can be seen in discussions throughout this report.

Many people recognize the need to create mixed income communities by investing in areas with substandard housing to encourage higher income residents to move in, and at the same time creating affordable housing opportunities in the healthier neighborhoods throughout the County. The political barriers to implementation are high, but the benefits to the larger community are equally great. Crime and blight can be eliminated only if the need for decent housing in healthy communities is addressed. Children can learn only if they go home to a safe community with positive role models. Solving this problem will increase the economic capacity of the region's residents, attract businesses, and build the tax base. It will also improve the quality of life for thousands of low income families. Strong community leadership is needed to develop support throughout the region for the creation of healthy, mixed income communities.

There are also other barriers to housing access for many residents. National studies indicate that housing discrimination is still a reality, whether on the basis of race, national origin, disability, or the presence of children in the family. The County has a Human Rights Commission which is responsible for fair housing enforcement and activities. Impediments to housing choice in the County still fall most heavily on those who have faced housing discrimination in the past, and commitment by the County to fair housing and equal access is vitally important. A full list of the impediments can be found in Chapter 6.

This Analysis of Impediments to Fair Housing in Fairfax County was conducted in accordance with the U.S. Department of Housing and Urban Development's recommended *Fair Housing Planning Guide.*

Chapter 1: Introduction

An Analysis of Impediments to Fair Housing evaluates the extent to which people are able to gain access to a wide range of housing choices in their community and identifies the barriers that limit those choices. Its purpose is to enable local governments to make knowledgeable policy decisions.

The U.S. Department of Housing and Urban Development (HUD) requires all localities that are direct recipients of Community Development Block Grant (CDBG) funds to conduct an assessment of the barriers to housing choice within the jurisdiction and to develop a plan for overcoming the impediments that are identified. The County of Fairfax contracted with Housing Opportunities Made Equal of Virginia, Inc. (HOME), a private fair housing organization, to undertake this Analysis of Impediments to Fair Housing in Fairfax County.

ASSESSING BARRIERS TO FAIR HOUSING

Fair housing is not only a legal requirement; it is a moral concern and a matter of economics. No community can reach its full potential for economic growth and well being if some of its residents are unable to fully participate in the housing market. Studies clearly show the relationship between housing and education, jobs, and the ability to build and maintain wealth. Homeseekers who do not have access to the full range of available housing choices may not be able to live in neighborhoods that enhance their opportunities and their future success. When housing choices are limited by discriminatory housing practices and policies, communities and individuals are denied opportunities for growth. Discrimination in housing and housing-related services is prohibited by federal, state or county fair housing laws when it is based on race, color, national origin, religion, gender (sex), familial status, disability (handicap), in the state and the County, elderliness, and in the County alone, marital status.

A thorough analysis of the impediments to fair housing is more than a catalog of illegal acts – it is an analysis of social and demographic trends and a study of the barriers to housing choice. Such a comprehensive study must identify those systemic or structural issues that limit a person's ability to take advantage of the full range of housing that is available. This report addresses a variety of social problems related to housing, such as affordability, poverty and homelessness. However, while there may be other factors that influence housing (such as lower income levels for minorities and those with disabilities), it is beyond the scope of this report to explain or provide solutions for all of the causes of these social problems. For example, this report does <u>not</u> delve into the factors that lead to a high correlation between minorities or those with disabilities and poverty. Instead, it attempts to identify the immediate barriers to housing choice for particular segments of the community and to propose solutions without addressing why minorities or those with disabilities are more likely to be poor.

It is widely accepted that access to safe, decent and affordable housing underlies unequal education, unequal access to jobs, and unequal income. A truly open housing market is essential to conquering these disparities. Encouraging adequate investment in both human

capital and the built environment is critical in overcoming barriers and ensuring that all neighborhoods are diverse, healthy, and attractive places to live. This report does not say that some neighborhoods are better than others, but it does recognize that impediments to fair housing have historically contributed to the decline of neighborhoods that suffer for lack of investment. The recommendations resulting from this report are not intended to force people to make pro-integrative housing choices regardless of other criteria, but they are certainly intended to make such choices easier and more likely.

The recommendations in this report are intended to provide a practical basis for eliminating a wide variety of impediments to housing choice. Some will be relatively easy to accomplish, while others will be more difficult. We are confident, however, that the County's commitment to addressing the issues identified in this report will ultimately do a great deal to promote an open housing market in Fairfax County. Eliminating the barriers to fair housing will not only improve the quality of life for many individuals and families, but will also enhance the economic health of the entire region.

REPORT METHODOLOGY

This analysis was conducted between March and June 2010 as required by the County. This is a very short time period for a report of this magnitude. Consequently, some areas were not able to be addressed in the depth that more time would have allowed. In addition, the contract for this report did not include testing.

Because housing choice implies mobility, the analysis in this report frequently includes information about the other jurisdictions in the area in addition to the County of Fairfax. However, because this report was prepared on behalf of Fairfax County, the specific impediments and recommendations are limited to those actions the County can take or initiate.

To evaluate the barriers to fair housing in Fairfax County, HOME conducted three key research activities to determine how various housing markets in the County functioned:

- Data analysis of a range of data sources;
- Document reviews; and
- Interviews.

Data Analyses

This report incorporates data analysis from several sources. HOME utilized demographic and housing data from:

- U.S. Census Bureau;
- U.S. Department of Housing and Urban Development;
- RealtyTrac Inc.;
- Virginia Employment Commission;
- Fairfax County;

- Home Mortgage Disclosure Act;
- Virginia Housing Development Authority; and
- Virginia Department of Education.

With this data, several tables and maps were created to provide a community profile and to give context for the housing issues addressed. HOME also reviewed data and information on fair housing investigations conducted by the Fairfax County Human Rights Commission, the U.S. Department of Housing and Urban Development, and the U.S. Department of Justice.

Document Reviews

HOME reviewed a variety of documents concerning housing in Fairfax County, and, to help understand the context in which Fairfax County is operating, the larger metropolitan area, the Commonwealth of Virginia, and the nation. Among them were the Fairfax County's Fair Housing Ordinance and activities related to the Human Rights Commission, the 2007 report on the Analysis of Impediments to Fair Housing Choice for Fairfax County, the most recent draft Consolidated Plan and Comprehensive Plans, and research studies by HUD, the National Fair Housing Alliance and other housing policy oriented organizations.

Structured Interviews

HOME interviewed individuals representing a variety of viewpoints, including County government, non-profit community service providers, and professionals in the housing industry. Those interviewed were provided confidentiality to allow for candid responses.

REPORT ORGANIZATION

This report is organized into six chapters. This introductory chapter explains why the report was conducted and provides background information about the study methodology and about HOME. Chapter 2 provides a profile of Fairfax County using a variety of demographic and community indicators and maps. Chapters 3 and 4 provide an overview of fair housing laws and discuss the extent of housing discrimination in Fairfax County. Chapter 5 contains information on related issues, such as substandard housing, transportation, and other issues not able to be addressed elsewhere. Chapter 6 summarizes the impediments and recommendations from all the previous chapters.

HOUSING OPPORTUNITIES MADE EQUAL

Housing Opportunities Made Equal of Virginia, Inc. (HOME) is an award-winning, nationally recognized, and widely respected leader in housing services and advocacy founded in Richmond in 1971. HOME's mission is to ensure equal access to housing for all people. HOME occupies a unique place among non-profit organizations in Virginia, offering a comprehensive range of housing services for individuals and families and at the same time

working to shape housing policy and make the systemic changes necessary to ensure that all persons have access to safe, decent and affordable housing. HOME's wide range of services are designed to foster self-sufficiency by giving people the knowledge, skills, and assistance they need to find and keep stable housing. HOME also provides technical assistance and training to the housing industry and assists local governments with housing planning.

HOME has been recognized as one of the foremost fair housing and housing counseling organizations in the country, received the Best Housing Organization Award at the 2006 Governor's Housing Conference from Virginia Governor Tim Kaine, and was awarded HUD's Best Practices Award as one of the best community development programs in the United States for 1999 and 2000. In 1998, HOME was formally recognized by Virginia's two housing agencies, the Virginia Department of Housing and Community Development and the Virginia Housing Development Agency, for its "comprehensive programs and powerful advocacy which have helped to ensure Virginians equal access to housing for almost three decades."

In addition to this Analysis of Impediments to Fair Housing conducted for Fairfax County, HOME has also conducted analyses for the Cities of Richmond, Roanoke, Danville, and Petersburg and for Chesterfield County.

Chapter 2: Profile of Fairfax County

DEMOGRAPHIC PROFILE

Key Findings

Race & Ethnicity

By 2030, the minority population in Fairfax County is expected to account for 55% of the County's total population. The fastest growing minority groups in Fairfax County during that time are projected to be the Asian and Hispanic populations.

- From 2000 to 2008, the population of Fairfax County increased by 45,553 residents (4.7%).
- In 2008, Fairfax County had an estimated population of 1,015,302, which accounted for more than 13% of Virginia's total population.
- In 2008, 66.7% of the Fairfax County population was white, 9.5% black, 0.4% American Indian and 15.8% Asian. 14.1% of residents reported their ethnicity as Hispanic.
- Since 2000, minority populations have accounted for all of the population increase in Fairfax County.
    - The Asian population had the largest increase of any racial group. That population grew by 34,521 (27.4%), while the black population increased by 12,938 residents (15.6%).
    - The Hispanic population of Fairfax County increased by 33.8% to 143,159 in 2008.
- From 2010 to 2030, the total population of Fairfax County is projected to grow by around 6% each decade. By 2030, the Asian population is projected to account for 24% of the total population, while the Hispanic and black populations are projected to account for 21% and 9%, respectively.

Disability

In Fairfax County, more than 90,000 residents reported having a cognitive, independent living, ambulatory, or self-care type disability and may have special housing needs.

- In 2008, 23,655 (2.5%) persons 5 years and older had a cognitive difficulty. That is nearly half the national rate of 4.8% and lower than the Virginia rate of 4.3%.
- There were 23,404 (3.1%) persons 18 years and older with independent living difficulty. That is higher than the rate in City of Alexandria, Arlington County, Loudoun County, and Prince William County.
- In 2008, 3.7% (34,286) of persons 5 years and over had an ambulatory difficulty.
- There were 12,382 (1.3%) persons 5 years and older with self-care difficulty in 2008. Of those nearby localities, Fairfax County's rate is amongst the highest.

Families

In 2008, more than 20,000 families in Fairfax County were single family households with children. Since single-parent families generally have lower household incomes, they may have difficulty accessing affordable housing and may require other services such as child care or educational and vocational training.

- Slightly less than half (48%) of married couple families in Fairfax County have children.
- More than half (53%) of female headed households in which no husband was present had children under 18 years old.

Elderliness

Fairfax County has one of the highest percent of elderly populations in the region. This may further contribute to the demand for special needs housing in order to accommodate the aging population.

- In 2008, 24% of the population was 55 years and older, which is higher than the rates in the nearby localities of the City of Alexandria (22%), Arlington County (20%), Loudoun County (14%), Prince William County (16%), and the District of Columbia (23%).

Income

Fairfax County is one of the most affluent localities in the Commonwealth of Virginia and the United States. However, there are clear disparities in median household income across racial and ethnic groups. These disparities could contribute to each group's inability to afford housing that is adequate for their needs.

- In 2008, the median household income was $107,448 for all households, $118,429 for white households, $81,168 for black households, $92,711 for Asian households and $68,622 for Hispanic households.

Poverty

Fairfax County has a poverty rate that is half of the rate in Virginia; however, minority groups are still more likely to be in poverty in Fairfax County than are white residents.

- The overall poverty rate in Fairfax County in 2008 was 4.8%, which was half the poverty rate in Virginia (10.2%) and nearly a third of the poverty rate for all of the United States (13.2%).
- Minorities in Fairfax County had poverty rates more than twice the rate of the white population. In 2008, 8.4% of the black population, 7% of the Asian population, and 7.2% of the Hispanic population had incomes below the federal poverty level in Fairfax County.
- In 2008, only 0.8% of Fairfax County households, or 2,990 households, received public assistance.

Household Size

Minority groups in Fairfax County have larger average household sizes. This likely reflects differing cultural norms as members of certain racial and ethnic groups may tend to be more comfortable living with family or extended family. Also, income disparities by race and ethnicity may limit a certain group's ability to afford housing that is adequate for needs.

- Average household size varies by race and ethnicity in Fairfax County, with Hispanic and Asian households having the largest average household size in 2000. The average household size for owner occupied Asian households was 3.6 persons while the average household size for Hispanic owner occupied households was 4.12 persons. The overall average household size was 2.8 persons per household in Fairfax County.

Education

Overall, Fairfax County Public Schools and the county's high levels of educational attainment have a positive impact on the standard of living in the County. The County should continue its progress in decreasing the racial and ethnic disparities in educational attainment.

- In Fairfax County, 59% percent of the population 25 years and older had at least a Bachelor's degree in 2008. This rate was more than 50% higher than in all of Virginia (40%) and is twice as high as the national average (35%).
- In 2006-2007, black students in Fairfax County public high schools had a graduation indicator of 72, which was the same as the Virginia level. However, in 2008-2009, the indicator for black students had surpassed the Virginia level to reach 78 (compared to 73 for Virginia).
- The graduation indicator level for Hispanic students in Fairfax County increased by 14 points (from 54 to 68) during that time and is approaching the Virginia level of 71.
- Students with disabilities in Fairfax County public high schools have a much higher graduation indicator than their counterparts across the Commonwealth, as do economically disadvantaged students.

DEMOGRAPHIC PROFILE

This section presents an overview of some key demographic indicators for Fairfax County and the surrounding area from 2000 to 2008. Data was compiled from the U.S. Census Bureau's 2000 Decennial Census and 2008 American Community Survey as well as from the Virginia Employment Commission and Virginia Department of Education. To better explain the changes in Fairfax County during this time, this section will present the data alongside the statistics for surrounding localities, Virginia, and the United States (Table 1).

Table 1
- City of Alexandria
- Arlington County
- Fairfax County
- Loudoun County
- Prince William County
- District of Columbia
- Virginia
- United States

Population, 2000 to 2008

In 2008, Fairfax County had an estimated population of 1,015,302. Fairfax County is the most populous jurisdiction in Virginia, accounting for more than 13% of Virginia's total population.

Change in Population

The population growth rate in Fairfax County from 2000 to 2008 was amongst the lowest in the region and lower than the statewide growth rate. During that time, the population of Fairfax County increased by 45,553 residents (4.7%) to 1,015,302 residents. In relation to surrounding localities (including the District of Columbia), this rate of population increase is the second lowest in the focus area. Only the District of Columbia had a lower population increase of 19,774 residents (3.5%). According to the Fairfax County Department of Housing and Community Development, the County is currently built-out which may affect future population growth. The population changes are shown in Chart 1.

Chart 1: Population Change, 2000 to 2008	2000	2008	Population Change, 2000 to 2008	Percent Population Change, 2000 to 2008
Fairfax County	969,749	1,015,302	45,553	4.7%
City of Alexandria	128,283	143,885	15,602	12.2%
Arlington County	189,453	209,969	20,516	10.8%
Loudoun County	169,599	289,995	120,396	71.0%
Prince William County	280,813	364,734	83,921	29.9%
District of Columbia	572,059	591,833	19,774	3.5%
Virginia	7,078,515	7,769,089	690,574	9.8%
United States	281,421,906	304,059,728	22,637,822	8.0%
Source: U.S. Census Bureau				

Change in Race & Ethnicity, 2000 to 2008

Chart 2: Population Change by Race, 2000 to 2008	White		Black		American Indian		Asian		Native Hawaiian and Other Pacific Islander	
	2000	2008	2000	2008	2000	2008	2000	2008	2000	2008
Fairfax County	69.9%	66.7%	8.6%	9.5%	0.3%	0.4%	13.0%	15.8%	0.1%	0.0%
City of Alexandria	59.8%	65.2%	22.5%	21.3%	0.3%	0.5%	5.7%	5.6%	0.1%	0.0%
Arlington County	68.9%	72.3%	9.3%	8.0%	0.3%	0.0%	8.6%	9.6%	0.1%	0.0%
Loudoun County	82.8%	73.2%	6.9%	7.8%	0.2%	0.3%	5.3%	12.5%	0.1%	0.0%
Prince William County	68.9%	60.3%	18.8%	19.3%	0.4%	0.4%	3.8%	6.9%	0.1%	0.2%
District of Columbia	30.8%	37.5%	60.0%	53.4%	0.3%	0.4%	2.7%	3.4%	0.1%	0.1%
Virginia	72.3%	70.8%	19.6%	19.6%	0.3%	0.3%	3.7%	4.8%	0.1%	0.1%
United States	75.1%	75.0%	12.3%	12.4%	0.9%	0.8%	3.6%	4.4%	0.1%	0.1%
Source: U.S. Census Bureau										

In 2008, 66.7% of the Fairfax County population was white, 9.5% black, 0.4% American Indian and 15.8% Asian. Since 2000, however, minority populations have accounted for all of the population increase in Fairfax County. From 2000 to 2008, the white population in Fairfax County marginally decreased. In the Washington, D.C., metro area, since 2000, minority populations have increased in suburban areas while white populations have increased in the more urban areas (Chart 2).

Change in Racial Composition

From 2000 to 2008, the population increased by 45,553 (4.7%) due to an increasing minority population (Chart 3). During that time, the Asian population accounted for three-quarters of the County's population increase, which grew by 34,521 (27.4%). The white population decreased marginally by 279 residents (-0.04%) while the black population increased by 12,938 residents (15.6%). The American Indian population had the largest percent increase of 55.4% (1,418 people).

Chart 3: Fairfax County: Population Increase by Race, 2000 to 2008	Total	Percent
White	-279	-0.04%
Black	12,938	15.6%
American Indian	1,418	55.4%
Asian	34,521	27.4%
Native Hawaiian and Other	-508	-73.5%
Some other race alone	1,366	3.1%
Two or more races	-3,903	-11.0%
Total Population Change	45,553	4.7%
Source: U.S. Census Bureau		

Change in Hispanic Population

From 2000 to 2008, the Hispanic population of Fairfax County increased 33.8% (Chart 4). The percent Hispanic population change was much lower in Fairfax County from 2000 to 2008 in relation to Loudoun County and Prince William County. However, the absolute increase in residents was amongst the highest in the region. Nearly half of the increase in Virginia's Hispanic population can be attributed to the increases in counties of Fairfax, Loudoun, and Prince William. The percent increase in Hispanic population in Fairfax County of 33.8% was in line with the national increase in Hispanic population during that time (32.8%), but still much lower than the increase in Virginia (60.8%).

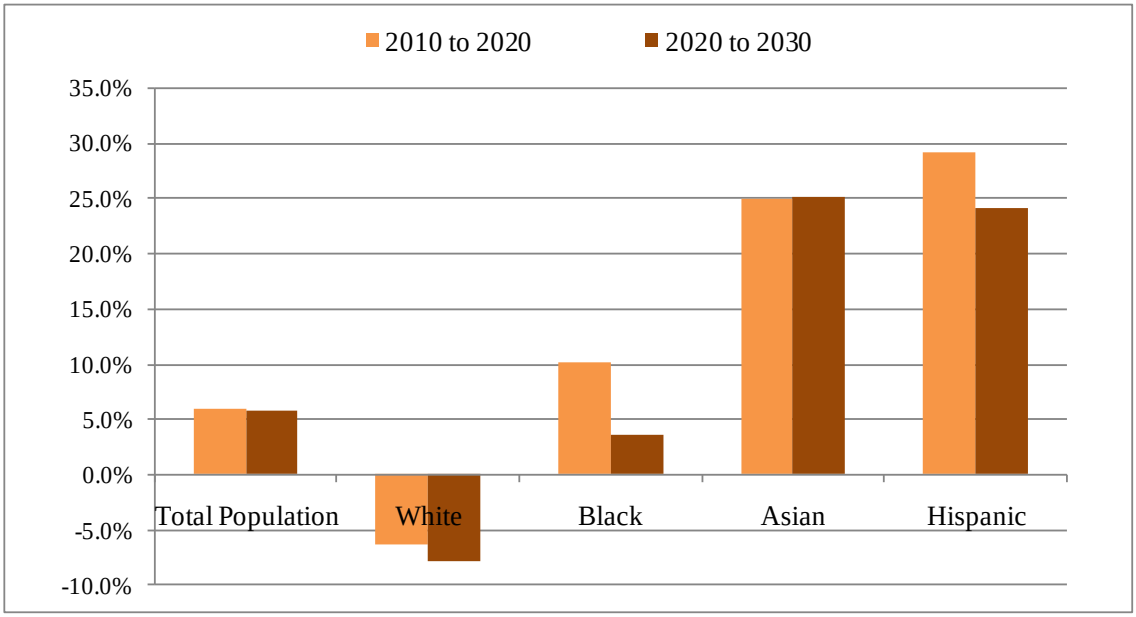
Chart 4: Hispanic Population Change, 2000 to 2008	Total	Percent
Fairfax County	36,201	33.8%
City of Alexandria	n/a	n/a
Arlington County	-1,692	-4.8%
Loudoun County	20,159	199.8%
Prince William County	42,393	155.1%
District of Columbia	6,171	13.7%
Virginia	200,296	60.8%
United States	11,585,638	32.8%
Source: U.S. Census Bureau		

Population Projections by Race & Ethnicity, 2010 to 2030

According to the Virginia Employment Commission, the demographic shift in Fairfax County of increasing minority populations and a decreasing white population is projected to continue through 2030. The white population in Fairfax County is projected to decrease by 6% and 8%

over the next two decades, while the Asian and Hispanic populations are each projected to increase by more than 20% during that time (Chart 5). The total population is projected to grow by around 6% each decade.

Chart 5: Projected Rate of Population Change in Fairfax County by Race & Ethnicity, 2010 to 2030



Source: Virginia Employment Commission

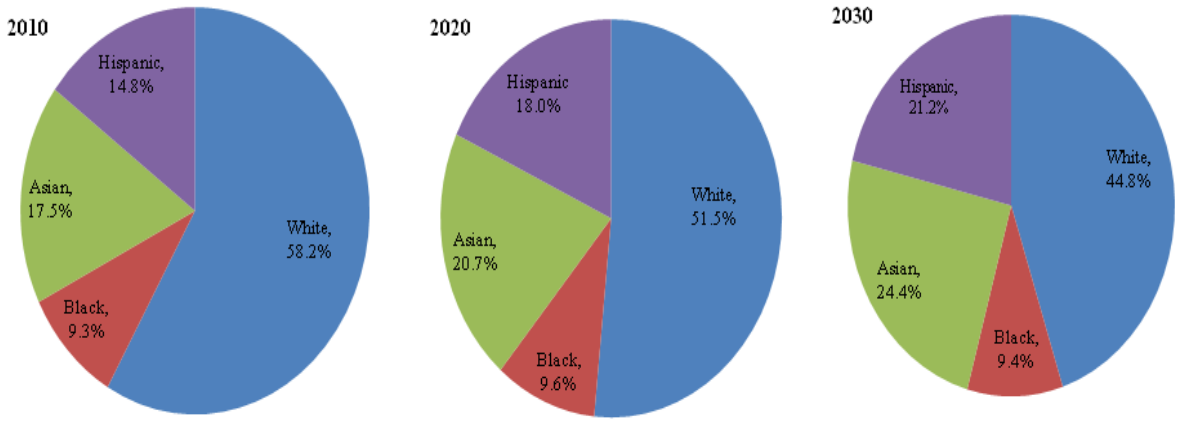
This trend of an increasing minority population and a decreasing white population is also projected to occur in nearby suburban localities. According to a 2010 report by the Brookings Institution, *State of Metropolitan America*, this trend of suburban populations becoming majority minority is apparent in many metropolitan areas in the United States, including the Washington, D.C. area. In fact, "while whites reside in the suburbs in larger numbers and shares than any minority group, [in] the first decade of the new century… more than half of all racial and ethnic groups residing in the large metro areas live in the suburbs." [1]

By 2030, the minority population in Fairfax County is projected to surpass the white population and account for 55% of the total population. The largest minority group in 2030 is projected to be the Asian population, accounting for 24% of the County's total population. The White population in 2030 will still be the largest single racial group, accounting for 45% of the population (Chart 6).

The County's minority population was the largest growing population segment from 2000 to 2008. This trend is expected to continue through 2030. This demographic shift of an increasing minority population and a decreasing white population may cause community tension if cultural insensitivities should arise. If proper planning and programs are not put in place, this could result in additional discriminatory practices against the growing minority communities. Furthermore, if socio-economic disparities across racial and ethnic lines are not fully addressed, this could increase the burden on social services and the need for affordable housing in Fairfax County. Fairfax County should continue to be proactive, as well as find

new ways, to reach out to and connect with community leaders to increase cultural awareness and understanding within and across communities.

Chart 6: Population Projections by Race & Ethnicity, 2010 to 2030



Source: Virginia Employment Commission

Distribution of Race & Ethnicity, 2000

Fairfax County is a fairly diverse locality in Northern Virginia and as stated in the previous section, is projected to become even more diverse over the next few decades. Maps 1 through 3 demonstrate the distribution of race and ethnicity in Fairfax County in 2000, which is the most recent census tract level data publicly available.

In 2000, of the 165 census tracts in Fairfax County, 4.8% (8 census tracts) had greater than 30% black population (Map 1). Those census tracts with greater than 30% black population are all located in the eastern portion of the County. Of the black population in 2000, 57% lived in census tracts with greater than 10% black population. The average census tract in Fairfax County had 8.4% black population during that time or 503 black residents per tract. From 2000 to 2008, the black population increased from 8.6% to 9.5% of the total population and is projected to remain fairly level until 2030, when it is projected to account for 9.4% of the County's population.

In 2000, 13% of the population in Fairfax County was comprised of Asian residents (Map 2). The Asian population in the County was fairly evenly distributed with only three census tracts having greater than 30% Asian population. The average census tract in Fairfax County had a 12% Asian population or 764 Asian residents per census tract. The Asian population is one of the fastest growing minority groups in Fairfax County and is projected to account for 24% of the County's population in 2030, which is projected to make it the locality's largest minority group.

The Hispanic population in Fairfax County accounted for 11% of the population in 2000 and

was fairly evenly distributed across the County (Map 3). Each census tract had an average of 648 Hispanic residents, and 8 of the 165 census tracts had a greater than 30% Hispanic population. From 2000 to 2008, the Hispanic population increased by 33.8% (36,201 residents) and is projected to continue to increase through 2030. At that point, the Hispanic population is projected to account for 21% of the overall population in Fairfax County.

Persons with Disabilities

The term "disability" covers a broad spectrum of conditions. State and federal fair housing laws define disability as a physical or mental impairment that substantially limits a major life function, a history of having had such a condition, or the perception that one has such a condition. Alcoholics, persons with AIDS, and recovering substance abusers are covered by the law, but it does not include current users of illegal drugs. Local, state, and federal fair housing laws protect persons with disabilities from discrimination in housing transactions.

This section examines the numbers of disabled populations according to four areas of disability classification. Those four areas are defined below and further described in Charts 7 through 10.

Cognitive Difficulty

The American Community Survey asked respondents if due to physical, mental, or emotional condition, they had "serious difficulty concentrating, remembering, or making decisions." [2] Persons with extreme cases of cognitive difficulty and certain types of intellectual disability may need supportive housing or other services which provide the level of services necessary for them to live comfortably.

Chart 7: Persons 5 Years and Over with Cognitive Difficulty, 2008

	Total	Percent of Population
Fairfax County	23,655	2.5%
City of Alexandria	3,203	2.5%
Arlington County	2,966	1.6%
Loudoun County	4,099	1.6%
Prince William County	7,766	2.4%
District of Columbia	26,843	4.9%
Virginia	303,053	4.3%
United States	13,425,171	4.8%
Source: U.S. Census Bureau		

Fairfax County had 23,655 (2.5%) persons 5 years and older with cognitive difficulty in 2008 (Chart 7). While that rate is nearly half of the Virginia rate, almost 8% of those with cognitive difficulty in Virginia reside in Fairfax County.

Independent Living Difficulty

The American Community Survey asked respondents if due to a physical, mental, or emotional condition, they had difficulty "doing errands alone such as visiting a doctor's office or shopping."[3] Persons with this type of disability may require additional levels of in-home care or may need to be housed in supportive housing in order to obtain the level of care necessary to live comfortably.

Fairfax County had 23,404 (3.1%) persons 18 years and older with independent living difficulty (Chart 8). That is higher than the rates in City of Alexandria, Arlington County, Loudoun County, and Prince William County. However, with 5% of the population 18 years and older in Virginia having an independent living difficulty, the rate in Fairfax County is approximately forty percent of that. In 2008, 24% of the population in the County was 55 and older. Should this population grow in Fairfax County, there could be an increase in the number of people with an independent living difficulty and an increase the demand for group homes or supportive housing.

Chart 8: Persons 18 and Over with Independent Living Difficulty, 2008	Total	Percent of Population
Fairfax County	23,404	3.1%
City of Alexandria	3,179	2.9%
Arlington County	3,541	2.2%
Loudoun County	3,600	1.8%
Prince William County	7,365	2.9%
District of Columbia	24,724	5.3%
Virginia	286,625	5.0%
United States	12,915,318	5.7%
Source: U.S. Census Bureau		

Ambulatory Difficulty

The American Community Survey asked respondents if they had "serious difficulty walking or climbing stairs."[4] Persons with this type of disability may have increased difficulty with housing that is not in compliance with the design and construction requirements of the Fair Housing Act. Furthermore, they may require additional services or supportive housing.

Chart 9: Persons 5 Years and Over Ambulatory Difficulty, 2008	Total	Percent of Population
Fairfax County	34,286	3.7%
City of Alexandria	4,928	3.9%
Arlington County	5,913	3.2%
Loudoun County	6,104	2.3%
Prince William County	9,622	3.0%
District of Columbia	36,625	6.7%
Virginia	444,220	6.3%
United States	19,189,449	6.9%
Source: U.S. Census Bureau		

Fairfax County had 3.7% (34,286) of persons 5 years and over with ambulatory difficulty in 2008 (Chart 9). By comparison, 3.9% of persons 5 years and older in City of Alexandria have ambulatory difficulties, while 3.2%, 2.3%, and 3.0% in Arlington County, Loudoun County and Prince William County, respectively, have ambulatory difficulty. In Virginia, 6.3% of persons 5 years and over have ambulatory difficulty.

Self-Care Difficulty

The American Community Survey asked respondents if they had "difficulty dressing or bathing."[5] Persons with this type of disability may require additional levels of in-home care or may need to be housed in supportive housing in order to obtain the level of care necessary to live comfortably. Much like those with independent living difficulty, if the elderly

population in Fairfax County increases, there could be an increase in those with self-care difficulty. This could create an increased demand for supportive housing.

Fairfax County had 12,382 (1.3%) persons 5 years and older with self-care difficulty in 2008. That rate is half of the national rate of 2.6% (Chart 10). Of those nearby localities, Fairfax County's rate is amongst the highest.

Chart 10: Persons 5 Years and Over with Self-Care Difficulty, 2008	Total	Percent of Population
Fairfax County	12,382	1.3%
City of Alexandria	1,489	1.2%
Arlington County	2,505	1.3%
Loudoun County	2,121	0.8%
Prince William County	3,442	1.1%
District of Columbia	12,417	2.3%
Virginia	157,377	2.2%
United States	7,203,018	2.6%
Source: U.S. Census Bureau		

Discrimination against Persons with Disabilities

Persons with disabilities often require reasonable accommodations or reasonable modifications to their housing in order to make it accessible and livable. Reasonable modifications are physical changes to existing housing that enable a person with a disability to have the same full use and enjoyment of the dwelling, and its associated common areas and amenities as persons without disabilities. Reasonable accommodations are changes to rules, policies, procedures, and practices or changes in the way services are provided. Depending on the type of disability, the type of accommodation or modification needed to live comfortably may range from the installation of grab bars in a bathroom, the assistance of a service animal, the installation of an accessibility ramp, etc. In 2009, Fairfax County Department of Housing and Community Development received 184 reasonable accommodation requests. Of those, 85 were approved, 38 were denied (i.e., no disability or no nexus between the request and the disability) and 61 were voided (i.e., due to lack of verification of any disability).

Testing has been done in other parts of the Commonwealth that demonstrated a lack of compliance with the reasonable accommodation and modification requirements. We are unaware of any such testing in Fairfax County, but it is likely that the results would be similar. It is unclear as to the extent that private housing providers are meeting their legal requirements to fulfill the needs of persons with disabilities in Fairfax County. The County supports and should continue to perform fair housing testing related to reasonable accommodations in order to determine the extent to which this type of discrimination is occurring.

Families with Children

Until 1988, when the federal Fair Housing Act added families with children as a protected class, apartment owners in Virginia could (and many did) designate whole complexes for adults only and prohibit families with children from moving in. In 1988, Congress made it illegal to discriminate against families with children (the protected class is known as familial status) and prohibited all-adult communities unless they qualified as housing for older persons. The Virginia Fair Housing Law was amended in 1991 to incorporate these protections and Fairfax County later adopted as well.

Under federal, state, and County fair housing laws, families with children are defined as a parent or other individual having legal or designated custody of an individual less than 18 years old, including those with foster children, those who are pregnant, and those in the process of securing custody. Fair housing laws also provide protection due to guardianship of children. Chart 11 demonstrates the family types in 2008. For this analysis, the Census Bureau definition is used: a family with children covers households where both "a householder and one or more other people living in the same household who are related to the householder by birth, marriage, or adoption" with their own children under 18 years old.[6]

Chart 11: Families with Children, 2008	Total	Married Couple Families	Percent Married Couples with Own Children Under 18 Years Old	Other Family			
				Male Householder (no wife)	Percent Male Headed Households with Own Children under 18	Female Householder (no husband)	Percent Female Headed Households with Own Children under 18
Fairfax County	261,120	214,836	48%	14,006	34%	32,278	53%
City of Alexandria	28,198	19,936	33%	1,927	20%	6,335	54%
Arlington County	40,546	31,235	51%	2,019	42%	7,292	58%
Loudoun County	71,946	61,297	58%	3,235	51%	7,414	64%
Prince William County	97,578	76,532	53%	5,066	47%	15,980	64%
District of Columbia	107,365	54,439	36%	9,943	43%	42,983	52%
Virginia	1,999,409	1,518,624	43%	120,065	47%	360,720	58%
United States	75,030,551	55,692,103	43%	5,167,377	49%	14,171,071	59%
Source: U.S. Census Bureau							

Slightly less than half (48%) of married couple families in Fairfax County have children while 53% of single female headed households and 34% of single male headed households have children. According to the 2008 U.S. Census Bureau American Community Survey, the median family income for married couples with children in Fairfax County was $135,822 while the median family income for single female headed households with children was $56,230. The median family income for single male headed households with children was $64,704. Since single-parent families have lower household incomes, they may have difficulty accessing affordable housing and may require other services such as child care or educational and vocational training.

Chart 12: Population 55 Years and Older, 2008	Total	Percent
Fairfax County	242,215	24%
City of Alexandria	31,554	22%
Arlington County	42,868	20%
Loudoun County	41,517	14%
Prince William County	58,033	16%
District of Columbia	133,695	23%
Virginia	1,814,881	23%
United States	72,530,328	24%
Source: U.S. Census Bureau		

The Elderly

The Virginia Fair Housing Law and the Fairfax County Fair Housing Act include persons 55

years old and older as a protected class. In Fairfax County, in 2008, 24% of the population was 55 years and older, which is slightly higher than the rate in nearby localities (Chart 12).

Elderly populations often require more health related services and may require in-home care or supportive housing. Furthermore, many elderly persons who are retired are on fixed incomes and may have a diminished ability to afford housing.

Other Community Indicators

Income

Chart 13: Median Household Income by Race & Ethnicity, 2000 to 2008

	Total		White		Black		Asian		Hispanic	
	2000	2008	2000	2008	2000	2008	2000	2008	2000	2008
Fairfax County	$104,744	$107,448	$113,530	$118,429	$74,221	$81,168	$91,283	$92,711	$71,925	$68,622
City of Alexandria	$72,441	$86,682	$86,413	$98,829	$49,228	$53,999	$57,695	$67,838	$58,836	$60,331
Arlington County	$81,418	$101,171	$92,124	$112,902	$51,945	$55,163	$60,872	$83,328	$58,862	$69,212
Loudoun County	$104,224	$111,925	$106,945	$114,808	$81,917	$84,337	$102,136	$119,293	$85,429	$55,521
Prince William County	$85,242	$88,724	$90,819	$100,306	$72,111	$64,811	$73,836	$93,097	$69,988	$71,269
District of Columbia	$51,858	$57,936	$84,572	$101,171	$39,388	$39,182	$46,564	$73,013	$46,726	$43,513
Virginia	$60,322	$61,233	$65,302	$66,606	$41,702	$41,626	$74,206	$84,924	$59,811	$56,850
United States	$54,270	$52,029	$57,751	$55,333	$38,024	$35,425	$67,083	$70,069	$43,521	$41,470
Source: U.S. Census Bureau										

Fairfax County and other nearby localities in Northern Virginia have median household incomes that are generally twice as high as the median household income for the United States and nearly twice as high as the median household income for Virginia. However, even in the most affluent county in Virginia and one of the most affluent regions in the United States, racial, and ethnic disparities in income persist (Chart 13).

Chart 14: Percent Change in Median Household Income by Race & Ethnicity, 2000 to 2008

	Total	White	Black	Asian	Hispanic
Fairfax County	3%	4%	9%	2%	-5%
City of Alexandria	20%	14%	10%	18%	3%
Arlington County	24%	23%	6%	37%	18%
Loudoun County	7%	7%	3%	17%	-35%
Prince William County	4%	10%	-10%	26%	2%
District of Columbia	12%	20%	-1%	57%	-7%
Virginia	2%	2%	0%	14%	-5%
United States	-4%	-4%	-7%	4%	-5%
Source: U.S. Census Bureau					

In 2008, the median household income for Fairfax County was $107,448 for all households. White households had median incomes 10% higher than the overall median while black households had a median income that was 25% lower than the County's median household income. The Hispanic median income was 36% lower and the Asian median income was 13% lower than the County's median

household income. These income disparities by race and ethnicity are also reflected in other localities in the region.

From 2000 (income adjusted for inflation) to 2008, income increased the greatest amount amongst black households in Fairfax County with an increase of 9% (Chart 14). This was more than twice the level of increase in white households (4%) and more than four times the level of increase in Asian households (2%). Median household income decreased by 5% for Hispanic households during that time. With an increasing minority population in Fairfax County that is projected to continue rising through 2030, it will become increasingly important to eliminate racial and ethnic disparities in income in order to maintain the current standard of living in the County.

Poverty

In 2008, the Northern Virginia area had some of the lowest poverty rates in Virginia and in the nation (Chart 15). The overall poverty rate in Fairfax County in 2008 was 4.8%, which was less than half the poverty rate in Virginia (10.2%) and nearly a third of the poverty rate for all of the United States (13.2%). Minorities in Fairfax County had poverty rates more than

Chart 15: Poverty Rate by Race & Ethnicity, 2008	Total	White	Black	Asian	Hispanic
Fairfax County	4.8%	3.3%	8.4%	7.0%	7.2%
City of Alexandria	7.3%	3.2%	n/a	n/a	n/a
Arlington County	6.6%	5.0%	n/a	n/a	n/a
Loudoun County	3.4%	2.7%	n/a	n/a	n/a
Prince William County	5.2%	3.0%	7.3%	n/a	10.9%
District of Columbia	17.2%	8.1%	23.6%	n/a	17.6%
Virginia	10.2%	7.9%	18.7%	7.6%	13.3%
United States	13.2%	10.7%	24.1%	10.5%	21.3%
Source: U.S. Census Bureau					

twice the rate of the white population. In 2008, 8.4% of the black population, 7% of the Asian population and 7.2% of the Hispanic population had incomes below the federal poverty level in Fairfax County.

In Fairfax County, only 16 (out of 165) census tracts had poverty rates greater than 10% in 2000. These tracts with greater than 10% poverty rate are profiled in Chart 16 that is located in Map 4. Each tract is labeled with a reference number. Those tracts with greater than 10% poverty rate were not concentrated in any one portion of the County. Of the 16 tracts with greater than 10% poverty rate, one was in the western portion of the County, twelve were in the central portion of the County and three were in the eastern portion of the County.

Population Receiving Public Assistance

Fairfax County has a low percentage of households receiving public assistance (Chart 17). According to the Census Bureau's definition, "Public Assistance income includes general assistance and Temporary Assistance to Needy Families (TANF). Separate payments received for hospital or other medical care (vendor payments) is excluded. This does not include Supplemental Security Income (SSI) or noncash benefits such as Food Stamps." [7]

Chart 17: Households Receiving Public Assistance, 2008	Total	Percent of all Households
Fairfax County	2,990	0.8%
City of Alexandria	939	1.5%
Arlington County	327	0.4%
Loudoun County	397	0.4%
Prince William County	526	0.4%
District of Columbia	10,671	4.3%
Virginia	48,491	1.6%
United States	2,638,470	2.3%
Source: U.S. Census Bureau		

In 2008, only 0.8% of Fairfax County households, or 2,990 households, received public assistance. That is half of the rate for all of Virginia and nearly a third of the rate for all of the United States.

Household Size

In 2000, the average household size for owner occupied households in Fairfax County (Chart 18) was 2.8 persons per households while the average size for renter occupied households was 2.58. The average household sizes vary by race and ethnicity with Hispanic households having the largest average household size at 4.12 and 4.0 for owner occupied and renter occupied, respectively. The average household size for Asian owner occupied households was 3.6 persons per household.

Chart 18: Average Household Size by Race & Ethnicity and Tenure, 2000	Total		White		Black		Asian		Hispanic	
	Owner	Renter	Owner	Renter	Owner	Renter	Owner	Renter	Owner	Renter
Fairfax County	2.8	2.58	2.65	2.32	2.83	2.66	3.6	2.87	4.12	4
City of Alexandria	2.03	2.05	1.93	1.74	2.34	2.26	2.57	2.07	3.13	3.49
Arlington County	2.26	2.06	2.16	1.83	2.34	2.15	2.86	2.09	3.82	3.5
Loudoun County	2.92	2.42	2.86	2.31	2.93	2.61	3.52	2.83	3.96	3.78
Prince William County	3.02	2.75	2.91	2.58	3.13	2.85	3.71	2.87	4.36	3.91
District of Columbia	2.31	2.06	1.98	1.64	2.51	2.23	2.18	1.93	3.48	2.82
Virginia	2.62	2.36	2.55	2.19	2.77	2.55	3.48	2.57	3.8	3.53
United States	2.69	2.4	2.6	2.19	2.92	2.57	3.49	2.67	3.81	3.46
Source: U.S. Census Bureau										

The variations in household size by racial and ethnic groups reflect cultural norms as well as income disparities by race and ethnicity (ability to afford housing). Some localities have attempted to regulate the number of occupants per household, which has been demonstrated to

have a disparate impact on certain minority groups. Therefore, when considering laws that may attempt to limit the number of occupants per household, the local government should be mindful of the potential for any disparate impact that the law may have on a group of people protected under fair housing laws.

Education

Educational attainment levels, as well as the overall quality of the public school system in Fairfax County contribute to the County's high standard of living. This section reviews educational attainment levels as well as the demographics and various indicators of Fairfax County Public School (FCPS) high schools.

Chart 19: Percent Population with Bachelor's Degree or Higher, 2008	Total	White	Black	Asian	Hispanic
Fairfax County	59%	64%	41%	57%	28%
City of Alexandria	58%	69%	24%	n/a	34%
Arlington County	70%	79%	27%	72%	37%
Loudoun County	58%	60%	49%	64%	26%
Prince William County	37%	40%	31%	47%	20%
District of Columbia	48%	82%	22%	75%	30%
Virginia	34%	37%	18%	56%	24%
United States	28%	29%	18%	50%	13%
Source: U.S. Census Bureau					

In Fairfax County, 59% percent of the population 25 years and older had at least a Bachelor's degree in 2008. This rate was more than 50% higher than in all of Virginia (40%) and is nearly twice as high as the national average (35%) (Chart 19). However, there are racial and ethnic disparities in educational attainment. In Fairfax County, while 64% of white residents 25 years and older have at least a Bachelor's degree, only 41% of black residents have reached this point. Furthermore, 57% and 28% of Asian and Hispanic residents 25 years and older, respectively, have achieved this level of educational attainment. These levels are still are still higher than state and national levels.

FCPS is the nation's twelfth largest public school system in terms of enrollment and has some of the highest performing schools in not only the state, but in the nation.[8] According to the FCPS website, "In the June 2009 edition of *Newsweek* magazine, all eligible FCPS high schools were listed in the top five percent of public schools in the nation, based on the annual challenge index - which measures a school's effort to challenge all students."[9] FCPS teachers also have a much higher level of education attainment than state levels. In 2008-2009, 70% of FCPS teachers had at least a Master's degree while only 52% of teachers in the entire Commonwealth met that criteria.

While racial and ethnic disparities in educational attainment in Fairfax County persist, minority populations in Fairfax County have progressively performed better in certain educational indicators, such as dropout rate and the No Child Left Behind (NCLB) graduation indicator.[10] Chart 20 illustrates the NCLB graduation indicator relative to the state level from

the 2006-2007 school year through the 2008-2009 school year. During this time, minority students made progress in decreasing the disparities between FCPS levels and the state level. For instance, in 2006-2007, black students in FCPS had a graduation indicator of 72, which was the same as the Virginia level. However, in 2008-2009, the indicator for black students had surpassed the Virginia level to reach 78 (compared to 73 for Virginia). As another example of progress, the graduation indicator level for Hispanic students in Fairfax County increased by 14 points during that time. Students with disabilities also have a much higher graduation indicator than their counterparts across the Commonwealth, as do economically disadvantaged students.

Chart 20: Fairfax County Public Schools, NCLB Graduation Indicator	2006-2007		2007-2008		2008-2009	
	Fairfax County	State	Fairfax County	State	Fairfax County	State
All Students	83	80	84	80	87	81
Black	72	72	74	72	78	73
Hispanic	54	64	58	67	68	71
White	92	84	92	84	93	85
Students with Disabilities	63	42	64	44	64	47
Economically Disadvantaged	73	68	76	68	76	71
Limited English Proficient	62	64	62	65	64	65
Source: Virginia Department of Education						

Dropout rates are also lower in Fairfax County compared to Virginia totals across all racial and ethnic groups, except for Hispanics. In 2008-2009, 4.28% of Hispanic students in grades 7 through 12 were reported to have dropped out while only 3.43% of Hispanic students in Virginia had the same outcome reported (Chart 21).

Chart 21: Percent Students 7 through 12 who Dropout, 2008-2009	Fairfax County	Virginia
All Students	1.43%	1.76%
Black	2.28%	2.79%
Hispanic	4.28%	3.43%
White	0.55%	1.17%
Asian	0.85%	0.78%
Source: Virginia Department of Educaiton		

All Fairfax County public high schools are fairly diverse (Map 5). Those high schools located in the eastern portion of the county and within the Beltway tend to have higher levels of Hispanic students and black students. Of those high schools with greater than 50% minority students, the average student per teacher ratio was 12.97 in 2008-2009, which was slightly lower than in high schools with less than 50% minority population (13.7 students per teacher ratio). Furthermore, of those schools with greater than 50% minority population, an average of 24% took the Advanced Placement (AP) exam, compared to 33% who took an AP exam in high schools with less than 50% minority students. Dropout rates were also higher in those high schools with greater than 50% minority students versus those schools with less than 50% minority students (2.3% versus 1.2%, respectively).

Overall, Fairfax County Public Schools and the county's high levels of educational attainment have a positive impact on the standard of living in the County. The County should continue its progress in decreasing the racial and ethnic disparities in educational attainment.

ACCESS TO AFFORDABLE RENTAL HOUSING

KEY FINDINGS

From 2002 to 2010, the number of privately owned rental housing units decreased 18%. As incomes increased by 3% from 2000 to 2008 (Chart 14), a household needed to earn nearly four times the federal minimum wage to afford the median contract rent in 2008. Approximately 35,000 renter households earned less than the amount needed to afford the median contract rent in 2008.

- There are more than 100,000 renter occupied housing units in Fairfax County. Minorities, especially Hispanics and blacks, are more likely to rent than are other groups.
- The number of privately owned units affordable at 70% of area median income or less decreased by 9,305 units from 2002 to 2008 (from 44,914 to 35,609).[11]
- The median contract rent in 2008 for Fairfax County was $1,399 (compared to the median monthly owner costs of $2,301). Someone would need to earn $55,960 annually to afford the median contract rent.

Housing Burden for Renter Occupied Households

In 2008, more than 43,000 of the 101,422 renter occupied households in Fairfax County were paying more than 30% of their incomes toward housing costs. The number of housing burdened households increased from 2005 to 2008 in Fairfax County.

- In 2008, more than 80% of renter households earning less than $49,999 annually (30,992 total households) were paying more than 30% of their income toward housing costs.
- The largest increase in the rate of housing burdened renter households was seen across the highest income levels. From 2005 to 2008, 3,215 more households earning between $50,000 and $74,999 were housing burdened. For households earning $75,000 or more, 2,956 more renter households were spending more than 30% of their incomes toward housing costs in 2008 than in 2005.

Affordable Housing Programs

As more households have become housing burdened from 2005 to 2008, the supply for affordable housing has not met the demand. As of May 2010, all public housing programs had waiting lists with more applicants on them than units in the program.[12] Only the Fairfax County Rental Program had an open waiting list. In 2010, the County adopted a goal to decrease the number of people on the waiting list by 50% in ten years.[13]

- A total of 1,934 multifamily units and 414 senior units are under management in the Fairfax County Rental Program which provides affordable housing options for families, single persons, seniors, and supportive housing for special needs populations.[14]
- The Fairfax County Redevelopment and Housing Authority (FCRHA) owns 1,063 units of Public Housing.[15] The average annual income of those households was $19,708. One-third of public housing households administered by FCRHA were female headed households with children.
- FCRHA administers approximately 3,200 Housing Choice Vouchers. Participants have an average annual income of $17,253. There are 5,041 households on the waiting list, which is now closed.[16]
- Since 1991, there have been 47 Low Income Housing Tax Credit (LIHTC) developments in Fairfax County.[17] Of those 47 properties, 11 were built specifically for elderly residents while the remaining 36 were designated for families. Overall, there were 6,235 units built in Fairfax County using Low Income Housing Tax Credits.

ACCESS TO AFFORDABLE RENTAL HOUSING

Median Contract Rent

The median contract rent in 2008 for Fairfax County (Chart 22) was $1,399 which was nearly 80% higher than that of Virginia. Only Arlington County had a higher median contract rent ($1,413) while Loudoun County's was slightly lower ($1,369). Someone would need to earn $55,960 annually to afford the median contract rent.

Chart 22: Median Contract Rent, 2008

	Median Contract Rent, 2008
Fairfax County	$1,399
City of Alexandria	$1,237
Arlington County	$1,413
Loudoun County	$1,369
Prince William County	$1,157
District of Columbia	$918
Virginia	$791
United States	$687
Source: U.S. Census Bureau	

Distribution of Rental Housing

As shown in Map 6, rental housing is not evenly distributed across Fairfax County. Pockets of rental housing are dispersed throughout the County in areas such as the Route One corridor, the Seven Corners/Bailey's Crossroads area, the Centreville area, and the Herndon area.

Rental Housing Burden

It is generally accepted that households paying more than 30% of their income toward housing costs are housing burdened. Fairfax County has some of the highest rates of housing burdened renter households in Virginia as well as the United States (Chart 23). In 2005, 87% of renter occupied households earning between $20,000 and $34,999 were spending more than 30% of their income for housing costs. By comparison, only 60% of those households in Virginia were considered housing burdened. For households earning between $35,000 and $49,999, 78% were considered housing burdened in Fairfax County. This was more than double the rate in Virginia (33%) and three times the rate in the United States (25%).

More Fairfax County households were housing burdened in 2008 than in 2005. In 2008 (Chart 23), the percent of housing burdened households in Fairfax County increased from 87% to 92% for those households earning between $20,000 and $34,999 annually. For those households earning between $35,000 and $49,999 annually, the rate of housing burdened households increased from 78% to 84%.

The largest increases in the rate of housing burdened households were seen across the highest income levels. From 2005 to 2008, 3,215 more renter households earning between $50,000 and $74,999 were housing burdened. For households earning $75,000 or more, 2,956 more renter households were spending more than 30% of their incomes toward housing costs in 2008 than in 2005. Though this was the highest income classification provided by the Census Bureau, it is still lower than the median household income for Fairfax County, which was $107,448 in 2008.

Chart 23: Renter Occupied Households Paying More than 30% of Income Toward Housing Costs, 2005 to 2008

	Less than $20,000		$20,000 to $34,999		$35,000 to $49,999		$50,000 to $74,999		$75,000 or more	
	2005	2008	2005	2008	2005	2008	2005	2008	2005	2008
Fairfax County	83%	88%	87%	92%	78%	84%	27%	42%	4%	10%
City of Alexandria	70%	89%	95%	97%	69%	52%	24%	24%	1%	3%
Arlington County	87%	87%	89%	84%	57%	67%	30%	37%	9%	7%
Loudoun County	88%	93%	92%	98%	61%	74%	25%	42%	5%	11%
Prince William County	93%	96%	92%	95%	57%	67%	25%	50%	5%	9%
District of Columbia	83%	83%	66%	74%	33%	43%	18%	26%	5%	7%
Virginia	84%	87%	60%	69%	33%	43%	13%	20%	4%	7%
United States	86%	88%	58%	66%	25%	34%	11%	16%	3%	5%
Source: U.S. Census Bureau										

Loss of Affordable Rental Housing, 2002 to 2010

According to an analysis by the Fairfax County Department of Tax Administration and the Department Housing and Community Development, privately-owned affordable rental housing significantly decreased from 2002 to 2008. During that time, approximately 9,305 rental housing units which were affordable at 70% Area Median Income (AMI) and below were lost (from 44,914 to 35,609) due to rising rents (loss of 7,946 units), redevelopment (loss of 271 units), and condominium conversions (loss of 1,088). From 2008 to 2010, the number of privately-owned rental housing units that were affordable to those earning 70% AMI or less increased by 1,254 to reach 36,863 units available. However, there was still a net loss of 8,051 units from 2002 to 2010. [18]

This loss of affordable rental housing can be partly attributed to the increased number of

renter households that became housing burdened from 2005 to 2008. When affordable rental housing is not available in the private market, many families and individuals rely upon government subsidized housing programs, such as the Fairfax County Rental Program, the Housing Choice Voucher program, or public housing.

Waiting Lists for Affordable Housing Programs

As of May 2010, there were 12,502 unique applicants on affordable housing waiting lists. Applicants are allowed to put their names on more than one waiting list in order to increase their chances of obtaining affordable housing. The only affordable rental housing program in Fairfax County to have an open waiting list is the Fairfax County Rental Program (FCRP), which has approximately 1,500 units of affordable housing under management. There were 2,415 people on that waiting list. Both the Housing Choice Voucher and Public Housing waiting were closed as of May 2010 with a total of 5,041 and 8,616 applicants on those lists, respectively.[19] The *Blue Print for Affordable Housing*, which is a plan to strategically approach the County's affordable housing issues, has set as a priority the goal to reduce both the Department of Housing and Community Development and Community Service Boards waiting lists for housing assistance by 50% within 10 years.[20]

Accessibility and Public Housing

Many individuals with disabilities who are on the waiting list for public housing have a need for an accessible housing unit. It is important to match applicants with adequately accessible units as they become available. In order to match a public housing applicant with a housing unit that meets their needs, each applicant is able to indicate if they have a disability on their application. When an accessible unit becomes available, applicants indicating a need for an accessibility feature are contacted and the accessible unit is offered to an applicant needing those specific features.[21]

Public housing applicants are allowed to designate a third party as an additional point of contact for notification when a unit becomes available.[22] While we believe this is being done, it is worth noting that this option is especially important to persons with disabilities as they may have a decreased ability to comprehend and appropriately respond to the notification process. Some interviewed were concerned that this option is underutilized and that the process was not working effectively.

Chart 24: Number of Applicants Reporting a Disability by Size of Unit Requested and Type of Disability

	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom
Visual	55	19	7	3
Hearing	42	27	7	2
Mobility	227	85	35	13
Total	324	131	49	18

Source: Fairfax County Department of Housing and Community Development

In order to further understand the demand for accessible public housing units, the Fairfax

County Department of Housing and Community Development conducted a Needs Assessment of Fairfax County Redevelopment and Housing Authority (FCRHA) Public Housing applicants that was released in March, 2010. They contacted 7,811 public housing applicants for information on visual, hearing and mobility features needed. 4,289 responses were received for the survey. Chart 24 summarizes the responses of the public housing applicants in terms of their reported disability type and the size of the unit needed. The most reported type of disability was mobility disability, followed by visual disability. Most applicants were in need of a one bedroom unit.[23] This could indicate a demand for more one bedroom public housing units or single room occupancy (SRO) type housing in the County that are fully accessible.

Affordable Rental Programs

Fairfax County Rental Program

The Fairfax County Rental Program (FCRP) includes all rental property owned by the Fairfax County Redevelopment and Housing Authority (FCRHA). These properties are developed with funds other than public housing funds. A total of 1,934 multifamily units and 414 senior units are under management in this program which provides affordable housing options for families, single persons and seniors and supportive housing for special populations.[24]

The FCRP generally serves working households with incomes that are higher than those households served by the public housing or Housing Choice Voucher programs. Households that are served by the program have incomes from the low teens to moderate incomes. Except for Housing Choice Voucher assisted units, all units have a minimum rent requirement and thus a minimum income for eligibility. According to the Fairfax County Rental Services Division, as of May 2010, there were 2,415 people on the waiting list, and the waiting list was open.[25]

Housing Choice Voucher Program

The Housing Choice Voucher program, funded by the U.S. Department of Housing and Urban Development (HUD), is a housing subsidy program that helps very low income families, the elderly, and the disabled afford decent, safe, and sanitary housing in the private market. The program started in the 1970s as a means by which the federal government could shift its focus away from the building of physical housing structures to a government subsidy model which could be used in the private housing market. It has become a dominant form of federal housing assistance and is intended to prevent government housing subsidies from concentrating low income households in high poverty neighborhoods.

Participants in the HCV program are free to choose any qualified housing in the private housing market. Generally, each participant pays at least 30% of their household income towards housing costs (including rent and utilities). A voucher that covers the rest of the costs, up to a limit, is issued by the administering housing agency. FCRHA administers the Housing Choice Voucher program for Fairfax County. Priority is given to serving households

with incomes at or below 30 percent of the median income for the Washington, D.C. Metropolitan Statistical Area (MSA). Due to the high cost of rental units in Fairfax County and the Washington, D.C. area, the gap between what working poor, elderly and disabled people can afford in the rental market and what rents are has grown exponentially in recent years. This has placed even more demand on the program.

FCRHA administers roughly 3,200 vouchers.[26] HUD, through its Section Eight Management Assessment Program (SEMAP) evaluation, recognized that the FCRHA had deconcentrated poverty through the voucher program and awarded the authority extra points in the evaluation in fiscal years 2006 through 2009. Overall, HUD rated FCRHA as an "outstanding performer" with a score of 90 in its SEMAP evaluation.

According to the 2008 Picture of Subsidized Households released by HUD, Housing Choice Voucher participants are not evenly distributed across Fairfax County (Map 7). Voucher holders are primarily located along the Route One corridor, the Reston/ Herndon area, southeast Fairfax County (along I-95) and inside the Beltway in the neighborhoods directly bordering Arlington County.

According to the U.S. Department of Housing and Urban Development, as of April 30, 2010, the average annual income of FCRHA voucher participants was $17,253. Of the more than 3,200 participants, 76% were extremely low income (below 30% AMI) and 17% were very low income (between 31% and 50% AMI). 35% of participating households were considered to be disabled while 40% of participating households were female headed households with children. White head of households represented 37% of voucher participants while for 48% of head of households were black. Of all participants, 67% were in the program for more than 5 years.[27] There are 5,041 households on the waiting list, which is now closed.[28]

Studies in other localities have indicated that Housing Choice Vouchers are frequently refused as payment by private housing providers. While there is no requirement that a landlord accept the vouchers, the effect is to undermine the intent of the program and relegate voucher holders to neighborhoods or areas of increased poverty and diminished opportunity. These areas often lack the levels of social and economic opportunity that allow them to work their way out of poverty. No study of the rejection rate for Housing Choice Vouchers has been done in Fairfax County, but some interviewed for this report believed that housing choice voucher recipients are discriminated against in Fairfax County's private housing market at high numbers.

Fairfax County has in the past supported adding "source of income" to the list of protected classes in Virginia's Fair Housing law. Twelve states, the District of Columbia and at least thirty seven localities in the United States, including the counties of Frederick, Howard, Montgomery and Prince George's in Maryland, have added protections against *source of income* discrimination under their respective fair housing laws.[29] Though the laws vary by jurisdiction, this type of protection generally makes it illegal to discriminate against legal sources of income, including vouchers.

Because testing was not part of this report, the level of housing discrimination against voucher recipients is uncertain in Fairfax County. The County supports testing generally, and should use this technique to determine the extent to which voucher holders are being discriminated against in the private housing market.

Public Housing

The Fairfax County Redevelopment and Housing Authority (FCRHA) owns 1,063 units of public housing.[30] Public housing units are managed and maintained by the Fairfax County Department of Housing and Community Development (HCD). The units were built or acquired using federal public housing funds. Units include townhouses, garden apartments, and condominium units, and are located throughout the County.

As of April 30, 2010, the average annual income of those households was $19,708 which was slightly higher than the average annual income of Housing Choice Voucher households ($17,253). One-third of public housing households administered by FCRHA were female headed households with children. By comparison, 51% of all public housing households in Virginia were female headed households with children. Of FCRHA public housing households, 42% of the head of households were black, 27% were Asian, and 8% were Hispanic.[31] Of all participants, 61% stay in public housing more than 5 years. According to the Fairfax County Rental Services Division, as of May 2010, there were 8,616 people on the waiting list, and it was closed.[32]

Low Income Housing Tax Credit Program

The Federal Low-Income Housing Tax Credit (LIHTC) program is now the major source of federal support for affordable housing. The program provides developers with a federal income tax credit and in the case of non-profit developers, creates an incentive for private investors to participate in the construction and rehabilitation of low-income housing. Participating properties must set aside a certain number of units for low-income households.

The Low Income Housing Tax Credit program is administered by the Virginia Housing Development Authority. VHDA establishes an annual "Qualified Allocation Plan" (QAP), which defines the criteria for ranking applications. Additional points are given to projects supported by their localities, which means that although localities do not have a direct role in the administration of the LIHTC program, their support or lack of it will have a major impact on whether or not the project is built. There has been much criticism of this provision, which allows localities to keep subsidized housing out regardless of whether the appropriate zoning is in place, but so far no changes have been made. It is unclear as to the extent to which this provision has affected affordable housing in Fairfax County.

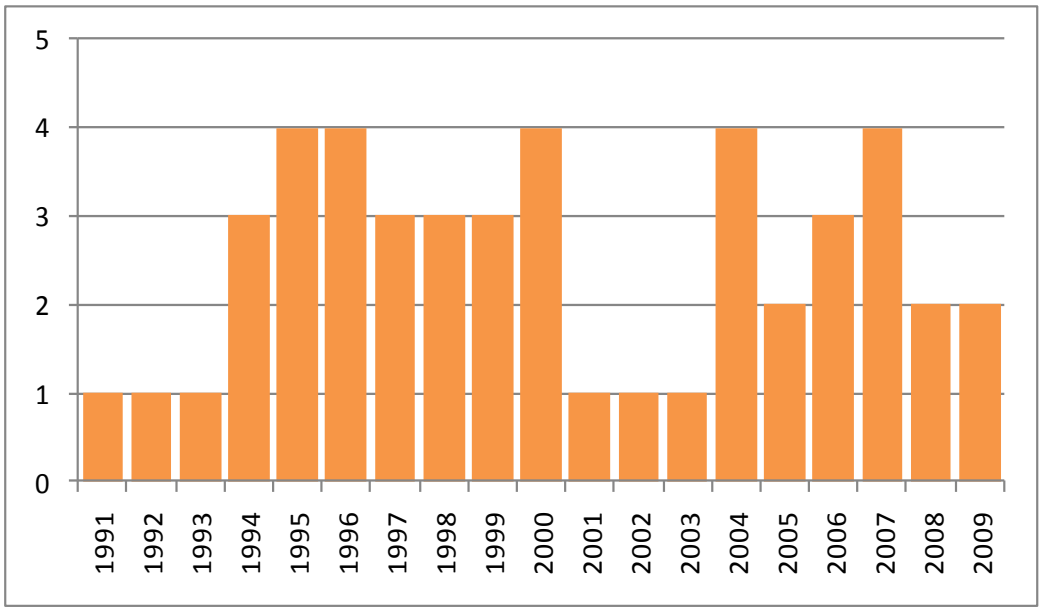
According to data available from the Virginia Housing Development Authority, there have been 47 LIHTC developments in Fairfax County since 1991 (Chart 25). Of those 47 properties, 11 were built specifically for elderly residents while the remaining 36 were designated for families.[33]

Overall, there were 6,235 units built in Fairfax County using LIHTC. While the properties are fairly evenly distributed across Fairfax County, noticeable concentrations of LIHTC properties have been preserved along the Route One corridor as well as in the neighborhoods bordering Arlington County and City of Alexandria (Map 8). These are also areas with noticeable concentrations of voucher holders.

In 2009 (as with previous years), VHDA set aside 15% of the following year's credits for affordable housing preservation projects.[34] However, in the most recent QAP, the preservation set aside was removed which forced developers to apply for the credits in the competitive process. One interviewee said that because preservation projects will have more competition in the QAP scoring system, removing the preservation pool may decrease affordable housing opportunities in areas of Virginia that are built out, such as Fairfax County.

Some interviewed for this report were concerned that removal of the LIHTC preservation set-aside would have an adverse impact on affordable housing development in Fairfax County. Given the limited amount of land that is available for new residential development in the heavily developed areas of Virginia, such as Fairfax County, the preservation of existing affordable rental housing is seen by some as critical.

Chart 25: Low Income Housing Tax Credit Properties Developed Annually in Fairfax County, 1991 to 2009



Source: Virginia Housing Development Authority

According to other project interviewees, the removal of the pool will not affect the development of tax credit properties in Fairfax County. Furthermore, it was indicated that

LIHTC developments in northern Virginia are not having difficulty obtaining credits. However, the impact has yet to be seen. The County should evaluate this provision and examine it for any impact that its removal may have on affordable housing development in Fairfax County.

HOMELESSNESS

Key Findings

Homelessness prevention initiatives in the County appear to be having an impact on the number of people who are homeless. Since the previous point-in-time survey, the number of people who were homeless decreased by nearly 11%.[35]

- There were 1,544 people who were homeless on January 27, 2010. Of those, 652 were single individuals and 892 were people in families.
- Of those homeless persons in families, 48% were black and 18% were Hispanic. Of those homeless individuals not in families, 31% were black and 17% were Hispanic.
- According to the survey, 62% of the adults in homeless families were employed and 43% reported monthly incomes of greater than $1,001 per month. By comparison, only 23% of those homeless individuals reported being employed.
- Of the 652 homeless individuals, 60% reported serious mental illness or substance abuse problems while only 3% of the 892 homeless persons in families reported any problems with serious mental illness or substance abuse.

Homelessness is a continuing problem in Fairfax County. According to some interviewed for this report, the founding of the Fairfax-Falls Church Community Partnership on Ending Homelessness has improved service delivery as well as the way the community understands homeless issues. However, it was further stated that much still needs to be done to end homelessness in Fairfax County. According to the most recent point-in-time count, a biannual survey which attempts to capture the number of families and individuals experiencing homelessness, there were 1,544 people who were homeless on January 27, 2010. Of those, 652 were single individuals and 892 (58%) were people in families.[36]

Individuals who are homeless are far more likely to suffer from serious mental illness and/or substance abuse problems. Of the 652 homeless individuals not in families, 60% reported serious mental illness or substance abuse problems while only 3% of the 892 homeless persons in families reported any problems with serious mental illness and/or substance abuse problems. Charts 26 and 27 illustrate those characteristics.

According to the survey, 62% of the adults in homeless families were employed and 43% reported monthly incomes of greater than $1,001 per month. By comparison, only 23% of those homeless individuals reported being employed. Minorities are disproportionately represented within the homeless population. Of those homeless persons in families, 48% were black and 18% were Hispanic while 21% were white. Of those homeless individuals not

in families, 31% were black and 17% were Hispanic while 39% were white.

In February 2007, the Fairfax County Board of Supervisors endorsed a 10 Year Plan to Prevent and End Homelessness. The plan was created by the Planning Committee to End Homelessness in conjunction with the cities of Fairfax and Falls Church, government agencies, nonprofits, faith communities, and businesses. The key approach of the plan is to put people into housing first, not shelters. Once the individual or family is in the housing, then they are provided with the necessary services for them to break the cycle of homelessness.[37]

Homelessness prevention initiatives in the County appear to be having an impact on the number of people who are homeless in the area. Since the previous point-in-time survey, the number of people who were homeless decreased by nearly 11%. Of that, the number of homeless families decreased by more than 16% and the number of single individuals decreased slightly by 1.7%.[38]

Chart 26: Characteristic of Single Individuals (652 total)	Number	Percent
Serious mental illness, substance abuse or both	391	60%
Chronic health problems	83	13%
Physical disability	54	8%
Victims of domestic abuse	45	7%
Language minority	147	23%
Homeless from an institution	132	20%
Formerly in foster care	16	2%
Veteran of U.S. military service	62	10%
Chronic homeless	242	37%
Unsheltered	140	21%
Gender: Male	484	74%
Gender: Female	168	26%
Employed	150	23%
No income or unknown	362	56%
Income from $1 to $500 per month	114	17%
Income from $501 to $1,000 per month	131	20%
Income over $1,000 per month	45	7%
Race/ethnicity: Hispanic *(any race)*	110	17%
White *(only, non-Hispanic)*	256	39%
Black *(only, non-Hispanic)*	199	31%
Asian/Other/Bi- or Multiracial/unknown	87	13%
Source: Fairfax County Office to Prevent and End Homelessness		

Chart 27: Characteristics of Persons in Families (892 total)	Number	Percent
Victims of domestic violence	257	29%
Language minorities	352	39%
Chronic health problems	36	4%
Serious mental illness, substance abuse or both	24	3%
Physical disability	8	1%
Homeless from an institution	8	1%
Formerly in foster care	26	3%
No identified subpopulation	325	36%
Gender: adults, male	67	20%
Gender: adults, female	275	80%
Gender: children, male	269	49%
Gender: children, female	281	51%
Adults who are employed	212	62%
Adults with no income or unknown	68	20%
Adults with income from $1 to $1,000	125	37%
Adults with income from $1,001 to	104	30%
Adults with income over $2,000 per month	45	13%
Race/ethnicity: Hispanic *(any race)*	156	18%
White *(only, non-Hispanic)*	189	21%
Black *(only, non-Hispanic)*	430	48%
Asian/Other/Bi- or Multiracial/unknown	117	13%
Source: Fairfax County Office to Prevent and End Homelessness		

Single Individuals: 652
Ages:
Age 18-34: 182 (28%)
Age 35-54: 366 (56%)
Age 55 and over: 103 (16%)
Unaccompanied youth under the age of 18: 1 person

Adults in families: 342
Age 18-34: 188 (55%)
Age 35-54: 146 (43%)
Age 55 and over: 8 (2%)
Children in families: 550
Under age 6: 237 (43%)
Age 6-11: 189 (34%)
Age 12-18: 124 (23%)

ACCESS TO CREDIT AND SUSTAINABLE HOMEOWNERSHIP

Key Findings

Access to Credit

Access to mainstream credit is critical to creating sustainable homeownership opportunities and generating wealth. From 2004 to 2008, minority borrowers (even upper income minority borrowers) were at times up to 5 times more likely to receive high cost loans than white borrowers.

- From 2004 to 2008, 60% of loan applications resulted in a loan origination for white borrowers. By comparison, only 48% and 51% for black and Hispanic borrowers, respectively, resulted in a loan origination.
- While only 7% of all loans originated in 2004 were high cost loans, that number peaked to 20% of loans originated in 2006 and decreased to 3% in 2008.
- From 2004 to 2008 black borrowers were three times more likely to receive a high cost loan than were white borrowers. Hispanic borrowers were more than four times more likely than white borrowers to receive a high cost loan during this time.
- Upper income minority borrowers were up to five times more likely than upper income white borrowers to receive high cost loans.

Homeownership

Despite major racial and ethnic disparities in homeownership rates in Fairfax County, minority households had positive gains in homeownership rates from 2000 to 2008. However, recent lending disparities, which may have been a result of predatory lending practices, and the subsequent likelihood of increased financial distress and foreclosure may limit this progress.

- Fairfax County's homeownership rate is amongst the highest in the region. In 2008, 269,992 of the 371,414 occupied housing units (73%) in Fairfax County were owner occupied. Homeownership rates were 71% in 2000.
- Homeownership rates in Fairfax County and in the focus area vary considerably by race and ethnicity. In Fairfax County, 77% of whites while only 53% of blacks and 59% of Hispanics own their homes.
- The median house value for owner occupied households in Fairfax County in 2008 was $523,600. The median monthly owner cost for all households was $2,301. To afford the median monthly owner costs a person would need to earn $92,040 annually or $44.25 per hour working full-time.

Foreclosure

Fairfax County has had some of the highest foreclosure rates in Virginia in recent years. Census tracts with the highest levels of minority populations had the highest foreclosure rates in the County from 2007 to 2009.

- According to RealtyTrac Inc., from January 2007 through December 2009, there were 14,645 Notices of Trustee Sale and 6,069 Real Estate Owned (REO) properties reported in Fairfax County.
- From March 2009 to March 2010, Fairfax County had the 14th highest average monthly foreclosure rate of all localities in Virginia.
- Fairfax's minority neighborhoods had higher foreclosure rates from 2007 to 2009 than predominantly white neighborhoods.
  - Census tracts with greater than 30% minority population had a foreclosure rate (NTS per household) of 7.05% while census tracts with less than 10% minority population had foreclosure rates of 2.45%.
  - Census tracts with greater than 20% Hispanic population had a 6.17% foreclosure rate while census tracts with less than 5% Hispanic population had a foreclosure rate of 1.43%.

ACCESS TO CREDIT AND SUSTAINABLE HOMEOWNERSHIP

This analysis covers five years of lending data for Fairfax County. The data used in this analysis are based on mortgage loan applications for 2004 to 2008 as reported in Home Mortgage Disclosure Act (HMDA) data. These are the most recent years of HMDA data available. The HMDA is a federal law that generally requires all but the very smallest home lenders to report information on their home loans. The information reported includes the race of the applicant(s), the income of the applicant(s), the amount of the loan, the purpose of the loan, the type of loan (FHA or conventional, etc.), the loan application decision, and the census tract location of the home being financed.

Access to mainstream credit is vital to creating sustainable homeownership opportunities. Homeownership is the primary mechanism for generating wealth in our society. However, minorities and minority communities have been denied access to mainstream credit for generations. This has created noticeable disparities in homeownership that are apparent even in America's most affluent communities, such as Fairfax County. From 2004 to 2008, mortgage lending disparities persisted across racial and ethnic lines in Fairfax County. This has likely limited progress toward a more equitable homeownership market as certain minorities in Fairfax County who had higher rates of high cost and subprime loans in recent years have been disproportionately impacted by the foreclosure crisis. This section looks at the disparities in access to credit and rates of high cost lending by race and ethnicity.

Loan Origination Disparities in Fairfax County

From 2004 to 2008, white borrowers were the most likely of any group to originate a loan (Chart 28). During that time, 60% of loan applications resulted in a loan origination for white borrowers. By comparison, only 48% and 51% of loan applications for black and Hispanic borrowers, respectively, resulted in a loan origination. Since 2004, loan origination rates for all borrowers steadily decreased as the economic downturn made credit scarcer. Still, loan originations decreased the most for minority borrowers in Fairfax County: from 2004 to 2008, loan originations decreased 16% for both black and Asian loan applicants while loan originations to Hispanic applicants decreased by 23%. Loan originations for white borrowers remained well above the overall origination rate (55% versus 47%).

Chart 28: Fairfax County - Loan Origination Rate by Race and Ethnicity, 2004 to 2008	2004	2005	2006	2007	2008
White	67%	64%	61%	55%	55%
Black	56%	55%	50%	41%	40%
Hispanic	61%	61%	56%	40%	38%
Asian	64%	61%	56%	48%	48%
Native American	46%	48%	46%	44%	31%
Total	54%	52%	47%	44%	47%
Source: Home Mortgage Disclosure Act					

Disparities in High Cost Lending in Fairfax County

High cost loans are defined as first lien mortgage loans with an interest rate three points above the treasury yield or greater and subordinate lien mortgage loans with an interest rate five points or greater above the treasury yield. Minority borrowers in Fairfax County were disproportionately served by high cost lending from 2004 to 2008. As shown in Chart 29, black borrowers were three times more likely to receive a high cost loan than were white borrowers. Hispanic borrowers were up to more than four times more likely to receive a high cost loan than white borrowers.

Chart 29: Fairfax County - Rate of High Cost Lending by Race and Ethnicity, 2004 to 2008	2004	2005	2006	2007	2008
White	4%	8%	11%	5%	3%
Black	15%	27%	31%	16%	6%
Hispanic	17%	38%	44%	22%	6%
Asian	7%	14%	19%	8%	3%
Native American	13%	18%	13%	9%	6%
Total	7%	15%	20%	8%	3%
Source: Home Mortgage Disclosure Act					

Upper Income Borrowers and High Cost Loans

While HMDA data does not report on a borrower's credit history, it does report on the borrower's income level. This allows us to examine lending patterns across the same income levels and removes the impact of income disparities across racial and ethnic groups.

Chart 30: Fairfax County - Rate of High Cost Lending for Upper Income Borrowers by Race and Ethnicity, 2004 to 2008

	2004	2005	2006	2007	2008
White	3%	7%	10%	5%	2%
Black	12%	24%	31%	17%	5%
Hispanic	17%	40%	45%	19%	3%
Asian	7%	14%	19%	8%	3%
Native American	12%	13%	12%	9%	5%
Total	5%	13%	17%	7%	3%

Source: Home Mortgage Disclosure Act

From 2004 to 2008, upper income minority borrowers were four to five times more likely to receive a high cost loan than upper income white borrowers. In 2006, when high cost loans accounted for 17% of all loans originated in Fairfax County to upper income borrowers, 45% of upper income Hispanic borrowers received a high cost loan, compared to only 10% of white borrowers (Chart 30).

Disproportionality and Disparities in Mortgage Lending

Similar to other jurisdictions across the country, African American and Hispanic children and families are represented in both the child protection and juvenile justice systems in a manner that far exceeds the general population. Further examination of these issues has led to the realization that to achieve change, there are root causes that need to be addressed far earlier than any formal system involvement. Areas such as school achievement, financial literacy, lending disparities and health outcomes have similar challenges for children and families of color.

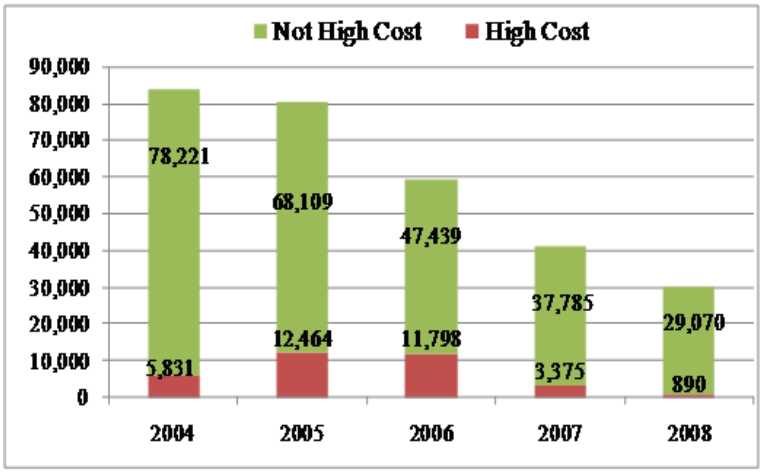
Beginning in 2007, the Human Services Leadership Team convened its leadership to establish a common foundation of understanding and begin to share agency program data by race and geographic region to examine the connections and opportunities. Without question, initiatives across the systems are intended to provide racially equitable services. Existing improvement teams increasingly address issues around racial equity. It has been demonstrated and concluded that strategies to address disproportionality should be woven throughout initiatives and programs, but it is essential to establish and dedicate staff that focus solely on this issue to achieve sustainable results. To formalize and focus these efforts, in January, 2010, the Human Services Leadership Team established an interagency team, the Disproportionality and Disparity Prevention and Elimination Team (DDPET) that includes human services, police and schools. The DDPET team provides coordinated, collaborative leadership to increase understanding of the challenges of disproportionality and disparities, to identify and recommend targeted practice changes across human services, public safety and public

education that could lead to improved outcomes for African American and Hispanic children and families, and to track progress across our systems.

Distribution of High Cost Loans in Fairfax County

Maps 9 through 13 show the distribution of high cost loan origination rates by census tract in Fairfax County from 2004 to 2008. While only 7% of loans originated in 2004 were high cost loans, that number peaked to 20% of loans originated in 2006 and decreased to 3% in 2008. In 2004, high cost lending was concentrated in eastern portions of the County, especially along the Route One corridor. In 2005 and 2006, high cost lending increased inside the Beltway, in the Herndon area as well as in the eastern portion of the County. In 2007 and 2008, high cost lending (as with all mortgage lending) receded, and the high cost lending was mainly concentrated along the Route One corridor. In 2008, only 890 high cost loans were originated compared to 12,464 in 2005 and 11,798 in 2006 (Chart 31). Overall, mortgage loan originations decreased by 180% from 2004 to 2008, from 84,052 to 29,960 in Fairfax County.

Chart 31: Fairfax County Loan Origination Volume, 2004 to 2008



Source: Home Mortgage Disclosure Act

Homeownership

Chart 32: Homeownership Rates by Race and Ethnicity, 2000 to 2008

	2000					2008				
	Total	White	Black	Asian	Hispanic	Total	White	Black	Asian	Hispanic
Fairfax County	71%	76%	47%	64%	52%	73%	77%	53%	72%	59%
City of Alexandria	40%	50%	20%	25%	21%	49%	58%	24%	34%	32%
Arlington County	43%	50%	26%	24%	23%	52%	59%	26%	42%	35%
Loudoun County	79%	81%	64%	81%	69%	78%	78%	68%	86%	57%
Prince William County	72%	76%	59%	71%	60%	72%	80%	54%	82%	60%
District of Columbia	41%	47%	39%	24%	24%	43%	52%	38%	35%	27%
Virginia	68%	74%	51%	57%	44%	69%	74%	51%	70%	51%
United States	66%	71%	46%	53%	46%	67%	72%	46%	59%	49%
Source: U.S. Census Bureau										

In 2008, 269,992 of the 371,414 occupied housing units (73%) in Fairfax County were owner

occupied. Homeownership rates increased from 71% in 2000 while the national homeownership rate increased to 67% in 2008 (up from 66% in 2000). Fairfax County's homeownership rate is amongst the highest in the region. By comparison, the overall homeownership rate was 69% for all of Virginia in 2008. Loudoun County's homeownership rate was 78%, and Prince William County's was 72%. City of Alexandria, Arlington County and the District of Columbia had substantially lower homeownership rates at 49%, 52%, and 43%, respectively (Chart 32).

Homeownership rates in Fairfax County and in the focus area vary considerably by race and ethnicity. In Fairfax County, 77% of whites own their homes compared to 53% of blacks. Furthermore, only 59% of Hispanics own their homes while the Asian homeownership rate at 72% is closer to the County level of 73%. In Fairfax County, from 2000 to 2008, the homeownership rate for Asian households (Chart 32) increased by 8% while the Hispanic and black homeownership rates increased by 6% and 5%, respectively.

The increases in minority homeownership rates that were seen in Fairfax County from 2000 to 2008, which was the beginning of the foreclosure crisis, could change given that many of those homeownership opportunities were created using risky and often unsustainable high-cost loan products. This is evident by the disparities in high cost lending that was discussed in the previous section.

Homeownership levels are strong in nearly every census tract of Fairfax County (Map 14). Out of the 165 census tracts in Fairfax County, 94 (57%) had homeownership rates greater than 75.1% while only 22 (13%) had homeownership rates lower than 50%. Those census tracts with homeownership rates lower than 50% were not concentrated in any one portion of the County. However, 9 of the 22 were located east of I-95 along the Route One corridor and 4 of the 22 census tracts were located in the neighborhoods directly south of Arlington County.

Cost of Homeownership and First Time Homebuyer Programs

House Value and Monthly Owner Costs

The median house value for owner occupied households in Fairfax County in 2008 was $523,600, which was nearly twice the median value for Virginia ($269,600). The median monthly owner costs for all households was $2,301 (Chart 33). Someone would need to earn $92,040 annually to afford the median monthly owner costs.

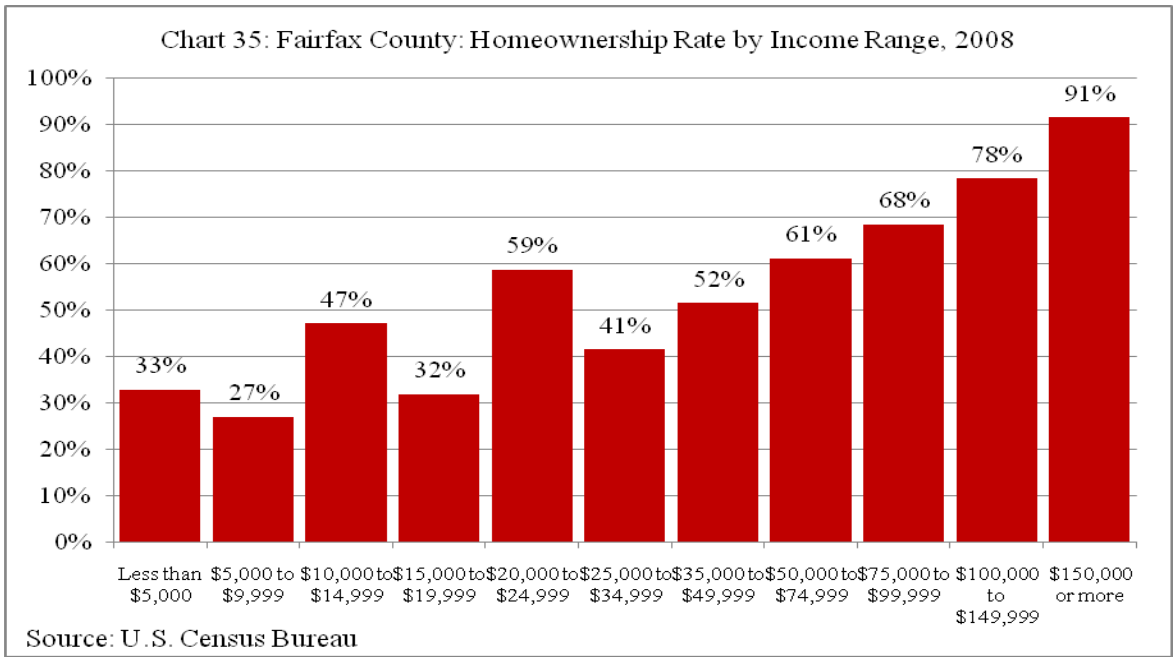
Chart 33: Median Owner Occupied House Value and Median Monthly Owner Costs, 2008

	Median House Value	Median Monthly Owner Costs
Fairfax County	$523,600	$2,301
City of Alexandria	$491,100	$2,105
Arlington County	$587,900	$2,388
Loudoun County	$488,700	$2,694
Prince William	$382,300	$2,262
District of Columbia	$474,100	$1,826
Virginia	$269,600	$1,311
United States	$197,600	$1,121
Source: U.S. Census Bureau		

First Time Homebuyer Programs

Due to the relatively higher cost of homeownership in Fairfax County, homeownership rates vary dramatically by income range (Chart 32). In order to increase homeownership rates amongst low to moderate income households, Fairfax County developed the Affordable Dwelling Unit Ordinance (ADU), which gives developers an incentive to offer a portion of units in a development at affordable prices. Under the ordinance, the First-Time Homebuyer Program was established and has been providing homeownership opportunities for low-to-moderate income households since 1992. This program offers homes for sale to households that earn less than 70% area median income at a price that is below the sale price of other units in the same neighborhood. However, households that earn less than $25,000 of annual income are not eligible to participate in program. Furthermore, first time homebuyers are required to get financial literacy counseling and complete homebuyer education, which encourages responsible and sustainable homeownership.[39]

Other programs are at times also available for low-to-moderate income households in Fairfax County. For instance, the SPARC (Sponsoring Partnerships And Revitalizing Communities) program offers low interest mortgages for first time homebuyers, however as of May 2010, this program was not available. Also, the Resident Opportunities for Self Sufficiency (ROSS) Grant program provides financial education to public housing residents. Eligible participants must complete twelve credit and homeownership education sessions as well as go through one-on-one counseling quarterly. However, this program was not taking applications as of May 2010.[40]



Housing Burden, Homeowners

It is generally accepted that households paying more than 30% of their income for housing

costs are housing burdened. Lower income households are more likely to be housing burdened in Fairfax County. However, across all income levels, Fairfax County had some of the highest levels of housing burdened owner occupied households relative to surrounding localities, Virginia and the nation. In 2005, 94% of owner occupied households earning less than $20,000 were paying more than 30% of their income toward housing costs. For households earning between $20,000 and $34,999, 76% of those households were housing burdened while only 16% of households earning $75,000 or more were housing burdened (Chart 35).

Chart 35: Owner Occupied Households Paying More than 30% of Income Toward Housing Costs, 2005 to 2008

	Less than $20,000		$20,000 to $34,999		$35,000 to $49,999		$50,000 to $74,999		$75,000 or more	
	2005	2008	2005	2008	2005	2008	2005	2008	2005	2008
Fairfax County	94%	94%	76%	88%	64%	66%	56%	56%	16%	20%
City of Alexandria	100%	98%	63%	63%	60%	62%	54%	68%	13%	20%
Arlington County	98%	94%	76%	65%	53%	60%	43%	55%	11%	21%
Loudoun County	96%	98%	69%	92%	79%	84%	61%	64%	20%	27%
Prince William County	88%	86%	72%	75%	66%	84%	58%	66%	19%	25%
District of Columbia	85%	89%	60%	63%	49%	61%	34%	42%	9%	17%
Virginia	63%	67%	42%	45%	37%	43%	24%	32%	10%	15%
United States	68%	72%	44%	49%	34%	39%	23%	29%	10%	14%
Source: U.S. Census Bureau										

In 2008 (Chart 35), owner occupied households paying more than 30% of their income toward housing costs increased across all income levels in Fairfax County. From 2005 to 2008, the largest increases in percent of housing burdened households were in households earning between $20,000 to $34,999. Within that income range, the rate of housing burdened households increased from 76% in 2005 to 88% in 2008.

Foreclosures

Fairfax County and Northern Virginia have had some of the highest foreclosure rates in the nation in recent years. According to RealtyTrac Inc., from January 2007 through December 2009, there were 14,645 Notices of Trustee Sale (NTS) and 6,069 Real Estate Owned (REO) properties reported in Fairfax County. Those foreclosures were not evenly distributed through the County. Map 15 shows the distribution of filings by census tract while Map 16 demonstrates the distribution of NTS per household by census tract. Areas with greater than 10% of the households with a notice of trustee sale are concentrated in the eastern portion of the County along the Route One corridor, in the Centreville area and in the Herndon area.

The analysis of foreclosure rates in this report was done using foreclosure data for 2007 to 2009 and 2000 Census household numbers. Certain census tracts which have had significant growth in number of households since the 2000 census may have deceivingly high foreclosure rates given the lack of a more recent base number with which to determine the foreclosure

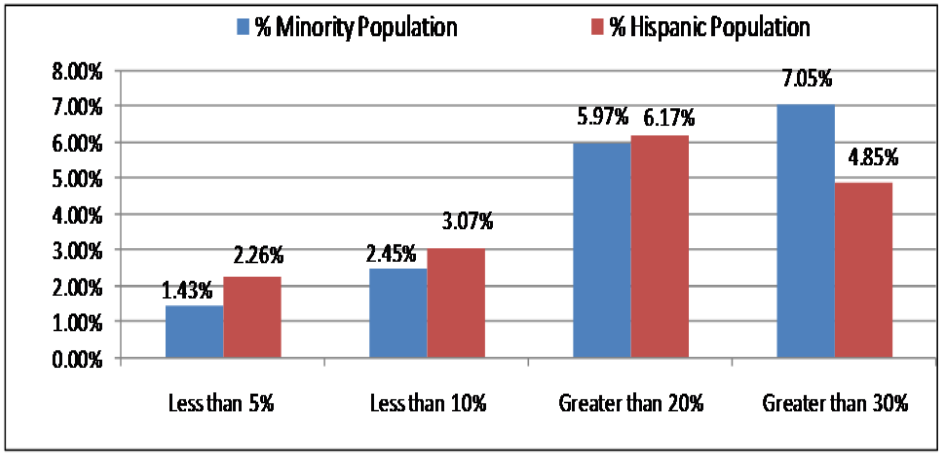
rate. Although Fairfax County experienced an unprecedented foreclosure crisis - reaching a peak of 2,257 bank-owned "net" foreclosed properties units in September 2008 - it should be noted that the number of net foreclosures has steadily decreased, falling to 704 units as of March 2010; this is well below the April 2008 - March 2009 twelve-month average of 1,982 units.[41]

Map 17 illustrates concentrations of Real Estate Owned (REO) properties per household by census tract from January 2007 through December 2009. Much like the distribution of NTS per household in Map 16, REO properties are concentrated in the Centreville, Herndon and Route One corridor areas. There are also notice able concentrations of REO properties inside the Beltway. Map 18 shows net foreclosures by supervisor district through March 2010.

Impacts on Minority Neighborhoods

Though few census tracts had greater than 30% minority population, those census tracts with higher percentages of minority populations had disproportionately higher foreclosure rates from 2007 to 2009. While there are no census tracts in Fairfax County with clear concentrations of minorities, it is important to note that those tracts with the highest minority populations in Fairfax also had the highest foreclosure rates. Census tracts with greater than 30% minority population (those that reported black, American Indian, Asian, Hawaiian or Pacific Islander, Other or More than One Race, but not Hispanic) had a foreclosure rate (NTS per household) of 7.05% while census tracts with less than 10% minority population had foreclosure rates of 2.45%. This trend is also apparent in the County's Hispanic community, where census tracts with greater than 20% Hispanic population had a 6.17% foreclosure rate while census tracts with less than 5% Hispanic population had a foreclosure rate of 1.43% (Chart 36).

Chart 36: Notices of Trustee Sale per Household by Percent Minority and Hispanic Composition of Census Tract, 2007 to 2009



Source: HOME analysis of U.S. Census Bureau and RealtyTrac Inc. data.

Chart 37: Highest Average Monthly Foreclosure Rates in Virginia, March 2009 to March 2010		
Rank (out of 134)	Locality	Average Monthly Foreclosure Rate
1	Manassas City	0.64
2	Prince William	0.57
3	Fairfax City	0.49
4	Caroline	0.43
5	Spotsylvania	0.41
6	Stafford	0.37
7	Loudoun	0.36
8	Orange	0.36
9	Warren	0.34
10	Frederick	0.34
11	Culpeper	0.33
12	Fauquier	0.26
13	Fairfax	0.25
14	Winchester City	0.24
15	Louisa	0.24
Source: RealtyTrac, Inc.		

Average Monthly Foreclosure Rate

While foreclosure rates (percent households with a foreclosure filing) in Northern Virginia and Fairfax County have decreased significantly in recent years, the County's foreclosure rate still ranks amongst the highest in Virginia. Map 19 illustrates average monthly foreclosure rate by locality. From March 2009 through March 2010, Fairfax County had the 13th highest average monthly foreclosure rate of all localities in Virginia (Chart 37).

CHAPTER 2 – IDENTIFIED IMPEDIMENTS

Impediment 1. People of color are projected to be a majority in Fairfax County by 2030. This demographic shift of an increasing minority population and a decreasing white population may cause community tension.

> **Recommendation:** The County of Fairfax should continue to be proactive in reaching out to and connecting community leaders to increase cultural awareness and understanding within and across communities.

Impediment 2. There are a limited number of accessible public housing units available in Fairfax County. Low income families and individuals who are in need of affordable and accessible housing may have a difficult time finding housing which meets their needs.

> **Recommendation:** The County of Fairfax should:
>
> a) Develop means to encourage development of accessible housing that is affordable to Fairfax County's lowest income households; and
>
> b) Conduct more outreach regarding its third-party notification option which allows public housing residents to designate a friend, family member or caretaker to be notified that their public housing application has been approved.

Impediment 3. Persons with disabilities may need to have reasonable accommodations made by housing providers and approval for reasonable modifications.

Recommendation: The County of Fairfax should perform testing to determine if housing providers (public or private) are making reasonable accommodations and modifications for people with disabilities as required under fair housing laws.

Impediment 4. A high percentage of low income Fairfax County households and a growing number of households with higher incomes are paying more than 30 percent of their income for housing. The increasing housing burden for both renter and owner occupied households should be addressed.

Recommendation: The County of Fairfax should:

a) Provide adequate funding for The Penny for Affordable Housing Fund to increase the creation of affordable housing options; and
b) Examine the removal of the 15% preservation set-aside for the Low Income Housing Tax Credit program to determine if it has adversely affected affordable housing development in Fairfax County.

Impediment 5. There are concentrations of voucher recipients in Fairfax County. Prolonged concentrations of low income households have a negative impact both on the family and the community. Housing Choice Voucher holders' housing options may be limited due to landlord resistance, poor credit and rental references. While the County has been acknowledged by HUD for its efforts in deconcentrating poverty through the voucher program, housing options for voucher holders may still be limited due to landlord resistance, poor credit and rental references.

Recommendation: The County of Fairfax should:

a) Perform testing of housing providers to determine at what level housing providers in Fairfax County are accepting housing vouchers;
b) Support programs to encourage landlords in low poverty neighborhoods to participate in the voucher program, such as providing voucher holders with responsible tenancy education and helping landlords navigate the Housing Choice Voucher program requirements;
c) Support legislation in the General Assembly that would expand a tax credit program to encourage landlords in low poverty areas to accept housing vouchers; and
d) Support legislation in the General Assembly that would add *source of income* as a protected class to the fair housing laws.

Impediment 6. African-Americans and Hispanics are disproportionately served by high cost lending to a degree that cannot be explained by risk. More must be done to address and eliminate the disparities in high cost lending and access to mainstream mortgage credit by minorities and minority communities.

Recommendation: The County of Fairfax should:

a) Provide counseling and education to communities in which high cost lending is a major presence to help them become informed lending consumers;

b) Support programs to help homeowners with high cost loans refinance or restructure their loans;
c) Work with mortgage lenders to educate them about fair lending requirements and the disparate impact of high cost lending on minorities and minority communities; and
d) Lending disparities based on race and ethnicity exist in Fairfax County, as elsewhere. The County should support a program of lending testing to determine whether or not there are grounds for fair lending enforcement actions.

Impediment 7. There is a significant disparity between the homeownership rates of whites, Hispanics, and blacks.

Recommendation: The County of Fairfax should:

a) Encourage real estate agents, lenders, and others to market and provide additional homeowners' education classes throughout the year;
b) Support the provision of individual pre-purchase counseling, including long-term budget and credit repair assistance targeted to low and moderate income populations; and
c) Support programs that provide down payment and closing cost assistance to increase the number of households that are able to become homeowners.

Chapter 3: Fair Housing Laws in Fairfax County

This chapter provides an overview of the fair housing laws, describes the enforcement process in general, and discusses how housing discrimination is addressed in the Fairfax County region.

While there are many local variations, it is generally agreed that a comprehensive network of fair housing services that will operate effectively to reduce and ultimately eliminate housing discrimination requires the five following elements:

- an appropriate legal framework;
- government agencies charged with enforcing the laws performing effectively;
- a local government that supports fair housing;
- a competent fair housing organization accessible to all members of the community that provides the full range of fair housing enforcement services; and
- a sufficient number of experienced private attorneys to competently represent victims of housing discrimination.

This section evaluates the availability of these components and provides background information on fair housing laws, administrative enforcement, and other fair housing enforcement procedures.

THE LEGAL FRAMEWORK

Background on Fair Housing Laws

The Civil Rights Act of 1866 first recognized that "[a]ll citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property." This law lay more or less dormant for a hundred years. In the wake of the assassination of Dr. Martin Luther King, Jr., Congress passed the Fair Housing Act of 1968. This law specifically recognized that minorities experience unequal access to housing and outlawed discrimination in housing transactions based on race, color, religion, and national origin. Later, three more protected classes were added: gender (sex) in 1974 and familial status and disability (handicap) in 1988. The federal Fair Housing Act is a broad civil rights law that protects people from housing discrimination due to their protected class status and its protections extend to a broad range of housing-related transactions.

Federal law authorizes the U.S. Department of Housing & Urban Development (HUD) to review state and local fair housing laws and ordinances to determine whether these laws contain rights and remedies that are substantially equivalent to the federal Fair Housing Act. If a state law or local ordinance is determined to be substantially equivalent on its face, the state or local enforcement agency will receive interim certification from HUD. During the interim certification period, HUD will determine whether the agency administers its ordinance in a manner that is equivalent with federal law. Once an agency has been certified as

substantially equivalent, HUD will refer complaints of housing discrimination to the certified agency for investigation and resolution. In exchange, the agency will be reimbursed by HUD for costs.

The Virginia Fair Housing Law, originally enacted in 1972 and significantly amended in 1991, is considered substantially equivalent to the federal law by HUD. In some cases, it provides more coverage than the federal law, such as adding elderliness (defined as 55 years old and older) in the list of protected classes.

In 1974, the Fairfax County Board of Supervisors adopted the original Fairfax County Human Rights Ordinance. The Ordinance established the policy of the board with regard to human rights in the county and reflected the board's commitment to equal opportunity in Fairfax County. The policy has been updated and reaffirmed over the intervening years. In 2000, the Board of Supervisors Adopted Article 2, the Fairfax County Fair Housing Act, to the Ordinance. Article 2 has been amended twice. The second amendment, adopted in 2002, was amended to meet substantial equivalency standards set by the U.S. Department of Housing and Urban Development (HUD). In 2006, HUD deemed the Fairfax County Fair Housing Act substantially equivalent to the federal Fair Housing Act. Subsequently, HUD certified the Human Rights Division of the Fairfax County Office of Human Rights and Equity Programs as a Fair Housing Assistance Program (FHAP). As such the agency is authorized, on behalf of the Commission, to receive fair housing complaints from HUD for investigation. In addition to elderliness, the Fairfax County Human Rights Ordinance also provides fair housing protection based on marital status (in Article 1).

Covered Transactions

The array of housing transactions covered by fair housing laws includes, among others, the advertising, rental, sales, and appraisal of residential real estate, as well as mortgage lending and homeowners insurance services and transactions. All stages of each type of transaction are covered. To illustrate, discrimination may occur in rental housing transactions at the time of application or approval, in the contract terms and conditions, in the unit assignment, or in how routine and special maintenance needs are met. In terms of housing sales, discrimination may happen in whether or how an agent provides housing options, in the offer and acceptance of a contract, in the mortgage loan processing and approval process, or in the securing of homeowner's insurance.

Types of Discrimination

There are three general ways in which discrimination can occur: overt statement, differential treatment, and disparate impact. In an overt statement, a landlord may say, for example, that she will not rent to men because she believes they are messy. This is a clear statement of discrimination on the basis of gender. Differential treatment occurs when a housing provider does not make an overtly discriminatory statement but, for example, tells a black man there are no vacancies and later tells a white man there is a vacancy. Disparate impact occurs when seemingly legal and neutral policies have a disproportionately negative impact on a protected

class. To illustrate, a landlord may have a policy of not renting to students that is applied to everyone. However, the only university in the area is an historically black university where 95% of the students are black. The landlord's policy is neutral, in that it does make any reference to race or any other protected class. Yet, in an area where the vast majority of the students are black, the otherwise neutral policy will have a disproportionate effect on blacks. The discriminatory effect of the otherwise neutral policy violates fair housing laws regardless of the intent of the landlord.

Administrative Enforcement of Fair Housing Laws

The federal Fair Housing Act provides for a free administrative process to investigate complaints of discriminatory housing practices and directs the government to litigate in appropriate cases on behalf of victims of discrimination through enforcement agencies at the federal, state and local levels. It allows for monetary compensation and affirmative relief for complainants if violations are proven. The U.S. Department of Housing and Urban Development (HUD) is charged with enforcing the federal Fair Housing Act across the nation, with the support of the U.S. Department of Justice (DOJ). The law also gives injured parties, including organizations, the right to file their own lawsuits.

In Virginia, the Department of Professional and Occupational Regulation (DPOR) is home to the Virginia Fair Housing Office (VFHO), which receives and investigates fair housing complaints under state law. Due to the substantial equivalency of state law to federal law, VFHO also accepts referrals of complaints when appropriate that are initiated through HUD and investigates them under the state law. The Virginia Fair Housing Law requires the Office of the Attorney General to provide legal support and litigation services to the Virginia Fair Housing Office. The VFHO is located in Richmond, Virginia.

At the county level, the Fairfax County Office of Human Rights and Equity Programs is home to the Human Rights Commission (referred to as the Commission), which receives and investigates fair housing complaints under the county Ordinance (Fairfax County Fair Housing Act). Due to the substantial equivalency of the Ordinance to federal law, in most cases the Commission also accepts referrals of complaints, when appropriate, that are initiated through HUD or through VFHO and investigates them under the Fairfax County Fair Housing Ordinance. The county ordinance requires the County Attorney to provide legal support and litigation services to the Human Rights Commission. The Commission is located in Fairfax, Virginia.

Private Enforcement of Fair Housing Laws

The federal, Virginia and Fairfax County fair housing laws provide a private right of action for victims of housing discrimination. Fair housing cases may be filed in state or federal court within two years of the alleged discriminatory event. There is no requirement that an administrative complaint be filed first, nor does a dismissal of an administrative complaint prevent a person from filing a case in court.

GOVERNMENT ADMINISTRATIVE ENFORCEMENT

Community Development Block Grant (CDBG) funds are awarded through the federal system to entitlement communities or jurisdictions to assist with infrastructure and services often used by those of low to moderate incomes. Recipients of CDBG funds have an obligation to "affirmatively further fair housing" with those funds in exchange for their receipt. These jurisdictions must certify as part of their Consolidated Plans what they are doing to meet this goal. The County's draft Five-Year Consolidated Plan for FY 2011-2015 does have recommendations specific to fair housing in the major sections of the Plan and notes fair housing activities as a "priority need"[42] including a recommendation to "Enforce fair housing laws and nondiscriminatory practices in the sale and rental of housing to all citizens."[43] In addition, through the Analysis of Impediments process, jurisdictions have an obligation to identify areas which are impeding fair housing choice in their communities and identify action steps to address those issues.

County Functions

The Fairfax County Human Rights Commission (referred to as the "Commission") is located within the Fairfax County Office of Human Rights and Equity Programs - Human Rights Division. The Commission receives and investigates complaints filed by any person who believes they have been discriminated against in Fairfax County on the basis of race, color, sex, religion, national origin, marital status, age, familial status, or disability in the areas of employment, housing, public accommodations, education and credit. The Commission currently has 11 full-time staff members and one half-time person who have some form of responsibility for fair housing complaint and/or investigation review. These employees are a mix of supervisory staff and investigators and do not include administrative support. It is difficult to determine how many staff are exclusive to fair housing because staff are cross trained to also investigate other human rights complaints.

The Commission has volunteers who act in a capacity similar to a board of directors and are referred to as the "Commission" or "Commissioners". The Commissioners include twelve members who are residents of the County and broadly representative of racial, gender, religious, ethnic, disability, and age groups. Commissioners are appointed by the County Board of Supervisors and serve three-year terms, longer if reappointed.

According to Commission materials:

> "The Commission takes the approach of not only receiving and investigating complaints alleging a violation of the Human Rights Ordinance, but also of cooperating with the employers, the housing industry and other businesses in the County to make sure we all understand our duty to ensure equal opportunity and equal access. The Commission also serves as a resource for those who provide employment, housing, public accommodations, education or credit facilities by having the staff available to help them understand their responsibilities under the Ordinance and what to do if a complaint is filed against them. The staff offers seminars and workshops on

fair employment and fair housing. It is important to remember that the Commission is here to enforce the Ordinance, not to take sides in a dispute."

Commission meetings are typically held twice a month and meeting notices are posted on the County's website. Minutes from previous meetings are also provided online; however, as of May, 2010, minutes were only posted through November, 2009.

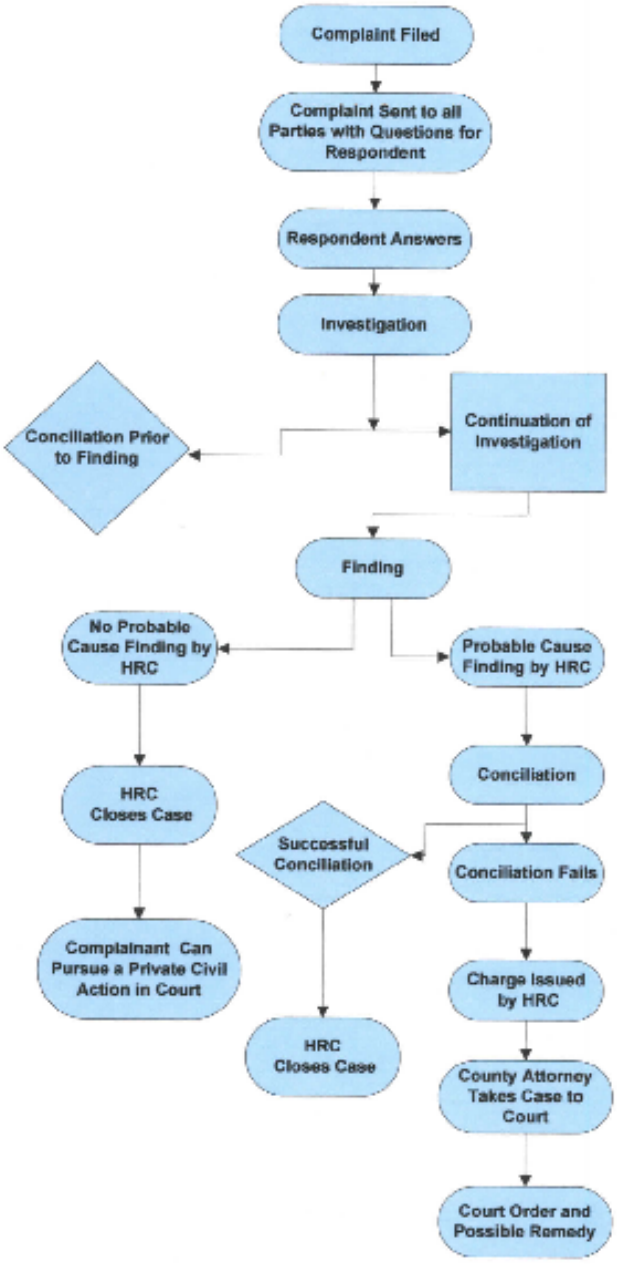
The Commission processes complaints involving discrimination in housing transactions related to the protected classes of race, color, religion, national origin, gender, disability, familial status, elderliness and marital status. There are some exceptions to complaint filing jurisdiction within the Commission:

1. Complaints involving County employees are handled by the Equity Programs Division of the Office of Human Rights and Equity Programs;
2. Complaints filed against County housing authorities and similar agencies are typically reactivated by HUD at the Commission's request to eliminate any perceived conflict of interest; and
3. The Commission does not have authority to investigate complaints against entities located in the City of Alexandria, City of Falls Church and Fairfax City.

The Commission has jurisdictional requirements and procedures that must be satisfied before a complaint is accepted for processing. Consequently, Commission staff members do not investigate every complaint of housing discrimination filed with the agency. Once accepted, staff members simultaneously conduct an investigation into the alleged discriminatory practices and attempt to assist the parties in resolving the complaint through the conciliation process, as required by HUD. Parties to the complaint are not required but are allowed to be represented by an attorney. The choice to conciliate is voluntary on the part of both parties. The Commission is a signatory to any conciliation agreement to ensure that the public's interests in fair housing are upheld.

Sometimes conciliation works well because it provides complainants with what they need right away (such as access to housing or needed repairs) and allows the parties to move on with their lives. If the negotiations take place before the investigation is complete or a final determination is made, the Commission operates as a neutral third-party. If the parties to a complaint filed with the Commission do not wish to conciliate or attempt to conciliate but cannot reach agreement, the fair housing staff presents the results of its investigation to the Commissioners. If the Commission finds no reasonable cause exists to believe a discriminatory practice has occurred, the Commission dismisses the complaint. If the Commission finds reasonable cause to believe that discrimination has occurred, the parties are then invited to conciliate the matter. If the parties do not wish to conciliate at this point or attempts to conciliate fail, the Commission issues a charge of discrimination and the County Attorney is required to file and maintain a civil action in the appropriate court on behalf of the complainant and the Commission. A chart provided by the Commission of their complaint process is on the next page.

Human Rights Division
Office of Human Rights and Equity Programs
Housing Complaint Resolution Process



HRC = Fairfax County Human Rights Commission

Conciliation agreements are a mechanism to serve the interests of all parties in a timely manner. HOME had requested for this report the amounts of any monetary settlements reached through conciliations/compliance agreements with the Commission but this data was not provided. It was thus not possible to include that information in this report. The Commission did note that it has a policy in place regarding the monitoring of fair housing compliance agreements but it is not in writing.

Testing evidence in particular can assist the staff of the Commission in conducting a complete investigation and can make a substantial difference in the ability of the complainant to gain appropriate relief when discrimination has occurred. The Commission reported that it does conduct testing when appropriate as part of an investigation and uses those findings to help collaborate or contradict the allegations of discrimination in filed complaints.

Federal Enforcement of the Fair Housing Law

In addition to the administrative complaint and conciliation process outlined in federal, state, and local fair housing laws, the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Justice (DOJ) may become involved in fair housing complaints in other ways.

U.S. Department of Housing and Urban Development (HUD)

HUD conducts regular monitoring reviews as well as complaint-based compliance reviews of housing developments that receive certain kinds of federal assistance. HUD includes fair housing issues in its annual review of housing developments that receive federal funding. If a recipient of federal housing subsidies is found to be violating the fair housing law, HUD seeks to correct the situation through a voluntary compliance agreement. If this option fails, HUD may hold an administrative hearing. If the fair housing violations warrant it, a fair housing investigation may be initiated by HUD's Office of Fair Housing and Equal Opportunity.

U.S. Department of Justice (DOJ)

The Department of Justice shares in the enforcement of the federal Fair Housing Act. While HUD and substantially equivalent state and local entities investigate individual cases of housing discrimination, DOJ may be involved in fair housing cases in three primary ways.

First, certain types of housing discrimination complaints are filed directly with HUD. In these cases, if HUD issues a charge based on a finding that there is reasonable cause to believe that housing discrimination has occurred, the complainant or the defendant may elect to have the case tried in a federal court. If the case goes to federal court, DOJ attorneys, rather than HUD counsel, represent the interests of the complainant.

Second, DOJ may initiate lawsuits in cases where a person or entity is suspected of engaging in a "pattern or practice" of housing discrimination. The DOJ may also determine that an individual complaint it files in federal court as the result of a HUD charge (under the first

scenario) is part of a larger pattern or practice of discrimination, in which case DOJ may include broader charges, seek relief for other individuals, and/or seek civil penalties to be paid to the government.

Finally, DOJ may initiate fair housing cases where the denial of rights raises an issue of "general public importance." The Attorney General of the United States determines if an issue, even one that arises out of a single act of discrimination, is of general public importance.

THE ROLE OF LOCAL GOVERNMENT IN SUPPORTING FAIR HOUSING

In its declaration of policy, the Fairfax County Fair Housing Ordinance (Sec. 11-2-1) states:

> "It is the policy of the County of Fairfax to provide for fair housing throughout the County, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity and general welfare of all the inhabitants of the County may be protected and ensured. This law shall be deemed an exercise of the police power of the County of Fairfax for the protection of the people of the state of the County".

A separate section within the Human Rights Ordinance provides protection in housing "on the basis of marital status" (Sec. 11-1-4).

Local governments can play a critical role in ensuring their residents equal access to housing. This section reviews how Fairfax County has demonstrated its commitment to fair housing by conducting and supporting a variety of fair housing activities.

Fairfax County's Fair Housing Activity

While every locality receiving Community Development Block Grant (CDBG) funds must affirm that it supports fair housing, what is actually done to dismantle barriers to housing is the measure of that commitment. There are three primary areas in which to evaluate a local government's commitment to fair housing: (1) whether the jurisdiction ensures that its own actions promote open housing; (2) whether the jurisdiction ensures that its residents have access to a full range of fair housing enforcement services; and (3) whether the jurisdiction provides educational and outreach services regarding compliance with fair housing laws to residents, those seeking housing, the housing industry and others providing housing related services.

Promoting Fair Housing

By requiring recipients of federal funds to complete an analysis of the impediments to fair housing in their communities, HUD provides a framework for asking and answering questions about whether a locality promotes open housing. The County of Fairfax has made efforts to support fair housing. Since the first testing study conducted in 1999, the County has initiated several testing studies to identify areas of housing discrimination. These testing audits have primarily focused on the rental industry with a study each on real estate sales and lending.

The County (through the Commission) has also engaged in and encouraged activities to increase awareness of fair housing laws. The County holds a yearly fair housing event and partners with other agencies on fair housing issues for other events. According to staff interviews, there has been an increased effort in recent years to diversify outreach by doing more outreach to nonprofit agencies, as well as participating in resource fairs and exhibits. Materials on fair housing and sexual harassment have been disseminated both on the Commission's web site as well as directly to consumers through Commission staff, County agencies, neighborhood and community based organizations, and community development corporations. Some of these materials are offered in languages other than English.

CHAPTER 3 – IDENTIFIED IMPEDIMENTS

Impediment 8. The Commission does not have a written policy for the monitoring of fair housing compliance agreements.

> **Recommendation:** The County of Fairfax should draft and implement a written policy regarding compliance agreement monitoring.

Chapter 4: A Fair Housing Profile of Fairfax County

In order to evaluate the extent of housing discrimination in Fairfax County, this section looks at enforcement and compliance through fair housing administrative complaints filed with the Commission, complaints filed in the courts, advertising, and how the County addresses housing discrimination. Because many housing consumers are often unaware of their rights or unable to identify housing discrimination and do not file complaints, this type of review cannot capture the experiences of all housing consumers or types of housing discrimination. For this reason, fair housing testing is essential to gain an understanding of the way in which the housing market functions and the barriers that exist for those looking for housing. A testing audit was not contracted in conjunction with this Analysis of Impediments. Consequently, we encourage the County to conduct a variety of testing audits to determine the true extent of discrimination within the housing market.

COMPLAINTS OF HOUSING DISCRIMINATION

Complaints Filed with the Fairfax County Human Rights Commission

As described earlier, the county, state and federal fair housing laws provide for an administrative process for investigation of complaints of housing discrimination.

Below is a table of fair housing complaints filed in recent years with the Commission (Chart 38).

Chart 38 - Complaints of Housing Discrimination Filed with the Fairfax County Human Rights Commission, 2006 through June 1, 2010

	Complaints Filed**	**Race/ Color**	**Religion**	**National Origin**	**Sex**	**Disa-bility**	**Familial Status**	**Elderly**	**Marital Status**	**Ret-ali-ation**	**Allega-tion Total**
2006	**12**	2	1	2	0	7	0	0	0	2	**14**
2007	**23**	6	2	9	3	4	4	1	0	1	**30**
2008	**11**	5	0	3	1	6	0	0	0	1	**16**
2009	**41 (1)***	9	8	14	4	17	3	2	0	6	**63**
2010**	**8* (6)*****	2	1	3	1	5	0	0	1	1	**14**
TOTAL	**95**	**24**	**12**	**31**	**9**	**39**	**7**	**3**	**1**	**11**	**137**
Percent of Allega-tions		**17.5%**	**8.7%**	**22.6%**	**6.5%**	**28.4%**	**5.1%**	**2.1%**	**0.7%**	**8.0%**	

*One (1) investigation remains to be completed.
**Complaints filed through June 1, 2010.
***Six (6) investigations remain to be completed.
Note: A complaint may contain more than one allegation of housing discrimination. Total percentages may not add up to 100% due to rounding. Source: Fairfax County Human Rights Commission.

From January 1, 2006 to June 1, 2010, there were 95 administrative complaints filed with the Commission, 88 of which have been closed. Of the 7 complaints remaining, 1 was filed in 2009 and 6 were filed in 2010. Of the 88 complaints completed or closed, 20 (22.7%) were conciliated, 3 (3.4%) were classified as probable cause, and 65 (73.9%) were deemed to be no cause cases.

During 2009, 41 housing discrimination complaints were filed with the Commission, substantially higher than in previous years. All but one of the 41 cases has been closed. Of the 40 cases filed and closed in 2009, 10 (25%) were conciliated, 3 had cause rulings (7.5%), 26 (65%) were classified as no cause cases, and 1 (2.5%) was withdrawn by the complainant.

According to recent estimates by the National Fair Housing Alliance (NFHA) based on census data and estimated rates of discrimination revealed in NFHA and HUD reports, the number of instances of housing discrimination is conservatively estimated at four million incidents annually.[44] However, of the estimated four million occurrences, in 2009, only 10,244 were filed administratively with HUD (2,091) or a substantially equivalent agency (8,153) like the Commission.

As is true on the national level, Fairfax County has received a relatively low number of complaints, although that number is rising. During 2006-2010, the Commission accepted 95 total administrative complaints as jurisdictional for processing. 41 complaints were filed in the most recent complete year (2009), which is a significant increase over previous years. Complaints filed with the Commission were almost exclusively related to rental transactions.

There have been only two complaints filed with the Commission by civil rights or fair housing organizations since August 2008. Across the country, fair housing organizations are often a significant source of complaint filing because of their activities in the community and their grassroots contacts with victims.[45]

At a national level in HUD's 2009 fiscal year, disability, race and familial status were the most common allegations of housing discrimination in complaints filed with HUD and substantially equivalent agencies.[46] The ratios are different in Fairfax County. A review of data on complaints filed with the Commission shows that housing complaints alleging discrimination due to disability have been consistently the largest percentage of allegations over the time period reviewed followed by national origin and allegations due to race/color.

5.1% of the complaints received by the Commission were based on familial status. This is far below national averages of complaints filed with HUD (22%) and substantially equivalent agencies (19%). In contrast, 22.6% of the complaints received by the Commission are related to national origin discrimination. This rate exceeds national averages for HUD (9%) and other substantially equivalent agencies (14%).[47] The likely cause of these differences from the national averages is the particular demographics of Fairfax County, which has seen a rapid increase in immigration.

At a national level in HUD's 2009 fiscal year, HUD found cause or issued a charge of discrimination in 54 of the 2,091 complaints that it accepted for processing or 2.5%.[48] That same year, substantially equivalent agencies such as the Commission reached a reasonable cause finding in 601 of the 8,153 complaints that they accepted or 7.3%. According to materials supplied by Commission staff and staff interviews, the Commission has issued 3 (3.4%) reasonable cause rulings to date and has not had any reasonable cause findings result in civil litigation on behalf of the County. This is substantially below the national average for substantially equivalent agencies.

The Commission reached a no cause ruling in 61 or 69% of the cases it closed between January 1, 2006 through June 1, 2010. In HUD's 2009 fiscal year, HUD reached a no cause ruling in 34% of its cases while substantially equivalent agencies found no cause in 52.7% of their cases.[49] The number of no cause rulings at the Commission level is above national averages.

There are many potential explanations for the relatively low number of complaints and cause findings in Fairfax County. The low number of complaints might result from effective training for the industry, leading to few violations of the fair housing laws – or it might indicate that more outreach needs to be done to educate housing consumers about their rights. We have no way of evaluating the relative strength of these factors, except to note that studies of levels of discrimination throughout the Commonwealth and the country indicate the persistence of high levels of discrimination in every market that has been tested. The testing that Fairfax County is doing now and planning in the future should shed some light on levels of discrimination in the County. Whatever the results, however, a strong program of industry training and outreach to housing consumers is essential.

Rental transactions generally make up the vast majority of housing transactions in a community, so it is not surprising that the complaints received by the County have been for rentals. However, discrimination occurs in all housing-related transactions, so the County has an opportunity to expand its outreach to ensure that the public is also aware of their rights in the areas of sales, lending, homeowners' insurance, and other transactions.

It is also not possible for this report to determine the reason for the relatively few cause findings by the Commission. However, these low numbers provide an opportunity for the County, which is committed to ensuring the fair housing rights of its citizens, to evaluate its processes to see where they might be strengthened. The County has devoted resources to ensuring that the Commission and its staff are appropriately trained, including on the use of the appropriate standard of proof, and this should continue to be a high priority. Since the County has not yet had experience in litigating fair housing cases, it is also important to ensure that the County Attorney's Office is prepared in advance to meet the unique challenges of fair housing litigation.

U.S. Department of Housing and Urban Development (HUD)

The Fairfax County Human Rights Commission has been certified by HUD as a substantially equivalent agency. This means that Fairfax County's Fair Housing Ordinance and its administration is considered by HUD to provide the same rights and remedies as the federal law. Because of this certification and the relationship between HUD and the County that results, nearly all of the fair housing complaints received by HUD or VFHO concerning transactions in Fairfax County are deferred to the Fairfax County Human Rights Commission for investigation.

U.S. Department of Justice (DOJ)

We are unaware of any fair housing enforcement activities in the region by DOJ since 2000.

Complaints Filed in the Court System

Legal search systems generally include only cases in which a written opinion, published or unpublished, has been issued. They do not include cases as they are filed, cases that settle, or pending cases. Searches of filed complaints from 2000-2009 showed relatively few fair housing cases in state or federal court specifically affecting the County or having been filed by or against County residents.

One case of particular note, however, is *Moseke v. Miller & Smith, Inc.*, 202 F. Supp.2d 492 (E.D. Va. 2002). The Moseke ruling was the first ruling in which a position was taken against the use of the continuing violation theory in fair housing design and construction cases. In this lawsuit, a Northern Virginia resident and a fair housing organization called the Equal Rights Center filed a complaint alleging a violation of the federal Fair Housing Act's design and construction requirements which relate to the accessibility for people with disabilities in the construction of multi-family buildings with certificates of occupancy after March 13, 1991. The Court, however, ruled against the plaintiffs stating that there was no right of action or jurisdiction for the complaint since the lawsuit was filed over two years from the issuance of the certificate of occupancy. This ruling was in direct contrast to case law at the time which used a continuing violation theory that such fair housing lawsuits were timely filed if initiated within two years of when the aggrieved individual became aware of the alleged discriminatory violations. Although HUD and most of the country continue to support the continuing violation theory in new design and construction cases, due to this decision the Commonwealth of Virginia has a more restrictive standard that puts the burden of compliance upon those with disabilities instead of the developers, architects and builders who are responsible for adhering to building codes and applicable laws. The result of this ruling at a local level is that complaints filed with the Fairfax County Human Rights Commission must meet the restrictive timeline of filing within one year of the issuance of the certificate of occupancy, not when the individual becomes aware of the inaccessible feature, or they do not have jurisdiction. Those complaints filed at the Commission outside one year would likely be reactivated to HUD or possibly DOJ for enforcement. The Moseke impact has not been isolated to Virginia. In the years that followed the ruling, other rulings were made in the 9th

Circuit and in the state of North Dakota using the language in Moseke. The impact of this case has been to the detriment of fair housing and the rights of those with disabilities not only in Virginia but across the country.

ADVERTISING COMPLIANCE

Advertising plays a major role in determining whether a housing market is truly open and free from discrimination. Advertising that sends a message, no matter how subtly, that a particular group of people are not welcome due to their protected basis will discourage those people from seeking information or pursuing the housing. Such discriminatory advertisements also have an impact through affirming to the reader, whether a homeseeker or fellow housing provider, that such language is lawful and thereby allowing or increasing its continued use. Federal, state and County fair housing laws make it illegal to discriminate via advertising. The Fairfax County Fair Housing Act notes in regard to advertising:

> "To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation or discrimination based on race, color, religion, national origin, sex, elderliness, familial status, or handicap. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this Chapter which shall not be overcome by a general disclaimer. However, reference alone to places of worship including, but not limited to, churches, synagogues, temples, or mosques in any such notice, statement or advertisement shall not be prima facie evidence of an illegal preference."

The advertising regulation applies to both print advertisements as well as verbal statements. The rental market in particular is affected by discriminatory advertising and home to the vast majority of such advertisements. Although some properties are exempt due to their small size from significant portions of fair housing laws related to refusal to rent/sell, terms and conditions, etc., there are very few exemptions in regard to advertising. These exemptions include housing for older persons, housing for religious and private organizations and in shared living situations where roommates may advertise for the same sex in their advertisements. The reason for the lack of exemptions in advertising related to property size is due to the impact of advertising. A print advertisement can be viewed by hundreds, sometimes thousands, of individuals who know only what they read.

Following the passage of the 1988 amendment which provided a stronger enforcement of advertising violations, several administrative complaints and lawsuits were filed across the country to address the vast number of discriminatory advertisements being placed in newspaper classified sections across the country. Since that time, newspapers have been very effective in training their staff on fair housing laws and working with government and fair housing organizations to become a first line of defense to the placement of discriminatory advertisements. However, the growth of online marketplaces like Craigslist and others

instead of newspapers as the primary means of classified advertising has resulted in a significant increase in the number of discriminatory advertisements. Recent studies have indicated that half of all homeseekers now use online marketplaces, with Craigslist being the most popular, for their housing searches. Unfortunately, these online marketplaces do not appear to be held to same advertising standards under fair housing laws as the traditional newspapers are. An interpretation of the Communications Decency Act (CDA) by a Chicago judge held that Internet providers of online marketplaces are not publishers in the same sense that newspapers are, and, therefore, are not liable for violating the Fair Housing Act. In the ruling, the judge did note that housing providers who place the advertisements can still be held liable but not the online medium where the ads are being placed and allowed by the internet providers.[50]

The result has been the great strides that had been made in eliminating discriminatory advertising have been significantly impeded due to this lack of proactive training and oversight. In 2009, the report "FOR RENT: NO KIDS! How Internet Housing Advertisements Perpetuate Discrimination"[51] noted, "During the past year, NFHA and several of its local fair housing organization members have identified more than 7,500 discriminatory ads placed by housing providers on various websites." The problem is significant and still growing.

Filed complaints addressing advertising allegations often result in a defense raised by the housing provider that they used language they had viewed in other advertisements. Thus, if action is not immediately taken on discriminatory advertisements, the result is a continued perpetuation of more discriminatory advertisements. Because the general public most often believes that such language they view is lawful, the burden for enforcing violations of discriminatory advertisements often falls upon fair housing organizations who have the expertise to identify language in violation. However, the sheer number of advertisements and lack of funding for effective monitoring is severely limiting the ability of fair housing organizations to do this.

A cursory review of a small number of the advertisements over a few week period posted in the rental housing section on craigslist.org found several advertisements for rentals in Fairfax County containing language that was blatantly in violation of fair housing laws or that indicated a preference against rental to a particular protected class under fair housing laws.

Restrictive Occupancy

A significant number of discriminatory advertisements viewed for rentals in Fairfax County had language directed at families with children containing overly restrictive occupancy standards. Some of the observed language:

- 1 bedroom noting "Ideal for a single, working person";
- 4 bedroom, 2,000 square foot townhouse noting, "no more than 3 people"; and
- 3 bedroom townhouse noting, "ideal for small family or 2 professionals".

Under fair housing laws, housing providers may establish reasonable occupancy standards for rental housing, as long as those occupancy standards do not operate to exclude families with children. Today, the generally accepted occupancy standard recommended by HUD guidance is two people per bedroom, but a reasonable limit may be higher or lower depending on the size and configuration of the unit as well as other factors. As noted previously in this report, the minority population in Fairfax County has been steadily increasing. Minorities seeking close access to their places of employment in Fairfax County have resulted in an increasing number of immigrants, many of whom have large or extended families. Project interviews for this report overwhelmingly expressed concern about the lack of 3 and 4 bedroom rental units within Fairfax County as well as rental homes with more than 4 bedrooms for larger families. Consequently, larger housing units are already in high demand let alone when restrictive occupancy standards are added into the dialogue. Thus, advertised occupancy restrictions by Fairfax County landlords may have an increasingly significant impact on limiting housing choice for families with children and due to national origin.

In addition to the clear violations of fair housing laws noted above, advertisements were also found for rental units in Fairfax County with the language "No Section 8". Although the Commission does not have jurisdiction over discrimination due to Section 8 or housing voucher receipt, the refusal to accept housing vouchers does limit housing choice within the County. It is legal under Virginia and federal law to refuse to accept vouchers, and program participation is voluntary. However, Housing Choice Vouchers (formerly known as Section 8 vouchers) provide an individual subsidy to qualified low income families that can be used on the open housing market. While project-based subsidized housing is generally located in areas of poverty and minority concentrations, vouchers enable families to seek housing in a broader range of neighborhoods, including low poverty neighborhoods with improved educational and employment opportunities. As the number of available public and subsidized housing units decline, vouchers are intended to support the transition to private market housing. Unfortunately, it appears those seeking housing choice through vouchers have decreased options within Fairfax County. It is important to note that the Fairfax County Board of Supervisors has in the past supported efforts to add source of income protection to the Virginia Fair Housing Law. To our knowledge, no testing has been conducted to evaluate the extent to which housing choice vouchers are not accepted in the County.

Shared Living Advertisements

It is lawful for individuals in shared living (roommate) situations to place advertisements requesting the same gender. However, other than advertising references due to the same gender, all other provisions of the advertising regulation apply. Such individuals are also exempt under fair housing laws from the refusal to rent regulation when an owner occupied property. Consequently, fair housing laws allow them to deny housing just because of a protected class. Thus, someone seeking a roommate could choose not to rent to someone with children or due to their religion, but they could not make such a statement or advertise using such language.

A cursory review of roommate advertisements for Fairfax County in the last month on craigslist was conducted for this report. In addition to a blatant advertisement soliciting sex in exchange for rent ("$1 Seeking a live in houseboy…room with private bath/den…sex on demand"), which violates fair housing regulations related to sexual harassment, numerous advertisements were also viewed in clear violation due to elderliness through notations such as "NON-SMOKER BETWEEN AGES OF 19-27 REQUESTED" and other variations based upon age. Several advertisements also had individuals placing advertisements for roommates where they self identified their race, color or age. This type of self identification indicates to the reader that other races and ages may not be welcome thereby discouraging homeseekers from applying. In addition, advertisements were also viewed that indicated that those with children would not be welcome.

Race Discrimination and the Internet

Race discrimination still occurs, even as more and more transactions move to the internet. A study just released called "Cyberdiscrimination in Dallas: Is Neil a More Desirable Tenant than Tyrone or Jorge?"[52] reviewed whether differential treatment would occur between white, African American and Hispanic sounding names making housing inquiries via email to online advertisements. The study found that those with white sounding names were invited to inspect units at higher percentages than the African American and Hispanic sounding names. There has been no such investigation in Fairfax to determine the level of this type of discrimination in the County.

TESTING FOR HOUSING DISCRIMINATION

Housing discrimination can occur in dramatic, obvious ways, but it more commonly occurs in the communication of untruths, incomplete information, and subtle discouragement. Individuals who are given misleading, inaccurate, or incomplete information about the availability of housing may never know that they have been treated unlawfully because they have no way of comparing their treatment to anyone else's. Frequently, the only way to uncover differences in treatment is through the use of testers.

Fair housing testing is a controlled method of uncovering housing discrimination through the use of individuals posing as home seekers. Testers gather and record objective information about the housing transaction. Because complaints filed with local or state agencies or in the courts are generally not representative either of the number of consumers experiencing housing discrimination or of the frequency of housing discrimination that may really be occurring, it is necessary to periodically conduct fair housing tests or audits to determine how individuals seeking housing are treated in various segments of the housing market.

Properly conducted testing provides a fair and impartial mechanism for determining whether or not homeseekers are being treated fairly in their search for housing. Testing has been upheld by the United States Supreme Court as a legitimate means of uncovering otherwise concealed discriminatory housing practices.[53]

The County has funded several testing projects in recent years. This contract did not include testing and time did not allow an analysis of the quality of previous testing studies. We encourage the County to continue to conduct fair housing testing both to evaluate the extent of the discriminatory treatment in the County and for enforcement purposes. The quality of the testing conducted must be high enough for use in litigation if unlawful discrimination is found. Tests conducted must be based upon sound testing methodology with careful analysis of all differences in treatment.

The County should consider undertaking the following types of testing, using a methodology that includes geographical as well as transactional factors and that would stand up in court:

- Rental tests of a variety of property sizes including single family homes and 1-4 unit complexes as well as larger 4+ unit complexes;
- Testing for denial of reasonable accommodations or modifications for those with disabilities in rental housing or in condominium sales;
- Testing for refusal to rent to families with children or due to race or color;
- Testing for restrictive occupancy standards which have a disparate impact on families with children and certain ethnic groups;
- Real estate steering due to race, color or national origin;
- Testing for compliance with the accessibility requirements for multi-family housing;
- Sales testing due to race, color or national origin in single family homes and due to familial status in condominium properties;
- Mortgage/Lending testing due to race, color, national origin, gender or due to elderliness;
- Testing specifically related to advertisements with discriminatory language; and
- Audit testing to determine the extent to which Housing Choice Voucher holders are denied access to housing (Section 8).

COUNTY FAIR HOUSING ACT

A review of the Fairfax County Fair Housing Act does appear to contain some slight differences in coverage from the federal Fair Housing Act. These include:

Hostile Environment Regulation

Under the federal Fair Housing Act, the opening of section 803 (b), states "Nothing in section 804 of this title (other than subsection (c) shall apply to…" and goes on to explain the various exemptions under the Act (i.e., so-called Mrs. Murphy, owner occupied, etc.). The Section 804 that is referenced contains the bulk of the discriminatory housing practices (refusal to rent/sell, terms & conditions, advertising, etc.). Section 803 (b) makes clear that such exempt housing providers are ONLY exempt from Section 804 (less advertising). The other sections of the federal Fair Housing Act would apply to them *including* Section 818 which states: "It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having

aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title." This section is commonly referred to as the Hostile Environment regulation and is most often used when alleging retaliation or harassment due to race, gender and other protected classes. The Fairfax County Fair Housing Act is worded slightly differently, however. In Section 11-2-3 which is the companion section to 803 (b) under federal law, it notes, "Except as provided in Section 11-2-4(a)(3), this *Article* shall not apply…" (emphasis added). Unlike federal law which *only allows discrimination noted in Section 804 (less advertising)* by exempt providers, the Fairfax County Fair Housing Act appears to exempt the entire rest of the Article (the Fairfax County Fair Housing Act) rather than just a section. This means that a smaller housing provider in the County who meets the stated exemptions is within their rights to sexually harass (or any other form of harassment), intimidate, threaten or retaliate against someone due to their gender or another protected class under County code but not under the federal Fair Housing Act. (Note: We are excluding for this discussion civil rights regardless of property size protected due to race or color under the Civil Rights Act.)

Shared Living Gender Advertisements

Under the Virginia Fair Housing Law, the following regulation deals with the advertising of shared living situations (18VAC135-50-270.2(e)):

> "The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations.
>
> > 2. Words indicative of race, color, religion, sex, handicap, familial status, elderliness or national origin.
> >
> > > e. Sex: The exclusive use of words in advertisements, including those involving the rental of separate units in a single or multi-family dwelling, stating or intending to imply that the housing being advertised is available to persons of only one sex and not the other, *except where the sharing of living areas is involved."* (emphasis added)

The Virginia Fair Housing Office has interpreted this regulation as indicating that any type of gender advertisement in shared living situations is lawful. For example, a male seeking female or female seeking male would be lawful under Virginia Law. This has not been HUD's apparent interpretation of the same language within the federal regulations. HUD and fair housing organizations have interpreted this gender exemption in shared living as being for modesty and privacy of the gender in question. Thus, female seeking female or male seeking male in a roommate situation are lawful but male wanting female would not be lawful. This became a concern due to increasing numbers of housing advertisements which have been placed across Virginia (including Fairfax County) soliciting sex in exchange for housing in shared living situations.

Because of the interpretation issue under the Virginia Fair Housing Law, complaints filed with the state containing allegations of discrimination in this area are reactivated by HUD.

Since the Commission defers to the state on interpretations, as a practical matter the County would likely follow the same interpretation on a complaint filed at the Commission.

As discussed previously, discriminatory advertisements have a powerful impact on limiting housing choice. Advertisements soliciting sex for rent promote similar advertisements by other housing providers because of the number of people who view these ads who then think they are lawful. If these types of ads are not stopped, housing discrimination is encouraged. Sexual harassment in a housing situation, including in shared living housing, is a violation of the federal Fair Housing Act. Through these advertisements, housing providers are indicating that sex for rent would be required or preferred for residency. When sex is required in exchange for a place to live, it is not voluntary and the long term effects upon the victim are extraordinary and far reaching. Individuals with disabilities and low income women often feel they have no other option to gain or maintain housing and are particularly vulnerable to these types of discriminatory practices.

Moseke Implications

As discussed previously, the Moseke decision has had a harmful effect on fair housing enforcement at the state and county level in regard to accessibility enforcement. The state and county should consider legislative change to clear up the discrepancy perceived by the court in the Moseke decision to allow individuals to pursue filing administrative complaints in the same capacity as is allowed under the federal Fair Housing Act.

CHAPTER 4 – IDENTIFIED IMPEDIMENTS

Impediment 9. Homeseekers are denied access to the full range of housing choices.

Recommendation: The County of Fairfax should:

a) Ensure that the Commission continues to strengthen its efforts to provide training and support to identify unlawful housing discrimination;
b) Continue to support adding protection under fair housing laws for receipt of public assistance including support of the Communities of Opportunity pilot program at a statewide level;
c) Continue to support testing audits and programs across all protected classes to uncover unlawful housing discrimination in the County; and
d) Continue to provide all Fairfax County residents and others seeking housing in the County with ready access to enforcement services and testing services.

Impediment 10. Fair housing complaints filed with HUD and agencies like the Commission are dramatically below estimated incidents of housing discrimination.

Recommendation: The County of Fairfax should:

a) Continue an active fair housing awareness and education campaign to ensure that housing consumers have information on their rights under the federal and state fair housing laws, as well as Fairfax County's local ordinance;
b) Continue to collaborate with other organizations in fair housing training events;

c) Continue to conduct outreach to ensure that members of the public, as well as County staff who provide services to the public, can readily access and understand their options when they believe they have experienced housing discrimination;
d) Continue to work with local housing providers and the local landlord and property management and real estate trade groups to develop effective fair housing educational programs for large and small providers of rental housing;
e) Continue to make fair housing information readily available to the public in a variety of locations (e.g., public libraries, social services offices, transportation terminals);
f) Continue to ensure that information provided to the public is in alternative languages;
g) Publicize fair housing rulings on the Commission web site so the public has easily accessible information about allegations of housing discrimination;
h) Issue annual reports on fair housing efforts, statistics, and enforcement by the Commission which are available to the public;
i) Explore the possibility of broadcasting Commission meetings on public access channels or via the web for better community participation;
j) Continue to conduct increased outreach through homebuyer education to increase public knowledge in sales and lending transactions to better identify incidents of housing discrimination; and
k) Continue to foster relationships with area fair housing organizations to conduct testing and other forms of fair housing investigations in the County to uncover incidents of discrimination.

Impediment 11. The Fairfax County Fair Housing Act does not address discrimination in some important areas.

Recommendation: The County of Fairfax should consider strengthening its ordinance in the following areas:

a) Prohibit discriminatory incidents related to harassment, intimidation, coercion, etc. by otherwise exempt housing providers;
b) Specify that gender advertising in shared living situations is allowed only when advertising the same gender as the occupant of the housing being advertised; and
c) Address issues raised in the Moseke decision related to the continuing violation theory of timely filed administrative complaints in design and construction allegations.

Impediment 12. Advertisements in Fairfax County use discriminatory language and restrict fair housing choice.

Recommendation: The County of Fairfax should:

a) Support continued education to ensure compliance with fair housing laws;
b) Support fair housing enforcement including testing projects specific to the internet;
c) Ensure that the County's advertising continues to reflect and appeal to a diverse community; and
d) Support amendment of the Communications Decency Act to hold internet providers liable for discriminatory advertisements published on their sites.

Impediment 13: The County to-date has not filed any lawsuits as a result of charges of housing discrimination.

Recommendation: The County of Fairfax should prepare for future litigation by ensuring that members of the County likely to be involved in litigation receive appropriate professional legal training from experienced fair housing attorneys on how to prepare for and litigate in the court system, and through exposure to publications dealing with fair housing litigation related issues.

Impediment 14. Complaint filing numbers show that those with disabilities are the most common protected group filing housing discrimination complaints and appear to experience limited housing choice. Landlords are unaware of their obligations with respect to the housing needs of people with disabilities.

Recommendation: The County of Fairfax should:

a) Continue to conduct more outreach about the rights of homeseekers and responsibilities of housing providers in this area, in particular, targeted education related to accessibility, reasonable accommodations, and modifications;
b) Continue to support testing programs to uncover incidents of discrimination specifically related to the denial of reasonable accommodations or modifications;
c) Conduct trainings on fair housing to County Boards and Commissions and have educational programs open to the public specific to the fair housing needs of those with disabilities;
d) Continue to ensure fair housing activities sponsored by the County are welcoming to those with disabilities: welcoming seating, notice of accommodation needs on flyers, accessible locations near transportation, enhanced communication technology for listening or hearing impaired; and
e) Ensure all County publications in pdf format are dually offered online in pdf and in an alternative format for those with disabilities in need of such formats before those with disabilities have to ask for these items.

Impediment 15. Overly restrictive occupancy standards limit the housing choices of families with children, Hispanics, and new immigrants.

Recommendation: The County of Fairfax should:

a) Educate housing providers on restrictive occupancy standards and discriminatory advertising of such standards;
b) Provide for the dissemination of information about acceptable occupancy standards in both English and Spanish;
c) Ensure that the staff of County agencies and other organizations working with families and new immigrants in need understand the fair housing implications of overly restrictive occupancy standards and educate families about fair housing laws; and
d) Support fair housing investigation and testing to detect and eliminate discrimination related to restrictive occupancy standards affecting families with children or due to national origin.

Chapter 5: Other Issues Affecting Access to Housing

This chapter identifies additional factors that have a significant impact on the quality or availability of housing which were not addressed elsewhere. These include lack of regional cooperation, public transportation, substandard housing, the use of zoning to create homogeneous communities, and other factors. With the condensed time period for this report, some issues were not able to be evaluated in a capacity that a longer time period would have allowed. We note these issues as recommended areas for further follow up to fully evaluate their fair housing impact.

REGIONAL ISSUES AFFECTING ACCESS TO HOUSING

Virginia has an unusual structure of government in which cities are entirely independent of their surrounding counties. This structure has implications for Fairfax County's economic well being and for the region's ability to address any of the issues that affect more than one jurisdiction, such as housing. Promoting mutual solutions for common issues can often be difficult. This is in large part because the structure of local government leads to the belief that the problems of one jurisdiction can be escaped by moving to another, discouraging cooperation between cities and counties. The agency/county does belong to the Northern Virginia Regional Commission and has, in the past, been involved with their Housing committee. The County also participates in other metro area commissions.

ZONING

Due to the short time period for completion of this report, HOME was not able to conduct a comprehensive review of zoning ordinances for possible fair housing concerns. However, there are some items to consider for future reports.

Mixed income housing can take many shapes and have many definitions. Ultimately, it is a community of varied housing prices, sufficiently mixed so as to not segregate, that allows everyone within the community an opportunity to benefit from the community's positive aspects. Fairfax County is an affluent county with one of the highest median incomes in the country. Housing affordability is a significant concern to local government and residents. The County is heavily developed and new development is limited by land available. The cost of housing keeps many from living in the County and drives others out when costs exceed what they can afford or they cannot locate affordable housing.

Zoning in the United States developed over the last century as a tool to create homogeneous neighborhoods. Coupled with a political philosophy that emphasizes local autonomy, it has come to be used as a way to exclude certain classes of people and, its supporters hope, to avoid having to deal with the problems these new residents are suspected of bringing. According to one author, "the zoning code is a convenient, race-neutral tool for realizing an

idealized version of community." (Sheryll Cashin, "The Failures of Integration", Public Affairs, New York, 2004, p. 109).

In Fairfax County, affordable housing is a major concern and the ability to develop new mixed income housing is limited by the lack of land on which to do so. Zoning can limit access to neighborhoods in a variety of ways. Residential zoning requirements may discourage multifamily uses or restrict single family uses through minimum lot size requirements. Building codes may require expensive materials or design. Old and historic overlay districts, while preserving important historic assets, may make repair and new construction expensive. If residential and commercial areas are too far apart, those who need to use public transit will be excluded. The impact of such restrictions is to severely limit affordable housing opportunities, without ever having to acknowledge that result. Some uses, such as single room occupancy housing, may be entirely excluded by right. Single room occupancy facilities are an important component in the provision of stable housing for extremely low-income populations such as those transitioning out of homelessness.

Existing zoning ordinances may discourage mixed income communities, and make it very difficult to site affordable housing in any place other than one designated for such housing. There is considerable discussion about the role that a different type of zoning could play in encouraging affordable housing. Models of inclusionary zoning, in which a developer is required or provided incentives to build a certain percentage of affordable units, have been in place in Fairfax County since 1990. Continued education for a better understanding on the part of community leaders and elected officials of the important role mixed income neighborhoods play in the economic health of the county is still needed.

Group homes are a common area of dispute. Zoning ordinances which restrict group homes from creation or development have a discriminatory impact upon those with disabilities who need such housing. However, group homes do not work for every person with a disability and mixed income housing across the County to serve all populations is imperative. Information provided noted the County had a "by right" approval for group homes of 8 persons or less. HOME was not able to review the fair housing complaints filed to determine if any group home issues have resulted in any filed complaints.

Due to the lack of land noted, the County needs creative and innovative solutions for affordable housing development including the redevelopment of land not meeting community needs and development of public lands. An example of a public land project winning rave reviews is the Potomac Yards Fire House Project which mixed a first floor fire station with retail space and 64 upper floor affordable rental units in Alexandria, VA.[54] Creative housing development will be necessary to ensure affordable housing choice to the people of Fairfax County.

SUBSTANDARD HOUSING

Despite the County's affluence there are substandard structures in the County although these areas appear to be limited and only in certain sections of the County. Due to the condensed time period of this project, HOME was not able to conduct a thorough analysis of any alleged substandard housing located in the County. However, there are some points for the County to consider in this area.

While on an individual basis substandard housing results from vandalism, intentional neglect, or inability to make repairs, in the larger context it is a result of decades, if not generations, of disinvestment in certain neighborhoods. The lack of reasonably priced credit or adequate homeowners insurance to cover a loss, as well as concentrations of vacant FHA foreclosures has had a major impact on the quality of housing. While much substandard housing is owned by so-called "slumlords" in the rental market, substandard housing can be owner-occupied as well. Homeowners whose homes fall into disrepair usually allow it to happen only because they do not have enough money or are physically unable to make repairs.

Where it exists, residents of substandard housing typically face limited options. Those living in substandard rental housing are frequently reluctant to complain because they fear being evicted, either as retaliation or because their rents will go up if the landlord has to pay for repairs. This is a legitimate fear; if there were other options available to them they probably would not have chosen to live in the substandard housing to begin with. Sometimes landlords retaliate against those who filed complaints of substandard housing by serving eviction notices and forcing those persons out. Consequently, there is an extreme fear about complaining to authorities because the risk of the loss housing is simply too great.

The real solution to substandard housing is obviously to fix it. However, few Counties have the financial resources to make the huge investment required to bring all of their housing units up to code. Some resources must be devoted to the problem, but since there is no question that they will be insufficient, other approaches are important as well. Ultimately, private investment is the answer, which will only happen after the County creates a critical mass of investment in the communities in which substandard housing is the problem. It is important to note that Fairfax County has invested resources in communities through the Community Development Block Grant, HOME Investment Partnerships Program and County funds with programs like the Home Improvement Loan Program and Home Repair for the Elderly Program.

Code Enforcement

The purpose of code enforcement is to force the owner of substandard property to pay for repairs. Sometimes it works, but it also leads to different problems. A crackdown on code violations will displace many families who already have limited housing alternatives. In addition, if the owner has no money for repairs, code enforcement does not result in repairs being made. Or, if repairs are made, rent may increase making the housing then unaffordable

to the families who had been living there. It is an important component of revitalization, but not a substitute for policies that promote reinvestment in the community.

In code enforcement programs as a whole, County inspectors give priority to substandard conditions identified by tenant complaints. For cases that are bad enough for condemnation, inspectors typically work with Departments of Social Services who can provide temporary housing and relocation assistance to those families affected. For this system to work well, any renter in substandard housing must feel comfortable filing a complaint which is typically not the situation. These individuals most often are extremely vulnerable which is why they are residing in substandard housing. Because of their limited housing choices and fear of retaliation (whether real or perceived), they often do not feel they have the option to file a complaint. The risk of not having housing at all, substandard as it is, is simply too great.

Overcrowding

The County's zoning ordinance (Article 2, Part 5) limits how many people can live in a single residence. In general, no more than one family, plus two renters, may live in one house or, no more than four unrelated people may live in one house. The county's building code states bedrooms must be 70 square feet for one person; 100 square feet for two people and 150 square feet for three people.[55]

Fairfax County has put in place Enhanced Code Enforcement Strike Teams.[56] According to the County website, "The teams bring together 15 different county agencies. Zoning, building, fire and health code inspectors belong to the teams. These inspectors are also supported by police officers, sheriff's deputies, attorneys, and others. The mission is to shut down illegal boarding houses across the county. The teams also take legal action against these illegal boarding houses and their landlords." For the County, these teams can be controversial. The great benefit they serve the community is in their objectives of "shutting down illegal boarding houses; maintaining the health, safety and welfare of neighborhoods and protecting people from unsafe living conditions." However, it must be noted that no one desires to live in these overcrowded conditions but poverty, lack of affordable housing and issues such as discrimination, lawful and unlawful, can drive people to have no other housing option. If these concerns are not addressed, all that occurs is that those forced to live in these conditions must move to another area where such conditions exist that are not being enforced. This doesn't correct the problem but simply moves it somewhere else.

According to the County's website, the Strike Team has referred most of cases for criminal prosecution from actions taken in the Lee and Mason districts (Chart 38).

Chart 38: Fairfax County Strike Team Statistics

District	Open Cases	Cases closed by the teams	Cases referred for criminal prosecution	Cases delivered to County Attorney for civil prosecution
Braddock	12	52	5	11
Dranesville	2	20	3	1
Hunter Mill	4	12	5	2
Lee	36	188	46	55
Mason	40	150	63	53
Mount Vernon	21	52	16	12
Providence	9	42	10	17
Springfield	6	21	3	6
Sully	4	33	6	3
Total	**134**	**570**	**157**	**160**

*Figures accurate as of 4/23/10. See http://www.fairfaxcounty.gov/opa/striketeam/

Hispanics and new immigrants typically have larger families residing together due to cultural and economic factors. These families may also be forced to rent substandard housing because of documentation and immigration status issues, and are also least likely to file a complaint for these same reasons. Others are affected as well. Domestic violence, mental health issues and loss of employment can force many to consider substandard housing because they simply have no other choice

PUBLIC TRANSPORTATION

There is a close relationship between the availability of good public transportation and the expansion of housing choice. The housing choices of people who do not have personal vehicles are limited to areas in which public transportation is available, which in turn limits where they work, shop, seek medical care, and seek other services. Although the Washington, D.C. Metro Area is home to a variety of transportation options, not all have extended to the County to the same degree as other areas. Fairfax County needs a public transportation system that can meet the needs of everyone in the county. The limitations of public transportation disproportionately affect lower income families, people with disabilities and the elderly, since they are least likely to have vehicles.

Repeatedly during the course of gathering information for this report, people in the housing field expressed concern that, while there is adequate coverage, the transportation options for the poor, those with disabilities and the elderly are extremely limited in Fairfax County. In

particular, the best transportation options are not located in close enough proximity to affordable housing. Those interviewed indicated that County budget cuts have resulted in fewer fixed routes, non peak hour cuts and cuts to programs specifically affecting those with disabilities, the elderly and those who provide key community based services.

Paratransit is such a service appearing to suffer from such cuts. This valuable transportation service "provides curb-to-curb service for persons with disabilities who cannot use regular, fixed-route public transportation and have been certified eligible by Metro-access to use paratransit service."[57] Rides may be scheduled up to 14 days in advance, but not later than 1 day in advance which can sometimes be overly burdensome for the person with the disability. These services typically transport people from their homes to the nearby fixed route service. When budgets are tight, cuts to these services or changes to distances allowed for the service from the fixed routes can have very harmful effects for those not easily mobile. Residents may have found accessible housing and have established medical contacts and services around that housing to meet their needs and, thus, rely on services like this for transportation. Any disruption is not easy to modify. Essentially, the transportation needs are completely designed around their housing and loss of the transportation system or having to move requires a complete reconstruction of what they have sometimes spent years putting together. Add in those who may have intellectual disabilities in which moving is as emotional as it is physical and the loss of services is disruptive in additional ways.

Transportation and housing needs was an area that HOME was limited in researching due to the time period of this project. We encourage the County to do additional research to determine the fair housing impact of the transportation system.

HOUSING CHOICE LIMITATIONS FOR THOSE WITH DISABILITIES

Several issues were identified that limit housing choice in Fairfax County for those with disabilities. Those issues not discussed elsewhere in this report are noted below.

Accessible Housing

The ability to locate affordable, accessible housing is a significant barrier to fair housing choice for those with physical disabilities in need of accessible units. The lack of accessible units is exacerbated by non-compliance with fair housing laws. The County's draft Consolidated Plan notes a recommendation from an Endependence Center of Northern Virginia (ECNV) representative as follows:

> "Regarding ensuring that accessible housing is available in the Fairfax community, Mr. Burds wrote that ECNV calls for an enhanced number of accessible units up to 10%. ECNV feels that a goal to merely comply with federal law is not sufficient. Regarding preventing discrimination on the basis of disability in the rental, sale, or purchase of housing, ECNV indicated that it is time to conduct FHAA (Fair Housing Act) testing, that it should be done to determine whether there is discrimination on the

basis of disability, and that the Plan documents should be specific on what type of testing will be done in the upcoming years."[58]

The use of testing to uncover violations for retrofitting is imperative so the housing is not lost to the community, particularly in light of the Moseke ruling described earlier in this report. The County should take community recommendations and be committed to uncovering and enforcing violations on this important issue.

Accessible housing can mean many different things. It can range from adding a ramp to the front door to fully accessible housing that meets American National Standards Institute (ANSI) standards. People with specific disabilities have specific needs. Someone with rheumatoid arthritis may not need a roll-in shower but will need levers instead of knobs on doors and faucets. Someone who is deaf may need smoke detectors and doorbells that use strobe lights instead of sounds. As noted previously in this report, there is also a significant need of accessible one bedroom rentals in addition to other units.

Income limitations and limits on mobility mean that many people with disabilities most often must rely on rental housing. Until more housing can be developed which is both affordable and accessible, those in need of accessible units will be fighting for an extremely limited supply. Very often, those in need of these units have difficulty locating or becoming aware of their availability both in the public and private sector. An accessible housing alert list was suggested in some project interviews. This would need to be a partnership between area apartment associations and disability organizations which could conceivably have a web site or email alert list to inform those most in need of accessible housing of a unit's availability.

Another identified accessibility need was for universal design features which are above the requirements required under fair housing laws. While retrofitting existing structures for full accessibility can be very expensive, there are many inexpensive features that can increase accessibility (which can, of course, also be applied to new construction). The concept of universal design involves the use of design elements that work for everyone, not just people with disabilities. Common universal design elements include:

- building wider doorways - allows wheelchairs to pass through, but also makes moving furniture easier;
- installing levers instead of knobs on doors so that a door may be opened by the hand, wrist or elbow - of a person with a disability or a person with their arms full of laundry or groceries; and
- making sure kitchens and bathrooms are large enough to allow wheelchair access, with appliances and doors placed for ease of use – designs which benefit all users.

While there is already a clear need for accessible housing, as the population ages the need for and popularity of housing that incorporates universal design features will grow. Nationally, there is increasing interest in the use of universal design features. There is also growing recognition that there is a large and growing market for universal design features in both multi-family and single-family construction for all income levels. In most new construction,

many universal design features can be incorporated at little or no cost. The County passed a resolution in 2007 requiring the Fairfax County Redevelopment and Housing Authority (FCRHA) to incorporate the principles of universal design in properties built by the FCRHA and properties which are renovated by FCRHA will also incorporate the principles of universal design to "the maximum extent feasible."[59] This is encouraging but the County should also encourage the use of universal design features in the private market as well. The use of Community Development Block Grant and federal HOME Funds for housing provides the County with a great opportunity to encourage grant recipients to use universal design features in construction.

Builders of single family houses continue to construct barriers that exclude people with mobility impairments, both as residents and visitors. Although single family development has slowed in the County, visitable housing is still a significant need that should be encouraged by the County. Visitable homes are built for residents *without* disabilities as much for those *with* disabilities. Visitable homes enable owners to invite friends, neighbors and relatives with disabilities to enjoy life's activities in the home. This increases the independence of those with disabilities by being able to enter someone's home for a birthday party or gathering and being able to remain independent by not requiring assistance to get through the door or stairs or use the bathroom. This is significant to keeping those with disabilities from being segregated due to accessibility deficiencies.

Visitability provides basic access in single family homes and typically includes:

- Providing at least one zero-step entrance;
- All main floor interior doors--including bathrooms--with 32 inches of clear passage space and hallways no less than 36 inches in width on the ground floor;
- Providing one accessible bathroom on the ground floor; and
- Placing light switches, electric outlets and other controls at reachable heights.

Studies indicate that incorporating these features in new construction usually adds less than 1% to the purchase price and does not significantly change the design. Single family homes constructed with federal, state and county funds should be encouraged to support visitable standards.

Third Party Notification on Waiting Lists

There also continues to be confusion about the availability of third party notifications for those on housing voucher waiting lists. Because of the large numbers on the County's current, closed waiting list, when a person is notified of their selection they must respond promptly. Those with disabilities may not read their mail daily, have to wait until they have assistance in reviewing their mail or their disabilities may limit their ability to understand the significance of the correspondence they have received. The availability of such notification is available but it appears that more outreach on the availability of third party notification and an

understanding of what this is while individuals are on voucher waiting lists is needed for those in need of this accommodation.

Olmstead/Community Based Care

Concerns were also expressed from those interviewed about the institutional bias that appears to remain and the lack of commitment of the state and county to Virginia Olmstead action steps.[60] In the Olmstead Supreme Court decision,[61] the Court ruled that "states are required to place persons with mental disabilities in community settings rather than in institutions when the State's treatment professionals have determined that community placement is appropriate, the transfer from institutional care to a less restrictive setting is not opposed by the affected individual, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities." The case had been brought by two Georgia women who alleged that they had remained segregated to a state psychiatric hospital despite the agency's treatment professionals recommending their transfer to community based care.

There is a great need in Fairfax County for stronger community based services which would allow individuals to age in place in the housing of their choice. Study after study has shown that the lack of community based care has driven many individuals with disabilities into expensive nursing home care and even institutions when they could have remained within their home with minimal assistance. Information was provided for this report that indicated that the County (through the FCRHA) was applying for vouchers to assist people with disabilities to move into the community.

Project interviewees also noted that too often those who provide these valuable community based services to assist those with disabilities in residing in the community cannot afford housing to live in County. The issue of community based care was an area that HOME was not able to comprehensively review for this report and we recommend analysis in future reports.

OTHER ISSUES AFFECTING HOUSING CHOICE

Elderly Needs

Elderliness (being 55 or over) is a protected class under the Fairfax County Fair Housing Act and Virginia Fair Housing Law but unlawful discrimination against the elderly for that reason alone appears to be fairly uncommon. For the many elderly people who live on fixed retirement incomes, the greater problem is affordability, the need of subsidized housing and issues surrounding any disabilities they may have. As the baby-boomer generation ages, the issues the elderly face continue to receive greater attention.

According to the draft Consolidated Plan, "The elderly are the fastest growing age segment in Fairfax County and are projected to comprise 11.1 percent of the County's population by the year 2015. Low-income elderly households with housing problems (includes cost burden)

include a significant number of homeowners. Cost burdens could be the result of high utilities, property taxes, and insurance costs." Elderly homeowners face different barriers than other homeowners. Fixed incomes frequently mean that elderly homeowners have trouble maintaining their homes such as upgrades to plumbing and electrical systems or paying for items needed as disabilities worsen such as wheelchair ramps. This burdensome of cost was noted as a concern within the County's draft Consolidated Plan. This population also needs additional education to protect themselves and their homes from predatory lending and loan modification scams which have specifically targeted this population in recent years.

Community based care needs are not only needed for those with disabilities but those who are aging. These include not only care which assists the individual with housekeeping, grocery shopping and personal care needs, but also social programs and adult day center activities which continue to stimulate visual, verbal and cognitive motor skills which decrease as one ages. These programs also assist working families who may be caring for an elderly parent. These kinds of services assist the elderly and those who care for them in continuing to reside in housing of their choice and being able to be as active as they desire in society.

Hard to Place Residents

Project interviewees stated that a significant barrier to long term, sustainable housing was the evidence of past credit problems and criminal history. Concerns were expressed that these issues very often have little impact on whether someone is going to pay their rent. Very often, rent is the first item paid out of a family's budget. Renters may have good landlord references but not meet credit score requirements for rental or application requirements related to criminal history.

Consideration should be given for those who may have positive landlord references, but not meet credit application requirements for the housing, of a probational or interim type of lease whereby the renter is given an opportunity to rent and show they can meet tenancy requirements. This would not violate any fair housing laws as long as applied to all homeseekers who fell into the category of having good landlord references but not a high enough credit score.

The presence of criminal histories is a controversial issue in the housing market. People may be denied housing due to any type of criminal history. This could be felony convictions, recent or in the distant past, as well as so called transgressions of youth such as marijuana use or writing bad checks. Individuals may be denied housing for crimes committed within any time period despite having given no evidence of any relapse into criminal activity because of community concerns, sometimes real and sometimes perceived. It is completely up to the housing program to decide what they will and will not allow and for what time period. Society has been groping with how to accommodate individuals convicted of criminal activity who, after having "done their time," want to reenter society in a productive capacity. Not having safe, affordable housing may limit the ability of these individuals to maintain employment or get employed at all which can drive these individuals into poverty, and

sometimes, back to criminal activity. Housing for this hard to fit category needs to be sufficiently addressed.

Political Leadership Needs

Strong community leadership is needed to develop support throughout the region for the creation of healthy, mixed income communities. Concerns were also expressed in project interviews of the need of more community and political leaders on not only fair housing issues, but in regard to housing overall. Recent retirements have seen a loss of strong housing voices within Fairfax County. Political leaders need to not only support fair housing but also be able to support and explain the benefits of mixed income housing and truly understand its positive benefits to a community.

During the 2010 Virginia General Assembly, a Fairfax area delegate introduced legislation which would have limited the ability of civil rights organizations under state law to pursue damages when they uncovered different treatment in violation of fair housing laws. Since civil rights organizations are often the ones best trained to identify and address discriminatory practices, this would have greatly impacted their ability to pursue affirmative relief. Although the legislation was ultimately not passed, it sent a message that for some fair housing is still not a serious community need.

CHAPTER 5 – IDENTIFIED IMPEDIMENTS

Impediment 16. Substandard housing units in the County create unsafe conditions for low-income residents and overcrowding issues appear to disproportionately affect Hispanics and new immigrants.

Recommendation. The County of Fairfax should:

a) Implement an educational campaign to let consumers know their rights to safe housing and refer them to the appropriate agencies or organizations; and
b) Develop a coalition of housing organizations that will work in tandem with building inspectors to make sure displaced families find replacement housing quickly.

Impediment 17. People with disabilities have limited housing choice in seeking housing that meets their needs, that is accessible and with access to any needed community based services. Those individuals with disabilities who face these issues are not able to age in place in the County in housing of their choice.

Recommendation: The County of Fairfax should:

a) Collaborate with disability organizations and area housing providers for creation of an alert list when accessible rental units are available for applications;
b) Review all covered multi-family buildings (those constructed for first occupancy after March of 1991) located within County limits for compliance with the fair housing accessibility requirements to determine those in violation and support

testing programs to uncover inaccessible housing in violation of fair housing laws and work to ensure retrofitting of any violations;

c) Ensure that all County building inspectors have received training in the new design and construction accessibility requirements in the Virginia building code and enforce these requirements in all new construction;
d) Provide funding for home modification programs for not only homeowners but also for renters;
e) Require all housing rehabilitation or construction projects receiving funding from the County to be based on universal design principles to the greatest extent possible;
f) Work with county agencies to be an advocate for implementation of Olmstead action steps for better community based services over institutionalization and expensive long term care; and
g) Make a visible commitment to enhancing accessibility in single family housing by recognizing publicly that it makes economic sense and incorporating this goal in as many activities as possible.

Impediment 18. Elderly renters are likely to face significant difficulty when seeking affordable and accessible housing and elderly homeowners are likely to face serious barriers to maintaining their homes.

Recommendation: The County of Fairfax should:

a) Collaborate with senior and elder associations to inform the elderly about predatory lending and loan modification scams;
b) Support stronger funding for programs which allow the elderly to age in place; and
c) Work to create a regional affordable housing task force that includes discussion of the housing needs of the elderly.

Chapter 6: Summary of Recommendations for Addressing Impediments to Fair Housing

This chapter provides a listing of impediments and recommendations based upon the analysis within this report. Many of these can be grouped under several major themes.

A set of recommendations concerns the creation of decent, affordable housing and continued expansion of homeownership opportunities. The County has experienced some success in the preservation of rental housing units but funding is affecting any advancement in this area. Consideration may have to be given to rezoning existing developments and how to create new, creative affordable housing projects on public and rezoned land. Other issues addressed were the foreclosure crisis, high costs loans and homeownership opportunities in the County.

A second set of recommendations deals with County fair housing programs regarding how to better communicate with and educate members of the public, housing providers and others offering housing related services; and how to effectively enforce fair housing laws within the County.

A third set of recommendations concern barriers to housing choice experienced by specific groups of people. Discrimination still occurs too frequently, and requires responses from community education to testing and enforcement activity. For many with low incomes, cost is the major barrier to securing decent housing. For the elderly and those with disabilities, transportation and housing design are key factors that limit housing choice. The list of barriers and the recommendations for overcoming them are different for each group.

CHAPTER 2 – IDENTIFIED IMPEDIMENTS

Impediment 1. People of color are projected to be a majority in Fairfax County by 2030. This demographic shift of an increasing minority population and a decreasing white population may cause community tension.

> **Recommendation:** The County of Fairfax should continue to be proactive in reaching out to and connecting community leaders to increase cultural awareness and understanding within and across communities.

Impediment 2. There are a limited number of accessible public housing units available in Fairfax County. Low income families and individuals who are in need of affordable and accessible housing may have a difficult time finding housing which meets their needs.

> **Recommendation:** The County of Fairfax should:
>
> a) Develop means to encourage development of accessible housing that is affordable to Fairfax County's lowest income households; and
>
> b) Conduct more outreach regarding its third-party notification option which allows public housing residents to designate a friend, family member or caretaker to be notified that their public housing application has been approved.

Impediment 3. Persons with disabilities may need to have reasonable accommodations made by housing providers and approval for reasonable modifications.

Recommendation: The County of Fairfax should perform testing to determine if housing providers (public or private) are making reasonable accommodations and modifications for people with disabilities as required under fair housing laws.

Impediment 4. A high percentage of low income Fairfax County households and a growing number of households with higher incomes are paying more than 30 percent of their income for housing. The increasing housing burden for both renter and owner occupied households should be addressed.

Recommendation: The County of Fairfax should:

a) Provide adequate funding for The Penny for Affordable Housing Fund to increase the creation of affordable housing options; and
b) Examine the removal of the 15% preservation set-aside for the Low Income Housing Tax Credit program to determine if it has adversely affected affordable housing development in Fairfax County.

Impediment 5. There are concentrations of voucher recipients in Fairfax County. Prolonged concentrations of low income households have a negative impact both on the family and the community. Housing Choice Voucher holders' housing options may be limited due to landlord resistance, poor credit and rental references. While the County has been acknowledged by HUD for its efforts in deconcentrating poverty through the voucher program, housing options for voucher holders may still be limited due to landlord resistance, poor credit and rental references.

Recommendation: The County of Fairfax should:

a) Perform testing of housing providers to determine at what level housing providers in Fairfax County are accepting housing vouchers;
b) Support programs to encourage landlords in low poverty neighborhoods to participate in the voucher program, such as providing voucher holders with responsible tenancy education and helping landlords navigate the Housing Choice Voucher program requirements;
c) Support legislation in the General Assembly that would expand a tax credit program to encourage landlords in low poverty areas to accept housing vouchers; and
d) Support legislation in the General Assembly that would add *source of income* as a protected class to the fair housing laws.

Impediment 6. African-Americans and Hispanics are disproportionately served by high cost lending to a degree that cannot be explained by risk. More must be done to address and eliminate the disparities in high cost lending and access to mainstream mortgage credit by minorities and minority communities.

Recommendation: The County of Fairfax should:

a) Provide counseling and education to communities in which high cost lending is a major presence to help them become informed lending consumers;

b) Support programs to help homeowners with high cost loans refinance or restructure their loans;
c) Work with mortgage lenders to educate them about fair lending requirements and the disparate impact of high cost lending on minorities and minority communities; and
d) Lending disparities based on race and ethnicity exist in Fairfax County, as elsewhere. The County should support a program of lending testing to determine whether or not there are grounds for fair lending enforcement actions.

Impediment 7. There is a significant disparity between the homeownership rates of whites, Hispanics, and blacks.

Recommendation: The County of Fairfax should:

a) Encourage real estate agents, lenders, and others to market and provide additional homeowners' education classes throughout the year;
b) Support the provision of individual pre-purchase counseling, including long-term budget and credit repair assistance targeted to low and moderate income populations; and
c) Support programs that provide down payment and closing cost assistance to increase the number of households that are able to become homeowners.

CHAPTER 3 – IDENTIFIED IMPEDIMENTS

Impediment 8. The Commission does not have a written policy for the monitoring of fair housing compliance agreements.

Recommendation: The County of Fairfax should draft and implement a written policy regarding compliance agreement monitoring.

CHAPTER 4 – IDENTIFIED IMPEDIMENTS

Impediment 9. Homeseekers are denied access to the full range of housing choices.

Recommendation: The County of Fairfax should:

a) Ensure that the Commission continues to strengthen its efforts to provide training and support to identify unlawful housing discrimination;
b) Continue to support adding protection under fair housing laws for receipt of public assistance including support of the Communities of Opportunity pilot program at a statewide level;
c) Continue to support testing audits and programs across all protected classes to uncover unlawful housing discrimination in the County; and
d) Continue to provide all Fairfax County residents and others seeking housing in the County with ready access to enforcement services and testing services.

Impediment 10. Fair housing complaints filed with HUD and agencies like the Commission are dramatically below estimated incidents of housing discrimination.

Recommendation: The County of Fairfax should:

a) Continue an active fair housing awareness and education campaign to ensure that housing consumers have information on their rights under the federal and state fair housing laws, as well as Fairfax County's local ordinance;
b) Continue to collaborate with other organizations in fair housing training events;
c) Continue to conduct outreach to ensure that members of the public, as well as County staff who provide services to the public, can readily access and understand their options when they believe they have experienced housing discrimination;
d) Continue to work with local housing providers and the local landlord and property management and real estate trade groups to develop effective fair housing educational programs for large and small providers of rental housing;
e) Continue to make fair housing information readily available to the public in a variety of locations (e.g., public libraries, social services offices, transportation terminals);
f) Continue to ensure that information provided to the public is in alternative languages;
g) Publicize fair housing rulings on the Commission web site so the public has easily accessible information about allegations of housing discrimination;
h) Issue annual reports on fair housing efforts, statistics, and enforcement by the Commission which are available to the public;
i) Explore the possibility of broadcasting Commission meetings on public access channels or via the web for better community participation;
j) Continue to conduct increased outreach through homebuyer education to increase public knowledge in sales and lending transactions to better identify incidents of housing discrimination; and
k) Continue to foster relationships with area fair housing organizations to conduct testing and other forms of fair housing investigations in the County to uncover incidents of discrimination.

Impediment 11. The Fairfax County Fair Housing Act does not address discrimination in some important areas.

Recommendation: The County of Fairfax should consider strengthening its ordinance in the following areas:

a) Prohibit discriminatory incidents related to harassment, intimidation, coercion, etc. by otherwise exempt housing providers;
b) Specify that gender advertising in shared living situations is allowed only when advertising the same gender as the occupant of the housing being advertised; and
c) Address issues raised in the Moseke decision related to the continuing violation theory of timely filed administrative complaints in design and construction allegations.

Impediment 12. Advertisements in Fairfax County use discriminatory language and restrict fair housing choice.

Recommendation: The County of Fairfax should:

a) Support continued education to ensure compliance with fair housing laws;
b) Support fair housing enforcement including testing projects specific to the internet;
c) Ensure that the County's advertising continues to reflect and appeal to a diverse community; and
d) Support amendment of the Communications Decency Act to hold internet providers liable for discriminatory advertisements published on their sites.

Impediment 13: The County to-date has not filed any lawsuits as a result of charges of housing discrimination.

Recommendation: The County of Fairfax should prepare for future litigation by ensuring that members of the County likely to be involved in litigation receive appropriate professional legal training from experienced fair housing attorneys on how to prepare for and litigate in the court system, and through exposure to publications dealing with fair housing litigation related issues.

Impediment 14. Complaint filing numbers show that those with disabilities are the most common protected group filing housing discrimination complaints and appear to experience limited housing choice. Landlords are unaware of their obligations with respect to the housing needs of people with disabilities.

Recommendation: The County of Fairfax should:

a) Continue to conduct more outreach about the rights of homeseekers and responsibilities of housing providers in this area, in particular, targeted education related to accessibility, reasonable accommodations, and modifications;
b) Continue to support testing programs to uncover incidents of discrimination specifically related to the denial of reasonable accommodations or modifications;
c) Conduct trainings on fair housing to County Boards and Commissions and have educational programs open to the public specific to the fair housing needs of those with disabilities;
d) Continue to ensure fair housing activities sponsored by the County are welcoming to those with disabilities: welcoming seating, notice of accommodation needs on flyers, accessible locations near transportation, enhanced communication technology for listening or hearing impaired; and
e) Ensure all County publications in pdf format are dually offered online in pdf and in an alternative format for those with disabilities in need of such formats before those with disabilities have to ask for these items.

Impediment 15. Overly restrictive occupancy standards limit the housing choices of families with children, Hispanics, and new immigrants.

Recommendation: The County of Fairfax should:

a) Educate housing providers on restrictive occupancy standards and discriminatory advertising of such standards;
b) Provide for the dissemination of information about acceptable occupancy standards in both English and Spanish;
c) Ensure that the staff of County agencies and other organizations working with families and new immigrants in need understand the fair housing implications of overly restrictive occupancy standards and educate families about fair housing laws; and
d) Support fair housing investigation and testing to detect and eliminate discrimination related to restrictive occupancy standards affecting families with children or due to national origin.

CHAPTER 5 – IDENTIFIED IMPEDIMENTS

Impediment 16. Substandard housing units in the County create unsafe conditions for low-income residents and overcrowding issues appear to disproportionately affect Hispanics and new immigrants.

Recommendation. The County of Fairfax should:

a) Implement an educational campaign to let consumers know their rights to safe housing and refer them to the appropriate agencies or organizations; and
b) Develop a coalition of housing organizations that will work in tandem with building inspectors to make sure displaced families find replacement housing quickly.

Impediment 17. People with disabilities have limited housing choice in seeking housing that meets their needs, that is accessible and with access to any needed community based services. Those individuals with disabilities who face these issues are not able to age in place in the County in housing of their choice.

Recommendation: The County of Fairfax should:

a) Collaborate with disability organizations and area housing providers for creation of an alert list when accessible rental units are available for applications;
b) Review all covered multi-family buildings (those constructed for first occupancy after March of 1991) located within County limits for compliance with the fair housing accessibility requirements to determine those in violation and support testing programs to uncover inaccessible housing in violation of fair housing laws and work to ensure retrofitting of any violations;
c) Ensure that all County building inspectors have received training in the new design and construction accessibility requirements in the Virginia building code and enforce these requirements in all new construction;
d) Provide funding for home modification programs for not only homeowners but also for renters;

e) Require all housing rehabilitation or construction projects receiving funding from the County to be based on universal design principles to the greatest extent possible;
f) Work with county agencies to be an advocate for implementation of Olmstead action steps for better community based services over institutionalization and expensive long term care; and
g) Make a visible commitment to enhancing accessibility in single family housing by recognizing publicly that it makes economic sense and incorporating this goal in as many activities as possible.

Impediment 18. Elderly renters are likely to face significant difficulty when seeking affordable and accessible housing and elderly homeowners are likely to face serious barriers to maintaining their homes.

Recommendation: The County of Fairfax should:

a) Collaborate with senior and elder associations to inform the elderly about predatory lending and loan modification scams;
b) Support stronger funding for programs which allow the elderly to age in place; and
c) Work to create a regional affordable housing task force that includes discussion of the housing needs of the elderly.

End Notes

[1] Brookings Institution Metropolitan Policy Program. *State of Metropolitan America.* Washington DC: Brookings Institution, 2010.
[2] U.S. Census Bureau. *2008 American Community Survey.* 2009. http://www.census.gov/acs/www/ (accessed May 2010).
[2] U.S. Census Bureau. *2008 American Community Survey.* 2009. http://www.census.gov/acs/www/ (accessed May 2010).
[3] Ibid.
[4] Ibid.
[5] Ibid.
[6] U.S. Census Bureau. *2008 American Community Survey.* 2009. http://www.census.gov/acs/www/ (accessed May 2010).
[7] Ibid.
[8] Fairfax County Public Schools. *Fairfax County Public Schools Handbook.* Fairfax, Va: Fairfax County Public Schools, 2009-2010.
[9] Ibid.
[10] This indicator is based on the graduation rate for each high school and is required by the federal government. The graduation rate is the percentage of students achieving a regular high school diploma. Virginia Department of Education. *School, School Division, and State Report Cards.* June 2010. https://p1pe.doe.virginia.gov/reportcard/ (accessed June 2010).
[11] Kevin Greenlief, Director Department of Tax Administration. "Affordable Rental Housing Analysis." *Memorandum.* Fairfax County, Va: Fairfax County Department of Housing and Community Development, April 8, 2010.
[12] Erhard, Carol, interview by Will Sanford. *Needs Assessment for HOME conference call 5-11-10.doc* (May 12, 2010).
[13] Fairfax County Redevelopment and Housing Authority. *Housing Programs Website.* 2010. http://www.fairfaxcounty.gov/rha/ (accessed May 2010).
[14] Fairfax County Department of Housing and Community Development. "AI Draft Comment - 6-10-10." *Memorandum.* Fairfax County, Va, June 10, 2010.
[15] Fairfax County Redevelopment and Housing Authority. *Housing Programs Website.* 2010. http://www.fairfaxcounty.gov/rha/ (accessed May 2010).
[16] Erhard, Carol, interview by Will Sanford. *Needs Assessment for HOME conference call 5-11-10.doc* (May 12, 2010).
[17] Virginia Housing Development Authority. *Existing Low Income Housing Tax Credit Properties.* Richmond, Va, 2010.
[18] Kevin Greenlief, Director Department of Tax Administration. "Affordable Rental Housing Analysis." *Memorandum.* Fairfax County, Va: Fairfax County Department of Housing and Community Development, April 8, 2010
[19] Erhard, Carol, interview by Will Sanford. *Needs Assessment for HOME conference call 5-11-10.doc* (May 12, 2010).
[20] Fairfax County Redevelopment and Housing Authority. *Housing Programs Website.* 2010. http://www.fairfaxcounty.gov/rha/ (accessed May 2010).
[21] Fairfax County Department of Housing and Community Develpment. "Needs Assessment." Fairfax County, Va: Fairfax County Revelopment and Housing Authority, March 1, 2010.=
[22] Ibid.
[23] Ibid.
[24] Fairfax County Department of Housing and Community Development. "AI Draft Comment - 6-10-10." *Memorandum.* Fairfax County, Va, June 10, 2010.
[25] Erhard, Carol, interview by Will Sanford. *Needs Assessment for HOME conference call 5-11-10.doc* (May 12, 2010).
[26] U.S Department of Housing and Urban Development. *Resident Characteristics Report.* 2010. https://pic.hud.gov/pic/RCRPublic/rcrmain.asp (accessed May 2010).
[27] Ibid.
[28] Erhard, Carol, interview by Will Sanford. *Needs Assessment for HOME conference call 5-11-10.doc* (May 12, 2010).
[29] Poverty & Race Research Action Council. *State, Local and Federal Statutes Against Source of Income Discrimination.* Washington DC: Poverty & Race Research Action Council, 2010.
[30] Fairfax County Redevelopment and Housing Authority. *Housing Programs Website.* 2010. http://www.fairfaxcounty.gov/rha/ (accessed May 2010).
[31] U.S Department of Housing and Urban Development. *Resident Characteristics Report.* 2010. https://pic.hud.gov/pic/RCRPublic/rcrmain.asp (accessed May 2010).
[32] Erhard, Carol, interview by Will Sanford. *Needs Assessment for HOME conference call 5-11-10.doc* (May 12, 2010).
[33] Virginia Housing Development Authority. *Existing Low Income Housing Tax Credit Properties.* Richmond, Va, 2010.
[34] Virginia Housing Development Authority. *Low-Income Housing Tax Credit Program.* 2010. http://www.vhda.com/BUSINESSPARTNERS/MFDEVELOPERS/LIHTCPROGRAM/Pages/LIHTCProgram.aspx
[35] Fairfax County Office to Prevent and End Homelessness. *2010 Point-in-Time Count of People Who Are Homeless in the Fairfax-Falls Church Community.* Fairfax County, Va, 2010.
[36] Ibid.
[37] Fairfax-Falls Church Community Partnership on Ending Homelessness. *Homepage.* 2010. http://www.fairfaxcounty.gov/homeless/ (accessed June 2010).

[38] Fairfax County Office to Prevent and End Homelessness. *2010 Point-in-Time Count of People Who Are Homeless in the Fairfax-Falls Church Community.* Fairfax County, Va, 2010.
[39] Fairfax County. *First-Time Homebuyers Program.* 2010. http://www.fairfaxcounty.gov/rha/homeownership/fthbprogram.htm (accessed June 2010).
[40] Ibid.
[41] Fairfax County Department of Housing and Community Development. "AI Draft Comment - 6-10-10." *Memorandum.* Fairfax County, Va, June 10, 2010.
[42] Revised Proposed Five-Year Consolidated Plan for FY 2011-2015, Draft 4-28-2010, Page 142. (http://www.fairfaxcounty.gov/rha/2011-2015five-yearconsolidated.pdf)
[43] Ibid, Page 128.
[44] National Fair Housing Alliance, "A Step in the Right Direction – 2010 Fair Housing Trends Report," May 26, 2010.
[45] Ibid.
[46] Ibid.
[47] Ibid.
[48] Ibid.
[49] Ibid and information obtained from the National Fair Housing Alliance noting 601 FHAP cause rulings in FY2009.
[50] Chicago Lawyers' Committee for Civil Rights Under Law, Inc. *Craigslist Lawsuit.* 2008. http://www.clccrul.org/projects/the_fair_housing_project/craigslist_lawsuit.html, June 10, 2010.
[51] National Fair Housing Alliance, "FOR RENT: NO KIDS! How Internet Housing Advertisements Perpetuate Discrimination," 2009.
[52] Huffington Post, "Cyberdiscrimination in Dallas: Is Neil a More Desirable Tenant than Tyrone or Jorge?" May 12, 2010 (http://www.huffingtonpost.com/gregory-d-squires/cyberdiscrimination-in-da_b_574008.html
[53] Havens Realty Corp., et al v. Coleman, et al 455 U.S. 363 (1982).
[54] Planning Commission Meeting, February 6, 2007 (http://dockets.alexandriava.gov/icons/pz/pc/cy07/20607/di11.pdf)
[55] http://www.fairfaxcounty.gov/opa/striketeam/rules.htm
[56] Ibid.
[57] Revised Proposed Five-Year Consolidated Plan for FY 2011-2015, Draft 4-28-2010. (http://www.fairfaxcounty.go1v/rha/2011-2015five-yearconsolidated.pdf)
[55] Revised Proposed Five-Year Consolidated Plan for FY 2011-2015, Draft 4-28-2010, Page 211. (http://www.fairfaxcounty.gov/rha/2011-2015five-yearconsolidated.pdf)
[59] ADOPTION OF A POLICY SUPPORTING THE ACCESSIBLE DESIGN AND CONSTRUCTION OF AFFORDABLE HOUSING IN FAIRFAX COUNTY FOR PERSONS WITH DISABILITIES Resolution Number 08-07 - March 8, 2007. (http://www.fairfaxcounty.gov/rha/accessibility.pdf)
[60] One Community – Final Report of the Task Force to Develop an Olmstead Plan for Virginia, August 28, 2009. (http://www.olmsteadva.com/downloads/FinalReport/FinalTFReport.pdf
[61] Olmstead v. L. C. (98-536) 527 U.S. 581 (1999).

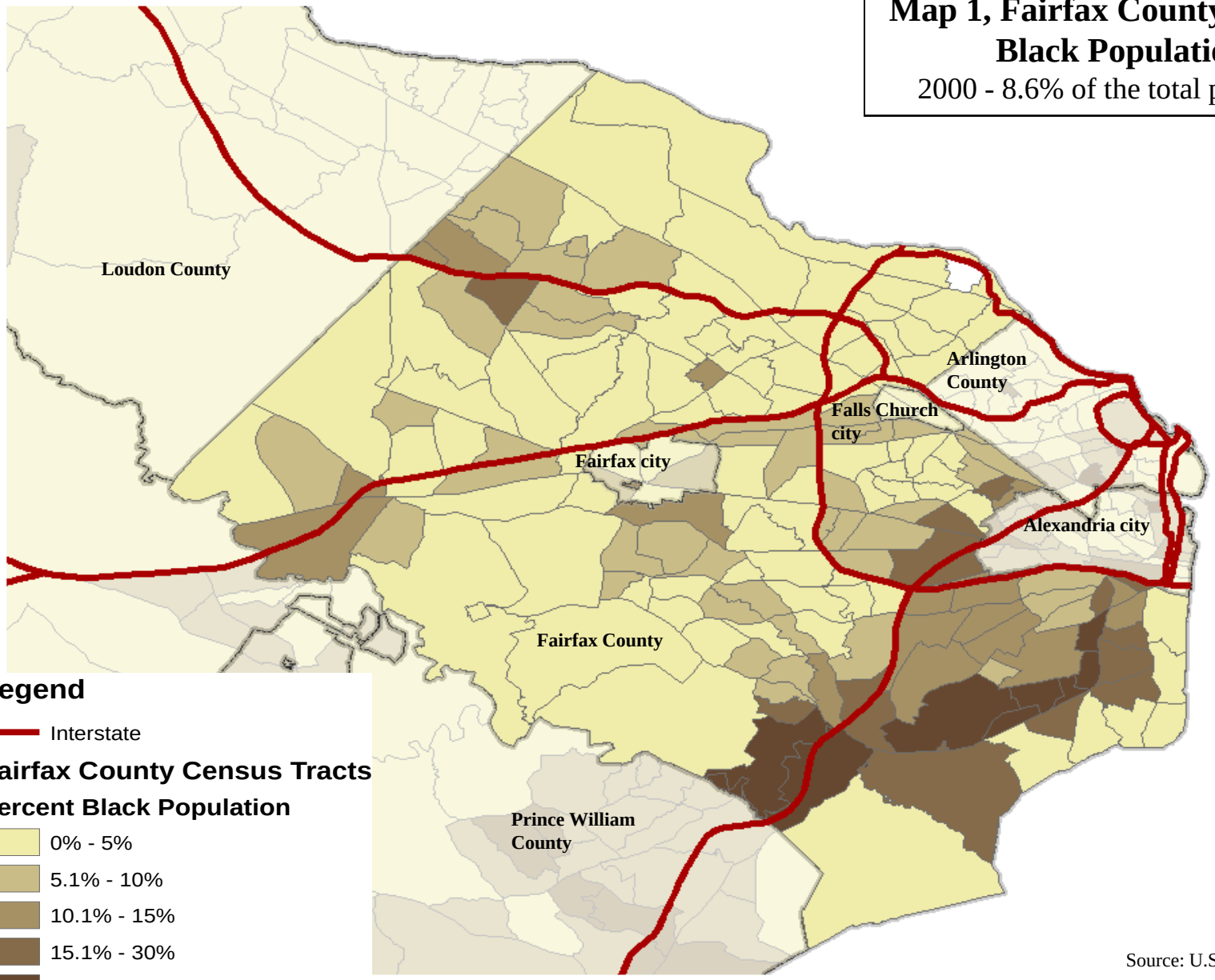
Data Sources

- RealtyTrac, Inc. *Fairfax County Address Level Foreclosure Data.* Irvine, Ca, 2007-2009.
- RealtyTrac, Inc. *Virginia Monthly Foreclosure Reports.* Irvine, Va, 2009.
- U.S. Census Bureau. *2000 Decennial Census.* 2001. http://www.census.gov/main/www/cen2000.html (accessed May 2010).
- U.S. Census Bureau. *2005 American Community Survey.* 2006. http://www.census.gov/acs/www/ (accessed May 2010).
- U.S. Census Bureau. *2008 American Community Survey.* 2009. http://www.census.gov/acs/www/ (accessed May 2010).
- U.S. Department of Housing and Urban Development. *A Picture of Subsidized Households - 2008.* 2009. http://www.huduser.org/portal/picture2008/index.html (accessed May 2010).
- U.S. Department of Housing and Community Development. *Resident Characteristics Report.* 2010. https://pic.hud.gov/pic/RCRPublic/rcrmain.asp (accessed May 2010).
- Virginia Department of Education. *School, School Division, and State Report Cards.* June 2010. https://p1pe.doe.virginia.gov/reportcard/ (accessed June 2010).
- Virginia Employment Commission. *Fairfax County Community Profile.* Richmond, Va: Virginia Employment Commission, 2010.
- Virginia Housing Development Authority. *Existing Low Income Housing Tax Credit Properties.* Richmond, Va, 2010.
- Financial Institutions Institutions Examination Council. *Home Mortgage Disclosure Act data.* Washington DC, 2004 - 2008.

Appendix

Map 1, Fairfax County - Percent Black Population:

2000 - 8.6% of the total population



Legend

Interstate

Fairfax County Census Tracts

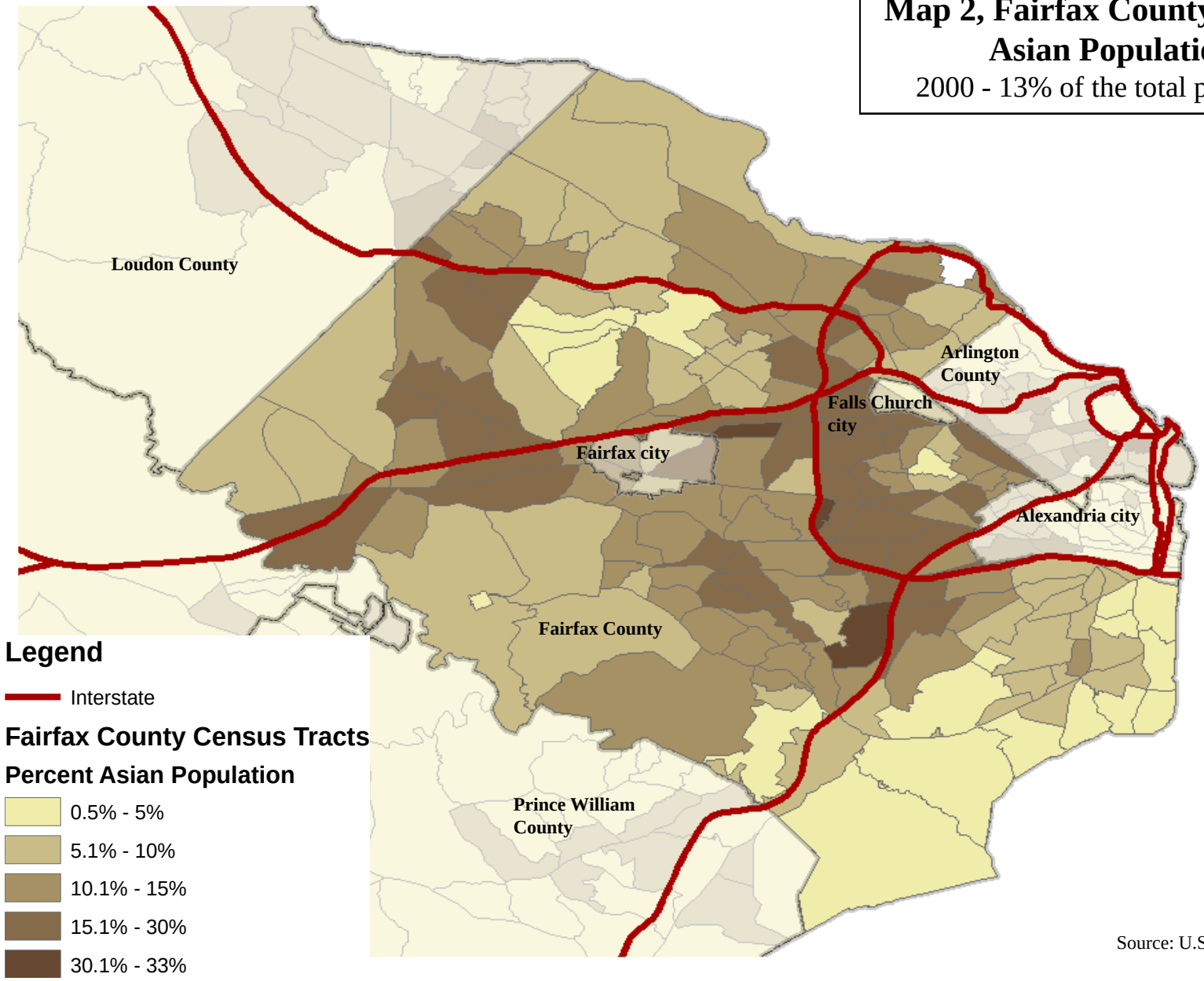
Percent Black Population

- 0% - 5%
- 5.1% - 10%
- 10.1% - 15%
- 15.1% - 30%
- 30.1% - 93.2%

Source: U.S. Census Bureau

Map 2, Fairfax County - Percent Asian Population:

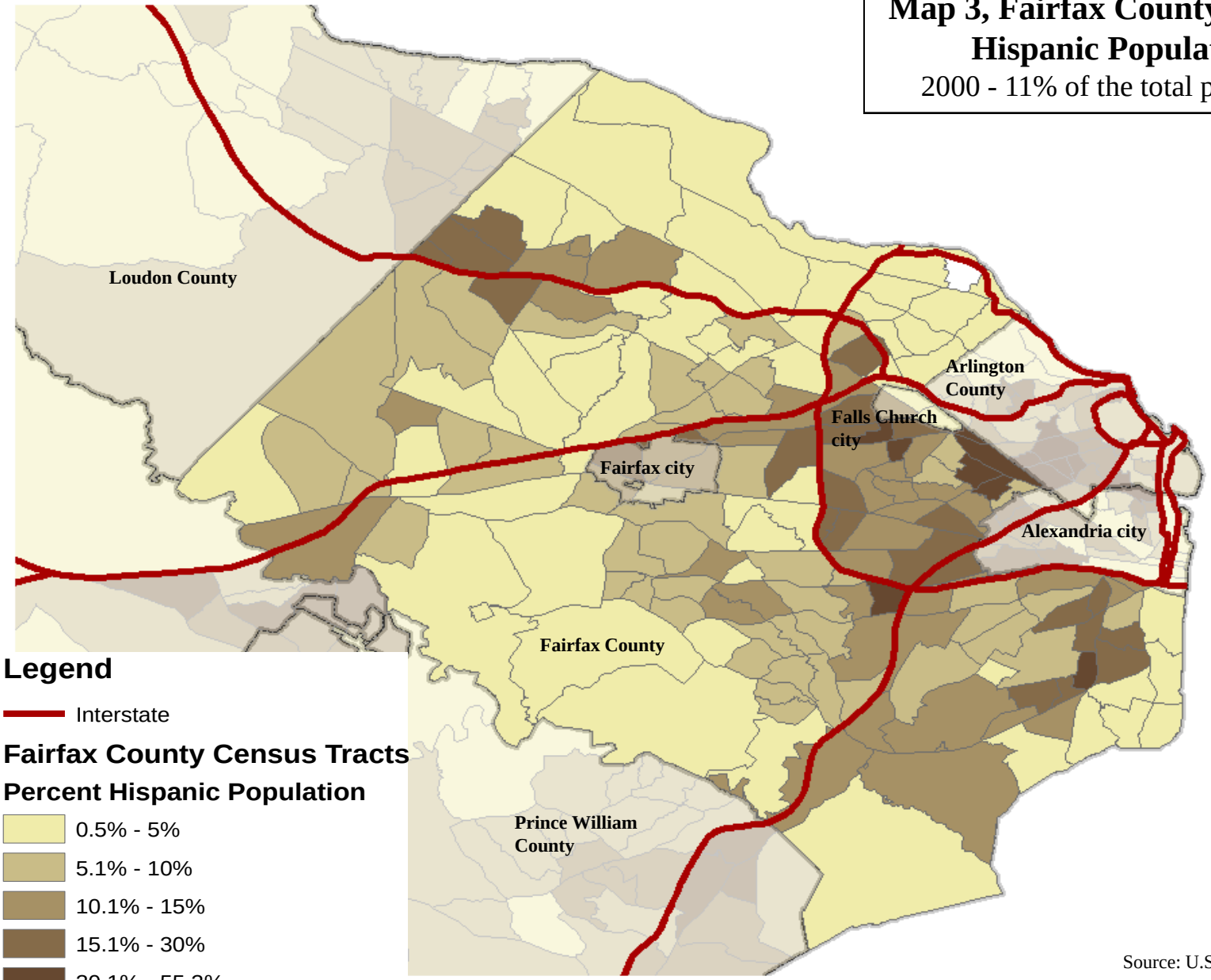
2000 - 13% of the total population



Source: U.S. Census Bureau

Map 3, Fairfax County - Percent Hispanic Population:

2000 - 11% of the total population

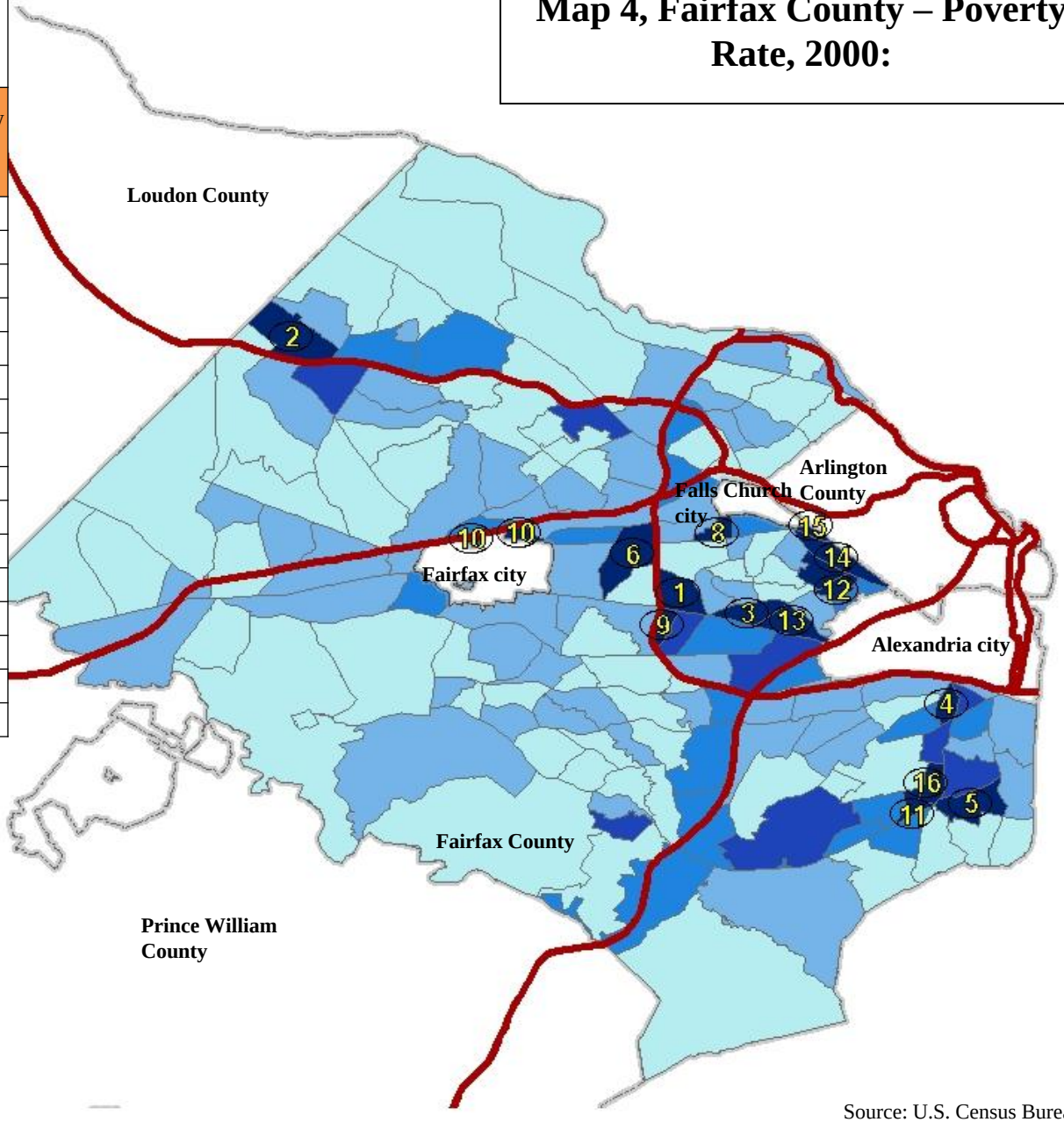


Source: U.S. Census Bureau

Chart 16: Fairfax County – Profile of Census Tracts with Greater than 10% Poverty Rate, 2000

Reference Number	Poverty Rate	Percent Minority	Percent Hispanic	Homeownership Rate
1	10.1%	44%	23%	48%
2	10.6%	45%	29%	64%
3	11.1%	34%	10%	68%
4	11.1%	44%	24%	47%
5	11.6%	30%	5%	71%
6	12.1%	45%	24%	48%
7	12.3%	53%	40%	46%
8	12.5%	48%	41%	53%
9	12.5%	53%	20%	42%
10	12.8%	49%	24%	30%
11	13.8%	74%	27%	47%
12	14.5%	62%	55%	29%
13	15.9%	48%	27%	52%
14	18.1%	48%	38%	39%
15	18.7%	54%	46%	16%
16	21.8%	60%	31%	58%

Map 4, Fairfax County – Poverty Rate, 2000:



Legend

Interstate

1 Reference Number

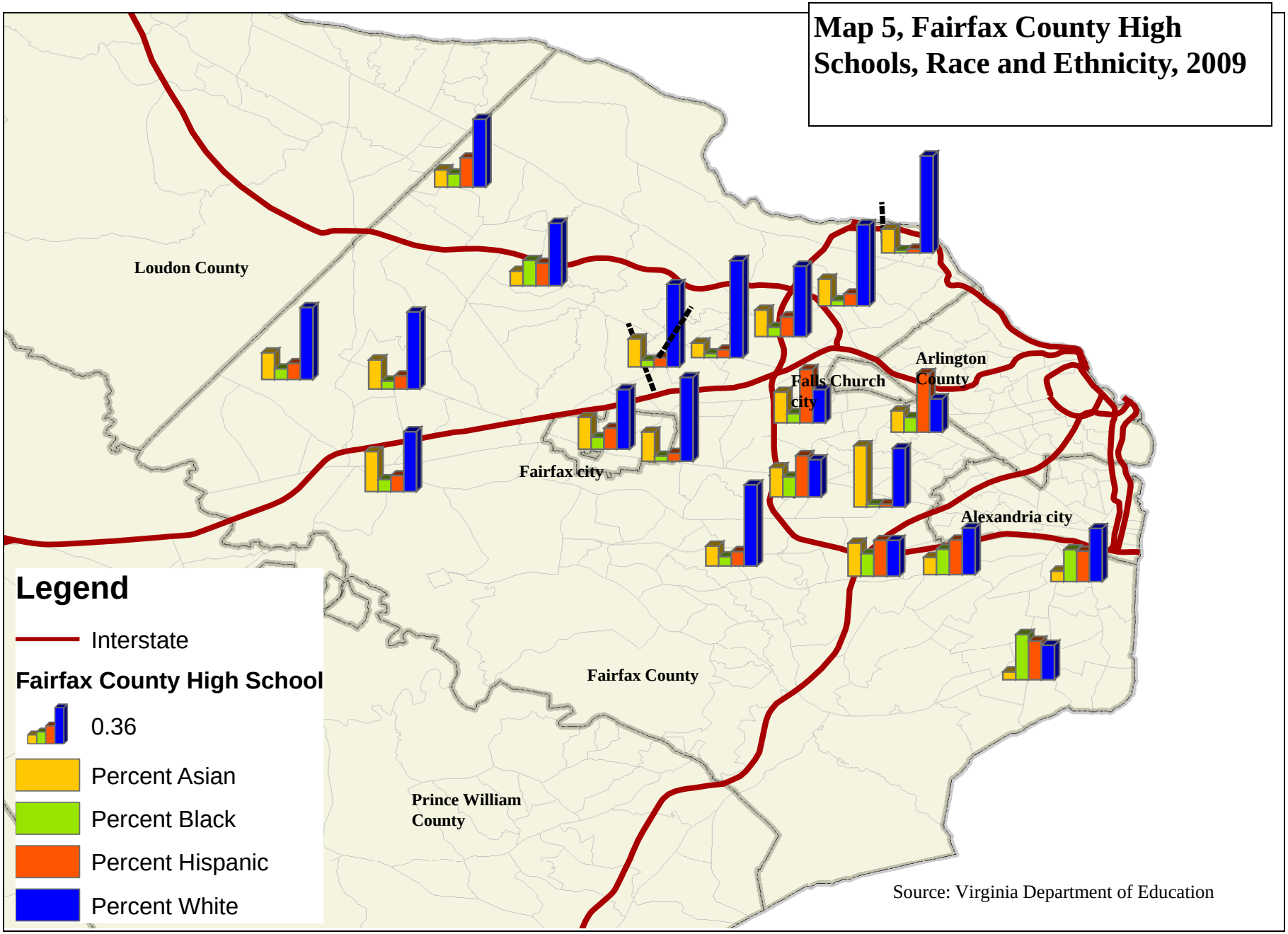
Fairfax County Census Tracts

Percent Poverty

- 0% - 2.5%
- 2.6% - 5%
- 5.1% - 7.5%
- 7.6% - 10%
- 10.1% - 30%

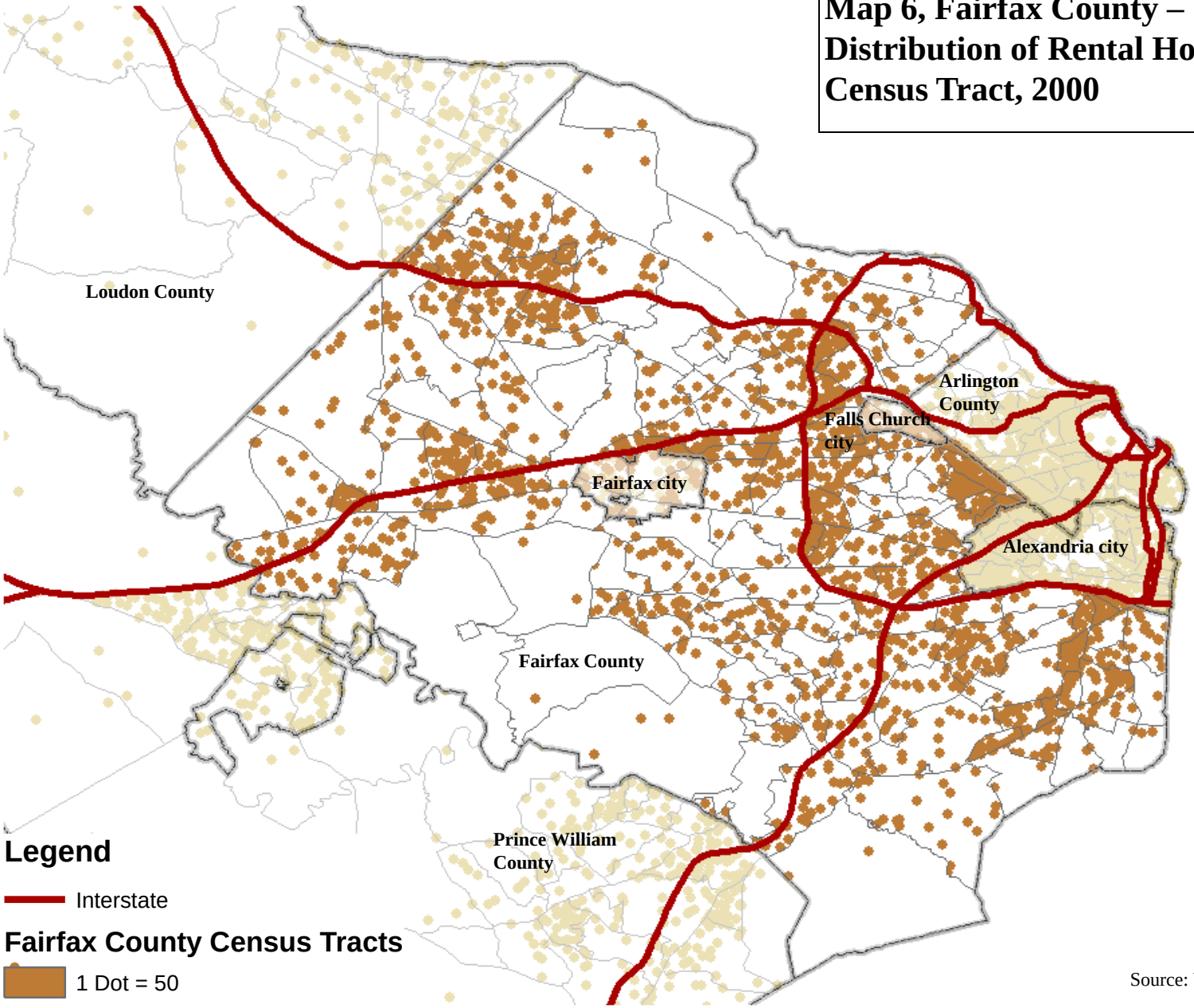
Source: U.S. Census Bureau

Map 5, Fairfax County High Schools, Race and Ethnicity, 2009

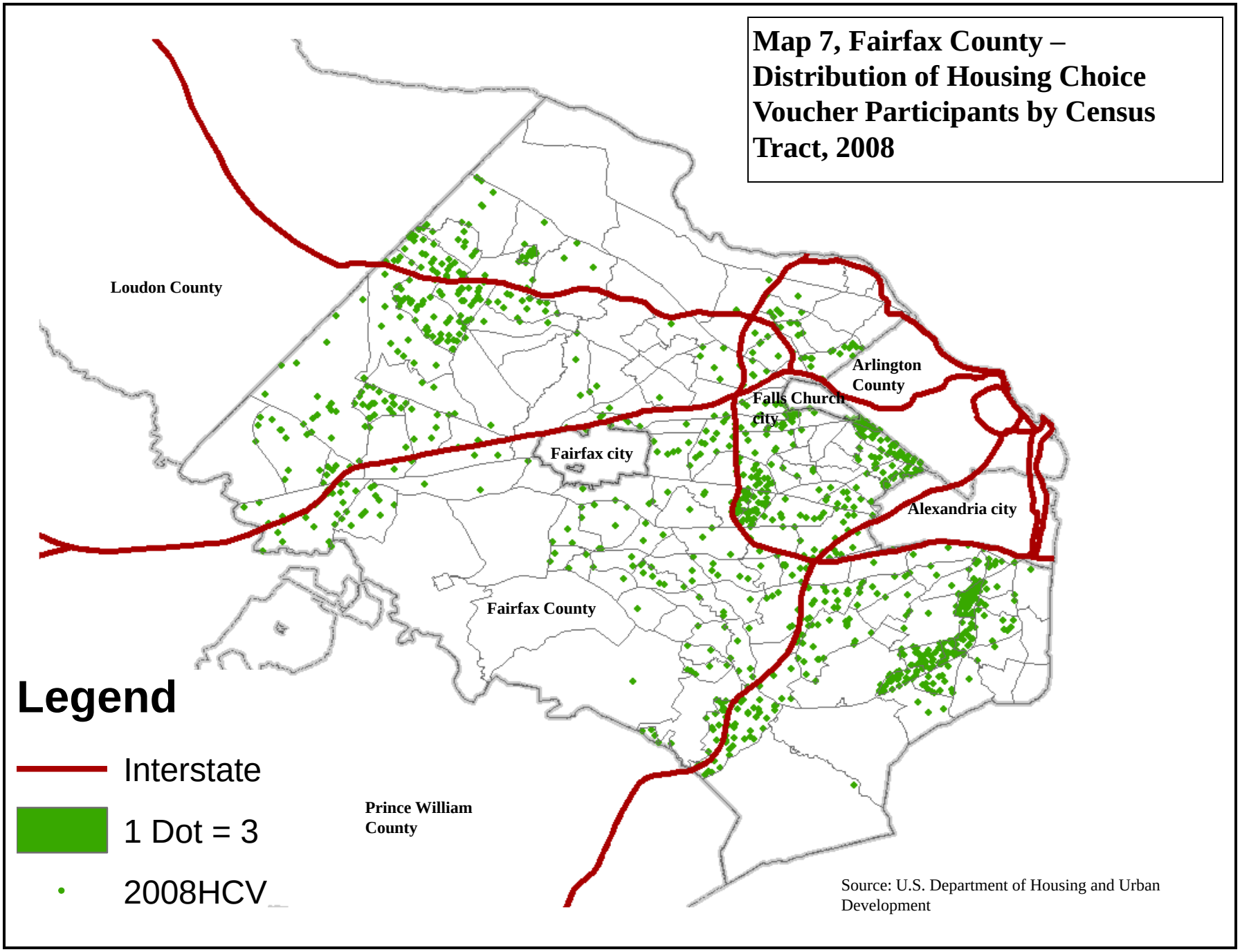


Source: Virginia Department of Education

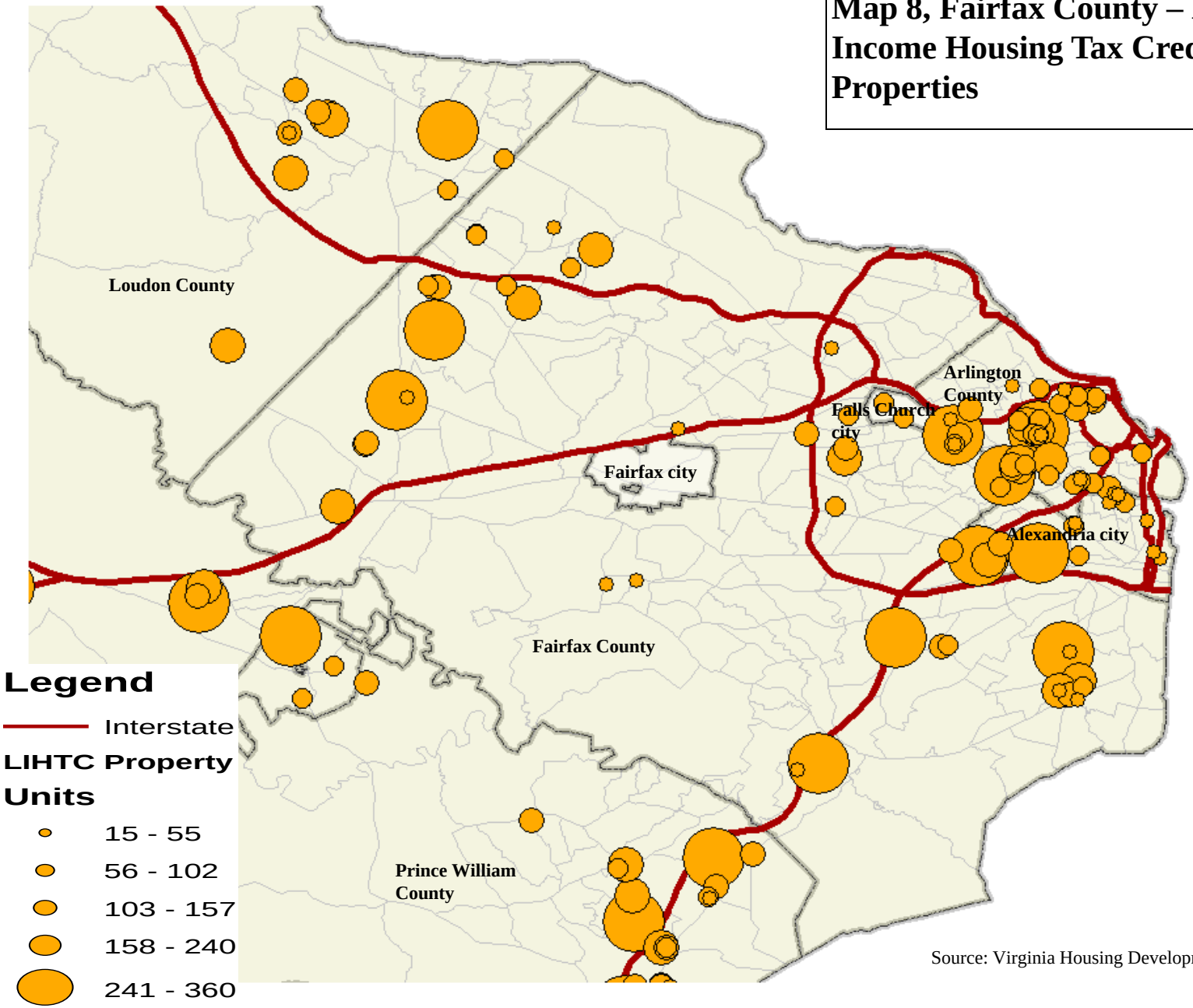
Map 6, Fairfax County – Distribution of Rental Housing by Census Tract, 2000



Source: U.S. Census Bureau

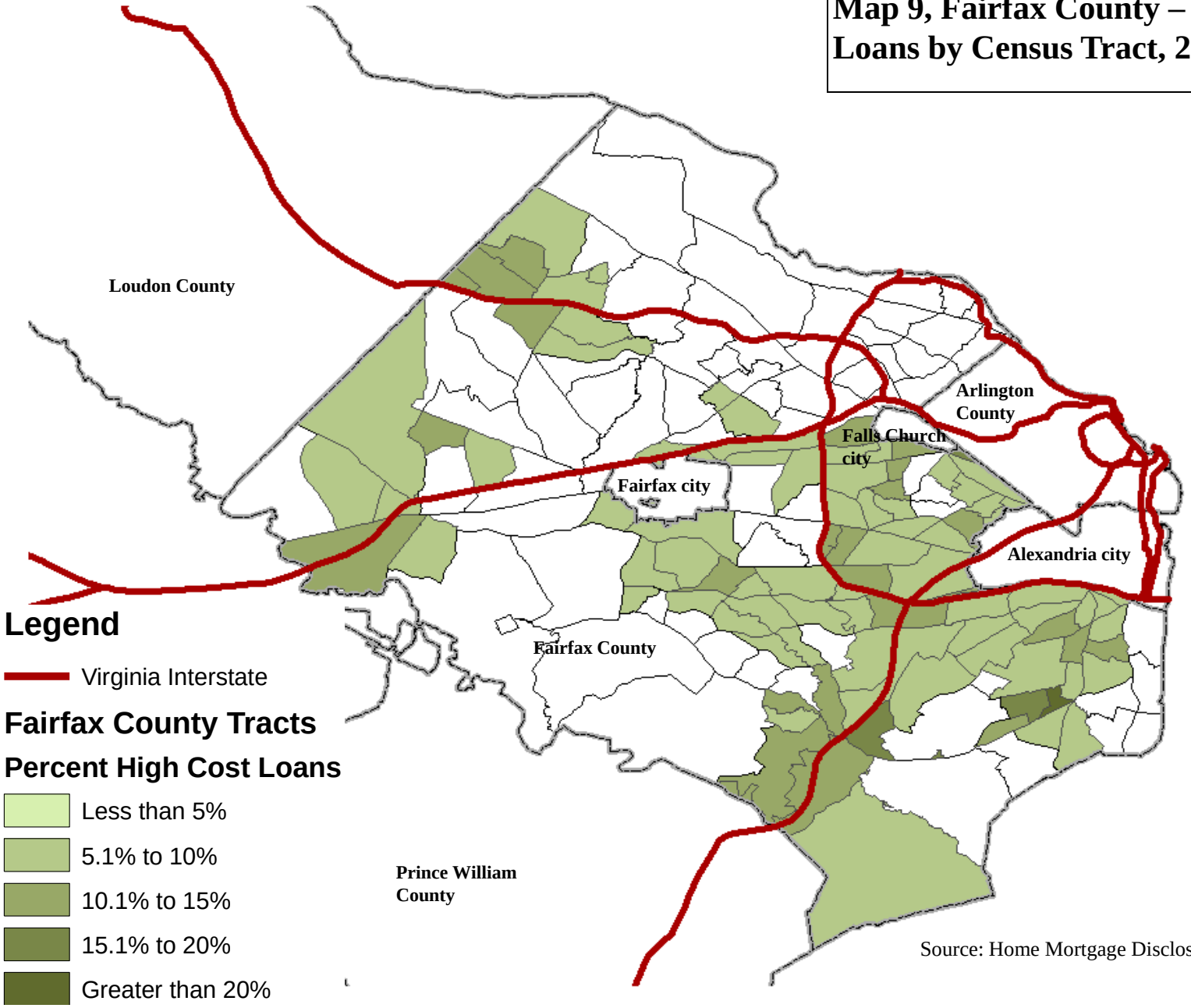

Map 7, Fairfax County – Distribution of Housing Choice Voucher Participants by Census Tract, 2008
Loudon County
Arlington County
Falls Church city
Fairfax city
Alexandria city
Fairfax County
Prince William County
Legend
Interstate
1 Dot = 3
2008HCV
Source: U.S. Department of Housing and Urban Development

Map 8, Fairfax County – Low Income Housing Tax Credit Properties



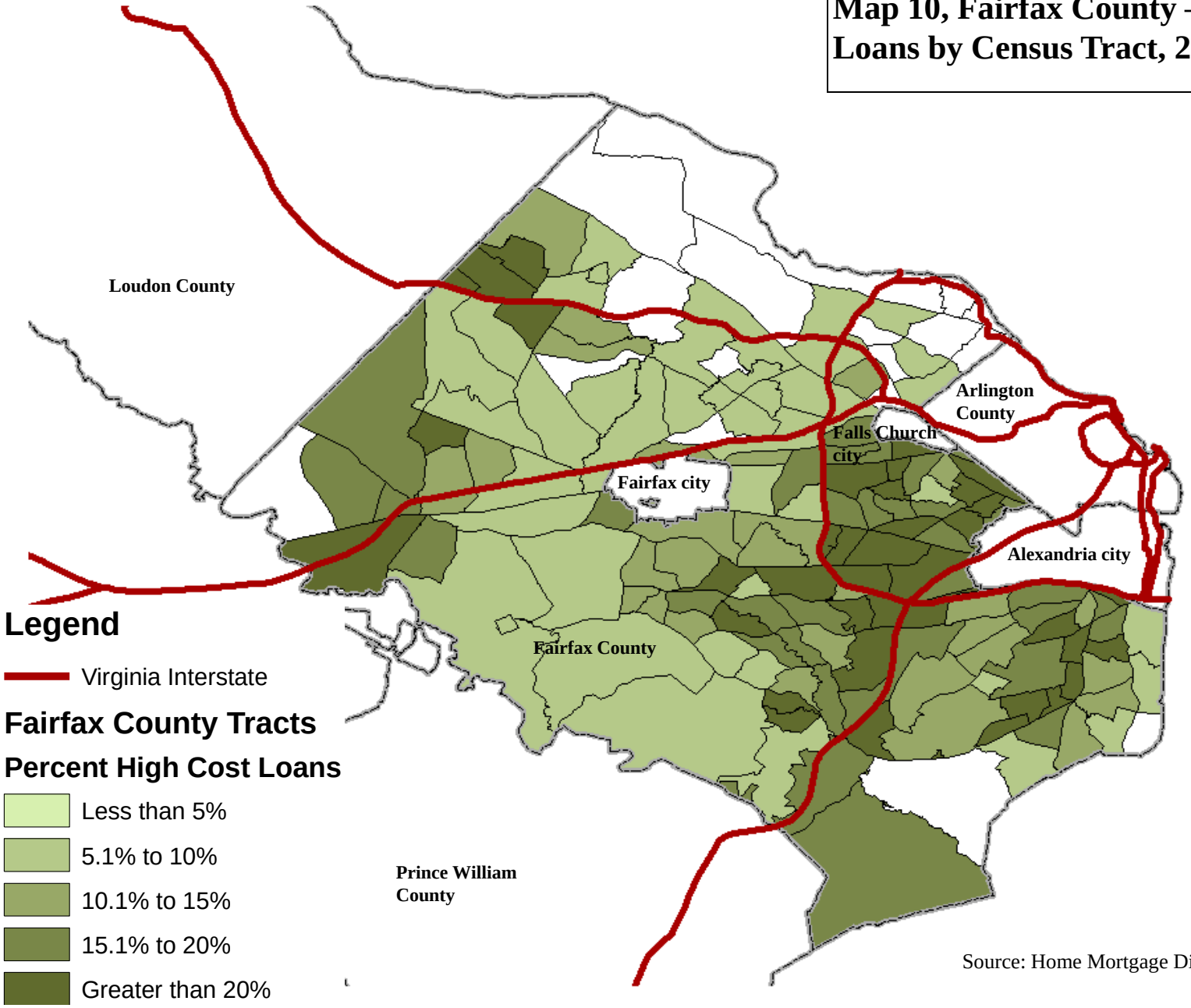
Source: Virginia Housing Development Authority

Map 9, Fairfax County – High Cost Loans by Census Tract, 2004



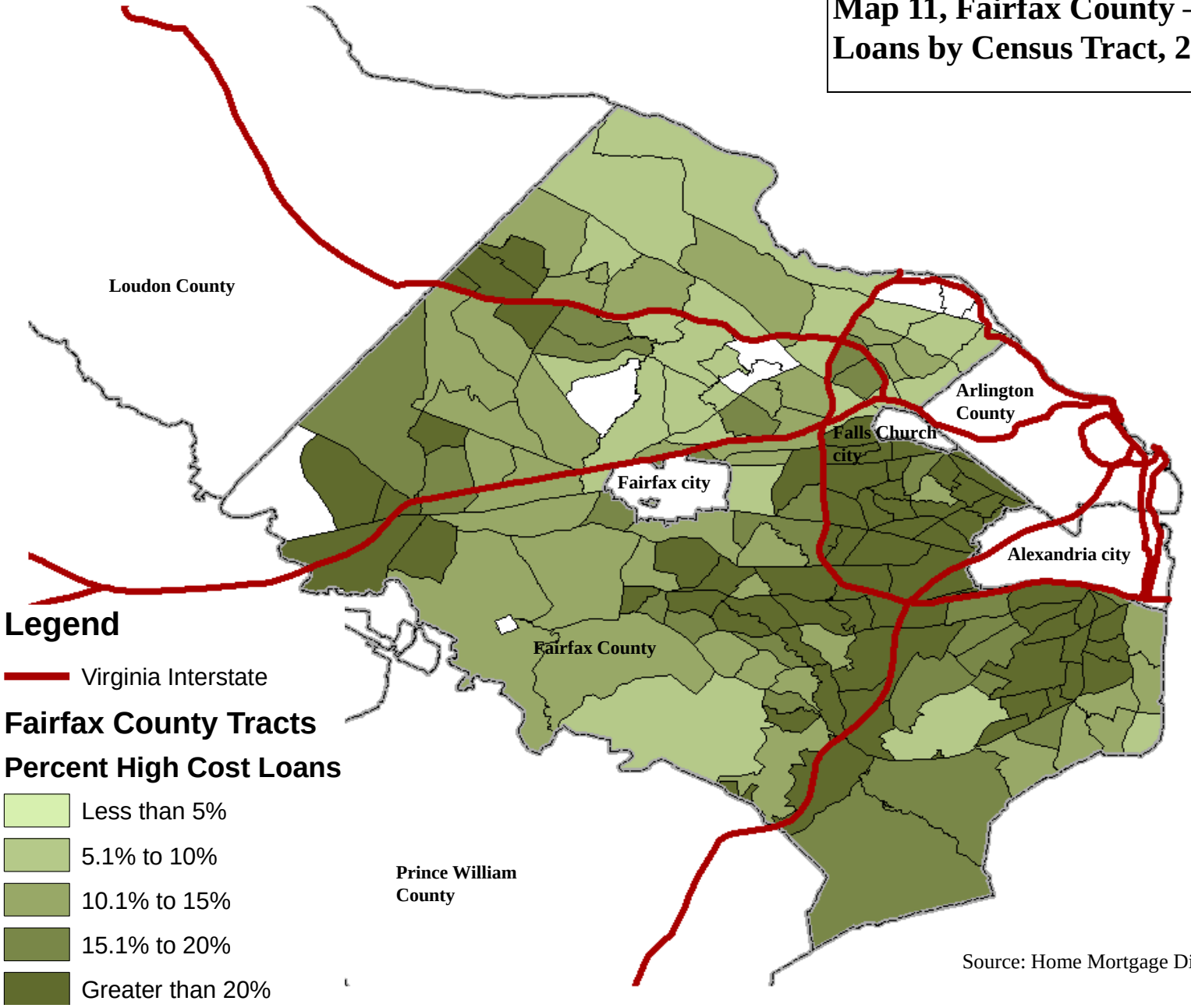
Source: Home Mortgage Disclosure Act data

Map 10, Fairfax County – High Cost Loans by Census Tract, 2005



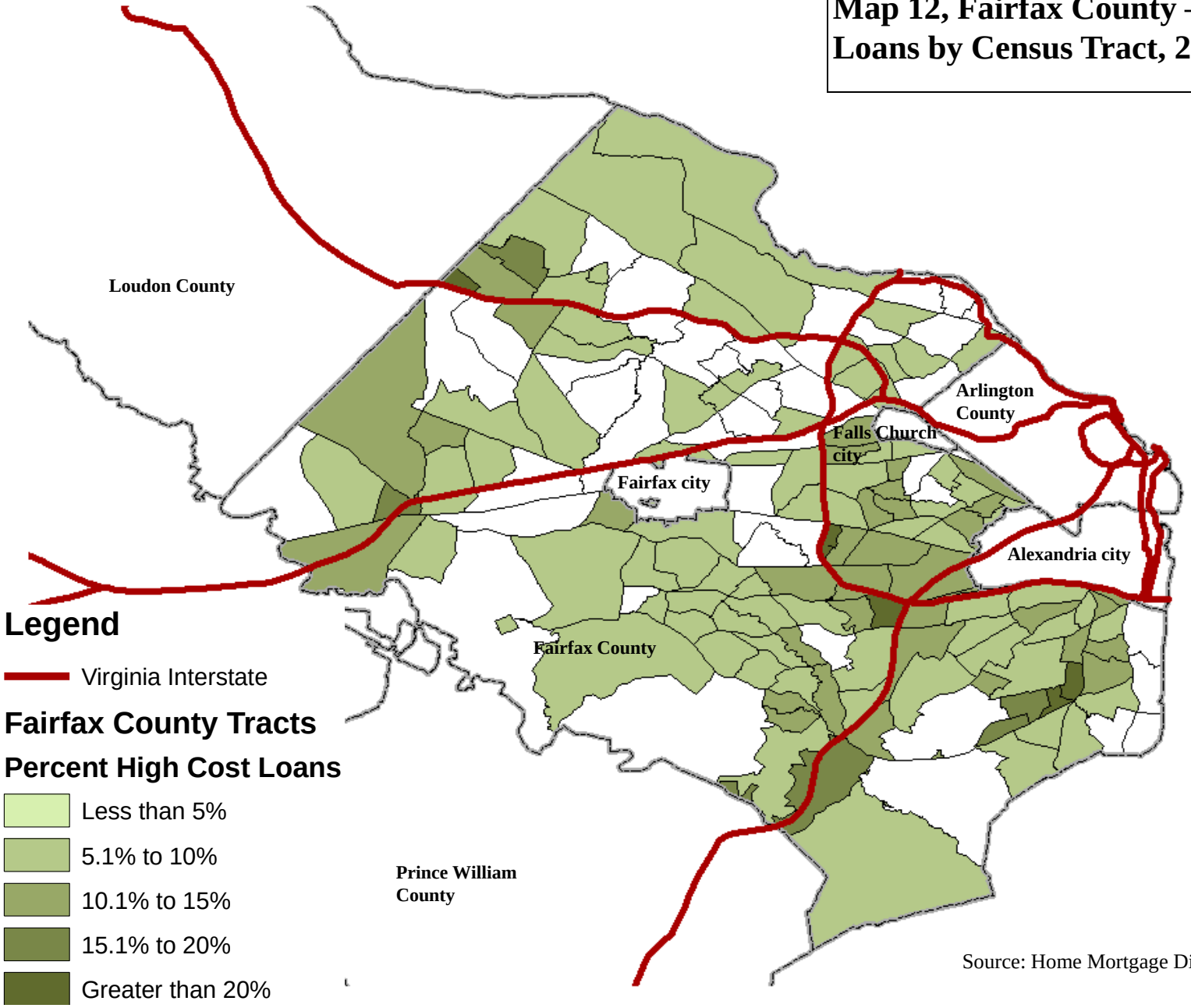
Source: Home Mortgage Disclosure Act data

Map 11, Fairfax County – High Cost Loans by Census Tract, 2006



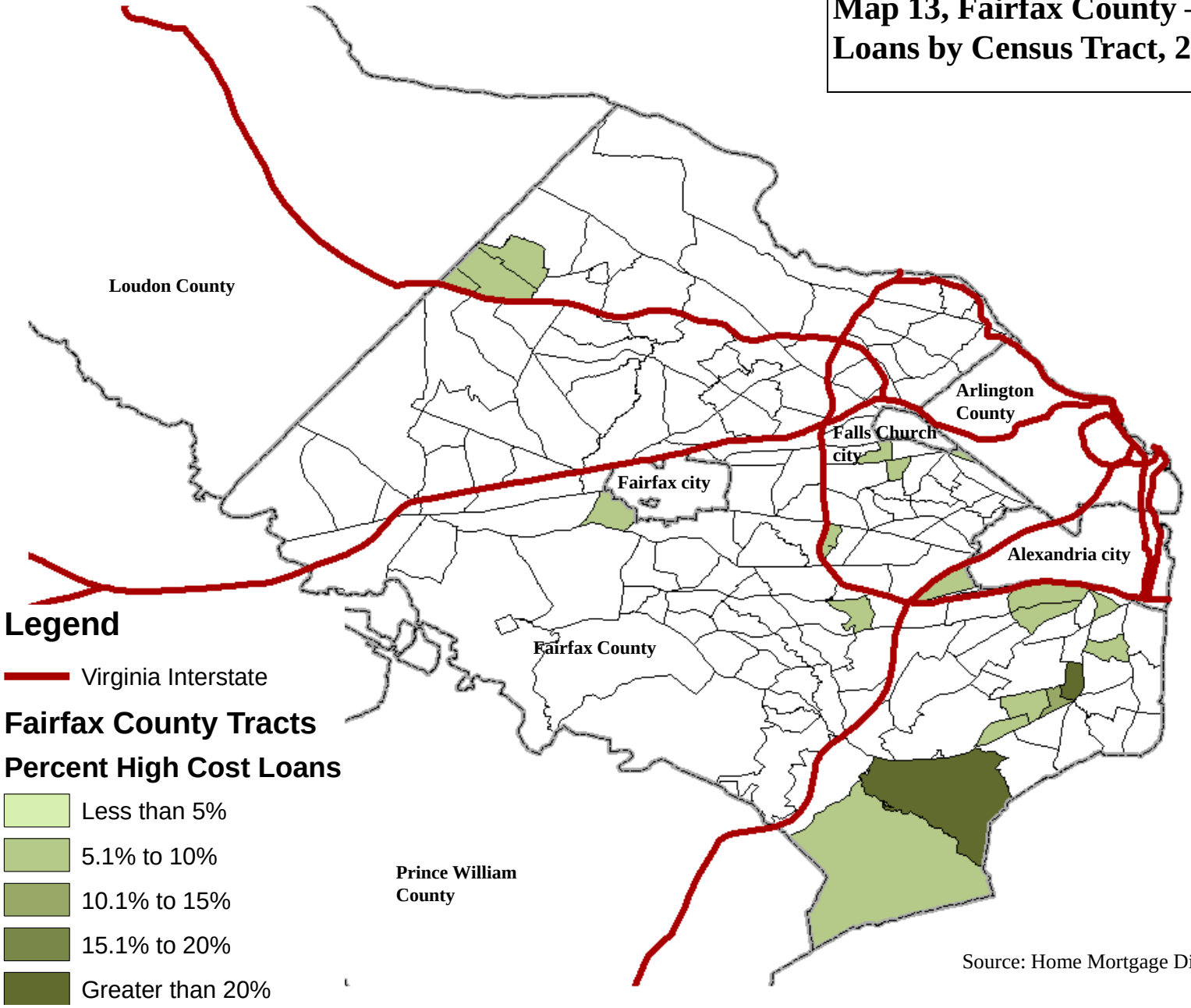
Source: Home Mortgage Disclosure Act data

Map 12, Fairfax County – High Cost Loans by Census Tract, 2007



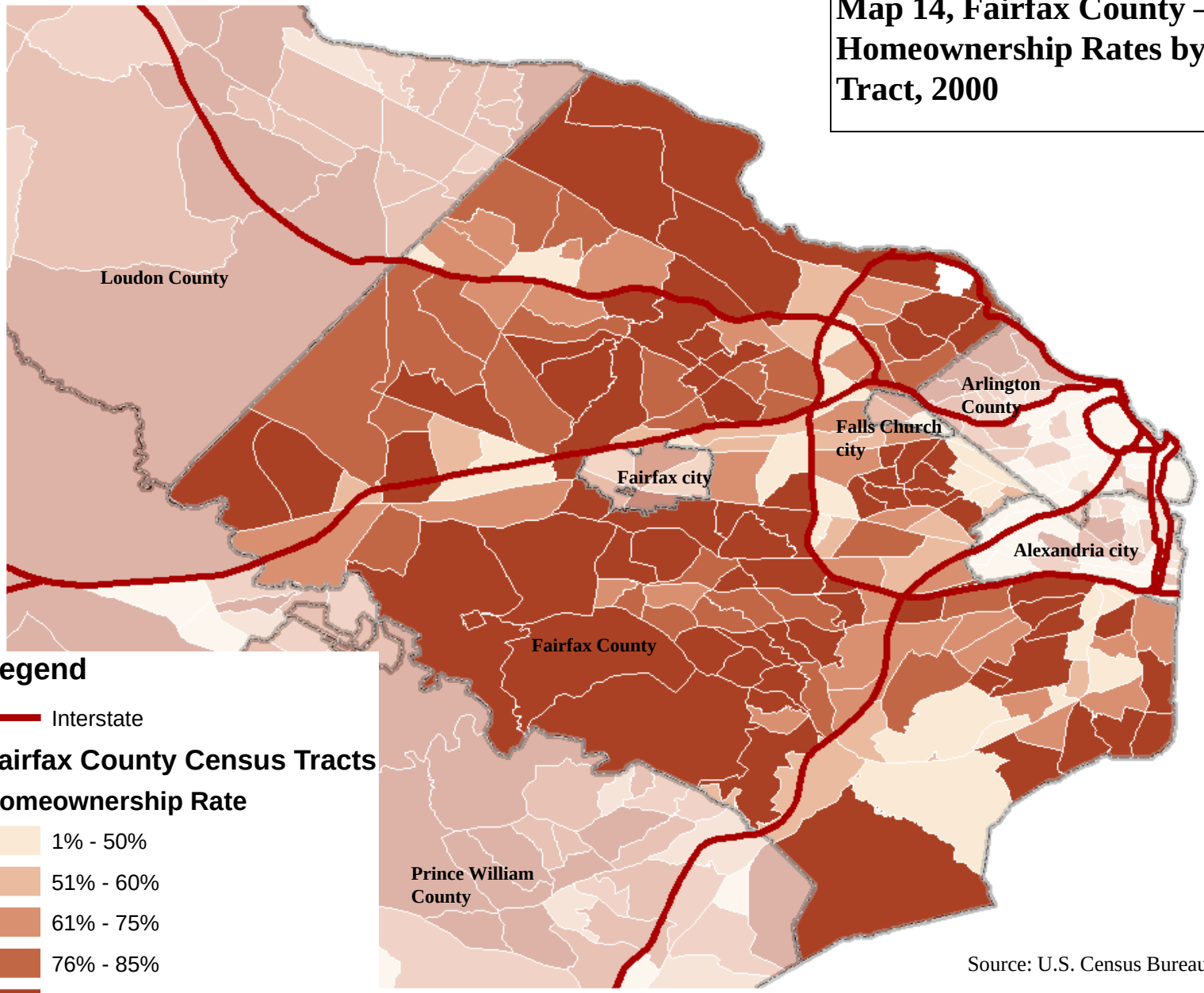
Source: Home Mortgage Disclosure Act data

Map 13, Fairfax County – High Cost Loans by Census Tract, 2008



Source: Home Mortgage Disclosure Act data

Map 14, Fairfax County – Homeownership Rates by Census Tract, 2000



Legend

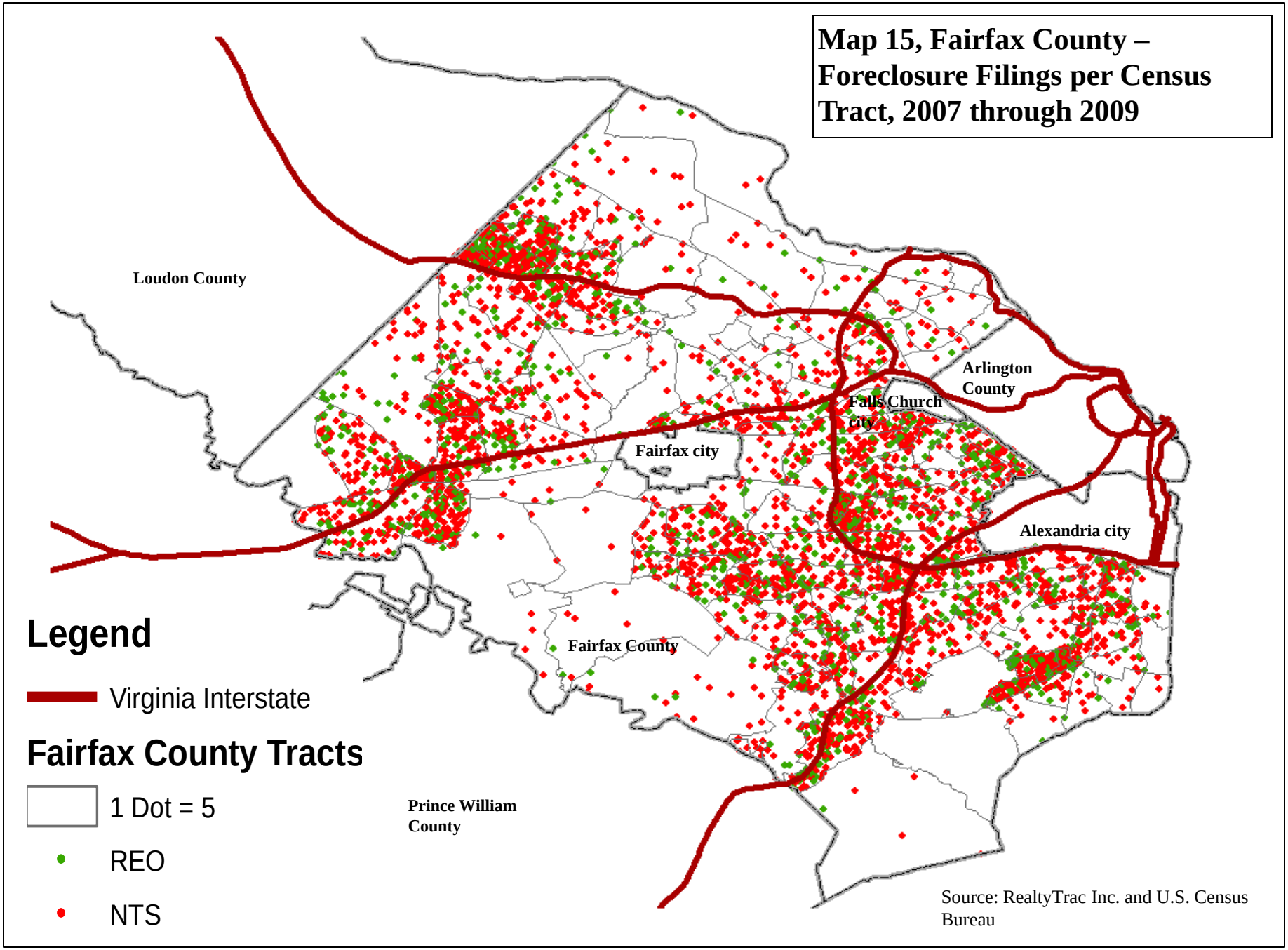
Interstate

Fairfax County Census Tracts

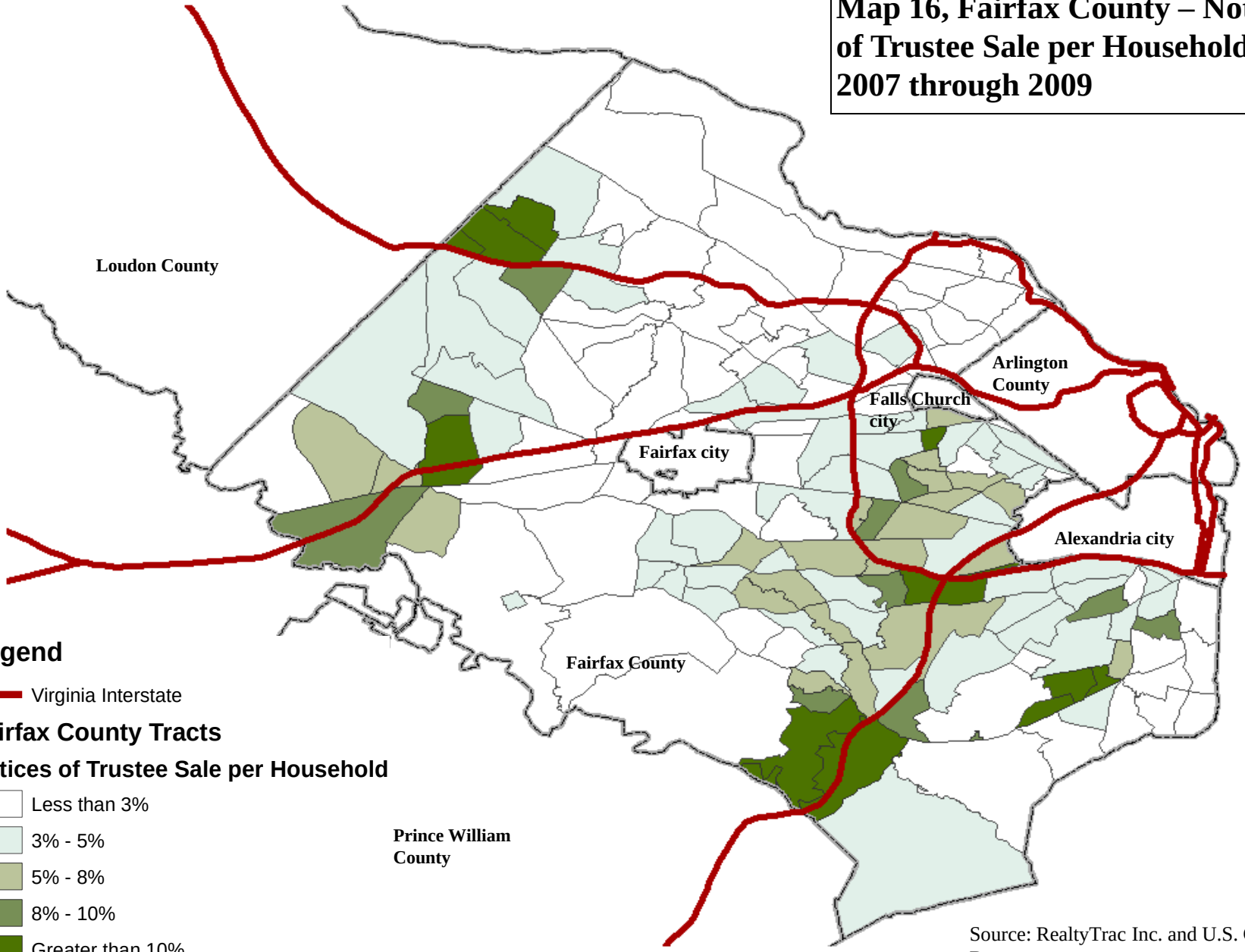
Homeownership Rate

- 1% - 50%
- 51% - 60%
- 61% - 75%
- 76% - 85%
- 86% - 100%

Source: U.S. Census Bureau


Map 15, Fairfax County – Foreclosure Filings per Census Tract, 2007 through 2009
Loudon County
Arlington County
Falls Church city
Fairfax city
Alexandria city
Fairfax County
Prince William County
Legend
Virginia Interstate
Fairfax County Tracts
1 Dot = 5
REO
NTS
Source: RealtyTrac Inc. and U.S. Census Bureau

Map 16, Fairfax County – Notices of Trustee Sale per Household, 2007 through 2009



Legend

Virginia Interstate

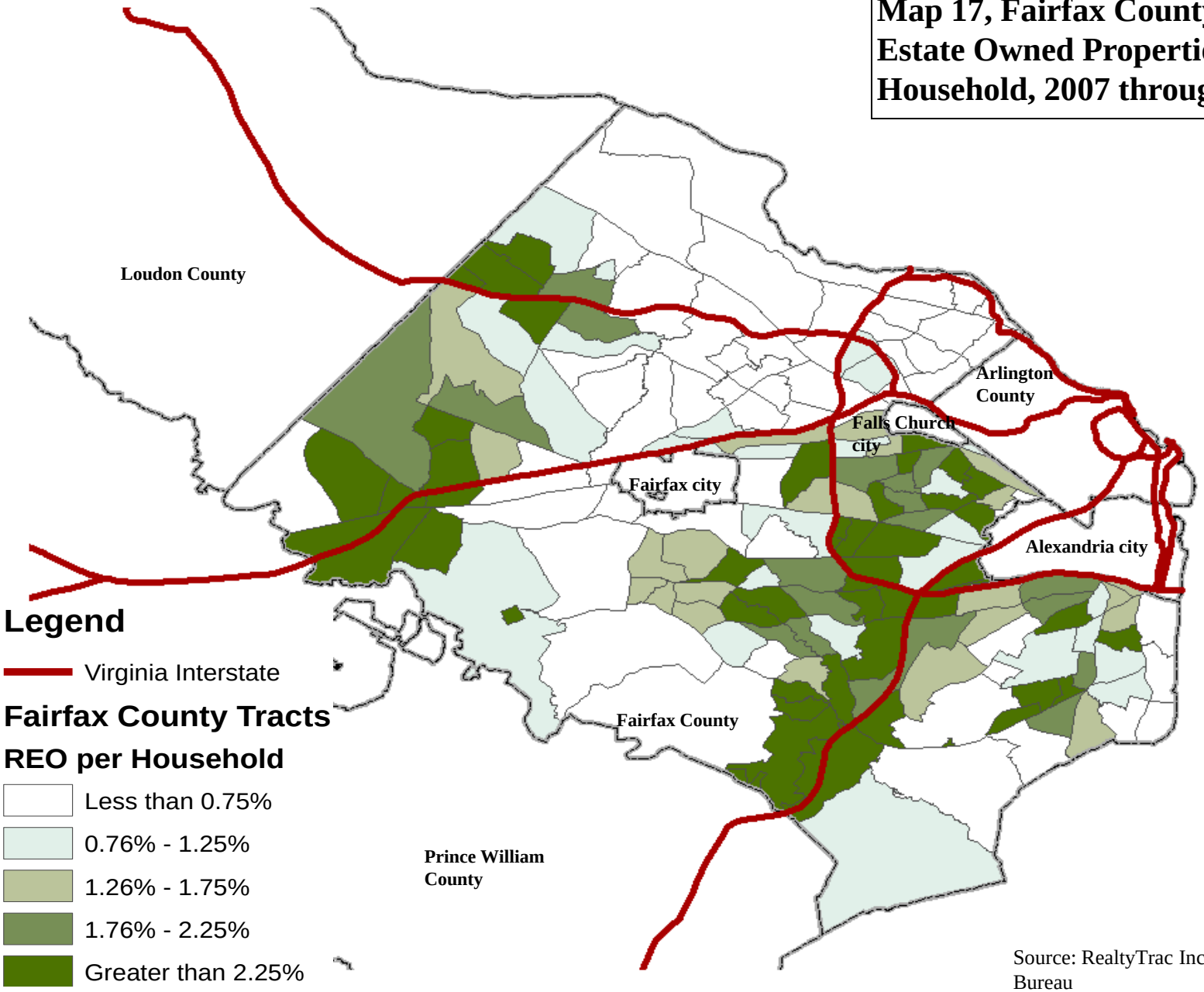
Fairfax County Tracts

Notices of Trustee Sale per Household

- Less than 3%
- 3% - 5%
- 5% - 8%
- 8% - 10%
- Greater than 10%

Source: RealtyTrac Inc. and U.S. Census Bureau

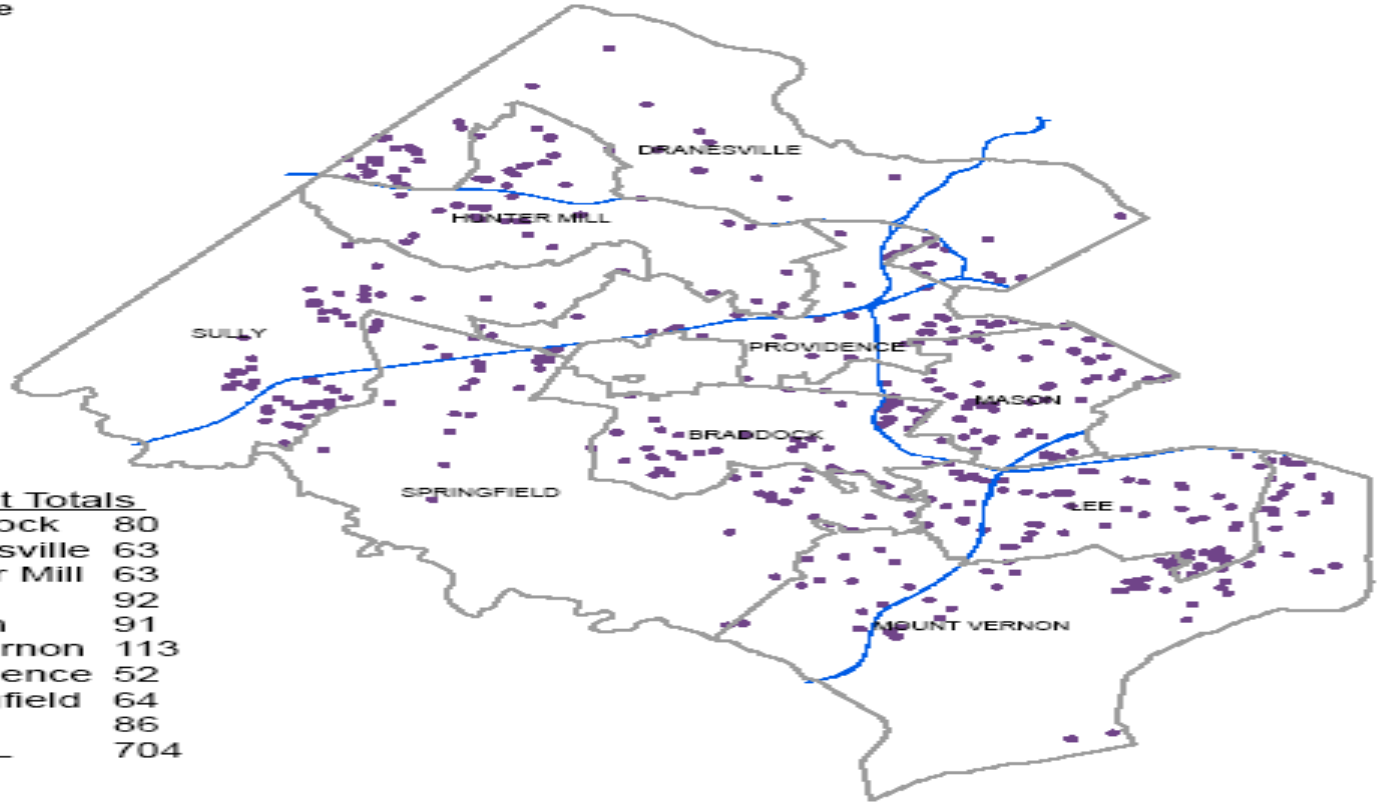
Map 17, Fairfax County – Real Estate Owned Properties per Household, 2007 through 2009



Source: RealtyTrac Inc. and U.S. Census Bureau

Net Foreclosures by Supervisor District, through March 2010

Map 18

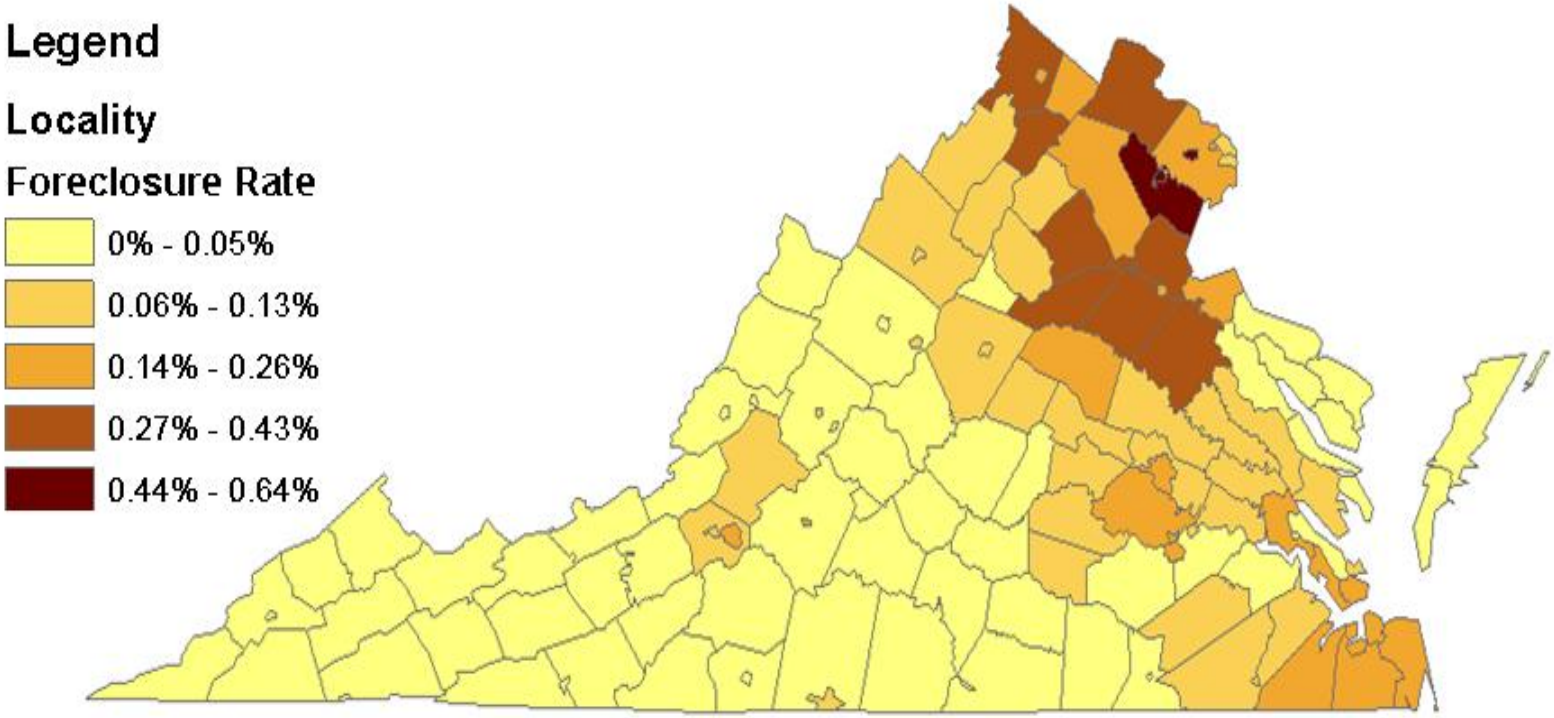


District Totals	
Braddock	80
Dranesville	63
Hunter Mill	63
Lee	92
Mason	91
Mt. Vernon	113
Providence	52
Springfield	64
Sully	86
TOTAL	704

This map depicts forclosures (bank-owned proerties) in Fairfax County as of the end of March 2010.

Map 19

Average Monthly Foreclosure Rate by Locality
March 2009 through March 2010



Source: RealtyTrac Inc.