City of Burlington's

Analysis *of* Impediments *to* Fair Housing Choice

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The City of Burlington's **Community & Economic Development Office**

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Chapter 1

Introduction

The Consolidated Plan for Housing & Community Development contains a certification to affirmatively further fair housing (AFFH) that requires all entitlement communities to undertake fair housing planning. The U.S. Department of Housing and Urban Development (HUD) suggests that entitlement communities, such as Burlington, conduct fair housing planning at least once every three to five years. Fair housing planning consists of three components: (1) conducting an Analysis of Impediments to Fair Housing Choice, (2) identifying actions to eliminate any identified impediments, and (3) maintaining AFFH records.

An Analysis of Impediments to Fair Housing Choice (AI) is a comprehensive review of municipal housing, economic, and transportation conditions, as well as public and private sector policies in order to ensure that housing choices and opportunities for all persons in a community are available. Under the HOME and Community Development Block Grant (CDBG) statutes, the AI is a document required by HUD as part of the Consolidated Plan (ConPlan). The city must certify to HUD that an AI was conducted and fair housing action steps are being implemented. Goals and objectives are designed to identify and mitigate obstacles to fair housing choice. Many of these are also included in the five-year ConPlan.

Developed to accompany the City of Burlington's FY2008 to FY2013 ConPlan, this AI has been completed to meet requirements of the Housing and Community Development Act and HUD regulations governing the preparation of the ConPlan.

Impediments to fair housing choice are:

- Any actions, omissions, or decisions taken *because of* one's membership in a protected class which restrict housing choices or the availability of housing choices; and
- Any actions, omissions, or decisions which *have the effect of* restricting housing choices or the availability of housing choices on the basis of one's membership in a protected class.

The federally protected classes are:

- Disability
- Familial status
- National origin
- Race
- Color
- Religion
- Sex

In addition, the State of Vermont has added the following protected classes to this list:

- Age
- Gender identity
- Marital status
- Receipt of public assistance
- Sexual orientation

This report considers impediments to fair housing choice experienced by both the federal and state protected classes.

Progress in fair housing since the last analysis of impediments

The AI conducted in 1999 identified several impediments and potential action steps for both the City of Burlington and surrounding Chittenden County communities.

It's grouped into separate industries:

- Rental property management;
- Real estate;
- Home building;
- Banking, finance and insurance; and
- Socio-economic barriers.

The steps taken by the City of Burlington and its partners since this 1999 report are tracked in the city's ConPlan available online at www.cedoburlington.org. Various levels of progress have been made on each. For those within the City of Burlington's control, progress has been made, but with no benchmarked goals set in 1999 it's difficult to say if enough has been done to remedy the impediment.

1999 Impediments and progress

1. The city should continue to support the efforts of the Champlain Valley Office of Economic Opportunity's (CVOEO's) Fair Housing Project to gather and analyze solid evidence to demonstrate the scope of Burlington's fair housing problems.

- CVOEO's Fair Housing Project was awarded three HUD-funded fair housing testing grants, with letters of support from the city. The Fair Housing Working Group (FHWG) was created after the 1999 AI and as a part of that, the city has supported trainings and education on fair housing issues, including working with several partners on a public education campaign. Finally, the city and CVOEO funded this AI, which provides an update on progress to date as well as a new look at the need for fair housing among protected classes.

2. The city should continue to support the creation of affordable housing in Burlington and surrounding communities to overcome the lack of funding for affordable housing.

- The city continues to make progress on this by imposing both inclusionary zoning and density bonuses to increase stock of affordable housing. It funds affordable housing development through imposing fees when developers opt out of creating new inclusionary zoning units (approximately $185,000 in Housing Trust Funds). Since the last AI the city substantially increased the penalty developers must pay if they opt out of creating these affordable units, making it much more advantageous for developers to create needed units. It administers the Community Development Block Grant ($300,000) and HOME ($500,000) programs which create affordable housing and require communities to affirmatively further fair housing. Finally, the city supports existing subsidized rental housing through its implementation of Act 75, which allows projects to pay lower property taxes due to the limited market value correlated with limited rents.

3. The city should seek funding for education and enforcement of its fair housing laws. In addition, the city should assist CVOEO's Fair Housing Project with publicizing and hosting the fair housing month held annually in April to overcome the lack of resources for education and enforcement of the city's fair housing ordinances.

- The city investigated applying directly for federal funding for education and enforcement of fair housing laws but determined that increased collaboration would advance fair housing efforts more than "going it alone." The city supports April as fair housing month, they serve on the FHWG, routinely support CVOEO's Fair Housing Project, and facilitate communication between landlords, tenants, and housing professionals to help promote fair housing education and resources.

4. The city should consolidate disparate housing discrimination ordinances and make them "substantially equivalent" to federal fair housing laws.

- This has yet to be completed and continues to be an impediment to investigating and prosecuting fair housing complaints.

5. The city should initiate a dialogue about a regional fair share housing plan to overcome the lack of regional effort to address the need for affordable housing and mobility.

- The CEDO Director served as vice-chair of the Chittenden County Regional Planning Commission's 2004 report setting housing targets for each community in Chittenden County. That report found that Burlington needed 1,560 units between 2000 and 2010, of which 156 would be affordable to those earning 80% to 120% of HUD's Area Median Income (AMI), and an additional 156 would be affordable to those earning under 80% AMI. According to available data, between 2000 and 2008, Burlington added 208 single family housing units to its inventory, and an additional 171 multifamily units.[1] All of the new multifamily units are in subsidized housing projects consisting primarily of apartments affordable to households with incomes at or below 80% AMI.

Chapter 2

Current impediments to fair housing and recommended action steps

VHFA's analysis of Burlington's demographic and economic conditions, municipal documents, and information provided through focus groups and interviews indicates that the city faces five primary impediments to fair housing choice:

1. High rental and homeownership prices and limited land and public resources;
2. Policies and practices of some housing professionals which intentionally or unintentionally limit housing options;
3. Ongoing fair housing violations left undetected and unaddressed;
4. Limited supply of housing with features needed by certain protected classes such as people with disabilities, elders, and larger families; and
5. Constraints on availability of affordable housing due to development and occupancy policies.

The following impediments have equal weight and are not listed in any particular order.

IMPEDIMENT 1

High rental and homeownership prices, as well as limited land and public resources have a disparate impact on people in protected classes who have low incomes by limiting their housing options.

A. Encourage more affordable and subsidized housing development within the city and throughout the greater Chittenden County region.

Market conditions — namely constrained land available for development and low va-

cancy rates — put upward pressure on rents and sales prices for Burlington residents with low incomes. Since members of several protected classes (families with children, residents with disabilities and non-White residents) have disproportionately higher poverty rates and lower average incomes than other households, they are far more dependent on the supply of affordable housing options than other residents. While the city is limited in its impact on private housing market conditions, it will work in several ways to understand these impacts and partner with other municipalities and agencies to combat them.

Burlington has been the site for more than half of Chittenden County's affordable rental housing development, by creating polices that are generally conducive to that development. Surrounding communities have widely different experiences promoting their fair share of new affordable housing. The overall objective is to equalize distribution and availability of affordable housing across neighborhoods throughout the city and region. With most of the area's job growth since 2000 occurring beyond city lines, ensuring fair housing access for working members of protected classes requires careful consideration of transportation options and proximity of affordable housing to larger employment hubs.

The city's ConPlan, the Chittenden County Regional Planning Commission and the Chittenden County Metropolitan Planning Organization have all addressed the importance to fair housing of decent, affordable, and safe transit options. The Fair Housing Working Group will work with these other agencies to ensure that protected classes continue to be considered when planning and implementing new transit and housing options.

Action item(s):

- Share best practices and data, answer questions and advocate regionally for a wide range of housing policies that promote housing development that will benefit people in protected classes. By strengthening its role as an advisory resource, Burlington will work to encourage more housing developments outside the city's jurisdiction.

B. Continue to advocate for increased public resources for housing development and operations.

The "Great Recession" has placed increased pressure on federal, state, and local funding for housing programs. Rapidly increasing rents compared to steady or limited incomes has meant larger rental subsidies for households who pay a portion of their income for rent. Federally, the growing proportion of the HUD budget focused on tenant based rental assistance has squeezed other housing programs in an attempt to maintain a level effort for vouchers.

While public resources may be limited, the need for housing assistance is growing. According to the Vermont Child Poverty Council's report, Improving the Odds for Kids, more than 16,000 low income Vermont families with children are paying more than 30% of their income for housing costs. From 1996 to 2008, prices of Vermont homes and rents rose dramatically, which can exacerbate the poor living conditions of children in poverty. Over the same period, federal housing assistance was dramatically reduced. As a result, the Vermont Child Poverty Council recommended a drastic increase in affordable housing along with a "renewed federal commitment to housing assistance for low income families." The state aims to cut child poverty in half by 2017 — a goal that cannot be achieved without more housing choices for these families.[2]

The city has taken many steps to increase housing options for protected classes, including families with children, but as federal and

state budget pressures increase, it must continue to strive for level or increased funding for a variety of housing programs, ensuring options for all incomes and abilities.

Action item(s):

- Seek out every possible resource to create new and preserve the existing supply of affordable housing. This includes encouraging surrounding Chittenden County communities to do the same.

C. Monitor and respond as needed to preserve existing subsidized housing within the city to prevent conversion to market rate units that would further limit the supply of subsidized housing.

Although the City of Burlington has more than its fair share of publicly assisted housing units, it also has a higher proportion of foreign born and minority renters, as well as other people with limited incomes who may be in protected classes. With an average wait of at least two years for housing assistance, the supply of affordable rental housing remains insufficient to meeting demand among eligible Burlington households. Since some protected classes have disproportionately high poverty rates, the availability of affordable housing is crucial to maintaining fair housing access. Preserving assisted housing is a smart strategy for several reasons:

- It is typically less expensive than new development because it doesn't require building new structures;
- Limited land available for development within the city restricts new construction opportunities;
- Existing housing doesn't need to win neighborhood acceptance or be awarded permits; and
- It can be more ecologically efficient since it uses less land and keeps existing materials in use.

The city will continue to work with local property owners to discuss their options when existing housing contracts expire, and work with state housing funding organizations and private lenders to prevent conversion to market rate housing and loss of affordable housing.

Action item(s):

- Advocate for local properties which may be at risk of contract expirations or conversions to market rate housing.
- Work with property owners and potential buyers to ensure existing tenants' homes are protected and rents remain stable.
- Consider dedicating resources to preserving the existing assisted housing stock to reflect the city's goal of not losing any affordable rental units.

D. Continue to encourage, and potentially incent or require, local colleges and university to build additional on-campus housing to accommodate planned expansion.

Students have a large impact on the available housing stock in Burlington. In May 2009, the City Council nearly passed a resolution requiring the University of Vermont (UVM) and Champlain College to house 70% of its students on-campus. The motion was defeated but a memorandum of understanding was filed. This MOU between the City of Burlington and UVM requires all undergraduate students to live on campus for four semesters (two years). This relatively new agreement begins to address the need for on-campus housing for students so that they don't overwhelm the city's available housing units.

The City of Burlington and area colleges will continue to explore creative solutions to the shortage of student housing. While the city should continue to engage UVM and Champlain College in conversations around

growth at the colleges and what housing options will be brought online to accommodate such growth, the city will also encourage the schools to fully engage students to understand the driving demands for why students often choose to live off campus. The 2009 UVM Student Opinion Poll identified the following top three reasons why students move off-campus: 1) it is less expensive; 2) a desire for greater independence; and 3) UVM's no alcohol residence hall policy (even for those 21+). New on-campus housing that is attractive to students will most effectively entice them to stay on campus.

Action item(s):

- Continue to work with UVM and Champlain College officials and the City of Burlington to share information about upcoming enrollment plans, housing development plans, and other creative housing options. This should include specific plans to increase viable, attractive on-campus housing options commensurate with projected enrollment increases.

IMPEDIMENT 2

Some housing professionals' policies and practices limit housing options for protected classes.

A. Discourage housing professionals from using unfair or illegal housing practices that discriminate against protected classes.

The City of Burlington lacks sufficient testing data or other research to quantify direct discrimination against people in protected classes, although two focus groups held as part of the research for this analysis acknowledged direct discrimination. Examples included repeated steering of African-Americans and new Americans to the Old North End by real estate professionals and landlords. Several focus group participants also shared examples of familial status discrimination, including steering and misrepresentation of occupancy standards in order to deny someone a rental. Full results and a partial transcript of these focus groups can be found in Chapter 4 of this report.

Since many landlords in Burlington and across Vermont are not large corporations with long histories of renting housing to the public and instead are "mom and pop" shops who rent out a small number of units, they often are not as well educated on federal or state laws regarding fair housing. Because of this, the city must work hard to publicize the rights and responsibilities of landlords, including all aspects of fair housing protections for protected classes.

The city will continue to work with landlords to educate them on fair housing laws. Using Burlington's existing rental housing registry as a mailing list, the Fair Housing Working Group will share educational information and notifications of trainings on fair housing. Landlords will be targeted for future trainings and workshops. Reminding landlords of their responsibilities under fair housing laws is an important piece of outreach, and will be coupled with in-depth trainings and educational programs designed for landlords.

As a part of this, it is helpful to educate landlords on the fair housing implications when they require a full year of past landlord references or run credit checks. This can be especially difficult for younger households or refugees who have not lived in the area for long.

In addition to rental housing, it's important to continue to work with the lending community to ensure they are aware of the latest fair housing regulations and their responsibilities. Non-White home mortgage applicants had denial rates twice as high as White applicants in 2006-2008. Although the reason for this disparity is unknown, it may indicate a need for increased education among home-

buyers and the housing professionals they work with.

Action items(s):

- As part of the Code Enforcement Office annual mailing to all registered rental housing property owners, the city will send fair housing information. The city will also routinely mail them flyers and invitations to area informational sessions and workshops.
- Discuss fair housing awareness and available education with mortgage lenders working in Burlington. The city will routinely mail them flyers and invitations to area informational sessions and workshops.
- Encourage the Champlain Housing Trust's Homeownership Center to target appropriate potential first time home buyers who are members of a protected class for their homebuyer workshops.
- Partner to train lenders to ensure they are culturally competent in working with refugee and minority populations, with the goal of increasing minority homeownership rates within the city.

B. Educate the public about unfair or illegal housing practices which can limit housing choices.

Anecdotally we heard that recipients of housing vouchers and state housing assistance (both members of a state protected class) encounter substantial problems finding landlords who accept government rent assistance. However, this issue is under documented because many housing applicants are unaware of the violation. Others may look at unregulated online listings of apartments in Burlington, some of which advertize that they accept "no vouchers," and face limited housing options. Even if the household communicates this to their housing resource counselor, they often don't pursue an investigation or complaint because they're busy trying to find a place to live. The public needs to continue to be educated about what fair housing is and what to do if they experience it.

Action item(s):

- Conduct a public awareness campaign promoting fair housing laws. While this could be an expensive endeavor, creative methods of conveying this information should be explored, including (but not limited to) social media and integrating this information in other public campaigns. Any campaign will complement, and not compete, with other agency's (CVOEO's) ongoing outreach efforts.

IMPEDIMENT 3

Discrimination against people in protected classes by real estate and other housing professionals may go undetected and unaddressed if not adequately monitored and enforced. Considering the growing number of residents in protected classes, there is greater need for fair housing awareness, education and enforcement opportunities.

A. Need additional funding for fair housing efforts in Burlington and statewide.

With growing numbers of people in protected classes, the risk of fair housing violations in Burlington will likely grow in the future. It's important for the city and FHWG to better understand the experiences of landlords, housing managers, real estate professionals and people in protected classes within the city and the region. The fair housing testing that's been done to date has been helpful in identifying potential problems, but its scope and size has been so limited that it has not been large enough to state conclusively that the city can quantify the depth and breadth of the experiences of people in protected classes. Without

fair housing testing, the role of housing professionals in contributing to disparities such as increased mortgage denial rates among non-White applicants remains unknown.

The FHWG will work together to collaboratively determine the best vehicle for fair housing testing and funding source for such research. By conducting more fair housing testing, the city could determine if widespread discrimination was occurring in housing practices, and identify the protected classes affected. One example of expanded testing would be to look at protected classes under state statute and not just federal protected classes. A predominant source of fair housing complaints is from people who rely on public assistance; this population should be a target of future testing efforts.

In addition, more coordinated data tracking and transparency of results among the FHWG members is necessary in order to further fair housing. It's important for the entire committee to see and understand the nuances of the results, and use those results collectively in their work to overcome impediments to fair housing. As it stands now, it's difficult to get data from participants and tie the results from discreet testing and research together to understand the full experience of households in Burlington. Ideally, this would extend beyond fair housing testing and could be a framework for a better, more streamlined system for maintaining lists of fair housing complaints, investigations, and suits.

Action item(s):

- FHWG partners will continue to apply for funding from HUD or another entity to conduct paired-testing research so that enough data is available to make a reasonable assumption of the possible prevalence of discrimination. Pursue any non-federal funding that might support testing protected classes under Vermont statute.
- The FHWG participants should report to the group quarterly on the number of fair housing complaints, investigations, and suits filed. This would include any recent trends identified.
- CVOEO, VT Legal Aid and the Human Rights Commission will share examples of the data they collect and track (with all personal identifying information removed) so that the others fully understand what's collected and available if needed.

IMPEDIMENT 4

Fair housing policies attempt to ensure that all housing units are available and accessible to all people in protected classes. In order to guarantee an adequate supply of homes are available and accessible, some housing must be tailored to these populations. Burlington's lack of enough housing units designed to accommodate people with disabilities who need accessibility modifications, frail elders and larger families limits the housing choices of these protected classes.

A. Increase the number of rental housing units with more than three bedrooms.

Focus group participants and housing officials interviewed as part of the study commented on the difficulty large families have in finding available rental units within the city. Although the size of the average household is declining as families have fewer children and divorces split households, recent immigrants persistently have larger family sizes that need to be accommodated. A lack of available and affordable rental housing options is an impediment to these households.

Action item(s):

- Work with local developers, especially those developing subsidized housing for families, to encourage larger apartments with three or more bedrooms to accommodate this

growing population. All development decisions should be guided by market study data to determine local demand, but sometimes recent immigrant families may not appear in traditional data sources used in market studies. The city will work to facilitate a relationship between housing developers and refugee service organizations to quantify the need that exists locally.

B. Prioritize universal design elements that serve people of all abilities.

Burlington has a growing number of older residents. Market studies show that most will want to "age in place" so that they don't need to move when they begin to have physical needs that require some accessibility features. Interestingly, data shows that Vermonters are not moving into age-restricted properties until they are older than the minimum of 55 or 62 years old. Because Americans are living healthier and longer they often live independently for much longer.

Universal design in housing means a home that is appropriate for all ages and abilities, from children to adults to elders. Ron Mace, seen by many as the "father" of universal design, defined it as, "the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design."[3]

Universal design features don't only help elders, but are useful to children and adults who may have permanent or temporary injuries or physical disabilities. By encouraging housing built with universally designed principles, the city will ensure that a portion of its available housing stock is permanently available to all people regardless of ability.

While Vermont's visitability law (discussed in Chapter 6) makes strides towards this goal of increased universally designed housing, there are other universal design best practices not listed in the visitability statute. Also, the visitability requirements do not apply to rehabilitating existing housing. To increase the stock of universally designed units affordable to everyone, the city will prioritize universal design in its allocations of ConPlan housing resources. A primary tool for Burlington to increase its stock of subsidized housing is through major rehabilitation and not necessarily new construction, where visitability requirements would not apply. Also, the visitability statute is extremely weak in terms of requirement and enforcement, and prioritizing universal design would ensure these needed units are created.

Action item(s):

- Change the ConPlan to award points or priority status to housing built with universal design features when funded with HOME funds.

C. Require any housing that may be intended for elders to have a complete menu of supportive services.

Statewide there is a greater unmet need for subsidized family housing units over age-restricted units. That being said, much of the assisted age-restricted stock does not have the level of supportive services necessary for frail elders with deteriorating health. Most Vermonters prefer to live independently for as long as possible and don't move out of private housing until there is a service need to do so. While there is a higher need for family housing over elderly, within the universe of elderly housing there is a high need for affordable assisted living with a robust menu of services available. If the city is going to consider funding additional elderly housing with its HOME funds, it should target housing with a deep service package.

When considering senior housing, the city should encourage projects with more robust

services available over age restricted housing with light services, as it could help meet this growing demand for elderly housing.

Action item(s):

- When housing project developments plan to target elders, prioritize those offering community based licensed Level III housing or equivalent services in an unlicensed setting.

IMPEDIMENT 5

Housing development and occupancy policies run the risk of limiting the number of affordable housing units most needed by protected classes. The following steps should be taken to ensure these regulations and policies encourage affordable housing options for all city residents.

A. Change the Burlington Comprehensive Development Ordinance to increase the burden of proof when vague design review standards are used to block housing development.

Although design review standards consider factors such as scenic views and appropriate materials, commensurate corresponding weight is not given to market conditions, economic constraints of funding and development costs, or demand for new housing units. This lack of balance and the vagueness of objections based on design review standards impedes needed housing development within the City of Burlington. According to the 2010 Vermont Housing Needs Assessment, there is a need for 5,000 new rental and 8,000 new homeownership housing units statewide between 2009 and 2014 to accommodate potential population growth. Policies that attempt to consider a neighborhood's character without equally considering how lack of housing development might impede fair housing choices or economic growth become impediments to fair housing.

Action item(s):

- Change the Burlington Comprehensive Development Ordinance to:
  - Clarify considerations given to design review standards to be specific and limit appeals to specific arguments.
  - Equally weigh design review standards to the economic realities of limited funding and development costs. This should include estimated costs to the city of lost job growth when lack of affordable housing limits the labor force and fair housing options to residents. By viewing the "big picture" instead of limiting the scope to just design review, it's possible that the overwhelming need for new housing units might even outweigh the subtle differences in design standards.

B. Track zoning variance and local permit applications and denials. In addition, track substantially adjusted residential permit applications to monitor if any systematic barriers to fair or affordable housing exist.

One way fair housing options are limited is through the limitation of available housing units, especially affordable housing. By monitoring applications for zoning variances and local permits and comparing those to the denials, it's possible that systemic limitations on housing development that impedes fair housing choice may be identified.

In addition, the city will monitor applications for permits where the Development Review or Design Advisory Boards substantially alter the original proposal (adding cost or time delays to the project), and track if these were disproportionately imposed on residential permits, subsidized housing, or

housing that would otherwise be used by people in protected classes.

These data will be reviewed regularly, and tracked by reason for denial or alteration in order to find potential trends. It also will be tracked by ward or Census tract to ensure equitable application of variances and permitting across the city. It is important to put these requests and denials in terms of geographic concentration, to ensure that both the lowest-income neighborhoods as well as more wealthy areas have equal opportunity for creating housing options for all city residents. The city will consider changes to the ordinance if there are impediments to fair housing identified.

Action item(s):

- Track zoning variance and local permit applications as well as substantially adjusted residential permit applications to monitor any potential impediments to fair housing.

C. Conduct further research on the impact on protected classes of the city's ordinance of a single home's occupants being limited to "no more than four unrelated adults and their minor children."[4]

There is no consensus as to the impact of this ordinance on people in protected classes, indicating a need for further study of this issue. The potential impact of this requirement and other possible solutions will be evaluated.

Action item(s):

- A collaborative body of representing of several interests, including members of the FHWG, should identify the questions to be answered in a study, and then conduct the research necessary to answer those questions.

D. Routinely monitor housing market data and policies for indicators of progress in increasing housing options for protected classes.

Data is a powerful tool for understanding the housing options of people in protected classes, as well as affordability constraints. CEDO will continually monitor housing market data and report those results routinely to the Fair Housing Working Group, to ensure it continually is working to clear impediments to fair housing. While most solutions to remove impediments to fair housing would not fall solely on the shoulders of the city administration, tracking and reporting progress should be a municipal activity which increases transparency and leads to timely improvement. Results of Census 2010 for Burlington are expected to become available in 2011 and 2012. Incorporating this data in Burlington's Analysis of Impediments to Fair Housing Choice will provide Burlington with a much more accurate assessment of demographic shifts and the size of certain protected class populations.

In addition, the state and city are still in the early stages of recovering from the "Great Recession" of 2008-2009 and tracking economic and housing conditions will be imperative to understanding if the real estate market is recovering and how that recovery is affecting housing options for people in protected classes.

Action item(s):

- Consider updating the demographic and housing data in Chapter 5 of this report in 2012 after the Census 2010 data is available for Burlington to quantify the changes in population of protected classes and housing options available.
- Conduct another full Analysis of Impediments to Fair Housing Choice review within five years to track progress and identify any newly created impediments.

Chapter 3
Background
Contributing organizations

Fair housing working group and funding for this report

The Fair Housing Working Group (FHWG) was convened in 2007 jointly by the City of Burlington's Community Economic Development Office (CEDO), and the Champlain Valley Office of Economic Opportunity Fair Housing Project (FHP). The FHWG was created to provide a regular forum for discussing fair housing issues, to implement action plans of the city's AI and to monitor progress of the FHP. The group consists of representatives of the following organizations:

- City of Burlington's Community Economic Development Office;
- Committee on Temporary Shelter;
- Champlain Valley Office of Economic Opportunity Fair Housing Project;
- Vermont Human Rights Commission;
- Champlain Housing Trust;
- Vermont Legal Aid; and
- Burlington Housing Authority.

The FHWG reviews public policies to remove barriers to fair housing choice. A key activity of the FHWG for 2009-2010 is to provide input on the city's AI. Funded by the HUD fair housing grant received by the FHP and both CDBG and general fund of the City of Burlington, this AI provides a detailed description of fair housing barriers in Burlington and recommends action steps to alleviate these barriers. In addition to the advisory role of the FHWG, the following individuals served as the project team for this report: Brian Pine, Assistant Director for Housing at CEDO; Kevin Stapleton, Director of CVOEO's Fair Housing Project (FHP) and Dani Fuoco, FHP Education & Outreach Coordinator.

Contractor's experience

Vermont Housing Finance Agency (VHFA) was established in 1974 to finance and promote affordable housing opportunities for low- and moderate- income Vermonters. In addition to direct lending activity, VHFA also serves as a significant resource for the analysis of housing data and dissemination of research results. The Agency has extensive experience conducting research and analysis on housing market conditions, assisted housing, and economic trends. This report was prepared by Maura Collins, Leslie Black-Plumeau, Casey Klyszeiko and Craig Bailey.

Methodology

The City of Burlington's Community Economic Development Office contracted with VHFA to complete this report. Using the Fair Housing Planning Guide, Volume 1 issued by HUD's Office of Fair Housing and Equal Opportunity, the contractors — with input from CEDO and FHP — chose to follow the HUD guidelines for entitlement jurisdictions as closely as possible.

This analysis primarily relied on existing data sources for the quantitative analysis, complimented with direct interviews for some more qualitative in-depth information. The quantitative sources primarily used were:

- US Census Bureau's 2006-2008 American Community Survey;
- US Census Bureau's Census 2000 data;
- 2006-2008 Home Mortgage Disclosure Act data;
- Previously written papers and reports on applicable topics; and
- City policy guidance such as the 2008 ConPlan, the 2006 Municipal Development Plan, and the 2008 Burlington Comprehensive Development Ordinance.

During the same time this report was being drafted, CEDO and the FHP co-hosted two focus groups for Burlington residents. About two dozen people were directly invited by CEDO and FHP and encouraged to invite associates and other interested parties. The direct invitees included housing advocates, property managers and attorneys involved in housing. It also included a number of individuals who are most likely to face discrimination: minorities, people born outside the U.S., and people with disabilities. The contractor, VHFA, did not organize or participate in the focus groups, but included a summary of the results in Chapter 1 and included key findings throughout its analysis.

Using American Community Survey data to learn about Burlington residents and homes

The most recent Census Bureau information available about households living in Burlington is the results of the American Community Survey (ACS). This annual survey has been conducted in Burlington and all other U.S. towns with populations of at least 20,000 since 2006. To improve the accuracy of the survey results in these smaller areas, the results for three years are aggregated into an average. This means, for example, that an estimate of the number of renter households in Burlington from the ACS is actually based on responses from the households surveyed each year during 2006 through 2008. New estimates will be available each year. Later in 2010 new ACS results will be available consisting of averages from the 2007-2009 surveys. Because the ACS only collects information from a limited number of randomly selected households each year, the results are estimates of what would be true if all households were asked the same questions. In fact, some estimates available from the ACS are based on so few Burlington households that they come with fairly large error ranges. For the purposes of this report, ACS 2006-2008 single point estimates are reported if error ranges were relatively small. In other places in the report, ranges indicating the error range around the point estimate are provided. There is a 90% chance that the actual value if all households were surveyed would be within the ACS error range.

Chapter 4

Summary of Fair Housing Focus Group

Written by CVOEO Fair Housing Project Staff:

Because of the limited amount of quantitative data concerning direct discrimination in the Burlington area, the city and other interested parties chose to arrange two focus groups in order to explore potential instances of housing discrimination that are not apparent in a quantitative review. Two 75-minute focus groups were conducted in Burlington on February 17, 2010. The focus groups were held at Macro International, a marketing and research firm based in Burlington. Each focus group was hosted by a facilitator from the city's Center for Community and Neighborhoods, and each facilitator asked the same series of questions to each group. Audio and video of the sessions were recorded and the Fair Housing Project selected relevant sections to include in the discussion below. In order to facilitate an open and candid conversation, participants were told that no identifying information would be included in the published report. Therefore, the names and job titles of participants have been removed.

Focus group one consisted of six participants, four women and two men. Participants represented several interested parties including: Vermont Legal Aid (VLA), Vermont Apartment Owners Association (VAOA), Housing Resource Center of the Committee on Temporary Shelter (HRC), Burlington Housing Authority (BHA), Champlain Housing Trust (CHT) and Vermont Refugee Resettlement Program (VRRP). For purposes of this report, the representatives of these organizations will be referred to as their acronyms.

Focus group 2 consisted of nine participants. There were five women and four men. Seven of the participants were either refugees or persons who work closely with the refugee community. One participant worked for a non-profit housing provider. Another participant was a City of Burlington employee.

The facilitators were provided with seven pre-arranged questions and were asked to elicit feedback on each. However, they were also asked to allow open discussion and to explore areas of interest as they arose. While the information from these focus groups is anecdotal, four findings were raised on numerous occasions and both groups unanimously agreed that they represent significant concerns in the Burlington market. Those findings are:

1. The group agreed that a lack of affordability is a significant barrier to fair housing in Burlington. The lack of affordability has a disparate impact on families. It also has a disparate impact on minorities and people of Non-US national origin (refugee populations in particular) because those individuals are disproportionately low-income and recipients of public assistance.
2. There was a perception among many members of the group that African-Americans and refugee populations are improperly steered towards the Old North End, Burlington's most diverse and most

economically-challenged neighborhood. Examples of this steering included recent refugees as well as high-income professionals.

3. There is considerable confusion about discrimination based on receipt of public assistance (a state protected category). Many people believe that participation in the Section 8 program is optional for landlords. The view of the Vermont Human Rights Commission is that participation is mandatory because Section 8 is a form of public assistance, and this view is supported by case law in states with similar protections. In addition, holders of Section 8 vouchers feel they have very little recourse against landlords because their primary goal is simply to find a place to live. Landlords are often able to deny housing based on a claim that their unit does not meet Section 8 standards despite the similarity between those and Burlington's rental code.
4. A need for more education. Within both focus groups, participants agreed that both the public and housing providers as well as advocates do not have enough knowledge of fair housing law. A similar theme in both groups was a need for education concerning the need to develop and maintain good credit. A lack of good credit history is a common reason for denial of housing among people in protected classes, especially among refugees who have arrived in recent years with no credit history.

Discussion Question #1: How familiar are you with fair housing legislation and the rights of a renter/homeowner? Answers: Not at all, need some training, quite familiar, expert

Response from focus group 1: Among participants in focus group one, one person considered him or herself an expert. Two stated they needed more training. The remainder were familiar with the law but did not consider themselves experts.

Responses from focus group 2: Nearly all of the participants in focus group two felt they were not at all familiar or were in need of some training on the subject. One participant said she was "quite familiar" but that she could always use more training.

Discussion Question #2: Name the factors that are potential barriers to individuals looking to buy or rent in Burlington.

Response from focus group 1: CHT stated that price was the biggest barrier. All other participants agreed with this assessment. CHT also identified wheelchair access as a barrier. VAOA stated that landlords have a hard time verifying information provided by out-of-state tenants and new Americans, leading them to favor local residents. CHT added that landlords are often inclined to rent to students over local residents because students bring an explicit backing from their parents and are less likely to complain about needed repairs. A representative from BHA added that the large number of students in town

compete with local residents for the housing stock because there is not sufficient on-campus housing.

VLA discussed the impact of the very low vacancy rate. S/he stated that in testing they've done, people in protected classes face additional barriers to getting housing. VAOA added that s/he believes that many landlords would "prefer to leave a unit empty than fill it with a tenant they aren't 100% comfortable with because it can be difficult and a long, time consuming process to get rid of a tenant. That sort of compounds the process of making landlords less willing to take a chance on somebody."

Responses from focus group 2: Many participants in focus group two said the lack of affordable housing was a huge barrier to buying/renting in Burlington. One man said that Burlington's ordinance requiring a tenant to give two full rental periods notice before a tenant can move is a barrier to families who come up on the list to receive Section 8 Housing Choice Vouchers, as they have a short period of time to find an apartment where they can use their voucher. He said these families frequently end up having to pay rent for two apartments until their legal obligation to the first apartment ends.

Discussion Question #3: Does the available housing stock match the current needs of the community? Especially in regards to 3+ bedroom apartments.

Response from focus group 1: Everyone in focus group 1 agreed that there was a mismatch between current needs and the available stock, though they identified a lack of supply overall as the mismatch, not a lack of multi-bedroom units. CHT commented that "people just don't make enough money to afford housing here", a comment with which BHA and HRC agreed.

VAOA addressed Burlington's ordinance prohibiting more than four unrelated people from sharing housing, stating that this leads to fewer units with three or more bedrooms being made available. Also, historic preservation laws make it difficult to redevelop. "It creates a situation where there are not enough units but no one wants to develop because it's too expensive or too hard so the units aren't getting built. You have these things in place that make Burlington more livable, but they also make it harder to rent here.

VLA mentioned Act 250 and its specification that new developments can be prevented based on whether it changes the character of a neighborhood. This restriction makes it very difficult to develop multi-family units.

Responses from focus group 2: All the participants in focus group 2 who were either refugees or worked with the refugee community said the small number of large apartments (4-5 bedrooms) was a huge barrier to renting in Burlington. One participant also pointed out those large families who do find a large-bedroom apartment feel like they cannot move no matter the condition of the apartment or the relationship with the landlord, which makes these families

particularly vulnerable to abuse. "People are so used to a certain type of treatment, they just don't know they're being discriminated against."

Discussion Question #4: Have you or someone you know been denied the opportunity or steered away from buying or renting in a particular neighborhood of Burlington? Please share a brief sketch of the situation

Response from focus group 1: VAOA noted that part of the problem is education. "I get calls from people asking if they can say no to someone with kids or something related to occupancy. I have to explain that while that might not work for their view of how many people should live in the apartment, its up to the family unless it violates occupancy standards. They just aren't aware that these kinds of decisions are discriminatory because they feel they are just being helpful. They just need education."

BHA stated that it's very difficult to find housing for people who are attached to their animals due to a mental illness or emotional issue because they won't move without the animal. "They can get a reasonable accommodation but it's a process and many small landlords will just deny them instead or state the place has been rented."

VLA mentioned an African American couple that recently moved to Burlington, one attorney and one doctor. They were trying to buy a home and were only shown homes in the Old North End, the lowest income, most diverse area of town.

Responses from focus group 2: Focus group two participants report that refugee families are frequently steered towards Burlington's Old North End. One participant said, "I work with a lot of different service providers in Burlington and when I'm helping and advocating for a family who is non-White it's always, I'll even be given a list, all are landlords of the Old North End." Another said, "Sometimes, maybe there are boundaries that exist completely because of ignorance, and the Old North End has a wonderful reputation amongst young people I know because of the diversity, and there's no reason to keep that to the Old North End. The whole city could be better infused."

Participants had a lot of experience with familial status discrimination. "The landlord, their very fond of saying, 'Oh I can't really rent to you because you have a large family, maybe they're going to damage my wall, because you have small kids.' I've heard so many stories like that." Several participants reported having landlords misrepresent the Burlington Occupancy Ordinance to them, and one asked the group, "What is the law? I don't know." Another participant said that she had a lease that stated her landlord had a policy of not renting to children.

Contrary to steering, several participants said that they heard stories about landlords that intimidate people to STAY in housing that they want to leave — housing that would not be easy to re-rent because of its location or condition.

Discussion Question 4A: If you answered yes to question 4, was the problem reported to someone in authority? Who? If not, why not?

Responses from focus group 2 (there were no responses to this question among focus group one): One participant commented that "If we knew where to report discrimination, we would." One participant said that she encouraged a refugee family to file a complaint with the Vermont Human Rights Commission, but the family was so afraid of the person who was intimidating them (an employee of a housing authority) that they refused to speak against him. The participant with the lease stating "no children" said that she spoke with her landlord and educated him about the illegality of his policy, which has since been changed.

Discussion Question #5: Does the concern about lead paint and risk of lead poisoning affect the housing choices for families with children?

Response from focus group 1: VLA stated that lead concerns affect housing choice on two fronts: "One, if you have kids and you know there is lead in a place you don't want to rent it. For some people it takes a certain amount of units off the market. And second, some landlords who know they have lead paint don't want to rent to families because they don't want to take the liability so they screen out those tenants."

VAOA stated that many landlords are very appreciative of the efforts of the LEAD program and that landlords have been successful in working with them to address problems.

HRC pointed out that people coming out of temporary housing or hotels are not concerned with lead — "it's the least of their long list of problems. Landlords don't need to follow rules because they have a power advantage."

Response from focus group 2: One participant, speaking of refugees, said, "Lots of people don't know what lead is, and when the landlord understands that people don't know, he keeps quiet and takes his money. That's it."

Discussion Question #6: What unique housing challenges face Section 8 tenants?

Response from focus group 1: HRC stated that there is a lot of confusion as to whether landlords must accept Section 8. BHA said that sometimes people don't know if a landlord is denying section 8 vouchers because "the apartment doesn't meet HUD standards" VLA interrupted to state that if a unit doesn't meet HUD standards, it probably doesn't meet local code either.

VAOA stated that one thing that is hard for landlords is all the paperwork and inspections required for participation in Section 8. Most landlords will agree to start the process but often find other tenants in the interim.

VLA added that s/he thinks it's an education issue. "HQS standards for Section 8 are almost exactly the same as local standards. If your apartment is up to code the fact that Section 8 will definitely inspect whereas the city doesn't shouldn't matter."

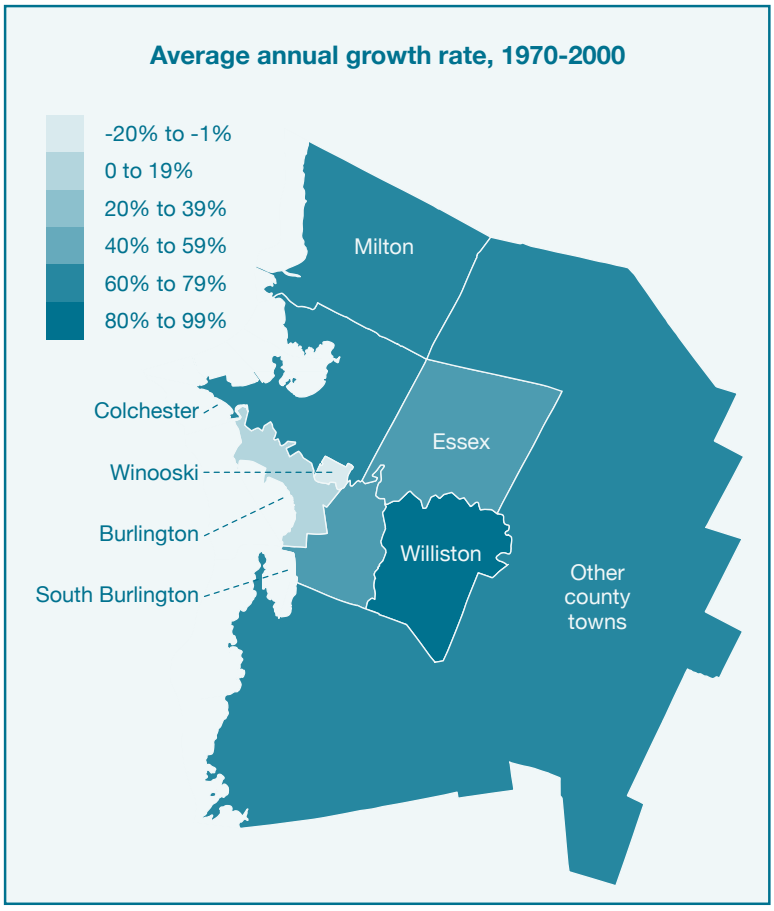
Responses from focus group 2: Many participants in focus group two reported challenges facing tenants with Section 8 Housing Choice Vouchers. One said that landlords with good apartments don't know anything about Section 8, so lots of education has to be done to take the fear away. "Lots of the landlords with the dilapidated and bad apartments are like, 'Yeah, c'mon! We'll take Section 8.'" Another participant said, "When I call for somebody who has Section 8, I say, 'This person has Section 8.' And they say, "No, I don't want Section 8! I want someone to give me check!'" A different participant pointed out that "the voucher payment standards are low. There are lots of apartments that you can't use a voucher for because they're too expensive. That's certainly a barrier to housing choice in the city." Yet another participant, commenting on the 2 month period that a new voucher holder has to secure housing before he/she loses the voucher said, "By the time they find a very good apartment and neighborhood, the voucher has expired." The common theme amongst participants was that many landlords just do not accept Section 8 vouchers.

Discussion Question #7: What can be done to promote fair and affordable housing options in Burlington?

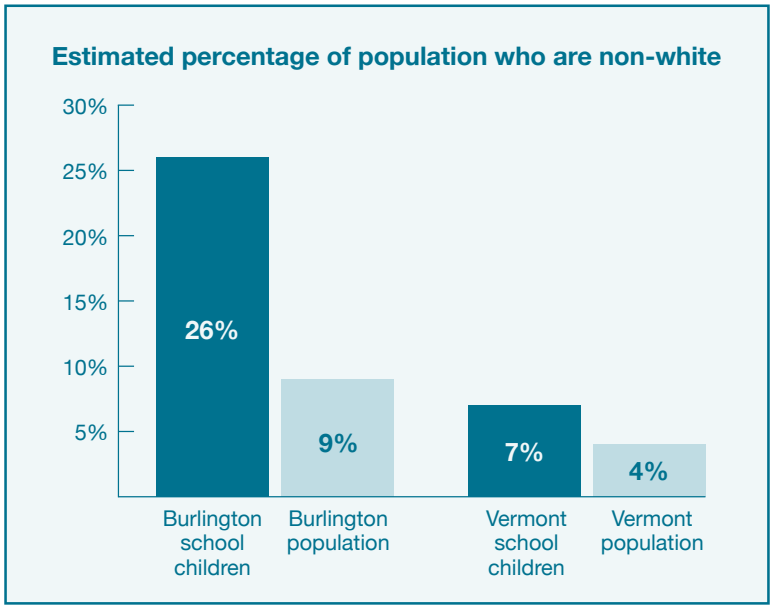
Response from focus group 1: CHT stated that more money needs to be put into housing in Burlington. VLA suggested requiring cause to evict, which would empower tenants.

VAOA countered VLA's suggestion, stating that "if it was easier for Landlords to get rid of clients they were having trouble with, they would be more inclined to go out on a limb and rent to folks that are riskier". CHT suggested putting more pressure on the universities to have students live on campus. VRRP stated that, while s/he is new to the area it seems like more education is needed for landlords — a forum or training of some kind.

Responses from focus group 2: All participants in focus group two spoke of a desire for more education & training about fair housing laws. "I really want to see more trainings. I still want to know more about the right of tenants. I would like to see more trainings and workshops." One participant expressed a desire to have "good" landlords educate and train the "bad" landlords on how to be respectful to tenants. Another participant said, "It would be good if landlords outside the Old North End had training, and real estate associations as well." Another participant said that affordable housing should be built in different areas of Burlington, such as "the Hill." A suggestion was made to have someone reach out to the Neighborhood Planning Assemblies about fair housing and demystifying fears surrounding Section 8 vouchers. One participant pointed out that we need to meet people where they are. The language must be personal. In order to have transference of knowledge people need to know what methods work for each community.



SOURCE: VHFA ANALYSIS OF CENSUS DATA INCLUDED IN THE BURLINGTON 2008 CONPLAN, P. 2-1.



SOURCE: VHFA ANALYSIS OF ESTIMATES FROM BURLINGTON SCHOOL DISTRICT 2007-2008 ANNUAL REPORT AND U.S. CENSUS BUREAU 2006-2008 AMERICAN COMMUNITY SURVEY, TABLE B02001.

Chapter 5

Burlington's demographics, housing supply, and labor market

Burlington is Vermont's largest city. Its population of approximately 40,000 has remained relatively stable since 1970, while the surrounding suburban areas have grown dramatically.

About 15,000 households live in Burlington, according to the American Community Survey (ACS) 2006-2008, the most recent estimates available from the Census Bureau. These households comprise an estimated 25% of all Chittenden County households.[5] Burlington has a lower homeownership rate and higher proportion of renters than the surrounding communities. Approximately 58% of the residential units in Burlington are rented, as compared to 31% for Chittenden County as a whole.[6]

Race and ethnicity

Burlington's non-White population more than doubled between 1990 and 2000.[7] As of 2006-2008, approximately 9% of Burlington's population is non-White (3,600 people), according to the ACS. This makes Burlington more diverse than surrounding areas in Chittenden County, where non-Whites comprise only 5% of the population.[8]

In 2000, the decennial Census asked respondents to choose from five racial categories: White; Black; Asian or Pacific Islander; American Indian or Alaskan Native; and "Some Other Race". This was the first time that the Census provided the opportunity to choose more than one race. The term "non-White" in this report includes all people who did not select "White" as their only race.

Burlington's school children are far more diverse than the city's total population. This suggests that Burlington's population is likely to continue becoming more racially diverse as many of its non-White children grow up and start families here.[9]

The portion of Burlington's 3,600 school children who are Black, Asian, or multi-race increased slightly in the past year.

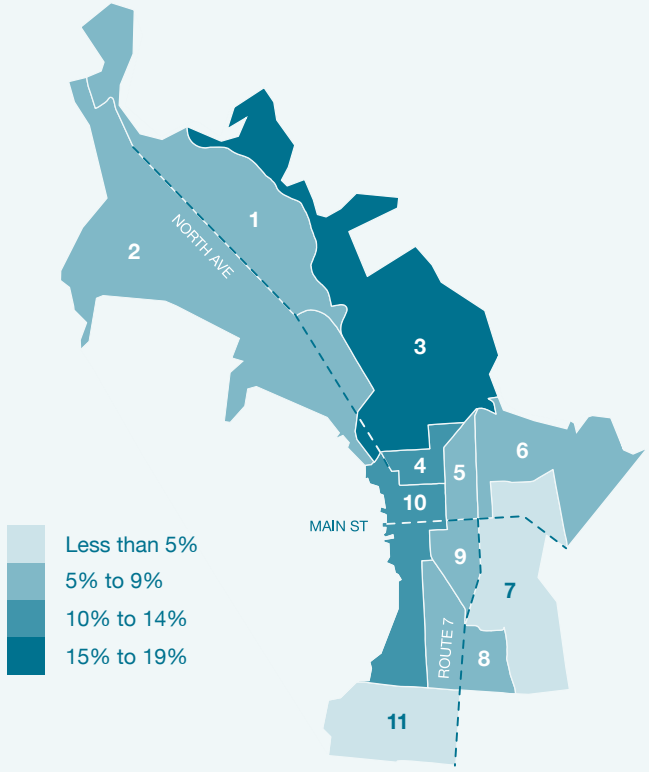
The 2000 Census is the most recent source of information on the racial and ethnic composition of the population living in geographic areas within the city of Burlington. In 2000, three census tracts (3, 4, and 10) had higher concentrations of non-White residents relative to the city-wide average.

Non-White Burlington households are more likely to be renters and tend to be larger families on average than their White counterparts. Approximately 80% of non-White households in Burlington rent their homes, as compared to 57% for White households, according to the 2000 Census.[10] White households had an average size of 2.17, compared to 2.32 for Black/African American households and 2.8 for Asian households. These tenure and household size differences mean that the supply of rental housing and of larger units disproportionately affects Burlington's non-White population.

Refugees in Burlington

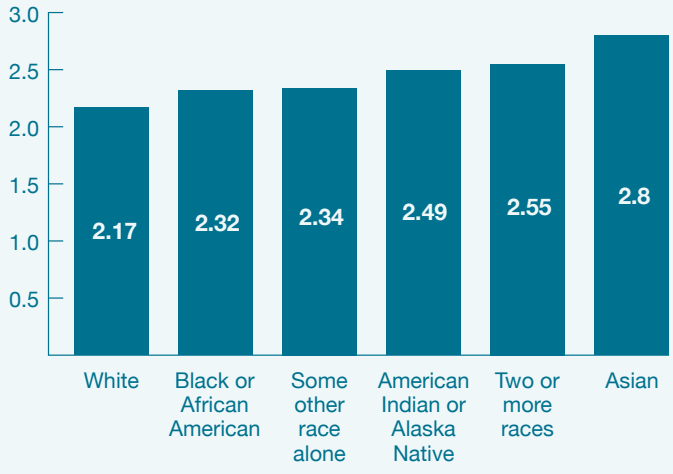
Fair housing laws protect against discrimination based on race and national origin, making Burlington's refugee population especially important to fair housing analyses. Almost 5% of Burlington's residents had entered the U.S. between 1990 and 2000.[11] As a federally-designated resettlement community, Burlington has experienced increasing immigration levels over the past decades.

Percentage of residents who are non-White and/or Hispanic in Burlington Census tracts in 2000



SOURCE: VHFA'S ANALYSIS OF CENSUS 2000 DATA INCLUDED IN BURLINGTON CONPLAN, PP 2-11 AND VERMONT INDICATORS ON-LINE.

Average size of households in Burlington, 2000



SOURCE: VHFA ANALYSIS OF CENSUS 2000 SUMMARY FILE 1, TABLE P17.

The formal program for refugees includes assisting these new residents with acquiring decent housing. The Vermont Refugee Resettlement Program "act[s] to defend human rights, promote self-sufficiency and education, and forge community partnerships through a full range of services and programs."[12]

The Vermont Refugee Resettlement Program describes their mandate and assistance programs as such:

As a field office of the US Committee for Refugees and Immigrants, the Vermont Refugee Resettlement Program is charged with the task of securing adequate housing for newly arrived refugees.... The case management department relies on negotiating rental agreements with property managers that have previously rented to former refugees and that already have a relationship with the program. In addition, VRRP continuously develops relationships with new landlords to expand the pool of people who are familiar with the program and who can provide good housing for the clients. There are dozens of property managers in the Burlington area that have rented to VRRP's clients. The case management team meets with individual landlords prior to an arrival to discuss the lease and rental agreements. Since self-sufficiency is a main goal of the program, rental agreements are made between the landlord and the client, and VRRP acts solely as a facilitator and housing advisor. VRRP also provides new arrivals with basic furniture, almost all of which is donated by the community. Once a family arrives, their case manager will conduct a housing orientation covering many topics, including apartment safety, energy efficiency, and tenant and landlord responsibilities.

... All clients receive financial assistance to help with housing expenses during their first months when they are seeking employment. All financial assistance originates from the US State Department, the entity that governs the amount awarded, based on family size and structure. Because the primary focus must be on clients who are in their first year, the case management department does not regularly assist clients search for new housing after their initial lease expires. VRRP offers employment and ESL services for the first five years after arrival, as well as limited case management services, depending on need.[13]

Burlington is the largest resettlement jurisdiction in the state, and the majority of settlements occur within Chittenden County. From July 1989 to June 2006, 1,838 refugees had settled in Burlington, which accounted for 47% of all refugees settled in Vermont. Chittenden County, over the same time period, had 3,102 settlements (79% of the state total). Although similar town-by-town data is not available through the current year, there have been 896 settlements in the past three years, all in Chittenden County. In the past three years the top countries sending refugees are Bhutan, Somalia, and Burma. Historically, refugees have resettled in Burlington from a variety of locations, most commonly Bosnia, Vietnam, Somalia, and Bhutan.[14] According to many members of a focus group held specifically to discuss fair housing concerns in Burlington, African-Americans and refugee populations are improperly steered towards the Old North End, Burlington's most diverse and most economically-chal-

lenged neighborhood. Residents steered toward the Old North End included recent refugees as well as high-income professionals.

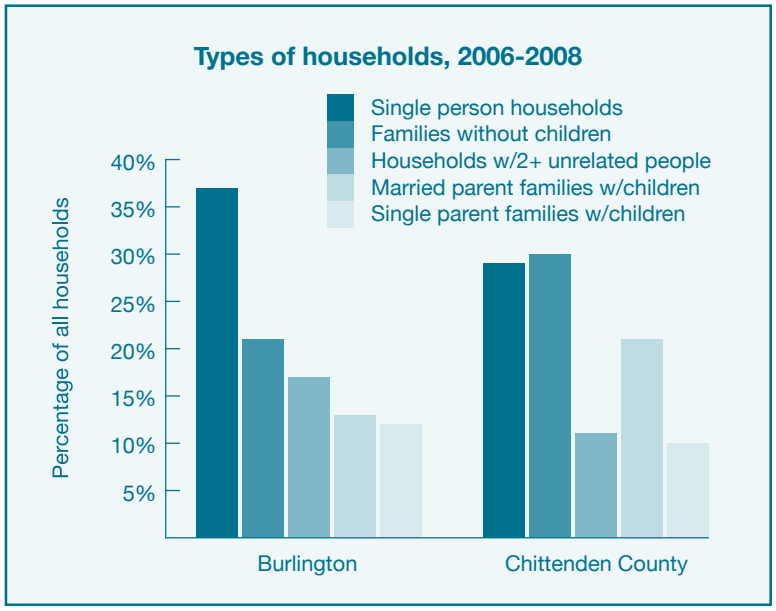
Minority college students

At the start of the 2009 academic year, the president of UVM, Daniel Mark Fogel, touted that "1,132 ALANA [African, Latino, Asian, and Native American] students enrolled this fall, an 18 percent increase over last year. That gain is, in large part, due to a more than 50 percent increase in first-time, first-year ALANA students, making the Class of 2013 the most diverse in UVM history."[15] As UVM's student body becomes more diverse, the number of racial minorities seeking rental housing in the City of Burlington will grow unless the pace of on-campus housing development accelerates.

Types of families and households

Burlington has a lower proportion of households with children (24%) than in Chittenden County as a whole (30%).[16] Burlington's 3,700 families with children are divided almost equally between single-parent families and married parent families.

Although nearly half (48%) of Burlington's families with children are estimated to be renting their homes, renting is even more prevalent among single-parent families. An estimated 76% of single-parent families with children in Burlington rent their homes. The vast majority of single-parent families (both renters and owners) are headed by women.[17]



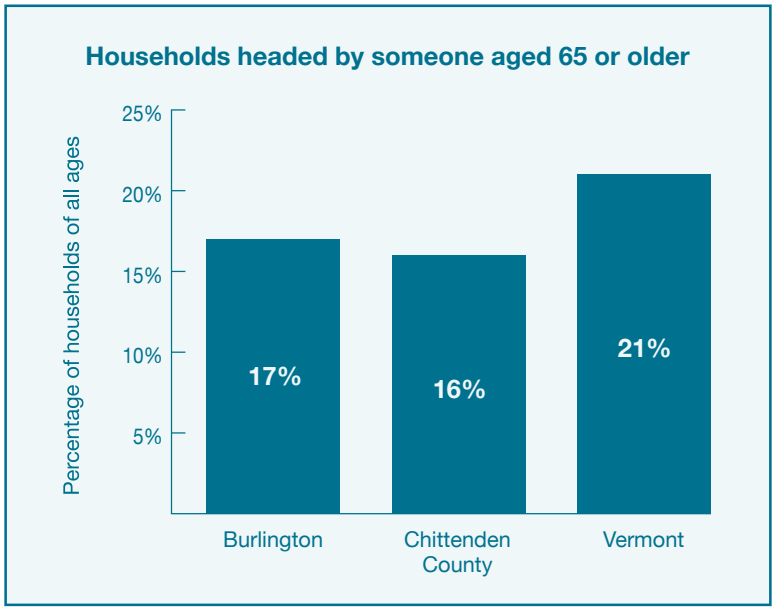
SOURCE: VHFA ANALYSIS OF ESTIMATES FROM AMERICAN COMMUNITY SURVEY 2006-2008 TABLE B25115 AND TABLE B11001.

Although some Burlington families are likely composed of same-sex couples, accurate counts of these households are not yet available. The 2010 Census is expected to provide a much more comprehensive estimate of Burlington's gay and lesbian population. At least 230 Burlington households were composed of unmarried, same-sex couples, according to ACS estimates.[18] However, this estimate does not include same-sex couples who identified themselves as married.

Age

Age is a protected class under state fair housing law. Promoting fair and affordable housing for elders, including low-income elders who rely on public assistance, will be a major challenge in the coming years.

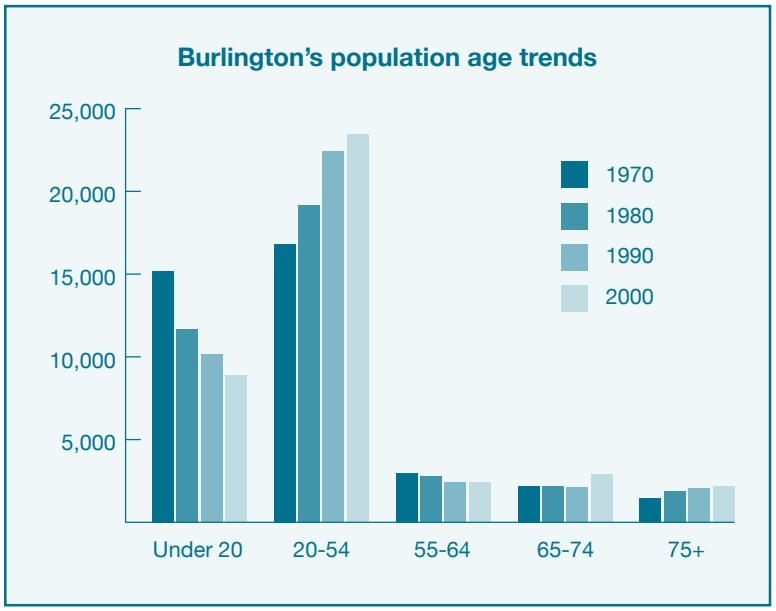
The median age of Burlington's population is 30, compared to 38 for Chittenden County as a whole and 41 for the state of Vermont.[19] This is likely due to the large population of young adults drawn to Burlington by the UVM and Champlain College.[20] Students living in Burlington for at least two months in residential units (i.e. not dormitories) may be considered part of the city's population by the ACS.



SOURCE: VHFA ANALYSIS OF ESTIMATES FROM AMERICAN COMMUNITY SURVEY 2006-2008 TABLE 25007.

Approximately 2,600 Burlington households (17%) are headed by someone who is at least 65 years old — about the same composition as in Chittenden County.

While most Burlington seniors own their homes, roughly 950 households headed by seniors are renters.[21] The number of seniors in Burlington has increased since 1990, while the number of younger people decreased.



SOURCE: 2008 CONPLAN BASED ON CENSUS 2000 DATA, CITY OF BURLINGTON, VERMONT.

The number of households statewide headed by a senior is expected to increase by 15% between 2009 and 2014. If Burlington's population mirrors statewide trends, the number of Burlington households headed by a senior will increase by about 400 households by 2014.[22] The vast majority of these additional senior households are simply a result of the aging of current Burlington baby boomers now in their early sixties.

Since elders prefer to live independently for longer, by the time they move into subsidized housing they more often need supportive services. The growing population of older Vermonters will increase the need for supportive housing. On top of this, the state of Vermont's stated policy in housing frail elders is to have an equal number of nursing home beds and community living arrangements. Residential Care Homes (RCHs) have been an option in Vermont for many years. RCHs generally assist residents with personal care and activities of daily living. Vermont also has Assisted Living Residences (ALRs), which offer apartment style living

and are designed to retain residents after they reach nursing home level of care, including those with moderate dementia.

Since 1996, with the passage of Act 160, Vermont began to shift the balance of the long-term care system by focusing more on these community and home-based housing options and away from nursing homes. The Enhanced Residential Care (ERC) program is one example of how funds have been invested to develop housing alternatives that have helped many older Vermonters afford the costs of living in licensed RCHs and ALRs instead of nursing homes. ERC funds "personal care, activities, case management and transportation to Vermonters who are eligible for nursing home level-of-care and choose to receive that care in a licensed Level III residential care home."[23]

The problem becomes the cost of such community based housing options. As more frail elders choose home based and community based housing options, the cost of housing and providing necessary supportive services for this population has transferred from nursing homes to private affordable housing providers. Reimbursement rates for RCHs and ALRs will not be able to continue to offer low-income seniors the housing they will desperately need in the future. The daily reimbursement rates in July 2009, were $62.25 for RCHs, $67.44 for ALRs, but between $127.58 to $231.81 for nursing homes for often the same levels of care.[24] So, community based housing providers who offer the same level of care as nursing homes are reimbursed less than half of what their nursing home counterparts earn for similar services.

Furthermore, according to Cathedral Square Corporation, a Burlington-based non-profit organization that owns and/or manages 24 housing communities offering affordable rents, the wait for supportive senior housing can be as long as two and a half years.[25] The needs of future frail elders in the region are not currently being addressed at the level necessary to support the coming spike in demand. In the coming decades frail elders will face increased challenges to daily living, less housing options, a shortage in assisted living housing supply, ever-increasing healthcare costs, limited transportation options, and declining income. Promoting safe, affordable, decent, and fair housing choice will be a daunting task.[26]

Undergraduate college students

UVM, the region's largest university, had a total enrollment of 13,391 students, including undergraduate, graduate, medical and non-degree students, as of the 2009-2010 school year.[27] The majority of these students (about 77%) were undergraduate students who are traditionally younger than 23 years old and therefore have relatively little independent housing experience. In addition, Champlain College enrolled 2,000 primarily undergraduate students, and Burlington College had just 167 undergraduate students.

UVM has 39 residence halls, housing approximately 5,500 students, and there are an additional 120 apartments for graduate students, non-tradi-

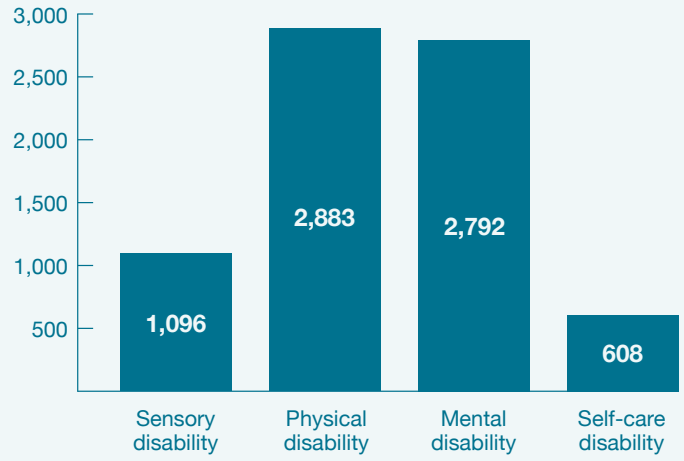
tional and students with families.[28] Approximately 4,500 undergraduates live off-campus. The most popular, and convenient off-campus location is the City of Burlington.

Champlain has 22 converted dorms housing approximately 1,100 undergraduate students. In addition, Main Street Suites in Burlington and Spinner Place in Winooski are available for upper class students.[29] There are no on-campus living requirements for Champlain students.

There has long been tension between city residents, the City of Burlington, and the area's colleges regarding off-campus housing for students. UVM, in response to this history, created the Office of Student and Community Relations. "OSCR is committed to creating a safe and socially just environment for off-campus students and neighbors. To do this we provide resources and education to our students so that they have successful experiences living off campus and we work with students, neighbors, and city partners on creative initiatives to improve the quality-of-life in our shared community."[30]

Undergraduate college students are an important demographic to understand both because they represent a protected class of young households, and because they also create the local dynamic of often occupying privately rented housing that would otherwise be affordable to other protected classes. College students often are willing to live in lesser quality units that are more affordable. Some also rent larger homes that could otherwise accommodate larger families. Therefore, they compete with large families, large households from other countries, and those receiving public assistance, for a limited supply of rental housing often near public transportation.

Number of Burlington residents (age 5+) with disabilities



SOURCE: VHFA ANALYSIS OF ESTIMATES FROM AMERICAN COMMUNITY SURVEY 2005-7, TABLE S1801. NOTE: ONE INDIVIDUAL MAY BE REPRESENTED IN MULTIPLE CATEGORIES IF MULTIPLE DISABILITIES EXIST.

People with disabilities

Burlington residents are slightly more likely to have disabilities than residents of neighboring Chittenden County towns. An estimated 15% of Burlington's population aged 5 and older has one or more disabilities compared with 13% for Chittenden County.

An estimated 5,500 Burlington residents report at least one disability. Most of these residents (72%) are between the ages of 16 and 64. Physical and mental disabilities are equally prevalent among this age group. Another 21% of Burlington's residents with disabilities

are seniors (at least 65 years old). Their most prevalent disability type is physical. The remaining 7% of residents with disabilities are children between the ages of 5 and 15. The vast majority of these children have a mental disability.[31]

People receiving public assistance

Thousands of low-income Burlington households receive help paying for housing and other basic needs through a variety of government programs. To improve their access to housing, households receiving public assistance have been deemed a fair housing protected class by the State of Vermont.

Housing assisted through public subsidies

An estimated 2,166 low-income Burlington households live in apartments that were constructed or rehabilitated through government programs. These households pay more affordable rents than they would for market rate apartments because public resources helped offset the initial costs of developing the property.

Burlington households receiving housing assistance

	Number of households	Burlington households as % of Chittenden County households
Living in assisted housing	2,166	51%
No direct rent assistance*	1,256	48%
Project-based rent assistance	910	55%
Receiving a housing voucher (rent assistance)*	993	42%

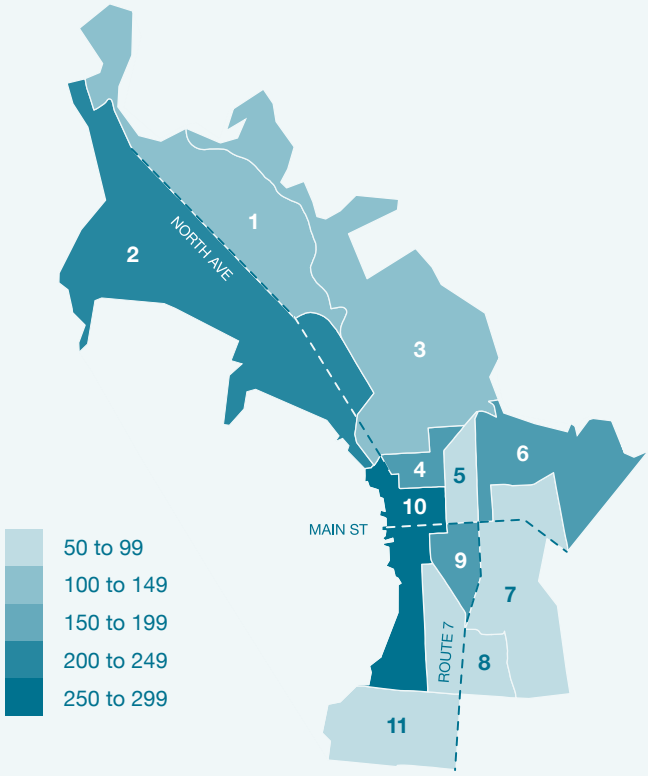
*NOTE: THERE IS SOME OVERLAP BETWEEN THESE TWO CATEGORIES BECAUSE RENT VOUCHERS MAY BE USED IN ASSISTED HOUSING THAT DOES NOT ALREADY PROVIDE PROJECT-BASED RENT ASSISTANCE. SOURCE: VHFA ANALYSIS OF DATA FROM THE VERMONT DIRECTORY OF AFFORDABLE RENTAL HOUSING AND HUD'S PICTURE OF SUBSIDIZED HOUSEHOLDS, 2008.

Distribution of Chittenden County's assisted rental housing units, February 2010

	Assisted units (2010)	% of county's assisted units (2010)	% of county's households (2000)
Burlington	2,166	51%	28%
Colchester	314	7%	11%
Essex	205	5%	12%
Hinesburg	24	1%	3%
Jericho	24	1%	3%
Milton	36	1%	6%
Richmond	31	1%	3%
Shelburne	20	0%	5%
South Burlington	576	13%	11%
Williston	221	5%	5%
Winooski	659	15%	5%
Total	**4,276**		

SOURCE: VHFA ANALYSIS OF DATA FROM VERMONT DIRECTORY OF AFFORDABLE RENTAL HOUSING AND CENSUS 2000 SF-1, TABLE P15, US CENSUS BUREAU.

Assisted rental units in Burlington by Census tract



SOURCE: VHFA ANALYSIS OF DATA PROVIDED BY CITY OF BURLINGTON CEDO.

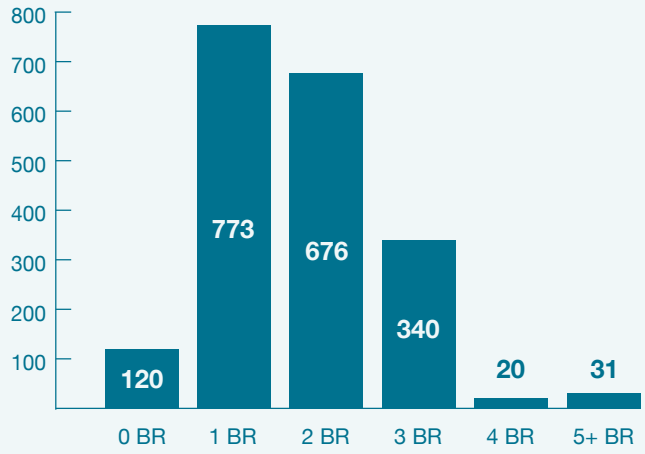
Burlington's assisted housing comprises 51% of the county's assisted rental housing stock. With only about 28% of the county's households, Burlington contains a disproportionate share of the county's assisted rental housing. Other towns, such as Colchester and Essex contain fewer of the county's assisted rental housing than they do of the county's households.

Burlington's stock of assisted rental housing is located in every Burlington Census tract, with most units located in the downtown neighborhoods nearest Lake Champlain and in the New North End. Fewer units are found in the South End and Hill District neighborhoods.

About 800 of Burlington's assisted units are restricted to elderly and/or disabled renters.[32] Half of the apartments have no more than one bedroom. Approximately 30% have two bedrooms and the remaining 20% have 3 or more bedrooms.

An estimated 1,173 of Burlington's assisted rental housing units charge fixed rents that do not vary according to individual tenant's income. Another 910 apartments were developed through HUD's "project-based" rental assistance programs, including the public housing and Section 8 New Construction/Rehabilitation programs.[33] These programs provide both upfront development subsidies when the project was built or renovated as well as ongoing rental assistance for occupants. This means that the households living in these projects pay reduced rents and utilities limited for the most part to no more than 30% of their income.

Burlington's assisted rental housing units, by unit size



SOURCE: CITY OF BURLINGTON CEDO.

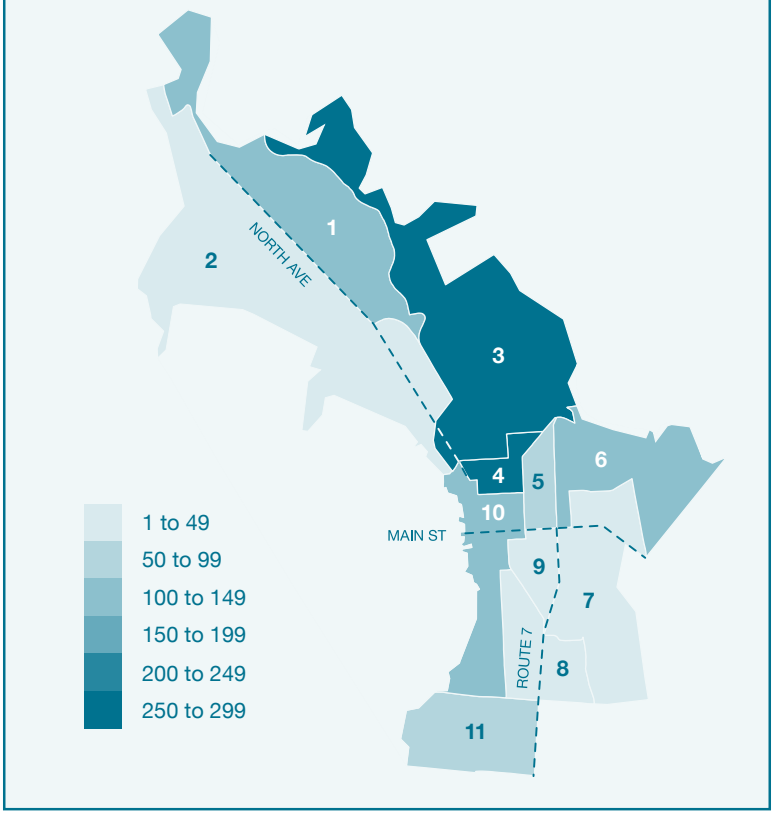
In addition to households receiving project-based rent assistance, 933 Burlington renter households receive help paying their rent from HUD through

the Section 8 Voucher program. The Section 8 housing voucher program differs from HUD's other rental assistance programs because it is intended to allow recipients the flexibility to choose living in apartments available in the private market.[34] All voucher holders are required to have incomes at or less than 50% of the area median income and to rent units that meet HUD housing quality standards.

Burlington's voucher holders comprise about 42% of the approximately 2,350 households county-wide who receive HUD rental assistance vouchers. Burlington voucher holders rent homes throughout the city. However, more than half (546 households) are located in Census Tracts 3 and 4 (the Old North End neighborhoods).

About 45% of the 1,700 HUD rental assistance vouchers administered through the Burlington Housing Authority are used for apartments beyond the city's limits. They are primarily used for apartments in Winooski, South Burlington, Colchester, and Essex Junction.

Location of households with HUD vouchers in Burlington



SOURCE: VHFA ANALYSIS OF DATA FROM A PICTURE OF SUBSIDIZED HOUSEHOLDS - 2008, HUD.

Basic needs assistance

In addition to housing assistance, many low-income Burlington residents receive benefits through other federal and state programs. Approximately 11,500 adults and children living in Burlington received assistance through the Reach Up, 3SquaresVT, Medicaid, Emergency Assistance, and/or General Assistance programs, as of November 2009.[35] About 3,125 people in Burlington received social security assistance in 2008 through the Social Security Administration's Old Age, Survivors, and Disability Insurance program.[36] In addition to basic needs assistance, some of these households also receive housing assistance through public programs described earlier.

Waiting lists

Any household who meets the income and other eligibility requirements for these basic needs programs may receive assistance after eligibility is verified. This is not the case with housing-specific assistance. The Burlington households currently receiving HUD rental assistance waited an average of 28 months before obtaining assistance. Households with vouchers wait even longer on average — 32 months before obtaining assistance. The median wait for public housing in Burlington was 17 months.

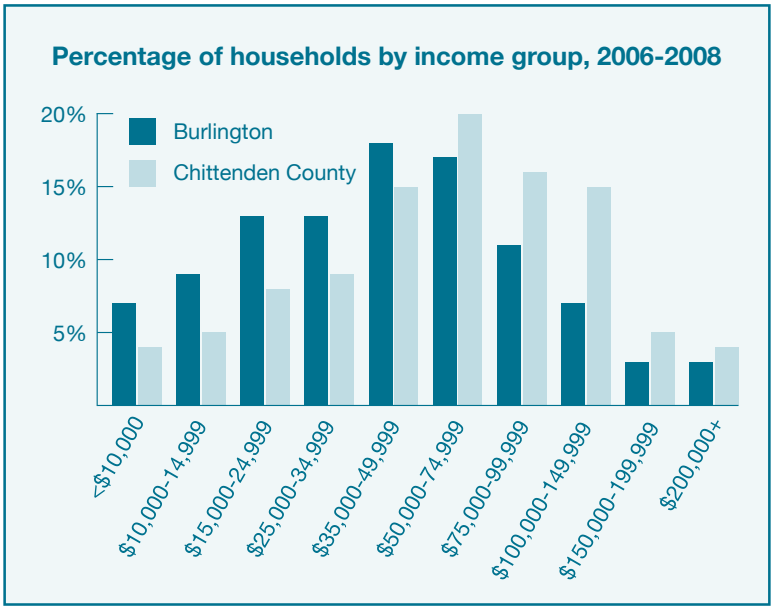
About 1,900 households are currently on the waiting list for HUD vouchers and 550 are waiting for public housing. Approximately 40% of these waiting households are families with children and 14% are elderly households. One-third are households that include someone with a disability. About 13% of the households waiting for housing assistance are headed by someone who is Black. Another 5% to 8% of the waiting households are Asian.[37] In addition to long waits for rent assistance, demand for apartments in Burlington's stock of assisted housing units is steep.

Religion in Vermont

Fair housing laws protect against discrimination based on religion. Vermont is unique in comparison to the country with regard to religion. Catholicism is the largest religious tradition people identify with in Vermont and New Hampshire (29% of the population compared with only 24% nationally). In addition, more people in Vermont and New Hampshire identified themselves as Mainline Protestants than the rest of the county (23% to 18%), but fewer identify with the Evangelical Protestant tradition (11% to 26%). Finally, a large portion of the Vermont and New Hampshire population is unaffiliated (26%) with a religious tradition versus a national average of only 16%. Only 36% of Vermont and New Hampshire residents say religion is very important in their lives — the lowest rate in the country.[38]

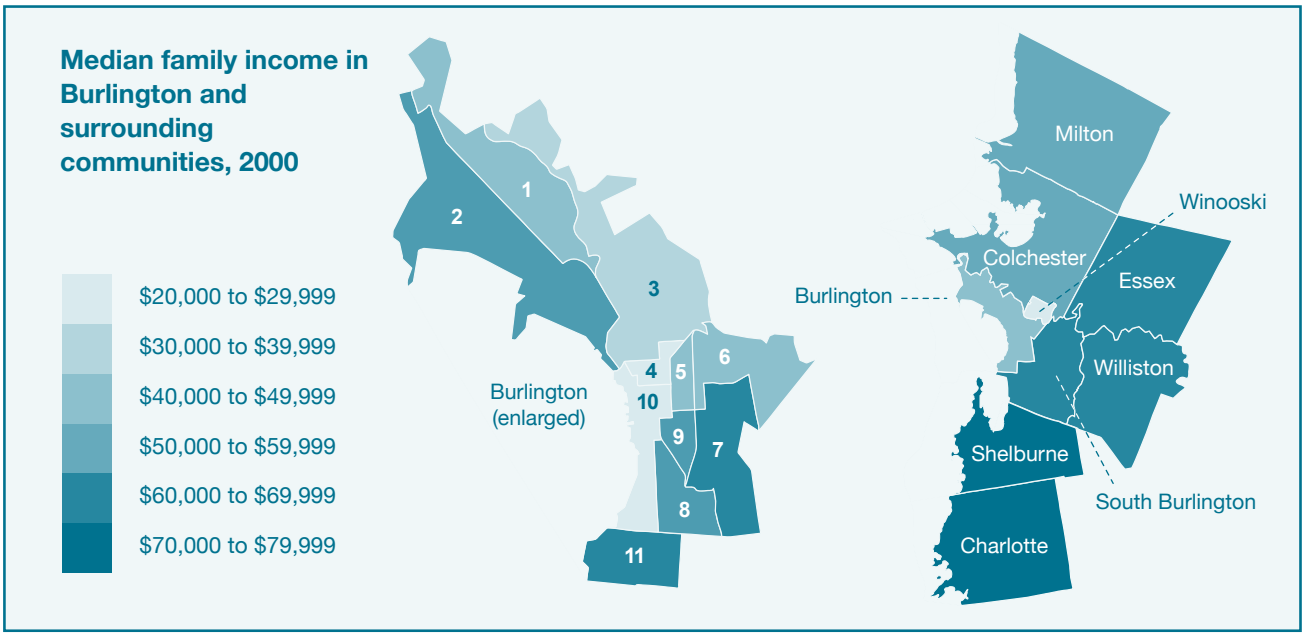
Income

Low incomes plague several fair housing protected classes. Census 2000 data for Burlington clearly depict higher poverty rates among certain types of families, children, people with disabilities, and non-White residents. Lower average income levels among these Burlington residents renders them far more dependent on the supply of affordable, rental housing than other residents. The greater the availability of Burlington-area affordable housing, the greater the housing choices are for the average household in these protected classes.



SOURCE: VHFA ANALYSIS OF ESTIMATES FROM AMERICAN COMMUNITY SURVEY 2006-2008, TABLE B19001, US CENSUS BUREAU.

According to the 2006-2008 ACS, the median income of all households in Burlington was in the $38,500 to $42,000 range — approximately $20,000 less than for Chittenden County as a whole.[39] The incomes of Burlington families (i.e. those households with related members) are similarly low relative to greater Chittenden County.[40] Burlington's median family income was in the $49,000 to $62,000 range in 2006-2008 — substantially less than the $78,000 estimated income of all families in Chittenden County.[41]

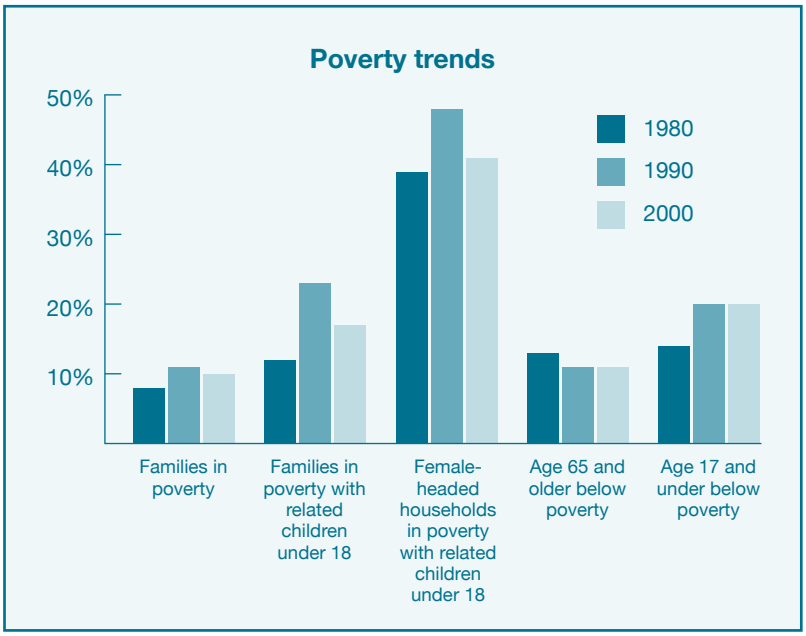


SOURCE: VHFA ANALYSIS OF CENSUS 2000 SUMMARY FILE 3, TABLE P77.

Some of Burlington's census tracts share the higher median family incomes (of at least $60,000) of neighboring towns, while Tracts 3, 4, and 10 (the Old North End and downtown neighborhoods closest to Lake Champlain north of Flynn Avenue) have much lower median family income levels (of less than $40,000).

In addition to the ACS, median family income estimates are also published by HUD. However, the two sources differ substantially. HUD's estimates reflect the size of the household and are not produced at the town level. ACS estimates pertain to all households (regardless of household size) and are available exclusively for Burlington.

Poverty disproportionately affects families with children, especially single-parent families headed by women. As of 2000, more than 41% of these Burlington families were living in poverty, compared to 10% of all families.



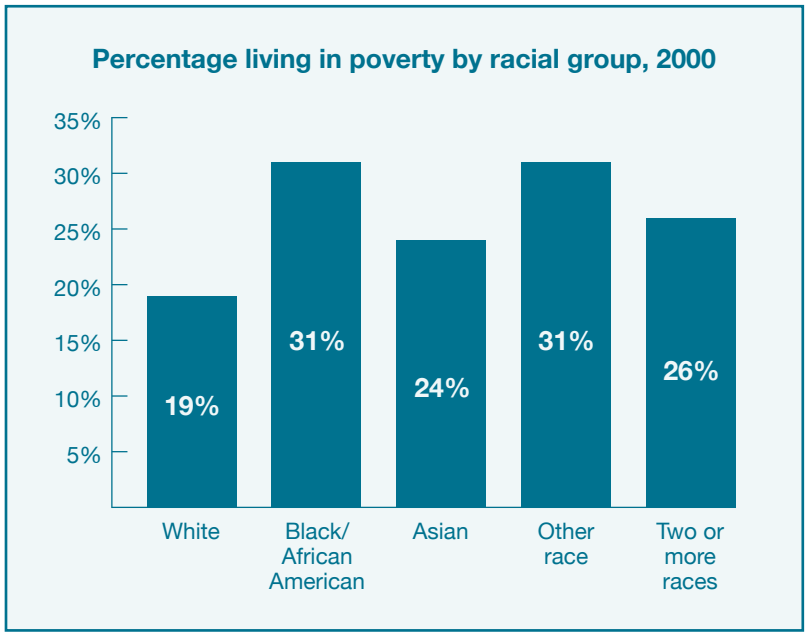
SOURCE: EXCERPT FROM 2008 CONPLAN BASED ON CENSUS 2000 DATA, CITY OF BURLINGTON, VERMONT.

The poverty rate among children living in Burlington was 20% city-wide but ranged widely between Census tracts.

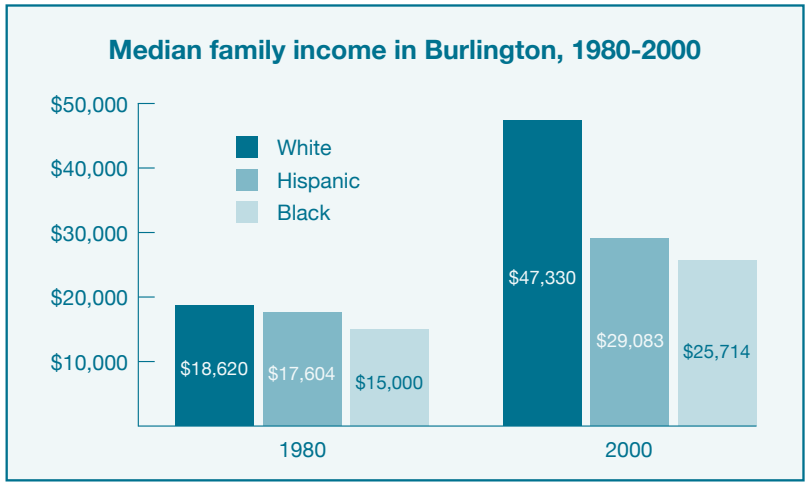
Poverty rates among Burlington children under the age of 18

Census Tract	Child poverty rate	Census Tract	Child poverty rate
1	16%	7	3%
2	8%	8	26%
3	41%	9	5%
4	43%	10	36%
5	20%	11	15%
6	14%	Burlington	20%

SOURCE: VHFA ANALYSIS OF CENSUS 2000, TABLE P87, US CENSUS BUREAU.



SOURCE: CENSUS 2000 DATA INCLUDED IN 2008 CONPLAN, CITY OF BURLINGTON, VERMONT.



SOURCE: CENSUS DATA INCLUDED IN 2008 CONPLAN , CITY OF BURLINGTON, VERMONT.

Burlington residents with disabilities are also more likely to experience poverty. As of 2005-2007, 32% of all Burlington residents with a disability aged five and older were living in poverty, compared to 18% of non-disabled residents.[42]

Similarly, non-White Burlington residents experience higher poverty rates than their White counterparts. Of all non-White residents, 27% were living in poverty, according to the 2000 Census, compared to 19% for White residents.

Unfortunately, Census data indicates a widening gap between the median income of White Burlington families and their Hispanic and Black counterparts between 1980 and 2000.

Housing profile

The disproportionately high rates of poverty among Burlington's non-Whites, disabled, and families with children make the availability of affordable housing tantamount to providing fair housing choice.

Chittenden County's rental housing stock is concentrated in Burlington. While Burlington's popu-

lation is about 26% of the county's, it contains 47% of the county's rental housing.[43]

Rent levels in Chittenden County have increased significantly since 2000. The median rent for a 2-bedroom apartment has increased 38% to $990 between 2000 and 2009.[44]

Rents in Burlington are pushed higher by low vacancy rates. Burlington's vacancy rates are consistently lower than the rates for Chittenden County, Vermont, and the Northeast region. As of December 2009, Burlington and Winooski (the "urban" sections of the county) had a combined estimated vacancy rate of 1.9%, compared to 2.7% for the county as a whole, according to Allen and Brooks.[45] The 4th quarter vacancy rate was estimated by the Census Bureau at approximately 6.2% for Vermont and 7.2% for the Northeast.[46]

About 25% of the rental units in Burlington are made more affordable to low income renters through project-based government housing programs. As discussed earlier, these programs provide subsidies to reduce the cost of developing the property, enabling rents charged to be lower than the conventional marketplace. About 300 units of Burlington's assisted rental housing stock are accessible to people with disabilities. With an estimated 2,900 physically disabled residents, these homes likely meet only a small portion of the population's need for accessible units.[47]

Few homes sold in Burlington are affordable to households making the median income of $38,500 to $42,000. A household earning this much would be likely to afford to buy a home priced at $126,000 to $137,500, assuming they had approximately $10,500 for upfront down payment and closing costs.[48] This is substantially less than the median price of primary homes sold in Burlington in 2009 of $235,000.

Estimated housing stock in Burlington, 2006-2008

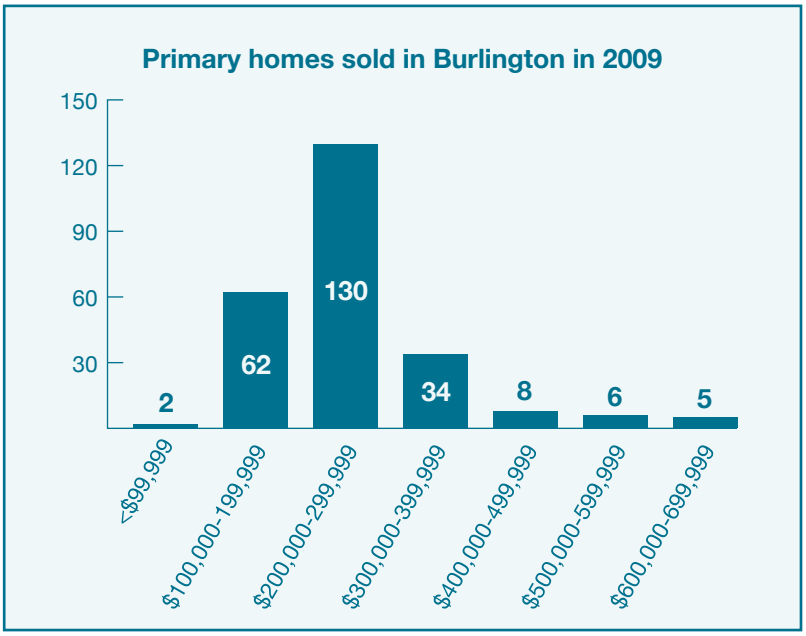
	Burlington	Chittenden County
Owner occupied:	6,336	41,069
Renter occupied:	8,621	18,466

SOURCE: AMERICAN COMMUNITY SURVEY 2006-2008, TABLE C25115, US CENSUS BUREAU.

Median monthly rent in Chittenden County

	2009	% Increase 2000-09
One BR	$743	32%
Two BR	$990	38%
Three BR	$1,540	59%

SOURCE: ALLEN & BROOKS, 2009.



SOURCE: VHFA ANALYSIS OF VERMONT DEPARTMENT OF TAXES' PROPERTY TRANSFER TAX RECEIPTS.

Of the 247 homes sold in Burlington in 2009, only 10 would likely have been affordable to households making the median income (i.e. had purchase prices of $137,500 or less). About 74% of all homes sold had purchase prices above $200,000. High purchase prices relative to household income is a major driver of Burlington's low homeownership rate and tight rental housing market.

Efforts to increase the number of affordable options for Burlington homeowners are underway. Burlington's inclusionary zoning ordinance has helped add 200 affordable homes for purchase or rent to the city's housing stock. Champlain Housing Trust has 180 deed-restricted Burlington homes and Habitat for Humanity has 15 Burlington homes.

Employment

Job growth

Although Burlington weathered the recession better than the rest of the state, and Vermont better than most of the nation, 1,320 workers remain unemployed in Burlington as of March 2010.[49] A recovery that is expected to be slow statewide is likely to be even slower for unemployed workers living in Burlington's low-income neighborhoods. With slow job growth expected within the city, many of Burlington's unemployed will need to look to the suburbs and compete with local suburban residents for scarce openings. 2009's annual unemployment rate in Burlington was 71% higher than the 2008 rate.

Chittenden County as a whole has begun to experience job gains, according to local analysts Stephen Allen and Mark Brooks — long-time real estate appraisers for the Burlington area who publish extensive commercial and residential market studies throughout the year. In 2009, they estimate that the county had a net gain of 115 jobs. The largest staffing increases occurred for employers outside Burlington-South Burlington: IBM in Essex Junction, Green Mountain Coffee Roasters at their packaging plant in Essex, and Triosyn, a Williston medical supply company. In fact, the only employment decreases noted by Allen and Brooks for June-December 2009 are for Burlington-South Burlington employers: University of Vermont, Burton Snowboards, and GE Healthcare.[50] Burlington's structural employment track record shows its inverse relationship with the county as a whole: Employment sectors declining in Burlington are growing in the county as a whole, including information, real estate, transportation and warehousing, finance and insurance. This may be due largely to the city's lack of space and higher costs for building compared to the rest of the county.[51]

Unemployment rate	2009	2008
Burlington	6.0	3.5
Vermont	6.9	4.5
Employment (non-farm, in thousands)	**2009**	**2008**
Burlington	21.5	21.8
Vermont	334.9	341.3

SOURCE: VERMONT DEPARTMENT OF LABOR, ECONOMIC & LABOR MARKET INFORMATION.

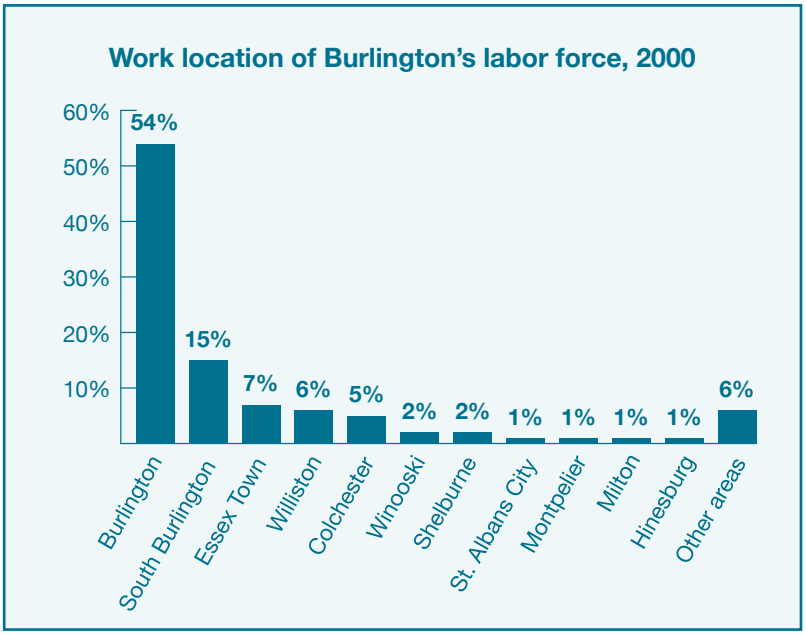
Whether this trend will continue in the next few years is uncertain. According to Allen and Brooks, most new jobs in the county are likely to be in Milton,

South Burlington, Colchester, and Essex.[52] However, plans to develop several new Burlington hotels and office buildings may create hundreds of new jobs within city limits, according to Burlington's Community and Economic Development Office.[53] New retail jobs are likely to continue to be at suburban stores, outside of Burlington — continuing a trend that started years ago, according to Allen and Brooks. In 2003, sales in Burlington comprised 21% of all sales in Chittenden County. By 2009, this percentage had declined to 14%. At the same time, the market share of retailers in Colchester, South Burlington, and Williston increased as consumers shifted their spending to the suburbs.

According to economists at a recent conference on Vermont's economy, Vermont is leading the region in the timing of recovering jobs lost during the recession. However, the state's recovery is likely to be lackluster in terms of overall gains. History shows that Vermont tends to experience milder losses and gains during economic fluctuations, these economists explained.[54]

Local commuting patterns

As of 2000, almost half of Burlington's workers left the city for work. This is not surprising since almost all job growth during the prior decade took place in suburban towns outside of Burlington.[55] An estimated 15% of Burlington's labor force worked in South Burlington and the remainder commuted to other towns.



SOURCE: VHFA ANALYSIS OF DATA FROM U.S. CENSUS BUREAU RESIDENCE MCD/COUNTY TO WORKPLACE MCD/COUNTY FLOWS FOR VERMONT: 2000.

Indicators of spatial mismatch

Job growth outside of Burlington coupled with the concentration of the county's affordable rental housing in Burlington means that many lower wage workers are likely to have difficulty finding a place to live near their jobs. The commuting patterns of Burlington residents (46% commute to other towns for work) is a likely result of this spatial mismatch. Although a similar analysis for 2000 is not available, a University of Vermont study of 1990 Census data found that "people with low earnings in 1989 were in fact more likely to live in the central city and work in the suburbs, than were people with higher earnings."[56] This report identified the following consequences of this type of spatial mismatch:

... spatial segregation of working poor populations, the crowding of low-rent urban neighborhoods, and thus the likely increase in rents, maintenance needs, and other housing problems, and the transportation needs of low-wage workers who must commute to other towns for employment ...

Until more Chittenden county towns provide affordable housing opportunities commensurate with the number and wages paid by the jobs of local employers, pressure on the area's transit system and existing affordable neighborhoods will continue to mount.

Chapter 6
Policies and practices impacting fair housing choice

Public sector

Commissions and boards

The Planning Commission is a board comprised of seven volunteer citizen members that develops policies and recommendations concerning overall land use and development. The commission reviews and develops all city planning and land use ordinances and gives input and guidance to the Department of Planning and Zoning. Overall, the commission has no regulatory authority. All final action on any proposals by the commission is taken by the City Council.

The Development Review Board (DRB), also a seven-member citizen board, is a quasi-judicial body that has the sole responsibility for reviewing all proposals for land development in the city. The Board uses the bylaws and policies developed by the Planning Commission, and approved by the City Council, to make rulings on permits, variances, and all matters regarding land development in the city. The Vermont Environmental Court or the Vermont Supreme Court hears all rulings of the DRB that are appealed.

The Design Advisory Board (DAB), consisting of five members appointed by the City Council, is separate from the DRB, but mainly advises the DRB on the specific design elements of development applications. Various committees of the DAB also report on matters such as historic preservation and advise the City Council, Planning Commission, and other city entities. The Board serves primarily as a trusted advisor.[57]

Development review standards

Article 6 of the Burlington Comprehensive Development Ordinance focuses on the standards for new development in Burlington. These include design standards meant to ensure that new development "furthers Burlington's vision for a dynamic, vibrant, sustainable city amidst a scenic, natural setting." The Design Advisory Board and Development Review Board, when appropriate, will assess new applications based on the guidelines set forth in this article. Examples of these standards include: protection of important public views, maintaining the rhythm of existing development on the street, maintaining massing, height, and scale, and using appropriate materials given the current development in the area. Design review attempts to ensure that new development maintains the existing character of Burlington's many unique neighborhoods.

The impact of such review standards potentially has a negative impact on fair housing. Review standards stipulating that new development be consistent with the characteristics of the neighborhood can significantly limit the types of development that may occur in certain areas of the city and may also increase development costs. This may divert affordable housing from neighborhoods where existing characteristics do not make affordable development economically feasible. It's also possible that these somewhat vague criteria might mask bias against housing affordable to protected classes under the vein of protecting the city's historical architecture. By only considering criteria such as "public views" and "appropriate materials" without a balance of considering the need for available housing options for protected classes, these standards run the risk of impeding fair housing development.

Zoning and site selection

The Burlington Comprehensive Development Ordinance serves to encourage, implement, and enforce the planning visions outlined in the Municipal Development Plan (MDP). The ordinance lays out the rules and regulations concerning land use in the City of Burlington in great detail. The Burlington Comprehensive Development Ordinance was adopted by the City Council in January of 2008, and replaced the Burlington Zoning Ordinance. This was a major re-write of the document with the process stretching over the course of many years.

As with the MDP, almost any law or rule relating to land use could be said to have some impact on fair housing. The ordinance is a very detailed and comprehensive document. Only the most relevant sections as they relate to fair housing will be discussed here. Most importantly, the ordinance provides for a wide array of housing options in an effort to accommodate all people and lifestyles. Burlington's residential districts allow for variance in lot size, density, setbacks, permitted uses and other factors. There are three main categories as shown to the right.[58]

Base residential density

Categories	Maximum dwelling units per acre*
Low Density	7 units/acre
Medium Density	20 units/acre
High Density	40 units/acre

* INCLUSIVE OF NEW STREETS BUT EXCLUSIVE OF EXISTING STREETS, AND WITHOUT BONUSES OR ANY INCLUSIONARY ZONING ALLOWANCES

Even in low-density neighborhoods, the minimum lot size is not excessively large in comparison to neighboring municipalities. Due to these districts, low-density areas may not allow as many units for renters or potential buyers with lower incomes since affordability is improved with higher densities. Many of the higher density areas are concentrated in or around the downtown districts. Therefore, this potentially means that only certain parts of the city are affordable for lower income protected classes.

Nevertheless, the city offers a variety of density options in many different areas. Burlington's plans encourage residential development to the maximum density allowed on all parcels of land zoned for residential use.[59]

Inclusionary zoning

The most direct component of the ordinance in relation to fair housing is Article 9: Inclusionary Zoning. For developments of all subdivisions and planned unit developments, this inclusionary measure applies with some exceptions. The amount of affordable units required to be included is shown to the right.

Inclusionary zoning percentages

If the average sale and rental price of project units is affordable to a household earning:	The percentage of units subject to affordability provisions must be:
Less than 139% of median income	15%
140%-179% of median income	20%
180% of median income and above in any other district (Also applies to development in any waterfront district)	25%

The inclusionary zoning provision is especially effective because the majority of projects subject to it are granted increases in density and lot coverage about underlying zoning district maximums (density bonuses). Consequently, although the inclusionary zoning provision is a requirement, density bonuses can make the project more economical and attractive for a builder. Density bonuses are intended to mitigate potential discouragement that the inclusionary zoning provision might have on home building.[60]

Planned unit developments

The ordinance also allows for Planned Unit Developments (PUDs).[61] This type of allowed use provides great flexibility and opportunity for the development of a variety of affordable housing types. Furthermore, group homes are also permitted in certain appropriately identified areas of the city.[62]

Accessory dwelling units

Statewide, the lack of accessory dwelling units (ADUs) as an option in some municipalities has been highlighted as an impediment to fair housing. For this reason, Vermont previously passed changes to Chapter 117: Municipal and Regional Planning and Development to allow for ADUs statewide regardless of municipal codes.[63] Burlington, therefore, does allow for ADUs as a permitted use in both its low density and medium density residential areas. High density areas, best suited for intense development, are not ideally suited for ADUs, despite their affordability. . State law only requires ADUs to be permitted within or appurtenant to a single-family dwelling unit, but Burlington takes this requirement a step further and allows ADUs in residential medium density areas. In Burlington, anytime a proposed ADU constitutes the creation of a new structure or an increase in the height or floor area of the existing structure, the plans are subject to conditional approval and review by the DRB.[64]

Definition of family

A final restriction that has potentially been identified as an impediment to fair housing is the definition of "family" and what constitutes a single-family home. The most relevant section the city's zoning ordinance is that a family/single-family home should house "no more than four unrelated adults and their minor children."[65] This has the effect of potentially limiting housing choices for

unrelated people with disabilities who choose to live together in a single family home for purposes of affordability and supportive service provisions. It might also disproportionally impact recipients of public assistance living in poverty, who need to share a home out of financial necessity or unrelated new Americans (protected class: national origin) who choose to live together to share expenses or household responsibilities.

The Code Enforcement Office has flexibility in changing this limit if it deems a "functional family unit" exists pursuant to the standards outlined in the ordinance. Thus, Code Enforcement could override this restriction if, for example, it felt that due to cultural norms or a necessity to serve and house a disabled population appropriately, a family unit existed. The city's CEDO office felt that this waiver was adequately accessible for residents, and was not an impediment to accessing fair housing.

Nonetheless, the mere existence of such an ordinance has been the basis of studies and lawsuits in other parts of the country.

In 1980, the California Supreme Court in City of Santa Barbara v. Adamson struck down a municipal ordinance that permitted any number of related people to live in a house in a R1 zone but limited the number of unrelated people who were allowed to do so to five. The City had sought to exclude a group of 12 unrelated people living in a large single family dwelling in a single family zone because they were unrelated and, thus, did not meet the City's definition of "family." The Court held that the residents of the Adamson household were a single housekeeping unit that could be termed an alternative family because they shared expenses, rotated chores, ate evening meals together, participated in recreational activities together, and became a close group with social, economic, and psychological commitments to each other. As a single housekeeping unit or, alternative family, the Adamson household could not be excluded from the single family zone nor made to apply for a conditional use permit.[66]

In another recent example, the non-profit organization Montana Fair Housing filed a lawsuit against the City of Bozeman, alleging that a city housing ordinance illegally discriminates against people with disabilities and on the basis of age and marital status. The organization is hoping to have the city's ordinance limiting unrelated people from living together repealed.[67]

Building codes (accessibility)

The Americans with Disabilities Act (ADA) requires that certain accessibility standards are met in many situations to comply with federal laws that prohibit discrimination against people with disabilities. In terms of these standards (which can be found at www.ada.gov), the Burlington City Inspector is charged with ensuring that ADA standards are met in all new construction projects in the city. The inspector reviews all plans, issues all permits, and conducts all inspections relating to ADA compliance. The city is aware of its responsibilities to ensure that new buildings are in keeping with ADA rules.[68]

However, most of Burlington's housing stock (an estimated 88%) was built before the ADA was implemented in 1990.[69] For this reason, housing accessibility remains a barrier to fair housing choice for Burlington residents who need these features.

Visitability in housing

Visitability is the concept that all people should be able to visit every other person's home. Thus, certain measures should be taken in new housing to ensure it is accessible to all. It is illegal to discriminate on the basis of disability, and certain small steps can be taken to help all homes be accessible. In 2000, Vermont, through Act 88, passed its minimum visitability standards. Although the law is not as strict in terms of requirements or enforcement as suggested initially by some advocates, Vermont is one of the only states with visitability standards for new, single-family construction (both subsidized and non-subsidized). The basic standards deal with issues like the minimum width of hallways or doors, along with the reinforcement of bathroom walls to potentially allow for the addition of grab bars. Visitability is a growing national movement as the population ages and communities strive for more housing equality.[70]

Property tax policies

Passed in 2003 by the Vermont legislature, Act 68 (previously Act 60) divides all Vermont properties into homestead (residential) and non-homestead (non-residential) properties. Non-homestead properties were originally intended to be taxed at a higher rate than residences. However, in terms of fair housing, many low-income families/individuals live in rental units, which are classified as non-homestead properties. Those subsidized by the federal or state government can apply for a certificate from VHFA and are eligible for a percentage reduction in assessed value to reduce the property tax burden. This policy actively promotes fair housing choice by reducing property taxes and improving affordability for rental housing occupied by recipients of public housing assistance — a protected class in Vermont fair housing laws.[71]

Act 75, passed in 2005, is more subjective and open to variances at the local level. The Act requires local property tax assessors to value housing projects subject to affordability covenants using an income method as opposed to full market value since even upon sale of a property an affordability covenant will lower the market value of a building. Similar to Act 68, because many of the residents of these properties are in receipt of public assistance, this provision recognizes the reduced rental payments and lower tax base for these properties. In this way, Act 75 helps maintain the affordability of these properties which promotes fair housing choice.[72]

In dealing with the assessment of properties subject to affordability covenants, the City of Burlington follows the guidelines set forth by the Vermont Department of Taxes in its technical bulletin issued in April of 2008.

Sale of subsidized housing and possible displacement

Vermont's strong record of successfully preserving affordable housing — the state has lost virtually no assisted housing to conversion since 1987 — positions the state to address the ever-increasing demand for affordable rental housing from its low- and moderate-income residents. The region's relatively low vacancy rates have prompted a steady increase in rents during the past decade. At the same time, workers in the most common Vermont occupations do not earn enough to afford the state's fair-market rents.[73] Statewide, by 2018, a total of 7,000 (out of total of 12,000) rental units are at risk due to expiring restricted use provisions and Section 8 contracts, and housing tax credit compliance period termination.

Burlington's assisted housing stock has benefited from the state's efforts to preserve affordable housing. Although few privately-owned Section 8 properties are reaching the end of their HAP contracts, preservation agreements are in place that allow the state's housing funders to step in to help negotiate a sale to a non-profit housing provider when and if the contracts expire and a conversion is considered. Similarly, there are a few older Housing Tax Credit projects that will soon be reaching their "Year 15" status. At that point the goal is to negotiate an ownership transfer to a willing non-profit. While these may be laudable goals, public resources are tight. It's possible that when these owners choose to exit these programs there may not be available funding to meet the projects' needs. Burlington must draw attention to the assisted housing units that are due to come on the market in the next five years. Inadequate public resources to preserve this housing could mean even fewer affordable housing units for members of protected classes.

To help this, in early 2009, the MacArthur Foundation awarded a $600,000 grant to the Vermont Housing and Conservation Board (VHCB) and a $2 million loan to VHFA. VHCB and VHFA will use the funding to increase energy efficiency, provide technical assistance, finance predevelopment and bridge loans, and establish a demonstration project using Medicare and Medicaid for supportive services for senior housing statewide.

Tenant selection procedures

Although tenant selection procedures may vary widely between landlords and management companies, a statewide survey done by VHFA in 2005 showed that the majority used previous landlord references as the predominant tool in qualifying applicants. 82% of the managers participating — including private and non-profit managers as well as Public Housing Authorities (PHAs) — check landlord references. The next most-often used tool was a credit check (54%) followed by a criminal background check (42%).

When using landlord references, managers of non-profit owned units (including PHAs) considered a longer history (six years) compared to privately owned units (four years). Non-profit owned units also typically contact more landlords on average. Similarly, non-profit owned properties used credit checks slightly more than private properties, and considered a longer timeframe. 41% of all

managers have a policy of excusing medical bills, although it wasn't clear that all took the time to see if a medical condition was the precipitating cause of a school or car loan delinquency.

Non-profit owned housing used criminal background checks much more heavily than private landlords (71% compared to 34%), although private landlords looked back an average of eight years compared to seven for non-profits. It is possible that running credit checks on applicants or relying on landlord references may disproportionately affect younger households and newer Americans, both of whom may have not yet fully established their credit or rental histories.

Employment/housing/transportation linkage

Without adequate and affordable transportation options, low-income individuals who perhaps cannot afford properties close to their jobs will not be able to work in certain locations. Most job growth in 2009 took place in communities outside of Burlington while the county's affordable rental housing, home to many members of Burlington's protected classes, is concentrated in Burlington (as shown earlier). This mismatch means that affordable transportation options are critical to ensuring that working low income or disabled Burlington protected classes have fair access to housing. A wider and more comprehensive transportation system allows people to live in a wider range of areas, expanding housing choices. According to federal reports, Americans already spent approximately 50% of their incomes on housing and transportation.[74] Since transportation is an essential component of total living costs, HUD is in the process of developing new affordability metrics that will incorporate the costs of both housing and transportation. Furthermore, HUD is calling on municipalities across the country to integrate their housing, transportation, and land use planning through efforts such as its office of Sustainable Housing and Communities.

The City of Burlington and the State of Vermont are aware of this essential cycle, and have acted proactively to encourage better and more integrated transportation systems. The Municipal Development Plan sets out goals of a "coordinated transportation and land use plan," and calls on the city to build out existing resources and infrastructure allowing for more choices and greater frequency of public transit stops in more areas.[75]

The Chittenden Country Regional Planning Commission, the Chittenden Country Metropolitan Planning Organization, and various local transportation agencies are supporting and actively pursuing transit-oriented design. This methodology is the idea of conscious design of resources and locations that would facilitate the use of transit. The concept recommends allowing for greater density housing areas to accommodate ease of transportation. It also recommends easy access pathways from employment centers to key transit hubs. The concept recognizes the interconnectedness of housing, transportation and employment and thus encourages development of central areas from which people can easily be shuttled to and from before and after work.[76]

Neighborhood revitalization

Neighborhood revitalization, neighborhood improvement and improving the quality of the housing stock are key components to the various development and housing plans of the City of Burlington. In terms of furthering fair housing, neighborhood revitalization when done effectively can improve access and options in terms of affordability and in terms of access to decent housing. If precautions are not taken however, revitalization of a neighborhood could mean new development that could price out certain protected classes.

On the whole, Burlington's plans are cognizant of the potentially harmful consequences of poor revitalization strategies and of doing nothing, which promotes poor and sub-standard living conditions. The 2006 MDP sets the goal of preserving the current housing stock and getting sub-standard housing stock up to livable standards. The plan calls for increased tax credits, low interest loans, and other incentives to get investors and owners to revitalize the existing housing stock, which would promote affordable and fair housing choice.[77]

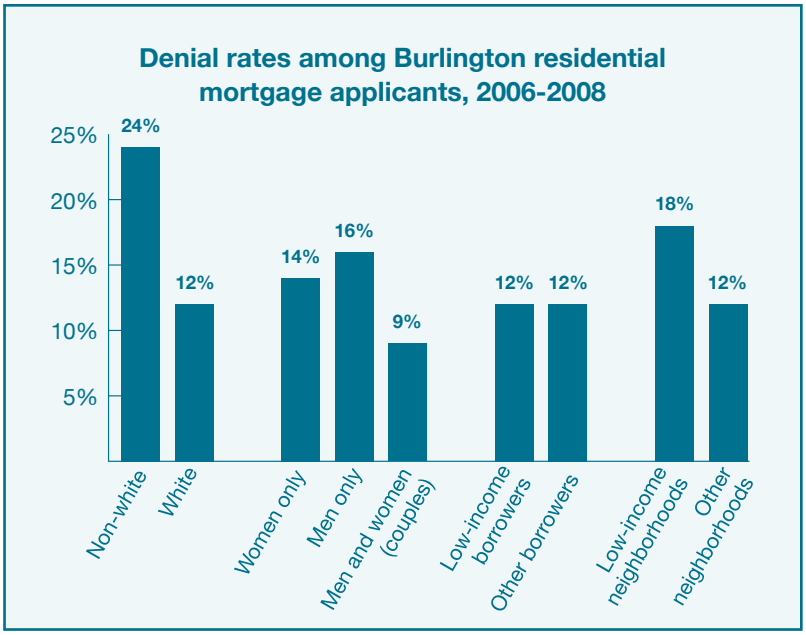
The ConPlan also highlights the city's Neighborhood Revitalization Strategy (NRS), which was approved in January of 2006 and covers census tracts 3,4,5,6, and 10. Households in these areas are suffering from the worst poverty rates in the county and many do not even earn a livable wage.[78] The NRS sets out a plan to address these issues. Throughout these corridors, the NRS attempts to stimulate business/job growth, create and preserve decent and affordable housing and improve safety and infrastructure to name a few. By supporting the Burlington Neighborhood Plan, supporting other city initiatives, working with national organizations and marketing other free services and incentives, CEDO and the city hope to create more opportunities for more people in the NRS areas. Overall, these efforts have the potential to significantly impact and increase the availability of decent and affordable housing for all types of people within the district.[79]

Private sector

Lending policies and practices

Federal and state laws are clear that it is illegal to discriminate not only in the renting and selling of homes and apartments, but also in the financing and lending practices involved in real estate transactions.

Based on comparisons to White applicants for home purchase and refinancing loans in 2006 to 2008, non-White applicants had higher denial rates (24% vs. 12%) and



INCLUDES HOME PURCHASE AND REFINANCE LOAN APPLICATIONS. SOURCE: VHFA ANALYSIS OF 2006-2008 HOME MORTGAGE DISCLOSURE ACT DATA.

lower origination rates (57% vs. 66%). No statistically significant denial rate differences existed between men and women applicants, although man-woman couples had lower rates of denial than single borrowers.

Comparing denial rates among groups based on income level revealed that borrowers in low-income neighborhoods were more likely to have their application denied than borrowers in other neighborhoods. Interestingly, there was no difference in denial rates between low-income applicants (with incomes less than 80% of the area median) and applicants with greater incomes. However, low-income applicants had lower origination rates than applicants with greater incomes because more of the low-income applicants withdrew their applications or had applications closed for incompleteness. Census tracts in which the median income was at or below 80% of the median for the Burlington-South Burlington Metropolitan Statistical Area (MSA) were considered "low-income neighborhoods" and households with incomes at or below 80% of the MSA median were considered "low-income households."

In terms of the sub-prime crisis, the effects and the extent of sub-prime lending in Vermont were not as great as in other areas of the country. Although the small number of loan applications in Burlington each year makes it difficult to look at disproportionate subprime lending among protected classes, a state level study conducted last year found that Vermont was not completely immune from some of the discriminatory lending practices that accompanied the crises. In terms of refinances, 31% of the refinances among non-White and Hispanic borrowers were sub-prime compared to the average of 28% for all refinances. Additionally, the Home Mortgage Disclosure Act data also revealed that Vermonters living in lower income areas were more likely to have sub-prime loans than those living in higher income areas.[80]

Chapter 7
Fair housing activities

Fair housing complaints and cases

Fair housing violations are disperse and diverse. They may be systematic based on deep bias and integrated into ongoing business practices or they may be more episodic and triggered by personal experience. Despite the reasons or source, the effect is a limitation of housing choice and options for people in protected classes. This is most often identified through fair housing complaints logged with local organizations.

Rachel Batterson of Vermont Legal Aid described that organization as:

a statewide legal services program that provides free legal services throughout Vermont. We represent victims of housing discrimination, as defined under federal law, regardless of income. We represent discrimination victims in all forms: federal and State courts, the Vermont Human Rights Commission, and subsidized housing hearings throughout the legal process including discovery, litigation, mediation, and trial. We also advocate generally for the right of all people to an equal opportunity to use and enjoy housing. In addition, Vermont Legal Aid maintains a neutral testing program that conducts paired on-site and telephone tests of rental housing. Our housing discrimination work is primarily funded by HUD. In contrast to the Vermont Human Rights Commission, which is a State entity and a neutral adjudicator, Vermont Legal Aid is a non-profit law firm that represents and advocates for the rights of individuals, groups, and organizations.[81]

Vermont Legal Aid works predominantly on federally-based fair housing complaints with jurisdictional basis, because of their funding source. They reported receiving 109 complaints statewide during calendar year 2009 from every protected class.

The breakdown of protected classes in these cases was similar to national statistics with familial status and disability being the most reported. They reported, "Given the small number of people of color and immigrants in Vermont, we received a higher than proportionate number of well-founded complaints based on race, color or national origin. We represented two complainants in discrimination based on religion cases."

Robert Appel, Executive Director of Vermont Human Rights Commission, describes the role of HRC in the following manner:

The staff receives and impartially investigates allegations of unlawful discrimination only after an individual has signed a complaint under oath. At the conclusion of the investigation, staff investigators write Investigative Reports that are reviewed and approved by the Executive Director before they are distributed to the parties and to the Commissioners … The parties to the complaint (the complainant and the respondent) are invited to attend and present why they agree or disagree with the staff

recommendation, and be questioned by the Commissioners about the circumstances surrounding the complaint.

The Commission does not have authority to order any remedies or to impose fines. The Commission only has legal authority to investigate complaints, negotiate settlements, and to bring action in court after a cause finding and failed efforts to resolve the dispute informally. If illegal discrimination is proven to a judge and jury, the court may impose fines or monetary damages, costs and attorney's fees against the Respondent as well as require remedial measures to avoid further violations of law.

If the Commission finds reasonable grounds to believe that discrimination occurred in a case, for a period of six months the executive director attempts to settle the case in a manner the eliminates the discrimination and its effects either directly or through the assistance of a professional mediator. If the effort is unsuccessful, the Commission is authorized to initiate a lawsuit seeking an injunction, damages, attorney's fees, and a $10,000 civil penalty for each violation proven.[82]

There have been 14 fair housing cases involving Burlington properties that were ultimately approved for investigation by HRC since June 2004.

Fair housing cases involving Burlington properties

Year	Number of cases
2004	1
2005	1
2006	3
2007	1
2008	4
2009	4

Investigations* based on protected classes

Protected class	Number of cases
Disability	7
Race	4
Color	3
Sexual orientation	2
Receipt of public assistance	2
Religion	1
Family status	1
National origin	1

*CASES CAN BE INVESTIGATED BASED ON MULTIPLE KINDS OF DISCRIMINATION.

There were no findings of reasonable grounds for discrimination in any of the 14 cases approved for investigation. In regards to the investigation results, in eight of the 14 cases there were no reasonable grounds found that discrimination occurred. For five cases, there was a pre-determination conciliation agreement in which a settlement was reached before an investigation occurred. Finally, in one case, the investigation was withdrawn due to a settlement being reached.[83] Other organizations, including CVOEO's FHP and the City Attorney, will often refer specific fair housing complaints to either Legal Aid or the HRC for follow up.

In response to a request to HUD for all HUD or Department of Justice fair housing cases in the City of Burlington in the past 10 years, HUD responded with one case with cause filed February 5, 2009 titled Westbom v. Cassidy.

Reasons for trends or patterns
Based on the data provided, there appears insufficient information to make assumptions regarding trends or patterns in fair housing suits or complaints.

Discussion of other fair housing concerns or problems
No cause eviction, the practice of a residential landlord ending a tenant's lease for no reason, is contentious and highly debated. The no cause eviction system is the one currently in place in Burlington. In very tight housing markets like Burlington's, a tenant may not report discrimination or other complaints simply because he or she is worried about possible threat of eviction. According to Vermont Legal Aid, this lack of balance of power in the law places unfair influence in the hands of landlords because "the landlord can terminate the renter's right to live in his or her home for no reason at all and the renter is dependent on the landlord choosing not to do so. ... Anti-discrimination laws are one of the renters' rights laws adversely affected by Vermont's no cause eviction regime."[84]

Fair housing education

The Fair Housing Project of the Champlain Valley Office of Economic Opportunity is dedicated to providing education and outreach about fair housing. They offer trainings, workshops and presentations to landlords, housing providers, housing advocates, property managers and the general public. Trainings are held for public officials and planning officers related to their responsibility to affirmatively further fair housing. Kevin Stapleton, Fair Housing Director for CVOEO states, "Our goal is to end housing discrimination by helping people understand their rights and obligations under the Fair Housing Act and related laws. In addition to education, we act as a resource for individuals via our Fair Housing Hotline, a service that offers general fair housing information to those who believe they may be facing housing discrimination. If the situation described by a caller indicates housing discrimination that cannot be solved with the information we provide, the Fair Housing Project refers them to the appropriate agency-most often, the Human Rights Commission or Vermont Legal Aid."[85]

While many organizations educate their clients and the community about fair housing policies, the Fair Housing Project is the only statewide organization dedicated to providing education and outreach in regards to fair housing. CCTV produced a video for FHP to be shown to municipal leaders across the state. The video describes fair housing and shows the connection between fair housing and affordable housing. Many government officials and community members at-large have been educated on fair housing issues as a result of CVOEO's FHP.[86]

CEDO has to follow certain guidelines and compliance requirements when administering and selecting projects to receive HOME funds. CEDO must ensure

that the projects it funds creates no impediments to fair housing. No federal funding administered can be used for a project in opposition to national law, such as fair housing laws. Official documents pertaining to HOME funding may have certain logos or disclaimers regarding fair housing laws and guidelines.[87] In addition, any advertising of vacant HOME units must include the equal housing opportunity logo or statement, and property owners must maintain a file containing all marketing efforts.

Other agencies such as VT Legal Aid, HRC, and VT Center for Independent Living, to name a few, also have strong outreach programs that include giving advice and information to clients and community members concerning fair housing when appropriate. Although many use the FHP for the most accurate and current information, these organizations also maintain websites, put out newsletters, hold public meetings, and have people ready to answer calls if citizens need assistance.

Reports on fair housing

Burlington Consolidated Plan (ConPlan)

The ConPlan for Housing & Community Development is an extremely comprehensive document outlining nearly all of the issues, action items, and progress relating to affordable housing in the city. A key strength of the document is the recognition of the need for affordable housing in the city. Creating more affordable housing remains the most important goal of the ConPlan. The city is focused on inclusion for all income levels. Additionally, the plan has a completely separate subsection to address fair housing. The document lays out all the progress that has been made by the city on the action items listed in the 1999 Analysis of Impediments. Unlike other city plans, this one identifies that housing discrimination likely exists based on factors not related to income. The plan states that the city has and will continue to gather more information to understand the scope of the problem. It also points out the need for continued funding and programs to support education and outreach.

The Fair Housing and Land Use Planning & Regulation in Chittenden County report

This report examines municipal fair housing practices and responsibilities in the region as well as identifies areas for improvement for the different jurisdictions in Chittenden County. It reaffirms municipalities' responsibilities to affirmatively further fair housing even if it comes at added costs. According to this report, the mechanisms through which municipalities can further fair housing are as follows:

- Land-use policy;
- Education and outreach;
- Monitoring practices;
- Investigative testing and auditing;
- Enforcement;
- Promoting desegregation of public housing; and
- Increasing geographic choice in housing.

The report uses checklists and criteria to evaluate the 19 different municipalities within Chittenden County. The report evaluates Burlington based on a review of its municipal plans and documents against these criteria. In Table 1: "Desirable Fair Housing Features of the Plans of the Municipalities in Chittenden County," Burlington's plans had every feature deemed as desirable — the only municipality in the region to achieve this. Similarly in Table 2: "Potential Opportunities to Improve Fair Housing Features in the Plans of the Municipalities in Chittenden County," there were no potential areas of improvement listed for Burlington. Among these and other criteria, Burlington was clearly one of the top-ranked, if not the top-ranked municipality in the region in terms of furthering fair housing according to these metrics.

The report obviously takes a regional focus and promotes thoughtful leadership on the regional level. It lists many detailed items in its fair housing checklists for Vermont municipalities, but for Burlington, it seems that the report finds the jurisdiction one of the best in terms of furthering fair housing. One weakness of a literature/policy review such as this, however, is that it looks at plans for the future and not necessarily the reality of experiences that those in protected classes face. With more education, awareness, testing and data sharing, a fuller picture of fair housing activities and potential violation is possible.[88]

Fair housing testing

The Champlain Valley Office of Economic Opportunity's Fair Housing Project and Vermont Legal Aid, with grants from HUD, have both conducted paired testing to measure the extent of housing discrimination in Vermont. There are important strengths and weaknesses in the studies but they do offer some insight into housing discrimination in Vermont.

The first testing study conducted by CVOEO, completed in 2000, tested for possible discrimination on the basis of race, family status and/or disability. Even though there was a very small sample size, evidence for discrimination was found for all these categories in the Vermont rental market. In the testing for disability, of the nine units tested, three were out of compliance with the Fair Housing Act Accessibility Guidelines.[89] Additionally, a second test completed in 2003 found that discrimination based on disability and race occurred in the home ownership market. People in protected classes were asked different personal and financial questions, and often were not shown the same type or quality of housing. Many real estate offices were also shown to be inaccessible or poorly accessible to people with disabilities.[90]

A 2004 CVOEO study tested for discrimination on the basis of national origin, also a protected class under the law. The study tested for both Islamic-based and Non-Islamic-based (meaning foreign born individuals from traditionally Muslim countries) national origin discrimination. The report shows that for both classes discrimination was present at roughly the same levels.[91]

In addition to CVOEO's testing, Vermont Legal Aid also conducted some fair housing paired testing. They reported conducting:

65 paired, site-based tests and three accessibility tests during the same period. Of the 65 paired site tests, 21 were tests of discrimination based on race, color, or national origin; 22 were for discrimination based on familial status (presence of minor children); 21 were for discrimination based on disability, and one was for discrimination based on sex. We also conducted three accessibility tests of new construction to assess compliance. We found disparate treatment on every protected basis we tested. We found actionable disability discrimination in one paired test. We have not yet reviewed our testing data for discriminatory findings that fall short of the burden of proof necessary for a civil law suit. Our testing data confirms prior testing data and filings in Vermont and reveals widespread discrimination against families with children and people with disabilities as well as an abnormally high amount of race, color, and/or national origin discrimination given the small number of people of color and immigrants in Vermont.[92]

On the whole, these reports are crucial in helping officials see the kinds of discrimination that can exist in the Vermont housing market. However, it is extremely important to note that the sample sizes for these studies were extremely small, and the statistical significance of the extent of discrimination is not robust. Therefore, these tests show that discrimination exists in many forms in Vermont against many groups that are protected by state and federal law. However, the exact extent and percentages of discrimination should not be inferred from these studies due to limited testing data. ●

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92 See note 84.

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