

Analysis of Impediments to Fair Housing

FINAL REPORT

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The cover art is a Hawaiian kapa design representing ulana lauhala (weave using leaves of the hala tree). Today, certain ‘ohana (family) wear a similar design as kākau uhi (tattoo) to show that they are tightly knit. This design can also be interpreted as resembling kauhale (a group of houses comprising a Hawaiian home).

Preface as of March 2025

As has long been accepted and institutionalized in prior federal administrations and by the U.S. Congress and Courts, the Fair Housing Act includes a broad mandate towards affirmative interventions, an expansive understanding of disparate impacts, and protections for individuals across the full spectrum of human differences. This report, in line with existing federal rules, follows current federal mandates and procedures to affirmatively further housing. However, the recent transition to the new presidential administration appears positioned to disrupt long-standing interpretations of fair housing law by the executive branch of the federal government. Federal actions have already attempted to dismantle protections for transgender and non-binary individuals in federally subsidized housing.

Despite these federal actions, state law in Hawai‘i enshrines protections based on sex, including gender identity and gender expression. Our public agencies and stakeholders remain obliged to mitigate against discrimination on the basis of gender and to work affirmatively to support access to safe and affordable housing for all groups, including across the full spectrum of sex, gender, sexual orientation, and gender identity and expression.

The basic social scientific endeavor to consider how housing policies differentially impact well-being and economic mobility for different groups remains as important as ever for state and county level efforts to mitigate barriers to meaningful housing access for all groups.

The State of Hawai‘i and its counties have the opportunity to work towards a high standard of equity and justice. Even as the new federal administration may adopt a narrower view of fair housing, the protections enshrined in Hawai‘i state law remain binding. Moreover, local leaders can pursue collective efforts and affirm shared responsibilities to redress past and continuing discrimination against protected groups. State and county governments may take clear action to address the impediments addressed herein, despite changes at the federal level. There have been several times when Hawai‘i’s people and legislators have led rather than followed on issues of civil rights; we look forward to such leadership now and into the future.

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1.0 INTRODUCTION

The Fair Housing Act (FHA), signed into law in 1968, encompasses protections against discrimination of individuals acting within the housing market. This includes the process of renting, buying, mortgaging, or seeking assistance in relation to housing. At a Federal level, the FHA protects individuals on the basis of Race, Color/Ethnicity, National Origin, Religion, Sex (including gender identity and sexuality), Familial Status, and Disability. Additionally, many states offer their own protections relating to fair housing. The State of Hawai‘i offers explicit protections for individuals on the basis of Sexual Orientation, Marital Status, Familial Status, Ancestry, Age, and HIV Infection status. FHA, alongside the direct discriminatory protections it enshrines, also seeks to prevent and justify any policies or procedures that may have a disparate impact on a protected class. Even if a practice is not discriminatory outright, it may still violate the FHA if a protected class is disproportionately impacted by it. Finally, while less well-known than its provisions to defend against discrimination, the FHA also includes the mandate to affirmatively further fair housing.

The U.S. Department of Housing and Urban Development (HUD) is tasked with the enforcement of the FHA, and in its duties establishes the Analysis of Impediments to Fair Housing reports, which are recommended to be performed every three to five years. Following that recommendation, the goal of this report is to assess the barriers to fair housing in the State of Hawai‘i. This report operates with the understanding that fair housing, as defined by the Fair Housing Act, represents a housing market free from discrimination and a lack of reasonable accommodations, with government entities working to promote housing opportunity for any protected classes in an affirmative and proactive manner, including the redressal of the legacies of past discrimination and ensuring that individuals who are structurally disadvantaged in other

arenas (such as the labor market) do not see those disadvantages amplified by a lack of housing opportunity. In seeking that goal, this report is divided into several sections involving three subteams, each researching a unique arena of the current housing market in Hawai‘i as defined by our proposed scope of work.

First, to ascertain the condition of public policy, the environment of fair housing, and private market activity, we performed over 70 in-depth interviews with institutional leaders, fair housing stakeholders, and private industry business owners and employees. We also relied on public participation to inform this analysis, including by soliciting input from participants in the state of Hawai‘i April 2024 Fair Housing Summit. For this research, we considered several factors including the status of protected classes and fair housing opportunities, the barriers particular classes face in specificity and expert recommendations to assuage these barriers, and the overall administrative operations of the network of institutions involved in fair housing. While primarily concerned with the three major HUD subsidy programs (Public Housing, Housing Choice Vouchers, and the Low-Income Housing Tax Credit), we additionally investigated charity rental relief, emergency relief, and COVID-19 assistance programs. This qualitative work was coupled with in-depth quantitative analyses of pertinent characteristics of the populations of Hawai‘i. Descriptive statistics were employed to generate an appropriate illustration of the state of fair housing and the demographic makeup of the islands, and analytic statistics were used to draw inferences on the conditions of segregation, spatial opportunity indices, and poverty concentration. Through these quantitative and qualitative analyses, we were able to draw conclusions and make recommendations based on the suggestions and issues presented by our respondents related to the condition of Hawai‘i’s housing market.

All of this data was supplemented by investigation into housing complaint trends in Hawai‘i, drawing upon records received by the Legal Aid Society of Hawai‘i (LASH), The Hawai‘i Civil Rights Commission (HCRC), and the US Department of Housing and Urban Development (HUD). This data helped to synthesize any patterns of potential violations and bring to light any continuous barriers experienced by the public. At a local level, we additionally requested complaints logs from agencies participating in this study: Kaua‘i County Housing Agency, Maui County Housing Agency, the County of Hawai‘i office of Housing and Community development, the Department of Community Services, and the Hawai‘i Housing Finance and Development Corporation (HHFDC). This complaint data allowed us to further specify the unique barriers experienced by protected populations.

It is important to note that specific in-depth analysis of policies, suggested solutions, or the “on-the-ground” realities of any findings we present are outside the scope of this report. We rely on our own research, our stakeholders, and reviews of existing data to support any claims this report makes. The goal of this report is to identify and highlight barriers and solutions presented to us during our research that represent the positionality and subject expertise of our respondents.

Second, in a portion of this research led by Dr. Lorinda Riley, we investigated housing preference policy in Hawai‘i through analysis of existing research followed by focus-group and individual interviews with stakeholders. In light of the scarcity of affordable housing, housing agencies and nonprofit organizations often implement tenant selection preferences to prioritize groups in greater need of housing. In our analysis, we explore the use of preference systems and their impacts, focusing on their appropriateness, lawfulness, and implications from a fair housing perspective. To better illustrate our findings, we consulted with field experts. From a broad

literature review, several pertinent housing preferences were identified and presented for discursive analysis with leading housing policy, law, and finance experts in Hawai‘i. The recommendations generated from these qualitative interviews center around the need for further regulation and a proactive housing task force focusing on specific policy proposals, as explained further in this report.

Third, in a portion of this research led by Dr. Kawika Riley, considering the importance of Native Hawaiian¹ issues and concerns, as the Indigenous people of Hawai‘i, and in light of the disproportional disadvantages and historical injustices faced by Native Hawaiians in Hawai‘i, we dedicated a portion of our research to the Hawaiian Homes Commission Act (HHCA) and the operations and position of the Department of Hawaiian Homelands (DHHL), as well as other conditions affecting fair housing for Native Hawaiians. Our research in this sector involved law and policy review, interviews with DHHL and HHCA-related experts and institutional leaders, and investigation into the specific housing challenges experienced by Native Hawaiians. Our findings revolve around funding challenges, the expansion of housing stock and choice preferences, and recommendations to address the broad structural barriers Native Hawaiians face.

As Hawai‘i looks to recover from the extended challenges of the global pandemic and ongoing housing crisis, it is critical that we ensure that all Hawai‘i residents have full access to safe and reliable housing, regardless of status or background.

¹ Throughout this report, we use the term Native Hawaiian to be inclusive of all who identify as having Native Hawaiian ancestry (regardless of blood quantum). However, Chapter 11, following legal statutes discusses differences between the terms “native Hawaiian” and “Native Hawaiian.”

1.1 Sampling and Methodology for Interviewees

Most of the large substantive chapters (Chapters 6-9, 10 and 13) of this report rely on data from qualitative research interviews with expert respondents from 70 different organizations across the public and private sectors (for the most part we interviewed one person per organization, but for a couple of organizations we conducted more than one interview and some interviews included multiple respondents on a single meeting) leading to a total of 72 total interviews. Of those 70 organizations represented, 59 were non-profit organizations, charities, and government agencies. The remaining 11 interviews were conducted with respondents from the private sector, including realty firms, property management companies, and a small number of landlords. Our sampling methods to reach individuals from realty and/or property management organizations was distinctive from our approach to other respondents, as discussed below.

In addition, as noted, Chapter 11 on Native Hawaiian Housing as well as Chapter 12 on Local Preferences for housing also drew upon additional interviews with experts (including those from the Office of Hawaiian Affairs (OHA) and the Department of Hawaiian Homelands (DHHL)) as well as focus groups, as explained in those individual chapters.

Regarding the 72 interviews that were the basis for the bulk of this report, we employed a selective sampling method enhanced by snowball sampling where appropriate. Using the list of “report stakeholders” generated by the previous Analysis of Impediments to Fair Housing (completed in 2022 with the same Principal Investigators), individual research, and public participation in the Honolulu Fair Housing Month training in April 2024 which was convened by convened by C&C, HUD, LASH, HCRC, the County of Hawai‘i offices, and other cooperating agencies across the state, we were able to identify individuals and organizations whose expertise

and proximity to housing issues, tenancy issues, and housing development represented valuable data for this report. As is general best-practice with qualitative research, we aimed to perform enough interviews to generate a rich description of the state of housing in Hawai‘i. Of over 100 organizations contacted, we completed 72 interviews (with representatives from 70 organizations). Within these interviews, our guiding document focused on several fields of relevant questions. First, we investigated the current status of these organizations, including shifts in internal structure and program development since the last report. This was performed to get a sense of changes and adaptations made by these organizations since the last report. Second, based on dossiers we constructed regarding recent news stories, informational disseminations, and Google-based research, we asked a series of tailored questions regarding recent developments in the organization's specific sector. Such questions included inquiries into changes in their clientele base, new or recently improved programs, and their general sense of the state of the housing market in Hawai‘i. This portion of the interview focused primarily on their identification of what protected classes were served by each organization, and the specific barriers their organizations perceived these protected classes struggling with. Naturally, the third portion of our interviews tended to focus on the respondents’ proposed solutions and changes they believed would have been helpful for their protected classes, organization, and the fair housing situation in general. Additionally, our interviews touched on relevant emergency situations that the organizations dealt with. While the impacts of the COVID-19 pandemic was a uniform topic, we also asked some organizations about the 2023 Lāhainā Fire and its impacts.

For our private sector respondents, focused on realty and property management professionals, we leveraged a weighted random sampling method. At the Fair Housing Training Summit in April of 2024, we included an entry survey that recorded basic demographic

information for all attendees. This survey included a question inquiring whether or not the attendees would be open to being interviewed at a later date. Of those who filled out the survey, 40 individuals responded positively to being interviewed. We applied a basic random number generator to that list of participants, with a weight applied to balance the proportion of participants who identified themselves as belonging to either a realty firm or a property management firm. This weight was applied to ensure our final sample of 25 private sector participants was evenly distributed between realty and property management firms. Of those 25 who were randomly selected, 11 agreed to be interviewed.

Our private sector interviews, with realty and property professionals, focused more heavily on the operations and practices of the respondents. These interviews were also broken down into three major question fields, delineated by whether the respondent was a realtor or property manager. For realtors, the first section focused partially on marketing, including the language used and the medium, and what they felt was the most successful means of marketing a property in their locale. We then asked about the buyers of homes they represented - the demographics of who did buy the home, who did not, and what (if any) variables defined the “right” buyer for a home. The second section focused on lease realty, if applicable, and asked similar questions to the first. However, here we focused more on what their definitions and qualifiers of a “good tenant” would be, and the financial analysis process they used in these situations. Finally, the third section for realtors focused on their understanding of fair housing laws and regulations, the impacts on their business, what they noticed in general about housing in Hawai‘i, and any suggestions they may have in that field.

For property managers, we asked similar marketing focused questions in the first section of our interviews, with an emphasis on tenant applications and screening processes. We

investigated the general demographics of successful and unsuccessful applicants, and the differences in their screening outcomes. The second section, unlike the realtor guide, focused on property managers' experience with fair housing programs, including Section 8 and other housing programs. Here, we asked questions about their experience with subsidized housing properties, voucher-holding tenants, and the respondent's relationship with fair housing regulatory bodies in their day-to-day duties. In the third section, we asked very similar questions as the realtors regarding their understanding of fair housing law and regulations, what they noticed about housing in Hawai'i, and any recommendations they might have.

We did not perform any incentivization to either of our sampling processes. The bulk of our interviews were performed over Zoom, and were both audio recorded and automatically transcribed (after receiving permission from respondents). Transcription was cleaned and verified post-interview. Our respondents were anonymized in this report, and the audio recordings destroyed. To protect anonymity, we refrain from mentioning organizational affiliation of respondents when quoting or summarizing their perspectives. However, we made a point to include perspectives from a wide range of organizations. Researchers wrote summaries of the interviews immediately after performing them, with additional contact of respondents performed as needed to get a complete picture of their input. A small portion of our interviews were performed over phone or in-person, and following a similar process but lacking automatic transcription. Summary tables noting the organizational affiliation of respondents as well as issue sector are found below.

Table 1.1: List of Organizations Interviewed

Organization Name	Type of Organization	Issue Sector
Aloha Independent Living Hawai'i	Non-profit	Disability Services
Aloha United Way (AUW)	Non-profit	General Housing
Big Island Housing Foundation	Non-profit	General Housing
Catholic Charities Hawai'i (CCH)	Non-profit	General Housing
Catholic Charities Hawai'i (CCH) Kaua'i	Non-profit	General Housing
City & County of Honolulu Elderly Affairs Division, Department of Community Services	Government Agency	Elderly Services
COFA Worker's Association, Hawaii Workers Center	Non-profit	Race and Language Services
Committee on the Status of Women Maui	Government Agency	Gender
Council for Native Hawaiian Advancement (CNHA)	Non-profit	General Housing; Native Hawaiian Services
Council for Native Hawaiian Advancement, Kāko'o Maui Relief & Aid Services Center	Non-profit	General Housing
County of Hawai'i Office of Housing & Community Development	Government Agency	General Housing
Department of Hawaiian Homelands (DHHL)	Government Agency	Native Hawaiian Services
EAH Housing	Non-profit	Housing Development
Faith Action for Community Equity (FACE)	Non-profit	General Housing
Family Promise	Non-profit	Homelessness
Gregory House	Non-profit	Gender; HIV Status
Hale Kipa	Non-profit	Gender
Hawai'i Health & Harm Reduction Center (H3RC)	Non-profit	Gender; HIV Status; Disability Services
Hawai'i 5-0 Properties	Private Company	Realty
Hawai'i Appleseed	Non-profit	General Housing
Hawai'i Civil Rights Commission (HCRC)	Government Agency	Civil Rights Services
Hawai'i County, Office of Housing and Community Development, Existing Housing (Section 8) Division	Government Agency	General Housing; Vouchers
Hawai'i Disability Rights Center	Non-profit	Disability Services
Hawai'i Homeownership Center	Non-profit	Financial Services
Hawai'i Island Community Development Corporation (HICDC)	Non-profit	Housing Development
Hawai'i Island Home for Recovery, Inc. (HIHR)	Non-profit	Homelessness
Hawai'i Island Realtors	Private Company	Realty
Hawai'i Resource Realty	Private Company	Realty Consultant
Hawaiian Community Assets (HCA)	Non-profit	General Housing; Native Hawaiian Services
Hawai'i Island Community Health Center (HICHC)	Non-profit	Race and Language Services
Hiki Nō Property Management	Private Company	Property Management
Home Aid	Non-profit	Homelessness
Honolulu Department Community Services, Rental Assistance Branch	Government Agency	General Housing; Vouchers
Hope Services Hawai'i (Hawaii County)	Non-profit	Homelessness
Institute for Human Services (IHS)	Non-profit	Homelessness
Ka Hale a Ke Ola (Maui)	Non-profit	Homelessness
Kaua'i County Housing Agency, Housing Choice Voucher (HCV) Program	Government Agency	General Housing; Vouchers
Kaua'i County Housing Agency, Homeless Support Program	Government Agency	Homelessness
Kelea Foundation + Adaptive Maui	Non-profit	Disability Services
Keller Williams Realty Maui	Private Company	Realty
Kohala Community Land Trust	Non-profit	General Housing
Kū Pono Ka Leo O Ka 'Āina (KPKOA)	Non-profit	General Housing
Lava Rock Realty	Private Company	Realty and Property Management
Legal Aid Society Hawai'i (LASH)	Non-profit	General Housing; Civil Rights; Race and Language Services
Lili'uokalani Trust (LT)	Foundation	Native Hawaiian Services
LOCATIONS	Private Company	Realty and Property Management
Maui AIDS Foundation	Foundation	Gender; HIV Status; Disability
Maui County Office on Aging and Aging and Disability Resource Center (ADRC)	Government Agency	Elderly Services; Disability
Maui County, Department of Housing, Federal Housing Program Division	Government Agency	General Housing; Vouchers
Maui Real Estate Group LLC	Private Company	Realty and Property Management
Medical Legal Partnership for Children in Hawai'i	Non-profit	General Housing; Race and Language Services
Neighborhood Place of Puna	Non-profit	Homelessness
Office of Language Access (OLA)	Government Agency	Race and Language Services
Pacific Gateway Center	Non-Profit	Race and Language Services
Parters in Development Foundation (PIDF)	Non-profit	Native Hawaiian Services
Partners in Care (PIC)	Non-profit	Homelessness
Permanently Affordable Living Hawai'i (PAL Hawai'i) - Kaua'i	Non-profit	General Housing
Project Vision Hawai'i	Non-profit	Homelessness
Property Profiles, Inc.	Private Company	Realty
Refugee & Immigration Law Clinic William S. Richardson School of Law	Non-profit	Race and Language Services
Residential Youth Services and Empowerment (RYSE)	Non-profit	Homelessness
Roots Reborn	Non-profit	Race and Language Services
Self-Help Housing Corporation of Hawai'i	Non-profit	General Housing; Housing Development
U.S.VETS	Non-profit	Homelessness
Venture Sotheby's International Realty (Venture SIR)	Private Company	Realty and Property Management
Wa'ānae Moku Kupuna Council	Non-profit	Native Hawaiian Services
Waterfront Apartments	Private Company	Property Management
Women Helping Women (Maui)	Non-profit	Gender
Women in Need	Non-profit	Gender
YWCA Kaua'i	Non-profit	General Housing; Gender

Table 1.2: Interviewee Major Issue Sector Count

Issue Sector	Count
Civil Rights Services	1
Disability Services	5
Elderly Services	2
Financial Services	1
Housing Development	3
Race and Language Services	8
Realty and/or Property Management	11
Native Hawaiian Services	6
Gender	6
Homelessness	12
General Housing	15
Total Interviewees	70

Table 1.3: Interviewee Organization Types

Type of Organization	Count
Foundation	2
Government Agency	12
Private Company	11
Non-Profit	45
Total Interviewees	70

1.2 General Methodology for Quantitative Tables and Analyses

The lion's share of our quantitative analysis, primarily our demographic and descriptive tables, relies on publicly available US Census data found in the Decennial and American Community Survey collections. Both of these sources were leveraged at the state, county, and census tract levels for the construction of our descriptive tables. Please note that there are some source-level limitations regarding these sources for descriptive statistics specific to Hawai'i.

First, because the American Community Survey (ACS) leverages representative subsamples of the population, and Hawai'i's population is relatively small, large margins of error are obligatory in resulting compositions of census tract level data. While we do not present any data we believe to be misrepresentative, we suggest caution against deterministic interpretation of our quantitative analyses.

Second, the racial and ethnic categories recorded by the US Census are limited. While the categories have expanded in recent years, there remains an issue regarding Hawai'i's relatively large share of multiracial individuals and relatively low homogeneity, especially among our white, Asian, and Pacific Islander populations. For this study, we have identified multiracial individuals as their own subcategory where applicable, and specified as many racial categories as feasible elsewhere. Please note that colorism and ethnicity erasure, especially for multiracial individuals, remains a pertinent socioeconomic opportunity issue in America (Dixon and Telles 2017).

While the bulk of our quantitative analysis relies on summary statistics and bivariate regression, we relied on equational statistics for our segregation indices. Segregation breakdowns were performed in Rstudio using the "segregation" package, the leading computational package for measuring spatial segregation (Elbers and Gruijters 2024). This package utilizes Theil's

Multigroup Segregation Index (also known as the Multigroup Entropy Index), which solves for H (as a measure of segregation between 1 and 0) and E (a measure of entropy) as follows:

$$H = \frac{1}{E} \sum_{m=1}^M \pi_m \sum_{j=1}^J \frac{t_j}{T} r_{jm} \ln(r_{jm}), E = \sum_{m=1}^M \pi_m \ln\left(\frac{1}{\pi_m}\right)$$

Here, racial groups (M) are divided into geographic categories (j) with t_j representing the population of the geographic category (state, county, census tract, etc). T , then, represents the population of the summary-level geography (nation, state, county, etc). π_m and π_{mj} in turn represent the proportion of the population of racial group m and the proportion of racial group m in geocategory j respectively, and r the ratio of π_{mj} to π_j . Please note that the segregation package utilizes several variants of Theil's equation to measure different dimensions of geographical segregation, all of which are dependent on the above equation, that have been redacted for brevity (Elbers and Gruijters 2024). The full breakdown of the computations utilized by the segregation package can be found here². Theil's multi-group segregation index was chosen as it is a highly flexible and established means of measuring geographical segregation, allowing for both binary and multiple racial indices.

² [A Method for Studying Differences in Segregation Across Time and Space - Benjamin Elbers, 2023](#)

2.0 DEMOGRAPHIC PROFILE OF HAWAI‘I

Hawai‘i presents a unique context in which to assess fair housing. The State is known for its ethnic and racial diversity; there is no majority racial group and the number of individuals identifying as multiracial is the highest in the United States. Hawai‘i also has a unique geography; it is an archipelago of eight larger islands and over 100 smaller ones. In most cases the center of each island is largely undevelopable meaning that the population is concentrated along the coasts. This not only has implications for our understanding of spatial isolation, but dramatically reduces developable acreage leading to a perennial housing shortage. And while issues of indigeneity are endemic throughout the United States, the fact that the Hawaiian Kingdom was illegally overthrown in 1893, a fact for which Congress and the President have apologized but which remains unresolved to date, adds significant complexity to traditional measures of race, ethnicity, and nationality as reported by the United States Census.

This section attempts to develop a broad demographic profile of Hawai‘i's residents, with particular attention to groups protected under the Fair Housing Act. Unfortunately, as will become clear, we are necessarily utilizing data for which survey instruments were developed by individuals primarily knowledgeable of the continental United States. But even this continental data has gaps, specifically around disability and gender identity, two of the most salient characteristics in contemporary fair housing debates. In short, the data presented in this section are necessarily imperfect and we hope that our stakeholder engagement process (as described in subsequent sections) will help reduce these lacunae.

2.1 Race and Ethnicity of Hawai‘i Residents

The US Census collects data on race and ethnicity in six major categories: White, Black or African American, American Indian and Alaskan Native, Asian, Native Hawaiian or Other Pacific Islander, and Other. In the most recent Census, respondents could select as many of these racial groups as they believed applied to them. A separate question, referred to as ethnicity, asks respondents to select whether or not they identify as Hispanic (or Latino). In theory, all respondents who identified as Latino were also required to select an additional racial category, although, in practice, many selected “Other.”

As shown in Table 2.1, Hawai‘i has meaningful diversity in terms of race and ethnicity. Fewer than 10% of state residents identify as Latino. Of the total population, 70% selected only one racial group and did not identify as Latino, suggesting that approximately a quarter of the State identified with multiple racial groups within the Census’s six major categories (this definition of multi-ethnicity would not include, for example, someone who identified as Tongan and Hawaiian or Japanese and Filipino, because these groups fall under the same macro-racial category). Regardless of the measurement complexities, Hawai‘i is an outlier in the United States, having over twice as many people who identify as two or more races than the country as a whole.

Among those who identified as a single racial group, about half selected Asian, followed by white, and Native Hawaiian or Other Pacific Islander. The State had very few residents who identified as Black or American Indian or Alaska Native alone. Among individuals who identified as multiple racial groups, the most common were 1) white, Asian, and Native Hawaiian and Other Pacific Islanders; 2) Asian and Other Pacific Islander; and 3) white and Asian.

Table 2.2 allows us to compare across Hawai‘i’s counties. Honolulu has the lowest percentage of residents who identified as non-Latino white alone (just 17% of the county’s population, with the three other counties at roughly 30%). This is likely due to the high number of Asian residents in Honolulu. Native Hawaiian and Other Pacific Islanders represented a higher percentage of the population on Hawai‘i and Maui Counties and a lower percentage on Kaua‘i and Honolulu. The largest proportion of multi-racial individuals live in Hawai‘i County (23% of the population plus 11% that identified as Latino), while Honolulu and Maui had the lowest.

Given the complex histories of migration and indigeneity in Hawai‘i, it is useful to break down the two broad categories of “Asian” and “Native Hawaiian or Other Pacific Islanders” into subcategories, as shown in Tables 2.3 and 2.4. Among residents who identify as Asian alone or in combination with other racial groups, the largest ethnic groups are Filipino, Japanese, and Chinese. The ratio stays relatively consistent for Filipino and Japanese residents, but drops by roughly 50% for Chinese residents when looking at individuals who identified as only one racial group. This suggests that inter-racial coupling is higher among Chinese residents than other Asian groups, a pattern previously observed by Hawai‘i demographers. The State also contains significant numbers of Korean and Vietnamese residents, with all other Asian groups falling below 1% of all Asian residents.

Not surprisingly, the vast majority of Native Hawaiian or Other Pacific Islander residents identify as Hawaiian (~75%). Other major Pacific Islander groups include Samoan (~9%), Tongan (~2%), Marshallese (~2%), and Other Micronesian (~5%). The percentage identifying as Native Hawaiian is much higher among those who select one or more races than those who select one racial group alone, suggesting high levels of inter-racial coupling among Native Hawaiians.

In general, this data paints a picture of substantial racial diversity in the State of Hawai‘i. In terms of fair housing, this presents several obstacles to the utilization of traditional tools to detect segregation and discrimination. Much of the literature on race and fair housing has focused on discrimination against Black or Latino households. In the context of complex racial dynamics, it is important to orient our understanding of racial and ethnic discrimination in a way that is sensitive to these complex dynamics. Also, as we describe in detail below, our complex racial context makes it more difficult to ensure language access and culturally competent housing programming; this, in turn, necessitates a higher level of resource investment than might be typical in a context of two or three dominant racial/ethnic groups.

2.2 Economic Characteristics by Race and Ethnicity

Each of the racial/ethnic groups in Hawai‘i has its own special history leading to significant economic stratification by race and ethnicity. While it is beyond the scope of this analysis to summarize the relevant histories (see Coffman 2016; Okamura 2008; Osorio 2002; Silva 2004 and Takaki 1984 for some examples), we would expect that the colonization and illegal overthrow of the Hawaiian Kingdom would have material impacts on the wellbeing of Native Hawaiians. In a different way, the waves of immigration from Asian countries, at first to serve as plantation laborers, created important differences within and between Asian residents. And finally, the process of migration of citizens from Micronesia, under the auspices of the Compacts of Free Association and related to continued military interests in the region, creates a unique set of circumstances for some Pacific Islanders.

As shown in Table 2.5, these legacies result in substantially different levels of income by racial group. Households headed by an individual who identified as Asian have the highest median household incomes at \$105,595. White and multiracial individuals have \$92,015 and

\$97,153 respectively. These figures are all substantially higher than Native Hawaiian and Other Pacific Islanders who, at the median, earn \$20,000 less per household per year. The small number of Black and American Indian Households also earn less than Asian and white households.

Homeownership, the preeminent source of wealth in America, is also not evenly distributed across racial and ethnic groups, as shown in Table 2.6. The State has a homeownership rate of roughly 62%, meaning just under two thirds of households are owner occupants. This figure is several percentage points lower than the nation as a whole, and Hawai‘i’s homeownership rate is consistently among the lowest in the nation. This is likely a result of many factors: the State’s high housing costs, its relative lack of land suitable for single family development, and a significant portion of the population residing in the State temporarily.

Homeownership is particularly high among Asian groups whose ownership rate is 73%. They are followed by white and multiracial households at 58%. Of the large racial groups, Native Hawaiians and Other Pacific Islanders report the lowest rate of homeownership at 47% (although Latino, Black, and Native American households have even lower levels).

When viewing Table 2.7, we see that the rate of homeownership is highest outside of Honolulu. Roughly 71% in Hawai‘i County, 65% in Kaua‘i County, and 65% in Maui County. In each case, this is likely due to the higher proportion of rural and suburban development patterns in these counties, which will naturally have lower rates of renting. Similar race and ethnic patterns are visible in each county.

2.3 Gender and Household Composition

As shown in Tables 2.8 and 2.9, biological sex ratios are roughly 50-50 in the State and in each county.

Table 2.10 summarizes household composition and the gender of the householder in each county. Roughly half of all households in the State are married couples, about 8% are cohabitating couples (with significant county variation), 17% are headed by an unpartnered male, and 25% by an unpartnered female.

About 30 percent of all households have children (31% in Honolulu, 28% in Hawai‘i County, 29% on Kaua‘i, and 33% on Maui). Compared to the US as a whole, a larger proportion of households contain elderly individuals: 38% in Honolulu, 43% in Hawai‘i County, 45% on Kaua‘i, and 40% on Maui. This high level is a testament to the State’s well-documented aging population, and younger individuals are more likely to leave due to high housing prices and in search of economic opportunity.

2.4 Disability Characteristics

Data on disability status is far from perfect. However, the American Community Survey (ACS) does collect some data to help establish a rough baseline as shown in Table 2.11.

Approximately 14% of Hawai‘i residents report having a disability. This is much higher among the elderly (32%) than working age adults (11%) and children (5%). Given this age profile, it is not surprising that independent living and ambulatory related disabilities are the most common categories (7% of State residents). Cognitive disabilities constitute a close third at 6%, followed by hearing (4%), vision (2%), and self-care (2%).

Different race and ethnic groups reported disability at different levels. It is important to remember that disability self-identification is based on the prevalence of disabilities but also cultural understandings of disability and access to healthcare for diagnosis. Nevertheless, Latino and Asian residents reported lower levels of disability (12 and 14% respectively) than Native Hawaiian and Other Pacific Islanders (16%) and white respondents (17%).

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2.5 TABLES AND FIGURES

Table 2.1: Racial and Ethnic Breakdown, State of Hawai‘i

Racial Category	Count of Population	Percentage of Total Population
Total:	1,455,271	100.0%
Hispanic or Latino	138,923	9.5%
Not Hispanic or Latino	1,316,348	90.4%
Population of One Race:	1,024,458	70.3%
White Alone	314,365	21.6%
Black or African American (AA) Alone	21,877	1.5%
American Indian and Alaskan Native (AIAN) Alone	2,321	0.1%
Asian Alone	531,558	36.5%
Native Hawaiian and Other Pacific Islander (NHPI) Alone	149,054	10.2%
Some Other Race Alone	5,283	0.3%
Population of Two or More Races:	291,890	20.0%
Population of Two Races:	190,229	13.0%
White; Black or African American	4,913	0.3%
White; American Indian and Alaskan Native	9,458	0.6%
White; Asian	65,223	4.4%
White; NHPI	30,880	2.1%
White; Some Other Race	5,319	0.3%
Black or African American; Asian	2,522	0.1%
Black or African American; NHPI	1,502	0.1%
Asian; NHPI	66,943	4.6%
Population of Three Races:	92,835	6.3%
White; Black or AA; AIAN	1,141	0.0%
White; Black or AA; Asian	1,180	0.0%
White; Black or AA; NHPI	728	0.0%
White; AIAN; Asian	3,012	0.2%
White; AIAN; NHPI	1,517	0.1%
White; Asian; NHPI	82,470	5.6%
Black or AA; Asian; NHPI	968	0.0%
Population of Four Races:	8,106	0.5%
White; Asian; AIAN; NHPI	5,302	0.3%

Source: *United States Decennial Census, 2020, Dataset Code P2 (Urban and Rural)*

Table 2.2: Racial and Ethnic Breakdown by County, State of Hawai‘i

Racial Category	Percentage of Total Population, Hawai‘i	Percentage of Total Population, Honolulu	Percentage of Total Population, Kauai	Percentage of Total Population, Maui
Total:	100.0%	100.0%	100.0%	100.0%
Hispanic or Latino	11.1%	9.1%	10.1%	10.3%
Not Hispanic or Latino	88.9%	90.9%	89.9%	89.7%
Population of One Race:	65.8%	71.4%	68.6%	70.7%
White Alone	32.2%	17.3%	30.3%	31.5%
Black or African American (AA) Alone	0.6%	1.9%	0.5%	0.6%
American Indian and Alaskan Native (AIAN) Alone	0.3%	0.1%	0.2%	0.2%
Asian Alone	19.1%	42.2%	28.0%	26.3%
Native Hawaiian and Other Pacific Islander (NHPI) Alone	13.1%	9.5%	9.3%	11.5%
Some Other Race Alone	0.5%	0.3%	0.4%	0.5%
Population of Two or More Races:	23.1%	19.5%	21.3%	19.1%
Population of Two Races:	14.9%	12.7%	13.8%	12.7%
White; Black or African American	0.3%	0.3%	0.3%	0.3%
White; American Indian and Alaskan Native	1.2%	0.5%	0.9%	0.9%
White; Asian	4.1%	4.7%	4.7%	3.6%
White; NHPI	3.1%	1.9%	2.3%	2.3%
White; Some Other Race	0.5%	0.3%	0.4%	0.6%
Black or African American; Asian	0.1%	0.2%	0.1%	0.1%
Black or African American; NHPI	0.1%	0.1%	0.0%	0.0%
Asian; NHPI	5.3%	4.4%	4.8%	4.6%
Population of Three Races:	7.5%	6.2%	6.8%	5.9%
White; Black or AA; AIAN	0.1%	0.1%	0.0%	0.1%
White; Black or AA; Asian	0.0%	0.1%	0.0%	0.1%
White; Black or AA; NHPI	0.1%	0.1%	0.1%	0.0%
White; AIAN; Asian	0.2%	0.2%	0.2%	0.2%
White; AIAN; NHPI	0.2%	0.1%	0.1%	0.1%
White; Asian; NHPI	6.7%	5.5%	6.2%	5.3%
Black or AA; Asian; NHPI	0.0%	0.1%	0.0%	0.0%
Population of Four Races:	0.7%	0.5%	0.6%	0.5%
White; Asian; AIAN; NHPI	0.5%	0.3%	0.4%	0.3%

Source: *United States Decennial Census, 2020, Dataset Code P2 (Urban and Rural)*

Table 2.3: Subcategories of Asian Racial Groups, State of Hawai‘i, 2020

Subcategory of Asian Racial Group	Percentage of "Asian Alone"	Percentage of "Asian Alone or In Any Combination"
Chinese, except Taiwanese	10.7%	21.7%
Hmong	0.0%	0.0%
Japanese	31.8%	31.7%
Korean	4.3%	5.2%
Monoglian	0.0%	0.0%
Okinawan	0.7%	1.0%
Taiwanese	0.3%	0.2%
Burmese	0.0%	0.0%
Cambodian	0.1%	0.1%
Filipino	38.9%	36.3%
Indonesian	0.1%	0.1%
Laotian	0.3%	0.3%
Malaysian	0.0%	0.0%
Mien	0.0%	0.0%
Singaporean	0.0%	0.0%
Thai	0.6%	0.6%
Vietnamese	2.1%	1.7%
Asian Indian	0.4%	0.5%
Bangladeshi	0.0%	0.0%
Butanese	0.0%	0.0%
Nepalese	0.0%	0.0%
Pakistani	0.0%	0.0%
Sikh	0.0%	0.0%
Sri Lankan	0.0%	0.0%
Kazakh	0.0%	0.0%
Uzbek	0.0%	0.0%
Other Asian, specified	0.0%	0.0%
Other Asian, not specified	0.2%	0.3%
Two or More	9.2%	N/A

Source: American Community Survey, 5-year, 2020, Dataset Code B02016 and B02018

Table 2.4: Subcategories of Native Hawaiian and Pacific Islander Racial Groups, State of Hawai‘i

Subcategory of NHPI Racial Group	Percentage of "Native Hawaiian and Pacific Islander Alone"	Percentage of "Native Hawaiian and Pacific Islander Alone or in Any Combination"
Native Hawaiian	60.8%	76.4%
Samoaan	8.7%	8.9%
Tongan	3.4%	2.3%
Other Polynesian	0.5%	1.4%
Chamorro	1.9%	1.6%
Chuukese	2.4%	1.1%
Guamanian	0.0%	0.1%
Marshallese	5.4%	2.2%
Other Micronesian	10.5%	4.5%
Fijian	0.2%	0.4%
Other Melanesian	0.1%	0.0%
Other Pacific Islander, not specified	1.1%	1.1%
Two or More NHPI	5.0%	N/A

Source: American Community Survey, 5-year, 2020, Dataset Code B02016 and B02019

Table 2.5: Median Household Income by Racial Group, State of Hawai‘i

Primary Racial Category of Household	Household Median Income in Dollars
All Households	95,322
One Race:	
White	92,015
Black or African American	80,338
American Indian and Alaskan Native	76,154
Asian	105,595
Native Hawaiian and Other Pacific Islander	73,464
Some Other Race	70,586
Two or More Races	97,153
Hispanic or Latino Origin (of Any Race)	85,833
White Alone, Not Hispanic or Latino	91,629

Source: *American Community Survey, 5-year, 2023, Dataset Code S1903*

Table 2.6: Homeownership Rates, State of Hawai‘i

Racial Category	Occupied Housing Units	Owner-Occupied Housing Units	Percent of Housing Units Owner-Occupied
All Housing Units	483,874	298,816	61.8%
One Race:			
White	144,064	83,107	57.7%
Black or African American	11,297	3,188	28.2%
American Indian and Alaskan Native	1,735	632	36.4%
Asian	189,321	138,163	73.0%
Native Hawaiian and Other Pacific Islander	40,305	19,121	47.4%
Some Other Race	6,559	2,300	35.1%
Two or More Races	90,593	52,305	57.7%
Hispanic or Latino Origin (of Any Race)	38,788	16,680	43.0%
White Alone, Not Hispanic or Latino	134,512	79,129	58.8%

Source: *American Community Survey, 5-year, 2022, Dataset Code S2502*

Table 2.7: Homeownership Rates by County, State of Hawai‘i

Racial Category	Honolulu County, Hawaii			Hawaii County, Hawaii			Kauai County, Hawaii			Maui County, Hawaii		
	Occupied Housing Units	Owner-Occupied Housing Units	Percent of Housing Units Owner-Occupied	Occupied Housing Units	Owner-Occupied Housing Units	Percent of Housing Units Owner-Occupied	Occupied Housing Units	Owner-Occupied Housing Units	Percent of Housing Units Owner-Occupied	Occupied Housing Units	Owner-Occupied Housing Units	Percent of Housing Units Owner-Occupied
All Housing Units	333,700	196,384	58.9%	72,468	51,778	71.4%	22,978	14,896	64.8%	54,728	35,758	65.3%
One Race:												
White	81,773	39,066	47.8%	29,862	22,954	76.9%	9,321	6,027	64.7%	23,108	15,060	65.2%
Black or African American	9,785	2,419	24.7%	884	457	51.7%	203	33	16.3%	425	279	65.6%
American Indian and Alaskan Native	886	211	29.8%	354	289	81.6%	101	19	18.8%	394	113	28.7%
Asian	152,046	109,771	72.2%	15,998	12,924	80.8%	6,492	4,695	72.3%	14,785	10,773	72.9%
Native Hawaiian and Other Pacific Islander	25,079	10,384	47.4%	8,414	5,005	59.5%	2,159	1,341	62.1%	4,653	2,391	51.4%
Some Other Race	4,264	1,284	30.1%	1,272	629	49.4%	193	92	47.7%	830	295	35.5%
Two or More Races	59,867	33,249	55.5%	15,684	9,520	60.7%	4,509	2,689	59.6%	10,533	6,847	65.0%
Hispanic or Latino Origin (of Any Race)	25,477	9,386	36.8%	6,577	3,717	56.5%	1,930	972	50.4%	4,804	2,623	54.6%
White Alone, Not Hispanic or Latino	75,417	36,963	49.0%	28,382	21,978	77.4%	8,802	5,827	66.2%	21,911	14,361	65.5%

Source: American Community Survey, 5-year, 2022, Dataset Code S2502

Table 2.8: Biological Sex Ratio, State of Hawai‘i

Sex	Total Population of Sex	Total Population	Percent of Total Population of Sex
Male	732,060	1,450,589	50.5%
Female	718,529	1,450,589	49.5%

Source: *American Community Survey, 5-year, 2022*

Table 2.9: Biological Sex Ratio by County, State of Hawai‘i

Sex	Honolulu County, Hawaii			Hawaii County, Hawaii			Kauai County, Hawaii			Maui County, Hawaii		
	Total Population of Sex	Total Population	Percent of Total Population of Sex	Total Population of Sex	Total Population	Percent of Total Population of Sex	Total Population of Sex	Total Population	Percent of Total Population of Sex	Total Population of Sex	Total Population	Percent of Total Population of Sex
Male	512,085	1,010,100	50.7%	100,828	202,163	49.9%	36,809	73,511	50.1%	82,304	164,765	50.0%
Female	498,015	1,010,100	49.3%	101,335	202,163	50.1%	36,702	73,511	49.9%	82,461	164,765	50.0%

Source: American Community Survey, 5-year, 2022

Table 2.10: Household Type by County, State of Hawai‘i

Household Characteristics	Honolulu County		Hawaii County		Kauai County		Maui County	
	Count of Households	Percent of Total Households	Count of Households	Percent of Total Households	Count of Households	Percent of Total Households	Count of Households	Percent of Total Households
Total Households	333,700	100.0%	72,468	100.0%	22,978	100.0%	54,728	100.0%
Households by Type:								
Married-couple Households	169,591	50.8%	34,744	47.9%	11,769	51.2%	28,300	51.7%
With Children of the Householder Under 18 Years	63,507	19.0%	10,152	14.0%	3,389	14.7%	9,719	17.8%
Cohabiting Couple Households	20,719	6.2%	6,479	8.9%	2,060	9.0%	4,016	7.3%
With Children of the Householder Under 18 Years	6,382	1.9%	2,617	3.6%	816	3.6%	1,599	2.9%
Male Householder, No Spouse/Partner Present	60,302	18.1%	13,302	18.4%	3,719	16.2%	9,132	16.7%
With Children of the Householder Under 18 Years	3,100	9.0%	911	1.3%	271	1.2%	1,207	2.2%
Householder Living Alone	40,607	12.2%	9,463	13.1%	2,357	10.3%	5,612	10.3%
65 Years and Over	13,364	4.0%	4,324	6.0%	1,034	4.5%	2,103	3.8%
Female Householder, No Spouse/Partner Present	83,088	24.9%	17,943	24.8%	5,430	23.6%	13,280	24.3%
With Children of the Householder Under 18 Years	11,179	3.4%	2,903	4.0%	588	2.6%	1,816	3.3%
Householder Living Alone	42,062	12.6%	9,711	13.4%	2,494	10.9%	6,413	11.7%
65 Years and Over	21,698	6.5%	5,549	7.7%	1,727	7.5%	3,489	6.4%
Households with One or More People <18 Years	103,765	31.1%	20,295	28.0%	6,673	29.0%	17,869	32.7%
Households with One or More People >64 Years	125,752	37.7%	31,297	43.2%	10,338	45.0%	22,049	40.3%
Relationship in Households	Count of Population	Percent of Population	Count of Population	Percent of Population	Count of Population	Percent of Population	Count of Population	Percent of Population
Population in Households	976,300	100.0%	199,780	100.0%	72,709	100.0%	162,023	100.0%
Householder	333,700	34.2%	72,468	36.3%	22,978	31.6%	54,728	33.8%
Spouse	169,181	17.3%	34,916	17.5%	11,774	16.2%	28,209	17.4%
Unmarried Partner	21,089	2.2%	6,288	3.1%	2,071	2.8%	4,076	2.5%
Child	270,320	27.7%	52,557	26.3%	20,973	28.8%	42,954	26.5%
Other Relatives	135,490	13.9%	23,569	11.8%	10,374	14.3%	22,073	13.6%
Other Nonrelatives	46,520	4.8%	9,982	5.0%	4,539	6.2%	9,983	6.2%
Average Household Size	Average of Individuals		Average of Individuals		Average of Individuals		Average of Individuals	
Average Household Size	2.93		2.76		3.16		2.96	
Average Family Size	3.51		3.32		3.66		3.39	

Source: American Community Survey, 5-year, 2022, Dataset Code DP02

Table 2.11: Summary of Disability Status, State of Hawai‘i

Population Characteristics	Total Population Count, Including Disability	Population with Disability Count	Percentage of Total Population with Disability
Total Civilian Noninstitutionalized Population	1,378,162	194,423	14.1%
Sex:			
Male	673,111	99,767	14.8%
Female	705,051	94,656	13.4%
Race:			
One Race:			
White	285,214	47,544	16.7%
Black or African American	18,891	3,637	19.3%
American Indian and Alaskan Native	2,440	665	27.3%
Asian	517,797	71,986	13.9%
Native Hawaiian and Other Pacific Islander	132,899	21,583	16.2%
Some Other Race	24,121	2,854	11.8%
Two or More Races	396,800	46,154	11.6%
Hispanic or Latino Origin (of Any Race)	135,645	46,815	17.1%
White Alone, Not Hispanic or Latino	273,004	16,326	12.0%
Age:			
Under 18 Years	293,788	14,203	4.8%
Aged 18-65	786,078	83,582	10.6%
Over 65 Years	298,296	96,638	32.4%
Disability Category:			
With a Hearing Difficulty	1,378,162	60,650	4.4%
With a Vision Difficulty	1,378,162	33,292	2.4%
With a Cognitive Difficulty	1,378,162	79,435	6.1%
With a Ambulatory Difficulty	1,378,162	89,003	6.8%
With a Self-Care Difficulty	1,378,162	31,388	2.4%
With an Independent Living Difficulty	1,378,162	73,925	6.8%

Source: American Community Survey, 5-year, 2023, Dataset Code S1810

3.0 SEGREGATION, OPPORTUNITY, AND CONCENTRATED POVERTY

3.1 Racial Segregation

Figures 3.1-3.4 visualize the percentage of each racial group in census tracts in each county. As is clear from a cursory visual inspection, not all racial groups are evenly distributed across the state. In Honolulu, Native Hawaiians and other Pacific Islanders are more likely to live on the northern and western coasts of the island (including in Hawaiian Homelands areas), while Asians tend to be housed in the central corridor of the island and white households tend to be located in areas in proximity to military bases. In Hawai‘i County, Asian residents are more concentrated in Hilo, and Native Hawaiian and other Pacific Islander residents are more likely to be in rural areas. White residents are more common outside of the Hilo area. On Maui, white residents are more likely to be found in Western and Central Maui, while Native Hawaiian and Other Pacific Islanders tend to live on Moloka‘i or in East Maui. Asian residents on Maui tend to live on the western portion of Maui Island. Finally, Kaua‘i has more white residents along the northern shore, more Asian residents toward the west and around Lihue, and more Native Hawaiian and Pacific Islander residents near Kapa‘a.

The literature quantifies these patterns as residential racial segregation – a variety of measures that assess how unevenly racial groups are spread across different neighborhoods. In a hypothetical society with no segregation, each county, zip code, or census tract would have the same proportion of all racial groups as the State as a whole. The more the distribution of different racial groups deviates from that standard, the higher the measure of segregation.

Before conducting a statistical analysis, it is important to consider what segregation really means, its origins, and why it might be considered a social problem when it comes to fair housing. On the one hand, individuals with similar characteristics or interests may be more likely to live near one another. For example, those who enjoy urban amenities may live in urban places,

while those desiring proximity to nature are more likely to live in rural areas. Cultural communities such as Chinatowns can concentrate important cultural amenities that are appreciated by individuals who grew up with a particular set of tastes. They can also provide important sources of social support such as language access or informational networks that can be beneficial, particular for new arrivals. In terms of Indigenous sovereignty, tribal membership is going to be correlated with racial self-identification and thus we would expect a concentration of certain ethnicities on land designated for particular Indigenous communities or nations.

All of these dynamics are evidenced in Hawai‘i and are largely not patterns that should be a target of policy intervention. Hawaiian Homelands, for example, are a critical resource for Hawaiians that does not constitute segregation in the traditional sense. Additionally, the process of migration and immigration from Asia and Oceania has generated important cultural communities in particular places that have assisted those groups with the transition to Hawai‘i and remain important sources of cultural preservation.

On the other hand, many aspects of segregation do not represent the outcomes of homophily or the voluntary sorting of individuals around particular cultural or geographic resources. Much of what drives residential patterns in the United States, including the State of Hawai‘i, is driven by economic resources, directly discriminatory practices, or laws and policies that have been *in their effects* discriminatory. These mechanisms of residential sorting present a compelling argument for intervention as they constitute unequal access to community resources, amenities, jobs, social networks, and opportunity for particular racial and ethnic groups.

Perhaps the most obvious cause of involuntary segregation is direct discrimination by landlords, property managers, lenders, or realtors. This is precisely the kind of activity the Fair Housing Act was first and foremost designed to address. Evidence suggests that such behavior persists to this day, but it has become less overt and more based on economic and social

characteristics correlated with race than explicitly on race itself. Historically, of course, such behavior was present in Hawai‘i, and history shapes the contours of contemporary residential attainment. The second cause of involuntary segregation is institutional policies that ultimately concentrate certain groups of people in particular areas. As discussed at length in the next section, the siting of affordable housing developments is a prototypical example of how a purportedly race-neutral policy can have strong impacts on segregation.

Finally, segregation emerges from the basic logics of the free market for housing. When income and wealth are correlated with race, certain groups will have more resources than others. All neighborhoods are not created equal and some will be more desirable than others, making them more expensive. Additionally, the presence of high-income neighbors is itself a desired amenity by many residents, increasing costs in particular communities and effectively excluding lower-income newcomers. It is particularly because of this final source, which requires no explicit racial animus nor any bad actors, that it is important to view our policy responses to segregation as not simply the elimination of discriminatory policies and procedures, but in an affirmative sense to increase the supply of low-cost and subsidized housing in high-amenity communities.

Hawai‘i has a generally low segregation index when compared to proximal states, as shown in Table 3.1. At a state level, Hawai‘i’s low Theil Score indicates that, by and large, a statistically significant number of each of the primary Census racial categories are present when considering all of Hawai‘i’s counties as a whole. Coupled with our relatively low Mutual Informational Index (MII) score and high Entropy Ratio, we can surmise a degree of certainty that racial populations in Hawai‘i are relatively well represented across a variety of contexts.

While state-level segregation may be comparatively low, that does not mean it is nonexistent when we analyze at lower dimensions. Table 3.2 represents the normalized entropy

score of each county in Hawai‘i - the level of segregation decomposed by each race against all other races, secondarily decomposed by county. In other words, the Theil score represents the overall segregation score between and within each county. Kalawao County, an outlier county of Hawai‘i (encompassing Kalaupapa on the island of Moloka‘i), is extremely small, with a population count of roughly 90 people. Segregation and entropy scoring struggles with populations this small, resulting in Kalawao County returning an anomalously high Theil score of 3.28, a functionally erroneous metric. Considering the inability of segregation scoring to function with this county, coupled with its extremely low population, Kalawao County was left out of this analysis. When interpreting Table 2.2, we can see that, at a county level, overall segregation is low, with Theil scores being quite close to zero, the maximum being 1. This means that segregation in each county is low, and is comparatively low between counties as well. Hawai‘i County has the highest Theil score here, meaning it has higher segregation than the other counties and, in a decompositional sense, has a higher internal level of segregation.

Finally, Table 3.3 represents the local segregation of each primary Census racial category across the census tracts of Hawai‘i. Mutual-Local Segregation decomposes racial population density against geographic location, here represented by tract-level racial population counts. In other words, these scores represent the different levels of segregation each racial category experiences in a geographical sense. Here, we can see that despite Hawai‘i’s summarily low level of segregation in higher-level dimensions, segregation still very much exists in the low-level dimension. Black and Native American residents of Hawai‘i experience the highest levels of spatial segregation at a tract level, meaning that some tracts in Hawai‘i have very high populations of Black and American Indian or Alaska Native residents (relative to their presence in the state or county overall), with a relatively low spread of those populations into other tracts. As those populations represent a small portion of Hawai‘i’s residents, their local segregation

score is more likely to be high. Similarly, Native Hawaiian and Pacific Islander local segregation scores are moderate, representing a relatively high degree of spatial segregation in comparison to white and Asian populations. As discussed, this is likely partially due to the prevalence of Hawaiian Homelands as somewhat homogenous communities, but analysis extends beyond this context as well. Table 3.3 suggests that Native Hawaiian residents have formed communities tied to specific places, here census tracts, and are less represented across the islands as a whole, whereas white and Asian communities are found spread across the islands. While this report serves to shed some light on why this may be, we can look at an immediate example to understand this segregation incongruence. Figure 3.1 shows that, in Honolulu County, Native Hawaiian residents primarily occupy a handful of census tracts in the northern, western, and eastern parts of O‘ahu. When referring to Figure 3.5, we can see that some of these tracts are areas of concentrated poverty. Native Hawaiian populations suffer from notable and well-recorded structural disadvantages in Hawai‘i, and from these figures we can surmise that these disadvantages extend to housing as well (though it is worth noting that concentrated Native Hawaiian population can also denote cultural and social strengths). The moderate level of segregation we see in Native Hawaiian populations may be partially caused by housing prices, policies, and cultural factors, which we discuss further in later chapters.

3.2 The Geography of Opportunity and Concentrated Poverty

Beyond segregation measures, it is important to attend to the types of neighborhoods experienced by low-income residents and other marginalized communities. Specifically, we should look at measures for whether or not places have a deleterious impact on those who live within them. When such communities exist, it is necessary to intervene proactively to ensure that all State residents have an opportunity for upward economic mobility.

The question of “do neighborhoods matter” is more complex than one might think. There is no doubt that individuals who live in particular places have higher or lower economic well-being than those who live elsewhere. However, questions remain about how much of that difference is driven by the neighborhood itself rather than the fact that people who are upwardly economically mobile will exit low-income places and select into higher-income ones. In other words, any individual’s economic well-being is a function of the contexts in which they live, but the contexts in which an individual lives are also a function of their economic well-being. After decades of debate, the highest quality research suggests that neighborhoods can have an independent impact on long-term outcomes, particular for children in early elementary school (Chetty et al. 2016). This impact comes from many sources such as exposure to neighborhood violence, social networks, educational resources, and employment availability (Sharkey 2018, DeLuca and Dayton 2009).

One proxy for concentrated disadvantage are Census tracts where the poverty rate (the percentage of residents earning below the poverty line) is in excess of 20%. Like any threshold, there is little meaningful difference between a neighborhood with a poverty rate of 19% compared to one with 21%. However, this threshold nevertheless provides a heuristic to identify neighborhoods the research suggests can have a deleterious impact on the long and short-term well-being and economic opportunity of residents.

As shown in Figure 3.5, the State of Hawai‘i has relatively few such areas.³ In Honolulu, high poverty communities fall along the western shore of the island and selectively throughout the urban core. Although their size is exaggerated by the large uninhabited portions of the county, Hawai‘i County’s high poverty areas fall on the eastern portions of the county,

³ Hawai‘i has relatively high median incomes when compared to other states. However, it is also an outlier in terms of cost of living. For this reason, the Federal Government calculates the poverty line in Hawai‘i (and Alaska) separately from the continental United States. More information on poverty thresholds can be found here: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

specifically the rural areas. Kauaʻi has no tracts that meet this criterion of 20% poverty. (However, when looking at census block groups (a smaller unit) there are groups which *do* show poverty rates above the 20% threshold). In Maui County, poverty is concentrated in eastern Molokaʻi and two areas of west Maui.

For all counties, but particularly Kauaʻi and Maui, the relative scarcity of census tracts that fall above the 20% poverty rate threshold should not be interpreted as suggesting that there are not individuals who struggle with basic human needs or that there are not meaningful concentrations of disadvantage and poverty. Census tracts attempt to approximate socially meaningful communities, but they nevertheless often include a mixture of high- and low-income areas. This issue is exacerbated by the unique land-use patterns of Hawaiʻi, where census tracts can exhibit an income gradient based on relative distance to coastal areas and rural valleys. For example, the north shore tracts of Kauai i are known to have luxury housing and high income residents (especially along coastal areas), while more modest means households are also likely to reside in other parts of such tracts, bringing down any median measures. (This is seen in Census Tract 401.05 of north Kauai, Kalihiwai-Kilauea, where the aggregate poverty tract rate is 13.4% but where one constitutive block group has a higher rate of families under poverty, per the ACS 2022 5-year estimates. In another illustration, there are Census Designated Places of Kauai, such as Kilauea, which come closer to the 20% threshold).

Our data are thus not meant to suggest that communities and households within Kauaʻi do not struggle with poverty, an issue that policy makers should keep in mind, only that official census tract data, which has distinctive limits in this context, does not cross one specific data threshold—specifically looking at tract units. When formulating our data to account for census blocks, neighborhoods, and based on our experiential and qualitative understanding, a significant portion of Kauaʻi does experience poverty. Indeed, as mentioned above, at the block group

level, concentrations of poverty over the 20% threshold are present (for example on West Kauai, block group 6, Census Tract 409, in Kekaha-Waimea has a rate of 24.4% families living under the poverty line, per the ACS 2022 5-year estimates). Please keep in mind that when using census data, limitations are expected, especially at the tract-level, and that further consideration is necessary when making any inferences.

A useful measure of the impact of place on economic mobility comes from the Opportunity Insights project (Chetty et al. 2018—the source data for Figures 3.5-3.9 below). This project utilized income tax and census data to look at the long-term socioeconomic mobility of children who grew up in particular neighborhoods. In a society where all children had the same opportunities, there would still be differences in neighborhood economic well-being (as mentioned above, adults who fared better would sort into more desirable places). However, there would be no differences in terms of the average adult incomes of children born in any particular communities. In theory, if all children had the same contextual opportunities, then children of poor parents or who were born in high-poverty neighborhoods would be just as likely to become affluent as adults as those born to wealthy parents or in low-poverty neighborhoods. Research, however, shows that indeed in places throughout the United States, including Hawai‘i, places (neighborhoods, counties, even states) vary in terms of how much they support economic and social mobility over the life- course.

The maps presented in Figures 3.6-3.9 engage this concern, addressing the question of how much do children who grew up in particular neighborhoods earn at age 35 in the year 2016, measured from their childhood neighborhood contexts in the early 1980s (no matter where they ended-up living as adults at age 35). Each county is presented twice, once for all children who grew up in a particular tract and then again just for the children of low-income parents. One way to think about the difference is that the first map allows for the reality that parental financial

resources, independent of neighborhood, can impact adult outcomes. In the second map, parental financial resources are held constant and the analysis simply indicates whether children who grew up in the tract were upwardly or downwardly mobile in terms of earnings as adults.

One important note is that these maps represent children who grew up in these places over 35 years ago, roughly 1981, meaning that contemporary neighborhood dynamics may be very different. In Honolulu, the first map suggests that children born in the urban core (and were exposed to neighborhoods there in the 1980s) did fairly well as adults, while those born in the more rural north and west sides of the county were more likely to become low-income adults. However, the second map suggests that much of urban core's success is due to higher levels of parental resources in those areas. Low-income children did better if they grew up in the urban core, but failed to achieve significant income-mobility in most places. There are, however, important exceptions. The southeast part of the county, for example.

A similar pattern is evident in the three other counties. Higher income areas tend to produce adults with higher incomes. While low-income children born in those areas do outperform low-income children born elsewhere, the impact is muted, likely by the parental resources. One clear exception is east Maui, which does remarkably well in promoting upward mobility for low-income children.

In summary, Hawai'i differs from the classic case of high-poverty, low-opportunity inner cities and low-poverty, high-opportunity suburbs. While Honolulu does have some areas in the urban core that seem to have deleterious impacts on well-being, the majority of high-poverty, low-opportunity places are outside of the urbanized areas in more rural communities. As noted above, these areas are also more likely to have larger populations of Native Hawaiian and Other Pacific Islander residents. All combined, these patterns do suggest that the mandate of affirmatively furthering fair housing in Hawai'i cannot focus solely on the provision of

affordable housing but must promote spatial inclusion. As discussed in the next section, this generally requires the siting for subsidized housing in low-poverty areas, something that the State has struggled to achieve historically.

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3.3 TABLES AND FIGURES

Table 3.1: Mutual-Information and Theil Segregation by State, West Coast and Diversity Proximal

State	Mutual Information Index Score	Theil Score	Entropy Ratio
California	0.061	0.037	1.017
Hawaii	0.018	0.010	1.098
Nevada	0.030	0.019	1.001
New York	0.145	0.097	0.937
Oregon	0.043	0.039	0.691
Washington	0.078	0.059	0.820

Source: *American Community Survey, 5-year, 2022*

Table 3.2: Mutual-Information and Theil Segregation by County, State of Hawai‘i

County	Theil Score
Hawaii County	0.060
Honolulu County	0.007
Kauai County	0.025
Maui County	0.028

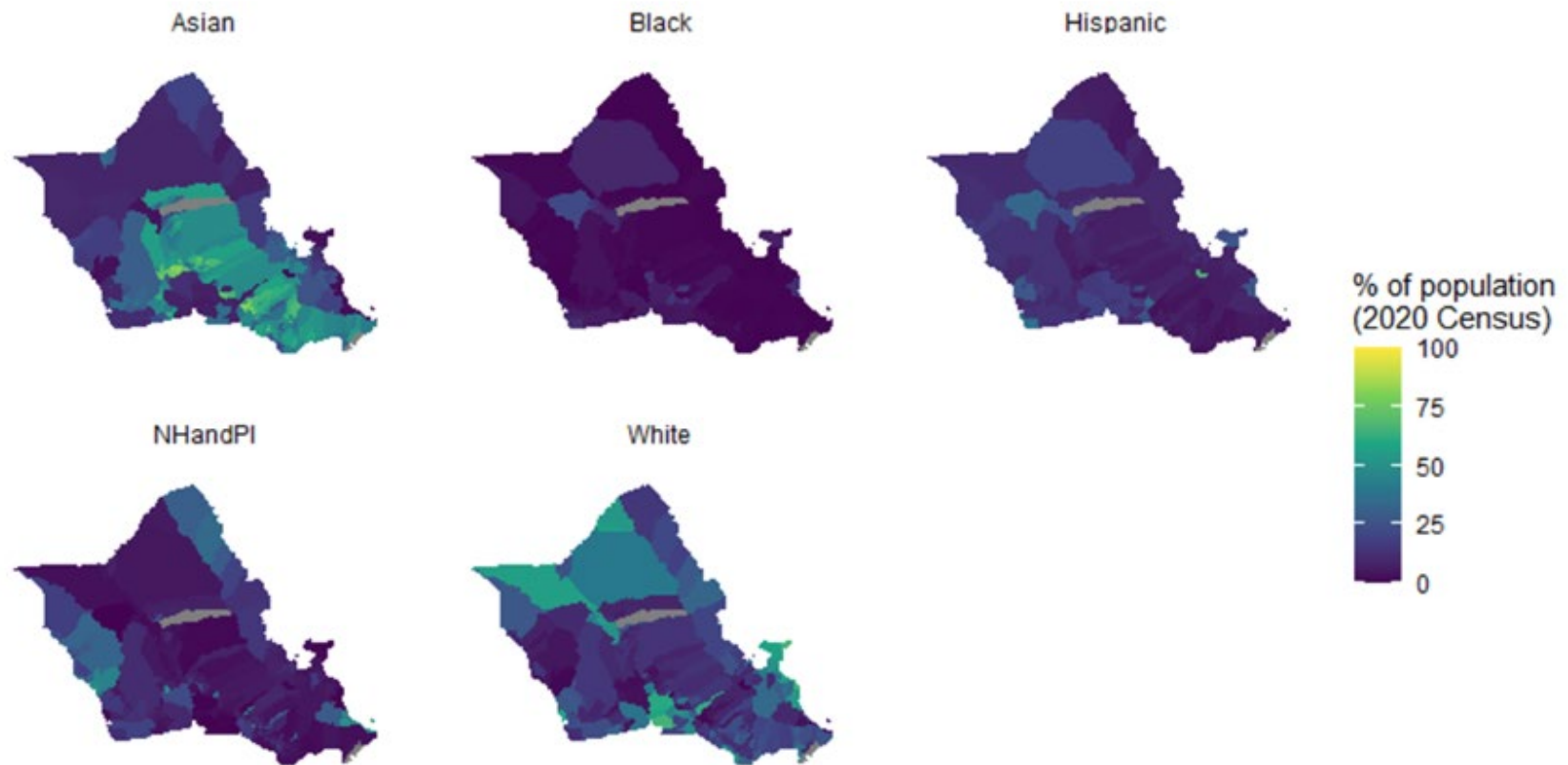
Source: American Community Survey, 5-year, 2022

Table 3.3: Local-Mutual Segregation by Race, State of Hawai‘i

Racial Category	Mutual-Local Score
One Race:	
White	0.270
Black or African American	0.973
American Indian and Alaskan Native	1.314
Asian	0.213
Native Hawaiian and Other Pacific Islander	0.423
Native Hawaiian Alone	0.521
Hispanic or Latino	0.138
Some Other Race	0.645
Two or More Races	0.065

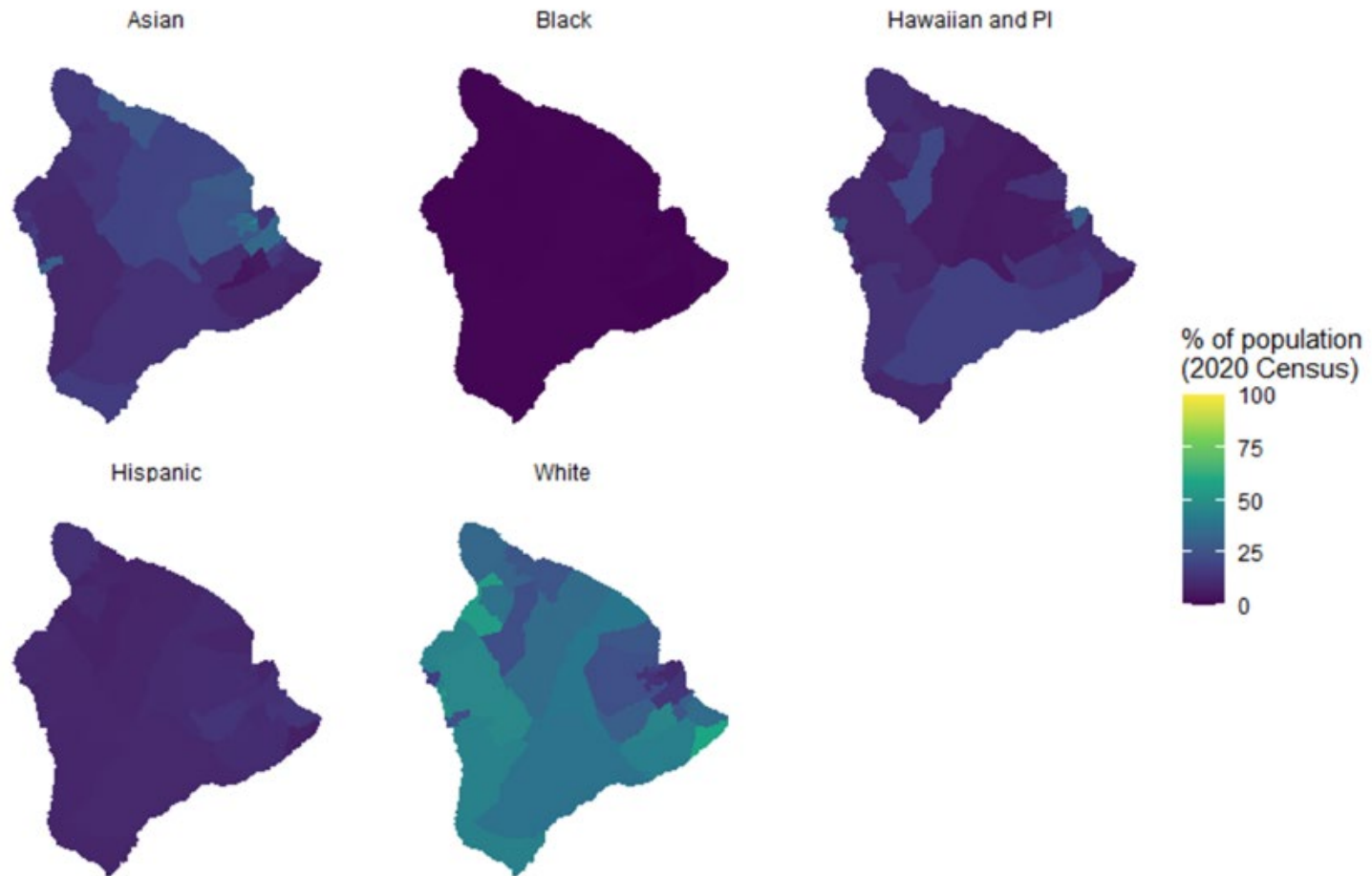
Source: *American Community Survey, 5-year, 2022*

Figure 3.1: Racial Distribution by Census Tract, Honolulu



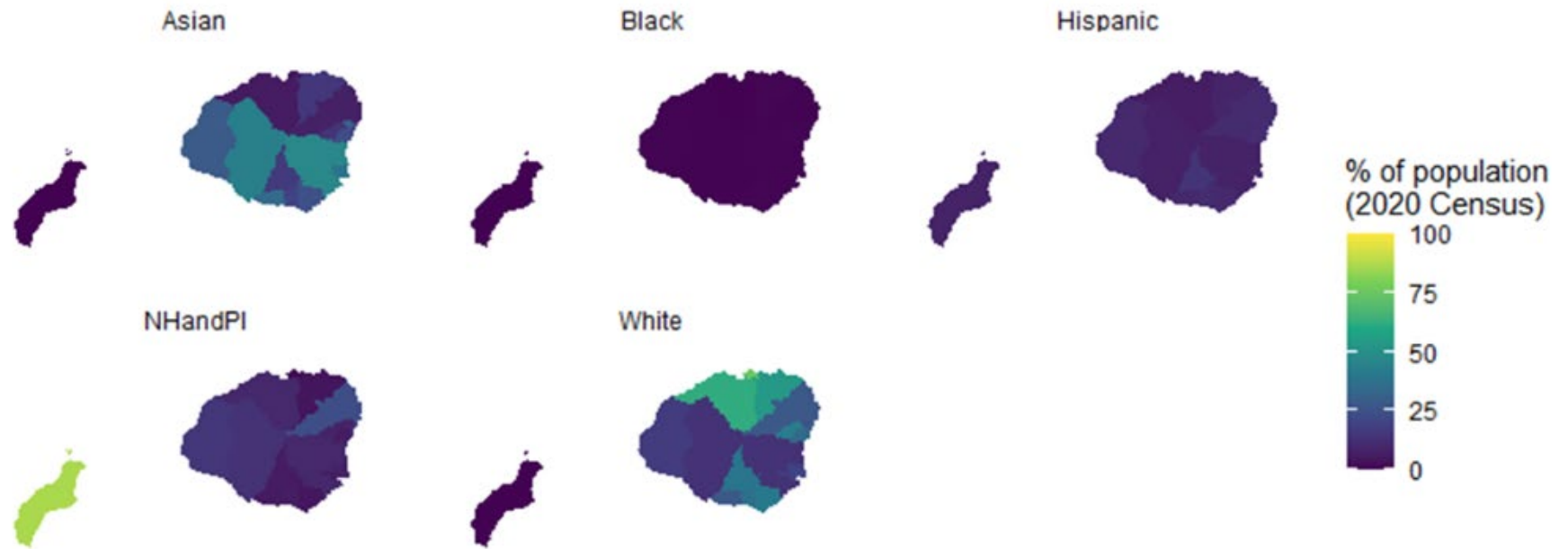
Source: *American Community Survey, 5-year, 2022*

Figure 3.2: Racial Distribution by Census Tract, Hawai'i County



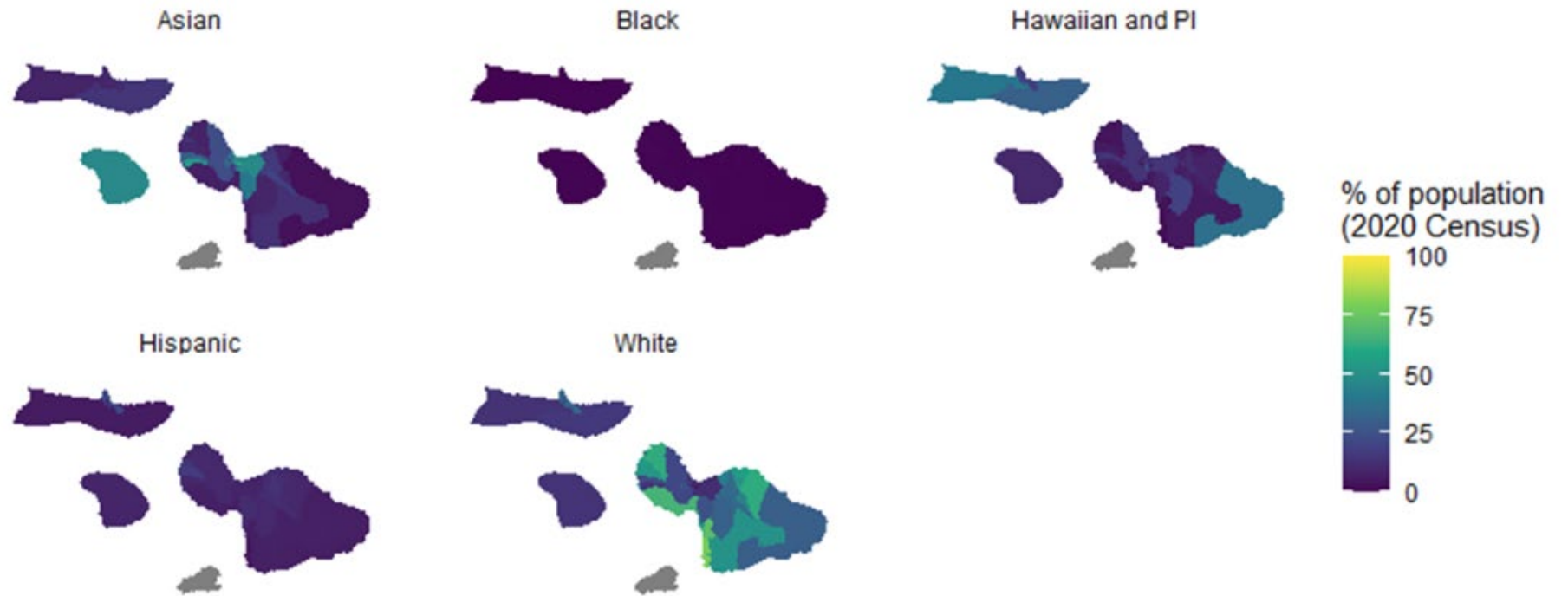
Source: *American Community Survey, 5-year, 2022*

Figure 3.3: Racial Distribution by Census Tract, Kauaʻi



Source: *American Community Survey, 5-year, 2022*

Figure 3.4: Racial Distribution by Census Tract, Maui



Source: *American Community Survey, 5-year, 2022*

Figure 3.5: Areas of Concentrated Poverty, State of Hawai‘i



Poverty Rate > 20%

- FALSE
- TRUE
- NA

Source: American Community Survey, 5-year, 2022



Poverty Rate > 20%

- FALSE
- TRUE
- NA

Source: American Community Survey, 5-year, 2022



Poverty Rate > 20%

- FALSE
- TRUE
- NA

Source: American Community Survey, 5-year, 2022



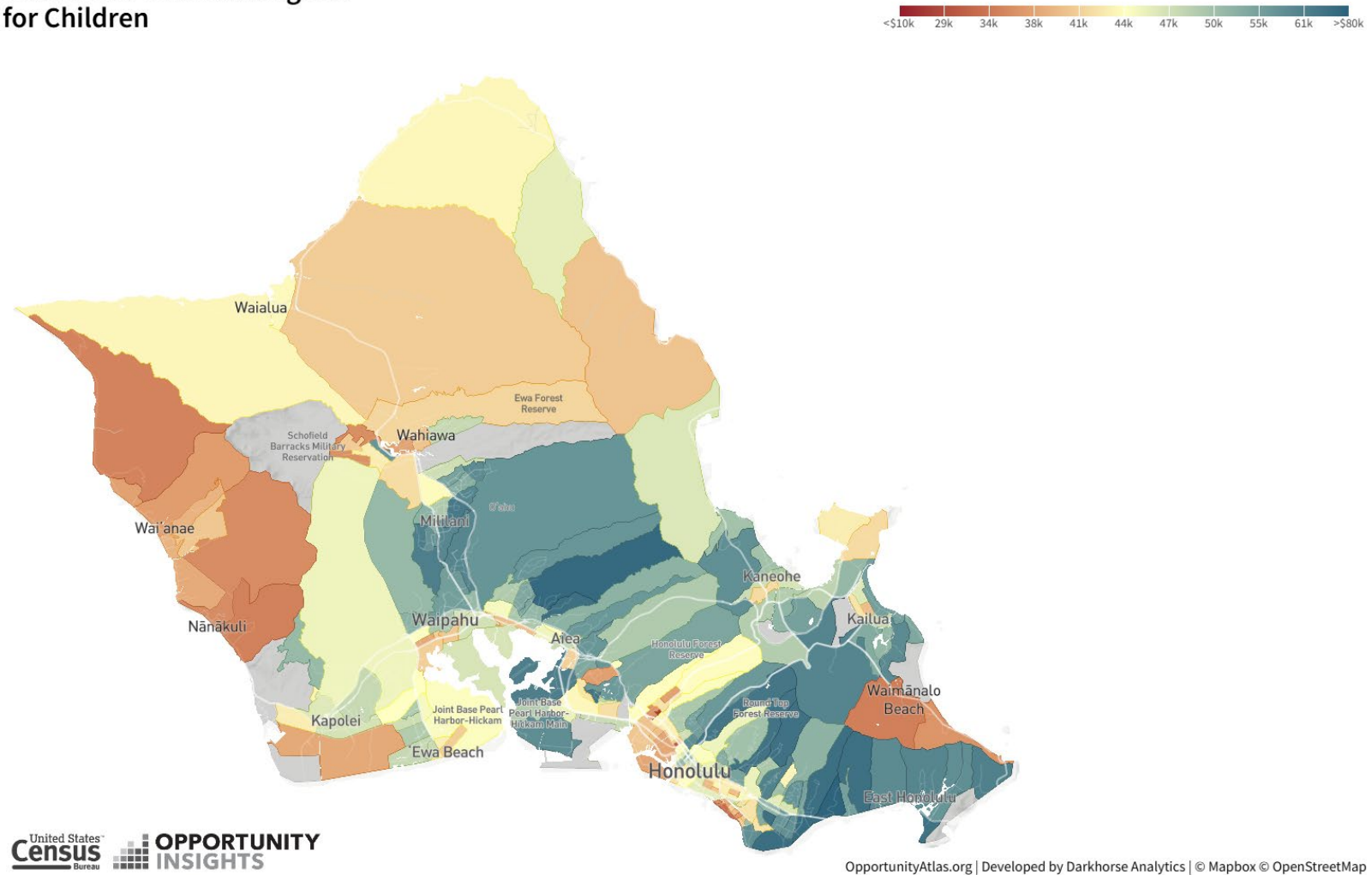
Poverty Rate > 20%

- FALSE
- TRUE
- NA

Source: American Community Survey, 5-year, 2022

Figure 3.6: Household Income at Age 35 for All Children vs Children with Low-Income Parents, Honolulu County (2016)

Household Income at Age 35 for Children



Source: Chetty et al. 2018

Household Income at Age 35 for Children of Low Income Parents



Household Income at Age 35 for Children



65

Figure 3.7 Cont.: Household Income at Age 35 for All Children vs Children with Low-Income Parents, Kaua‘i County (2016)

Household Income at Age 35 for Children of Low Income Parents

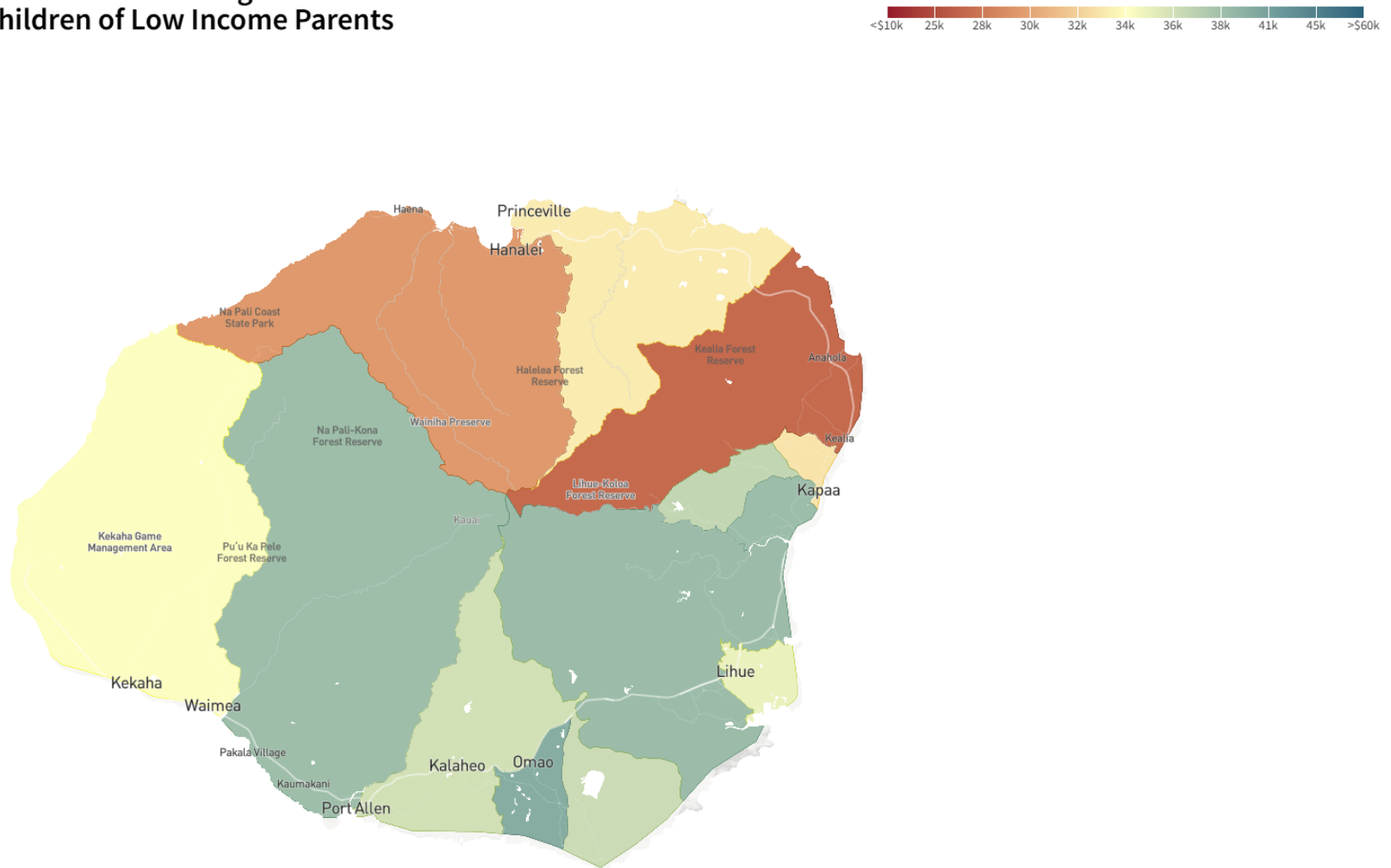


Figure 3.8: Household Income at Age 35 for All Children vs Children with Low-Income Parents, Maui County (2016)

**Household Income at Age 35
for Children**

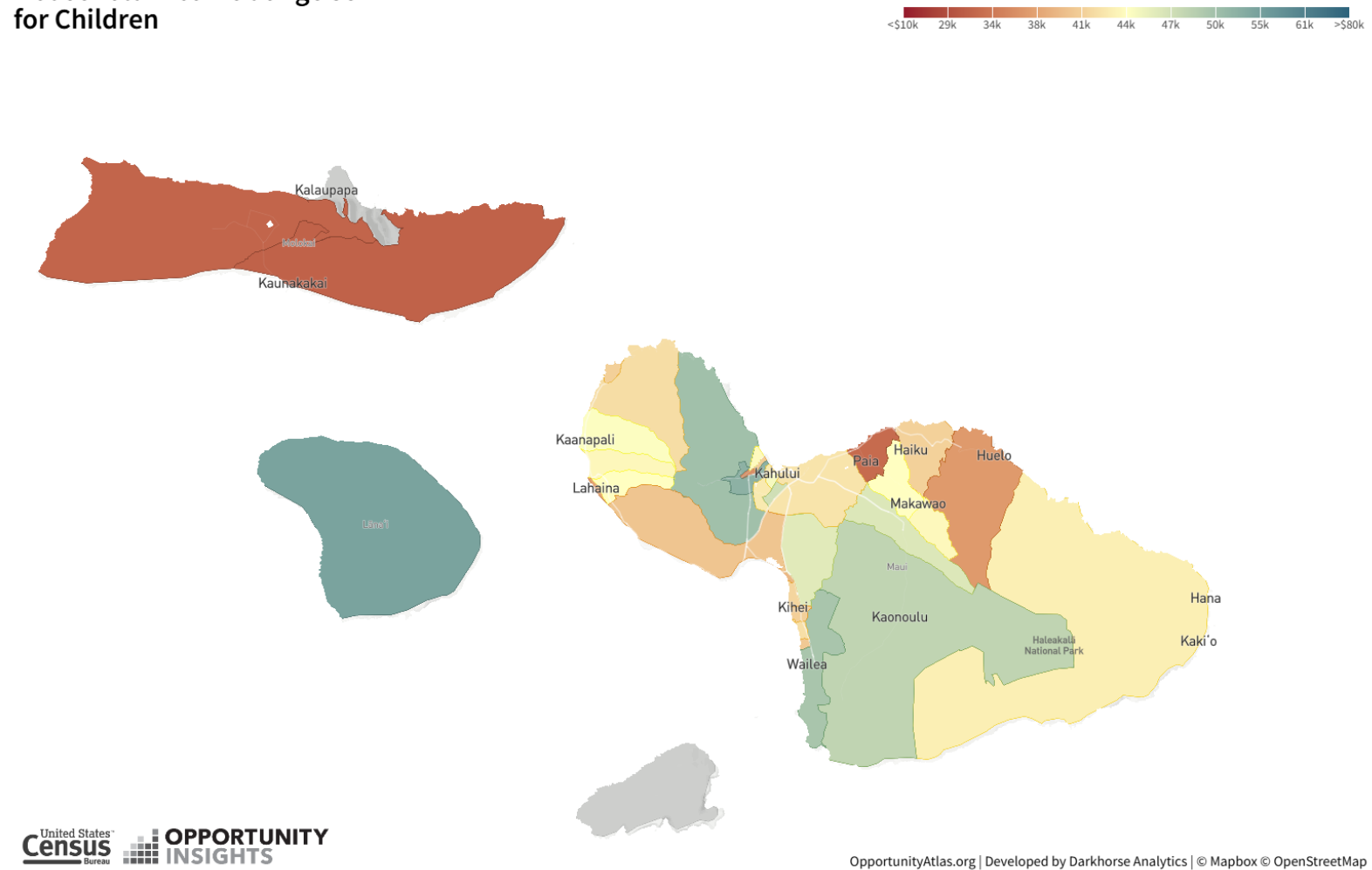


Figure 3.8 Cont.: Household Income at Age 35 for All Children vs Children with Low-Income Parents, Maui County (2016)

**Household Income at Age 35
for Children of Low Income Parents**

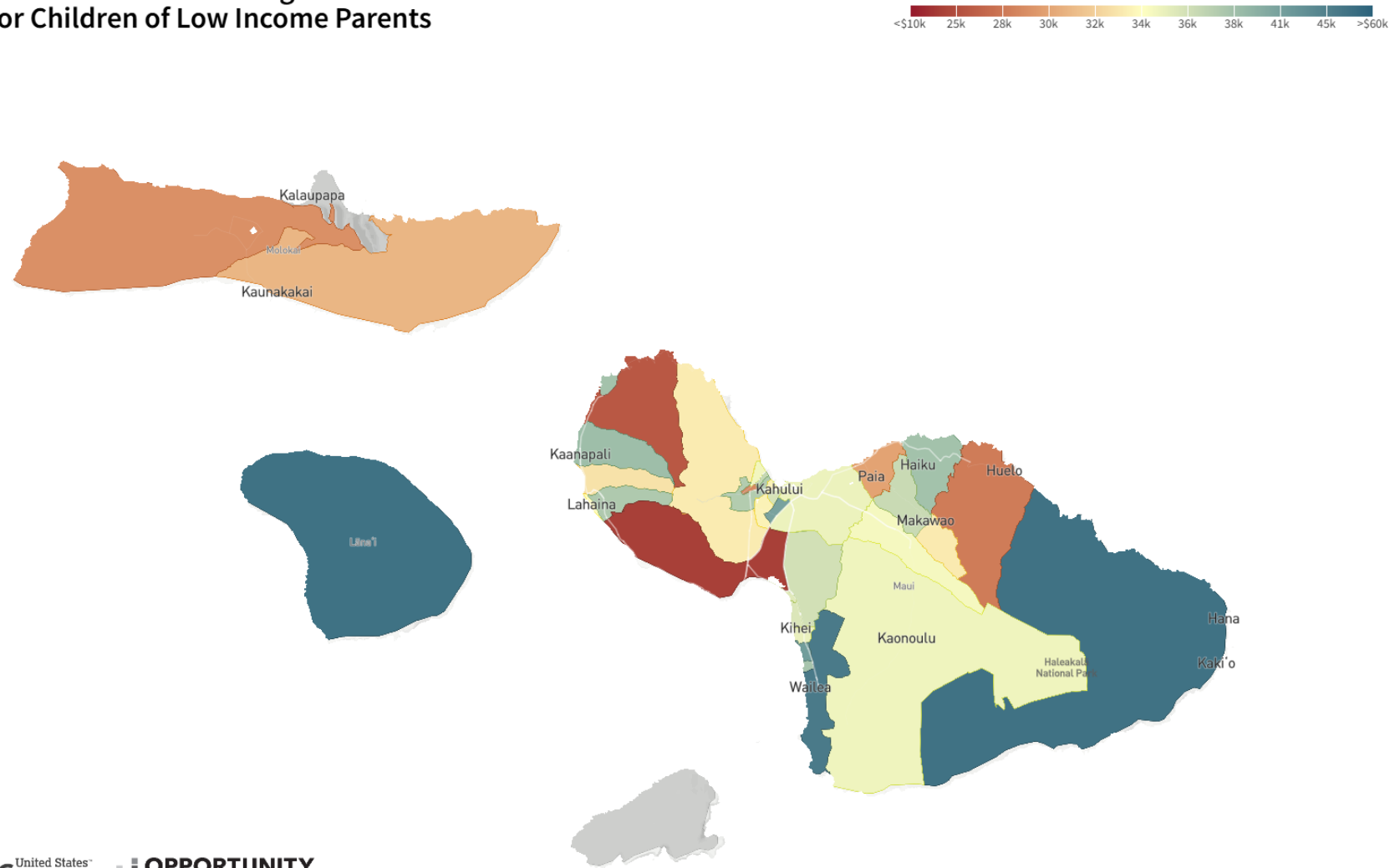


Figure 3.9: Household Income at Age 35 for All Children vs Children with Low-Income Parents, Hawai‘i County (2016)

Household Income at Age 35
for Children

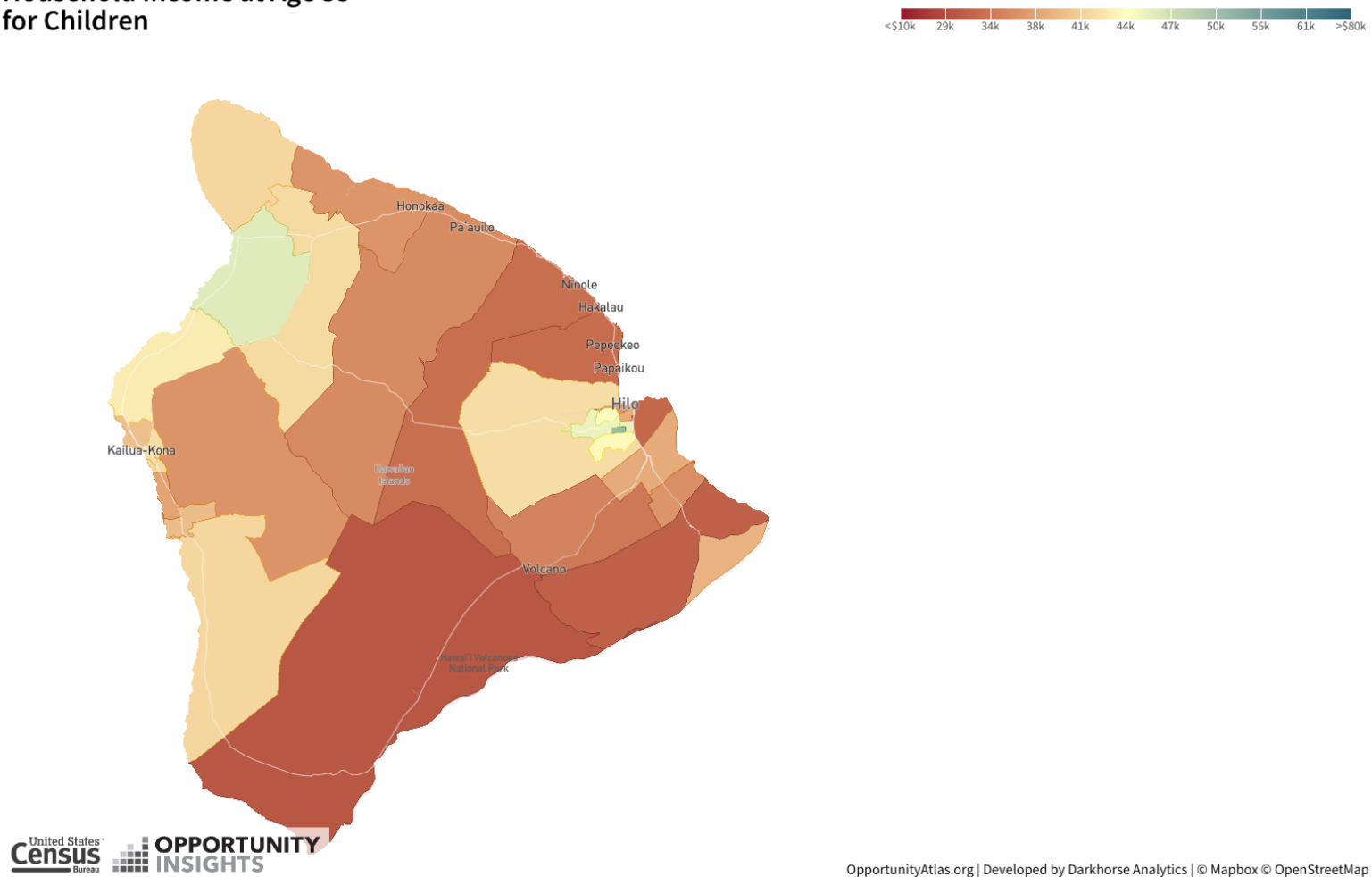
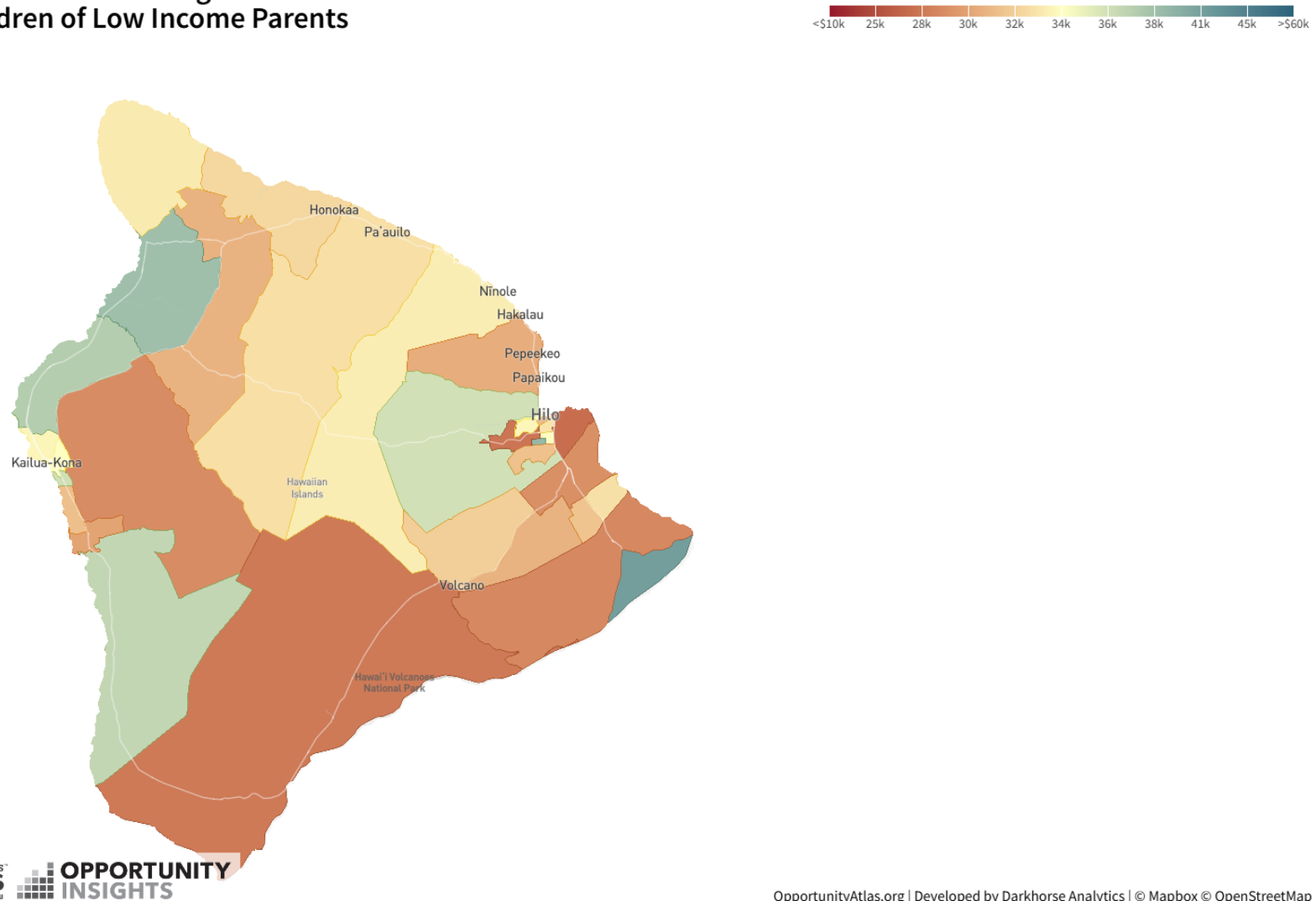


Figure 3.9 Cont.: Household Income at Age 35 for All Children vs Children with Low-Income Parents, Hawai'i County (2016)

Household Income at Age 35
for Children of Low Income Parents



4.0 SUBSIDIZED HOUSING DEMOGRAPHICS AND LOCATION

The two prior sections have emphasized two findings. First, opportunities for economic mobility and well-being are not evenly distributed through the state. And second, that many protected classes experience economic marginalization, which is exacerbated by neighborhood contexts. While traditional measures of segregation suggest Hawai‘i to be relatively integrated along racial and ethnic lines, this does not suggest that economic segregation, driven by the lack of affordable housing in many communities, does not have profound impacts on the well-being of particular protected groups.

This second consideration is the role that subsidized housing plays in exacerbating spatial marginalization of low-income households. In particular, we focus on four programs:

- 1) Public Housing, which is owned and managed by the Hawai‘i Public Housing Authority;
- 2) Housing Choice Vouchers (HCV), which are funded by HUD, administered by local public agencies, but allow low-income households to access their choice of modestly priced homes in the private market;
- 3) Project-Based Vouchers (also known as Project-Based Section 8 or Rental Assistance), which is also funded by HUD and administered by local public agencies but is targeted to specific multifamily properties (mostly privately-owned) to subsidize those living there; and
- 4) Low Income Housing Tax Credits (LIHTC), which subsidize the development or preservation of affordable rental properties.

The first, third, and fourth of these are referred to as “supply-side subsidies” because they are linked to particular developments and thus fixed in place. Vouchers are referred to as a “demand-side subsidy” because they help households afford housing that they themselves select, at least in theory. Importantly, the first three programs are targeted towards the lowest income households in the state, including those with no income. LIHTC rents are lower than comparable market rents but are designed for a slightly higher tranche of lower income renters.

Our core question is whether these four programs enable poor and low-income households to access housing in lower poverty neighborhoods. There is no doubt that all four of them assist with the material challenges associated with high rents and low incomes. This alone makes them important components of the social safety net. However, subsidized housing programs have historically exacerbated economic and racial segregation, pushing non-white families into high poverty communities and restricting their ability to locate elsewhere. HUD has long interpreted its mandate to affirmatively further fair housing as requiring the expenditure of additional resources to locate subsidized housing development across a diverse range of neighborhoods and thus allow low-income renters a true range of options when selecting their homes.

This ambition has been challenged by a number of factors. In the early days of the Public Housing program, cities across the country used explicit racial criteria and constructed projects in such a way as to “protect” white communities from an influx of non-white residents. Such practices are long gone, but many of the buildings are still standing and supply-side programs continue to struggle to site projects in higher income areas. There are many reasons for this. First and foremost, it is more expensive to acquire land in higher-income places. In Hawai‘i, land prices are a significant factor in development, and both public and private development projects

can struggle to identify suitable parcels in higher-income places. In such places, they are more likely to be outbid by market-rate developments. Moreover, higher-income communities are sometimes hostile to new development in their neighborhoods and, particularly, of subsidized development. Whether the fears articulated relate to traffic congestion or a loss of neighborhood character – or simply dislike the idea of low-income neighbors – development often instigates so-called “NIMBY” (Not In My Backyard) opposition; higher-income communities have resources to leverage their political resources to kill projects, sometimes before they even begin. Lower-income communities also sometimes oppose development, but this opposition is generally less intense, as lower-income communities also sometimes recognize the need for more subsidized housing. And, politicians may be more likely to be swayed by higher-income communities who are more likely to vote and make campaign contributions.

The story for the demand-side programs, specifically the HCV program, is more complex. Participants in the program cannot simply select any rental unit they desire; in order to reduce costs, HUD limits the maximum HCV rent to a locally adjusted payment standard, roughly the median rent. Thus, at any given moment, about half the properties in the State are ineligible for the HCV program. However, Hawai‘i determines the maximum rent for each zip code independently, meaning that the maximum rent is higher in high-cost zip codes and lower in low-cost zip codes. For example, the two-bedroom 2023 Fair Market Rent (FMR) was \$3,210 in 96734 (Kailua) but \$2,050 in 96712 (Haleiwa). This should, in theory, result in a more even distribution of voucher-subsidized households.

Unfortunately, the rent ceiling is only part of the story. In order for an HCV household to secure housing they must be accepted by a landlord. Landlords in high-poverty areas often enthusiastically participate in the HCV program because their subsidy affords them the benefit of

timely and reliable rent payments (Garboden et al. 2018). However, landlords in low-poverty areas often resist participation. Several years ago, Hawai‘i outlawed the denial of voucher households simply because of their voucher status, although the State made no provisions for enforcement of the law and created exemptions for small rental property owners (see Chapter Seven below). Moreover, even if landlords don’t engage in direct discrimination, it is still legal for them to implement legal screening criteria (such as credit scores and housing history) that can systematically eliminate large shares of HCV households.

4.0.1 Public Reactions to Affordable Housing

To get a better understanding of public reactions to building affordable housing, we surveyed a database of the Honolulu Star Advertiser for articles pertaining to affordable housing in Hawai‘i. Analysis suggests that different members of the public voice opposition to the development of affordable housing. However, community support is also evident, and many affordable housing projects *do not* elicit newsworthy opposition. Resistance to affordable housing may be rooted in a dislike for change as well as misunderstanding of the impacts of affordable housing, despite a general consensus that more affordable housing is needed in Hawai‘i. Our survey of news sources revealed that increased traffic and congestion in the neighborhood is the top concern vocalized by opponents to affordable housing; the second most frequent concern documented in news sources is parking, followed by public perceptions that a given development does not fit the character of a given neighborhood.

Two approaches to identifying projects and public reactions were used. The first was a general survey of projects reported on by Honolulu Star Advertiser (using a set of search terms including “affordable” “public” “low-income” housing, etc.), and the second approach focused on a search for news about a known list of Low Income Housing Tax Credit (LIHTC) properties

completed over the last five years. A targeted search by property names from this list was conducted. For both approaches, only articles written during the last five years and focused on Hawai‘i were considered. News sources discussed projects at all phases of the development and building process, from buying the land and completing permitting and entitlements to construction. Accordingly, articles concern projects that may be completed over a longer time horizon (beyond the five years of article publication).

Of the 58 different projects discussed in the news sources review, 12 or 20.6% had documented public reactions, listed in Figure 4.4. Of these 12 projects, which had reports of vocal public opposition, not all of the opposition represented the majority of community members. Opposition mostly centered around traffic and congestion concerns as well as development being perceived as “out of context” or “not fitting” for the neighborhood (too tall, too big, etc). Even for projects about which opposition escalated to protests and lawsuits, it was unclear if these voices represented the community as a whole. Knowing this, it would not be good to assume that opposition to affordable housing is the consensus. In fact, two of the 12 building projects had reports of almost exclusively positive reactions from community members, and all 12 of these projects had at least some documented public support. Of the other 46 projects for which news sources did not document public reactions, there were often words of support by politicians or policy makers, reflecting a general consensus that affordable housing needs to be built despite small disagreements over execution and location. Overall, the sentiments towards building and the specific projects, as described in the reviewed news sources, were positive.

Using the second search method (LIHTC list), most of the properties did not have relevant articles in the last five years; however, the articles yielded mostly supportive reactions from the public. Of the 13 projects mentioned in news sources, four (30.7%) of the articles

documented community opposition mostly due to traffic reasons. For one project, all of the reports documented uniformly positive public reactions. For the other eight projects, there was documented public support but it was unclear if the support was coming from the specific neighborhood affected or the Hawai‘i community overall.

Overall, the analysis of over 300 articles from Honolulu Star Advertiser shows a mostly positive view of affordable housing by community members as well as local politicians. Projects yielded in the search were mostly located on O‘ahu, with a few located on Maui, Hawai‘i Island, Kaua‘i, and Lāna‘i. Many people understood the need for affordable housing, and arguments were often over the execution of the projects. While so-called “NIMBYism” is voiced regarding some projects in a relatively narrow way, reporting suggests this applies to a relatively small portion of projects. The lack of news reporting on public reactions to many of the affordable housing projects suggests that limited newsworthy opposition occurred. Another important thing to note is that we did not assess the validity of the claims made by those in opposition to affordable housing projects. However, for reference, at least three projects for which reports detailed strong public opposition cited claims that were not backed up by environmental, traffic, nor other impact assessments.

4.1 Demographic Makeup of Subsidized Housing Recipients

It is important to recognize that subsidized tenants are not simply low-income but are more likely to be members of other socially or economically marginalized groups. Unfortunately, no reliable data exists of LIHTC households, but Table 4.1 presents some summary statistics for families participating in the other three programs. Not surprisingly, given that program eligibility is based on being low-income, nearly every household in any of the subsidized programs falls

under the category of low-income with over three-quarters as extremely low-income (<30% of Area Median Income).

In terms of relevance for Hawai‘i’s population, HUD’s race and ethnicity reporting is even less nuanced than that provided by the Census. For example, 63% of subsidized households (and 79% of Public Housing households) selected “Asian American and Pacific Islander,” a large group that constitutes some of Hawai‘i’s highest and lowest earning ethnicities. Nonetheless, the data suggests that subsidized households are slightly more likely to be non-white than the general population (80%) and that this is particularly true in Public Housing (88%) and less true in HCV and Project-Based Section 8.

Just over a third of subsidized households have children, two-thirds are female-headed, and roughly 30% are female-headed with children (except for Project-Based Section 8, which is much lower). Disability is also common among this population, with one-in-five subsidized individuals qualifying as disabled. About 30% of non-elderly households and 50% of elderly households had at least one disabled member.

Despite the limits of these statistics, it is clear that many subsidized households in each program are not only low-income but part of a group that has been historically marginalized or risk facing challenges or discrimination based on their status related to age, gender, disability, and race/ethnicity.

4.2 Neighborhood Characteristics of Subsidized Housing Recipients

Subsidized households are more likely to live in higher-poverty communities than all households and all renter households, as shown in Table 4.2. As noted above, Hawai‘i has relatively low rates of poverty. Sixty-four (64) percent of all households live in tracts with a poverty rate below 10%, and 90% live in tracts below 20%, the heuristic threshold for a “high-

poverty” community. Renters are on average much lower income, but 86% nevertheless live in lower poverty tracts (i.e. below 20% poor).

These numbers drop significantly for subsidized households. Of all four subsidy types examined, Housing Choice Voucher recipients and those living in Low Income Housing Tax Credit Properties performed the best. About 73% of HCV families and 80% of LIHTC households lived in lower-poverty areas. Nevertheless, for both programs, the prevalence of households in high-poverty tracts is higher than the state average, and for HCV roughly twice the statewide average for renters (27% for HCV and 19% for LIHTC compared to 10% for all households and 14% for renter households). Public Housing residents, not surprisingly, had the highest exposure to high neighborhood poverty compared to participants in any of the other programs examined. 43% of Public Housing residents live in high-poverty census tracts. This number is likely the result of both the historic siting of Public Housing in low-income communities but also the demographic fact that public housing residents themselves are necessarily concentrated in place and thus their residence in a tract will increase the tract poverty rate. This is almost certainly why so few Public Housing units are found in the lowest poverty areas (just 16%). Project Based Section 8 developments outperform Public Housing at both the high and low end of the distribution, but are more heavily concentrated in 20-30% poverty tracts.

Figures 4.1-4.3 present a formal test for the association between subsidized housing types and tract poverty rates. As shown in all three cases, higher tract poverty rates are associated with a higher number of subsidized units in their neighborhoods.

In conclusion, despite relatively few areas of concentrated poverty across Hawai‘i, there is nonetheless an identifiable association between poverty rates and subsidized housing. As

summarized in the previous section, this can create significant barriers to economic mobility and general well-being for some of Hawai‘i's most vulnerable residents. It thus necessitates an affirmative commitment to locating affordable development in lower-poverty areas so as to afford low-income households choice when it comes to their housing search. We must also recognize that such affirmative housing policy is not free. Affordable housing developers are incentivized to develop in low-income tracts because it is expeditious and lower cost. In order to promote alternative siting, monies must be invested to compensate for these differentials and policy capital must be expended to overcome neighborhood opposition to low-income neighbors, multifamily development, or subsidized projects.

For Housing Vouchers, as discussed below, it is necessary not only to prohibit discrimination against HCV recipients but to actively fund enforcement and testing to ensure compliance. Similarly, recent work has pointed to the value of housing navigation to help low-income voucher families achieve a broader range of residential outcomes (Bergman et al. 2024) (see also section below in Chapter 12.8.4. on Housing Navigation). This does, of course, necessitate investments in a higher level of counseling and support than voucher families typically achieve, but the impact can be substantial.

Works Cited

- Bergman, P., Chetty, R., DeLuca, S., Hendren, N., Katz, L. F., & Palmer, C. (2024). Creating moves to opportunity: Experimental evidence on barriers to neighborhood choice. *American Economic Review*, 114(5), 1281-1337.
- Garboden, P. M., Rosen, E., DeLuca, S., & Edin, K. (2018). Taking stock: What drives landlord participation in the housing choice voucher program. *Housing Policy Debate*, 28(6), 979-1003.

4.3 TABLES AND FIGURES

Table 4.1: Demographics of Subsidized Housing Recipients in Hawai‘i

US Housing & Urban Development Program	Occupied Unit Count	Average Individuals per Unit	Percent Low Income	Percent Extremely Low Income	Percent With Children	Percent Female Headed	Percent Female Headed With Children	Percent Disability (at least one non-elderly)	Percent Disability (at least one elderly)	Percent Disability (all persons)	Percent Non-White	Percent AAPI*
All HUD Programs	20,323	2.4	96%	79%	35%	67%	28%	31%	46%	19%	80%	63%
Public Housing	4,322	2.7	95%	79%	41%	64%	29%	26%	62%	19%	88%	79%
Housing Choice Voucher	12,228	2.5	95%	77%	41%	69%	34%	31%	56%	19%	78%	57%
Project-Based Section 8	2,989	1.6	85%	83%	13%	62%	90%	37%	20%	19%	79%	69%

Source: *Picture of Subsidized Households, 2023*

* *The Asian American or Pacific Islander is too broad a category to be useful in Hawaii, but HUD does not provide alternative race/ethnicity categories*

Table 4.2: Distribution of Subsidized Households by Tract Poverty Rate

Tract Poverty Rate	All Households	Renter Households	Housing Choice Voucher Households	Public Housing	Project-Based Section 8 Households	The Low-Income Housing Tax Credit (LIHTC) Households
Less Than 10	64%	55%	38%	16%	33%	43%
10 to 20	26%	31%	35%	41%	29%	37%
20 to 30	8%	10%	16%	17%	24%	9%
30 or More	2%	4%	11%	26%	14%	10%

Source: *American Community Survey, 5-year, 2022; Picture of Subsidized Households, 2022; LIHTC Tracking Database, 2022*

Figure 4.1: Correlation between Tract Poverty Rates and HCV Units per Tract

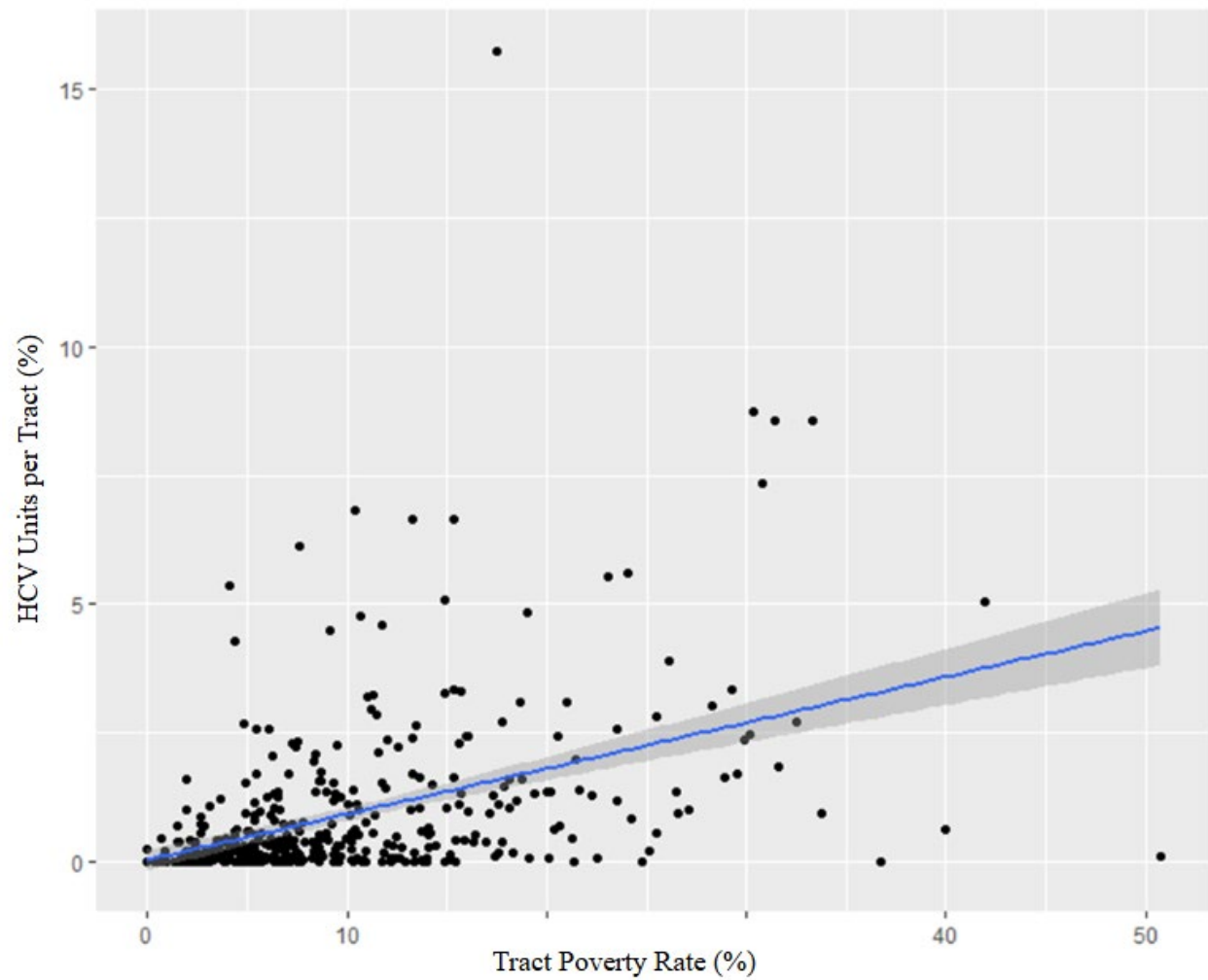


Figure 4.2: Correlation between Tract Poverty Rates and Public Housing Units per Tract

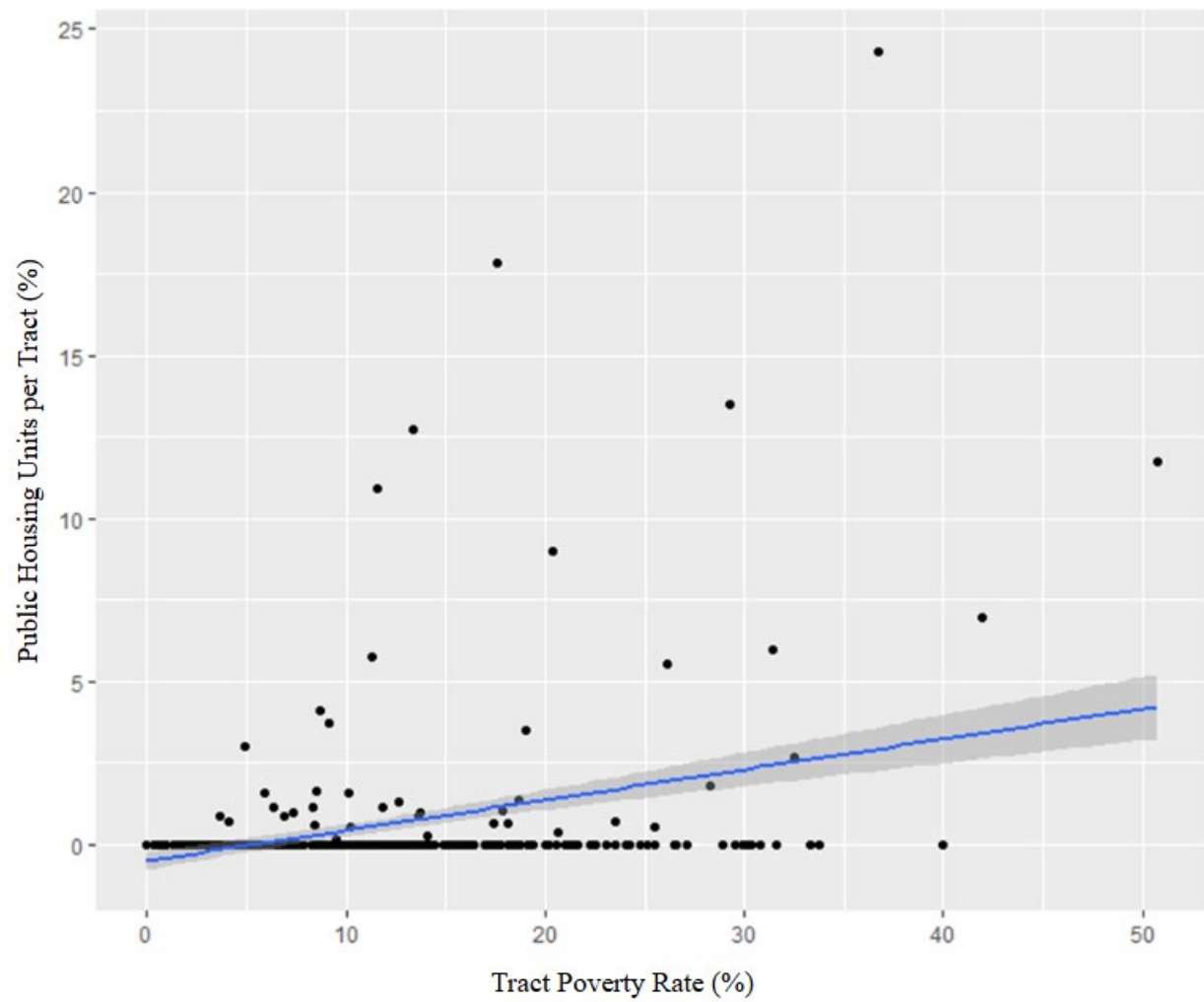


Figure 4.3: Correlation between Tract Poverty Rates and LIHTC Units per Tract

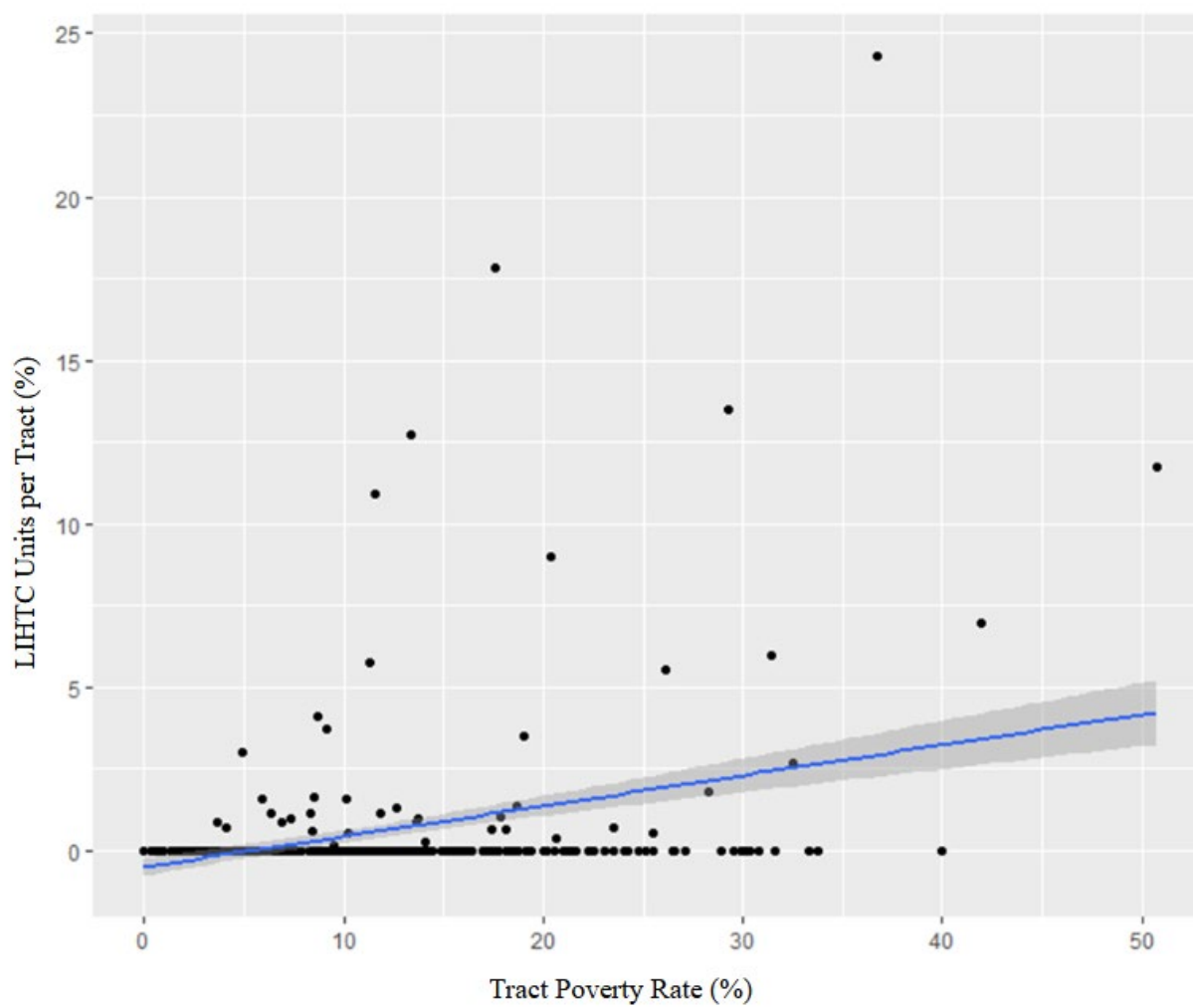


Figure 4.4: Public Reactions and Concerns to Subsidized Housing Development

Concern Cited in Honolulu Star Advertiser	Count of Citation
Traffic and Congestion	9
Parking	4
Out of Context of Neighborhood	4
Noise	2
Deforestation	2
Loss of Historic Site	2
Crowding	2
Strain on School System	1
Air Quality	1
School Address Fraud	1
Loss of Jobs	1
Flooding	1
Views Disturbed	1
Strain on Emergency Services	1
Increase in Density	1

Source: Honolulu Star Advertiser, 2019-2024

5.0 SUMMARY OF FAIR HOUSING COMPLAINT DATA

Complaints from the public received by legal advocacy organizations as well as state and county agencies provide insight into patterns of fair housing violations in the State of Hawai‘i. Below, we report primarily on complaint records received by the Legal Aid Society of Hawai‘i (LASH), The Hawai‘i Civil Rights Commission (HCRC), and the Department of Housing and Urban Development (HUD).⁴ Records from these agencies were anonymized and shared with our research team. We expect that, taken together, these records provide a comprehensive picture of fair housing complaints (and thus *potential* violations) reported by the public. It is important to underscore that any dataset of complaints would be reflective of both underlying violation and decisions to report those violations by aggrieved parties. There are many reasons why members of the public would *not* report complaints including: lack of familiarity with fair housing and tenant rights; lack of agency, time or other resources; fear of stigma or retaliation; and lack of familiarity with or perceived access to agencies. Specific groups are likely to be systematically under-represented. For example, it is possible that despite outreach by agencies, language barriers also impact the reporting of complaints. At the same time, complaints are subjective and are not necessarily reflective of fair housing violations that would hold up to legal or other scrutiny.

In addition to the three primary agencies, we also draw upon records from the partner agencies funding this study: Kaua‘i County Housing Agency, Maui County Housing Agency, the County of Hawai‘i Office of Housing and Community Development, the Department of

⁴ HCRC “receives, investigates, conciliates, and adjudicates complaints of discrimination” in housing as well as employment, public, and state funded services.” LASH is a federally funded nonprofit that is “Dedicated to achieving fairness and justice” through legal advocacy, outreach and education.” HUD is responsible for national policy and programs that address housing needs in the US. HUD also collects, investigates, and prosecutes cases of housing discrimination and data on this is collected on a state- by-state basis.

Community Services, and the Hawai‘i Housing Finance and Development Corporation (HHFDC). Though these agencies are not formally charged with receiving nor logging fair housing complaints, and each would have their own approaches, if any, for receiving and tracking such complaints, agency-specific data provides additional insight into local complaints. The data received from these specific agencies are not expected to be systematically representative of their jurisdiction. Also, per our communications with their staff, HHFDC does not collect fair housing complaints but they do keep a log of official court cases filed by HUD and HCRC.

The organizations who provided data offer overlapping services and resources to support those alleging fair housing violations. Our understanding is that county-specific agencies may refer complaints they receive from the public to LASH (including to their tenant-landlord hotline), HUD, or HCRC for further legal help. HCRC, LASH, and HUD also have their own complaint intake process and may even refer cases to other agencies where appropriate. Both LASH and HCRC are charged with legal enforcement of fair housing violations including by advising clients, pursuing legal action, or referring cases to HUD or to other agencies (for LASH, this includes referrals to HCRC). Members of the public may contact and engage each of these agencies directly to lodge complaints or pursue legal action or other forms of fair housing resolutions.

Taken together, these sources show that most fair housing complaints relate to disability status, while records also show high rates of retaliation (a fair housing violation in its own right). A third category of common complaints relates to fair housing discrimination on the basis of sex. Disability is the most common basis of complaint for all racial/ethnic groups with the exception of Black complainants and Micronesian complainants. Among those complainants identifying as

Black, the largest categories of complaints are based on race/color, and the second largest category of complaints relates to disability. Among those complainants identifying as Micronesian, the largest categories of complaints relate to national origin and/or ancestry, with the next most common category of complaint relating to family status.

5.1 State Level Complaint Data

Here we report on the records provided to our team by LASH, HCRC, and the Hawai'i field office of HUD. As noted above, the records from these agencies are not mutually exclusive, meaning that some cases are captured in the data of more than one agency. However, we report on each agencies' data independently because the records do not allow us to specify the exact extent of the overlap (due to the anonymizing of legal complaints). Based on our analysis, it appears that approximately 40% of LASH cases recorded and shared with us are referred to HCRC or HUD and thus are also contained in their records.

Agencies like HUD document and pursue “perfected complaints” that are vetted for allegations with the correct protected class violation tagged and for being clearly within the federal jurisdiction. This means that protected class groups that do not belong (either marked by mistake, or incorrectly marked as a protected class group) are not included in the count. By contrast, it is our understanding that LASH and HCRC's data is a mix between a light vetting process and self-reported claims (which may explain the larger numbers included in those data sources).

One additional challenge is that each of these agencies differs in how they recorded specific features of fair housing complaints as well as any subsequent referrals, legal actions, and

resolutions.⁵ Thus, for example, we report below on trends related to the racial/ethnic background of individual complainants for the LASH data only.

5.1.1. Legal Aid Society of Hawai‘i Data

LASH records show that 1,050 cases were opened from January 1st, 2019, through June 27th, 2024. Of these, 873 cases indicate that at least one protected class was “implicated” (with 177 cases lacking a record for this field). Of these 873 cases, 343 cases (39.3%) were referred to HUD or HCRC. Also, of the 873 cases that mentioned a protected class, the large majority (688 or 78.8%) of them mentioned only one implicated protected class. However, 185 (21.2%) of those cases mentioned *two or more* protected classes as potentially implicated. As shown in Table 5.1, we show rates of the types of complaints by each *mention* (1,081) of a specific protected class as well as the share of each case that mentions a specific type of complaint (alone or in combination with another type of complaint). Since each case can mention more than one type of complaint (i.e. or can implicate more than one protected class), the total number of mentions of protected classes exceeds the total number of individual case records (873 cases).

We considered protected classes in terms of both federal and state protections, which is important because state-level protections include additional categories. To understand the distribution of complaints, we used almost the same categories that LASH used in their own record keeping, but combined complaints implicating “race” and “color”; we also combined national origin and ancestry since those most often occur together. The tabulated categories are: disability, sex (including sexual orientation), race and/or color, family status, national origin and/or ancestry, age, gender (including gender expression and/or identity), Section 8 / HCV, religion, HIV status, and domestic violence. While domestic violence legally falls under

⁵ For example, LASH data provided to us notes if cases are referred to HUD or HCRC, while HCRC did not provide this data.

protections related to the “sex” or gender category, since they were differentiated in the LASH data, we also report this tabulation separately to show its scope.

Disability is by far the protected class that is most prevalent in the records: 70.3% (616) of cases that mention any protected class mention disability as a contributing factor, and 56.5% (493) of cases *exclusively* mention disability as the implicated protected class (as shown in Table 5.1, when tabulated by mention, 57% of all mentions of any protected class relate to disability). The next largest category is sex (16.6% of cases, and 13.4% of mentions), followed by race and/or color (10.1% of cases and, 8.1% of mentions) and family status (8.4% of cases and 6.8% of mentions). This is consistent with findings from HCRC and HUD in that disability is the largest substantive type of complaint (aside from retaliation, which is the highest frequency complaint in HCRC data).

LASH records also indicate the “race” and “ethnicity” of complainants, with ethnicity referring only to Hispanic or non-Hispanic background. Only one race is listed per record, meaning that the data does not allow us to track patterns of multi-racial identification. Analysis of the racial breakdown of complainants was done using only race since the majority of people (all except 29) who marked Hispanic/Latino also marked Hispanic/Latino in the race category.

White (34.8%), Hawaiian or Part-Hawaiian (18%), Black (7.4%), and those who did not respond to race questions (6%) make up the majority of complainants (out of the full sample of 1,050 cases). This suggests there could be an over-representation of white and Black complainants, relative to their rates in the state population, per Census data (reviewed above): the rates of Black complainants in these data is notable given their relatively small share of the state population. However, as the Census allows multiple race responses, unlike the LASH data, additional data would be needed to reach a definitive conclusions.

We also reviewed patterns by race/ethnicity in terms of the types of complaints raised. As in the full data, disability is the most commonly implicated issue for most racial/ethnic groups. Two groups show an exception to this pattern: Black/African Americans and Micronesians. For those identifying as Black, 34 cases logged complaints based on race and/or color (alone or in combination with other concerns), and 30 cases logged complaints that concerned disability (alone or in combination with other complaints). While the numbers are small and larger samples would be needed for tests of statistical significance, this suggests that for Black individuals, discrimination based on race and/or color is a more common type of concern than others (or at least as important as disability-based discrimination).

For Micronesian people⁶, 13 out of the 33 logged complaints were based on national origin and/or ancestry (alone or in combination with other concerns), and complaints based on family status were logged by six people, making these their top two issues cited (as compared to only four who filed complaints related to disability). This deviates from an overall pattern among all races combined, and even from all of those who identified as one of several Native Hawaiian or Pacific Islander backgrounds: for these larger categories of racial groups, complaints based on disability are clearly the most common type of complaint.⁷ These patterns thus suggest that, even among other Pacific Islanders, Micronesians are facing distinct challenges related to national origin and/or ancestry (including language).

The number of cases opened by LASH has been increasing since 2019. 2024 is on track for numbers similar to 2023, as we only have data up until July of 2024. Additionally, LASH

⁶ These were individuals for whom race was identified as “Micronesian”, presumably thus with ancestry from the Federal States of Micronesia (rather than generally from the region as whole). Smaller numbers of individuals in the LASH data are identified according to race as “Marshallese” or “Palauan.”

⁷ Including those identified in the records as “Micronesian” (presumably from the Federated States of Micronesia), “Palauan”, “Marshallese,” “Native Hawaiian”, “Part-Hawaiian,” “Tongan”, “Samoan”, “Guamanian/Chamorro”, and “Other Pacific Islander”.

data provides information about legal settlements. A total of 21 cases reported resulting in a settlement agreement with four receiving damages ranging from \$5,000 to \$30,000. 15 people were able to obtain damages even without a settlement agreement, ranging from \$200 to \$36,000. Only 1.4% of opened cases resulted in a person obtaining damages. Finally, the LASH data also indicates a number of cases for which reasonable accommodation requests were made (404), and the number of granted requests (126).

5.1.2 Hawai'i Civil Rights Commission Data

In total, 234 cases were opened from July 2019-July 2024 which is approximately the same time frame as data collected from LASH. All of the cases in their records identified a specific fair housing violation and a protected class.

As shown in Table 5.2, we tabulated each *mention* (487) of a specific class implicated in the complaint. As in the analysis of the LASH data, since the cases of individual people may mention or implicate multiple protected classes, the total number of mentions exceeds the total number of individual case records. Of the 234 cases, 64 (27%) mentioned only one protected class, and the majority (73%) of individual cases mentioned at least two different protected classes (with several mentioning up to four or five). The categories tabulated here reflect how HCRC records reflect state law, including classifying complaints separately by sex (which we combined with sexual orientation) and gender (which includes both gender identity and gender expression). HCRC also distinguishes complaints based on marital status from those based on familial status (while LASH only tracked complaints based on familial status). In our tabulations we also combined national origin and ancestry.

One notable difference is that HCRC's cases are dominated by retaliation cases. 155 (66.2%) of cases mention retaliation, making it the largest protected class complaint. Retaliation

cases often (all but four) cite at least one other protected class. Of cases that mention retaliation, disability, sex, and race/color are the other protected classes that are most often implicated. Outside of retaliation, disability is the second most cited factor, with 146 (62.4%) cases mentioning this issue (alone or in combination with other issues). Sex- based discrimination (including based on sexual orientation) is the next most common type of complaint, with 25.2% of cases mentioning this issue (alone or in combination with other issues). Race/color are implicated in the next largest share of complaints, at 20.1% of cases.

HCRC also tracks settlement status (though does not track monetary damages). According to their data, 65 (27.8%) of the 234 HCRC cases (reported over the last five years) are reported as closed, due to insufficient evidence. 96 (41%) are still open and have not yet reached resolution nor settlement. 60 (25.6%) of the 234 cases have ended up in a settlement or a resolution.

5.1.3. Housing and Urban Development Data

HUD staff shared their administrative data with us, which included records of 273 cases who logged complaints from January,1 2019 through July 1, 2024. 109 of the 273 complaints list only one protected class, and 164 mention at least two. Of the 164 cases that list more than one protected class, 144 (87.8%) of them concerned retaliation (in conjunction with other issues). For comparison, HCRC had 151 (88.8%) cases where two or more protected classes were cited, one being retaliation. Of the HUD cases that mention retaliation, the additional complaints related primarily to the following classes: disability, sex race/color (for these data, as for the other datasets, we combined complaints based on race and/or color together).

As summarized in Table 5.3, HUD data is also consistent with LASH and HCRC data in that disability, sex, and race/color, and family status are leading substantive issues, in terms of

the share of complaints—and overall, disability and retaliation are the most frequent bases of complaints (alone or in combination with other types of complaints). HUD data only reports on federally -protected classes, as opposed to groups protected by Hawai‘i State law. As shown in Table 5.3, 162 cases (59.3% of cases) involved complaints related to disability, 149 (54.6%) cases involved retaliation, 72 (26.4%) involved sex (including sexual orientation), and 52 (19%) involved race/color.

Many of HUDs complaints remain open (91 cases, 33.3%), most of which are from 2023 and 2024. Of the 182 cases that are closed, 83 (45.6%) of them are closed on the basis that there is no *proof* of discrimination. By contrast, 64 (35.2%) cases had successful settlements or conciliation. The other 19.2% of cases were closed due to the withdrawal of the complaint or an inability to locate parties.

5.2 County-Level Complaints

Below we address some findings based on records received from county-level offices. As mentioned above, these agencies are not formally charged with collecting nor adjudicating complaints from the public. County agencies that we reached out to have varied systems, if any, for collecting and referring data and sharing advice to constituents. Their records are not expected to be representative of larger patterns. Records show that complaints deal with a range of issues including the following—some of which would not necessarily fall under the scope of fair housing violations. Below is a non-exhaustive list of issues raised in these data:

- Landlord not maintaining property
- Landlord evicting without proper notice or without cause
- Verbal abuse by landlord
- Disability discrimination and reasonable accommodations not being made

- Harassment from neighbors
 - Verbal harassment
 - Physical harassment
 - Sexual harassment
- Questions about service animals and rights around pets
 - Claims of “fake” service animals
 - Not renewing lease because of service animal
 - Landlord won't rent to them because they have a service animal
 - Misbehaving pets that are “service animals”
- Landlord raising rent over one thousand dollars without notice
- Religious intolerance
- Noise complaints
- Unequal terms and conditions based on national origin and limited English proficiency
- Increase in price of laundry services
- Tenant verbally abusing housing staff and having violent outbursts
- Eviction based on ownership of a firearm
- Discrimination based on how many people in the family there were even though it was under the legal limit for the unit
- Section 8 tenants having violating guest policy of lease
- Landlord unfairly treating tenant due to Section 8 status

Below we list the number of calls made to each county agency, though not all calls are unique cases (i.e. an office may have received multiple calls about the same issue).

Kaua‘i: From January 2022 to June 2024, 26 calls were logged by the Kaua‘i County Housing Agency. The content of twelve calls justified being referred to HCRC, HUD, or LASH for further action.

Hawai‘i County: From January, 1 2020 to June 30, 2024, 100 calls were logged by the Office of Housing and Community Development. 30 of these calls justified being referred to HUD, HCRC and LASH for further action

Honolulu County: The Department of Community Services shared a log of 10 calls from 2019 to 2024. Referral patterns are unclear, but at least one case was referred to HCRC, HUD, or LASH.

Maui County: The County office shared a log of complaints covering the years 2019 to 2023. 58% of these cases were referred to HCRC, LASH, or HUD for further legal advice or action. Other callers were either referred to the landlord-tenant hotline or directed to further explore housing discrimination laws.

5.4 Summary Analysis of Complaints

5.4.1 Disability and retaliation are the top complaints

Across the data sources, concerns about fair housing violations on the basis of disability remain a dominant concern (and for LASH and HUD data, it is the most common basis of complaint—and for HCRC after retaliation, it is the second most common complaint). In addition, the two sources that track retaliation show that, in its own right, this is a leading concern: it’s the most common basis of complaint and the second most common basis of complaint according to HCRC and HUD respectively.

5.4.2 Retaliation

Retaliation cases make up a large proportion of HUD and HCRC cases, and questions still remain about why this is the case. In presentations given by HCRC, experts have suggested that there is something unique about personal relationships and the housing market in the context of Hawai‘i such that landlords are more likely to respond pointedly to perceived breaches of interpersonal trust by tenants. Our respondents affirmed, but could not concretely explain, this phenomenon, suggesting that research be performed to investigate the relatively high rate of landlord retaliation found in Hawai‘i.

5.4.3 Discrimination based on Sex, Race/Color, and Family Status are also top complaints

Across the three main data sets, complaints on the basis of sex (including sexual orientation) are a top three concern (the second most common concern in the LASH data). It is worth noting that for the state-focused data, gender-based complaints were tallied separately from sex-based complaints, though these issues could be treated as overlapping and indeed have been treated as such, per HUD guidelines, in federal settings. When considered along with gender-based discrimination, or in its own right, sex-based discrimination in various forms appears to be a major issue and barrier to fair housing in Hawai‘i.

Future analyses should also focus on overlapping concerns related to “sex” (which federally in recent years has been defined expansively to include gender identity/expression and sexual orientation, etc.) and gender (which include gender expression and identity). Discrimination on the basis of sex can also include sexual harassment. While a relatively recent analysis of impediments to fair housing for Hawai‘i focused on disability, with good reason, a future analysis could more deeply focus on potential concerns related to sex and gender-based discrimination.

In terms of frequency, complaints related to discrimination on the basis of sex are followed by complaints about discrimination based on race and/or color. The next most frequent complaints relate to family and marital status. These are the top five most common issues across the main data sources.

Complaints regarding national origin and ancestry (including relating to language) also occur regularly, and according to LASH data, appear to be the most frequent basis of complaints for Micronesian households. As discussed below, community stakeholders who informed other portions of this report identified challenges experienced by Micronesian households, including those who have Limited English Proficiency. Also, LASH data suggests that fair housing concerns based on race/color are a concern especially for African Americans (for whom this was the most frequent basis of complaint). Future analyses should aim to specify how much language barriers are reflected in the patterns of national origin/ancestry discrimination. With better data on the racial or ethnic identity of complainants, these patterns could be validated, though they suggest that Micronesian as well as Black/African American households face distinct and persistent challenges of discrimination on the basis of national origin/ancestry and race/color, respectively.

5.5 TABLES AND FIGURES

Table 5.1 Types of Complaints by Issue/Protected Class (alone or in combination with other complaints), LASH Data			
<i>Type</i>	<i>Number of complaints (alone or in combination)</i>	<i>Percent of cases (n=873)</i>	<i>Percent of all mentions (n=1,081)</i>
Disability	616	70.6%	57.0%
Sex	145	16.6%	13.4%
Race	88	10.1%	8.1%
Family Status	73	8.4%	6.8%
National Origin/Ancestry	42	4.8%	3.9%
Age	41	4.7%	3.8%
Gender	33	3.8%	3.1%
Section 8	20	2.3%	1.9%
Religion	8	0.9%	0.7%
Domestic Violence	8	0.9%	0.7%
HIV status	4	0.5%	0.4%
Retaliation	3	0.3%	0.3%

Source: LASH Data January 2019-July 2024

Table 5.2 Types of Complaints by Issue/Protected Class (alone or in combination with other complaints), HCRC Data			
<i>Type</i>	<i>Number of complaints (alone or in combination)</i>	<i>Percent of cases (n=234)</i>	<i>Percent of all mentions (n=487)</i>
Retaliation	155	66.2%	31.8%
Disability	146	62.4%	30.0%
Sex	59	25.2%	12.1%
Race/Color	47	20.1%	9.7%
Family Status	35	15.0%	7.2%
National Origin/Ancstry	16	6.8%	3.3%
Age	12	5.1%	2.5%
Gender	10	4.3%	2.1%
Religion	5	2.1%	1.0%
HIV status	2	0.9%	0.4%

Source: HCRC Data July 2019-July 2024

Table 5.3 Types of Complaints by Issue/Protected Class (alone or in combination with other complaints), HUD Data			
<i>Type</i>	<i>Number of complaints (alone or in combination)</i>	<i>Percent of cases (n=273)</i>	<i>Percent of all mentions (n=503)</i>
Disability	162	59.3%	32.2%
Retaliation	149	54.6%	29.6%
Sex	72	26.4%	14.3%
Race/Color	52	19.0%	10.3%
Family Status	38	13.9%	7.6%
National Origin	22	8.1%	4.4%
Religion	8	2.9%	1.6%

Source: HUD data 2021-2024

6.0 DISABILITY AND HEALTH

Lack of accessible and affordable housing supply

The experts we interviewed underscored how lack of housing supply, at all income levels, especially for those with physical disabilities is a major issue. Key respondents specifically mentioned limits in physically accessible housing supply for subsidized units.

6.1 HUD Accessibility Requirements

Both privately-owned and publicly-assisted housing, regardless of whether they are rental or for sale units, must meet the accessibility requirements of the Fair Housing Act when they are located in a building of four or more units, built for first occupancy after March 13, 1991. To help builders comply with these requirements, HUD issued in 1991 its Fair Housing Act Accessibility Guidelines⁸. In 1994, the Department responded to questions on the Guidelines by issuing a Question and Answer Supplement to the Guidelines⁹. In 1996, HUD provided further guidance on ways to design and construct housing that complies with the Fair Housing Act by issuing the Fair Housing Act Design Manual¹⁰, which is filled with detailed illustrations and sample room designs. HUD has designated the Fair Housing Act Accessibility Guidelines, when used in conjunction with the Question and Answer Supplement, the Fair Housing Act Design Manual, and five other documents as safe harbors for compliance with the Fair Housing Act accessibility requirements.

All federally-assisted new construction housing developments with five or more units

⁸ Fair Housing Act Accessibility Guidelines:

https://www.hud.gov/program_offices/fair_housing_equal_op/disabilities/fhefhag

⁹ Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines:

https://www.hud.gov/program_offices/fair_housing_equal_op/disabilities/fhefhasp

¹⁰ Fair Housing Act Design Manual: <https://www.huduser.gov/portal/publications/destech/fairhousing.html>

must design and construct five percent of the dwelling units, or at least one unit, whichever is greater, to be accessible for persons with mobility disabilities. These units must be constructed in accordance with the Uniform Federal Accessibility Standards (UFAS)¹¹ or a standard that is equivalent or stricter. An additional 2 percent of the dwelling units, or at least one unit, whichever is greater, must be accessible for persons with hearing or visual disabilities. For more information on the accessibility requirements for federally-assisted new construction and substantial alterations of existing federally-assisted housing, see Section 504: Disability Rights in HUD Programs¹² (United States Department of Housing and Urban Development, n.d.a.).

In order to be in compliance with the Fair Housing Act, there are seven basic “Accessibility FIRST” design and construction requirements that must be met (United States Department of Housing and Urban Development, n.d.b). These requirements can be viewed in Appendix 6.A.

An advocate for disability rights that we spoke to highlighted challenges faced in providing reasonable accommodations, specifically a significant demand for accessible housing and the lengthy wait times clients experience. He emphasized the importance of written requests for accommodations, as this often leads to better outcomes for the client.

Another disability expert cited that ground floor units and units compliant with the Americans with Disabilities Act (ADA) are difficult to find. An additional respondent further explained that new housing communities, such as kūpuna (elderly) housing, may only have three accessible units within an entire building. A different respondent indicated that, though their

¹¹ Uniform Federal Accessibility Standards: <https://www.access-board.gov/aba/ufas.html>

¹² Section 504: Disability Rights in HUD Programs:
https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main

agency is doing their best to assist consumers to apply for affordable housing through subsidies and Section 8 Housing Choice Vouchers (HCV), the supply of subsidized communities being newly built does not meet the demand – this is especially true for people with disabilities, who require reasonable accommodation and ADA units. According to another respondent, accessible parking spaces also remain at a minimum.

HUD defines reasonable accommodation as follows:

“A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations. Please note that the ADA often refers to these types of accommodations as ‘modifications.’ Any change in the way things are customarily done that enables a person with disabilities to enjoy housing opportunities or to meet program requirements is a reasonable accommodation.”

Since the publication of the 2016 report on the Analysis of Impediments to Fair Housing Choice in Hawai‘i with a Focus on People with Disabilities, multiple complaints and lawsuits related to the lack of accessible and affordable housing have been amplified by local news sources. These complaints include:

- Concerns about the out-of-order elevator at Kulaokahua Apartments on O‘ahu, a housing complex whose residents are all 62 years or older and many are living with disabilities. This is the building’s only elevator, and residents – including a woman in a wheelchair and a man with no cartilage in his knees – reported having to either walk up and down the stairs or stay in their apartments after receiving no word from management for two weeks after the breakdown (Carpenter, 2022).
- Similar concerns about the out-of-order elevator at Waikiki Walina Apartments, a 10-story building on O‘ahu. After three months with no repair, it was reported that several

tenants who moved out had to leave their furniture and other personal belongings; residents with disabilities report chronic pain and an inability to leave their apartment. Hawai‘i Disability Rights Center has stated that federal law requires building management to provide reasonable accommodations (Morales, 2022).

- A Hawai‘i developer and other companies were accused of not designing and building five multifamily housing complexes with the required accessible features, allegedly violating the Fair Housing Act. The Justice Department reached a settlement that requires the companies to pay a fine and make changes to their properties, including the addition of ramps, accessible parking and making apartments easier for people with disabilities to enter and use (Office of Public Affairs, 2023).

6.1.1 Disability and Housing Assistance

Respondents also emphasized specific challenges for individuals with physical disabilities—for example those requiring the use of a wheelchair—hoping to use Section 8 Housing Choice Vouchers (HCVs). One respondent elaborated to say that the chances of finding a landlord who accepts Section 8 HCV, is willing to accept a wheelchair user and make reasonable accommodations to ensure the unit accessible are “zero”; this puts potential tenants at risk of losing their Section 8 HCV benefits.

Section 8 HCV recipients with disabilities who rely on Social Security, and those with fixed incomes, may face unique challenges. A realtor and property manager respondent shared a story about a tenant on disability who continues to struggle with affordability despite receiving assistance from HUD. Federal assistance programs for people with disabilities can be found in Appendix 6.B.

6.1.2 Disability and Homelessness

An interview respondent voiced concern about lack of affordable inventory and reported that people with disabilities are at great risk of homelessness¹³. This is reflected in the homeless point-in-time count data for Hawai'i counties, summarized below, that show relatively high rates of those with disabilities in both the sheltered and unsheltered homeless populations, as well as in homeless service utilization data.

In 2024, Bridging the Gap (BTG) enumerated 1,895 individuals experiencing homelessness on Hawai'i Island, Kaua'i and Maui. BTG found that 674 individuals are Chronically Homeless (CH)¹⁴. Thirty-nine individuals are Chronically Homeless People in Families¹⁵, comprising 14 families. 637 people identified as having a serious mental illness, 537 reported chronic substance abuse, and six people are living with HIV/AIDS (Ka Mana Na Helu, 2024). Additional details reflecting disability and homelessness in Honolulu County from the Bridging the Gap 2024 can be found in Appendix 6.C.

According to the Honolulu County point-in-time count of 2024, 26% percent (of those who responded to the surveys) of adults and unaccompanied minors reported a substance use disorder and 33% reported a mental illness. Two percent of adults and unaccompanied minors

¹³ In this report we use the term homelessness and houselessness interchangeably. We default to the term homeless, which is more common in policy discussions. However, we acknowledge that some respondents feel the term "houseless" is less stigmatizing and thus preferred. The use of the term "houseless" recognizes that people can make their homes in diverse ways, aside from within traditional formal housing. Where respondents preferred the term "houseless" we used that language below, particularly when discussing the viewpoints of qualitative interviewees.

¹⁴ Chronically Homeless (CH) Individual refers to an individual with a disability who has been continuously homeless for one year or more or has experienced at least four episodes of homelessness in the last three years where the combined length of time homeless in those occasions is at least 12 months (Ka Mana O Na Helu ,2024).

¹⁵ Chronically Homeless (CH) People in Families refers to people in families in which the head of household or other adult member has a disability and has either been continuously homeless for one year or more or has experienced at least four episodes of homelessness in the last three years where the combined length of time homeless in those occasions is at least 12 months. (Ka Mana O Na Helu ,2024).

reported living with HIV/AIDS. A notably high share of adults and unaccompanied minors reported one or more disabling conditions or a physical, developmental or other disability, 55% and 36% respectively (Partners in Care, O‘ahu’s Continuum of Care, 2024). Additional details reflecting disability and homelessness in Honolulu County from the Point In Time Count 2024 can be found in Appendix 6.D.

Respondents identified challenges faced by people with disabilities who seek access to emergency and transitional homeless shelters. In the view of a different respondent, difficult shelter conditions push houseless people with disabilities to sleep in their cars or on the beach, rather than in a shelter. She continued to say that this is also true of our kūpuna with disabilities; they are finding themselves houseless and unable to access the limited shelter system.

6.1.3 Limited Housing Supply at an Affordable Level

People with disabilities at lower levels of income face significant challenges obtaining accessible and affordable housing and this issue persists until today (CDS 2016). Per the complaints outlined above, HUD requires specific shares of new units to be ADA compliant, but disability advocates are saying that this is not nearly enough. Hawai‘i continues to have a limited supply of accessible housing at an affordable level.

6.1.4 Increase the Inventory of Accessible Housing

A variety of initiatives to increase the stock of affordable housing were described in the 2016 report on the *Analysis of Impediments to Fair Housing Choice in Hawai‘i with a Focus on People with Disabilities* (CDS 2016). This current report amplifies the recommendations of that analysis, as the majority of the impediments and recommendations continue to hold relevance; we also identify potential solutions articulated by stakeholders interviewed for the current study.

Increase targeted funding to design accessible housing in all forms (i.e. residences, apartments, subsidized housing).

Implement universal design in all new building projects to enable “visitability” and aging in place. Design must incorporate seven elements to be considered universal: flexibility, equitability, simplicity, easy-to-understand features, tolerance for error by the user, low physical effort and correct sizing and space. These design elements include features such as dimmed lights above the toilet, lever handles in lieu of traditional door knobs, tiered countertops on kitchen islands and showers with no curbs. These elements are subtle nods to safety, regardless of a person’s age and mobility (Cruz-George 2023).

Revise building codes and zoning. Disability advocates we spoke to indicated that universal homes are needed so that everyone can live everywhere and advocated for the inclusion of design principles into building codes. (Also discussed in the 2016 *Analysis of Impediments to Fair Housing Choice in Hawai‘i with a Focus on People with Disabilities*).

6.2 Deficient attitudes, skills and knowledge to support people with disabilities in obtaining and retaining housing

A lack of knowledge, skills and attitudes necessary to support people with disabilities exists among personnel and systems that are often the “gatekeepers” of housing opportunities for this population (CDS 2016: 108). Whether intentional or not, such deficiencies can result in discrimination, exclusion and a lack of equity throughout the housing application process. A realtor and property manager respondent underscored the need for fair housing education, particularly for landlords who may not be aware of legal prohibitions against discrimination. She said that the financial benefits of Section 8 HCVs can counter concerns that landlords might have about who can afford rent and that they need to be reminded of this. She also mentioned that

landlords might not know that their preferences related to disability, familial status, race and gender would be considered discrimination. She pointed out that biases often influence landlord decisions, which can further complicate the housing landscape for vulnerable groups, including individuals with disabilities and those in recovery.

These deficiencies in skills and knowledge to support people with disabilities in their housing journey further extends into the housing coordination systems (CDS 2016). County Aging and Disability Resource Centers (ADRC) were a focus of the 2016 *Analysis of Impediments to Fair Housing Choice with a Focus on People with Disabilities*, with an emphasis on their potential to be a one-stop shop for disability-related resources. We reached out to each county ADRC as a follow-up for the current study.

Our interviews found that this potential of ADRCs to support housing access remains unrealized. Respondents from county ADRCs spoke about the ways in which their agencies struggle with the segmenting of community services. One respondent explained a sense of separation or lack of awareness of housing support programs and suggested that this left clients without support in navigating housing systems. Other entities to which ADRC may refer clients, such as Veterans Affairs (VA) service and Medicaid, are focused on their own scopes of work for which they are contracted – and so there is a lack of integrated care to meet the needs of the public. He stated that a major challenge for ADRCs in realizing their potential to be a one-stop shop for people with disabilities is their inability to navigate services and programs, including housing related services, that are not within their sphere or system.

Interviews did suggest ways that ADRC's can beneficially collaborate with other agencies in holistic support of elderly individuals and those with disabilities. Honolulu ADRC offered an example of a Memorandum of Understanding with WorkHawai'i, in which kūpuna

participate in their Rent to Work program. Participants receive job skills training but also support in finding or maintaining permanent housing, as part of the job skills training provides them with funds for rent money. Collaborations like this show promise. In addition, respondents recommended increased funding to county ADRCs to provide direct services to individuals with disabilities including emergency preparedness rosters in the event of a disaster such as the wildfires on Maui.

By contrast, other organizations showed the benefits of integrating health, mental illness, HIV, and disability support services with housing navigation. A respondent from a health promotion organization that also offers housing support explained the ways in which they “embrace” the different aspects that make up each person who comes through their doors, many of whom are at the intersection of living with HIV, mental health issues, substance use and homelessness. This organization addresses these unique components of each individual client through their programming in HIV prevention, syringe exchange, homeless outreach and LGBT support services. Connecting services and holistic treatment of clients is important given the higher rates of HIV positivity among the homeless population (vs. the stably-housed population) and the finding that housing instability can create barriers to medical treatment for a range of illnesses, including HIV treatments (Thakarar et al. 2017:1).

Housing navigator positions can prove helpful in mitigating discrimination for disabled individuals and those facing other challenges on the housing market (see also discussion below in section 12.8.4). For example, a representative of an organization that serves LGBT youth aged 18 to 24 described how their housing navigator position plays a crucial role. Funded by a Housing Opportunities for Persons with AIDS (HOPWA) grant, the housing navigator educates landlords about the organization’s rent subsidy program, which fosters mutual understanding

between landlords and tenants while reducing discrimination. Housing navigators connect clients with landlords and mitigate issues before they escalate, which ensures smoother transitions into stable housing. This position not only increases awareness about HIV as a disability, but also aids with the comfort level of landlords in accepting other rent subsidies including HCV vouchers. The respondent recommended that other organizations hire housing navigators because they provide intervention services, support to clients in securing housing, and reduce fear and stigma associated with HIV and other conditions.

6.2.1 Online applications as a challenge for individuals with disabilities

Respondents raised concerns about new barriers for those living with disabilities related to online applications. This is especially significant given the proliferation of online-based service applications, especially since COVID-19. A key civil rights advocate explained that while online applications exist, most intakes are still conducted via phone as many clients find it easier to communicate their needs verbally. A different disability rights advocate added that clients who are blind or visually impaired often require assistance to apply for programs like HCV or other voucher programs; he emphasized the challenges posed by time constraints and their need for support. Finally, yet another disability rights advocate also explained the difficulties of online applications for people with disabilities, particularly those who are visually impaired, as it is often difficult to make the font size larger. Hawai‘i Department of Health Disability Communication Access Board offers the following guidelines on the accessibility of programming and services (State of Hawai‘i 2024):

“Each agency’s home page should include contact information in order to allow the public an alternative means to ask questions or request additional information. At a minimum, contact information should include a phone number, fax number and general e-mail address. E-mails received by a state agency should be responded to within two (2) business days.”

The policy on the accessibility of programming and services can be found in Appendix 6.E. Please see also specific guidelines for website accessibility in Appendix 6.F.

6.2.2 Specific Challenges for those with Developmental Disabilities

Key respondents cited comprehension of leases as a major barrier for tenants with developmental disabilities, as they may not understand what they are signing. The jargon with which leases are written may result in a lack of clarity, including about responsibilities of the tenant.

Other reports and advocacy efforts have also identified unique challenges facing those with developmental disabilities, especially those reliant on family caretakers who may face their own aging and disability challenges. For example, in a 2018 forum for developmentally disabled advocacy in West Hawai‘i. James Kilgore, Executive Director of Full Life Hawai‘i, emphasized the “precious little housing inventory” available for families with members living with developmental disabilities, especially as their familial caregivers advance in age. Kilgore recounted stories of people leaving the island if their families – often elderly parents – are unable to care for them. He added that he knows of only two group homes in West Hawai‘i and each have extremely limited space and long waiting lists (Dibble 2018).

6.3 Increase education and support for landlords regarding the housing process for people with disabilities

Our respondents emphasized the importance of landlord education to eradicate housing discrimination for people with disabilities. Multiple stakeholders interviewed for this Analysis of Impediments emphasized the need to educate landlords on fair housing issues related to rent subsidies such as HCV and voucher programs, as well as placement of tenants. Additional

education about potential tenants living with disabilities would also be useful in addressing the fear that some landlords may have of accepting a tenant with a disability with which they are not familiar. Civil rights experts described the need for education on the specifics of reasonable accommodation.

6.4 Lack of clarity about and landlord resistance to assistance animals

It was well noted throughout the stakeholder interviews for this Analysis of Impediments that the presence of assistance animals can complicate housing qualifications for people with disabilities, as landlords can be hesitant to rent to people with animals even when for disability accommodation. The Hawai'i Civil Rights Commission defines assistance animals as:

“animals that work, assist, or perform tasks for the benefit of a person with a disability. They can also be animals that provide emotional support. They are not pets. Assistance animals can include: service animals, support animals, therapy animals, and comfort animals. An assistance animal does not have to be a dog. Cats, birds, rabbits and other animals have been recognized as assistance animals.” (HCRC 2015)

Respondents also raised a lack of overall clarity about service animals as a housing issue. Accepting service animals is a requirement for landlords to meet reasonable accommodation requests; however, many tenants with disabilities hesitate to disclose their service animals when applying for housing out of fear of rejection from potential landlords. Civil rights expert respondents explained that this lack of disclosure can often lead to landlord-tenant disputes, and when the animal is discovered on property it can create confusion and problems. However, respondents indicated that this fear is substantiated by the fact that rejection does sometimes occur after a potential tenant's self-disclosure of a disability or related service animal. It should also be noted that some stakeholders alluded to the legitimacy of the title for certain animals – for example, a request for the accommodation of ten emotional support chickens seemed to be

met with some suspicion on Maui. Reasonable restrictions on the use of an assistance animal can be found in Appendix G.

Clear guidance and education on service animals for both landlords and tenants was regarded by our respondents as a major field of improvement for Hawaii's housing authorities. The following recommendations were suggested as best practices.

First, education initiatives for landlords and property managers should be focused on helping them to understand the differences between service animals, emotional support animals and pets, as well as the laws for reasonable accommodation. This may help to facilitate disclosure of service animals by potential tenants during the application process, minimizing the potential for related landlord-tenant disputes. Additionally, education and training for people with disabilities on how to minimize their service animal's impact on neighboring tenants is needed.

6.5 Summary of Recommendations

The majority of recommendations in this section relate to increasing the inventory of accessible housing, education and support for landlords regarding the housing process for people with disabilities, accessibility throughout the housing application process, and resources for personnel offering housing support to people with disabilities.

First, increase targeted funding to design accessible housing in all forms (i.e. residences, apartments, subsidized housing). Implement universal design in all new building projects to enable visitability and aging in place. The 2016 *Analysis of Impediments with a Focus on People with Disabilities* underscored this with a strong recommendation to revise both building codes and zoning requirements to promote the construction of accessible and visitable housing (CDS 2016).

Second, increase education and support for landlords regarding the housing process for people with disabilities, which will help to eradicate housing discrimination for people with disabilities. This should include clear guidance and education on service animals, for both landlords and tenants.

Third, accessibility is needed throughout the housing application process: housing navigation and support services should be integrated into other programming for people with disabilities, to address the need to recognize the broader, holistic needs of individuals and combat siloing. Respondents recommended promoting more accessible web design following best practices, including accessible website design for housing application processes. Specific guidelines for website accessibility can be found in Appendix 6.F. Establishing a method of anonymous reporting so that people with disabilities have a pathway to pursue their housing concerns without fear of retaliation from landlords were also strongly recommended.

Finally, additional resources are needed for personnel offering housing support to people with disabilities. Offer translation support for personnel offering housing support to people with disabilities. For example, respondents at a youth shelter have created a lease “cheat sheet” for case managers to help clients with developmental disabilities understand their leases in very simple terms, which can serve as a model for other entities. We identified

Continue to support the potential of county ADRCs to help integrate housing navigation and support services to serve elderly community members and those with disabilities in a holistic manner.

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Appendix 6.A

https://www.hud.gov/program_offices/fair_housing_equal_op/accessibility_first_requirements

Requirement 1: An accessible building entrance on an accessible route.

All covered multifamily dwellings must have at least one accessible building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site.

An accessible route means a continuous, unobstructed path connecting accessible elements and spaces within a building or site that can be negotiated by a person with a disability who uses a wheelchair, and that is also safe for and usable by people with other disabilities.

An accessible entrance is a building entrance connected by an accessible route to public transit stops, accessible parking and passenger loading zones, or public streets and sidewalks.

Requirement 2: Accessible public and common use areas.

Covered housing must have accessible and usable public and common-use areas. Public and common-use areas cover all parts of the housing outside individual units. They include -- for example -- building-wide fire alarms, parking lots, storage areas, indoor and outdoor recreational areas, lobbies, mailrooms and mailboxes, and laundry areas.

Requirement 3: Usable doors (usable by a person in a wheelchair).

All doors that allow passage into and within all premises must be wide enough to allow passage by persons using wheelchairs.

Requirement 4: Accessible route into and through the dwelling unit.

There must be an accessible route into and through each covered unit.

Requirement 5: Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

Light switches, electrical outlets, thermostats and other environmental controls must be in accessible locations.

Requirement 6: Reinforced walls in bathrooms for later installation of grab bars.

Reinforcements in bathroom walls must be installed, so that grab bars can be added when needed. The law does not require installation of grab bars in bathrooms.

Requirement 7: Usable kitchens and bathrooms.

Kitchens and bathrooms must be usable - that is, designed and constructed so an individual in a wheelchair can maneuver in the space provided.

Reasonable Accommodation Challenges and Successes

Appendix 6.B

<https://hpha.hawaii.gov/housing-assistance-programs#Mainstream>

Non-Elderly Disabled (NED) Vouchers

Since 1997, Housing Choice Vouchers have been awarded under different special purpose voucher program types to serve non-elderly persons with disabilities (NED). Category 1 vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market. Category 2 vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. Certain Developments vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. Designated Housing vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance.

Only income eligible families whose head of household, spouse or co-head is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible. Applicants will be selected from the PHA's HCV waiting list. When an eligible NED family comes to the top of the PHA's HCV waiting list and a voucher becomes available, the PHA issues a voucher to the family. The voucher may be a specific NED voucher or a regular voucher.

Mainstream vouchers

Mainstream vouchers assist non-elderly persons with disabilities. Aside from serving a special population, Mainstream vouchers are administered using the same rules as other housing choice vouchers. Funding and financial reporting for Mainstream vouchers is separate from the regular tenant-based voucher program. NED vouchers serve non-elderly disabled families, defined as families with a head, co-head, or spouse under age 62. While Mainstream Vouchers serve non-elderly persons with disabilities, they are not NED vouchers. The funding, monitoring, and eligibility requirements are different for NED vouchers and Mainstream Vouchers.

Households that include a non-elderly person with a disability are eligible to receive Mainstream Vouchers. Non-elderly is defined as someone between 18 and 62 years of age. A household receiving Mainstream Voucher assistance does not lose its eligibility once the disabled person exceeds 62 years of age; the household does not “age out” of the program.

Appendix 6.C

https://www.btghawaii.org/media/uploads/2024_btg_pit_count_report_final.pdf

Bridging the Gap 2024: Disability and Homelessness in Hawai‘i, Kaua‘i and Maui Counties

In 2024, Bridging the Gap enumerated 1,895 individuals experiencing homelessness on Hawai‘i island, Kaua‘i and Maui. The categories below reflect those related to people with disabilities per the PIT definitions and as defined by the key stakeholders interviewed for this report.

Key terms used in these reports are used for PIT reporting purposes, and their definitions may differ in some ways from the those found in the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act and in HUD regulations. The key terms and definitions below are relevant to people with disabilities:

Chronically Homeless (CH) Individual refers to an individual with a disability who has been continuously homeless for one year or more or has experienced at least four episodes of homelessness in the last three years where the combined length of time homeless in those occasions is at least 12 months.

Chronically Homeless (CH) People in Families refers to people in families in which the head of household or other adult member has a disability and has either been continuously homeless for one year or more or has experienced at least four episodes of homelessness in the last three years where the combined length of time homeless in those occasions is at least 12 months. (Ka Mana O Na Helu, 2024)

BTG 2024 Homeless Subpopulations: Total by Subpopulation

- Chronic Individuals: 674
- Chronic Families: 14
 - Chronic Family Individuals: 39
- Serious Mental Illness: 637
- Chronic Substance Use: 537
- HIV/AIDS: 6

Hawai‘i Island Homeless Subpopulations 2024

- Chronic Individuals: 336
- Chronic Families: 5
 - Chronic Family individuals: 13
- Serious mental illness: 304
- Chronic Substance Use: 267
- HIV/AIDS: 3

Hawai‘i Island Additional Unsheltered Questions

Disability-related data below reflects responses to the survey question, “What led to your current living situation?” in which respondents selected the primary reason as “Disability (mental/addiction/physical).” This question allowed for only

one selection, intended to be the primary reason that each household was living unsheltered. Of the 492 households surveyed, all households responded.

Primary Reason: Disability (mental/addiction/physical)

- Family Household: 0
- Individual Household: 64
- Total: 64
- Percentage of Total: 13%

Disability-related data below reflects responses to the survey question, “What can we do to help you end your homelessness?” in which respondents selected the primary reason as “Need medical care.” This question allowed for multiple response selections intended to convey data on what services can be provided to assist in resolving the household’s unsheltered homelessness. All households picked at least one response from the options provided.

Homeless Service: Need medical care

- Family Household: 1
- Individual Household: 51
- Total: 38
- Percentage of Total: 7.7%

Homeless Service: Medical Insurance

- Family Household: 1
- Individual Household: 51
- Total: 52
- Percentage of Total: 10.6%

Kaua‘i Homeless Subpopulations 2024

- Chronic Individuals: 156
- Chronic Families: 4
 - Chronic Family Individuals: 12
- Serious Mental Illness: 123
- Chronic Substance Use: 105
- HIV/AIDS: 2

Mauī Homeless Subpopulations 2024

- Chronic Individuals: 182
- Chronic Families: 5
 - Chronic Family Individuals: 14
- Serious Mental Illness: 210
- Chronic Substance Use: 165
- HIV/AIDS: 1

Appendix 6.D

Point In Time Count 2024: Disability and Homelessness in Honolulu County

The disability-related data below reflects (self-reported) characteristics of 1,308 unsheltered individuals and 1,728 sheltered individuals who were surveyed. It excludes the 1,458 unsheltered observations because these individuals were not asked about these conditions. Analyzed data includes 3,036 individuals in 2,030 households, including 2,422 adults, 11 unaccompanied minors (UM), and 603 keiki (excluding UM).

- 26% (636) of adults and UMs (2,433) reported a Substance Use Disorder
- 33% (797) of adults and UMs (2,433) reported a Mental Illness
- 55% (1,329) of adults and UMs (2,433) reported One or More Disabling Conditions
- 36% (876) of adults and UMs (2,433) reported a Physical, Developmental, or Other Disability
- 2% (37) of adults and UMs (2,433) reported living with HIV/AIDS

The disability-related data below reflects characteristics of the 1,728 individuals in 1,018 households counted in the sheltered 2024 PIT Count, including 1,196 adults and 532 keiki, 10 of whom were unaccompanied minors.

- 22% (269) of sheltered adults and UMs (1,206) reported a Substance Use Disorder
- 47% (567) of sheltered adults and UMs (1,206) reported One or More Disabling Conditions
- 29% (352) of sheltered adults and UMs (1,206) reported a Mental Illness
- 35% (426) of sheltered adults and UMs (1,206) reported a Physical, Developmental, or Other Disability

The disability-related data below reflects data collected on 1,308 unsheltered people in 1,016 households, including 1,226 adults, 1 unaccompanied minor, and 81 keiki that completed surveys. This data is not available for the 1,458 individuals who were observed.

- 30% (367) of unsheltered adults and UMs (1,227) reported a Substance Use Disorder
- 62% (762) of unsheltered adults and UMs (1,227) reported One or More Disabling Conditions
- 36% (445) of unsheltered adults and UMs (1,227) reported a Mental Illness
- 37% (450) of unsheltered adults and UMs (1,227) reported a Physical, Developmental, or Other Disability

Appendix 6.E

<https://health.hawaii.gov/dcab/guidance-on-web-site-accessibility/>

Hawai‘i Department of Health Disability Communication Access Board states the following policy on the accessibility of programming and services (State of Hawai‘i 2024):

The Americans with Disabilities Act of 1990 requires, in part, that state and local government entities ensure that all programs, services, or activities be accessible to persons with disabilities. Web sites are considered to be a program or service of government utilized to disseminate information to the public. Therefore, the State must ensure that these web sites are accessible to persons with disabilities.

It is intended that all Departments of the Executive Branch meet the standards as set forth by Department of Accounting and General Services, Information and Communication Services Division (ICSD) in order to meet the Americans with Disabilities Act requirements for accessibility to persons with disabilities. The Americans with Disabilities Act does not contain any specific standards for web site accessibility, therefore ICSD has established standards as set forth in the following technical guidelines.

Each agency’s home page should include contact information in order to allow the public an alternative means to ask questions or request additional information. At a minimum, contact information should include a phone number, fax number and general e-mail address. E-mails received by a state agency should be responded to within two (2) business days.

Appendix 6.F

[https://labor.hawaii.gov/hcrc/files/2019/12/HCRC-flyer-assistance-animal-FINAL-](https://labor.hawaii.gov/hcrc/files/2019/12/HCRC-flyer-assistance-animal-FINAL-10.15.2015.pdf)

10.15.2015.pdf

According to the Hawai‘i Civil Rights Commission (2015), housing providers may establish reasonable restrictions on the use of an assistance animal. Examples of some reasonable restrictions are:

1. Observing applicable laws, including leash laws and pick-up laws;
2. Assuming responsibility for any damage caused by the animal;
3. Having the dwelling cleaned upon vacating, by fumigation, deodorizing, professional carpet
4. cleaning, or other appropriate methods, at resident’s expense.
5. Cleaning up of the animal’s waste;
6. Having the animal licensed with the county, if required;
7. Having the animal vaccinated, with documentation of vaccinations;
8. Having the animal under the control of its handler, by use of a harness, leash, tether, cage or
9. other physical control. If the nature of the person’s disability makes physical control impracticable, or if physical control would interfere with the assistance that the animal provides, the housing provider may require that the animal be otherwise under the control of its handler, by voice control, signals or other effective means.
10. Having the animal meet minimum sanitary standards.

Appendix 6.G

<https://health.hawaii.gov/dcab/guidance-on-web-site-accessibility/>

Hawai‘i Department of Health Disability Communication Access Board provides guidance from Department of Accounting and General Services, Information and Communication Services Division (ICSD) on web site accessibility (State of Hawai‘i 2024), stating that all web-based intranet and internet information and applications should be designed following standards set forth in Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d).

- (a) A text equivalent for every non-text element shall be provided (e.g., via “alt”, “longdesc”, or in element content).
- (b) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.
- (c) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.
- (d) Documents shall be organized so they are readable without requiring an associated style sheet.
- (e) Redundant text links shall be provided for each active region of a server-side image map.
- (f) Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.
- (g) Row and column headers shall be identified for data tables.
- (h) Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.
- (i) Frames shall be titled with text that facilitates frame identification and navigation.
- (j) Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.
- (k) A text-only page, with equivalent information or functionality, shall be provided to make a web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.
- (l) When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.

7.0 VOUCHER PROGRAMS AND SOURCE OF INCOME PROTECTIONS

Source of income discrimination is the unequal treatment of applicants for rental housing based on the income stream by which they intend to pay their rent. In the vast majority of cases, this discrimination occurs when landlords refuse to rent to families with housing vouchers. This type of discrimination is not a violation of the Fair Housing Act, but was outlawed by the State of Hawai‘i in 2023. Below we report on findings from interviews with stakeholders including program administrators at Public Housing Administrations (PHAs) who are charged with administering federal Housing Choice Voucher (HCV) and other rental subsidy programs.

Affordable housing advocates as well as housing providers have identified multiple challenges facing households attempting to use rental subsidies such as HCV, Emergency Housing Vouchers, and other forms of rental subsidies (e.g. those for the homeless or veterans) on the private rental market. Difficulties in securing rental agreements or leases can be pronounced in tight rental markets such as Hawai‘i. Nationally, these concerns are well-known and have motivated the widespread legislation of source of income protections. As of 2024, 18 states, Washington, D.C. and thousands of municipalities have source of income protections, and new state-level protections have been proposed in Arizona and New Mexico (Harrold 2024).

Indeed, the last analysis of impediments to fair housing for the state of Hawai‘i identified specific barriers facing voucher holders in the Honolulu context (Engel et al 2022). Voucher holders reported facing numerous rejections on the rental market. The analysis identified an apparently widespread practice of landlords and management companies refusing to rent to “Section 8” or assisted households, including widespread verbal categorical refusals of assisted tenants, including in rental advertising platforms (such as Zillow, Facebook, Craigslist, etc.). In

light of such concerns, after several years of advocacy on the part of fair housing stakeholders, Hawai‘i lawmakers successfully passed a new law in May 2023, Act 310, institutionalizing source of income protections. Source of income protections are important in their own right but also in terms of their potential to affirmatively further fair housing for other protected classes, given that the preponderance of households eligible for assistance (based on income) and other criteria also form part of other protected classes. This includes women, women with children, and racialized minorities that have historically faced blocked access to housing. While housing and civil rights experts as well as agency staff in Hawai‘i laud the passage of this new law, describing it as an important milestone toward the inclusion of assisted households, interviews clearly noted the need for: more education and access to legal interpretation of the statute for managers and landlords, agency staff, non-profit housing partners including navigators, tenants and assisted households, and members of the public; educational resources including infographics and more web-based resources to spread awareness and understanding of the law; statutory clarity to improve enforcement; and increased funding for enforcement the law so that it serves as a deterrent to discrimination.

Finally, staff from PHAs and others also described programmatic efforts that have been effective in encouraging private landlords to accept HCV tenants, pointing to practices and approaches that should be developed and continued in order to mitigate barriers to assisted tenants’ housing choice.

7.1 Background on Hawai‘i’s Act 310

In light of apparently rampant direct and indirect discrimination against voucher holders, Act 310 represented a major accomplishment to support fair housing access to Hawai‘i’s diverse

populations. Housing advocates and legislators had proposed other bills aimed to prevent source of income discrimination, which failed to be enacted in previous legislative sessions. As just one example, House Bill 130, introduced but deferred in 2021, would have explicitly prohibited discrimination in advertisements (Hawai‘i State Legislature 2022a).

It is worth noting that companion legislation also has been established to *encourage* landlord participation in the Housing Choice Voucher (HCV) program, another important means to affirmatively further housing access for assisted households. House Bill 1752, which passed on May 5, 2022 and was enacted into law as Act 287, established the HCV landlord incentive program, requiring Hawai‘i Public Housing Authority (HPHA), one of Oahu’s PHAs, to establish incentives for landlords participating in the Section 8 tenant-based assistance HCV program. It further required HPHA to amend or adopt rules to establish a reasonable time of 15-days maximum after receipt of an owner's or landlord's inspection request within which to inspect a dwelling unit for lease under the Section 8 HCV (Hawai‘i State Legislature 2022b).

Act 310 was passed into law in late 2022 by the Hawai‘i State legislature and became enforceable as of May 1, 2023 in order to give the public a chance to understand and prepare for the law’s implementation. This law prohibits discrimination “against prospective or current tenants based on participation in a Permanent Supportive Housing program or any Section 8 Housing Choice Voucher program,” including discrimination in advertisements for available “real property.” Act 310 applies primarily to landlords owning more than four rental properties, with some exemptions allowed. The law stipulates a fine of up to \$2,000 for initial violations and \$2,500 for subsequent violations (County of Hawai‘i 2023).

Hawai‘i housing stakeholders have lauded the act. For example, as quoted in a Hawai‘i County News update, Michael Yee, the Office of Housing and Community Development Existing Housing Division Manager stated, “This law is a needed step in the right direction and will help provide individuals and families greater access to affordable housing” (County of Hawai‘i 2023). As also reported in a Hawai‘i County news update, Nicholas Severson, Legal Aid Society of Hawai‘i’s Housing Managing Attorney stated, “This law is important because it prohibits landlords from turning away prospective tenants because they rely on housing subsidies. Ideally, it should make it easier for low-income individuals to secure housing. It also provides an enforcement mechanism that punishes landlords for advertising that they do not rent to folks with housing subsidies, hopefully curtailing that very common practice” (County of Hawai‘i 2023).

Reporting on the bill and records of legislative testimony indicate that the bill included several key compromises with advocates for landlords, property owners, and management companies. Notably, the law has major exceptions, including exempting property owners who own less than four rental properties. Stakeholders interviewed for this project as well as other sources reviewed for this report thus identify potential weaknesses in the law that could be remedied with future modifications and amendments. Interview respondents including PHA program administrators also noted the need for more widespread education and public awareness campaigns to clarify key elements of the law for all members of the public.

7.2 Limitations of Act 310

While fair housing advocates underscore the significance of Act 310, stakeholders also noted its limits. One key issue is related to limited enforcement mechanisms and authorities.

Interview respondents with expertise in fair housing law indicated that, practically speaking, the law would be very difficult to enforce. This is because the law does not charge any government entity with enforcing Act 310; unlike other fair housing protections, enforcement is outside of the scope of the Hawai‘i Civil Rights Commission (HCRC). Respondents explained that this has created potential confusion on the part of the public and other stakeholders. Importantly, as written, the law also limits opportunities for individuals to hold landlords or their managers accountable for violations. Unlike other fair housing laws, if an individual has experienced a potential source of income discrimination, their only legal recourse would be to initiate legal action on their own, or with private legal representation, and *without* the formal intervention of HCRC.

Staff from one PHA reported the perception that landlords will be less likely to take this law seriously given that the threat of its legal enforcement seems limited. One staff member asked “where is the poster child [for voucher discrimination]?”, suggesting that, for the law to have a meaningful effect, there should be publicized examples of landlords or managers having been cited or penalized for discrimination in accordance with the law. Staff members also contrasted the standard Fair Housing frameworks and language that apply to other federally protected classes, accompanying all of their activities at the PHA, including signs which are ubiquitous that state that discrimination based on other classes will be legally prosecuted. By contrast, there are very limited materials that are available to housing staff, and those available do not clearly indicate legal recourse or resources for those suspecting source of income violations. One staff member is aware of a landlord who is charging an HCV tenant in their building a higher rent as compared to a similar unit being rented to non-HCV tenant, which, in this respondent’s view, represents a potential violation. Yet, this staff member is unclear how to

advise this tenant. Another tenant suspecting violations was told to contact Legal Aid Society but reported back to case workers that they could not find any way to address the alleged income-based discrimination.

A fair housing expert respondent explained that a gap exists between the law's enactment, awareness of the law, and how to enforce it. For example, if an individual were to come to HCRC with a source of income issue, due to the terms of Act 310, HCRC would not be able to initiate legal action. One challenge pointed out by interview respondents is that it would be difficult for an individual who is not well versed in the law to represent themselves in court.

Another limit to the law is that its prescribed penalties are relatively modest. The law outlines a fine of up to \$2,000 for initial violations, with a fine of \$2,500 to be issued for each subsequent violation (County of Hawai'i 2023). In practical terms, these fees are relatively modest, especially in light of the potential legal fees an individual might accrue in seeking private representation to address alleged discrimination. Moreover, tenants might have trouble securing private legal representation, due to relatively limited fees that a representing attorney might be able to collect.

Several respondents noted that there is limited information that has been made available to the broad public. A lack of information is noteworthy given that the law itself has distinctive ambiguities and is different from other fair housing protections. One respondent noted that a basic internet search is unlikely to result in clear information about Hawai'i's law. This respondent pointed to examples of existing public notifications that could potentially result in more confusion by noting that protections are only offered to tenants in "some situations" without providing further detail. One of the public websites in which information about the law

is posted includes an invitation “For More info” which leads to a “Page Not Found” on the State Office of Housing and Homeless Services website.

Despite its strengths, Act 310 as written is limited in scope, as it does not apply to all landlords nor all rental assistance programs. Indeed, respondents note that details of the law offer “many” exceptions, and “many” types of housing providers are exempt. Notably, landlords with a smaller number of rental units (less than four) may be exempt from the law, and lower-income individuals utilizing other forms of rental assistance may not be protected against discrimination in the housing market. In this way, Act 310 only partially addresses housing discrimination based on source of income.

7.3 Limited public awareness of law

Interview respondents as well as news sources pointed out the need for more public information and outreach about the law, and they identified specific points of confusion in the current law that future efforts should remedy. Specifically, the law indicated that HCRC and another public agency were required to post information about the law on their websites, where basic information can be found. However, expert respondents noted that there was limited reaction from the public, aside from a few inquiries from attorneys and other housing organizations who had questions about interpretation. At the same time, respondents pointed out that if their agency gets inquiries, it is difficult to know how to respond to tenants with potential concerns. Respondents suggested that for members of the lay public, without a legal background, the statute is difficult to interpret without the assistance of private legal representation—which for many tenants would be costly, time consuming, and difficult to access. Moreover, while the

law allows for HCRC to provide information about the law, the protection is unique from other protections in that HCRC does not have jurisdiction over enforcement.

7.4 Legal efforts to strengthen the tenant protections in Act 310

In light of the limited scope of Act 310, as identified above, there have been recent legal attempts to offer more tools to prevent discrimination against subsidized tenants. HCRC for example has supported bills to allow for counties to create their own enforcement mechanisms and has publicly stated willingness to continue supporting such bills. For example, SB327, as proposed, allows counties to prohibit discrimination against renters based on their source of income. Though the 2022 Legislature passed Act 310, Hawai‘i Civil Rights Commission (2023) recommended support of SB327 due to Act 310’s limitations. SB327 would have allowed the counties to pass a stronger ordinance. However, according to the Hawai‘i State Legislature (2023), the status of SB327 is “Engrossed – Dead” as of December 12, 2023 and was carried over to 2024 Regular Session.

According to the Poverty and Race Research Action Council (2020), an income discrimination law can maximize its strength and efficacy by creating strong campaigns at the state and local levels; providing explicit protections for families with vouchers; limiting exemptions to the law (especially those for small property owners); and ensuring a strong enforcement mechanism through a private right of action, available damages that are not capped, and attorneys' fees paid by the losing defendant. Detailed guidance for “crafting a strong and effective source of income discrimination law” can be found in Appendix A (Poverty and Race Research Action Council, 2020).

7.5 Education and Clarification about the law is needed

Respondents from PHAs all voiced support for more education, information, and public awareness about the law. In particular, respondents identified the following areas of confusion among the public: 1) Which landlords are included and exempt from the law? ; 2) How does the law apply to management companies that have been given authority over multiple properties?; and 3) Where do tenants, housing counselors, and agency staff members go for legal interpretation of the law?

There is a critical need for more information online and more public facing materials such as infographics or handouts that can be shared with clients. For example, one agency's staff has indicated that, unlike rules for other potential forms of discrimination where the protocols and processes for dealing with them are clear, staff do not know exactly how to explain the law nor do they understand tenant options. Agency staff specifically mentioned that even web searches provide limited information upon which they can interpret Hawai'i's source of income law.

For example, one administrator noted that while they were not aware of specific attempts to "skirt the law", the responsibility and liability of management companies was unclear. In the case that large landlords give responsibility to management companies, would the landlord or management company (if they managed less than four properties) be exempt? Or, in reverse, would management companies with many properties, including those of landowners with less than four properties, be exempt?

Overall, administrators mentioned the importance of using multiple venues and forms of information dissemination to spread awareness of the law and to specifically educate landlords

and tenants: meetings (in-person and online); presentations; social media, etc. Others emphasized the importance of having public-facing staff of PHAs available to answer questions by phone or email.

7.6 Voucher programs, stigma, and other protected classes

PHA administrators noted that while they have observed changes in terms of rental advertising, prospective tenants still report to case managers that when they inquire about properties, they sometimes receive verbal rejections due to their voucher status. In general, administrators also noted that they do see continued risk of stigma against voucher holders and that some landlords and property managers reportedly hold negative stereotypes of voucher holders.

In addition to barriers facing voucher holders as a class in general, subgroups among them (including those protected by other fair housing laws) may face additional barriers. Several respondents noted concerns about distinct challenges facing Limited English Proficiency (LEP) voucher households. One PHA, Kaua‘i County, noted that Limited English speaking families, including those of Micronesian backgrounds, are a newly served community in their jurisdiction who might face difficulty engaging with landlords or might even face discrimination based on their ancestry or national origin as well. Members from other PHAs also noted potential risks especially for Micronesian households and have noted that the state as whole, across sectors and different public housing programs, needs to do a better job ameliorating and combating discrimination against Micronesian families while also being aware and accepting of specific cultural norms. One respondent noted that across Hawai‘i’s housing programs, there are widespread misunderstandings about cultural norms of Pacific Islander and Micronesian

communities. One such cultural practice is the holding of relatively large gatherings and generally “living in community” that are more typical of Pacific Islander households. Our respondent suggested that such a practice is often seen negatively by local landlords. This respondent encouraged building awareness and acceptance of such practices. Another suggestion includes bringing services, including job training programs and other supports into specific communities where housing programs serve relatively large numbers of Micronesian families (respondents identified examples of such communities in Hawai‘i County, Honolulu County, and elsewhere).

Respondents from another PHA noted concerns about LGBTQ households, especially transgender youth who are facing rejection from their families and are thus at higher risks of homelessness. This respondent noted instances of discrimination by landlords against would-be tenants including voucher holders who are LGBTQ identified and using rental subsidies, and described efforts by non-profit partners to support the LGBTQ community of renters by arranging “master leases” and thus staving off risk of discrimination.

One respondent noted that Micronesian families may be penalized by housing programs and leases (including as supported by vouchers) that prohibit long absences. This administrator noted that given the high costs of travel, they have seen that householders with roots in different Pacific Island nations, including nations in the Micronesia region, may leave for long periods of time with unclear return dates due to the high cost of travel. Such households may be at greater risk of losing housing benefits due to factors related to their familial and cultural ties and practices, as well as financial vulnerability.

Finally, among HCV assisted households, those experiencing mental illness or individuals with disabilities may also face unique barriers. One staff member noted this is a distinctive concern with Emergency Housing Vouchers designed to re-house homeless individuals, especially those who have been chronically homeless (defined as those with a concurrent mental illness, disability or addiction). As reported by one respondent, those with mental health concerns need more support and are often at risk of not being accepted as a tenant or being evicted, or even “falling out” of the program. Thus, more partnership with HCV programs and other permanent supportive services targeted for those with disabilities or illness was recommended.

7.7 Encouraging landlords to accept voucher holders as tenants

Act 310 was designed to address key barriers to accessing housing, including landlord stereotypes of voucher holders and other misconceptions of or negative perceptions of HCV programs. To further ameliorate such barriers, both respondents and existing literature have identified ways that the stock of available rental housing can be made practically more accessible to assisted tenants.

First, respondents from PHA staff noted they have encountered landlords and property managers that have misconceptions about the rental subsidies including beliefs that they must be registered with HUD or somehow be participants in a “program”. To address these misconceptions, agency staff have made themselves available to answer questions and engage in a range of education efforts to reach landlords and explain the benefits of renting to a voucher holder. Some respondents noted the value of having dedicated landlord liaisons which most of the PHAs, but not all, have staffed at the time of this report. These PHAs noted that it can go a

long way to having a dedicated staff member be available to answer questions, attend events such as real-estate conventions where property owners and managers may be. This is one important recommendation for all PHAs to establish staff to serve in the landlord liaison role. Some landlord engagement positions and efforts have also been funded and supported by private philanthropy.

Research shows that a range of other incentives may be important to encourage landlords to welcome tenants who may be seeking tenancy with the support of voucher income. Although a major randomized control trial sponsored by HUD is still underway to identify those incentives that are most promising, PHAs in Hawai‘i reported engaging in the following efforts to “recruit” landlords and encourage them to welcome voucher applicants; respondents reported specific successes with these efforts:

- Active efforts by PHA staff to respond to landlord reports of tenant concerns, including PHA staff contacting tenants to encourage tenants to meet their obligations (in terms of timely rent payments as well as unit upkeep)
- Providing compensation to landlords for unit damages or insurance against the risk of unit damage.
- Cash incentive programs for landlords who rent to assisted households.
- A general “customer service” approach by agency staff.
- Staff positions to educate landlords and property managers about the benefits of having HCV tenants, including dedicated landlord liaisons.
- Outreach and education efforts of all kinds including personal networking, word of mouth, in-person summits, web training, and informal outreach (though one respondent noted that landlords are “too busy” to attend in-person landlord summits).

Given the positive results reported by interview respondents of such measures, one recommendation is to continue to allocate resources to such positions and efforts. As experimental studies, such as those currently being fielded, yield results, those identified as most promising should receive focused attention and investment, perhaps including non-profit and philanthropic partners.

7.8 Summary of Recommendations

Recommendations in this section focus on several subtopics related to housing vouchers. First, in relation to Act 310, several of our respondents identified the necessity of enforcement regulations. Respondents suggested the dissemination of clear and concise informational material relating to the function and protections of Act 310, including an exemplary “poster child” case, direction for enforcement, and public-facing materials for clients seeking amelioration in relation to that law. Several respondents additionally recommended educational programs for landlords and property managers on Act 310 to ensure the law is followed, be that through programs, social media, Zoom meetings, or simply online materials. Respondents additionally identified the need for straightforward enforcement policies. Bill SB327 represents a means of ensuring effective enforcement for Act 310 and similar laws. Our respondents repeatedly stressed the need for HCRC to begin enforcement of Act 310, using state funds to conduct an audit of rental listings and pursue litigation against scofflaws.

Second, in response to secondary status discrimination for voucher holders, our respondents recommended further educational outreach to landlords and property managers on the topic of cultural practices and legal protections of racial minority and LEP communities, primarily Micronesian and Pacific Islander households. Alongside this recommendation is

another to bring job training, tenant regulation guidance, and educational programs to areas and voucher-participant properties with high densities of Micronesian tenants, which was suggested to help ease tenant-landlord relations and help these secondary status voucher communities to understand their rights and expectations in Hawai‘i’s housing market.

Our respondents identified a few other secondary status discrimination areas. For LGBTQ households and tenant seekers, our respondents suggest operating housing navigation programs or de-identified master leases to ensure that gender identity is hidden, hopefully creating a barrier to discrimination. For populations with required, financially enforced, or otherwise long periods of absence, our respondents suggested implementing a program with some form of exception policy to those who require long-term travel to ensure their benefits are retained. For populations with disabilities and mental illnesses, our respondents recommended building stronger partnerships between nonprofit housing organizations and government bodies such as HPHA and HCV to ensure this protected class can be housed and navigate the housing market with effective support.

Third and finally, in response to landlord comprehension and engagement with voucher programs, several of our respondents recommended strong and established educational and facilitatory programs aimed at landlords. In terms of education, our respondents suggested holding outreach initiatives, as simple as Zoom conferences, to answer questions and eliminate misconceptions of voucher rules and regulations amongst landlords and property managers. Some of our respondents additionally recommended having established and permanent landlord liaisons within housing agencies and PHAs to answer any questions that may prop up in the voucher tenant process. In terms of improving landlord engagement, a great deal of preliminary research and experimental programs of incentivizing landlords to accept voucher holders as

tenants has proved promising, and several of our respondents suggested accepting and expanding these initiatives. Our respondents additionally suggested clarifying, in revised legislation, how the property exemption applies to property management and real estate agents, and to remove the exemption for landlords with small portfolios, except in the case of landlords who live on the property.

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[1] “Discrimination” prohibited under the law includes advertising a rental property as not accepting vouchers; refusing to engage in a rental transaction with someone based on their participation in a housing assistance program; and requiring rental conditions that are different from those required for a person not participating in a housing assistance program (County of Hawai‘i 2023).

8.0 TECHNOLOGY AND DIGITAL TOOLS

While Hawai‘i saw remarkable growth in its digital housing infrastructure, our respondents, especially in the nonprofit sector, identified several access barriers relating to the implementation and use of digital tools in the administrative, maintenance, and outreach initiatives of housing development and management organizations. These issues were reported across organizations in all sectors of the housing ecosystem, from homeless services groups to developers to legal clinics. Variance in ability to engage with digital systems was cited as a major barrier for some of Hawai‘i’s populations, notably elderly and LEP communities, who reportedly had a difficult time understanding the process of digital administrative needs, such as online form-filling, document access, and online applications. This barrier is compounded by device accessibility; our respondents noted that some of their clientele base does not have access to a computer, or otherwise does not have access to reliable broadband or cellular connection. Language barriers were noted for COFA and racial minority populations. Our respondents highlighted several recommendations revolving around digital literacy and device accessibility. For digital literacy, suggestions surrounded the development of training and educational programs, with the added advice of maintaining in-person services at some level for folks who do not have access to digital tools. In terms of digital access, our respondents noted their own success with mobile outreach popups, and recommended the practice be expanded and adopted by other agencies. Language was noted to be a more structural issue (see the Race, Ethnicity, and Language section), and suggestions revolved around improving language options and simplifying English language materials. Additionally, some of our respondents suggested that standardizations and regulations be placed on Artificial Intelligence (AI) translation software.

8.1 Development of Digital Outreach

Starting on a more positive note, several of our respondents reported that, especially in the face of Covid-19 lockdown procedures during 2019 to 2022, they were pushed to develop online platforms to continue to effectively provide services to their client groups. Many of our respondents anecdotally suggested that this push actually increased their new client outreach and improved their ability to quickly service their existing clients. For example, our respondents told us that while they initially faced some expected start-up challenges in digitizing their outreach systems, they have retained the full functionality of their platforms post-COVID, reporting increased client engagement and intake as a result. While these respondents did not share more mechanically complex details, they noted that the digitization of their forms both helped their clients to quickly access any documentation they needed (such as rent statements or proof of residency), and greatly improved internal processing speed thanks to the inherent standardization that came with digitization. Similarly, it was noted that digitization improved communication between organizations. Some of our respondents have established communicative partnerships centered around placing families in homes through the Housing First model, and with digitized systems are able to clearly request, fill, and administrate documentation for their clients. One respondent noted that their landlord engagement program benefited greatly from an increased online presence. Through platform services such as Zoom and Microsoft Teams, they are able to educate and incentivize landlords on issues in the Homeless Services sector, and hopefully encourage them to engage with housing-first programs. Other respondents echoed this sentiment, noting the increased efficacy of this program through digitization of systems.

On a less administrative level, several of our respondents noted that educational initiatives for tenants and landlords benefit from some level of digitization. Importantly, very

few of these educational initiatives were moved entirely into the digital space; rather, educational programs were often supplemented with stable, updatable online platforms and materials. One respondent reported that their materials on Fair Market Rent were made permanently available online with the goal of helping their clients understand rent pricing in their counties or local areas. Similarly, others noted that their financial education programs, which seek to assist clients in understanding their own finances, lending, and the realities of the housing market, were moved to online platforms and have benefited from the increased speed and convenience of forms that can be digitally submitted.

One respondent offered a good summary of most of our respondents' opinions on educational outreach: they stressed the importance of having easy to access and clearly understandable educational materials made available online for any client group to access at any time. Putting the information in the hands of the client helps them make informed decisions that they are in control of, securing their agency while allowing them to interact with the affordable housing system.

In summation of our respondents' reported digitization initiatives, we saw a slow but steady adaptation to digital tools during the COVID-19 lockdown, with many services being either transitioned to or, more commonly, duplicated within digital platforms. The majority of digitization occurs with the administrative and documentary needs of our respondent organizations. This includes but is not limited to: client-side forms, inter-organization communications, and internal efficiency.

For clients, this trend can be understood as adapting them to a form of digital citizenship, wherein their profiles and documents are easily accessible and recorded (Grimes and Porter 2024). To an extent, these programs help to close the digital divide, however the process is not

always smooth, as we will shortly discuss. Additionally, clients may benefit from the availability of educational materials. Some of the examples of such materials our respondents offered included informational sheets on their rights as tenants, fair market practices, and changes of law in the housing market.

The standout digitization initiative concerned landlord education and outreach. Many of our respondent organizations reported that building a relationship with landlords and property managers was important for “getting their foot in the door” and hopefully expanding programs such as Housing First or low-income housing into new properties once landlords understood the nature of the programs and hypothetical tenants. Digitization was reported to notably increase the capacity of these landlord outreach programs, and provide improved flexibility in scheduling and administering any kind of educational or community-building session.

It is difficult to say with certainty if digitization has a direct correlation with outreach and client capacity. While quantitative research that accesses our respondent organizations’ private data could shed some light on the more empirical efficacy of digitization in these fields, our qualitative responses strongly indicate that digitization, especially duplication (rather than replacement), of services does have a notable impact. Often, our respondents would bring up their perceptions of increased capacity due to technology adaptation without any specific prompting. COVID-19 forced Hawai‘i and our largely lagging digital sector (in comparison to other American states) to quickly adapt to new models of client-provider interaction (Omnitrak 2024). The housing market is clearly no exception, and we can see that our organizations’ adaptation to that new model has generated, and continues to generate, gains in administrative, outreach, and educational capacity.

8.2 Elderly Populations and Digital Literacy

Despite the gains reported from digitization efforts, no growth is without growing pains. One such issue frequently reported, especially in the Native Hawaiian Services sector, was the lack of digital literacy amongst our elderly and kūpuna populations. Digital literacy is a catch-all term describing an individual's ability to understand computer terminology, interact effectively with online platforms, and operate digital devices. A relevant respondent reported that many of the kūpuna they work with have notable difficulty with understanding digitized systems, even the ones they pioneered.

It's difficult to say exactly why elderly and kupuna populations may be lacking in their ability to operate in a digitized environment. Commonsensically, previous research has indicated that for aging adults, especially those who did not adapt to digital systems during the early days of computing, the barrier to entry can feel insurmountable due to the perceived novelty and complexity of computers and digital spaces (Gleason and Suen 2022). Gleason and Suen described this barrier as being similar to learning a new language or culture, something difficult for most people, let alone the elderly. Aging adults often do not understand digital systems the way more recent generations, those who grew up alongside digital technology, do. This phenomenon is one facet of the “digital divide” that has severe impacts on the ability of people to effectively interact in society (Fourcade 2021). Some of this digital divide can be attributed to structural issues - “about 30% of all households in the United States lack broadband access, and 59% of homes with household income less than \$20,000 lack access” (Duggan 2015). However, our research indicates that for many of the communities our respondents serve, it is largely an issue of comfort and relationship-building.

One respondent reported that after some initial struggles with kūpuna operating digital tools, their service providers began to

“provide assistance to the communities by the [sic] online, you know, through us, helping them walk through the applications, they could come in. I know in the beginning it was COVID, so it was hard for us to have no sit down (appointments). Since 2022, we started to open up the doors and have everyone, you know, make an appointment and come down... [we did this] to help out those who have never received assistance.”

This method of providing in-person appointments to, essentially, offer a “walkthrough” of how to use the digital tools they provided was reported to be successful in helping new and existing clients apply for financial assistance and otherwise operate effectively within their systems.

Another respondent, which also primarily services Native Hawaiian clients, reported that the overwhelming majority of their services, including both of their homebuyer’s assistance programs, are digitally distributed. This respondent works to provide financial assistance to elderly and kupuna populations with the goal of helping them age in place. Despite their strong digital presence, they offer and maintain in-person services and appointments that, reportedly, help their elderly and kupuna clients understand and navigate digital finance platforms. In this case, the organization

“needed to get out, you know, into the community and take those intake forms with them. And you need to, you know, create safe spaces for them (kupuna) to gather. They (kupuna) do love to spend time with each other in groups, and so if you create opportunities for them to do that, they will show up, especially if you provide them food. And so, you know, it took a lot of on the ground work for us to do that, and earn their trust.”

It is worth noting that respondent organizations servicing Native Hawaiians were the grand majority of respondents who noted the lack of digital literacy and assistance programs for aging adults. While it is difficult to say if there are digital equity issues disproportionately

impacting Native Hawaiian elderly populations without further research, this is a strong indication that some educational or training resources should be diverted towards these at-risk populations to improve their ability to find and live in affordable housing. If nothing else, our respondents indicated that retaining some level of in-person appointments and support is a best-practice option, as without it, a significant portion of Hawai‘i’s population is unable to effectively operate within the housing market and modern society at large. Additionally, hosting a group setting for elderly and kupuna populations appears to be more successful in reaching these communities.

8.3 Infrastructural and Language Barriers within Digital Tools

Our respondents noted similar digital equity concerns for racial minority populations, specifically those who are LEP and those living in technologically underserved areas. Unlike the relationship between technology and elderly populations, this relationship tended to be identified by our respondents as an issue of digital access rather than an issue of digital literacy and ongoing support (although digital literacy does wrap around into a larger access issue). Digital access is a catch-all term representing an individual or community’s ability to connect with the digital world, and includes variables such as device and broadband availability, skill knowledge, and language barriers. Previous research by the Department of Business, Economic Development, and Tourism (DBEDT) suggests that digital access in Hawai‘i is not uniform, be that due to inconsistent broadband coverage, differing computer access in households, or digital infrastructure presence across the counties of Hawai‘i (DBEDT 2016; Omnitrak 2024; Ternus, Lum, and Kanaiaupuni 2022). Our respondents tended to unintentionally align with DBEDT’s findings, reporting several geographic and linguistic barriers to entry of the affordable housing system and housing market at large.

One respondent identified several racial and linguistic minority populations located in rural areas of Hawai‘i that struggled with digital tools related to accessing affordable housing, including Waianae, Waimanalo, and across Maui. In this case, our respondent reported that they noticed a low level of interaction with their CARES Act funded rent relief program in these communities. This group “did a lot of analysis on that data to look at who was receiving it (rent relief)” and “started doing special outreaches [...] early on in the program” to identify underserved areas. They found that because of the comparatively low level of digital infrastructure present in these communities, they “found [...] pukas; we would go in and cover them, meaning if we were lower than what we thought statistically should have been with certain populations we went out and worked with them.”

While this respondent did not share the mechanical specifics of their method of analysis, they did share their best-practice solution. The organization prioritized hiring or working with local community leaders or organizations within the underserved areas to facilitate access to their rent relief services; in Waimānalo, for example, they worked with the Castle Foundation to develop to do a lot of direct outreach to communities and integrate rent relief application support with existing programs. It was reported that working with the communities in this sense not only helped to strengthen place-based reputation, but to fully understand the needs of the communities and the on-the-ground realities of their situation, which in turn allowed them to customize services and outreach which purportedly improved their aid capacity.

Our respondents also identified linguistic barriers to accessing housing assistance. Here, folks from or within minority communities that had a relatively incomplete understanding of the English language struggled to comprehend and submit the required forms for rent relief. This was especially problematic for minority groups that spoke less common languages, such as

Micronesian languages (e.g. Chuukese). As the grand majority of administrative systems of not only our respondents, but the housing system at large, have become firmly entrenched in digital platforms, the ability to read or effectively translate English has become critical in one's interaction with the affordable housing system, if not society itself (Joppke 2019).

Our respondents identified language access as being “the first step before going to everything [else].” They reported that while well-resourced languages in Hawai‘i, such as Chinese and Filipino, often have established organizations or translation services, marginalized languages have few options for translation. In discussion of the Section 8 housing program, our respondents noted that Section 8 changes, updates, and resources are all posted online in the English language. It was reported that, in this case, “if they (people) do not understand, what is there, what is available, how to access, how to apply, or how to fill the form, they cannot get to the need that they are looking for.” Not only is this a language barrier, but a technological language barrier. They reported that the complexity of electronic submittal systems were “limiting how [many] people can access to [sic] the application” due to these online services being not only in English, but a specific and complex form of English found on digital platforms. Our respondents repeatedly stressed the importance of language access as a first-step priority in limiting barriers to accessing affordable housing, and the importance of limiting the complexity of digital platform language to improve translation as a secondary measure.

Our respondents reported similar language concerns and identified “technological underservice” for impoverished or marginalized populations. They emphasized that while their rent relief program was generally successful, particularly in its collaborative approach with non-profits, there were notable shortcomings in the program's reach, especially in terms of language services. The majority of the assistance was provided in English, which disadvantaged non-

English speakers, particularly Korean, Vietnamese, and Micronesian language groups. Some of our respondents hypothesized that this language barrier was compounded by the fact that the most computer-savvy individuals were able to secure the most funding, highlighting a need for greater technological accessibility, such as providing laptops and internet access. The necessity of internet access and form scanning created additional hurdles for already disadvantaged non-English speakers.

Geographic and linguistic barriers represent a much more structural barrier to access than digital literacy. While digital literacy can be taught with relative efficacy, it is extremely difficult to provide the same level of service for disadvantaged languages (Grimes and Porter 2024; Krippner 2017). Nonetheless, our respondents identified several best-practice measures towards limiting the digital divide we see here.

All of our respondents that worked with geographically “undigitized” communities reported that working directly with community members who were either bilingual or technologically savvy (or ideally both) to assist other community members with translation digital access was the best way to counter geographic and linguistic barriers overall. This method was reported to at once strengthen the ties between the community and the organization, and to improve the self-determination of the community itself. The overall goal was to identify local leaders who could assist in administering program services with a high degree of trust and outreach. As the efficacy of online translation services are sometimes substandard, this method was reported to additionally improve the level of comprehension of the rights, forms, and practices associated with programs for client groups.

Our respondents identified two other best-practice measures for improving linguistic digital equity. First, to limit the complexity of English-language forms and informational

resources so that when translated, they are easy to comprehend for non-English speakers. While it was reported that this is somewhat a stopgap measure to indirectly improve online translation, it is also a general best practice as the complexity and specificity of English legal terminology is often not interculturally shared. Second, it was suggested that providing any housing-related resources be done in multiple languages and alongside resources for translation into less common languages in Hawai‘i.

Respondents highlighted the benefits of reducing geographic and linguistic barriers through in-person documentation verification and having a user-friendly backend system, as exemplified by the collaboration between relevant organizations. One respondent additionally runs the 211 helpline, a short-form telephone line used to connect its clients with internal resources, including translation services. This respondent praised the 211 translation helpline, citing its efficacy, but noted that not all of its client groups were aware of its existence. Nevertheless, it was reported that offering a nearly 24/7 assistance line was valuable for their ability to assist and direct their clients towards whatever resources or programs they were seeking. Thus, as with elderly and kupuna digital barriers, retaining some level of in-person services for both translation and digital documentation/form filling assistance would be a valuable measure towards limiting the digital divide surrounding the affordable housing system.

8.4 Summary of Recommendations

Our respondents highlighted digital literacy and device accessibility as major barriers for clients dealing with fair housing, further complicated by language access. For digital literacy, suggestions surrounded the development of training and educational programs, with the added advice of maintaining in-person services at some level for folks who do not have access to digital tools. Educational programs were suggested to be performed both online and offline, with large-

scale Zoom meetings for those able and smaller, in person one-on-one or limited group settings for those needing a more detailed guide through computer operation. While this recommendation was most often centered around individual nonprofits and government organizations treating such as a best practice, for each entity to run on their own, several of our respondents recommended linking a short guided walkthrough to outreach and informational materials. Our respondents suggested that having a walkthrough readily available when disseminating things like new forms or HUD documentation guidelines would help less digitally literate individuals access those services. Additionally, some of our respondents recommended holding training programs or similar events specifically in areas that notably suffered from low digital literacy - a kind of place-based, community-focused local training. These respondents believed that involving and working hands-on with these communities to better understand what their specific barriers to digital literacy were would lead to more effective training, and thus outreach.

In terms of digital access, our respondents noted their own success with mobile outreach popups, and recommended the practice be expanded and adopted by other agencies. This ties in with the above community-based educational programs suggestion. Our respondents noted that running local pop-up centers, often in partnership with local nonprofits, both raises awareness of housing programs and helps to provide temporary computer devices for those who may not have them. These pop-ups are then able to provide the guidance on computer use and required application materials that some prospective clients might need. Language was noted to be a more structural issue, and suggestions revolved around improving language options and simplifying English language materials. Korean, Vietnamese, and Micronesian languages were earmarked as those needing the most support in translating digital forms, as these languages either were not commonly offered in digital materials and/or did not translate well considering the specific

vocabulary of English used in housing application, education, or legal materials. While the majority of language-centered recommendations can be found in the Race, Ethnicity, and Language chapter, two specific recommendations related to technology were identified here. First, the use of simple English or the creation of simple English versions of documents relating to housing would assist existing translation tools to more accurately and legibly translate documents for LEP clients. Second, the operation of translation helplines to assist LEP device users in navigating Hawai‘i’s digital infrastructure. Additionally, some of our respondents suggested that standardizations and regulations be placed on Artificial Intelligence (AI) translation software, although no specific recommendations were made.

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9.0 RACE/ETHNICITY, NATIONAL ORIGIN, AND LANGUAGE

Respondents working at the intersection of race/ethnicity and ancestry or national origin (including language), identified multiple challenges to accessing housing and housing-related services for the communities they serve. Administrative, cultural and linguistic barriers were reported across organizations interviewed regardless of the national origin or primary language of their clients and beneficiaries.

Several of our respondents noted severe entry-level access issues primarily surrounding Compact of Free Association (COFA) citizens or other Micronesian communities, linguistic minority populations, and other Limited English Proficiency (LEP) households. These entry-level barriers concern, at an abstracted level, English-language hegemony, and at a concrete level, lack of awareness and understanding of forms, programs, and outreach materials. Inadequate translation tools or programs were often cited as a major barrier. Our respondents who focused on COFA migrants and immigrants in general also cited landlord-tenant relationship concerns, noting scams and the breaking of tenant rights laws perpetrated by some landlords. These same populations were also reported to struggle with eligibility issues stemming from their lack of necessary documentation (formal payment documents, citizenship documents, etc.) that adversely impact their ability to enter affordable housing programs and find housing in general. Finally, our respondents noted that some COFA migrants and immigrants who, for the above reasons, are unable to enter the formal housing market, live “under the radar” in conditions that are purportedly substandard.

Our respondents had several suggestions for combating these barriers. First and foremost, the grand majority of our respondents suggested building up the state’s translation and language

infrastructure. Improved language selections for in-person translation, better hotline infrastructure, and more language options in digitally or otherwise distributed outreach materials were all recommendations proposed by our respondents. The simplification of language used in outreach materials was suggested as an addition to the above changes proposed by a few respondents. For COFA migrants specifically, our respondents reported that these populations are generally unaware of their rights, and suggest improving outreach to these populations. A proactive, rather than reactive, approach to language infrastructure building and client right knowledge was emphasized.

9.1 Language barriers to applying for and accessing housing related services

Advocates for immigrants and language minorities with whom we spoke stressed that English speakers are at an advantage in the housing space, in comparison to LEP households. Housing advocates raised concerns about the roll out of rental assistance during the COVID emergency (e.g. the Emergency Rental Assistance programs of the State and Counties) for people with Limited English Proficiency, explaining that LEP populations were largely unaware of the rental assistance program. One expert opined that, even if some families might have known about the availability of rental relief during COVID-19, the complexity of the applications combined with the issue of limited English proficiency prevented them from pursuing the rental relief to which they were entitled.

This same expert also reported similar issues in the aftermath of the Maui wildfires in August 2023. He observed: “if people don't know what there is, if they cannot read or understand their eligibility, they don't know how to fill the forms right, they don't know where to go, so they don't know what type of housing [is] available. They don't understand what the basic criteria....

[Language] is just a human right...” He emphasized that although 70% of state agencies have a language plan in place, in his view, more efforts and resources are needed to actualize existing language plans: “because are they implementing that plan? To have one is the first step, but you have to actualize that plan.” He also mentioned problems that have arisen from artificial intelligence (AI) translation, which they see on a daily basis. He would like to build capacity, regulation and guidance around the use of AI. While respondents who focused on LEP minorities often suggested building up Hawai‘i’s language services, there were few concrete recommendations, likely due to the inter-agency nature of language services. Nevertheless, increasing the availability of translation staff through hiring initiatives and/or programs that involve community multi-language speakers, known as participatory translation, were often noted. This type of participatory translation has been used to great effect by non-governmental organizations (NGOs) operating at an international scale, and is a common practice in community health and healthcare research (Blumenthal et al. 2013; Chasukwa and Crack 2024). Researchers noted that participatory translation improved cultural understandings of certain English-specific terminologies, and helped spread knowledge of program availability and client rights through existing community networks as the translators informed their peers about NGO programs.

Civil rights experts we spoke with suggested that housing providers, especially those who manage assisted housing options, should take initiative on language access and make efforts to affirmatively include LEP households, rather than leaving the burden to clients. They advocate for more “meaningful language access,” understood as translation and interpretation services that are readily available and freely and regularly offered by managers and landlords, including large landlord firms, rather than language assistance provided only by petitioning on the part of tenants

or clients. While it might seem a simple change, foregrounding language options was seen as an affirmative action by our respondents, as it would assuage any concerns an LEP individual might have knowing that translation was indeed easily available.

One key issue raised by respondents concerns dialects and often unrecognized cultural and linguistic diversity even within some of the major non-English languages spoken in Hawai‘i’s distinctively diverse context. One respondent who serves many different Micronesian communities reported encountering documents provided by public agencies including Hawai‘i Public Housing Authority (HPHA) that used a specific dialect of Chuukese (Mortlockese) in translated documents, which may not be understandable to speakers of other Chuukese dialects. This may present a “meaningful language access.” Commonsensically, this respondent suggested expanding the breadth of translation services to include less common languages. While finding professional translators in this regard may represent difficulties, encouraging participatory translation may be an appropriate “fix” to this issue.

During a visit to the office of an organization that serves Hawai‘i’s Micronesian community, the staff reviewed one HPHA application that had been translated into Chuukese, and this form can be found in Appendix 9.A. At first glance, the staff reported that “this is fine.” However, when asked if the communities they serve would be able to fill out the document without additional translation assistance, three staff members needed to consult with each other in order to try to understand the information the form requested. One staff member reported that this form “sounds like the Bible.” Another staff member, a native Mortlockese speaker who arrived later in the conversation, stated that it was clear that the form had been translated by a Mortlockese speaker attempting to translate word by word into the Lagoon dialect. She confirmed that the form is very difficult to understand and, if she received this form, she would

need to ask for the English version in order to know what was being asked of her. She explained further that, in their experience, this is often the case with both HPHA and Med-QUEST documents: a client will leave with the Chuukese form, then return for assistance because they do not understand it. The staff present for this meeting confirmed that most Chuuk speakers understand the Lagoon dialect when spoken, as this is the language used on the mainland of Chuuk State, but that Lagoon can be difficult to read. Chuuk State has eight main languages and many dialects, and all staff present for this conversation requested that HPHA forms be translated into their respective dialects for optimal clarity and understanding. This reinforces the need for participatory translation of official documents and applications to best serve the needs of Micronesian communities in Hawai‘i.

A leader of an immigrant advocacy organization that began in response to the need for language services among immigrants in Lāhainā after the August 2023 Maui wildfires indicated that they serve immigrants of a variety of national origins, while noting that Spanish is the most prevalent language spoken among their populations. According to this respondent, Latino immigrants and COFA migrants faced tremendous challenges – particularly in accessing aid, avoiding scams and navigating misinformation. He described the significant barriers created by inadequate translation and interpretation services for non-English speakers and illustrated this issue with a story about Latino immigrants who, despite being documented and able to apply for assistance, faced difficulties applying for FEMA due to the complexity of the FEMA applications. This respondent emphasized the importance of interpreting and translating these documents at a level that the average person will understand: “If that means using slang, use slang. If that means paraphrasing, paraphrase.” He added that even translated documents can be challenging to understand for individuals with lower education and literacy levels:

“Especially the documents coming out of the federal and the state governments... even though it's in English, it's very precise, and it's easy to make mistakes. And then you translate these for people who have up to a third grade education, and it's just too much. And on top of everything, they're already dealing with [the fire]. So that was a huge barrier, and something where [Roots Reborn] could step in and really make sure people were able to get the aid by helping them fill out those things. And to be clear, the way they did this is they were out there interacting with FEMA and the state and these other organizations to figure out what was the right way to fill out these forms. Even though they understood English and they understood Spanish, they still needed to go to these large organizations and ask questions and figure it all out.”

Leaders of another immigrant and language minority advocacy organization also highlighted the unique vulnerabilities of LEP populations in the aftermath of Maui fires. One example of how to effectively serve such communities is offered by Pacific Gateway Center, which created a Multilingual Hotline to address the language barriers faced by the diverse population in Lāhainā, offering assistance in six languages. Additionally, a new Maui office was opened and staffed with bilingual case managers to further support the community.

One respondent who is a language advocate also stressed that language access affects communication between tenants and landlords more broadly, outside of the specific circumstances of pandemic and disaster. Respondents added that many newly arrived individuals may not be eligible for government housing programs and struggle with complex lease agreements. This was echoed by other civil rights advocates who have witnessed firsthand the difficulty of gaining interpretation for complicated written communication. One expert explained:

“On some level, you know, even when there is ostensibly an effort to provide language access. I know a lot of times actually making it happen is just really a challenge for folks: to get to call through to HPHA, to get someone on the line, to get them to understand that they need to provide an interpreter if a person has a voucher, then to actually get an interpreter on the phone, and then to actually have

a meaningful dialogue... A lot of times, whether it's PHAs or private landlords, there's a lot of pressure put on LEP tenants to have family members or friends, or whoever you know, interpret for them.”

One set of respondents described how tenants informally rely on a local non-profit organization with Chuukese speaking staff who are often asked to translate or interpret important documents for clients, even though this may be outside of their primary scope of services.

Respondents serving Micronesian communities also described observing a notable sense of fear among assisted households of losing housing or other benefits among their clients, which can be exacerbated by language barriers. One service agency described how clients who are part of assisted or subsidized housing often feel a strong sense of fear—fear of losing their housing or owing money. This fear is compounded by language barriers and difficulty understanding the English documentation. Key respondents explained that, as a result of their limited English proficiency, clients do not “know their rights,” a sentiment echoed by several of the advocates we interviewed. According to our respondents, some LEP individuals do not know they are entitled to language rights, and they also do not know that they are entitled to additional rights if their language rights are violated. They also may not know about basic landlord tenant rights; if they are asked to leave a unit, for example, they assume they must do so. Sometimes, if they do not get translation or legal help in time, they will “end up on the street.”

Here, we can see more direct consequences of not only lagging translation services, but the linguistic complexity of housing-related documents. As previously mentioned, the adoption of simplified English to ease client-level translation is a popular area of research within the healthcare sector, and results are thus far promising with potential applications to housing. Researchers focusing on immigrant LEP populations found that simplifying their hospital intake

forms and program notices by an additional two “grade levels”, starting from the assumption that most clients read at an 8th grade level, showed tangible results in the ability of both their LEP and general clients to understand directives and instructions (Kim et al. 2020). Researchers evaluating the viability of AI-powered language simplification, in blind translator trials, found that for common non-English languages, translation software was more effective at converting simplified English education pamphlets into other languages than standard English (Ugas et al. 2025). In this case, the research team posited that simplifying the language used could ease the burden on staff translators and improve autonomy of their clients by allowing healthcare providers and clients to translate and understand documents themselves.

While it is unclear without further place-based research if such a policy would work for Hawai‘i’s diverse languages, reducing the complexity of housing documentation was on the forefront of suggestions within our respondent groups, and taking a page from healthcare policy may have solid returns for our LEP populations.

9.2 Fear and cultural reluctance to seek help for public benefits and housing assistance

Some advocates also note cultural differences, including a reluctance to self-advocate when interacting with managers, landlords, or housing authorities, that can also compound language access barriers. One service provider described how her Micronesian (including Marshallese and Chuukese origin clients from the Federated States of Micronesia) clients would regularly resist advocating for themselves or confronting landlords given their reluctance to “rock the boat” or cause trouble which, according to this respondent dissuades some clients from seeking legal help. Another advocate also described the broader fear within immigrant communities regarding seeking public benefits like housing assistance. One possible fear might

relate to lingering concerns of being labeled a “public charge,” in alignment with rules promoted by the first 45th Presidential Administration. Respondents described what they understand as a cultural reluctance to ask for help, as another apparent barrier to housing and language assistance, as visible among clients on Maui. While recommendations in this sense somewhat rely on the direction taken by the 2025 US Government, our respondents suggested that improving clients’ understanding of their rights and the codified legal protections they hold would likely assist in boosting the confidence of reluctant individuals. While this ties into the above LEP concerns, our respondents reported that they would like to see improvements in outreach, be that information dissemination in the form of webpages and pamphlets, translation of existing materials, or simply improved funding that would help more people be aware of more of the housing process.

9.3 Legal documentation as a barrier for migrants, immigrants and refugees

Respondents also pointed to the challenges of mixed [documentation] status households, particularly those in which children are citizens but adults are undocumented. This situation often led to complications in accessing aid in the aftermath of the August 2023 wildfires on Maui, as some programs required excluding undocumented individuals from calculations. One community leader noted the lack of discussion around mixed status households in the context of immigration, despite their prevalence among the groups served by relevant organizations. Another advocate also emphasized the devastating effects of the Maui wildfires on immigrants, particularly in terms of lost documentation and employment among migrants, immigrants and refugees in Lāhainā. According to respondents, FEMA centers have been instrumental in helping victims replace documents, but the economic fallout has led to significant job loss, particularly for those in industries like housekeeping that are heavily reliant on tourism.

Delayed work authorization affects immigrants' ability to secure housing: without proper documentation, many immigrants must work under the table, which leads to complications in proving income for housing applications. One advocate described how informal employment, like coffee picking, lacks the paystubs or W-2s needed for income verification. Landlords may hesitate to rent to those without clear documentation, perpetuating informal and often unstable living arrangements. Accessing housing becomes slightly easier after immigrants receive work authorization and Social Security cards, but the initial period remains a major hurdle. This kind of concern was observed for recent Ukrainians refugees on O'ahu, in addition to other groups. The recent shift in Hawai'i's refugee resettlement policy allows individuals without a US tie to be accepted, and this lack of relationship impacts their housing situation; as opposed to moving in with a US tie, they must now find housing on their own upon arrival. The need for immigrants to be employed in order to secure housing remains a significant hurdle. This is often exacerbated by sponsorship issues and the need for stable income in order to secure and maintain housing.

One not-for-profit that serves immigrants addresses these challenges by making appropriate referrals to their range of community partners, including Affordable Housing for Farmers, as the majority of their undocumented clients are farmers who find ways to live "under the radar," often staying on farms and relying on friends for housing. Advocates raised concerns about the unpredictable nature of global events leading to migration, stressing the importance of proactive measures rather than reactive responses; they stressed the need for policymakers to consider the housing implications for both incoming migrants and existing residents, especially in light of Hawai'i's ongoing affordable housing crisis.

Accordingly, considering the overwhelming complexity of documentation issues, our respondents had few concrete solutions. The most salient suggestion was to find ways to work

with these populations despite documentation hurdles. As such, outreach initiatives were stressed, citing the need to expand the umbrella of non-profit operations to include as many COFA and other immigrants as possible, as it is only possible to assist these individuals if they are aware of, and can access, the various programs our respondents offer. Many of our respondents run their own outreach initiatives, but suggested that partnership with State and Federal level resources (such as embedded links to local organizations within government informational materials) would help to direct folks to assistance programs from the get-go, so to speak.

9.4 Cultural differences lead to tension between landlords and tenants

Respondents noted how cultural misunderstandings are a major difficulty faced by LEP tenants and their landlords. They elaborated on the complexities of resettling refugees, including the importance of educating landlords about the unique circumstances of these individuals:

“We explore almost every avenue... And other times we just scramble and we just cross our fingers and hopefully find a property manager or a landlord who is willing to sort of forego the typical eligibility requirements and give them a chance. So what we're doing is we've developed a flyer for property managers and landlords that says, [what it] means to rent to a refugee. And we really outline the benefits they're entitled to, the support they're given by non-profit site Pacific Gateway Center, and how there are some benefits where we can help supplement the rent until they become stabilized.”

In their experience, it is easy for landlords and property managers to dismiss people if they know that English is not their native language. The newly arrived often struggle with complex lease agreements and may not be eligible for government housing programs, and the lack of understanding from landlords regarding cultural living habits further complicates their housing situations. One organization interviewed works with the Civil Rights Commission and representatives from OLA on the Language Access Advisory Council (LAAC). In recent public-

access meetings focusing on cases of possible discrimination, they reported that some property managers may not have the understanding or patience needed to work with somebody who is foreign born. Cultural tensions between landlords and tenants are often exacerbated by the tenants' unfamiliarity with US legal protections; In response to such concerns, several of the organizations we interviewed conduct outreach and educational events to educate the community on their rights.

We heard from respondents examples of alleged language and national origin housing discrimination. One discussed an example of a Marshallese family on Hawai'i Island who was evicted a few years ago. This family raised the concern that their landlord discriminated against them, although it was challenging to determine. This respondent reached out to the Hawai'i County Fair Housing Office for support and to educate residents. She shared that housing policy could better address the need for larger unit space to accommodate large families/multigenerational households and that this would be culturally appropriate to the needs of Marshallese families on Hawai'i Island. A different respondent also explained that more awareness of the cultural living situations of COFA and local families should be made known to housing agencies at state and federal levels. Many COFA and Pacific Islander families live in multigenerational situations for cultural reasons, and this should be supported in their process of securing housing.

9.5 Specific impediments for COFA migrants in Hawai'i

Discrimination by Hawai'i landlords against COFA communities

According to respondents, some COFA families experience discrimination by landlords who take advantage of the fact that COFA families do not have other resources or pathways to housing. One reported her view that landlords will abuse their power and not give COFA tenants

livable housing situations; this respondent shared that, when they moved to Hawai‘i in 2018, they needed to find a place nearby Kapi‘olani Medical Center for Women and Children on O‘ahu because her daughter was very sick with leukemia and needed to be close to the hospital for her care. They found an apartment on Young Street in Honolulu, however this apartment was rundown and, according to our respondent, below acceptable living standards: rats in the apartment unit, which had no electricity or running water either; she and her family had to run an extension cord into their home from a unit with electricity. Additionally, if the landlord decided they wanted to cut off the water, she had to purchase five-gallon jugs of water. She and her family had lived in this apartment for five years. In a recent report published by the Hawai‘i Advisory Committee to the US Commission on Civil Rights (USCCR), similar testimonies were offered by Micronesian and COFA immigrants. Access to housing was found to be a major difficulty for COFA migrants, with both “blatant and subtle instances of discrimination” performed by Hawai‘i landlords (Hawai‘i State Advisory Committee 2019). Abuse of LEP status, sudden and unexplained rent increases, and refusal to rent were all noted in this report. In terms of housing quality, as discussed above, several testifiers reported themselves and their neighbors living in subpar or otherwise unsafe housing - some properties lacked electricity or water, did not have functional lockable entry doors, and were often in states of disrepair (Hawai‘i State Advisory Committee 2019).

Our respondent explained that they tried to look for other apartments, but the applications are expensive. She said they spent \$200 on one application alone and ended up not getting that apartment – she has no idea where the application fee goes. She shared that the house they are currently living in costs \$3,400.00 per month, and all members of her family must work in order

to pay this rent. This is especially difficult as at least two of her family members have critical health issues but still must find ways to work.

Another community leader shared that experiences like this are common among COFA tenants who are often exploited by landlords who know these tenants do not have a rental history and therefore have limited options when it comes to housing. Though COFA tenants are on time with their rent, this community leader reported that many are still scared that current landlords will evict them, give them a negative reference, or even retaliate against them. This fear prevents COFA families from seeking other housing options. According to this respondent, the option of “just moving out” of hostile housing is not realistic for COFA families, as they need money for security deposits and first month's rent, which is a large percentage of their income. Many COFA families will end up living in cars and using beach restrooms and showers. Taking a legal route to fight landlords is also challenging as legal providers often lack capacity to take on these cases.

One organization that is not a service provider has stepped in with connecting families like those from COFA nations to find housing or other needed resources. Hawai‘i Workers Center is primarily focused on organizing and educating workers on their rights (such as sick leave, PTO and working conditions), but housing for workers still remains a key issue for many – especially COFA workers. He further reported that COFA workers are not aware of their rights as tenants.

Difficulties with quality of housing for COFA migrants is a wide-spanning issue. While our respondents noted that some oversight measures should be taken to ensure COFA migrants are not stuck in subpar housing, they did not have many concrete and immediate suggestions for how that oversight might work. Many pinged the need for some kind of committee or service to

assist this population, but were not in the position to have a fully-fledged plan of action. However, some of our nonprofit respondents cited expanding education services (and their accessibility) for COFA migrants. These respondents noted that learning and understanding the rights that COFA migrants hold, especially their legal protections in the housing market, would improve their ability to resist adverse or discriminatory landlord actions, and hopefully help them to feel more supported should they have to “rock the boat,” so to speak. Similarly, some of our private sector respondents noted that education on American tenancy rules, regulations, and cultural practices would be helpful in smoothing over landlord-tenant interactions with COFA and other immigrants. While our private sector respondents are not experts, they cited a perceived lack of understanding on the part of immigrant tenants on things like trash pickup practices, property noise and cleanliness rules, and tenant occupancy limits. For that last item, our property management respondents explained that immigrant tenants that, in their home countries, are used to living alongside their entire family, would often inadvertently break their contractual agreement (in regards to maximum occupancy) when inviting their families to live with them. These respondents noted that teaching and making clear American housing, and especially rental, laws and regulations would likely prevent such problems from happening.

9.6 Summary of Recommendations

The majority of recommendations in this section relate to language, language access, and translation. Several of our respondents suggested that sweeping improvements be made to Hawai‘i’s language translation and support services. Major takeaways include the expansion of translator staff and language translation scope, participatory translation, and awareness-building. For that last item, several respondents expressed concern that various protected classes, most

often COFA and Micronesian migrants, are unaware of the full scope of translation services offered in Hawai‘i. Several recommendations were made that may alleviate this issue.

First, a focus on multi-language informational materials. Several of our respondents expressed the need for Hawai‘i’s information outreach to be offered in several languages, including less common ones such as Chuukese and Ukrainian. While Hawai‘i’s state and nonprofit services do offer a variety of language options, expanding and fortifying those options in dissemination was seen as a worthy goal.

Second, the expansion of education initiatives. Both our nonprofit and private sector respondents recommended expanding educational outreach programs to reach a greater portion of LEP populations, and to simplify the wording of both educational and informational materials to assist in comprehension and client-side translation.

Third, and related, is the push to raise awareness of tenant rights among LEP and racial minorities. Several of our respondents noted that minority tenants have issues navigating the housing market and landlord relations, and improving their understanding of the rights, protections, and support they have would help these populations to do so.

Fourth and finally, our respondents who specifically worked with COFA migrants suggested that a committee or advisory council be formed to generate long-lasting and effective solutions to language and racial discrimination in the housing market, and to hopefully guide COFA clients towards programs that could assist them in finding safe and secure housing.

APPENDIX 9.A: HPHA form in Chuukese

HAWAII PUBLIC HOUSING AUTHORITY

REASONABLE ACCOMMODATION/MODIFICATION REQUEST FORM
TOROPWEN TINGOREN AKESIWIN MEI Tawe NON IMW

MONOMON CHOK

**** Ewe Choon Tingor are emon choon mwumwuta epwe pusin amasowa ei toropwe. Kopwe makkean fichi.** Pwinin Maram: _____

Nampan AMP /Itan Ei Angang: _____ (Federal / State)

Itan Ewe Choon Tingor (ewe meinapen imw): _____

Itan ewe emon mei wanengaw non inisin/mekuran: _____

Adresen Ewe Choon Tingor: _____

Tefefon: _____ Adres An Email: _____

Kosemochen kopwe esine ngenikich ika met sokkun akesiwinin imw en mei kan tingor ren: _____

Pwata ke mochen ei akesiwinin imwomw? _____

Ewe choon tingor mi nipwakingaw/wanengaw usun ekkei osukosuk mei pachenong me fan?

(1) Mei wor an samwaw are osukosuk inis/mekur tori epwe kan weires an epwe tongeni pusin mongo, fetan, kuna, rongarong, kapas, ngasangas, kaeo, are ika angang. (Mei wor pwan ekkoch osukosuk inis/mekur sise mwo pachenong non ei tetten); are

(2) Mei wor an rekoten an we samwaw/osukosuk. ☐ EWER ☐ APW

En mei fen angei ewe Esinesinin Akesiwin Mei Tawe seni ewe HPHA? ☐ EWER ☐ APW

En mei weweiti ekkei ennuuk me foror? ☐ EWER ☐ APW

Ika pwe "Apw", sia fen ponueni omw kapasels me akomw? ☐ EWER ☐ APW

En mei mwumwuta ngeni ewe HPHA Section 504 Coordinator an epwe tongeni kapas ngonuk faniten omw we tingor? ☐ EWER ☐ APW

En mei mochen neuneu emon chon chiakku? ☐ EWER ☐ APW

Ika pwe "Ewer", Meeni Foesun Fonu: _____

Adresen emon tokter mei tipeew are mwumwuta ren ei tingoren akesiwinin aninisin imw are tumwun:

Itan Ewe Tokter: _____ Tokteren Met Sokkun Samwaw: _____

An We Adres: _____ Tefefon: _____

Pwan eche toropwen epwungun ei tingoren akesiwinin aninisin imw MEI PACHENONG / ESAPW PACHENONG (makkei meeni mei pwung) non ei toropwe.

Ika pwe ngang upwe saini me fan, epwe pwarata pwe ngang mei tipeew ngeni HPHA an epwe tongeni choosani pwungun al tingoren akesiwinin al aninisin imw/tumwun; o epwe pwan tongeni epwungu ika pwe mei wor popun al upwe angei/neuneu aninisin faniten al samwaw/nipwakingawan inisi, me fan ennuuk HUD. Ekkewe foforen epwungun al keis esapw tongeni attaieno ennuukun akesiwin mei tawe, mei pwan pachenong non ennuukun HUD pwan ewe ofesen US Department of Justice.

Siknacheren Ewe Choon Wanengaw/Nipwakingaw _____ Pwinin Maram _____

MEI AUCEHA: Fan ennuukun Federal, esapw mwumwuta ngeni emon aramas an epwe mwakken ngeni ekkoch pwutain muun United States, are ekkoch pekin public housing authority (PHA), iwe ika pwe emon epwe attai ekkewe ennuuk, epwe tongeni tonong non kanopus are/ika epwe eniwinin monien immintin an we tipis (18 USC §1001). Ika pwe emon epwe faenini/atoura och poraus ese pwung are poraus mei mwakken, an we keis epwe tongeni kouno chok. (§17-2028-9; 15-193-9, Hawaii Administrative Rules)

Form received (Date) _____ (time) _____ by (staff name) _____ ☐ Written ☐ Phone ☐ Other verbal

Rev. 8/01/18 (Reasonable Accommodation Request Form) - Chuukese

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10.0 GENDER AND LGBTQ+

Respondents working at the intersection of housing and gender, sexual orientation, gender identity and gender expression identified multiple challenges to accessing housing and housing-related services for the communities they serve – particularly for LGBTQ+ individuals and women who have survived domestic violence, intimate partner violence and abuse.

A shelter director interviewed explained that domestic violence survivors of all genders often have impossible choices to make, “like to be homeless and maybe make yourself and your children homeless, or to... put up with abuse just for... a roof over your head.” Survivors of sexual assault are often in a similarly impossible predicament, making these assaults difficult to report “because if you're renting a room from someone, for example, and... sexual favors are being asked... again, you're being put in a position of: ‘Well, do I want a roof over my head, or do I want to live on the street?’” According to the respondent: gender-based violence and abuse are highly intersectional and often relate directly to issues such as substance abuse and mental health, for which islands like Kaua‘i have limited services for treatment and support. Violence and abuse can also further “escalate tensions that may already exist. Often, when you speak with survivors or offenders, they will point to just other stressors in their life, such as financial stress or financial strain, and a lot of their financial strain in Hawai‘i, but really on Kaua‘i, is related to housing.” These difficulties are exacerbated by “extremely limited” housing inventory, long housing waitlists and high rent prices.

10.1 Impediments for single mothers and survivors of abuse

According to respondents focusing on assisting women once they have left their abusive situations, single mothers have a harder time finding housing because landlords often assume

that they might not be able to afford rent with a single income and multiple children. This respondent explained, “I had a woman say, ‘No one will even talk to me because I’m a single parent.’ Despite working three jobs, it took her from December through July to plan housing. In the meantime, she and her three children were “bouncing all over the place,” staying with family and friends. Though she eventually found housing, “she felt like no one wants to rent to a single mother.”

These respondents further explained that some survivors whose abusers find them in their new housing situation can cause disruptions and, as a result, these women are often attempted to be evicted by their landlords. Many survivors of domestic violence and abuse do not know their rights and “many landlords do not read the thick packet of paper that comes with Section 8, so they do not always know what is legal and what is not.” The respondent shared an example of a survivor and her family who were living at Luana Gardens, a Section 8 housing project on Maui: the abuser was released from jail, and he destroyed her apartment and her car. Her landlord attempted to evict them; but according to the Violence Against Women Act, this is illegal if you have Section 8 or a HUD voucher. Our respondent wrote a letter citing the Violence Against Women Act, and the tenant and her family were allowed to stay.

10.2 Barriers to addressing fair housing violations for survivors of abuse

When a client faces illegal discrimination in the housing space, our respondents generally refer their clients to legal organizations. However, survivors are often scared to pursue that route, out of fear that it will affect their next housing situation. According to one of our respondents, “Sometimes the outcome is only a slap on the hand for the landlord for all of your time, and reputational risk for the tenant.” Respondents explained, “If there was more punitive damages, then landlords could be more accountable.” However, they reported uncertainty about whether

punitive damages currently exist for landlords who violate fair housing law, and who is responsible for such enforcement.

One respondent reported further confusion about domestic violence preference when applying for public housing. In her understanding, public housing gives voucher preference to survivors of domestic violence so that they and their children can be placed in safe housing and avoid houselessness. She reported that, “the federal level says that’s true, the state level says that’s true.” However, this organization has had clients who report being “told by the public housing office on Kaua‘i that they no longer accept DV preference when applying... So that's something that we're trying to get to the bottom of, where the DV preference stipulation currently is... We suspect it's because of the huge strain on the housing market here, [they] are saying that they're no longer doing that.”

10.3 The “waiting game” for survivors in shelters, bridge housing and transitional housing

One respondent referred to HUD vouchers as “a waiting game” during which shelter residents wonder, “Am I going to get pulled? Am I on the list?” She further explained, “Here in our shelter... 120 days is nothing when you're waiting. You know, even two years... you're looking at a year and a half or more of living in your car, maybe, houselessness, or leaving your family and going to the mainland, and then we lose more people in the workforce here.” To counter this issue of long waitlists, this respondent currently offers bridge housing for individuals in their programs, made possible with the assistance of an angel donor who helped them to purchase a six-unit property. Rather than discharging some families into houselessness which, she explained, is sometimes the only option, they “discharge them to bridge housing to give them a little bit more time to heal and find more permanent housing.” She further explained that, for shelter residents, getting “pulled for HUD... really has just been the lifesaving game changer for

them, because there's no way that they would be able to pay for any housing at all if they didn't have that subsidized HUD voucher as well.” However, she reported that it can be extremely difficult to find a landlord who is willing to accept the voucher and that survivors are often competing with large numbers of people for a single spot.

Programs serving both offenders and survivors of domestic violence of all genders offer a voluntary services approach within their shelters and transitional housing. During their stay, residents receive sexual assault services, domestic violence services, clinical therapy, guidance, suggestions and encouragement from staff while they prepare for permanent housing. According to one respondent, the transitional house prepares residents for their “next step of life, whatever that may be.”

10.4 “Macho attitude” as an impediment to housing assistance for men

One respondent explained, “We help men. I've had a few male clients as victims.” Men seek assistance less frequently than women due to cultural barriers and a “macho attitude” that equates receiving assistance with weakness. This makes men resistant to accepting help, especially from an organization that may not directly center men: ““Oh no, you're not supposed to take care of me. I'm the man. I'm supposed to do all these things... They know my situation. I'm embarrassed now. I gotta get help from them. I'm more embarrassed because I'm supposed to be able to do this all by myself.”” It was recommended that case managers be patient with male clients in particular, with whom it may take multiple meetings to build trust and chart a pathway forward to appropriate support and assistance.

10.5 Homelessness among LGBTQIA+ youth

Many LGBTQIA+ youth face family rejection due to their sexual orientation, gender identity or gender expression. This can lead to strained or broken family relationships, resulting in homelessness. LGBTQIA+ youth also frequently experience discrimination in housing programs and shelters, from which they are often mistreated and turned away; and this discrimination further extends to their possible employment opportunities. These struggles with employment make it more challenging for LGBTQIA+ youth to secure stable housing. Additionally, LGBTQIA+ youth have higher rates of anxiety, depression and other mental health struggles, which can make it more difficult to navigate housing instability and seek necessary help.

10.6 Compounded disadvantages for LGBTQIA+ youth

One respondent explained that there are not many studies on drug use among LGBTQIA+ youth; but through their work with this population, they know that the biggest reason that homeless youth begin using drugs is to stay awake at night so that no one steals their belongings. Youth gather in "street families," each person taking their turn to keep watch and ensure that the family and their belongings are safe – including from police raids. This is "the biggest reason that we see young people reporting substance use." This respondent further explained,

"That just kind of spurs into abuse... There is so much trauma associated with being a [LGBTQIA+] young person on the streets. Higher levels of sex exploitation, higher levels of criminal involvement. Youth are also . . . more likely to go to jail than their cisgender heterosexual counterparts when they're on the streets. The trauma that people experience on the streets is really what causes them to continue that use."

Our respondents also noted an upward trend in mental health issues for their LGBTQIA+ youth, and they are self-medicating to handle this as well. The key takeaway is that these youth face many risks of compounded disadvantages, especially once homeless. Efforts to support their access to housing must be intertwined with attention to these risks; interventions must be trauma-informed, with an awareness of their intersecting needs (e.g. drug treatment).

Several respondents cited the need to reevaluate their homelessness assessments. While gathering information from older adults to assess their living situation, income, needs, and potential barriers to stable housing in an effort to identify appropriate support services, some organizations have seen that disabilities are a priority issue; but for young people, due to the spike observed in mental health issues and substance use/abuse, mental health and behavioral issues are now a priority over physical disabilities.

10.7 Impediments to housing for LGBTQI+ kūpuna

Several respondents affirmed that impediments to housing affects LGBTQI+ individuals throughout their life course. One shared a story about a transgender kupuna who was a client who had trouble getting into a care home. According to the respondent, some care homes were resistant to accept her because they did not know whether to house her in male or female housing. Eventually, several staff members assisted the client by calling multiple care homes until they found one that would accept her.

"Now we know this... care home exists that will take our transgender clients so... We have the number on the wall for the next time we need it... We can call because that's another thing... when we think about our LGBT or mobile community is that we also know where... people will have a positive experience when it comes to referrals and resources, that that's where we're going to send people for access... We want our people to have a good experience when they go somewhere."

This respondent explained that transgender clients have had issues with getting into a clean and sober home, though he did not specify why. This interview shed light on the challenges that transgender people have in accessing housing, regardless of their age.

10.8 Summary of Recommendations

The majority of recommendations in this section relate to holistic initiatives, integrated care and housing navigation for potential tenants in order to address the contributing factors of homelessness and housing instability among these populations; educational initiatives for property managers and landlords to better understand the situations of potential tenants; and best practices for organizations to support of the communities they serve when engaging with both clients and landlords. Major takeaways include opportunities to reach potential tenants through educational initiatives in transitional and temporary housing using a Housing First model; an annual Landlord Summit to educate landlords about problems in their communities; and a hotline to address immediate issues that arise for tenants, property managers and landlords.

Addressing the holistic needs of individuals is a strong recommendation from communities in which substance abuse treatment programs and mental health support are limited, such as on the island of Kauaʻi. According to respondents, this programming model has proved to be particularly beneficial for those recovering from addiction and those leaving situations of domestic violence.

Education for landlords and property managers was also strongly recommended, and one housing navigation program included meeting with landlords to secure housing units for clientele – in particular, those who were previously homeless and those who hold housing vouchers. The program also offers a dedicated hotline to assist tenants and landlords in resolving problems that

may arise. According to one respondent, “I have to say, ‘If you rent to our people, I will give you a dedicated line that you can reach me 24/7, should anything happen. And I will be there, and I will help you, and I will help them.’... If I get a call at 11 o'clock at night... [I will] say, ‘Hey, you need to calm down. I'll come in the morning, we can sort it all out.’” This acts as a kind of pre-mitigation service to address the concerns of both parties before the situation can escalate further. One organization serving survivors of domestic violence also suggested the reinstatement of a Landlord Summit, which took place annually on the island of Maui before the height of the COVID pandemic in 2020: this summit was attended by different housing agencies and landlords, offering a luncheon, panel discussions and educational sessions to encourage landlords to “work outside the box,” give potential tenants a chance and view access to housing as a “community problem.” Initiatives such as these have also assisted organizations serving the community, helping them in understanding how to best guide their clients to secure permanent housing. These organizations are also in need of clarification about whether punitive damages currently exist for landlords who violate fair housing law, especially the protections contained in VAWA for victims of domestic violence, and who is responsible for such enforcement.

11.0 NATIVE HAWAIIAN HOUSING

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11.1 Executive Summary

This section on impediments to fair housing choice focuses on issues faced by Native Hawaiians, the Indigenous people of Hawai‘i, in several parts. After describing major concepts of law and public policy important to understanding Native Hawaiians, we contextualize their modern housing impediments through an overview of currently unresolved land and housing issues. Noting the previous Analysis of Impediments’ findings regarding the Hawaiian Homes Commission Act (HHCA), we then focus attention on funding issues related to the HCCA, and recent developments within the Department of Hawaiian Homelands (DHHL) to increase housing stock and choice for those Native Hawaiians eligible for its benefits. We then return to housing barriers for the broader Native Hawaiian community, especially those unable to qualify for the benefits of the Hawaiian Homes Commission Act. Lastly, we conclude with a set of recommendations, divided between those dealing generally with Native Hawaiian access to safe, stable housing and those focused on the HHCA.

11.2 Background on Native Hawaiian Status and Housing

The term “Native Hawaiian” describes the Indigenous people of Hawai‘i, a present day community whose ancestors exercised sovereignty over the Hawaiian archipelago prior to

Sustained Western Contact.¹⁶ Despite a unique connection to these islands and the longest-standing presence of any community in Hawai‘i, Native Hawaiians struggle to access and maintain safe, stable housing in their original homelands. Among the most vulnerable, this manifests in the continued overrepresentation of Native Hawaiians among Hawai‘i’s homeless, including the so-called “invisible homeless” not counted in most official means of tracking residents who lack permanent shelter, and those in overcrowded housing¹⁷. It is also evident in the pattern of Native Hawaiian outmigration, an issue highlighted by the US Census Bureau’s recent confirmation that Native Hawaiians in the 49 states now outnumber those residing in Hawai‘i.

11.2.1 Defining Terms: Native Hawaiians as part of a racial group

The Office of Management and Budget (OMB) Statistical Policy Directive No. 15 (“Directive 15”) sets the minimum standards for federal classification by race and ethnicity.¹⁸ Among the six minimum racial categories, Native Hawaiians are part of the “Native Hawaiian and Other Pacific Islander” group, having been disaggregated from the “Asian or Pacific Islander” (API) category in the 1997 revisions to Directive 15. Separation of Native Hawaiians and Other Pacific Islanders from the API category was in large part the result of advocacy by Native Hawaiian community leaders, especially the late US Senator Daniel Kahikina Akaka, who argued that separation from the API category was needed in order to “fairly assess” the

¹⁶ 1778 is considered the beginning of “Sustained Western Contact,” describing the period after which Hawai‘i’s existence was documented by the Western world, and after which the Western world and the Native Hawaiian community sustained contact.

¹⁷ Recent data in all of these areas is provided later in this report as we explore this topic. As we also explain, Native Hawaiian-led households play a critical role in providing shelter to the highly vulnerable community members who make up the hidden homeless population. This includes, but is not limited to Native Hawaiians who are hidden homeless.

¹⁸ Revisions to OMB’s Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity, 89 F.R. 22182 (March 29, 2024). <https://www.federalregister.gov/documents/2024/03/29/2024-06469/revisions-to-ombs-statistical-policy-directive-no-15-standards-for-maintaining-collecting-and>

needs of Native Hawaiians.¹⁹ When issuing the change in policy, OMB acknowledged the need for data collection in order to monitor discrimination against Native Hawaiians in housing, and for other purposes.²⁰

While Native Hawaiians share important commonalities with other communities in the Native Hawaiians and Other Pacific Islanders group, it is also sometimes important to disaggregate this diverse category in order to understand Native Hawaiian (and other groups') conditions. For example, while each Native Hawaiians and Other Pacific Islanders subgroup is underrepresented in higher education, the rate of underrepresentation varies across the groups. Additionally, while Native Hawaiians and Other Pacific Islanders are much more likely to be multiracial than the general US population, this too varies from group-to-group.²¹ One example of this can be found when comparing the multi-racial versus single race reporting of three Native Hawaiian and Other Pacific Islander sub groups: Chuukese, Chamorro, and Native Hawaiians: the Chuukese community is only moderately more likely to be multiracial than single race, while the Chamorro community is twice as likely to be multiracial as they are to be single-race. Native

¹⁹ Senator Akaka was the first and only Native Hawaiian member of the U.S. Senate. Regarding the Senator's advocacy for disaggregation of the API category, see Akaka, Daniel K. *Stand Up and Sound Off, Statement of U.S. Senator Daniel K. Akaka before the Subcommittee on Government Management, Information and Technology of the House Committee on Government Reform and Oversight, Hearing on Multiracial Identification*, (May 22, 1997), quoted partly in: Papa Ola Lōkahi. (2007). *Threads in the Human Tapestry: The Disaggregation of the API Identifier and the Importance of Having the NHOPI (Native Hawaiian and Other Pacific Islander) Category in Data Collection, Analysis, and Reporting*. Honolulu, Hawai'i. <https://www.papaolalokahi.org/wp-content/uploads/pol-pdf/The-Disaggregation-of-API-and-the-AAPI-Identifier-2009.pdf>

²⁰ Office of Management and Budget, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (1997). Federal Register. Retrieved from https://obamawhitehouse.archives.gov/omb/fedreg_1997standards

The Native Hawaiians presented compelling arguments that the standards must facilitate the production of data to describe their social and economic situation and to monitor discrimination against Native Hawaiians in housing, education, employment, and other areas.

²¹ Regarding the rate at which Native Hawaiians and other Pacific Islanders as whole report belonging to two or more races, see: U.S. Census Bureau, 2010 Census Redistricting Data (Public Law 94-171) Summary File; 2020 Census Redistricting Data (Public Law 94-171) Summary File. Retrieved from <https://www2.census.gov/programs-surveys/decennial/2020/data/redistricting-supplementary-tables/redistricting-supplementary-table-01.pdf> These data reflect that, unlike every other minimum racial category except for American Indians and Alaska Native, Native Hawaiians and other Pacific Islanders are more likely to report being multiracial than single-race.

Hawaiians, lastly, are close to three-and-a-half-times-more-likely to report being multiracial versus single race.²²

Similarly, with respect to housing, and especially in Hawai‘i, the needs and concerns of Native Hawaiians may not be the same as other Pacific Islanders, especially Pacific Islanders with a strong contingent of first generation immigrants new to Hawai‘i. For example, while Native Hawaiians report the highest native-born rate of any ancestry group in Hawai‘i, the group with the lowest rate are Marshallese, a fellow Pacific Islander community.²³ Along with state and national efforts to disaggregate Native Hawaiians and Other Pacific Islanders from Asians, Hawai‘i entities are wise to also disaggregate within the Native Hawaiians and Other Pacific Islanders category, especially between Native Hawaiians (on one hand) and other Pacific Islanders (on the other).

Hawai‘i has taken positive steps in this direction, but in some cases progress has not been consistent. For example, in 2021, the Hawai‘i State Legislature passed SCR 5, urging state agencies to collect and report data on Native Hawaiians, Native Hawaiians and other Pacific Islanders, and to work collaboratively to improve data collection and use throughout the state. In

²² According to the 2020 US Census, single race versus multiracial reporting for these three groups is as follows: Chuukese: 12,464 multiracial versus 10,500 single race; Chamorro: 143,947 multiracial versus 70,704 single race; Native Hawaiians: 680,442 multiracial versus 199,880. For these data, see: Rico, B., Key Hahn, J., & Jacobs, P. (2023, September 21). *Chuukese and Papua New Guinean Populations Fastest Growing Pacific Islander Groups in 2020*. United States Census Bureau. <https://www.census.gov/library/stories/2023/09/2020-census-dhc-a-nhpi-population.html#:~:text=Detailed%20NHPI%20Population%20Shifts%20in%20States>

²³ Fogleman, C. (2018). ii. *Demographic, Social, Economic, and Housing Characteristics for Selected Race Groups in Hawai‘i*. State of Hawai‘i Department of Business, Economic Development and Tourism: Research and Economic Analysis Division. Retrieved from https://files.hawaii.gov/dbedt/economic/reports/SelectedRacesCharacteristics_Hawai'iReport.pdf. A more recent DBEDT report also finds that Micronesians, as a whole, are among the most likely to be foreign born, even when accounting for the inclusion of Chamorro, who are indigenous to Guam and the Commonwealth of the Northern Mariana Islands. (Those individuals born in Guam and CNMI are not foreign born); See Liddell, C. (2024). 7 (Figure 3). *Demographic, Social, and Economic Characteristics of Hawai‘i’s Race Groups: 2017-2021*. Hawai‘i Department of Business, Economic Development & Tourism (DBEDT): Research and Economic Analysis Division (READ). Retrieved from https://files.hawaii.gov/dbedt/economic/reports/Detailed-race-characteristics_ACS2021.pdf

response, in its 2021-22 annual report, the Hawai‘i Civil Rights Commission (“HCRC”) reported certain data, including housing discrimination complaints, by Native Hawaiian status.²⁴

Unfortunately, the subsequent HCRC annual report did not include this data, and the report authors did not find information on HCRC’s website indicating whether any future annual reports would provide the level of NHPI data offered in its 2020-2021 report.²⁵ Since legislative resolutions like SCR 5 lack the force of law, future legislation may be needed to ensure that Native Hawaiian data are reported consistently by government entities.²⁶ As it pertains to housing discrimination and reporting of data, this could include legislation to add Indigenous status or, more narrowly, Native Hawaiian status, as a protected category.²⁷

11.2.2 Defining Terms: Native Hawaiians as a recognized political entity under federal law

While protected from racial discrimination under the Fair Housing Act, Native Hawaiians are not simply a subset of the Native Hawaiians and Other Pacific Islanders racial category. US federal law and policy acknowledges Native Hawaiians as an Indigenous people with “a special legal and political trust relationship” with the United States.²⁸ Congress explicitly frames its

²⁴ Hawai‘i Civil Rights Commission. (2022). *2021-2022 Annual Report*. Retrieved from <https://labor.hawaii.gov/wp-content/uploads/2022/12/2021-22-HCRC-Annual-Report-Final-3.pdf>

²⁵ Hawai‘i Civil Rights Commission. (2023). *2022-2023 Annual Report*. Retrieved from <https://labor.hawaii.gov/wp-content/uploads/2023/12/HCRC-FY2022-23.pdf>

²⁶ A variety of policy approaches could be used to ensure clear and consistent reporting on Native Hawaiians. These policies could be limited to or go beyond the strict confines of housing issues.

²⁷ While the Fair Housing Act sets the baseline in terms of protected categories, states may add to these protections. Hawai‘i State law prohibits housing discrimination based on race; sex, including gender identity or expression; sexual orientation; color; religion; marital status; familial status; ancestry; disability; age; or HIV infection. See §515-3(a). In contrast, FHA protections are limited to race; color; religion; sex, including gender identity and sexual orientation; disability; familial status; or national origin. Given that Hawai‘i state law already protects against ancestry-based discrimination, proponents of adding Indigenous status or Native Hawaiian status as a protected class may want to consider what additional protections and other benefits would or would not result from this change

²⁸ U.S. Department of the Interior [DOI]. (2016). Procedures for Reestablishing a Formal Government to Government Relationship with the Native Hawaiian Community Final Rule [CFR Title 43 Part 50]. 81. Federal Register. https://www.doi.gov/sites/default/files/uploads/43_cfr_part_50_procedures_for_reestablishing_a_formal_government_to-government_relationship_with_the_native_hawaiian_community_vol_81_no_199_oct_14_2016.pdf

relationship with Native Hawaiians within the legal context of its treatment of Indigenous people, often referred to as US Federal Indian law. US Federal Indian law affirms, for example, that Indian preference in certain hiring practices are not racial discrimination or racial preference, and that “as long as the special treatment of Indians can be tied rationally to the fulfillment of Congress’ unique obligation toward Indians, such legislative judgments will not be disturbed.”²⁹ The federal government’s legal and political acknowledgement of Native Hawaiians is not limited to those of a specific blood quantum, and is affirmed through various laws and programs established by the US Congress.³⁰

11.2.3 Hawai‘i State law on Native Hawaiian Indigeneity and wellbeing

Hawai‘i state law also acknowledges the Indigeneity of Native Hawaiians.³¹ In addition to the more than 180 federal laws regarding Native Hawaiians, Hawai‘i state law affirms and prioritizes Native Hawaiians in various respects. Of particular importance to housing choice, the Hawai‘i State Planning Act adopts Congress’s commitment to raise Native Hawaiian health to the highest level, and directs the state to prioritize programs and activities “that address identified social determinants of health” tied to Native Hawaiian wellbeing.³² Given the substantial understanding that housing is a key social determinant of health, housing policy and

²⁹ *Morton v. Mancari*, 417 U.S. 535 (1974).

³⁰ Later in this report we describe in detail the importance of blood quantum in determining eligibility for the benefits of the Hawaiian Homes Commission Act. Unlike the majority of Native Hawaiian federal programs established during the Self-Determination Era, such as the Native Hawaiian Health Care Program, Native Hawaiian Education Program, and the Native Hawaiian Revolving Loan Fund. Unlike the aforementioned programs, which do not consider blood quantum, the HHCA distinguishes between those Native Hawaiians with ½ or more blood quantum for the purpose of securing an original homestead lease, and ¼ or more blood quantum to inherit a lease.

³¹ See Haw. Rev. Stat. § 10H-1 (“[t]he Native Hawaiian people are hereby recognized as the only indigenous, aboriginal, maoli people of Hawai‘i”).

³² See Haw. Rev. Stat. § 226-20. https://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0226/HRS_0226-0020.htm

practice in Hawai‘i should be viewed within the framework of the state’s commitment, along with the other elements mentioned above.³³

11.2.4 Land and Housing Issues Specific to US Indigenous People

The housing rights movement that resulted in the Fair Housing Act often emphasized housing harms experienced by African Americans, but Indigenous people are also understood to be the victims of fundamental land and housing discrimination and displacement.³⁴ For American Indians, Alaska Natives, and Native Hawaiians, modern-day issues with housing choice and wellbeing stem in part from massive, intentional, legally authorized land and housing dispossession. These massive dispossessions made way for US expansion and the accumulation of significant land, wealth, and housing by some private interests at the expense of Indigenous people. Well-known examples include the Indian Removal Act of 1830 and the General Allotment Act of 1887. By one estimate, between 1887 and 1934 the US government took more than 90 million acres of land, nearly $\frac{2}{3}$ of all reservation lands, from Indian tribes.³⁵ More recently, in the 1940s and 1950s the federal government passed various laws and actions

³³ Office of Hawaiian Affairs (2015). *Social Determinants of Health* [Fact Sheet]. <https://www.oha.org/wp-content/uploads/Volume-III-Social-Determinants-of-Health-FINAL.pdf>

³⁴ The Kerner Report, often credited for playing a key role in the passage of the Fair Housing Act, explicitly acknowledged its emphasis on African Americans while stating its intention to be inclusive of American Indians and other minority groups. See this excerpt from the Kerner Report:

Much of our report is directed to the condition of those Americans who are also Negroes and to the social and economic environment in which they live—many in the black ghettos of our cities. But this Nation is confronted with the issue of justice for all its peoples—white as well as black, rural as well as urban. In particular, we are concerned for those who have continued to keep faith with society in the preservation of public order—the people of Spanish surname, the American Indian and other minority groups to whom this country owes so much.

³⁵ Prepared statement of Honorable Brian Cladoosby, President, National Congress of American Indians, Hearing of the U.S. Senate Committee on Indian Affairs, January 28, 2015, on Indian Country Priorities for the 114th Congress.

“terminating” the federal government’s acknowledgement of specific Indian tribes and absorbing much of their land and, in so doing, their means of shelter.³⁶

By the 1960s, efforts to acquire Indigenous land and assimilate Native people through “termination” of their acknowledgement gave way to a new policy era. Since the 1960s and especially the 1970s, US policy towards Indigenous people has been characterized as the “Self-Determination Era.” While improvements under the Self-Determination Era are gradually addressing the effects of some of these injustices, Indigenous people continue to suffer various housing issues far beyond the average American, including lower homeownership rates, higher rates of overcrowding, and homelessness. Additionally, the historic instances of massive land dispossession and relocation remain largely unresolved, with most federal policy action on Indigenous issues structured to make moderate, incremental change rather than comprehensive, structural redress.

Like American Indians, modern-day housing issues experienced by Native Hawaiians are connected to the violation of sovereignty and treaty rights, and the exploitation of Indigenous lands by the United States without consent or just compensation. Perhaps most notably, this includes the role of the United States in the illegal overthrow of the Hawaiian Kingdom, and its acceptance of lands held in trust for the Hawaiian people against the vocal protest of the Native Hawaiian people.³⁷ In 1993, the 100th anniversary of the illegal overthrow, the United States acknowledged its wrongdoing in these matters, and promised to pursue reconciliation with the Native Hawaiian community.³⁸ In subsequent reconciliation hearings led by the US Departments

³⁶ This era of Federal Indian law is often referred to as the “Termination Era,” characterized by the federal government’s actions to “terminate” its relationship with various Indigenous people.

³⁷ See generally, Silva, N. K. (2007). *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*. Duke University Press.

³⁸ See United States Congress (1993). "Joint Resolution to Acknowledge the 100th Anniversary of the Kingdom of Hawai'i's Overthrow and to Apologize to Native Hawaiians" (Public Law 103-150), 107 Stat. 1510".

of Justice and Interior, report authors found that “Native Hawaiians have called upon the United States to assist them in improving economic opportunities, educational attainment, health status, and housing.”³⁹ Housing issues were commonly mentioned by hearing participants, with the *Mauka to Makai Reconciliation Report* published in 2000 finding that housing and land and natural resources were two of the top tier issues commented on by participants. Twenty-four years after this report, former Hawaiian Kingdom trust lands remain under government control, Native Hawaiians remain uncompensated and their claims remain unresolved.⁴⁰

11.2.5 Land and Housing Issues leading to the Hawaiian Homes Commission Act

After claiming jurisdiction over the former Hawaiian Kingdom and establishing the Territory of Hawai‘i through its Organic Act, Congress and the Territory promoted homesteading as a means to “settle” Hawai‘i.⁴¹ This included promotion of homesteading as established under the 1895 Land Act by the Republic of Hawai‘i.⁴² Some Native Hawaiian leaders championed homesteading as a means to secure housing and livelihood for Hawai‘i’s Indigenous people, and changes were made to the Territory’s Organic Act to bolster homesteading opportunities.⁴³ Unfortunately, Native Hawaiians documented numerous instances of discrimination, threats by

³⁹ U.S. Department of the Interior and U.S. Department of Justice. (October 23, 2000). *From Mauka to Makai: The River of Justice Must Flow Freely, Report on the Reconciliation Process between the Federal Government and Native Hawaiians*. <https://www.doi.gov/sites/default/files/migrated/ohr/library/upload/Mauka-to-Makai-Report-2.pdf>

⁴⁰ See Public Law 103-150:

Whereas the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum;

⁴¹ Kauanui, J. K. *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeniety*, 82-83. Duke University Press.

⁴² The Republic of Hawai‘i was a self-proclaimed government established in large part by the insurgents who illegally overthrew the Hawaiian Kingdom with the assistance of the United States. The Republic of Hawai‘i maintained control over Hawai‘i while lobbying Congress to annex the islands. Formed in 1894, their effort to control the islands until annexation culminated in the passage of the Newlands Resolution in 1898 and the establishment of the Territory of Hawai‘i, structured through the Organic Act of 1900

⁴³ This included both of the Territory’s first two Congressional Delegates, Robert Kalanihiapo Wilcox, and Jonah Kūhiō Kalaniana‘ole.

employers, and delay and denial as they sought to utilize general homesteading.⁴⁴ Meanwhile, others utilized homesteading as a means to attract Americans from the US Continent to settle Hawai‘i, displacing its Indigenous people.⁴⁵ Many Native Hawaiians unable to maintain traditional livelihoods in rural areas relocated to urban settlements where they were subject to dangerous conditions and poor public health.⁴⁶

Native Hawaiians leaders organized Hawai‘i-wide efforts to address the needs of what they acknowledged as “a dying race” under then-current conditions. Following various self-help and mutual assistance efforts, these Native Hawaiian-led organizations eventually determined that a land base suitable for housing and reconnection to ‘āina was essential to reversing the downward spiral.⁴⁷ Noting in part the failures of general homesteading to be inclusive of Hawai‘i’s Indigenous people, Native Hawaiian community leaders embarked on a campaign to set aside a portion of former Hawaiian Kingdom trust lands for the specific purpose of Native Hawaiian housing and rehabilitation. This resulted in the passage of the Hawaiian Homes Commission Act (HHCA), championed by Congressional Delegate Jonah Kūhiō Kalaniana‘ole and signed into law in 1921 by President Warren G. Harding. Kūhiō’s view of the need for the HHCA was stark and in alignment with other Native Hawaiian leaders: he explained to his Congressional colleagues that without intervention, the Native Hawaiian people would “become extinct in a short period of time.”

⁴⁴ Kamae, L. K. (1980). *The Empty Throne* (p. 143). Topgallant Publishing.

⁴⁵ See, for example, Wright, K. (2023). *Hulihia Nā Kānāwai ‘Āina: The Effects of Post-1893 Land Law Changes On Native Hawaiians - Population Demographics Supplement or Supplant?* (dissertation). Available at <https://scholarspace.manoa.hawaii.edu/items/016be2c8-1422-4087-8391-46640bc858b8>

⁴⁶ McGregor, D. P. (1990). ‘Āina Ho‘opulapula: Hawaiian Homesteading. *Hawaiian Journal of History*, 24.

⁴⁷ McGregor, D. P. (1990). ‘Āina Ho‘opulapula: Hawaiian Homesteading. *Hawaiian Journal of History*, 24.

The next section of the report describes that program and its alignment with the purpose of the Fair Housing Act. We conclude with an update on state funding for the administration of the HHCA, which a previous Hawai‘i Analysis of Impediments identified as an important issue.

11.3 Fair Housing issues and opportunities related to the Hawaiian Homes Commission Act

The Hawaiian Homes Commission Act (HHCA) reserves over 203,000 acres of former Hawaiian Kingdom trust lands for the purpose of rehabilitating qualified Native Hawaiians.⁴⁸ Established by Congress prior to statehood, Hawai‘i’s Admission Act requires the state to administer the HHCA as a condition of statehood. Through the efforts of the state Department of Hawaiian Homelands (DHHL) and the Hawaiian Homes Commission (HHC), the HHCA provides qualified Native Hawaiians with residential, pastoral, or agricultural leases, with a term of 99 years at the cost of \$1 per year. While the original proponents of what became the HHCA did not advocate for any blood quantum restrictions, Congress chose to limit the HHCA’s benefits to those Native Hawaiians able to verify that they are of at least ½ blood quantum. (The Act was later amended to allow Native Hawaiians with at least ¼ blood quantum to inherit a lease.)

11.3.1 Structural, original HHCA limitations

From its inception, several issues have limited the HHCA’s ability to benefit the broader Native Hawaiian community. First, those former Kingdom trust lands set aside for the HHCA were among the least hospitable for residence, farming, and grazing, and largely lacked the infrastructure needed for housing and other purposes. In addition to resulting in difficulties for

⁴⁸ Native Hawaiians with sufficient blood quantum to qualify for an HHCA lease are often referred to as “native Hawaiians,” with an intentionally lowercase “n,” while those with various amounts of blood quantum are referred to as “Native Hawaiian” with an intentionally uppercase “N.” To remain accessible to readers of various backgrounds, we consistently use the term “Native Hawaiian” while adding descriptors such as “qualified” or “with sufficient blood quantum” when distinguishing between Native Hawaiian HHCA beneficiaries and the broader Native Hawaiian community.

Native Hawaiian attempting to homestead in harsh, remote conditions, these lands are difficult and expensive for DHHL to develop in order to provide housing for beneficiaries. Secondly, historically the state's efforts to fund the HHCA have been anemic: until thirty years after statehood (1988), "the State of Hawai'i provided no general funding for the administration of DHHL and left it up to the department to pay its own operating costs, which compelled DHHL to lease trust lands to raise these funds."⁴⁹ The breakthrough in funding in the late 1980s did not lead to sustained sufficient funding, and required further intervention, which we describe later in this section.

Lastly, as mentioned in the above paragraph, Congress altered the original proposal to limit eligibility to Native Hawaiians with $\frac{1}{2}$ or more blood quantum, meaning that the portion of the Native Hawaiian community who lacked the blood quantum or lacked the paperwork needed to demonstrate sufficient blood quantum were unable to secure an original lease.⁵⁰ With the support of the Department of Hawaiian Homelands, the Office of Hawaiian Affairs, and numerous individual homesteaders, the state of Hawai'i has passed legislation (Act 80) through which Congress may amend the successor requirements to allow Native Hawaiians of as little as $\frac{1}{32}$ blood quantum to inherit a lease.⁵¹ Original lessees would still need to have $\frac{1}{2}$ or more blood quantum to receive a homestead lease, so this would not result in any direct displacement

⁴⁹ Lucas, P. N., Murakami, A. T., & Poai, K. (2015). Hawaiian Homes Commission Act. In M. K. MacKenzie, S. K. Serrano, & K. Sproat (Eds.), *Native Hawaiian Law: A Treatise*. Kamehameha Press.

⁵⁰ See the U.S. Department of the Interior's analysis of Act 80, SLH 2017 here: Amendment to the Hawaiian Homes Commission Act, 1920, as amended – Act 80 (2017) LEGAL AND POLICY ANALYSIS FOR PROPOSED AMENDMENTS TO THE HHCA (2017). Retrieved from https://www.doi.gov/sites/default/files/43-cfr-48.15b1-and-3-docs-for-act-80_0.pdf

⁵¹ Ka Nūhou. (2017, August). House Bill 451 Signed by Governor David Ige. *Department of Hawaiian Home Lands*. Retrieved from https://dhhl.hawaii.gov/wp-content/uploads/2017/09/KaNuhou_Haulelau2017_SLD_v15.pdf

with those Native Hawaiians already on the waitlist.⁵² This amendment requires approval by the US Congressional in order to take effect.

In testifying in support of Act 80 before the US House Committee on Natural Resources, former DHHL Director and HHC Chairman William Aila explained that without acceptance, some of the families whose ancestors were part of the very first group of homesteaders will be disinherited. He quotes a homesteader and former HHC Commissioner in explaining that “[t]he preservation of Hawaiian Culture, Social tradition, Cultural Lifestyle and economic stability are tied to the land. It is important for continued rehabilitation processes to be in place. Lowering successorship will allow families to pass on their valued inheritance and traditions to future generations.”⁵³ The most recently available DHHL survey of current HHCA lessees finds that as much as 10.5 percent of current lessees do not have a successor with sufficient blood quantum, and that this number has increased compared to the previous survey.⁵⁴ Given that this survey is already several years old, these numbers may be even higher to take, and will continue to rise until Congress acts upon the requests of this coalition of advocates for long-time homestead families.

11.3.2 The Waitlist

Underfunding of DHHL, combined with the difficulty in converting its lands into safe, legally compliant residential areas, contributed to a growing wait list of those who met the blood quantum requirements but waited in limbo as an applicant. Though some had assumed that

⁵² Critics of Act 80 have argued that while these amendments would not change eligibility for original leases, Native Hawaiians on the waitlist might have to wait longer under this scenario, because leases that may otherwise be turned over to future lessees may not stay in the family of the previous lessee.

⁵³ Testimony Before the U.S. House Committee on Natural Resources Subcommittee for Indigenous People of the United States (H.J. Res.55). William Alia. (2021).

⁵⁴ DHHL reports that this figure was 8.9 percent in 2014. SMS (2020). DHHL Beneficiaries Study Applicant Report, 2020. 18. Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2021/04/DHHL-Applicant-Report-FINAL-Revised-210426.pdf>

eventually the number of Native Hawaiians meeting the HHCA blood quantum threshold would decline, the number of qualified applicants on the waitlist grew dramatically from 3,328 in 1973 to 26,925 in 2013.⁵⁵ In 2022, the previous Analysis of Impediments described the applicant waitlist as notoriously long and the “subject of litigation and decades of criticism,” while acknowledging DHHL’s challenges in combating the waitlist without sufficient state funding.⁵⁶ In that review, authors and respondents acknowledged DHHL’s need for funding in order to fulfill its purpose. Addressing the waitlist requires sufficient funding not just for the development of housing, but also the provision of infrastructure in what are often unbuilt or minimally built, rural, remote communities lacking existing or sufficient water or sewage.

11.3.2 Infrastructure

As the previous section begins to explain, infrastructure costs continue to pose a major barrier to providing housing options through the HHCA, as funding allocated towards infrastructure cannot be dedicated to housing. As mentioned earlier, the more than 203,000 acres set aside for the HHCA include some of the most rural, remote, arid or otherwise difficult lands to develop and provide standard infrastructure. In the previous Analysis of Impediments, DHHL planning staff explained that, due to the nature of the lands set aside for the HHCA, infrastructure costs **per lot** can run as high as \$150,000 to \$200,000.⁵⁷ (This does not include the cost of the home itself.) In addition to visible, above ground infrastructure requirements like roads, DHHL must also secure suitable water and sewage infrastructure; a greater challenge when establishing residential areas in remote, rural areas far from existing water and sewage.

⁵⁵ Lucas, P. N., Murakami, A. T., & Poai, K. (2015). 201. Hawaiian Homes Commission Act. In M. K. MacKenzie, S. K. Serrano, & K. Sproat (Eds.), *Native Hawaiian Law: A Treatise*. Kamehameha Press.

⁵⁶ Engel, R., & Garboden, et al P. 145. *State of Hawai‘i Analysis of Impediments to Fair Housing: Phase 2 Report*.

⁵⁷ Engel, R., & Garboden, et al P. 146. *State of Hawai‘i Analysis of Impediments to Fair Housing: Phase 2 Report*.

When interviewed this year, DHHL staff reiterated the need to overcome traditionally high infrastructure costs.

11.3.3 Alignment of the HHCA and FHA

Despite these issues and others, the HHCA has made housing, farming or ranching a reality for nearly 10,000 lease holders, increasing from 2,260 leases in 1973 to 9,981 in 2022.⁵⁸ Based on the average Native Hawaiian household size (3.6 persons, compared to 3.1 persons for the general state population), tens of thousands of Native Hawaiians may in fact benefit directly from the nearly 10,000 leases, the vast majority of which are residential. Given the high barriers to homeownership or stable rental units described here and elsewhere in this Analysis of Impediments, the HHCA is an important tool for those seeking to increase access to housing choice for Native Hawaiians. This is especially true when accounting for the historical and modern ways in which mainstream policies and practices continue to fail to produce equitable housing outcomes for Native Hawaiians.

11.3.4 FHA Anti-Discrimination provisions and HHCA

While HHCA leases are limited to Native Hawaiians with $\frac{1}{2}$ or more blood quantum or successors with at least $\frac{1}{4}$ blood quantum, provision of the HHCA in this manner is not in conflict with the anti-discrimination provisions of the Fair Housing Act. As the US Department of Housing and Urban Development (HUD) has explained, “There is no evidence that Congress, in enacting Title VIII of the Civil Rights Act of 1968, intended to amend or repeal the Hawaiian Homes Commission Act, 1920.”⁵⁹ In contrast, following the passage of the Fair Housing Act,

⁵⁸ Department of Hawaiian Home Lands. (2022). *2022 Annual Report of the Department of Hawaiian Home Lands*. Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2023/02/DHHL-FY22-Annual-Report.pdf>

⁵⁹ U.S. Department of Housing and Urban Development, Memorandum, *Applicability of the Fair Housing Act to Hawaiian Homelands*, by Charles Farbstein (Washington, D.C., 1999), <https://dhhl.hawaii.gov/wp-content/uploads/2019/08/Addendum-1.pdf>

Congress continued to review, amend and fund the HHCA, which is strong evidence that Congress has no issue with the HHCA's restrictions.⁶⁰ Additionally, in 2000 Congress amended the Native American Housing and Self-Determination Act by adding the Native Hawaiian Housing Block Grant and Loan Guarantee Program.⁶¹ While less central to the HHCA itself, Congress has also passed numerous additional statutes regarding the needs of certain HHCA beneficiaries. This included, for example, legislation regarding the Native American Direct Loan program under the Department of Veterans Affairs, which includes Native Hawaiian veterans residing on HHCA land.⁶²

11.3.5 The HHCA's key role in Furthering Fair Housing in Hawai'i

In addition to being in harmony with the anti-discrimination requirements of the FHA, the HHCA is perhaps the state's most substantial and targeted tool to affirmatively further fair housing for those Native Hawaiians who qualify for its benefits. When describing the duty to affirmatively further fair housing in its 2021 interim final rule, HUD explains that it and its funding recipients possess discretion and flexibility in determining how best to fulfill their duties, "because the precise actions needed depend on local context."⁶³ In the case of Hawai'i, this local context includes the unresolved land and resource dispossession experienced by Native

⁶⁰ For example, the HHCA was amended in 1986 to expand successor requirements. See: *Designating Successors Q&A*. Department of Hawaiian Home Lands. <https://dhhl.hawaii.gov/lessee-information/designating-successors-qa/>; U.S. Department of Housing and Urban Development, Memorandum, *Applicability of the Fair Housing Act to Hawaiian Homelands*, by Charles Farbstein (Washington, D.C., 1999), <https://dhhl.hawaii.gov/wp-content/uploads/2019/08/Addendum-1.pdf>

⁶¹ For a description of the Native Hawaiian Housing provisions of NAHASDA, including its establishment via Act of Congress in 2000, see: *Native American Housing Assistance and Self-Determination Act (NAHASDA)*. Department of Hawaiian Home Lands. (n.d.). <https://dhhl.hawaii.gov/nahasda/>

⁶² For a description of the Native American Veterans Direct Home Loan program, including inclusion of Native Hawaiian veterans residing on HHCA lands, see: U.S. Government Accountability Office. (April 2022). 2. *Native American Veterans, Improvements to VA Management Could Help Increase Mortgage Loan Program Participation*. <https://www.gao.gov/assets/d22104627.pdf>

⁶³ Restoring Affirmatively Furthering Fair Housing Definitions and Certifications. F.R. Interim Final Rule, Request for Comments. Office of Fair Housing and Equal Opportunity, HUD. <https://public-inspection.federalregister.gov/2021-12114.pdf>

Hawaiians, and until recently, Hawai‘i’s failure to appropriately fund DHHL, which has resulted in an eightfold increase in the waitlist while Native Hawaiians remain overrepresented among the state’s homeless, underrepresented among homeowners, and cite cost of living and housing affordability as major factors in outmigration.⁶⁴

Members of the Native Hawaiian community and long-term Hawai‘i residents of various backgrounds are personally familiar with stories of qualified Native Hawaiians spending decades on the HHCA waitlist, some dying before realizing their goals of relocating to a homestead. While this is tragic on its own, as a matter of public policy it is of even greater concern that Native Hawaiians on the waitlist tend to have a lower household income than the state average. This is reflected in the 2020 DHHL Applicant Survey Report, which finds that waitlisted HHCA eligible Native Hawaiian household income is nearly 10 percent lower than the state average, despite the fact that Native Hawaiian households tend to be larger than non-Hawaiian households.⁶⁵ The same report finds that 21 percent, or more than one-in-five waitlisted HHCA eligible Native Hawaiian households qualifies for one of the following: Section 8, Rental Assistance, Public Assistance (TANF), SNAP/Food Stamps, or Women, Infant, Child Program (WIC).⁶⁶

While the HHCA’s most obvious and immediate benefits are provided to those Native Hawaiians eligible for its benefits, other communities may also benefit from its provision of safe, stable housing and communities for Native Hawaiians and their families. Perhaps most notably, each time DHHL expands its housing stock with a new dwelling that is occupied by a qualified

⁶⁴ We provide data and a more detailed assessment of outmigration issues later.

⁶⁵ SMS (2020). DHHL Beneficiaries Study Applicant Report, 2020. 24. Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2021/04/DHHL-Applicant-Report-FINAL-Revised-210426.pdf>

⁶⁶ Ibid at 28. Please note that the actual figure or figure for those actually eligible may be higher, as 12 percent of respondents were either unsure or refused to answer this question.

Native Hawaiian, that Native Hawaiian's previous, off-campus dwelling is made available. Since the vast majority of applicants on the HHCA waitlist reside in Hawai'i, their movement from the waitlist to an HHCA dwelling has a positive impact on the availability of general housing for the state.⁶⁷ As the state strives to expand general housing stock and reduce pressure on housing cost, it should keep in mind that expansion of HHCA housing stock accomplishes this goal directly for its beneficiaries and, through relocation, the non-Hawaiian population as well. However, the effect of this benefit to non-Hawaiians may decrease if cost-of-living and housing affordability continue to drive up the number of waitlisted Native Hawaiians who relocate to the US Continent in order to secure more affordable housing.⁶⁸

11.3.6 Background on the State's Constitutional obligation to fund the HHCA

Among the several contemporary issues with the implementation of the HHCA, funding is arguably the most important and pressing factor in reducing the waitlist and improving access to fair housing. To produce a lot for an HHCA beneficiary, the Department needs an extensive amount of money, as it is responsible for planning and environmental compliance, engineering design, infrastructure construction, as well as home construction. (Several of these costs are described in our earlier discussion on infrastructure.)

The recent fight to fund the Department traces back to the 1978 Hawai'i Constitutional Convention, in which several delegates responded to the state's failure to provide the Department with adequate funding since its inception. Hawai'i held two constitutional conventions before

⁶⁷ Ibid at 4. According to its most recent applicant survey, 87 percent of waitlisted HHCA eligible Native Hawaiians reside in-state.

⁶⁸ Ibid. Data reflect this growing trend: from 1995 to 2020, the percentage of waitlisted Native Hawaiians residing out of state has nearly doubled, from 7 percent to 13 percent.

1978 – one in 1950, in which delegates drafted a constitution that would later be adopted after statehood in 1959, and another in 1968.⁶⁹

By the ‘78 Constitutional Convention, Native Hawaiian rights were the primary focus of many of the amendments. For example, Article XII of the Constitution – the “Hawaiian Affairs” section – was amended to create the Office of Hawaiian Affairs, as well as protect traditional and customary Native Hawaiian rights. The late Frenchy DeSoto, a ‘78 convention delegate who led the Hawaiian Affairs committee wrote a letter to the editor in the *Honolulu Star Bulletin* that described the purpose of the ‘78 amendments as curbing “the extinction of a dying native Hawaiian race.”⁷⁰

At this point in time, there were over 5,000 applicants on the Department’s waitlist.⁷¹ The Hawaiian Affairs committee expressed concern that the Department was being forced to lease out its own lands just to generate income for its operative and administrative expenses.⁷² This was noted as a hindrance to making land available to waitlisted beneficiaries. The committee opined that “DHHL cannot afford to lease more acreage to the general public for the purpose of generating income...”

Finding that “through legislative funding this dilemma would be resolved,”⁷³ the committee proposed an amendment that would mandate the state legislature to adequately fund the Department. Thus, included in the Hawaiian Affairs package at the ‘78 Hawai‘i

⁶⁹ Kosaki, R. H. (1978). Constitutions and Constitutional Conventions of Hawai‘i. *Hawaiian Journal of History*, 12. <http://hdl.handle.net/10524/196>

⁷⁰ Hofschneider, A. (September 13, 2018). Fragile Aloha: Why Hawai‘i’s Last Constitutional Convention Was Important. *Honolulu Civil Beat*. Retrieved from <https://www.civilbeat.org/2018/09/fragile-aloha-why-hawaiiis-last-constitutional-convention-was-important/>

⁷¹ (1980). Proceedings of the Constitutional Convention of Hawai‘i of 1978, 1, 631. <https://doi.org/https://files.hawaii.gov/dags/archives/PDFs/1978%20Con%20Con%20Journal%20Vol-1%20Journal.pdf>

⁷² Ibid at 632.

⁷³ Ibid.

Constitutional Convention was an amendment to Article XII Section 1, codifying the state legislature's responsibility to fund DHHL. The amended Article XII, Section 1 of the Hawai'i State Constitution now reads:

“The legislature **shall** make **sufficient sums** available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands; in furtherance of (1), (2), (3) and (4) herein, by appropriating the same in the manner provided by law.”⁷⁴

This amendment – namely the “sufficient sums” language – mandated the legislature to provide sufficient funding for the Department in order to relieve it from the task of leasing out its own land to make ends meet. More specifically, delegate DeSoto estimated that the Department's administrative and operating expenses amounted to approximately \$1.3 to \$1.6 million at the time, adjusted for inflation.⁷⁵ However, despite this historic win at the Constitutional Convention, funding for the Department remained scarce for decades.⁷⁶

11.3.6.1 Nelson v. Hawaiian Homes Commission (I & II)

These changes to the state constitution did not result in the funding hoped for by its proponents. As time went on and DHHL remained severely underfunded, it became increasingly difficult for the Department to house beneficiaries. In October of 2007, six HHCA beneficiaries sued the Hawaiian Homes Commission, the Department of Hawaiian Homelands, and the State Director of Finance for violating Article XII Section 1 of the state constitution by failing to

⁷⁴ Tuteur, M. (2018). *A Matter of Belated Justice: A Summary of Nelson v. Hawaiian Homes Commission II*, 141 *Hawai'i* 411, 412, 412 P.3d 917 (2018). Ka Huli Ao Center for Excellence in Native Hawaiian Law. <https://manoa.hawaii.edu/kahuliao/ka-moae/fall-2018/new-case-developments/>

⁷⁵ *Nelson v. Hawaiian Homes Commission*, 412 P.3d 917, 918 (Haw. 2018) (“*Nelson II*”).

⁷⁶ Andrade, T. J. H. (2022). Belated Justice: The Failures and Promise of the Hawaiian Homes Commission Act. *American Indian Law Review*, 46(1), 44, 46. <https://digitalcommons.law.ou.edu/ailr/vol46/iss1/2>

provide sufficient funding for HHCA beneficiaries.⁷⁷ Of the six beneficiaries, Richard Nelson III was the named plaintiff in the litigation, and thus the two cases that ensued became known as *Nelson I* and *Nelson II*. Both cases ask the primary question: “what are ‘sufficient sums’ as per Article XII Section I?”

The trial court in *Nelson I* declined to rule on the plaintiff’s claims, finding that determining ‘sufficient sums’ was a political question, thus not one for the courts to answer.⁷⁸ The beneficiary plaintiffs appealed, and in 2012, the case found itself in front of the Hawai‘i Supreme Court. The Hawai‘i Supreme Court held the opposite of the circuit court, and opined that ‘sufficient sums’ for DHHL’s administrative and operating expenses *were* judicially discoverable (able to be ascertained by a court), and not barred by the political question doctrine.⁷⁹ The unanimous court pointed to the legislative history of the 1978 Constitutional Convention as containing clear standards to follow when determining ‘sufficient sums’ – namely, Delegate De Soto’s arrival at the \$1.3-1.6 million figure.⁸⁰ The court sent the case back down to the circuit court, and tasked the circuit court with defining ‘sufficient sums’ for the Department’s administrative and operative costs.⁸¹ The circuit court then heard the case again as *Nelson II*.

⁷⁷ See *Nelson II*, 412 P.3d.

⁷⁸ The term “political question” conveys the idea that “some issues are either entrusted solely to another branch of government or beyond the competence of the judiciary to review.” Here, the court claimed that ascertaining the specific amount of funding necessary for DHHL to operate was a task for the legislative branch and not the judicial branch. Lampe, Joanna R. 2022. *The Political Question Doctrine: An Introduction (Part 1)*. (CRS Report No. LSB10756). <https://crsreports.congress.gov/product/pdf/LSB/LSB10756>; *Nelson II*, 412 P.3d at 412.

⁷⁹ *Nelson v. Hawaiian Homes Comm’n*, 127 Hawai‘i 185, 277 P.3d 279 (2012) (“*Nelson I*”).

⁸⁰ *Nelson II*; Andrade, T. J. H. (2022). Belated Justice: The Failures and Promise of the Hawaiian Homes Commission Act. *American Indian Law Review*, 46(1), 49. <https://digitalcommons.law.ou.edu/ailr/vol46/iss1/2>

⁸¹ *Nelson II*; Andrade, T. J. H. (2022). Belated Justice: The Failures and Promise of the Hawaiian Homes Commission Act. *American Indian Law Review*, 46(1), 50. <https://digitalcommons.law.ou.edu/ailr/vol46/iss1/2>

During the bench trial upon remand, the Department, relying on Hawaiian Homes Commission Chair Jobie Masagatani and DHHL Administrative Services officer Rodney Lau,⁸² argued that ‘sufficient sums’ amounted to a little over \$28 million for the Department’s administrative and operating budget for the 2015-2016 fiscal year.⁸³ The circuit court agreed with the Department and found that ‘sufficient sums’ equaled the approximate \$28 million.⁸⁴

However, the State appealed and in 2018, the case again found itself in front of the Hawai‘i Supreme Court. The Hawai‘i Supreme Court held that, while the circuit court did have the power to determine what ‘sufficient sums’ are for the Department, it should have only considered the criteria of the ‘78 Constitutional Convention to arrive at this number. Justice McKenna wrote for the majority, “Under *Nelson I*, the only judicially discoverable and manageable standard for determining ‘sufficient sums’ for DHHL’s administrative and operating budget was established by the delegates of the 1978 Constitutional Convention as \$1.3 to 1.6 million, adjusted for inflation.”⁸⁵ In other words, the court found that \$1.3 to 1.6 million was the only appropriate amount in this case, despite contemporary calculations to the contrary. The court thus remanded the case back to the circuit court again, with clearer confines of the amount the court could find were ‘sufficient sums’ for the Department.

While *Nelson I* made progress by affirming DHHL’s right to sufficient sums as well as the court’s ability to determine such, the decision in *Nelson II* was harmful for the Department and HHCA’s waitlisted beneficiaries, as it severely underestimated the Department’s needs. The \$1.3-6 million figure was established three decades prior to the court’s decision and did not

⁸² *Nelson II*, 412 P.3d at 416-17.

⁸³ *Nelson II*, 412 P.3d at 416-17.

⁸⁴ Andrade, T. J. H. (2022). Belated Justice: The Failures and Promise of the Hawaiian Homes Commission Act. *American Indian Law Review*, 46(1), 50. <https://digitalcommons.law.ou.edu/ailr/vol46/iss1/2>

⁸⁵ *Nelson II*, 412 P.3d at 412.

account for the actual costs that DHHL would incur. This number did not include future expenses, the anticipated growth of the waitlist, nor any additional staffing or manpower. These ‘sufficient sums’ covered only about one-fourth of administrative and operating expenses for the Department.⁸⁶

11.3.7 Settlement

Despite the issues with *Nelson II*, both cases in the *Nelson* litigation elucidated the glaring issue of sparse DHHL funding. News stories about the *Nelson* cases and the Department’s fight for adequate funding erupted on multiple media platforms.⁸⁷ Additionally, after the Hawai‘i Supreme Court issued its decision in *Nelson I*, the Department met with beneficiary leaders all over the state to discuss the ruling.⁸⁸ The Department encouraged them and other beneficiaries to urge their legislators to appropriate more funding for DHHL. In the years to follow, the legislature would appropriate historic amounts to cover the Department’s costs and help it fulfill its trust responsibilities.⁸⁹

The largest appropriation in recent history was through Act 279, a law passed in 2022 that provided DHHL with \$600 million in new funding. Act 279 gave the Department wide discretion to use the \$600 million to develop existing lots, purchase new ones, provide beneficiaries with funding, and provide other services “as necessary to address the waiting

⁸⁶ Andrade, T. J. H. (2022). Belated Justice: The Failures and Promise of the Hawaiian Homes Commission Act. *American Indian Law Review*, 46(1), 52. <https://digitalcommons.law.ou.edu/ailr/vol46/iss1/2>

⁸⁷ DHHL STATEMENT ON NELSON CASE RULING. (2018, February 12). *Department of Hawaiian Homelands*. Retrieved from <https://dhhl.hawaii.gov/2018/02/12/hawaii-state-supreme-court-nelson-case-ruling/>

⁸⁸ Call to Action: Nelson Case & DHHL Budget. (2013, January 24). *Department of Hawaiian Homelands*. Retrieved from <https://dhhl.hawaii.gov/2013/01/24/call-to-action-nelson-case/>

⁸⁹ Andrade, T. J. H. (2022). Belated Justice: The Failures and Promise of the Hawaiian Homes Commission Act. *American Indian Law Review*, 46(1), 53. <https://digitalcommons.law.ou.edu/ailr/vol46/iss1/2>

list.”⁹⁰ This hefty appropriation would ease tension brought about by the *Nelson* cases, and move the Department further toward its goal of eliminating the HHCA waitlist.

11.4 Updates on efforts by DHHL to lower housing barriers for eligible Native Hawaiians

Alongside the passage of Act 279 and its historic funding for DHHL, the Department promulgated several rulemakings which may, in the view of the Department and the State, provide greater housing choice for Native Hawaiians. While not their focus, in very limited instances, they may also benefit the larger Native Hawaiian community as well as non-Hawaiian residents of the state.⁹¹ This part describes recent actions, including DHHL’s strategic spending plan, its recently adopted rules, and its efforts to shelter unhoused Native Hawaiians while they are on the Department’s waitlist.

11.4.1 DHHL’s Act 279 Strategic Spending Plan

In addition to providing \$600 million in funds to DHHL to fulfill the purpose of the HHCA, Act 279 required the Department to submit a strategic spending plan to the Legislature by December 10, 2022, roughly five months after the Governor signed the Act into law.⁹² DHHL published a preliminary strategic approach document in August of that year, and followed up with its strategic spending plan on December 6, 2022. Considering both homeownership and rental opportunities for eligible Native Hawaiians, DHHL’s spending plan prioritized homeownership.⁹³ Further, it emphasized new homestead lot development as the primary means

⁹⁰ H.B. 2511 HD2 SD2 CD1, 2022 Reg. Sess. (Haw. 2022).

https://www.capitol.hawaii.gov/sessions/session2022/bills/HB2511_CD1_.pdf

⁹¹ For example, a new rental unit made possible by the rental SDU rule may be leased to a Native Hawaiian beneficiary of the HHCA who is married to a non-beneficiary, including a non-Hawaiian. However, we explain in this section why the majority of impact would be within the Native Hawaiian community.

⁹² Act 279 (2022). <https://dhhl.hawaii.gov/wp-content/uploads/2022/10/Act-279.pdf>

⁹³ Department of Hawaiian Homelands, Strategic Plan to Implement Act 279 of 2022 (2022). Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2022/11/Exh-A-Act-279-Strategic-Plan-Nov.-2022.pdf>

of increasing homeownership for its beneficiaries. Lastly, the plan prioritized development projects based on:

- Timing and position in the Department’s pipeline for production
- Areas prioritized for development in the Department’s Island Plans; and
- Island-by-island waitlist demand

While focusing primarily on these priorities, DHHL’s strategic spending plan also sets aside resources for innovative individual assistance programs, and to support waitlisted Native Hawaiians maintain rental housing. When explaining its focus on single family homes with long-term leases, the Department referenced a survey on applicant preference for dwelling options. The Department explains that in the survey, 76 percent of applicants expressed a preference for “a single-family home or a vacant lot for a house” while only 16 percent “preferred to rent or rent with the option to buy in the future a single-family home, duplex, apartment, or townhouse.”⁹⁴

Looking more closely at the referenced survey, reproduced in Table 11.1, it is clear that higher density options such as condos, townhomes, duplexes and four-plexes, while not undesirable, are far, far less desirable than a single family home. Interestingly, an affordable rental unit available while the beneficiary stays on the waitlist, with no path towards renting-to-own, was significantly more desirable than a condo or townhouse rental with option to buy, a townhouse in a duplex or four-plex, or a condominium apartment. This appears to reflect that many beneficiaries are willing to wait longer to secure a homestead, even forgoing options for long-term homeownership in a higher-density dwelling, if it means eventually securing land and a single family lot.

⁹⁴ Department of Hawaiian Homelands, Strategic Plan to Implement Act 279 of 2022 (2022). 9. Retrieved from <https://dhh.hawaii.gov/wp-content/uploads/2022/11/Exh-A-Act-279-Strategic-Plan-Nov.-2022.pdf>

Strong preference for single family lots places the Department in a difficult position given two conflicting issues: the overall scarcity of HHCA land suitable for residential development and the mismatch between demand to reside on O‘ahu and the supply of available lands on that island. On the first issue, DHHL reports that of its more than 203,000 acres statewide, a mere 4.67 percent is residential, meaning that slightly over 95 percent of its lands are meant for other purposes. In terms of total acreage, the island with the highest level of demand, O‘ahu, has the lowest amount of HHCA lands available of any island with corpus lands, just 4 percent of the total land inventory. (Only Lāna‘i, Ni‘ihau, and Kaho‘olawe, all of which have no HHCA lands, have less lands available.)⁹⁵ Beneficiaries thus demonstrate preferences that are in tension - a desire to live on the island (O‘ahu) with the least land available, but a seemingly similarly strong desire for the type of lease that uses the most land (single family).⁹⁶

11.4.2 Administrative Rule Changes

Years before the 2022 legislative session that resulted in the appropriation of \$600 million in new funds, DHHL was in the process of using its rulemaking authority to expand housing options for eligible Native Hawaiians, including uses that may benefit Native Hawaiians ineligible for HHCA leases and the general public. We describe these promulgated rules here, and their potential to lower barriers to housing choice.

⁹⁵ See Department of Hawaiian Homelands. (2021). *2021 Legislative Fact Sheet* [Fact Sheet]. <https://dhh.hawaii.gov/wp-content/uploads/2021/01/2021-DHHL-Legislative-Handout-8.5x11-FINAL.pdf>

⁹⁶ While in tension, this is not to say that these desires are inconsistent. Given that the majority of Native Hawaiians currently reside on O‘ahu, there are numerous reasons why a beneficiary would strongly prefer that island. It is also completely understandable why most applicants would prefer a single family lot, for reasons that include the association with ‘āina and literal, physical connection to land possible through a single family lot with a yard, when compared to a high-rise condo or apartment. However, it does present some fundamental challenges for the Department. The authors are not aware of whether the Department has examined which of these preferences is stronger.

11.4.2.1 Supplemental Dwelling Units

In December of 2017, the Hawaiian Homes Commission first approved the Department's request to move forward with a proposed change to its administrative rules – a change to allow beneficiaries with residential homestead leases to build supplemental dwelling units (“SDU”) on their lots.⁹⁷ This rule change was approved by Governor Ige in December of 2021 as an added subchapter (3.1) to the Native Hawaiian Rehabilitation Program.⁹⁸ The Department defines SDUs as units that are smaller than the primary dwelling and that contain a separate entry, kitchen, bedroom, and bathroom.⁹⁹ This definition includes the “ohana dwelling unit” and “additional dwelling unit” language used by other counties in the state. According to the Department, the Native Hawaiian housing issues to be alleviated by this rule change are need, overcrowding, and financial strain.¹⁰⁰

The qualifying residential lessee may apply for one of two SDU options: 1) a rental SDU, and 2) an ‘ohana SDU.¹⁰¹ The rental SDU option allows the homestead lessee to rent the newly constructed unit to an HHCA-eligible Native Hawaiian.¹⁰² Because the original lessee will be collecting rent from the SDU tenant, this type of SDU option aims to “supplement income for the

⁹⁷ Lindsey, H., Beneficiary Consultation Report on Department of Hawaiian Home Lands Proposed Amendments to Title 10, Hawai‘i Administrative Rules for DCCRs; Multi-Family, Rentals, and Kupuna Housing; and Supplemental Dwelling Units (2018). Department of Hawaiian Homelands. Retrieved from https://dhhl.hawaii.gov/wp-content/uploads/2021/05/Sept-2018_ITem-C-2_For-Info_BC-Report-DCCR-Multi-SDU.pdf

⁹⁸ Hawai‘i Administrative Rules § 10-3 (2021).
<https://dhhl.hawaii.gov/wp-content/uploads/2022/01/HAR-10-3.-Eff-12.23.21.pdf>

⁹⁹ Department of Hawaiian Homelands. (2021, May). *DHHL Administrative Rules - Supplemental Dwelling Units - May 2021*. [Video]. YouTube. <https://www.youtube.com/watch?v=YSzeJJPDs4>

¹⁰⁰ Hawai‘i Administrative Rules § 10-3-40.01 (2021).
<https://dhhl.hawaii.gov/wp-content/uploads/2022/01/HAR-10-3.-Eff-12.23.21.pdf>

¹⁰¹ Hawai‘i Administrative Rules § 10-3-40 (2021).
<https://dhhl.hawaii.gov/wp-content/uploads/2022/01/HAR-10-3.-Eff-12.23.21.pdf>

¹⁰² Section 209(a) of the Hawaiian Homes Commission Act (1921) defines a qualified successor to the lease as either (1) a spouse, children, grandchildren, brother or sister provided the person or persons designated have at least 25 percent Hawaiian blood, or (2) a father or mother, the widows or widowers of the children, widows or widowers of the brothers and sisters, or nieces and nephews, provided that person or persons designated have at least 50 percent Hawaiian blood. *Designating Successors Q&A*. Department of Hawaiian Homelands.
<https://dhhl.hawaii.gov/lessee-information/designating-successors-qa/>

lessee and potentially help to provide housing for native Hawaiians.”¹⁰³ The other option is the ‘ohana SDU, which is explicitly for non-rental purposes. The person living in the ‘ohana SDU must be a qualified relative of the lessee, as defined by §209(a) of the HHCA, and the original lessee shall not charge any rent.¹⁰⁴ The Department aims to alleviate the overcrowding of homestead lots by allowing the construction of this type of SDU. Both types of SDUs (rental and ‘ohana) must be long term rentals and must last a minimum of six months.¹⁰⁵

A residential lessee may take advantage of this program by first applying to the Department to build the SDU on their lot. The Department will make a lease compliance review to determine whether the application process may move forward. Once the Department approves the application, the lessee must seek out approval and the necessary permits from the county. The Hawaiian Homes Commission must then approve, and finally construction may begin.¹⁰⁶

To make it through this approval process, there are several requirements for the lessee as well as the lot itself. For example, the SDU construction and any related improvements must comply with building codes and county regulations.¹⁰⁷ Further, the lot cannot be landlocked, must comply with the island and area plans, and the SDU cannot conflict with any existing covenants, easements, or conditions on the land. Additionally, the lessee must comply with all applicable federal, state, and local housing laws, including the Fair Housing Act. The lessee must also complete construction within a year of HHCA approval, and must reside on the lot at all times.

¹⁰³ Hawai‘i Administrative Rules § 10-3-40.07 (2021).
<https://dhh.hawaii.gov/wp-content/uploads/2022/01/HAR-10-3.-Eff-12.23.21.pdf>

¹⁰⁴ Ibid.

¹⁰⁵ Department of Hawaiian Homelands, FAQs: Supplemental Dwelling Units (SDUs) - Proposed Administrative Rules. Retrieved from <https://dhh.hawaii.gov/wp-content/uploads/2021/05/SDU-FAQs.pdf>

¹⁰⁶ Department of Hawaiian Homelands. (2021, June 30). *DHHL Administrative Rules - Supplemental Dwelling Units Public Hearing - June 30, 2021*. [Video]. YouTube. <https://www.youtube.com/watch?v=BfhOey1cHCo>.

¹⁰⁷ Hawai‘i Administrative Rules § 10-3-40.05 (2021).
<https://dhh.hawaii.gov/wp-content/uploads/2022/01/HAR-10-3.-Eff-12.23.21.pdf>

Financially, the lessee is responsible for constructing the SDU, as well as “all costs associated with the County’s permitting process and any upgrades to infrastructure, such as water or wastewater, or other code or regulatory compliance items that the County may require.”¹⁰⁸ The subchapter explicitly states that “the department shall not be required to finance construction of the SDU nor shall the department be liable for any cost or expense incurred in the processing and obtaining of the necessary county permits and approvals.”¹⁰⁹

This pilot program will last five years with the possibility of becoming permanent if a three-year evaluation results favorably.¹¹⁰ The evaluation is expected to start in early 2025 with results to come to the Hawaiian Homes Commission sometime in the Spring.¹¹¹ As of December 2024, members at DHHL have expressed their satisfaction with the new administrative rule, and intend to make the pilot program permanent. The Department has already received multiple applications from homestead lessees to build SDUs on their property. The evaluation that is currently being contemplated will most likely evaluate logistics and brainstorm ways to make the application, approval, and construction processes more efficient for the Department and county, as well as the lessee and tenant.

As the Department intended, this rule change – namely the rental SDUs – will likely benefit lessees by providing them with an extra passive income via rent payments. Further, the ‘ohana units may alleviate overcrowding issues on DHHL land by spreading families out and minimizing doubling up, while still providing for the benefits of multigenerational living.¹¹²

¹⁰⁸ Department of Hawaiian Homelands, FAQs: Supplemental Dwelling Units (SDUs) - Proposed Administrative Rules. Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2021/05/SDU-FAQs.pdf>

¹⁰⁹ Hawai‘i Administrative Rules § 10-3-40.04 (2021).

<https://dhhl.hawaii.gov/wp-content/uploads/2022/01/HAR-10-3.-Eff-12.23.21.pdf>

¹¹⁰ Ibid.

¹¹¹ Riley, K., Walsh, M., & Choy, A. (2024a, December 12). HHCA Follow Up Interview. Personal.

¹¹² See Doubling Up in Part IV.

However, more comprehensive change may be needed to combat the issue of hidden homelessness on homestead land, as this program excludes the homeless Native Hawaiians living on corpus who do not qualify to live in SDUs by blood quantum or relation under the HHCA.¹¹³ Additionally, the option for lessees to build an SDU is also only available to those who can financially afford to build the additional unit on their property. The Department should consider securing financial assistance for qualifying lessees in order to expand the initiative's reach.

There also exists some ambiguity in the rules regarding the use of housing vouchers to rent out SDUs from homestead lessees. It is unclear whether tenants are permitted to use housing vouchers to rent SDUs from homestead lessees as the administrative rules do not explicitly contemplate the use of housing assistance. We recommend that the administrative rules lay out guidelines for renting an SDU through a housing voucher, or at the very least, state that SDU tenants are permitted to use housing vouchers to rent. Alternatively, the Department may consider guidance - an option less administratively cumbersome than revising its rule - if it determines that the rules do allow for this practice. Clarification on this issue is especially important because Native Hawaiian individuals and families – having a lower median household and family income than the general population in the state¹¹⁴ – are positioned to be more likely to use housing vouchers and financial assistance to rent.

While this rule change is not likely to directly reduce the waitlist (as HHCA-eligible SDU occupants will remain on the waitlist until awarded a lot by DHHL), it may indirectly reduce the

¹¹³ See Hidden Homeless in Part IV.

¹¹⁴ Liddell, C. (2024). *Demographic, Social, and Economic Characteristics of Hawai'i's Race Groups: 2017-2021*. Hawai'i Department of Business, Economic Development & Tourism (DBEDT): Research and Economic Analysis Division (READ). Retrieved from https://files.hawaii.gov/dbedt/economic/reports/Detailed-race-characteristics_ACS2021.pdf

waitlist through the development of ‘ohana or rental SDUs. Consider the following scenario: since ‘ohana SDU tenants are not required to pay rent, any ‘ohana tenants who are also waitlisted beneficiaries will have the opportunity to live in the unit and save money in order to eventually purchase a home from DHHL once they reach the top of the waitlist.¹¹⁵ It is also conceivable that there will be cases in which even the ‘ohana SDU financially benefits the lessee, since certain pooling of resources is allowed by the rules.¹¹⁶ Whether these measures achieve a meaningful impact on financial self-sufficiency or housing stability remain to be seen, and require monitoring and further research to be fully understood.

11.4.2.2 Multi-Family Rental Housing

Another change to DHHL’s administrative rules includes housing waitlisted beneficiaries in affordable multi-family housing units. The new rule took effect in August of 2019, and added a new chapter to Hawai‘i’s administrative rules to “expand residential lease offerings to include multi-family housing.”¹¹⁷ According to the Department, multi-family housing may consist of apartment or condominium units, low-rise or high-rise buildings, or townhouses.¹¹⁸ The Department is permitted to contract with developers to construct the multi-family housing, then work together with property management companies to offer the rental housing to waitlisted beneficiaries.¹¹⁹ While the rule defines these projects as rental housing, it also states that the

¹¹⁵ As mentioned elsewhere, lack of savings for a down payment is one of the most common reasons that a Native Hawaiian on the HHCA waitlist may decline a lease offer.

¹¹⁶ “The ‘ohana occupant may contribute to household expenses such as utilities and mortgage payments, if applicable, but rent shall not be charged.” See Hawai‘i Administrative Rules § 10-7-41 (2019).

https://dhhhl.hawaii.gov/wp-content/uploads/2020/02/HAR-Ch-10-7_Eff-Aug-17-2019-1.pdf

¹¹⁷ DHHL Administrative Rules – DCCR’s, Multi-Family, Rentals, Kupuna Housing and Supplemental Dwelling Units. Department of Hawaiian Homelands. <https://dhhhl.hawaii.gov/po/beneficiary-consultation/dhhl-administrative-rules-dccrs-multi-family-rentals-kupuna-housing-and-supplemental-dwelling-units/>

¹¹⁸ Department of Hawaiian Homelands, FAQs: Multi-Family, Rentals, and Kupuna Housing - Proposed Administrative Rules (2018). Retrieved from <https://dhhhl.hawaii.gov/wp-content/uploads/2018/04/FAQs-Multi-Family-Rentals-Kupuna-Housing-Rules.pdf>

¹¹⁹ Hawai‘i Administrative Rules § 10-7-1 (2019). https://dhhhl.hawaii.gov/wp-content/uploads/2020/02/HAR-Ch-10-7_Eff-Aug-17-2019-1.pdf

rental agreements between the property management company and the tenant “may include an option to purchase.”¹²⁰ It is unclear what the criteria is for a beneficiary to obtain a rent-to-own option in their rental agreement, or if purchasing a multi-family housing unit will remove them from the DHHL waitlist.

The Department’s first plan to construct multi-family housing units is at the site of the former Stadium Bowl-O-Drome bowling alley in Mō‘ili‘ili.¹²¹ The Department acquired this property from the State Department of Land and Natural Resources in 1995¹²² and in January of 2020, contracted with Stanford Carr Development to build over 270 units on the less than two-acre parcel.¹²³ After several delays,¹²⁴ a more recent update stated that Stanford Carr Development expects to break ground by the end of 2024, with move-ins expected by 2027.¹²⁵

The Department recognizes that while HHCA acreage is limited, there remains a great need to house the tens of thousands of HHCA beneficiaries on the waitlist. With this rule change, it intends to be space-efficient by providing fair housing choice for more HHCA eligible Native Hawaiians using far less land than would be necessary for a single family home project. Further, each HHCA beneficiary who receives rental housing under this chapter will remain on the waitlist and remain eligible to become a residential lessee, an option that eligible Native

¹²⁰ Hawai‘i Administrative Rules § 10-7-41 (2019). https://dhlh.hawaii.gov/wp-content/uploads/2020/02/HAR-Ch-10-7_Eff-Aug-17-2019-1.pdf

¹²¹ Department of Hawaiian Homelands, 820 Isenberg Street Redevelopment, O‘ahu (2021). Retrieved from <https://dhlh.hawaii.gov/wp-content/uploads/2021/12/820-Isenberg-211221.pdf>

¹²² Ibid.

¹²³ Ibid.

¹²⁴ HNN Staff. (2023, September 8). HFD: Blaze at Abandoned Bowling Alley in McCully Was Intentionally Set. *Hawai‘i News Now*. Retrieved from <https://www.hawaiinewsnow.com/2023/09/08/hfd-blaze-abandoned-bowling-alley-mccully-was-intentionally-set/>.

¹²⁵ Dowd, E. (2024, October 8). Homeless Hotspot Transforming Into \$155M High-Rise for Native Hawaiians. *Hawai‘i News Now*. Retrieved from <https://www.hawaiinewsnow.com/2024/10/09/new-155m-apartment-complex-moiliili-meant-solely-native-hawaiians-break-ground-soon/>.

Hawaiians described as preferable to securing a rent-to-own or condo or apartment style dwelling but forgoing the option of a single family lot.

The Department sees this housing as an opportunity for waitlisters making far below the average income to have access to affordable housing until they are awarded homestead leases. Stanford Carr’s project manager Kaloa Robinson describes the Mō‘ili‘ili development as “a waiting room or as something that provides housing while homestead leases are being developed.”¹²⁶ Because the rentals are intended to be affordable, they may also provide waitlisted Native Hawaiians with the opportunity to save money towards an eventual down payment on a future homestead lot, positioning them to have the financial means to take on the mortgage that comes with more desirable, though costly, single family housing.

While not directly reducing the size of the waitlist, multi-family housing developments are an efficient way to provide beneficiaries with affordable housing. The Mō‘ili‘ili project is a good tool to address the needs of some beneficiaries as it will provide HHCA beneficiaries with nearly three hundred affordable housing units while still keeping them eligible for single family homes on homestead land. This project is also intended to be revenue-generating for the Department.¹²⁷ The increased revenue generation, if successful, will further enable DHHL to place more beneficiaries on homestead land and continue to reduce the waitlist. The revenue from this development and any future developments under this new chapter will also supply the Department with a much needed form of consistent and reliable funding. DHHL’s 2014 O‘ahu Island Plan predicts that this development will “meet both housing and revenue generation needs

¹²⁶ Huff, D. (2023, July 26). Former Site of Stadium Bowl-o-Drome Will Be New Home For DHHL’s First Rental Project. *Hawai‘i News Now*. Retrieved from <https://www.hawaiinewsnow.com/2023/07/27/former-site-stadium-bowl-o-drome-will-be-new-home-dhhl-first-rental-high-rise/>

¹²⁷ Department of Hawaiian Homelands, O‘ahu Island Plan (2014). Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2013/04/DHHL-OIP-Final-140708.pdf>

of the department.”¹²⁸ While we generally caution against generating revenue at the expense of its beneficiary residents, revenue generation to keep this project at or near revenue-neutral has the important benefit of not decreasing the amount of DHHL funds available, over the long-term, for the purpose of expanding HHCA housing stock.

This rule change allowing DHHL to acquire and develop multi-family rentals does raise a concern about the allocation of the Department’s resources when considering beneficiaries’ preferences of unit and lot characteristics, which the Department should be careful to address. As mentioned earlier, wait listed Native Hawaiians eligible for HHCA benefits strongly prefer a single family home to higher density options. Further, over 84 percent of applicants desire three or more bedrooms in their next home, which is reasonable considering the larger than average size of Native Hawaiian families and households. The Mō‘ili‘ili project and other multi-family rentals to be developed under this rule do not contain single family homes, and according to the most recently available plans for the Mō‘ili‘ili project, only 30 out of the nearly 300 units will contain three bedrooms.¹²⁹ Because multi-family rental complexes do not cater to the majority of beneficiaries’ preferences, the Department’s primary focus should continue to be developing single family homes for waitlisted beneficiaries.

Another concern about this rule is that multi-family rentals will not take any HHCA beneficiaries off the waitlist. However, despite hundreds of millions of dollars in recent funding for the Department, the waitlist remains at nearly 30,000 applicants. The harsh truth is that many applicants on the waitlist will remain there for decades to come, especially if they are unable to afford the mortgage and monthly payments that come with the homestead options available to

¹²⁸ Ibid.

¹²⁹ Department of Hawaiian Homelands, 820 Isenberg Street Redevelopment, O‘ahu (2021). Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2021/12/820-Isenberg-211221.pdf>

them. Thus, it is imperative for the Department to develop creative and time-sensitive solutions to the Native Hawaiian housing crisis, even if it does not directly reduce the waitlist. Developing multi-family rental complexes can accomplish this – it can move the needle more towards fair housing choice for HHCA-eligible Hawaiians. Keeping this in mind, the Department should continue to balance its resources carefully and craft innovative Native Hawaiian housing solutions, even if only what may be a minority of applicants who prefer or are willing to accept a higher density dwelling instead of a single family lot. When possible, the Department should maximize doing so on O‘ahu, the island in highest demand, and for which density construction presents the least impact on the character of the communities, at least within the urban core.

As the Department considers expansion of housing stock, including higher density options and the purchase of existing infrastructure, it should carefully consider strategies to minimize any negative impacts on existing residents. For example, the Department is obligated under federal policy to take reasonable steps to minimize the displacement of existing persons - defined broadly to include “households, businesses, nonprofit organizations and farms” - when implementing its Native Hawaiian Housing Block Grant rental assistance efforts.¹³⁰ Displaced persons must also be informed of their rights under the Fair Housing Act, and be provided with relocation assistance, to include reasonable opportunities to relocate to similar dwellings within their financial means.¹³¹

¹³⁰ The applicable federal rule, Other Federal Requirements: Displacement, Relocation, and Acquisition, 24 C.F.R. § 1006.377 (2024), states:

(b) *Minimize displacement.* Consistent with the other goals and objectives of the Act and this part, the DHHL shall assure that it has taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under the Act and this part.

¹³¹ See Other Federal Requirements: Displacement, Relocation, and Acquisition, 24 C.F.R. § 1006.377 (2024):

c) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with the URA and the requirements of [49 CFR part 24](#). A displaced person must be advised of his or her rights under the Fair Housing Act ([42 U.S.C. 3601 et seq.](#)). Whenever possible, minority persons shall be given reasonable

As mentioned earlier in this section, it also bears mentioning that the expansion of HHCA housing stock may benefit non-Hawaiians, in addition to its obvious benefits for those Native Hawaiians who qualify for the benefits of the HHCA. In the case of any future construction of single-family lots, rent-to-own dwellings or higher-density non-rental dwellings, each new HHCA beneficiary unit may provide a near-equal number of newly available units for non-beneficiaries, as the vast majority of waitlisted Native Hawaiians are still located in Hawai‘i. In addition to potentially increasing general housing stock and reducing housing price increases, the housing of HHCA beneficiaries in existing neighborhoods may increase diversity in neighborhoods where Native Hawaiians have become underrepresented, or allow Native Hawaiians to remain in communities in which they may otherwise be priced out. Lastly, the development of affordable housing for HHCA beneficiaries, if it does not supplant existing affordable housing, increases the overall stock of affordable housing in the state, which may reduce pressure on the statewide affordable housing supply available to non-Hawaiians and Native Hawaiians ineligible for the benefits of the HHCA.¹³²

Lastly, the provision of affordable rental units for Native Hawaiians, even if only for those eligible for the HHCA, is important for another reason: the general housing safety net’s incompatibility with some of the key characteristics of the Native Hawaiian households. This includes the tendency for Native Hawaiian families and households to be larger, while dwellings

opportunities to relocate to comparable and suitable decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. For a displaced person with a disability, a unit is not a comparable replacement dwelling under the URA unless it is free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such a displaced person in accordance with the definition of “Decent, safe, and sanitary dwelling” at [49 CFR 24.2](#). Furthermore, the unit must also meet the requirements of section 504 of the Rehabilitation Act ([29 U.S.C. 794](#)) as implemented by HUD’s regulations at [24 CFR part 8, subpart C](#).

¹³² In the event that affordable rentals for HHCA beneficiaries does supplant existing affordable housing, conversion to HHCA housing stock may still have other benefits, such as the provision of long-term means to keep those dwellings as affordable housing, protected from the pressures to convert them into non-affordable housing.

available through public assistance tend to be smaller and have fewer bedrooms. Native Hawaiians on the Section 8 wait list differ in other important ways, being more likely to have children in the household. Additionally, while the segment of affordable housing set aside for kūpuna benefits elders of all backgrounds, the fact that far fewer Native Hawaiians live to be elderly means that, statistically, they are less likely to benefit from kūpuna rentals and other forms of senior housing. These and other factors may be responsible for the fact that Native Hawaiians are significantly more likely than non-Hawaiians to spend 3-plus years on the Section 8 wait list, and nearly twice as likely to spend 5-plus years on the list.¹³³

11.4.3 Sheltering Homeless Native Hawaiians on the HHCA Waitlist

Previous research has reflected that many Native Hawaiians on the HHCA waitlist are financially vulnerable, with many unable to afford a down payment for a single family home, and others in much more dire circumstances. Tragically, Point in Time Count results indicate that Native Hawaiians on the HHCA waitlist are documented as being among the state's homeless. Based on the 2024 O'ahu Point in Time Count alone, 256 unsheltered adults described themselves as eligible for HHCA.¹³⁴ This was 46 percent of the total unsheltered Native Hawaiian population on the island.¹³⁵ To support unsheltered Native Hawaiians who meet the HHCA's blood quantum requirements, DHHL is proposing a transitional housing project at Kalaeloa, O'ahu. Under its proposal, Native Hawaiians currently on the applicant waitlist would be eligible for temporary transitional housing in a converted building previously used to house

¹³³ Derrickson, J.P. (2014) *Hawai'i Renters Study – 2013*: Part 1. Differentiating the Housing Needs of Native Hawaiians on the Section 8 Wait List. As presented at the American Indigenous Research Association Annual Meeting, Pablo Montana, October, 2014.

¹³⁴ Partners in Care, O'ahu Continuum of Care. (2024). 21. *Point in Time Count 2024: Comprehensive Report*. Retrieved from <https://acrobat.adobe.com/id/urn:aaid:sc:US:929e372f-132d-4f02-b0a3-36c5b4e43eb0?viewer%21megaVerb=group-discover>

¹³⁵ Partners in Care, O'ahu Continuum of Care. (2024). 21. *Point in Time Count 2024: Comprehensive Report*. Retrieved from <https://acrobat.adobe.com/id/urn:aaid:sc:US:929e372f-132d-4f02-b0a3-36c5b4e43eb0?viewer%21megaVerb=group-discover>

military personnel.¹³⁶ Interviews with DHHL staff and DHHL materials confirm that eligible Native Hawaiians who accept an offer of transitional housing would remain on the waitlist.¹³⁷

Unlike the promulgated rules mentioned earlier, this initiative is still under consideration. HCCA beneficiaries are still being consulted, and in the meantime the site remains designated for light industrial uses, not housing. If developed into transitional housing, the project may provide needed support for those unsheltered Native Hawaiians included in the above-mentioned point in time count, as well as others. However, it only supports a fraction of the need estimated by recent PIC data. While clearly responding to the urgent needs of beneficiaries, DHHL must at the same time balance its long-term objective of moving individuals off of the waitlist and into secure, stable homeownership on corpus land.

11.4.4 Traditional Financing Support by DHHL

As mentioned earlier, Native Hawaiians eligible for a residential lease through the HHCA may be unable to take advantage of the opportunity if they are unable to afford the associated down payment and monthly mortgage payments. On top of new funding and administrative rule changes, DHHL continues to make other efforts to decrease the waitlist and expand housing access. For example, the Department has partnered with Hawaiian Lending & Investments to create the Down Payment Assistance Program (DAP). The DAP offers grants of up to \$5,000 to waitlisted or lessees beneficiaries looking to buy or build a home on Hawaiian Home Lands.¹³⁸ HHCA beneficiaries who meet the income restrictions and other requirements may also be

¹³⁶ Department of Hawaiian Homelands. (2022, August 23). *BENEFICIARY INFORMATION MEETING #1: Land Use Designation Evaluation for Parcel at Yorktown & Enterprise in Kalaeloa* [PowerPoint slides].

<https://dhl.hawaii.gov/wp-content/uploads/2022/08/Beneficiary-Information-Meeting-1-August-23-2022.pdf>

¹³⁷ *Yorktown Rehabilitation – Kalaeloa*. Department of Hawaiian Homelands. (2022).

<https://dhl.hawaii.gov/po/oahu/yorktown-rehabilitation-kalaeloa/>

¹³⁸ DHHL Waitlisters to Benefit from New Down Payment Assistance Program. (2024, March 27). *Department of Hawaiian Homelands*. Retrieved from <https://dhl.hawaii.gov/2024/03/27/dhl-waitlisters-to-benefit-from-new-down-payment-assistance-program/>

eligible for the more generous NAHASDA Down Payment Assistance program, which may grant awardees up to \$25,000 for down payment assistance and, in certain cases, an additional \$20,000 in support.¹³⁹ Considering that one in four of those waitlisted HHCA beneficiaries offered a lease reported having to decline due to a lack of savings to pay the associated mortgage, these direct support programs can bridge the gap between staying on the waitlist and relocating into secure, long-term housing on corpus lands.¹⁴⁰

Additionally, DHHL has introduced legislation to exempt the development of homestead lots from state general excise and use taxes.¹⁴¹ It is estimated that this exemption could save the Department millions of dollars¹⁴² that could be redirected towards developing more lots, paying high infrastructure costs, and ultimately reducing the waitlist.¹⁴³ This bill has been introduced in the state legislature every year since 2021, and has yet to pass and become law.¹⁴⁴

11.4.4 Conclusion

This section identified a number of initiatives underway at DHHL intended to increase housing choice for Native Hawaiians eligible for the benefits provided by the HHCA. This includes efforts to increase DHHL's total housing stock, and rules designed to provide additional options for lease-holding Native Hawaiians to expand housing supply. The Department has also

¹³⁹ For more information, see Department of Hawaiian Homelands, DHHL NAHASDA Down Payment Assistance Program: Frequently Asked Questions (2024). Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2024/11/NAHASDA-Down-Payment-Assistance-FAQ.pdf>

¹⁴⁰ SMS (2020). *DHHL Beneficiaries Study Applicant Report*, 2020. 29. Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2021/04/DHHL-Applicant-Report-FINAL-Revised-210426.pdf>

¹⁴¹ S.B. 2654 SD1, 2024 Reg. Sess. (Haw. 2024). https://www.capitol.hawaii.gov/sessions/session2024/bills/SB2654_SD1_.pdf

¹⁴² SB 2654, RELATING TO HOUSING, 2024 Reg. Sess. (2024) (testimony of Kali Watson). https://www.capitol.hawaii.gov/sessions/session2024/Testimony/SB2654_TESTIMONY_HWN-HOU_02-06-24_.PDF

¹⁴³ S.B. 2654 SD1, 2024 Reg. Sess. (Haw. 2024). https://www.capitol.hawaii.gov/sessions/session2024/bills/SB2654_SD1_.pdf

¹⁴⁴ Department of Hawaiian Homelands. (2024). Government Relations: Legislative Archives. <https://dhhl.hawaii.gov/government-relations/>

established a process to provide multi-family developments like apartments, and is moving forward with a project in Honolulu’s urban core that is anticipated to generate revenue while placing Native Hawaiians in affordable housing that may help them build savings towards a future mortgage. While prioritizing homeownership, the Department is also setting aside funds and pursuing or considering initiatives to support qualified Native Hawaiians who are currently homeless, as well as financing support for beneficiaries who need help to afford the cost of their down payment.

This progress is noteworthy, but our review is balanced by an acknowledgement that all of these efforts, combined, do not provide DHHL more than a fraction of the tools and resources needed to eliminate the waitlist. Under DHHL’s December strategic spending plan, the entirety of Act 279 funds may produce 2,727 new lots, compared to a waitlist of 28,971 according to the Department’s 2023 annual report.¹⁴⁵ For these reasons, we continue to see DHHL's financial capacity to fulfill its purpose as an impediment to fair housing. As such additional support in the form of additional funding remains an urgent need.

11.5 Other Native Hawaiian Housing Issues

For the portion of the Native Hawaiian community ineligible for the benefits of the HHCA, no program provides a similar range of homeownership options at anything of comparative price. Numerous socioeconomic factors associated with homeownership and safe, stable housing - such as education and per capita income - are lower for Native Hawaiians than the general population. Given these issues, it is in some respects surprising that Native Hawaiians are only moderately less likely to be homeowners: Native Hawaiian homeownership

¹⁴⁵ Department of Hawaiian Homelands, Strategic Plan to Implement Act 279 of 2022 (2022). Retrieved from <https://dhhl.hawaii.gov/wp-content/uploads/2022/11/Exh-A-Act-279-Strategic-Plan-Nov.-2022.pdf>

occurs at a rate of 54.4 percent, compared to the statewide rate of 58.5 percent.¹⁴⁶ Previous research has also noted that the majority of Native Hawaiian renters are cost burdened, at 51.2 percent. (Interestingly, the same report noted that the statewide cost burden rate was slightly higher, at 55.6 percent of renters statewide.)¹⁴⁷

On their own, data indicating only moderately lower homeownership and a slightly lower cost burden may lead to the assumption that Native Hawaiians face impediments to fair housing choice similar to the state as a whole. A more comprehensive review reflects unique or exacerbated impediments and persistent challenges for Native Hawaiians seeking safe, stable housing in Hawai‘i. For example, consider that native-born status and length of residence and homeownership are strongly correlated.¹⁴⁸ All things being equal, one would expect that as the population with the highest rates of being native-born and, by definition, highest rates of intergenerational residence, Native Hawaiians would have the highest rate of home ownership, rather than a rate that is below the state average. Additionally, previous research has found that among households eligible for Housing Choice Vouchers, Native Hawaiians are significantly

¹⁴⁶Office of Hawaiian Affairs. (2018). *Homeownership Indicator Sheet 2018*. Honolulu, HI: Research Division, Special Projects.. Retrieved from <https://www.oha.org/wp-content/uploads/FINAL-2018-Homeownership-Indicator-Sheet.pdf>

¹⁴⁷ Office of Hawaiian Affairs, Research Division, Special Projects. (2015). Lead Researchers: Joda P. Derrickson and Carla J. Hostetter. *An Assessment of Rental Housing Affordability and its Impact in Native Hawaiian Communities*. Ho‘okahua Waiwai (Economic Self-Sufficiency) Fact Sheet, Vol. 2015, No. 1. (www.oha.org). Retrieved from <https://www.oha.org/wp-content/uploads/An-Assessment-of-Rental-Housing-Affordability-and-its-Impact-in-Native-Hawaiian-Communities.-2015.pdf>

¹⁴⁸ Regarding the association between length of residence and homeownership, see Keene, D., Bader, M., & Ailshire, J. (2013). Length of residence and social integration: the contingent effects of neighborhood poverty. *Health & place*, 21, 171–178. <https://doi.org/10.1016/j.healthplace.2013.02.002>; Regarding the association between native and foreign born status and homeownership, see Sturtevant, L. (2017). *Home in America: Immigrants and Housing Demand*. Urban Land Institute. Retrieved from <https://uli.org/wp-content/uploads/ULI-Documents/HomeInAmerica.pdf> (stating that “[t]he homeownership rate among the foreign-born population was 50.5 percent in 2015, while the homeownership rate for the native-born population was 65.9 percent.”)

more likely to state a preference for homeownership than their non-Hawaiian counterparts, at the rate of 72 percent versus 47 percent.¹⁴⁹

We also find coping approaches and mutual assistance - reflected in high rates of overcrowding, doubling up, and informal support for the hidden homeless - much more common among Native Hawaiians.¹⁵⁰ To be clear, we do not find evidence that Native Hawaiian households are more likely to want to live in overcrowded housing. Rather, it is a coping mechanism which makes it possible for income-vulnerable individuals and families to stay housed and stay in Hawai'i, when un-crowded housing is often out of reach. Especially with respect to the decision of Native Hawaiian-led households to informally shelter the hidden homeless at twice the rate of the state average, Native Hawaiians housing data reflect not only a struggle, but also hidden assets supporting the state's overall housing supply.

11.5.1 Traditional Financing Barriers

Hawai'i's 2022 Analysis of Impediments to Fair Housing Report highlighted the barriers Native Hawaiians often face in accessing traditional financing for their housing. The report emphasizes the importance of community education, specifically for homestead beneficiaries, in order to expand housing access. Along with the barriers to fair housing choice, Native Hawaiians also experience impediments in the financing of their housing and home-buying. For decades, the Native Hawaiian community has been subject to mortgage loan discrimination – evidenced

¹⁴⁹ Derrickson, J.P. (2015). Affordable Rental Housing Needs of Native Hawaiians, 2015 Update. Honolulu, HI: Office of Hawaiian Affairs, Research Division, Special Projects. <https://www.oha.org/wp-content/uploads/Affordable-Rental-Housing-Needs-of-Native-Hawaiians-Final-2.12.15.pdf>

¹⁵⁰ Native Hawaiians are reported to double up at a rate more than two-and-a-half-times-higher than the state average: 24.8 percent versus 9.6 percent (page 73). Native Hawaiian households are also more likely to include hidden homeless, at the rate of 38 percent for Native Hawaiians compared to 19 percent for non-Hawaiian households. Hawai'i Housing Finance and Development Corporation. (2019). *Hawai'i Housing Planning Study, 2019*. 74. Honolulu, Hawai'i. Retrieved from https://dbedt.hawaii.gov/hhfdc/files/2020/01/FINAL-State_Hawai'i-Housing-Planning-Study.pdf

by practices like redlining,¹⁵¹ higher interest and denial rates,¹⁵² and multiple limitations on second mortgages.¹⁵³ These discriminatory measures, on top of an already complex real estate market, can leave many Native Hawaiians without the appropriate resources to be empowered and informed in their home buying journeys. Several organizations around the islands have recognized this issue and worked to address it through community-based education programs that build financial literacy within the Native Hawaiian community. These programs – offered by non-profits like Hawaiian Community Assets,¹⁵⁴ INPEACE,¹⁵⁵ and Alu Like¹⁵⁶ – provide culturally relevant financial education, as well as financial assistance for Native Hawaiians throughout the homebuying process. Through these initiatives, thousands of Native Hawaiian families have been served with financial education, and millions of dollars have allowed Native Hawaiians to access affordable housing. Homebuying can often be an isolating experience, and the success of these programs is likely attributable to their personalized, connection-building methodology.

Respondents interviewed this year from Hawaiian Community Assets emphasized a need for face-to-face, personalized community engagement in addressing housing and financial needs of the Native Hawaiian community. This is consistent with evaluations of HCA’s Kahua Waiwai program, which provided financial literacy education in a way that is grounded in Native

¹⁵¹ Hawai‘i Fair Lending Coalition. (2022). *Redlining of Hawaiian Home Lands by Hawai‘i’s Banks: A Hawai‘i Fair Lending Coalition Preliminary Report*. <https://dhhl.hawaii.gov/wp-content/uploads/2022/09/J-11-Hawai‘i-Banks-Redlining-of-Hawaiian-Home-Lands-draft-1.pdf>

¹⁵² Jo, Y., & Dobre, A. (2021). *Data Point: Asian American and Pacific Islanders in the Mortgage Market*. Retrieved from https://files.consumerfinance.gov/f/documents/cfpb_aapi-mortgage-market_report_2021-07.pdf

¹⁵³ Tapper, M., & Frankel, J. (2020, December 13). How Lending Practices Restrict Hawaiian Homesteaders’ Borrowing Power. *Honolulu Civil Beat*. Retrieved from <https://www.civilbeat.org/2020/12/how-lending-practices-restrict-hawaiian-homesteaders-borrowing-power/>

¹⁵⁴ *Home: Hawaiian Community Assets*. Hawaiian Community Assets. <https://hawaiiancommunity.net/>

¹⁵⁵ *Ho‘oulu Waiwai*. Institute for Native Pacific Education and Culture (INPEACE). (2024, September 27). <https://inpeace.org/economics/hooulu-waiwai/>

¹⁵⁶ *Financial Literacy*. Alu Like. <https://www.alulike.org/services/kulia-like/financial-literacy/>

Hawaiian culture and knowledge, and places a premium on building trust and rapport with participants.¹⁵⁷ Thus, on-the-ground programs like these are crucial to battling the multitude of financing barriers that Native Hawaiians face in regards to homeownership.

11.5.2 The Criminal Justice System and Native Hawaiian Housing Choice

Incarceration also hinders an individual's ability to access fair housing choice, as individuals leaving the criminal justice system face numerous barriers to reintegrating back into society, and thus often lack the resources to secure affordable and stable housing. The Prison Policy Initiative estimates that formerly incarcerated individuals in the United States are almost ten times more likely to be homeless than the general public.¹⁵⁸ After their release, formerly incarcerated individuals face a myriad of challenges in the housing market. For example, private property owners as well as public housing authorities are less likely to accept applicants with criminal backgrounds.¹⁵⁹ Additionally, people leaving the prison system face more difficulty obtaining employment that would enable them to pay for their housing, attaining professional references, and building credit, as employers are less likely to hire those with a criminal record.¹⁶⁰ This is true despite formerly incarcerated individuals being more willing to work than the average American.¹⁶¹

¹⁵⁷ Santos, J., Vo, A., & Lovejoy, M. *Foundations for the Future: Empowerment Economics in the Native Hawaiian Context*. Brandeis University.

https://www.hawaiiancommunity.net/info/171009_FOUNDATIONS_FOR_THE_FUTURE.pdf

¹⁵⁸ Couloute, L. (2018b, August). *Nowhere to Go: Homelessness Among Formerly Incarcerated People*. Prison Policy Initiative. <https://www.prisonpolicy.org/reports/housing.html#insecurity>

¹⁵⁹ Ibid.

¹⁶⁰ Pager, D. (2003). The Mark of a Criminal Record. *American Journal of Sociology*, 108(5), 955-56.

<https://doi.org/10.1086/374403>; Petteruti, A., Takushi, N., Ka'opua, L. S., & Spencer, J. (2010). *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*. The Office of Hawaiian Affairs. https://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf

¹⁶¹ Couloute, L. (2018). *The Prison Penalty: Unemployment, Homelessness and Educational Exclusion Among Formerly Incarcerated People*. Prison Policy Initiative. https://www.prisonpolicy.org/factsheets/prisonpenalty_factsheet.pdf

This issue is exacerbated for the Native Hawaiian population, as Hawaiians are greatly overrepresented in the criminal justice system. Research shows that Native Hawaiians make up around 39-44% of Hawai‘i’s prison population, while only encompassing slightly more than 20% of Hawai‘i’s general population.¹⁶² Further, data shows that Native Hawaiians are overrepresented and treated unfairly at every stage of the criminal justice system. According to a 2010 report by the Office of Hawaiian Affairs, Native Hawaiians are more likely to receive a prison sentence after a conviction, likely to receive a longer prison sentence or probation term for similar offenses, and more likely to have their parole revoked compared to most other racial groups.¹⁶³ As Figure 11.1 below reflects, this results in outcomes where Natives Hawaiians, while nearly equally as likely to be arrested as the general population, end up significantly overrepresented among those incarcerated.

Because of these barriers, formerly incarcerated Native Hawaiians generally face more difficulty reintegrating themselves back into the community than many other racial groups. Reentry support programs have often been a solution to many issues that individuals face when leaving the criminal justice system. However, it has been noted that reentry programs are not a “one size fits all” solution to the problems these individuals face. Culturally competent reentry programs are needed; race, ethnicity, culture, gender, religion, etc. must all be factored in to

¹⁶² *Hawai‘i Profile*. Prison Policy Initiative. <https://www.prisonpolicy.org/profiles/HI.html>; American Civil Liberties Union. (2019). *Blueprint for Smart Justice: Hawai‘i*. <https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-HI.pdf>; Petteruti, A., Takushi, N., Ka‘opua, L. S., & Spencer, J. (2010). *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*. The Office of Hawaiian Affairs. https://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf; Ka‘opua, L. S., Petteruti, A., Takushi, N., Spencer, J. H., Park, S. H., Diaz, T. P., Kamakele, S. K., & Kukahiko, K. C. (2012). The Lived Experience of Native Hawaiians Exiting Prison and Reentering the Community: How Do You Really Decriminalize Someone Who’s Consistently Being Called a Criminal? *Journal of Forensic Social Work*, 2(2–3), 142. <https://doi.org/10.1080/1936928x.2012.746766>

¹⁶³ Petteruti, A., Takushi, N., Ka‘opua, L. S., & Spencer, J. (2010). *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*. The Office of Hawaiian Affairs. https://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf; American Civil Liberties Union. (2019). *Blueprint for Smart Justice: Hawai‘i*. <https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-HI.pdf>

assess a client's specific needs and issues when returning to the community from incarceration. While further research must be done, culturally competent reentry programs have been shown to be more effective in reducing recidivism and improving life outside of prison – including access to stable and affordable housing.¹⁶⁴

Cultural competence and responsiveness is defined by the National Reentry Resource Center as the “provision of services with sensitivity and integration of the beliefs, norms, and values of clients’ cultural backgrounds.”¹⁶⁵ For Native Hawaiian individuals, this may include education about Hawaiian culture (mele/songs, ‘oli/chants, Hawaiian history, ‘ōlelo Hawai‘i, etc.), an emphasis on their connection to land and place, and the acknowledgment of culturally specific and generational trauma connected to the overthrow of the Hawaiian Kingdom.

Community leaders and organizations in Hawai‘i argue that many reentry programs fail to emphasize the special relationship that Hawaiians have to the land and their communities, as well as cultural and historical trauma and its impact on Native Hawaiians – particularly those incarcerated within a western system.¹⁶⁶ Multiple organizations around the islands have attempted to combat this issue by focusing on culturally competent prevention initiatives, as well as classes and programs for incarcerated Hawaiians. For example, the Opportunity for Youth Action Hawai‘i (OYAH) at Kawaihoa Youth Family and Wellness Center is an initiative on the east side of O‘ahu that houses at-risk Native Hawaiian youth and provides them with Hawaiian rehabilitative programs to improve their life skills, cultural healing, and overall well-being.¹⁶⁷

¹⁶⁴ Sheppard, M., Hassoun Ayoub, L., and Pecos Melton, A. (2021). *Assessing and Enhancing Cultural Responsiveness in Reentry Programs Through Research and Evaluation*. U.S. Department of Justice, Bureau of Justice Assistance. Retrieved from <https://nationalreentryresourcecenter.org/sites/default/files/inline-files/culturalResponsiveEvalBrief.pdf>

¹⁶⁵ Ibid.

¹⁶⁶ *Our Why*. n.d. Opportunity for Youth Action Hawai‘i at Kawaihoa. <https://wearekawailoa.org/our-why/>

¹⁶⁷ Office of Hawaiian Affairs. (2021, January 4). *Kawaihoa Youth & Family Wellness Center Is a Pu‘uhonua for Our At-Risk Youth*. [Video]. YouTube. <https://www.youtube.com/watch?v=f0zm1ZLCFTk>

OYAH gives youth opportunities to reconnect with the ‘āina by farming and learning different agricultural practices, as well as opportunities to engage in local workforce development. Its goal is to eventually replace youth incarceration with Native Hawaiian restorative systems. Further, individuals currently incarcerated at Hālawā Correctional Facility have access to Hawaiian culture and language classes taught by Kumu Hinaleimoana Wong. Similar to the preventative goals of OYAH, Kumu Hina’s hope for their students is that they will “understand how culture will not only ground them in what they do now and what they do moving forward, but how it will help sustain them, once they get out.”¹⁶⁸ Additionally, the Pū‘ā Foundation is a program that supports justice-involved Native Hawaiian women, girls, and their communities. Advocates at the Pū‘ā Foundation believe that the overrepresentation of Native Hawaiians in the criminal justice system is a direct result of the overthrow of the Hawaiian Kingdom. They also note the correlation between individual and community trauma and imprisonment rates, thus committing to supporting justice-involved Native Hawaiians affected by trauma in order to foster collective healing.¹⁶⁹ The Pū‘ā Foundation offers transitional courses for women exiting the prison system, as well as farming projects that foster “‘āina based healing experiences.”¹⁷⁰

State lawmakers have also made attempts to alleviate post-incarceration housing issues in the past few years. In 2022, multiple state senators introduced a bill proposing the creation of “project reset.”¹⁷¹ This project would appropriate general funds to create post-release housing programs to assist formerly incarcerated individuals reintegrate back into the community.

¹⁶⁸ Hussey, Ikaika. (2019). *Inside Hālawā: Healing Through Culture*. Retrieved from <https://kawaiola.news/cover/inside-halawa-healing-through-culture/>.

¹⁶⁹ *Vision, Mission & Focus*. Pū‘ā Foundation: Empowering Individuals, Families & Communities. (2014). <https://www.puafoundation.org/vision>

¹⁷⁰ *Women & Children Programs*. Pū‘ā Foundation: Empowering Individuals, Families & Communities. (2014). <https://www.puafoundation.org/women-and-children>

¹⁷¹ S.B. 2373 SD1 HD1, 2022 Reg. Sess. (Haw. 2022). https://www.capitol.hawaii.gov/sessions/session2022/bills/SB2373_HD1_.pdf

Despite support from entities like the Department of Public Safety and the Office of the Public Defender, the bill did not become law. Lawmakers also introduced a bill in the 2024 legislative session to assist with prisoner reentry. The proposed legislation included a housing voucher program, which aimed to provide financial assistance to participants for rent payments or down payments.¹⁷² Unfortunately, this bill did not become law, either.

Overrepresentation and disparate treatment in the criminal justice system actively prevents Native Hawaiians from accessing fair housing. Hawaiians are suffering not only from culturally inappropriate support upon leaving prison, but from a discriminatory housing market that pushes them back to the margins of society, often homeless or back in prison. Shifting from a western model of criminal justice to a more culturally competent system in the islands may prevent more Hawaiians from becoming incarcerated, and enable formerly incarcerated Native Hawaiians to make a smooth transition back into their communities – which often begins with obtaining fair and affordable housing.

11.5.3 Native Hawaiian Outmigration: Harms to Native Hawaiians and general public

Statewide housing conditions, such as a lack of affordable housing, are a factor for many households who made the sometimes difficult decision to leave Hawai‘i. However, this decision may be uniquely difficult and impactful for Native Hawaiians, for whom separation from Hawai‘i means physical alienation from cultural resources like sacred sites and ancestral lands. Moving away from Hawai‘i also results in sometimes insurmountable barriers to practicing aspects of Native Hawaiian tradition, culture, and identity that are intrinsic to a way of life found nowhere else in the world. While Native Hawaiians should retain the ability to choose to leave Hawai‘i, this differs from situations where housing factors outside of an individual family’s

¹⁷² H.B. 1176, 2024 Reg. Sess. (Haw. 2024).
https://www.capitol.hawaii.gov/sessions/session2024/bills/HB1176_.pdf

control force them to choose between staying in Hawai‘i or staying in safe, stable housing outside of the islands.

Recent research indicates that housing issues are increasingly a factor in decisions by Native Hawaiians to leave Hawai‘i for more affordable areas. Research by Kamehameha Schools finds that “[a]ffordable housing and homeownership increased by nearly 30 percentage points as a reason to move in the 2010s after little mention prior to the 2000s.”¹⁷³ The increase in the rate at which respondents cited affordable housing as a factor in relocation outpaces every other major factor described in the study, including interrelated reasons like cost of living, job opportunities, and financial stability. Kamehameha Schools’ study directly quotes interview subjects who describe their relocation due to housing and other economic factors as forced, sharing that:

Many participants feel forced to leave the islands because they cannot support themselves and their families. As one participant explains, “I couldn’t support my kids at home...It’s not an option to live [in Hawai‘i], I can’t afford it... To feed my two kids, I had to move.”

While financial pressures differ from the forced migration and legally sanctioned land theft Indigenous people faced by Native Hawaiians and other Indigenous people, they produce the same general outcome: Indigenous alienation from ancestral lands. This sentiment is reflected in recent scholarship on Native Hawaiian historical trauma, as youth report a sense of being “forced” out of Hawai‘i by rising housing costs. This sense is evident among several interview

¹⁷³ Kamehameha Schools. (2022). *Why Residents Leave Hawai‘i: A Look at Economic Conditions Across the Decades*. Honolulu, Hawai‘i. Retrieved from https://www.ksbe.edu/assets/pdfs/Migration_Across_Decades_Infographic_final.pdf

subjects in the *Ke Ala i ka Mauliola: Native Hawaiian Youth Historical Trauma* study.¹⁷⁴ Its authors note:

Several participants shared that the high cost of housing in Hawai‘i has led to extended family and friends moving away. “I kind of resented [] the news [] calling uh, Vegas the 9th Island. And at first I thought it was kind of funny, but I’m thinking Hawaiians are being forced to move there.”

It also defies the spirit of certain federal public policies and policy goals regarding Native Hawaiians, such as well as the UN Declaration on the Rights of Indigenous People, which states that national governments shall provide mechanisms for prevention and redress for actions which have “the aim or effect of dispossessing” Indigenous people “of their lands, territories or resources.”¹⁷⁵

11.5.4 Out-migration of Native Hawaiians may significantly reduce the availability of housing or shelter for the hidden homeless

Some may cynically wonder if outmigration promotes housing availability, since a resident departing Hawai‘i may be making a housing unit available via their departure. However, Native Hawaiian outmigration may actually reduce the amount of housing and shelter available statewide, driving up demands for housing and shelter, and resulting in an increase in homelessness for Native Hawaiians and the general public. This is because Native Hawaiian-led households are twice as likely as non-Hawaiian households - 38 percent to 19 percent - to shelter individuals in their own homes. For this reason, outmigration represents not just the departure of a Native Hawaiian individual or family, but a reduction of available housing or informal shelter

¹⁷⁴ Riley, L., Su‘esu‘e, A., Hulama, K., Neumann, S. K., & Chung-Do, J. (2022). Ke ala i ka Mauliola: Native Hawaiian Youth Experiences with Historical Trauma. *International Journal of Environmental Research and Public Health*, 19(19), 12564. <https://doi.org/10.3390/ijerph191912564>

¹⁷⁵ United Nations, The Declaration on the Rights of Indigenous Peoples (2007). Retrieved from https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

for vulnerable Native Hawaiians and others who may have been otherwise housed.¹⁷⁶ Said differently, by supporting Native Hawaiian-led households in remaining in Hawai‘i, the state preserves “hidden” housing and shelter for “hidden” homeless. Thus, the outmigration of Native Hawaiian led households represents an impediment to fair housing choice, or housing itself, for Native Hawaiians and non-Hawaiians among the current and future hidden homeless population.

11.5.5 Conclusion

In this part, we have revisited two of the three major issues previously identified in Analysis of Impediments reports, updating them with a review of traditional financing barriers and criminal justice issues.¹⁷⁷ Additionally, we have conducted a new review of Native Hawaiian housing issues generally, leading to a review of outmigration issues and the potential reduction in housing for highly vulnerable populations if Native Hawaiians continue to leave Hawai‘i.

11.6 Recommendations

Barriers to safe, stable housing make it difficult for many Native Hawaiians to remain in their ancestral homeland, and are a major factor in Native Hawaiian outmigration, homelessness, and coping strategies such as overcrowding and doubling up for financial reasons. After reviewing barriers, as well as efforts by the Department of Hawaiian Homelands to address impediments through new regulatory, administrative, and financial tools, we offer the following recommendations. While all of these issues relate to Native Hawaiian housing in some form, we divide them between those focused on the HHCA and those not limited to the purposes of that Act, starting with general recommendations.

¹⁷⁶ Hawai‘i Housing Finance and Development Corporation. (2019). *Hawai‘i Housing Planning Study, 2019*. 74. Honolulu, Hawai‘i. Retrieved from https://dbedt.hawaii.gov/hhfdc/files/2020/01/FINAL-State_Hawai‘i-Housing-Planning-Study.pdf

¹⁷⁷ The third issue - funding for the administration of the Hawaiian Homes Commission Act - was reviewed in detail in the previous two parts.

11.6.1 General Native Hawaiian housing recommendations

1. **Treat efforts to support and increase Native Hawaiian homeownership as a tool to maintain housing and shelter generally, especially for the hidden homeless:**

Supporting Native Hawaiian-led households overall appears to be an important factor in maintaining housing and shelter supply for vulnerable populations, given the exceptionally high rate of Native Hawaiians informally sheltering others. A reduction in Native Hawaiian-led households, due to outmigration or loss of residence, may result in a substantial overall loss of housing stock and shelter for highly vulnerable individuals and families.

2. **Provide targeted support for and partnership with Native Hawaiian-led households informally sheltering hidden homeless and doubling up:** Given that nearly 4 in 10 Native Hawaiian households report informally sheltering one or more hidden homeless persons, general support for Native Hawaiian housing as a strategy to support housing vulnerable individuals is reasonable. In addition, the state and others should pursue targeted approaches to those specific households providing informal shelter, treating them as partners in a statewide strategy to prevent homelessness and transition the hidden homeless into less vulnerable housing. Such targeted support could include financial assistance for the head of household, connecting hidden homeless to support services, or otherwise supporting those helping the hidden homeless as well as the hidden homeless themselves.

3. **Collect and annually report disaggregated data on Native Hawaiians, as well as Native Hawaiians and other Pacific Islanders, to understand and monitor issues related to housing, including housing discrimination, use of housing vouchers, and**

other areas directly or indirectly connected to impediments to fair housing choice:

As we explain in part one, while better representing that community than the Asian/Pacific Islander super-group, data that stops at the Native Hawaiian and Other Pacific Islander-level may be insufficient in understanding the issues faced by Native Hawaiians. This is highlighted in examples of where Hawai‘i’s highest rates of foreign born status and lowest rate of foreign born status are both groups in the Native Hawaiian and Other Pacific Islander group.

As we explain earlier in the report, in 2021, the Hawai‘i State Legislature passed SCR 5, urging state agencies to collect and report data on Native Hawaiians, Native Hawaiians and other Pacific Islanders, and to work collaboratively to improve data collection and use throughout the state. In response, in its 2021-22 annual report, the Hawai‘i Civil Rights Commission reported certain data, including housing discrimination complaints, by Native Hawaiian status.¹⁷⁸ The Hawai‘i Civil Rights Commission should resume such reporting, and all applicable state and county entities reporting housing-relevant data should do the same. As part of alignment with best practices described in SCR 5, agencies should collect and report such data in a way that includes multi-racial individuals, given Hawai‘i’s overall high rate of multi-racial identification, which is even higher among Native Hawaiians. While this does not require additional statute or regulations if government agencies voluntarily comply, public policy mandates may be warranted.

4. **Explore whether adding a state-level prohibition against discrimination based on Indigenous status or Native Hawaiian status may encourage more effective**

¹⁷⁸ Hawai‘i Civil Rights Commission. (2022). *2021-2022 Annual Report*. Retrieved from <https://labor.hawaii.gov/wp-content/uploads/2022/12/2021-22-HCRC-Annual-Report-Final-3.pdf>

collection and reporting of Native Hawaiian data on housing and related to housing:

In addition to the federal protections that serve as a “floor” for fair housing, states may provide additional protections. The State of Hawai‘i has already chosen to exercise this power in protecting the public against forms of discrimination not included in the federal Fair Housing Act. While Native Hawaiians are clearly part of a racial minority as the most prominent sub-group within the Native Hawaiian and Other Pacific Islander” racial group, the housing issues faced by Native Hawaiians may differ greatly from those of other Pacific Islanders, especially those with high rates of recent arrival. To provide for better understanding of both Native Hawaiians and other Pacific Islanders, and to align with significant state and federal law regarding Native Hawaiians, the State of Hawai‘i should study this option within its authority, including whether or how this would provide benefits beyond the state’s current protections against discrimination on the basis of ancestry.

5. **Continue to support and strengthen culturally-grounded re-entry programs, address housing and employment discrimination against those with criminal records, and create post-incarceration housing support initiatives:** Research reflects that Native Hawaiians, while similarly as likely to be arrested as the general population, are highly overrepresented among the incarcerated and formerly incarcerated. Ample amounts of research and data show that incarcerated Native Hawaiians benefit from re-entry programs that are tailored to Native Hawaiian values and that respond appropriately to Native Hawaiian-specific trauma. Attacking discriminatory practices within the private and public housing market as well as the employment sector will enable recently released Native Hawaiians to stabilize themselves in their communities and stay out of the

criminal justice system. The alleviation of these issues will also positively impact family members of recently released Native Hawaiians who plan to house them. Lastly, we recommend strong consideration of legislation and appropriating funds towards housing assistance initiatives for recently released individuals.

6. Build upon existing financial literacy programs for Native Hawaiians, and provide direct financial assistance for Native Hawaiian renters and home buyers:

Discriminatory practices in the housing market have prevented Native Hawaiians from accessing safe, affordable, and fair housing. In addition to its tangible impact on Native Hawaiian home ownership, asset building and access to financial tools, discriminatory practices against Native Hawaiians and other historical injustices foster distrust.

Personalized and community-based education, engagement-heavy approaches that personalize support and community ties, as well as direct funds, can help overcome these traditional financing barriers to housing. This may be especially true when direct support is paired with culturally-grounded financial literacy education and coaching from a trusted, community-based organization. The Department and the State should consider increasing financial support for these kinds of combined efforts.¹⁷⁹

11.6.2 HHCA Focused Recommendations

- 1. DHHL should continue to emphasize activities that will ultimately contribute to home ownership, while also continuing to expend a limited, targeted amount of resources on rental and transitional housing support for highly vulnerable waitlisted Native Hawaiians:** The multigenerational underfunding of DHHL's mission puts the Department in the position of responding to a mix of urgent, immediate needs

¹⁷⁹ For example, the Department could expand on its down payment support grant, described earlier in the report, and pair higher grant amounts with the successful completion of a financial literacy program.

and long-term responsibilities. On the urgent, immediate end of the spectrum are homeless individuals on the waitlist, followed by the hidden homeless and other vulnerable populations. In some cases, the goal of reducing the waitlist and responding to urgent needs go hand-in-hand: waitlisted Native Hawaiians without the financial means to pay a homestead mortgage may not be in a position to exit the waitlist even if offered a lot or other lease. Support for these parts of the community are needed, but should be targeted so the Department can maximize reduction of the waitlist as it invests funds in long-term homeownership by adding to its housing stock. Those efforts focused on the urgent needs of beneficiaries should, whenever feasible, include strategies to assist with asset building, generate revenue for the department that can mitigate impact on homestead development, or both.

2. **DHHL's provision of new housing stock should include a limited, strategic mix of higher-density housing options, especially on O'ahu:** If funding and land availability were no object, DHHL would be wise to focus all or nearly all of its housing expansion on single family homes, given this housing option's popularity among beneficiaries. However, practical factors that include scarce funding (relative to need), infrastructure costs for development in rural and/or remote areas leave DHHL with the unideal options if it is to provide long term housing stability for as many eligible Native Hawaiians as possible. Although single family homes should continue to be the focus, an appropriate and limited mix of higher-density options would increase DHHL's ability to reduce the waitlist and provide housing options. This is especially true for O'ahu, the island with the largest Native Hawaiian population (in real numbers) and the least HHCA land.

3. **DHHL should provide clarity as to what forms of financial assistance are available to both homestead lessees interested in building SDUs on their property and HHCA-eligible Native Hawaiians looking to rent out these SDUs.** Because Native Hawaiian individuals and families have a lower median income than Hawai‘i’s state average, they are more likely to need financial assistance to either develop and construct an SDU on their property, or rent an SDU from a current homestead lessee. The current administrative rules do not contemplate the ability for lessees and HHCA-eligible Native Hawaiian renters to obtain financial assistance, and it would be beneficial to educate interested parties on what their options are in order to maximize the utilization of the Department’s new SDU program.
4. **While secondary to the provision of on-corpus long term housing, DHHL’s off-corpus rental efforts should carefully consider the rights and well-being of all impacted communities:** The Department’s relatively recent capacity to acquire existing housing infrastructure and develop property in existing communities may provide exciting options to fulfill its purpose, but it also comes with responsibilities to all impacted stakeholders. Use of HHCA funds for rental housing, on or off corpus, can occur in a manner that is consistent with the FHA, and may contribute to other goals of the FHA, such as adding to neighborhood diversity or investing in historically under-resourced areas. At the same time, given the statewide challenges faced by Hawai‘i households, and the relative newness of DHHL’s off-corpus efforts, the Department should ensure that all off-corpus activities are consistent with the law and consider the rights and wellbeing of non-beneficiaries, such as non-beneficiary residents in communities in which DHHL purchases housing units.

5. To fulfill the vision of the Hawaiian Homes Commission Act, the State of Hawai‘i and federal government must provide ongoing, significant additional funding far beyond what has been provided in recent years:

All the new tools and funding now within the agency of DHHL may help thousands of Native Hawaiians move from the applicant waitlist and into a home. However, even the most optimistic estimates still indicate that it will only reduce the applicant waitlist by a fraction of its current size.

Additional funding is needed.¹⁸⁰

Providing these funds and expanding HHCA housing stock to the extent necessary to house Native Hawaiians currently on the wait list should be treated not only as an obligation in fulfillment of the Hawaiian Homes Commission Act, but as part of a strategy to increase the availability of housing stock overall, given that the vast majority of individuals on the HHCA wait list currently reside in Hawai‘i.

6. Continue to educate decisionmakers about the benefits for Congressional adoption of Act 80, SLH 2017:

Passed by the State of Hawai‘i with support from various organizations and HHCA-beneficiaries, Act 80 requires Congressional approval in order to take effect. If adopted, Act 80 would lower blood quantum requirements for HHCA lease successors but not original lessees. This change would significantly reduce the threat of intergenerational housing destabilization without displacing qualified Native Hawaiians currently on the applicant waitlist. As DHHL has mentioned in its testimony before Congress, the blood quantum restrictions for successors is a real, present threat to

¹⁸⁰ The authors are not aware of a specific dollar amount that would, with certainty, reduce the waitlist to a “functional zero,” nor are we aware of any agreement within the broader native Hawaiian or Native Hawaiian community as to what would be a functional zero. However, none of DHHL’s modeling indicates that Act 279 funds will come anywhere near eliminating the waitlist. Significantly more funding is a necessary, though insufficient requirement to provide reasonable housing options for Native Hawaiians currently on the waitlist.

at least one-in-ten families with current leases, and the problem is expected to get worse. Further, the passage of this Act would expand the reach of DHHL's existing SDU program by allowing family members of lessees who currently fall under the required blood quantum requirements to live in the lessees' SDUs.

However, to result in an overall increase in the number of Native Hawaiians in safe, stable housing, passage of Act 80 must be coupled with further increases in DHHL funding that results in overall increase in HHCA housing stock, as mentioned in the previous recommendation.

11.7 TABLES AND FIGURES

Table 11.1: Residential Applicants' Housing Preferences 2020

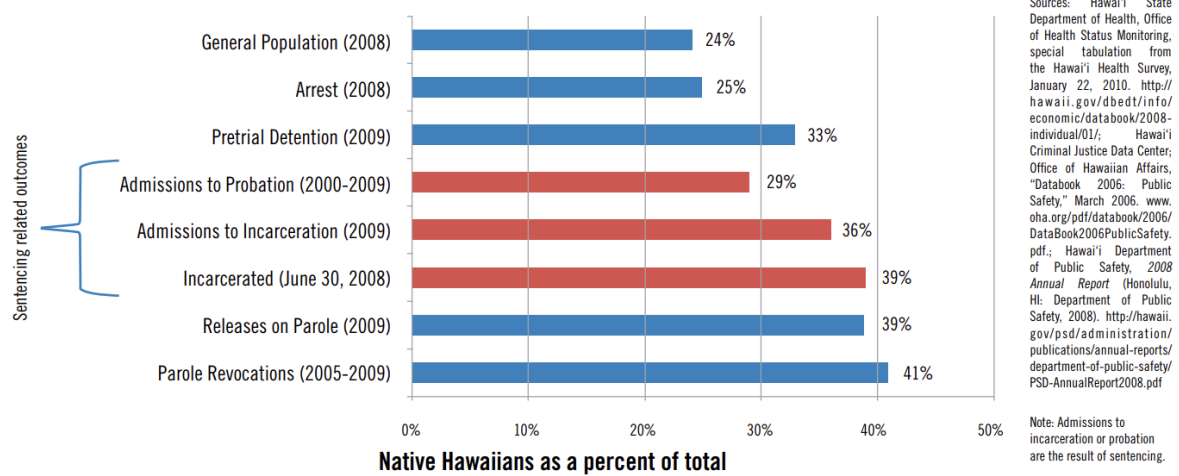
	1st Choice	Pct.	2nd Choice	Pct.	3rd Choice	Pct.
Turn-Key (Lot with single-family house on it)	12,496	53.9%	5,195	22.4%	1,341	5.8%
Lot with water, electricity and sewer, but no house	5,146	22.2%	4,577	19.7%	3,684	15.9%
Single-family house to rent with option to buy	2,070	8.9%	6,188	26.7%	5,391	23.2%
Don't know/Refused	1,925	8.3%	3,447	14.9%	4,969	21.4%
Apartment suited for senior citizens	628	2.7%	860	3.7%	1,343	5.8%
An affordable rental unit and retain my place on the waiting list	496	2.1%	886	3.8%	2,461	10.6%
Condo or Townhouse Rental unit with option to buy	197	0.8%	658	2.8%	1,451	6.3%
Townhouse in a duplex or four-plex	135	0.6%	962	4.1%	1,684	7.3%
Condominium apartment (Multi-family building)	106	0.5%	427	1.8%	876	3.8%
Total	23,199	100.0%	23,199	100.0%	23,199	100.0%

Source: DHHL Applicant Survey 2020

/¹ Total number of residential applicants

Figure 11.1

**The disproportionate impact of the criminal justice system on Native Hawaiians accumulates at each stage.
Native Hawaiians are also more likely to receive a sentence of incarceration over probation.**



12.0 USING LOCAL PREFERENCES TO ALLEVIATE the HOUSING CRISIS

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It is the policy of the US “to provide, within constitutional limitations, for fair housing throughout the United States.” -Fair Housing Act, 2018

12.1: Executive Summary

Congress passed the Fair Housing Act (FHA) to ensure that everyone had access to housing. Fair housing extends beyond prohibiting discrimination and mandates the government affirmatively address the legacy of housing segregation, discrimination based on race, color, religion, sex, disability, familial status, or national origin (Fair Housing Act, 2018).

Affirmatively furthering fair housing (AFFH) has received increased attention as states and local governments have implemented preferences when distributing housing or access to housing.

While aggrieved parties can bring cases under the FHA, the regulations implementing the AFFH mandate do not have a right of action, making enforcement challenging.

An individual who believes that their rights under the FHA have been violated can bring a claim under two main types of legal theories. The first type of claim argues that a protected individual has suffered disparate treatment. This occurs when a policy explicitly treats a

protected party differently than other people. Disparate treatment cases are straightforward. If a harmed party can show that the policy is discriminatory as written, then the entity may provide a legitimate, nondiscriminatory reason for the policy. The individual harmed, however, has the final opportunity to show that this reason is a facade. The second type of claim is disparate impact, which occurs when a policy appears neutral on its face, but nonetheless a protected group is impacted negatively.

Historically, disparate impact claims provided an avenue to shed light on implicit or structural discrimination. However, recently the courts have begun to require a “clear, causal link” between the challenged policy and its alleged discriminatory effects. This means that individuals harmed by implicit discrimination have to statistically prove that they are disparately impacted. In addition, the disparate impact had to stem from “racial animus,” which is near impossible to prove. Finally, two additional avenues for legal actions exist, including claims under the 14th Amendment Equal Protection Clause and the Commerce Clause, which have been used to support claims by foreign nationals and lawful permanent residents.

While the FHA explicitly prohibits discrimination based on national origin, it is silent about discrimination based on citizenship. Although the concepts of national origin and citizenship are closely related it is important not to conflate these two terms. National origin is defined under the FHA as the geographic area in which a person was born or from which his or her ancestors came. Thus, a US citizen that was born in another country could be discriminated against based on national origin despite being a naturalized US citizen. Moreover, one court found that if a neutral policy discriminates against non-citizens, but the intent is to “discriminat[e] on the basis of national origin” the policy may violate the FHA, suggesting that discriminating based on citizenship is allowable. This aligns with other US laws that prohibit

non-US citizens from enjoying certain rights such as federal employment. However, the FHA lacks clarity as to the distinction between certain categories, including US citizens, lawful permanent residents (LPR), lawful temporary residents (e.g., visa holders), etc.

While no state has enacted a complete ban on foreign ownership of lands within their borders, the majority of states have enacted some limits on foreign ownership and investment of lands within their borders. At the same time all 50 states report some limits to foreign investment or ownership of lands within their state, indicating that despite the concern these limits are not prohibitive. Agricultural lands, lands that are near critical infrastructure, and public lands are most frequently protected from foreign ownership. Although Hawai‘i does not limit the foreign ownership of land per se, it does limit the ability of foreign investors to purchase public lands (Haw. Rev. Stat., 2015). As a modified home rule state, Hawai‘i counties have the authority to govern on local matters and thus have the ability to enact their own unique foreign ownership laws, however, the centralized political structure in Hawai‘i also creates a desire for uniformity.

Preference policies are already used in Hawai‘i across the housing continuum to support the equitable distribution of scarce housing stock. For example, the Hawai‘i Public Housing Authority has preferences for individuals or families who have experienced involuntary displacement, those who are victims of domestic abuse, and people experiencing homelessness. While a range of barriers prevent access to affordable housing, preference policies can be implemented alongside other housing policies to improve housing accessibility. Barriers such as availability of land, availability of affordable housing for local residents, and purchase or rental of housing by local residents can be mitigated by implementing preference policies that score additional “points” for residents that already reside within an area for public housing or

encourage the rental of units to individuals who have resided in or are employed in a specific area.

Globally, there are numerous examples of housing preferences. While Hawai‘i has existing preference policies, further exploration of domestic and foreign preference frameworks can inform additional approaches for future enactment in Hawai‘i. Through an extensive literature review 33 unique preference policies were identified and analyzed. Of which eight were presented to housing policy experts, housing advocates, and constitutional law experts in focus groups and interviews. Expert feedback revealed diverse perspectives on the effectiveness, feasibility, and legality of the policies in the context of Hawai‘i. The three policies that gathered the most interest were a program to encourage current homeowners to add a voluntary deed restriction, a vacancy or second home tax, and community land trusts.

As a result of this legal and policy analysis, several recommendations are provided, including: Creating a community advisory board to ensure that state and county entities are addressing the needs of the community; creating a task force to better implement the affirmatively furthering fair housing mandate; developing a deed restriction handout for the interested public; providing funding for housing navigators to support individuals seeking affordable housing; considering expanding foreign land and home ownership limits; and implementing a vacancy and second home property tax. Implementing these recommendations would further the goals of the FHA by ensuring equitable access to housing as well as dismantling the historical barriers that have limited access to affordable housing to Hawai‘i’s most vulnerable populations.

12.2 Background

It is the declared policy of the US under the Fair Housing Act (FHA) “to provide, within constitutional limitations, for fair housing throughout the United States.” (Fair Housing Act, 2018). The FHA notes that fair housing extends beyond merely prohibiting discrimination and mandates the federal government affirmatively address the legacy of housing segregation (Fair Housing Act § 3608(c)–(e), 2018). In recent years the second goal of affirmatively furthering fair housing (AFFH) has received increased attention. Preferences distributing housing or access to housing can therefore be understood as a mechanism to AFFH as well as to ensure certain security and economic policies. This report first provides background on the Fair Housing Act and related laws, including a summary of the legal standards used in discrimination cases. We then provide an overview of housing in Hawai‘i before detailing our methods and findings in a study of potential housing preferences. We end with an analysis of preferred housing preferences and recommendations on how to AFFH in Hawai‘i.

12.2.1 Historical Background

Housing preferences and prohibitions are not a new concept. One of the earliest housing preferences in the US was the Homestead Act of 1862 (Homestead Act of 1862, 1862), which allowed white US citizens a preference to purchase up to 160 acres of land. Soon after Congress passed the Territorial Land Act of 1887, which forbade extensive alien land holdings except by immigrant farmers (Territorial Land Act, 1988). These early protectionist laws were brought over from English feudal laws that sought to ensure land owners had allegiance to the crown. Although the earliest preference applied to white Americans, later preferences attempted to integrate lower income families and provide housing support for veterans (G.I. Bill, 1944).

Later the US Housing Act of 1937 and Federal Housing Administration Loans were enacted to support the development of livable housing. While both statutes were not necessarily directed at providing a preference for low-income families, they were structured to be able to do so. The US Housing Act established subsidies to local agencies for constructing low-cost rental housing (US Housing Act, 1949). It aimed to replace dilapidated housing with affordable units to improve living conditions for low-income Americans, primarily targeting the urban poor. The Federal Housing Administration Loan program served to boost homeownership by insuring private loans for homebuyers, making mortgages more affordable and accessible by offering lower down payments and longer loan terms (National Housing Act, 1934).

Unfortunately, racial biases influenced implementation of these programs resulting in a disproportionately negative impact to racial minorities through a concentration of low-income communities (Rothstein, 2018). Many public housing projects were constructed in low-income, urban areas, and tended to concentrate poverty rather than integrate low-income families into more diverse neighborhoods (Hirsch, 2000). Whereas, FHA-backed loans typically went to those who could afford single-family homes, thus favoring middle-class families. This legacy of racially motivated housing preferences cannot be divorced from current attempts to enact preferences and must be appropriately addressed when developing and framing preferences.

In Hawai'i County, public housing and government supported affordable housing preferences exist that provide access to certain categories of individuals such as workers residing within a certain distance from key industries and students returning to their prior area of residence (Hawai'i County Code, 2016, Section 11-13). Moreover, in Honolulu County preferences for public housing for low-income individuals involuntarily displaced due to disaster or participants in a domestic violence program or homeless participants in specific shelter

programs will be placed higher on the waitlist for housing (Federally-Assisted Public Housing Projects, 2014). Disabled and elderly individuals may also receive preferential placements in certain instances. Efforts to expand these preferences are ongoing, including a recent bill that proposes to provide preferences to O‘ahu residents for all City and County of Honolulu housing programs (Resident Preference in City Housing Programs, 2024).

In the most recent legislative session there have been several bills that have attempted to address affordable housing at the State level. SB2617 and HB 2542 requires the Legislative Reference Bureau to conduct a study on other laws that other US states have enacted to limit the sale of real property to foreign individuals and entities. This report also must include a legal and economic analysis of the potential impact of such laws. SB2617 passed the Senate, but failed in the House. SB2624 would have established an Office of Agricultural Intelligence within the Department of Agriculture to enforce laws prohibiting foreign parties from owning agricultural lots in Hawai‘i. SB2626/HB2204 and SB 2999/HB2203, sought to prevent luxury homes from being built and restricting the sale of homes to current and former Hawai‘i residents, respectively, so long as the Governor’s emergency proclamation for housing was in effect. The fact that only the first bill that proposed a study was heard in committee suggests that the legislature is still in a fact-finding stage and thus additional research needs to be conducted before proposals will be heard.

12.3 The Fair Housing Act

As the policy making body, Congress passed the Fair Housing Act (FHA) to provide fair housing for all. Under the FHA, this goal is accomplished through affirmatively furthering fair housing and prohibiting discrimination based on race, color, religion, sex, disability, familial status, or national origin (Fair Housing Act, 2018). Because Congress is a generalist body, the

FHA provides a framework from which the Department of Housing and Urban Development uses to issue regulations implementing the FHA. These regulations, developed by this specialized agency, provide detailed procedures for state, counties, and private parties to follow to comply with the FHA and to bring forth potential actions. A recent interim rulemaking mandates that States and counties affirmatively further fair housing (Fair Housing Act § 3608(c)–(e), 2018). Unfortunately, courts have ruled that there is no private right of action for the AFFH mandate, which means that an individual cannot claim that the government did not affirmatively further their fair housing as part of a discrimination claim.

In addition to regulations, which are promulgated by the agency, but must be aligned with the legislation agencies also issue guidance documents. Guidance documents are used to further detail how an agency will interpret and implement specific elements of the statute and regulation, which may include official interpretations, memoranda, and handbooks.¹⁸¹ Unlike regulations, however, a public review process is not necessary, which means that similar to Executive Orders, which the President issues, Guidance documents can be easily changed from one administration to another. This section provides background on both the origins and the goals of the FHA and associated regulations, guidance documents, and Executive Orders with particular emphasis on the AFFH regulation and gender affirming Executive Orders, which may be altered when the administration changes in January 2025.

12.3.2 History of the Fair Housing Act

Title VIII of the Civil Rights Act of 1968, otherwise known as the Fair Housing Act (FHA), is a significant piece of civil rights legislation. The FHA passed in the wake of Dr. Martin Luther King Jr.’s assassination. Dr. King had long advocated for housing justice for

¹⁸¹ For example, the Affirmatively Furthering Fair Housing Rule Guidebook issued by the U.S. Department of Housing and Urban Development on December 31, 2015.

African American residents who often were relegated to the nation's ghettos (Massey, 2016). African American and Hispanic servicemen returning from Vietnam were unable to purchase or rent homes in certain neighborhoods due to their race or national origin (US Department of Housing and Urban Development, n.d.). Organizations such as the NAACP and the National Committee Against Discrimination in Housing lobbied the Senate arguing that the FHA would rectify these inequities (US Department of Housing and Urban Development, n.d.). Championed by Dr. King, the FHA, which aimed to prohibit discrimination from landlords, real estate agents, and banks, was first introduced in 1966 (Pendergrass, 2023). Although the FHA passed in the House, it died from a Senate filibuster. After Dr. King's assassination in 1968, President Lyndon Johnson urged Congress to pass the FHA, which was signed into law on April 11, 1968.

The goal of the FHA is to provide fair housing, which is accomplished through affirmatively furthering fair housing and prohibiting discrimination based on race, color, religion, sex, disability, familial status, or national origin. In 1988, the Fair Housing Amendments Act was passed, which expanded the protected categories to disability and familial status (Fair Housing Amendments Act of 1988, 1988). It applies broadly to public and private housing, including single family homes, apartments, condominiums, mobile homes, and other types of dwellings. The Act applies to the selling or renting of a dwelling based on the aforementioned protected classes, which serve to "steer" certain populations away from specific neighborhoods (Fair Housing Amendments Act of 1988, 1988, §804). The FHA applies to lenders, brokers, and other professionals involved in home sales to discourage discriminatory lending practices like "redlining" (Fair Housing Act, 1968, §805), which institutions deny or limit access to financial services to protected classes of people or individuals in certain

neighborhoods. It was expanded to also cover the terms and privileges included in the contracts of sale or rental as well as the secondary mortgage market.

The HUD's Federal Housing Authority is authorized to enforce the Act by conducting investigations and hearings of complaints (Fair Housing Act, 1968, §§808-809). Moreover, private individuals may also file civil suits in federal court, however, as discussed below these claims are challenging for the plaintiff (Fair Housing Act, 1968, §810). To support the provisions of the FHA, HUD is mandated to engage in educational activities to promote fair housing and encourage voluntary compliance over litigation when a violation comes to light (Fair Housing Act, 1968, §812).

There are several notable carve outs in the FHA, including in Section 807, which allows religious organizations or private clubs to give preference to their members so long as their membership practices do not discriminate based on race, color, or national origin. Another critical exemption is that it does not apply to single family homes that are rented by a private owner without the aid of a real estate agent, provided that the owner has no more than three rental properties (Fair Housing Act, 1968a). Of note, however, HUD regulations state that the exemptions do not apply to advertising, such that advertising that indicates a discriminatory preference or limitation is prohibited even if such discrimination is not unlawful (Housing and Urban Development, 1989).

12.3.2 Regulations, Guidance, and Executive Orders

The FHA regulations provide additional details on each of the provisions within the FHA (Discriminatory Conduct Under the Fair Housing Act, 1989) and are housed in Part 107 of the Code of Federal Regulations. These regulations were initiated by EO 11063 (Nondiscrimination and Equal Opportunity in Housing Under Executive Order 11063, 1980) in 1980. Although not

part of the Fair Housing Act, the HUD also oversees housing discrimination on the basis of age under the Age Discrimination Act (Age Discrimination Act, 1986; 24 C.F.R. §146, 1986), which is a related law. Through the combination of fair housing and non-discrimination administrative documents, the picture of fair housing becomes clearer.

This section will discuss two administrative documents that push the boundaries of the fair housing arena. The first is the AFFH mandate that was first promulgated in the Obama Administration. The second is an Executive Order issued by President Biden, which prohibits discrimination on the basis of sexual orientation. These two administrative documents remain controversial and may be targeted by the incoming administration. States and counties may determine, however, that these policies should be retained at the local level even if they are no longer implemented at the federal level.

12.3.2.1 AFFH Regulation

The affirmative furthering fair housing mandate is currently enshrined in an interim rulemaking, which explicitly added this duty to affirmatively further fair housing to each of the federal fair housing programs (86 F.R. 30779, 2021). The AFFH was first promulgated by the Obama Administration in 2015. However, the 45th Administration rescinded the rulemaking as along with a suite of other rulemakings (Gomberg, 2024). The interim final AFFH rulemaking means that the administration determined it had “good cause” to bypass the public comment period and publish the rule as final. In practice, the federal agency solicits retroactive comments, which inform the decision to finalize the rule, amend it, or rescind it. Given this interim status, it is unclear what the future of this rule will be (Gomberg, 2024). Moreover, prior case law out of the First Circuit has held that there is no private right of action for the AFFH mandates (*Latinos Unidos de Chelsea En Accion (LUCHA) v. Secretary of Hous. & Urban Dev.*, 1986; *NAACP v.*

HUD, 1987). This means that while an individual may claim that their right to fair housing has been violated due to discrimination, there is no right to claim that their right to the government affirmatively furthering their fair housing right has been violated, severely limiting the enforcement of this mandate.

12.3.2.2 Executive Orders

Executive Orders are a nimble way to create policy; several EO have been passed on housing. EO 13988 (Exec. Order No. 13,988, 2021) required HUD to enforce the prohibition of sexual orientation and gender identity discrimination. However, because EOs are easily overridden, each new Administration has the opportunity to revise or reverse the prior Administration's policies.

12.4 Fair Housing Act Claims

There are two main types of legal claims that are brought under the FHA. These fair housing claims use the same legal framework as several other discrimination lawsuits, including those brought under the equal employment. The main types of claims are disparate treatment where the policy explicitly treats a protected party differently and disparate impact where a policy is neutral on its face, but nonetheless impacts a protected group differently. Disparate treatment cases are straightforward. If a harmed party can show that the policy is discriminatory as written, then the entity may provide a legitimate, nondiscriminatory reason for the policy. The individual harmed, however, has the final opportunity to show that this reason is a facade.

For years disparate impact provided an avenue for implicit or structural discrimination, however, they can be more challenging to prevail on. Courts now require a clear, causal link between the challenged policy and its alleged discriminatory effects. As a result, individuals harmed by implicit discrimination have to prove statistical impact stemming from “racial

animus” in order to be able to bring the lawsuit. Moreover, as mentioned earlier there is no right of action under the AFFH regulation, which means that individuals who reside in states that are not actively pursuing efforts to make housing accessible to all lack a mechanism to force states to comply with this federal mandate. In addition to these main legal claims one can bring a fair housing claim under the 14th Amendment Equal Protection Clause and the Commerce Clause.

12.4.1 FHA Legal Precedence & Standard of Review

Determining whether a policy action should be undertaken requires a multifaceted analysis. In addition, to understand the policy problem, potential impact of the proposed policy, and the difficulty in implementing the potential policy, one must also consider the likelihood that the potential policy will withstand legal challenge. Understanding the legal doctrines and standard of review, or the legal principle setting out how much deference on appeal a court should give to a decision made by an agency or lower court, is part of this legal analysis.

Here we will first review claims of disparate treatment and disparate impact under the Fair Housing Act. Our review will be buttressed by several Equal Employment Opportunity Commission (EEOC) claims, which are a related area of law. Finally, particular attention is paid to the definition of national origin, a protected class, as this is a misunderstood aspect of the FHA and may be implicated when a municipality or state enacts protectionist housing policies. Through this discussion, we provide an analysis of claims under 14th Amendment’s Equal Protection Clause and the Foreign Commerce Clause providing a comprehensive snapshot of legal claims that may arise from preferences.

12.4.2 Fair Housing Act Claims

There are two types of Fair Housing Act claims. See Figure 12.1. The first is whether a policy constitutes disparate treatment and the second is whether a policy constitutes disparate

impact. Disparate treatment refers to intentional discrimination where individuals or groups are treated differently based on a protected characteristic, while disparate impact involves policies or practices that have an unintentional discriminatory effect on a protected group. Disparate treatment cases are often easily recognized by having explicit statements of unequal treatment or incorporate a comparative element, which disparate impact cases may be more difficult to identify. A third line of claims, discussed in a later section, is specific to foreign individuals and stems from the Commerce Clause and 14th Amendments. See Appendix F for a description of the Legal Pathways a housing discrimination case may take.

12.4.2.1 Disparate Treatment

Disparate treatment applies when a law or decision explicitly discriminates against a protected class. While there are three ways for a disparate treatment case to be heard in the courts, the most common is circumstantial. In a landmark case, *McDonnell Douglas Corp. v. Green*, the US Supreme Court established a framework for assessing discrimination claims (*McDonnell Douglas Corp. V. Green*, 1973). While this case dealt with employment discrimination based on circumstantial evidence under Title VII of the Civil Rights Act of 1964, the framework has been widely applied to other areas, such as housing.

There are three elements that must be met for a disparate treatment case to proceed. First, the plaintiff must establish a prima facie case of discrimination, showing they belong to a protected class, were qualified for the position, were rejected, and that the employer continued to seek applicants with similar qualifications. Second, once a prima facie case has been established, the employer must articulate a legitimate non-discriminatory reason for the employment decision. The plaintiff is then provided the last opportunity to prove that this reason is a pretext

for discrimination. Thus, when applied to housing so long as the law or action has a legitimate public purpose, a discriminatory policy may be allowable under the FHA.

When disparate treatment cases are brought before the courts for review, the legal issues are reviewed de novo, which means that the court re-examines the legal issue from the beginning without providing any deference to the lower court's findings. Importantly, while the legal issues are reviewed de novo the factual issues are reviewed using a softer standard of clear error, which means that the court will provide deference to the facts of the cases as articulated by the lower court unless there is a clear error where a fact is plainly wrong.

12.4.2.2 Disparate Impact

Even when a law or decision does not explicitly discriminate, it may still disparately impact a protected class. In these instances fair housing cases are brought under the legal theory of disparate impact, which means that a policy or practice disproportionately affects a protected class regardless of whether there is an intent to discriminate. In *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, the US Supreme Court articulated a three pronged test: 1) Did the plaintiff show that the challenged policy caused a discriminatory effect on a protected group?; 2) Can the defendant demonstrate that the policy is necessary to achieve a substantial, legitimate, and non-discriminatory interest?; and 3) Is there a less discriminatory way to achieve the same objective (*Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 2015)? Courts tend to use the substantial evidence standard when reviewing these cases. The substantial evidence standard states that so long as the agency's decision can be supported by "substantial evidence" in the record the agency action is upheld. Thus, it is critical on the part of an agency to ensure that the record includes enough

relevant evidence that a reasonable person might agree with their conclusion to enact the stated policy or practice.

In *Inclusive Communities*, the court cautioned against using disparate impact claims in ways that might encourage racial quotas or impose excessive burdens on defendants, harkening the emergence of a more conservative view of this legal issue. This, coupled with the changing nature of the courts in the last twenty years, has brought renewed scrutiny on disparate impact claims. Courts now require plaintiffs to demonstrate a clear, causal link between the challenged policy and its alleged discriminatory effects. Plaintiffs must now show, often through statistical evidence, that a specific policy directly causes a disproportionate impact on a protected group (*Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 2015). Moreover, courts have scrutinized the quality of statistical evidence by requiring that plaintiffs prove causation rather than merely correlation. This is a high standard to meet, which often dooms disparate impact cases (*Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 2015; *Wal-Mart Stores, Inc. V. Dukes*, 2011).

Courts have also focused on evaluating whether the defendant's policy serves a substantial, legitimate, non-discriminatory interest (*Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 2015; *Wards Cove Packing Co. V. Atonio Citation*, 1989). For example, a policy may prohibit individuals with felony convictions from obtaining public housing. Because African-Americans and some other minorities are disproportionately incarcerated, there could be a disparate impact claim. However, if the housing authority were to articulate public safety as a reason for this prohibition the courts may likely allow the policy to stand despite its disparate impact on people of color. In these cases, plaintiffs must then propose a viable, less discriminatory alternative to show that the policy should be

reversed (*Inclusive Communities Project, Inc. V. Lincoln Property Co.*, 2019). Failure to provide a less discriminatory alternative would result in the agency's initial policy that has a disparate impact to stand.

Moreover, in *Comcast Corp. v. National Association of African American-Owned Media*, the US Supreme Court held that a plaintiff must be able to show that "but for racial animus," the harm would not have occurred (*Comcast Corp. V. National Association of African American-Owned Media*, 2020). In other words, the only reason that the plaintiff was impacted negatively was because of race, which given the multitude of issues that can impact a decision is difficult to prove. This higher standard of proof reflects a more restrictive approach to civil rights that is emerging from the Courts.

12.5 Foreign vs. National Origin

Nation-states often limit certain privileges to its citizens, including employment and land ownership, thereby implicitly discriminating against those that lack this status. While the FHA is silent about discrimination based on citizenship, it explicitly prohibits discrimination based on national origin. Under the FHA, national origin is defined as the geographic area in which a person was born or from which his or her ancestors came. It is important not to conflate national origin with citizenship status as these are often related, but not necessarily the same. There are multiple laws that prohibit non-US citizens from enjoying certain rights such as federal employment further highlighting this distinction. At least one case has found that if the purpose of discriminating against non-citizens is intended or has the effect of "discriminating on the basis of national origin," suggesting that discriminating based on citizenship is allowable. There is a lack of clarity in the FHA as to the distinction between certain categories, including US citizens, lawful permanent residents (LPR), lawful temporary residents (e.g., visa holders), etc.

While no state has enacted a complete ban on foreign ownership of lands within their borders, many states have some limits in place. Agricultural lands, lands that are near critical infrastructure, and public lands are most frequently protected from foreign ownership. Despite this all 50 states report some foreign investment or ownership of lands within their state. While Hawai‘i does not limit the foreign ownership of land per se, it does limit the ability of foreign investors to purchase public lands (Haw. Rev. Stat., 2015). Hawai‘i counties have authority to govern on local matters, but the strong centralized nature of the state government often takes the lead on numerous areas such as land use and environmental protections. Thus, while each Hawai‘i county has the ability to enact their own unique foreign ownership laws, there is a desire for uniformity.

12.5.1 “Foreign” Investment

As early as the colonial era, foreign ownership of US lands has always been an area of concern, (Mason, Jr., 1994; Morrison, 1976; Price, 2000; Sam Rankin, 2004; Shapiro, 1993; Tirres, 2012) which have been enacted largely through common law prohibitions (Bell & Savage, 1980; Sullivan, 1962). It is common for nation-states to limit certain privileges such as land ownership and government employment to its citizens. Citizens are not only required to abide by all laws, but also owe a duty to the nation, including military service, jury duty, and payment of taxes. For example, the US federal government restricts civil service employment to US citizens (Exec. Order No. 11,935, 1976). Restricting positions to US citizens does not run afoul of Title VII of the Civil Rights Act, which prohibits employment discrimination based on national origin. However, restricting employment to US citizens that were born in the US would not be allowable as this would be discriminatory based on national origin.

Prohibitions on foreign land ownership were relaxed as westward expansion became a focal point of US policy to encourage settlers in these “new” lands (Sullivan, 1962). Today, as the finite nature of certain resources are more apparent and the populace perceives future scarcity, there has been an increased emphasis on maintaining control over these resources. This has led to instances where ownership prohibitions were enacted for nefarious motivations. However, given the unique issues that each state faces and the reasons for the prohibition’s initial passage each policy must be individually analyzed (Eule, 1982; McGreal, 1998; Redish & Nugent, 1987).

Today, no state has enacted a complete ban on foreign ownership of lands within their borders. At the federal level, the government restricts foreign investment and ownership in US agricultural lands under the Agricultural Foreign Investment Disclosure Act (AFIDA) (Agricultural Foreign Investment Disclosure Act, 1978, §§3501-3508). The Committee on Foreign Investment in the US, an interagency group, has authority to review and approve or deny potential real estate transactions to determine its impact on critical infrastructure such as military installations, airports, and other commercial transactional ports (US Department of the Treasury, n.d.). Under the AFIDA, the nexus for foreign status is that their principal place of business be outside of the US (Agricultural Foreign Investment Disclosure Act, 1978, §§3501-3508). At the state level, 25 states have prohibited foreign persons from acquiring agricultural lands (Brown & Spellman, 2024), 5 have no prohibition, and 20 expressly allow foreign investment. Despite the fact that a majority of states have some type of prohibitions, all 50 states report some foreign investment or ownership of lands within their state (Johnson, 2023). Moreover, some states, including Missouri, are considering a complete ban on foreign ownership (HB 652, 2019; HB 773, 2019; HB 948, 2019).

While Hawai‘i does not limit the foreign ownership of land per se, it does limit the ability of foreign investors to purchase public lands (Haw. Rev. Stat., 2015). The Hawai‘i Organic Act states that no person shall have a right to purchase more than 10 acres under the homestead act who is an alien, unless they declared their intention to become a citizen of the United States. Moreover, any individual who declares their intention to become a citizen has five years to accomplish that or risk losing their interest in the land (Hawai‘i Organic Act, 2022). While the public lands chapter of the Hawai‘i Revised statutes limits the eligibility of purchasing public lands to Hawai‘i residents who have resided in Hawai‘i for at least three years (Haw. Rev. Stat., 2015).

12.5.2 Definition of national origin

Under the Fair Housing Act, the definition of national origin is unclear. This lack of clarity along with the numerous status’ of citizenship create significant complexity. See Table 1 for a brief description of one’s legal relationship to a country. The FHA defines national origin to mean the geographic area in which a person was born or from which his or her ancestors came (Espinoza v. Farah Mfg. Co., Inc., 1973; House. Rights Ctr. V. Donald Sterling Corp., 2003). According to the FHA Guidelines, national origin may refer to an entire country or a region within a country (Guidelines on Discrimination Because of National Origin, 1980). The lack of clarity arises from whether one needs to be a US citizen or lawful permanent resident for the national origin clauses to apply.

At least one case has found that a facial discriminatory policy against citizenship or immigration status can be a violation of the FHA if the purpose of discriminating against non-citizens is intended or has the effect of “discriminating on the basis of national origin (*Lindsay v. Yates*, 2009). To state conversely, a policy that discriminates against non-citizens may be

allowable, but will likely need to be reviewed by the Courts to ensure that it also does not discriminate based on national origin (*Espinoza v. Hillwood Square Mut. Asso.*, 1981). For example, a company that requires its employees to be citizens, but then requires employees to re-verify their citizenship by producing a birth certificate without alternative means of re-verification may be found discriminatory (Immigration and Nationality Act, 1986). Along the same lines, a company that only requires non-US born individuals to re-verify their citizenship may be found in violation (US Department of Homeland Security, 2018). In other words, it is not the limitation on citizenship that is the issue, but whether citizenship is used as a proxy or pretext for discrimination based on national origin.

To complicate matters, HUD has also issued a guidance memorandum stating that individuals with limited English proficiency (LEP) were a protected class. Courts have validated that a nexus exists between national origin and LEP (*Colindres v. Quietflex Mfg.*, 2004). Thus, someone of LEP is more likely to be of a different national origin and therefore, policies that target LEP may also be targeting national origin. Just as language discrimination is unique, but linked with national origins discrimination; discrimination against non-citizens is also not per se national origin discrimination.

Of note in Hawai‘i the definition of “national origin” under the Chapter 515 of the Hawai‘i Revised Statutes “includes the national origin of an ancestor,” (HI Rev Stat, 2023, §515-2) which implies that the individual’s national origin is the primary focus rather than their citizenship status. Moreover, Hawai‘i has captured additional protected classes including sex (inclusive of gender identity or expression), sexual orientation, marital status, ancestry, disability, age, or HIV infection status in addition to race, biological sex, color, and familial status (HI Rev Stat, 2023, §515-3). Furthermore, there are certain populations in Hawai‘i that

hold a unique status. The Federated States of Micronesia, Republic of Palau, and Republic of the Marshall Islands have all signed agreements with the United States under the Compact of Free Association (COFA). Individuals from these countries are not US citizens nor are they granted a pathway to US citizenship because of their origin. Additionally, they are no lawful permanent residents or green card holders. In fact, they do not require a visa to enter, reside in, or work in the US. Moreover, they are frequently treated like domestic citizens as they qualify for certain, but not all public benefits. It is because of their unique status stemming from the COFA that any policies that provide preferences for US citizens or LPR must also include these COFA migrants as a protected group.

In addition to Fair Housing claims, which rest upon the prohibition of housing-related discrimination based on race, color, national origin, religion, sex, familial status, and disability, we must also consider the legal analysis related to foreign commerce clause, which grants Congress the power to regulate commerce with “foreign Nations, and among the several state, and with the Indian Tribes.” (Commerce Clause, 1898). The argument under the Foreign Commerce Clause is that it is Congress’ duty rather than states or municipalities to enact laws that limit the ability of individuals, companies, and foreign nations themselves to pass laws limiting their ability to purchase or access housing.

Finally, resident aliens are considered a protected class under the Equal Protection Clause of the 14th Amendment (US Const. amend. 14, §1). Therefore, facially discriminatory policies such as applying higher taxes to resident aliens would not be allowed (*Graham v. Richardson*, 1971). However, similar to the FHA analysis, nonresident aliens (i.e., non-immigrant or a foreign national who does not reside or work in the US) are not a protected class and the Supreme Court rejected equal protection challenges that limit land ownership restrictions that discriminate

against this group (*Porterfield v. Webb*, 1923; *Terrace v. Thompson*, 1923). Since nonresident aliens are not a protected class, a protectionist policy that discriminated against them would only need to satisfy rational basis review, which requires that the law be rationally related to a legitimate government purpose. As an example, tax for nonresident aliens may be more difficult to collect justifying a higher tax rate to compensate for the additional burden that the state fares. Thus, while the federal government can under the Supremacy Clause create some uniformity, historically property law “has remained the jealously guarded domain of the states.” (Morrison, 1976). It is, therefore, unlikely that control over alien land ownership will be removed from the hands of state power and handed to the federal government (Frechter, 1988).

12.5.3 Level of Government

A critical and underappreciated aspect of the legal analysis of whether or not a law that potentially discriminates against a protected class violates the FHA or the Constitution is whether the enacting government is a state or a municipality. States and municipalities have differing sources of authority, which must be considered when analyzing discrimination. States have broad legislative authority to legislate in order to protect the health, safety, and welfare of its citizens. Municipalities, on the other hand, derive their authority from the state and thus must ensure that their ordinances do not conflict with the state.

There are two legal frameworks by which local governments are able to govern. The first is home rule, which allows local governments to govern on local matters such as zoning, public safety, and local taxation (Public Health Law Center at Mitchell Hamline School of Law, 2020). The second is Dillon’s rule, which holds that local governments only have the authority explicitly granted to them (National League of Cities & Local Solutions Support Center, 2020). Home rule is typically established in either the state constitution or through a state statute. In

Dillon's rule municipal laws will only be valid if there is a state statute that explicitly allows them to govern in this area (National League of Cities & Local Solutions Support Center, 2020). States such as Alabama, Nevada, New Hampshire, Vermont, and Virginia has strict Dillon's rules in place whereas Arkansas (Dillon's rule applies to counties, but not municipalities), Florida (only special districts use Dillon's rule), Kentucky (counties are subject to Dillon's rule, but cities use Home rule), and North Carolina (mostly Dillon's rule with certain limited Home rule carve outs) have a mixed Dillon's rule approach (Local Solutions Support Center, 2021; Russell & Bostrom, 2016). Hawai'i can best be described as a modified Home rule state, where counties have home rule authority, but the centralized state government, in practice, controls certain areas that traditionally are local such as education, land use, and environmental protection (Haw. Rev. Stat., 2023, §205-1; Haw. Rev. Stat., 2023, §302A-1101; Haw. Rev. Stat., 2023, §343-1).

The delegated nature of local ordinances and regulations mean that these laws undergo an additional analysis of whether or not they conflict with state laws, regulations, and policies. Moreover, a municipal ordinance may be determined to be preempted by a state law rendering it moot. In *Village of Arlington Heights*, the US Supreme Court argued that municipal laws should be more closely scrutinized because they are more susceptible to local political pressure and more prone to parochial interests (*Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 1977). Thus, municipal ordinances are often scrutinized closer than state laws. Given the inherent sovereign authority of states, courts often defer to states' authority and interpretation. It is, therefore, fair to argue that states have more leeway to establish policies that may have a discriminatory impact.

12.6 Hawai‘i’s Housing System

Hawai‘i’s housing system consists of a wide range of companies, organizations and agencies. These various entities can be understood to play a role in supporting individuals within the housing system at different levels of housing security ranging from homelessness to market-rate homeownership, known as a housing continuum, with the hope of moving individuals further “up” the housing continuum. Preference policies are one mechanism already in use in Hawai‘i for assisting individuals in moving up the housing continuum. For example, the Hawai‘i Public Housing Authority provides a housing preference to individuals who have experienced involuntary displacement, are victims of domestic abuse, and people experiencing homelessness. There are a range of barriers which prevent access to affordable housing which can be understood to occur at three stages. These are availability of land, availability of affordable housing for local residents, and purchase or rental of housing by local residents.

12.6.1 Overview of the Housing System

Beginning with a broad overview, Hawai‘i’s population is approximately 1.46 million people consisting of approximately 494,000 households (United States Census Bureau, n.d., p.). Nearly 40% of these households (roughly 196,000) bear a high housing burden, considered to be housing costs which are 30% or more of household income (Hawai‘i Health Matters, 2022). The greatest housing burden is concentrated in Honolulu County (41.4%) followed by Maui (39.2%), Kaua‘i (36.4%), and Hawai‘i (33.0%) (Hawai‘i Health Matters, 2022). Hawai‘i’s housing stock consists of approximately 561,000 housing units (United States Census Bureau, 2022). Approximately 71,000 of these units are vacant with 46.9% of vacant units being located in Honolulu County. Hawai‘i’s housing system consists of a broad spectrum of organizations, companies, and agencies consisting of both private and public interests which all contribute to

what can be conceived of as a housing system. This includes federally funded programs and agencies, state-funded programs, and privately owned homes and rentals.

A helpful model for understanding the housing system is the housing continuum which imagines a spectrum of available housing ranging from emergency shelters to ownership of market- rate housing (White, 2020). The model is typically depicted in 6-8 stages including 1) homelessness, 2) emergency shelters, 3) transitional housing, 4) subsidized rental housing, 5) subsidized home ownership, 6) market rate rental housing, and 7) market rate home ownership (see Figure 12.2). Individuals in a society will be at different stages of this spectrum. Ideally, over time individuals can move up the housing continuum spectrum towards greater housing security. Each juncture between stages also represents an opportunity for intervention either through policy or support programs to assist individuals in progressing towards greater housing security.

There are a range of policies, programs and initiatives with both federal, state, and private funding that create an ecosystem which impacts the ability of individuals to move up the continuum towards greater housing stability. The following are several examples of different initiatives which assist individuals in each region of the spectrum. The Punawai Rest Stop provides hygiene and other services to homeless individuals (The City & County of Honolulu & Mental Health Kokua, 2019). Meanwhile the Emergency Solutions Grant program provides services to prevent individuals from becoming homeless or helps with transitions to stable housing after homelessness occurs (*Emergency Solutions Grants (ESG) Program*, n.d.). Organizations such as the Institute for Human Services and Family Promise of Hawai'i provide emergency shelter services for individuals and families facing homelessness (Family Promise of Hawai'i, n.d.; The Institute for Human Services, 2021). Transitional housing, the next region in the spectrum, is supported by organizations such as 'Ohana Ola O Kahumana and the Honolulu City and County

operated Homeless Outreach and Navigation for Unsheltered Persons (HONU) program (Ohana Ola O Kahumana, n.d.; Statewide Office on Homelessness and Housing Solutions, n.d.).

Other programs and initiatives intervene in the subsidized rental region. For example the Hawai‘i Public Housing Authority (HPHA), which has both federally and state funded programs, provides assistance for rentals either through housing vouchers or directly provides housing at rents affordable to low-income families (Hawai‘i Public Housing Authority, n.d.-b, n.d.-a). Meanwhile programs such as the Low-Income Housing Tax Credit Program and the Rental Housing Revolving Fund incentivize developers to build or rehabilitate affordable rental units (Hawai‘i Housing Finance and Development Corporation, n.d.-c, n.d.-d). Subsidized home ownership is the next region in the continuum. The Affordable Homeownership Revolving Fund (AHRF) and Inclusionary zoning policies incentivize the construction of affordable housing (Hawai‘i Housing Finance and Development Corporation, n.d.-a). A unique feature of Hawai‘i’s housing system is the Department of Hawaiian Homelands established by the Hawaiian Homes Commission Act which provides “99-year homestead leases at an annual rental of \$1” and loans for home construction to qualifying individuals “having at least 50 percent Hawaiian blood” (Department of Hawaiian Home Lands (DHHL), n.d.). Finally, special bank accounts such as First-Time Home Buyer Saving Accounts at banks can provide assistance in saving money to purchase a home (American Savings Bank Hawai‘i, n.d.).

12.6.2 Hawai‘i Preference Policies

A number of already existing preference policies already exist in Hawai‘i, as shown in Table 12.2. One example is preference policies for HPHA programs. The federal housing through the HPHA has preferences for individuals or families who have experienced involuntary displacement, those who are victims of domestic abuse, and people experiencing homelessness

defined as people living in “transitional shelters, supportive housing programs, and who are unsheltered, who are participating in and are in compliance or have completed a social service plan” (Hawai‘i Public Housing Authority, n.d.-b). HPHA’s state housing program has preferences for individuals older than 62 years of age, people and families displaced by the government, families in transitional shelters who have completed social service plans, veterans, and families of deceased veterans (Hawai‘i Public Housing Authority, n.d.-b).

The HPHA also has preferences for its Housing Choice Voucher program which assists tenants in securing rental housing (Hawai‘i Public Housing Authority, n.d.-a). This program is also divided into federal and state assistance programs. The federal program housing provides vouchers for specific populations including veterans, people with disabilities, people experiencing homelessness, and people fleeing domestic violence. HUD-Veterans Affairs Supportive Housing (HUD-VASH) Vouchers offers support to chronically homeless veterans often who have substance abuse disorders and/or severe mental and physical ailments with limited social support. Non-Elderly Disabled (NED) Vouchers and Mainstream Vouchers both offer support to non-elderly persons with disabilities who are between 18-62 years of age. The Emergency Housing Voucher targets individuals who are “homeless; at risk of homelessness; fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or were recently homeless or have a high risk of housing instability” (Hawai‘i Public Housing Authority, n.d.-a).

Programs which assist aspiring homeowners include The Hawai‘i Housing Finance and Development Corporation’s (HHFDC) Affordable Resale Program and Dwelling Unit Revolving Fund Equity Pilot program (Hawai‘i Housing Finance and Development Corporation, n.d.-b; *The DURF Equity Pilot (DEP) Program*, n.d.). The Affordable Resale Program restricts eligibility to

first-time homebuyers, who do not already own any units, and are residents of Hawai‘i.

Meanwhile, the HHFDC Dwelling Unit Revolving Fund Equity Pilot (DEP) Program targets individuals working in specific professions that require special training for which there is a shortage.

Hawai‘i County recently implemented affordable housing preferences for Hawai‘i Island residents. In November of 2023, Bill 72 was signed, which broadened the eligibility criteria for eligible buyers to allow more residents to qualify for affordable housing. In addition, the bill added three categories of qualified applicants to include qualified resident, qualified returning student, and qualified worker, which provides the foundation for the residency and employment preference allowing the housing administrator to set the order of preferences and the selection process.

Finally, a notable and unique preference that exists in Hawai‘i is related to the Hawaiian Homes Commission Act, which, among other things, created the Department of Hawaiian Homelands (DHHL). DHHL administers the distribution of 99-year leases to eligible native Hawaiians based on a waitlist system. This Congressional program requires applicants to be 50% or more native Hawaiian, which operates as a preference for the Indigenous people of Hawai‘i. Additionally, DHHL is exploring additional preference options such as providing individuals on the waitlist who reside in a specific area where Hawaiian Homelands exist to be moved ahead of others. This is most notable in rural communities where families struggle to be able to afford to remain local such as Hana, Maui. However, it is unclear how this would impact individuals on the waitlist that reside outside of the state of Hawai‘i or who are currently unhoused.

12.6.3 Barriers and Potential Solutions

There are a variety of barriers to providing affordable housing to local residents, visualized in Figure 12.3. These barriers can be thought of as occurring at three different levels: availability of land, availability of affordable housing for local residents, and finally purchase or rental of units by local residents. The following is a non-comprehensive overview of some of the barriers and potential solutions.

Limited availability of land in Hawai‘i results in land prices that can be expensive. Additionally, in rural areas there may be lack of infrastructure on which housing can be constructed. With state funding, community land trusts may be able to have the funds to purchase lands specifically for affordable housing for local residents which may help overcome some of these barriers. Even if suitable land exists, ensuring that there is affordable housing that is available for local residents can be a challenge. Zoning policies, out-of-state buyers, use of land for construction of luxury developments or short-term rentals can all present barriers to the development and availability of affordable housing. Deed restrictions can put limitations on who can and cannot buy a housing unit and prioritize local families. Inclusive-zoning policies can incentivize affordable housing construction.

The Department of Hawaiian Home Lands (DHHL) can create more affordable housing for native Hawaiians. Public housing can create more affordable housing for low-income families. Vacancy taxes can be used to either increase the amount of funding available for affordable housing programs and/or incentivize homeowners to rent out their vacant units. Community Land Trusts (CLTs) can construct and maintain affordable housing for local communities. The Rental Housing Revolving Fund (RHRF) can incentivize rehabilitation of rental units. Finally, once affordable housing is available there are still barriers to local families

purchasing or renting these homes and keeping these homes affordable. Increasing housing costs, increasing rents (which may be influenced by out-of-state individuals moving to Hawai‘i and military basic allowance for housing (BAH)), displacement due to the construction of new developments (including affordable housing projects), and discrimination are some of the barriers local residents may face in obtaining affordable housing.

Housing preference policies based on where an individual lives, works, or other criteria may make obtaining affordable housing more manageable for local families. Rent control and just-cause eviction policies may allow for greater stability in communities and maintain already existing affordable housing. Housing vouchers and subsidies can help low-income families afford housing. Finally, first-time home buyer savings accounts can assist local families in purchasing their first home.

12.7 Global Housing Preference Policy Review

Resident and citizen housing preference policies are implemented in a number of local, national, and global regions. While Hawai‘i has existing preference policies, further exploration of domestic and foreign preference frameworks can inform additional approaches for future enactment in Hawai‘i. We identified various global preference policies through an iterative literature review. In order to gain a better understanding of these policies and how, if at all, these policies would be received in Hawai‘i, we facilitated several qualitative policy research discussions. After additional research, we selected eight policies for housing policy experts, housing advocates, and constitutional law experts to consider in focus groups and interviews. Findings from this expert feedback revealed diverse perspectives on the effectiveness, feasibility, and legality of the policies in the Hawai‘i context. Programs that were identified as the strongest

candidates for implementation in Hawai‘i were: deed restriction programs, a vacancy tax, and community land trusts.

12.7.1 Methods

We conducted a literature review to identify domestic and international housing preference policies for residents and/or citizens. Google search engine was the primary search tool used to find journal articles, news articles, and blog posts. Google Scholar was used to search for journal articles. Broad search terms were used to ensure that we were overly inclusive in our search (See Table 12.3). Additionally, Chat GPT was used to identify specific examples of local preference policies. These examples informed targeted search terms that were applied to Google and Google Scholar to pinpoint websites or articles describing these policies. Skimming these websites and articles allowed us to further narrow our search. See Table 3 for our list of enhanced terms used to search for international policies. Finally, we turned to Instagram to search for preference programs we had prior knowledge about.

12.7.2 Findings

A total of 33 housing preference policies were identified. Tables A1-C3 (see Appendices 12.A-12.C) summarize each policy according to the type of preference, country, focus population, specifics of the preference, entity that oversees the preference, legal challenges, and evaluation of the impact of the preference. Tables A1-A3 outlines the international preference policies we found. During our search, we read extensively about Singapore’s housing model and its Housing and Development Board’s priority schemes. Tables B1 and B2 focus on Singapore’s various preferences intended for its citizens and permanent residents, which provide multiple pathways to home ownership. Resident preference policies and programs enacted in the United States are highlighted in Tables C1-C3.

Our findings feature an array of strategies that countries and US states have implemented to ensure their citizens and residents have priority access to purchase or rent property. We group these strategies into 10 categories (see Table 12.4).

12.7.2.1 Guam's preference policies

After our policy review, we learned of an Indigenous preference that was implemented in Guam. The CHamoru Land Trust Commission's (CLTC) primary mission is to lease Chamorro Homelands to native Chamorros. The CHamoru Land Trust Commission, in turn, is responsible for the disposition of CHamoru Homelands (public lands) "to advance the social, cultural and economic development and well-being of the CHamoru people by way of residential, agricultural and commercial land distribution and economic assistance programs" (Chamorro Land Trust Commission, 1975). The restriction of leases under the CLTC to "native Chamorros" defined as "any person who became a US citizen by virtue of the authority and enactment of the Organic Act of Guam or descendants of such person" (Guam Public Law, 1980) Through a lawsuit (*United States v. Government of Guam*, 2020), the US argued that this policy violated the rights of protected groups under the FHA (Fair Housing Act, 1968b). Although Guam was successful in Federal District Court, they did agree to enter into a settlement in order to avoid unnecessary delay and uncertainty.

The agreement set out specific items:

1. The term Chamorro and native Chamorro would be replaced with beneficiary and eligible beneficiary.
2. Chamorro Land Trust would include all lands, including Chamorro homelands, under the control of the Chamorro Land Trust Commission.

3. Beneficiary was defined as meaning any person, regardless of race, color, or national origin: whose land was acquired by the US during a specific timeframe or who occupied specific lands for one year prior to the US acquiring that land.
4. The verification of eligibility requires being able to prove descent from an individual who either owned or use of covered lands.

These alterations ultimately shifted the focus from Chamorro ethnicity to historical losses. Under the original complaint, a key provision in the US government's argument was that Congress had not recognized Chamorros as a tribe or nation.

Although this lawsuit and its resolution is instructive to Hawai'i in regards to a generalized preference policy, there are some key distinctions. First, although not federally recognized, Native Hawaiians have been acknowledged as Indigenous with over 240 federal laws that articulate a special relationship with the US. Second, the Native Hawaiian Homes Commission Act explicitly allows for the distribution of Hawaiian Homelands to individuals who are "native Hawaiian." Ultimately, the key instructive elements of the CHamoru Land Commission case study are: 1) preference policies outside of the Hawaiian Homelands environment cannot be purely based on ethnicity; 2) preference policies can be tied to historical losses; 3) so long as the original loss is not based on ethnicity, tying benefits to descent is allowable; 4) careful consideration should be given if a preference policy removed an existing benefit.¹⁸²

The result of this agreement resulted in the following additional preferences. This preference policy within the Housing Opportunity Through Modernization Act of 2016 titled

¹⁸² One of the original complaints was brought by the widow of a Chamoru woman who was found ineligible to continue their existing lease and had to vacate the land. See: <https://www.pacificislandtimes.com/post/2019/01/06/judge-its-not-race-based-court-favors-chamorro-land-trust-act>

“Preference for United States Citizens or Nationals” is one that is unique to Guam. US citizens or nationals are prioritized over COFA citizens (citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) in their applications for financial assistance. This especially applies to the Section 8 waiting list (Pang, 2016).

12.7.2.2 Vail InDEED program

The Town of Vail (hereafter the “Town”) passed Resolution No. 29 in 2016 to adopt the Vail Housing 2027 Strategic Plan (Res. 29, 2016). The Town’s current aim is to acquire 1,000 additional deed restricted units by 2027 to maintain and sustain homes for Vail residents (Town of Vail, 2016). Thus, the Vail InDEED program provides cash incentives to Vail homeowners to place a deed restriction on their residential property. This funding does not need to be repaid and can be used for expenses such as down payment assistance and home repairs.

Resolution No. 34, Series 2016 (Res. 34, 2016) delegates the Vail Local Housing Authority (VLHA) to acquire deed restrictions in the Town. The VLHA is a five-member volunteer board that prioritizes affordable housing initiatives by coordinating with the Town staff (Town of Vail, n.d.). According to their website, the VLHA “works to ensure there is deed restricted housing for 30% of Vail’s workforce” (Town of Vail, n.d.). Interested homeowners submit a Vail InDEED application to the VLHA to determine the appropriate value of their deed restriction and incentive they receive. The deed restriction remains with the property for all of its future sales. To date, the Town has acquired over 1,040 deed restricted units. These units contribute to the Town’s overarching goal of increasing housing stock for Vail residents who live in the Town and work full-time in Eagle County (Vail InDEED, n.d.). Currently in the Hawai‘i Legislature, HB739, Relating to Housing, proposes a similar program in Hawai‘i.

12.7.3 Feedback on identified policies

From 33 national and global housing preference policies, we chose eight of them to gather input on. We decided on whether a policy would be effective and/or feasible to implement in Hawai‘i based on our general knowledge about state and federal laws and the state’s previous or current preference approaches. These eight policies represent six categories: public housing queue, foreign ownership penalty, vacancy tax, community land trust, deed restriction, and preference point system. See Figure 12.4 for an image of the policies and their descriptions and Appendix 12.D for a detailed view of the content.

Initially, we planned to conduct three focus groups of three to five participants. However, due to conflicting schedules with our designated focus group dates, we accommodated some participants by interviewing them individually. We utilized convenience sampling to recruit participants from our own networks. We brainstormed 24 individuals who were housing policy experts and advocates (including elected officials) and constitutional law experts. We primarily contacted people through email. For those we personally knew, we reached out to them by text and social media. Out of 24 potential participants, 14 people responded. From the responses, we scheduled 12 participants for either a one-hour focus group or interview (see Table 12.5). The first, and only, in-person focus group we held on August 23 had three participants. The second focus group we held on October 13 had two participants and was conducted over Zoom. The individual interviews were also conducted virtually.

For the initial focus group, we invited participants to the University of Hawai‘i at Mānoa campus. We created a slide deck and included information about the AI evaluation study, PollEverywhere icebreaker activity, and summaries of the policies; our agenda (see Appendix 12.D) closely followed the structure of the slide deck. We organized the eight identified policies

into a poster (see Figure 12.4) for ease of discussion. Participants were asked to choose the policies that were the most effective, second most effective, most feasible to implement in Hawai‘i, and second most feasible. An “effective” policy would be one that provides increased housing opportunities for Hawai‘i residents. A “feasible” policy would be one where implementation is realistic due to factors such as political will and available resources. Participants, then, explained their choices. To enrich the discussion, we asked questions regarding the policies’ legality, adaptability, and feasibility. We loosely followed this agenda during our subsequent focus group and interviews, omitting the PollEverywhere activity due to limited numbers. It is important to note that all of our sessions were not recorded. Instead, we took detailed notes and stored them in our shared Google Drive. See Figure 12.5 for an overview of the expert feedback we received on each preference policy.

12.7.4 Discussion

The majority of our sessions fostered productive conversations about the effectiveness, feasibility, and legality of the featured preference policies. The Vail InDEED program, the Empty Homes Tax and the Lāhainā Community Land Trust (LCLT) generated the most discussion.

Dialogue about the InDEED program occurred in eight of the nine sessions. The consensus was that deed restrictions are generally feasible to enact to create an affordable housing stock. Owners may decide on whether to put a restriction on sale to make their property affordable for residents who live and work in the area. Public funding for incentives, however, would require council approval, which may slow implementation. On the other hand, participants in Interviews 4 and 7 raised concerns about the long-term impact of deed restrictions. These

restrictions may limit households' ability to build equity and wealth, thus inhibiting upward mobility, due to caps on sale price or profit generation.

Seven sessions generally considered the Empty Homes Tax to be both effective in increasing housing stock for local residents and feasible in its implementation. Several housing advocates and experts commented that they were familiar with the Vancouver policy and pinpointed instances when this policy was either considered, passed, or implemented in Hawai'i's counties. Although most participants broadly supported this tax, some brought up their reservations about where the revenue is funneled. They expressed that an empty homes tax would be most effective if the revenue goes to an affordable housing fund. This would ensure funding for future affordable housing developments.

The LCLT formed shortly after the Lāhainā wildfire to purchase and hold land for Lāhainā residents to rebuild. Three interviewees and one focus group deemed this nonprofit's work as either the most or second most feasible program to execute as it does not require legislation or impose administrative burden. The housing advocate from Interview 2 viewed this program as most effective since it is, in essence, a form of deed restriction. This participant expanded that the LCLT's preference for displaced Lāhainā residents not only focuses on restoring residency but also addresses the harm that these fire survivors endured from loss and displacement.

The N/NE and Affordable Housing preference policies and the Municipal Housing Queue were not discussed as extensively as the aforementioned three policies. Participants in Interviews 2, 3, 4, and 6 had differing viewpoints about these programs. The housing advocate from Interview 2 designated the Portland and Berkeley preference policies as likely feasible due to their reparative impact of returning displaced residents to an area that was gentrified. Similarly,

the financial expert in Interview 3 selected the Berkeley policy as likely feasible. However, this participant was particularly interested in the N/NE preference policy and how to create a similar preference program through specialized loan products for Hawai'i residents. Interview 4's housing policy expert regarded the preference programs as effective. This participant understood these programs as less restrictive as they give certain groups priority from their scores while making the application open to all. On the contrary, the housing policy expert from Interview 6 thought that these preference point systems would be neither effective nor feasible in Hawai'i due to their likely administrative burden, including the high cost of administration. Overall, these three participants compared the Municipal Housing Queue to the US' Section 8 Program due to its waitlist component. They all considered Sweden's system to be both effective and feasible since Hawai'i already has experience with the Section 8 Program.

Foreign ownership penalties were talked about in five sessions, bringing up mixed reactions. All of the participants in Focus Group 1 and Interviews 1 and 2 recognized the difficulty of implementing these policies due to issues with constitutionality, citing the controversial example of SB2617 SD1 that was introduced in the 2024 Legislative Session. On the other hand, participants in Interview 3 and 5 identified that these policies would be generally effective in Hawai'i. Additionally, participants discussed the impact of increasing conveyance tax on purchases by international buyers to generate revenue. Despite this perspective, they stated that the intent of raising the tax is critical to ascertain because the effect of penalizing foreign investors may differ from the effect of increasing funding for affordable housing initiatives.

Enacting housing preference policies is a complex and interconnected issue that requires a multi-pronged approach. The focus group and interview participants represent multiple

disciplines and hold varying perspectives on how to prioritize Hawai‘i residents in affordable rentals and homeownership. Interview 2’s housing policy advocate underscored that it is easier to talk about feasibility in terms of domestic policies—we know what would work and what would not in the context of US laws. This may be a direction that Hawai‘i could take when crafting housing preferences.

12.8 Recommendations

Hawai‘i already implements multiple preferences in the housing policy arena. The first, which is not the main subject of this paper, but is an important preference is Native Hawaiian preferences enshrined in the Native Hawaiian Homes Commission Act (Hawaiian Homes Commission Act, 1921). As a federally acknowledged Indigenous entity, Native Hawaiian have a special relationship with the US that provides a safe harbor for certain preferences to be implemented, including a housing preference for eligible Native Hawaiians to reside on Hawaiian Homelands. Second, multiple preferences exist in the public housing sphere, including Housing Choice Vouchers or Hawai‘i Public Housing Authority, which provide preferences for certain individuals such as current homeless and individuals escaping domestic violence, among others. Within this context, we provide the following recommendations, which are aimed at identifying effective preferences that further support ensuring that Hawai‘i residents are able to obtain and remain in affordable housing units.

12.8.1 Task Force on AFFH

Because these issues are complex and there are multiple perspectives as to the best mixture of approaches to be taken to address critical housing needs, a task force composed of experts in housing, including researchers, advocates, financiers, builders, and community members should be convened to address the issue of improving housing access to local residents.

The task force should be provided sufficient time to fully gather information including analyzing policies in other states, counties, and possibly internationally. In addition, the task force should be charged with developing policy solutions and making recommendations. This type of detailed work will likely take several years to complete, especially if the task force is not funded.

In particular, the task force should be charged to review and formulate proposals on the following specific policies to determine their effectiveness in addressing the housing problems here in Hawai‘i:

- 1) implementing a housing preferences for low-income housing based on employment location;

- 2) development of a housing preferences point system that provides points for existing local residents (e.g., having resided in Hawai‘i continuously for the last 5 years), homeless, employment location, parental status, having experienced domestic violence, etc.;

- 3) implementing a government incentivized deed restrictions with specific recommended template language;

- 4) creating a down payment support for individuals who can show historic ties to an ahupua‘a (similar to the Kalipi ruling (*Kalipi v. Hawaiian Trust Co., Ltd.*, 1982) providing gathering rights for individuals who can show historic ties to an ahupua‘a);

- 5) implementing a community preference for low-income housing applied to individuals who currently reside in an area (Vasudevan, 2024);

- 6) creating a down payment support for individuals who meet certain criteria, including, but not limited to: employment location, employment in a key sector, historic ties to an ahupua‘a or community, prior familial ties to a geographic area, parental status, and income.

12.8.2 Deed restriction handout

In our global policy review, deed restrictions emerged as one strategy that domestic and international locations have utilized to support keeping housing units in local hands. While the task force should explore the idea of an incentivized deed restriction program, individuals may on their own choose to add a restriction to their lands. Developing and making publicly available handouts of what deed restrictions are and how to add one should be done at the state and county levels. This handout should provide information to the public as there appears to be movement around this mechanism for maintaining affordable housing. At a minimum the public should be aware of the benefits, the potential issues, and the process for implementing a deed restriction on their property.

12.8.3 Community Advisory Board

A Community Advisory Board (CAB) is a group of community members who work with an institution or organization to share information and provide input on decisions, including policymaking. CABs differ from task forces as they tend to be more permanent and often, though not always, provide more generalized guidance. CABs can be key in supporting the development of holistic policies that consider aspects from a variety of perspectives. While agencies have mechanisms to be able to solicit input from the community, a CAB is invested in the policymaking process and are selected from some type of expertise that they have on a topic. Ideally, a shared CAB could be created where different state and county agencies could bring questions to them for feedback. The State of Hawai‘i has some laws and regulations in place that may make the development of a CAB difficult. In addition, a CAB could not be a workaround for existing administrative regulatory processes. However, it would be a valuable entity to

broaden the perspective of State and Counties in Hawai‘i as they develop and implement regulations.

12.8.4 Housing Navigators

Hawai‘i’s housing market is one of the most expensive in the nation; more expensive than any other nation. That, coupled with lower purchasing power due to relatively low wages, makes finding adequate housing a huge priority for individuals. As an individual goes through the housing continuum, they are faced with complex decisions some of which may result in prolonged crisis. Housing navigators support individuals experiencing homelessness or other challenges in becoming adequately housed. Just as a healthcare navigator supports individuals who are experiencing a health crisis, housing navigators support individuals and families who are experiencing housing crises. Because many housing policies and programs are complex it can be difficult for someone in crises to fully understand the best path forward. Housing navigators could be a paid position, but could also be volunteers or could be nonprofit organizations that operate in coordination with state and local entities.

12.8.5 Expand Foreign land and home ownerships limits

Hawai‘i already restricts the sale of public lands to foreigners (Haw. Rev. Stat., 2015), but should consider expanding these limits. We limit our definition of foreigner to an individual who is a non-immigrant and does not legally reside in the US. Countries such as Australia, Singapore, New Zealand (*New Zealand Bans Most Foreigners from Buying Homes*, 2018; The Overseas Investment Amendment Act, 2018), Switzerland, and the United Kingdom (McMahon, 2016) have implemented policies that discourage or limit the sale of homes to foreigners. In the US, some states (Florida, Oklahoma, Arkansas, Texas, and North Dakota) have implemented laws prohibiting foreign ownership of agriculture. Others have limited the ability to own lands

near critical infrastructure such as military installations or dams using homeland security as justification. Mississippi and South Carolina have set acreage limits while Missouri and Illinois have limited investment in certain critical lands.

While this issue is controversial in the larger US, Hawai‘i is unique. Protectionist property taxes may affect interstate commerce opening up the potential for litigation (Hayashi & Hynes, 2021). As discussed above while the US Constitution does protect against discrimination, there is a distinction between national origins and foreign entities. Moreover, the land and housing conditions that exist in Hawai‘i do not align with those that exist in most of the US. Not only do we have a very limited amount of land, but as a tropical paradise the land is inflated in value. It is widely recognized that many Hawai‘i residents and, especially Native Hawaiians, have been forced to out-migrate and the failure of AFFH to support our residents and Indigenous peoples is unsupportable to the second goal of the FHA. Thus, Hawai‘i’s government should consider expanding prohibitions on sale of lands to foreign individuals and entities.

Significant leeway exists in how to structure such a restriction to account for the potential benefit of creating stability. For example, creating a prohibition on nonresident foreign nationals from owning more than one home in Hawai‘i or restricting the amount of foreign owned agricultural lands. Many Southern states have adopted restrictions on foreign ownership, including acreage limitations in an effort to protect food security. In another more complicated example, Florida has enacted strict limitations on foreign ownership, largely targeting agricultural and critical lands near military bases. However, the Florida law specifically targets Chinese nationals and citizens from other countries considered a threat to the US. However, a Florida judge held that the plaintiffs had not proved that the Legislature was motivated by an “unlawful animus” allowing the law to be enacted (Matat, 2024). Thus, given the unique aspects

of housing in Hawai‘i, we should strongly consider expanding the restrictions on foreign land ownerships so long as this does not restrict the rights of protected classes such as COFA migrants. Such restrictions may be a full ban, but could also be a restriction on second homes or restriction on purchases in certain desirable or critical areas. Working with the legislature and with economists to better understand the implications to local residents should be undertaken by state and local agencies through research contracts and working groups.

12.8.6 Vacancy and Second home property tax

Vacancy and Second home tax laws can be seen as a type of foreign home ownership limit law, however, it applies more broadly. Vacancy taxes and second home taxes do not facially discriminate against non-resident citizens or non-immigrant individuals. Second home taxes were pioneered in Europe where Switzerland effectively prohibited construction of second homes in highly touristic regions. This law was analyzed by economists and found to have reduced prices of primary homes in those areas while increasing the price of secondary homes (Hilber & Schöni, 2018). In France, where second homes make up almost 10% of the market, municipalities are able to tax second homes (Hilber & Schöni, 2018). Paris took advantage of this by charging up to a 60% surcharge on second homes (Hilber & Schöni, 2018). Finally, The United Kingdom has adopted a 3-15% percent transfer tax on all second home purchases based on purchase price and an outright ban on second homes in certain areas. Even China has implemented restrictions on second homes, which are only recently being loosened. In 2013, Beijing banned single persons from purchasing a second home and instituted a 20% capital gains tax on second homes (Bloomberg News, 2013).

In the US the number of second homes increased by about 20% from 1995 to 2005 and represents approximately 6.8 million houses (Belsky et al., 2007). This has led certain cities to

implement taxes that target second homes and/or vacant homes. For example, New York City has implemented a “pied-à-terre” tax (Hudson, 2019), Oakland approved a vacancy tax on condominiums (Buhl, 2019), and Los Angeles is considering a vacancy tax modeled after Vancouver’s tax (Buhl, 2019; Talton, 2018). Second home or vacancy taxes are often considered an indirect tax on foreign purchases, and while some scholars argue that vacant home taxes may withstand constitutional security under the 14th Amendment and Commerce clause, they are not prudent because foreign investment stabilizes the housing market (Hayashi & Hynes, 2021). These arguments are often based on analyses of several markets on the Continental US that bear little to no resemblance to Hawai‘i and our unique housing issues. Island communities, like Hawai‘i, where the ability to build additional housing or stretch beyond the boundaries of a municipality is not just a theoretical limit, but a physical limit, cannot sustain units sitting empty waiting for the owners to visit for weeks at a time. Recent evidence, however, suggests that in certain highly appealing markets, vacancy and second home taxes could be economically fruitful. Working with community and researchers to better understand the impacts to local residents should be undertaken by hosting public meetings and supporting data-driven research.

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12.0 TABLES AND FIGURES

Table 12.1. Legal Relationship to Country

	US citizen	COFA Migrant	Lawful Permanent Resident	Non-immigrant Foreign National	Refugee & Asylee
Examples	-Birthright citizenship -Naturalized citizenship -Derivative citizenship (through parents)	-Federated States of Micronesia -Republic of Palau -Republic of the Marshall Islands	a.k.a. Green card holder	-Tourists -Students -Exchange Visitors -Business Visitor -Temporary Worker	-Refugee (apply for status prior to coming to the US) -Asylee (apply for status after coming to the US)
Rights & Privileges	-Full rights -Can vote in election -Able to work for the federal government	-Unique category similar to long-term non-immigrant -Allowed to live and work in US indefinitely	-Right to live and work permanently in the US -Can apply for citizenship	-Temporary right to be in the US for a specific purpose -Must return to home country at the end of the visa term	-Can apply for a green card after one year and then eventually citizenship
Treatment for housing preference	Cannot limit access to housing	Cannot limit access to housing	Cannot limit access to housing	Probably able to limit ownership	Unclear

Table 12.2. Hawai‘i Housing Preference Policies

Organization	Program/Policy	Preference population(s)
HPHA	Public Housing (Federal)	<ul style="list-style-type: none"> ● Involuntary displacement ● Victims of domestic abuse ● People experiencing homelessness
HPHA	Public Housing (State)	<ul style="list-style-type: none"> ● People older than 62 years of age ● People and families displaced by the government ● Families in transitional shelters who have completed social service plans ● Veterans ● Families of deceased veterans
HPHA	Housing Choice Voucher (Federal)	<ul style="list-style-type: none"> ● Veterans ● Non-Elderly people with disabilities ● People experiencing homelessness ● People fleeing domestic violence
HHFDC	Affordable Resale Program	<ul style="list-style-type: none"> ● First-time homebuyers ● Hawai‘i Residents
HHFDC	Dwelling Unit Revolving Fund Equity Pilot (DEP) Program	<ul style="list-style-type: none"> ● Employed in professions with specialized training
Hawai‘i County	Hawai‘i County affordable housing preferences	<ul style="list-style-type: none"> ● Residency ● Employment

Table 12.3. Search Terms

Initial Terms	
Housing preference policy	Housing residency preference policy
Housing preference laws	Resident preference housing laws
Indigenous housing preference	Community land trusts
Deed restriction affordable housing	
Enhanced Terms	
United Kingdom local connection criteria	Canada vacancy tax
Owning property in the Philippines	New Zealand foreign buyer ban
Malaysian international housing policies	

Table 12.4 Categories of Housing Preference Policies

Category	Definition	Example policies
Local connection	Prioritizes residents who live and/or work in the area of an affordable/public housing site	Residency preference (New York) Local connection (United Kingdom) Employment Priority (Colorado) Neighborhood Resident Housing Preference (California)
Indigenous preference	Reserved housing for Indigenous peoples and/or preference in public housing applications	Aboriginal housing (Australia) Little Earth (Minnesota)
Public housing queue	Prioritizes those who have waited the longest for subsidized housing	Municipal Housing Queue (Sweden) Social Housing (Austria)
Foreign ownership penalty	Restricts foreign nationals from buying housing reserved for citizens, penalizes foreign property ownership through taxation, or bans foreign property ownership	Minimum purchase value requirements (Malaysia) Speculation & vacancy tax (Canada) Foreign ownership restrictions (Philippines) Foreign ownership ban (New Zealand)
Vacancy tax	Penalizes property owners whose homes sit empty, which disincentivizes foreign, non-resident homeownership	Underused housing tax & Empty Homes Tax (Canada)
Tenant preference	Provides a pathway to homeownership for public housing tenants	Home Purchase Loan Scheme (Hong Kong) Tenants' Priority Scheme (Singapore)
Community land trust	A community-based nonprofit owns and holds the land; community members may purchase a 99-year lease to build or live in an existing home	Lāhainā Community Land Trust (Hawai'i) Methow Housing Trust (Washington)
Deed restriction	Homeowners can add a restriction (e.g., live or work requirement) to their deed that will run with the land	InDEED (Colorado)

upon future sales. These programs are either voluntary or financially incentivized to restrict future sale or rental to local residents

Preference point system	Awards more points based on prioritized criteria	N/NE Preference Policy (Oregon) Affordable Housing Preference Policy (California)
Lottery system	Provides more ballot chances for applicants in preferred categories	All of Singapore's priority schemes

Table 12.5 Participant Modality, Composition, and Date of session

Participant Modality	Composition	Date
Focus Group 1	Housing and legal advocates	Aug 23
Focus Group 2	Constitutional law experts	Oct 13
Interview 1	Housing policy expert	Aug 27
Interview 2	Housing policy advocate	Sept 6
Interview 3	Financing expert	Sept 9
Interview 4	Housing policy expert	Sept 13
Interview 5	Housing policy expert	Sept 26
Interview 6	Housing policy expert	Oct 2
Interview 7	Constitutional law expert	Oct 10

Figure 12.1. Common Housing Discrimination Claims

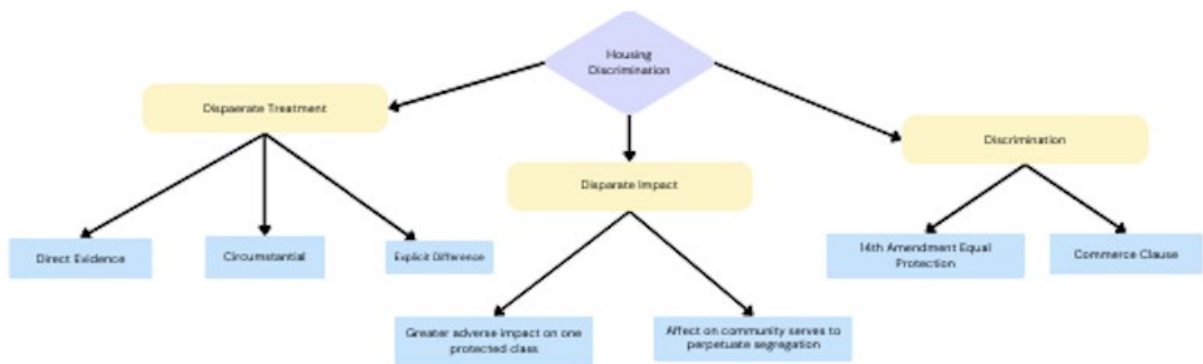


Figure 12.2. Housing Continuum Model

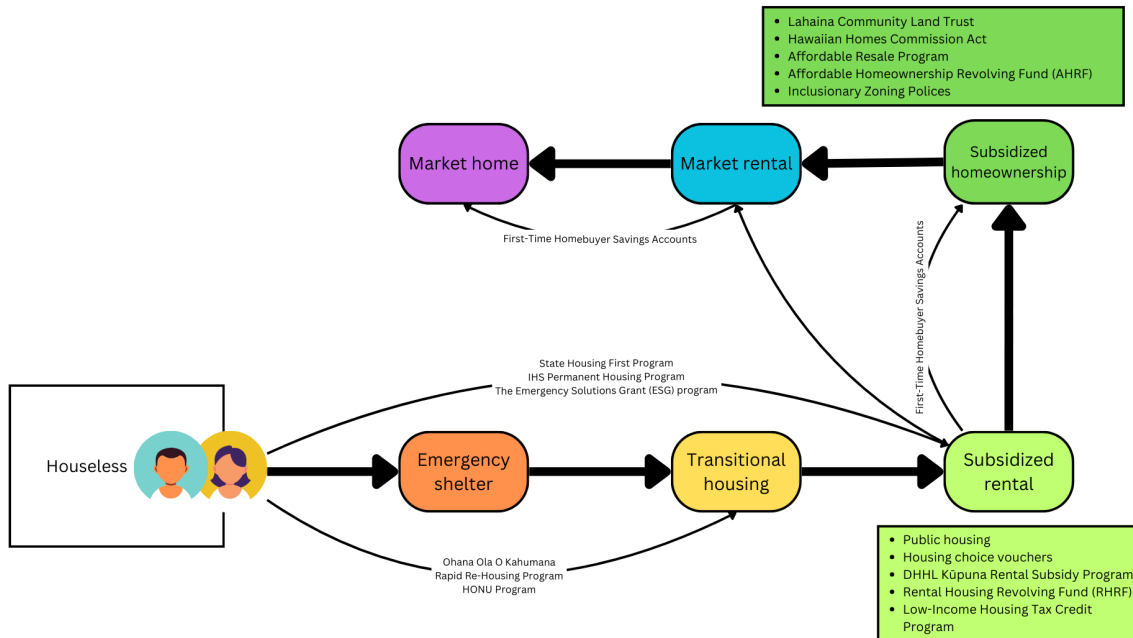


Figure 12.3. Barriers to providing affordable housing to Hawai‘i residents

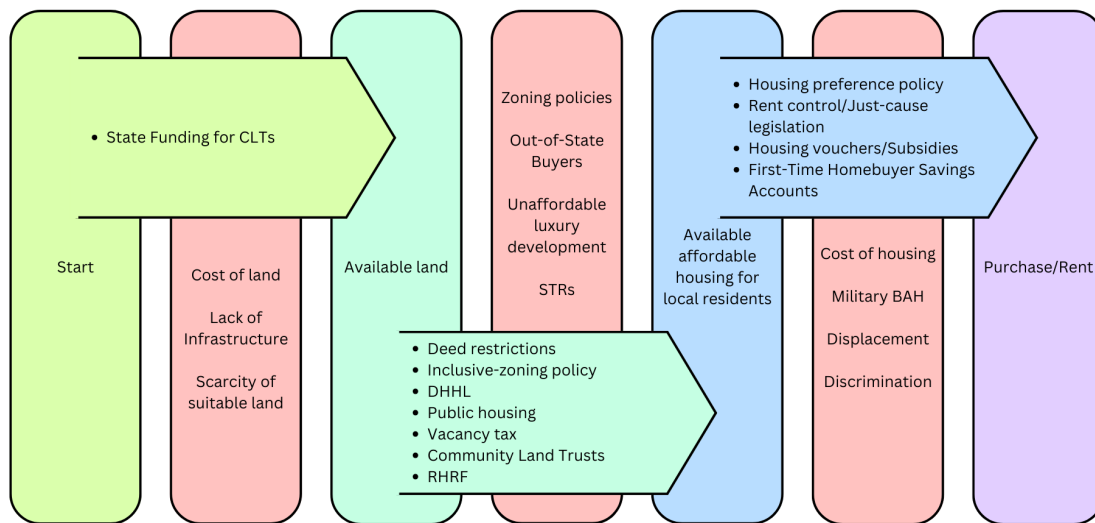


Figure 12.4 Poster Visual



Minimum purchase value requirements – Malaysia

In 2014, Malaysia set a minimum purchase price for foreign property purchasers per state. For instance, in some states, the minimum might be RM1 million (Malaysian Ringgit) (USD \$225,594), while in others it could be even higher. The intent is to channel foreign investment into the mid- to high-end property market by preventing foreigners from buying lower cost housing.



Foreign ownership ban – Aotearoa/New Zealand

The Overseas Investment Amendment Bill in 2018 banned most foreigners from purchasing residential property. Foreigners who have NZ residency and certain additional categories are exempt from this law.

Note: The law is controversial and the current prime minister hopes to repeal the ban, and potentially replace it with a 15% purchase tax on purchases of at least NZ \$2 million (US \$1.2 million).



Municipal Housing Queue – Sweden

Municipal housing queues were implemented in the post-WWII period where 17-25% of housing stock in Sweden is municipal. Municipal housing rent is negotiated between tenant and landlord associations and private rent must match similar municipal rents by law. Housing is granted based on your position in the queue, which can vary based on location. You may enter at 18 years old and certain municipalities allow entry at a younger age if an individual resides in the same municipality.



North/Northeast (N/NE) Preference Policy – Portland, OR, USA

As part of a community-led initiative Portland's N/NE Preference Policy was implemented in 2014. The Portland Housing Bureau provides down payment assistance (household income ≤100% AMI) or rent-subsidized housing (household income ≤30-60% AMI) to applicants with high "preference." Applicants who were displaced, or at risk of displacement, from Portland's N/NE neighborhoods are prioritized as determined by a point system. For example, the greater the "urban renewal" efforts in their previous or current address or if their parent, guardian, or ancestor lived in the affected areas, the higher the points they receive and the higher their priority.



Affordable Housing Preference Policy (HPP) – Berkeley, CA, USA

Earlier this year, the City of Berkeley Health, Housing, and Community Services Department implemented the Affordable Housing Preference Policy, which operates on a point system where each category results in one point (see Table). Households who were displaced from Berkeley and want to return and households facing housing insecurity, who are at-risk of being houseless, or are currently experiencing houselessness are eligible to apply for the program. Each preference receives one point as shown in the table below.

Preference	Preference details
Displacement due to BART construction	Direct descendant of someone who was displaced by BART construction in the 1960s and 1970s.
Displaced due to foreclosure	Displaced since 2005.
Displaced due to eviction	Displaced due to no-fault or non-payment eviction within the past seven years.
Families with children	Households with at least one child under 17 years old.
Houseless OR at-risk of houselessness	Individuals who are not eligible for Permanent Supportive Housing.
Ties to redlined areas	Residential ties to Berkeley's redlined areas – current or previous address of applicant.
Ties to redlined areas - historical	Residential ties to Berkeley's redlined areas – applicant is the direct descendant (up to two generations) of someone who lived in redlined areas.
First priority	



Empty Homes Tax – Vancouver, CAN

The City of Vancouver has imposed an annual 3% citywide tax on homes deemed or declared empty since 2017. Homeowners within Vancouver city boundaries are required to submit an annual declaration indicating that their property has been occupied six months out of the year. To avoid paying the tax, they may turn their empty property into a rental by choosing to become a landlord or enlisting a property management firm. The revenue funds the city's affordable housing initiatives such as grants for social housing developments and land acquisition.



Lahaina Community Land Trust (LCLT) – Lahaina, HI

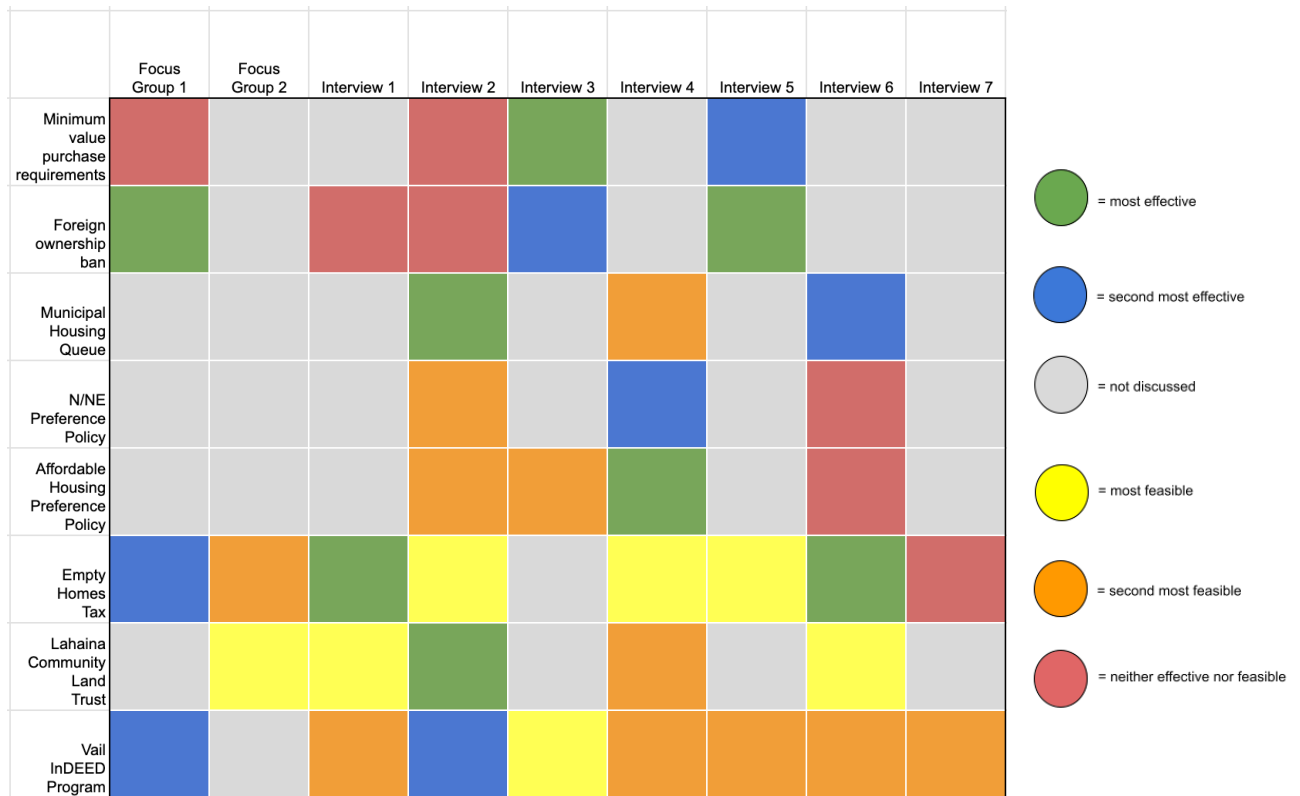
Modeled after the Methow Land Trust in Methow Valley, WA, the Lahaina Community Land Trust (Lahaina CLT) purchases lands that will be governed by an advisory board composed of Lahaina community members. Existing homeowners have the option to sell to a community-run organization for the benefit of Lahaina residents. Housing can then be built, leased, and purchased at affordable rates to Lahaina community members, however, the land itself is held in trust by the Lahaina CLT.



Deed Restrictions

Deed restrictions are another strategy for individual homeowners to create restrictions on their property for future landowners. For example, a current landowner could set occupancy rules that limit future landowners to residing on the property, thereby restricting the use of the land for a rental. Another example, may be a restriction that limits how much a property can appreciate in value.

Figure 12.5. Expert feedback on selected housing preference policies and key



Appendix 12.A

Preference type	Country	Focus population	Preference specifics	Enforcing entity	Legal challenges	Evaluation of preference's impact
Local connection	United Kingdom	Individuals with a local connection to a given district through chosen residency, employment, or family.	Section 166A of the Housing Act of 1996 requires every housing authority in England to have an allocation scheme in determining priorities in allocating housing accommodation.	Local housing authorities in England.	<i>Gullu TW v. Hillingdon</i> argues that residency does not include houseless people, asylum seekers, or refugees.	The inability to demonstrate local connection is a significant barrier to social housing for individuals experiencing houselessness (Baptista et al., 2015).
Aboriginal housing	Australia	Aboriginal peoples of Australia	To be eligible for Aboriginal housing, clients must establish their identity and Aboriginality, be a New South Wales resident, meet income eligibility limits, be able to maintain tenancy, and be at least 18 years of age.	Aboriginal Housing Office, New South Wales Government	N/A	N/A
Municipal Housing Queue	Sweden	Those in queue for the longest	Individuals apply for queues to wait for housing. Those who have been queuing the longest are given housing first. Applicants must be 18 years of age. Special queues exist for student apartments and elderly/retired people.	Public and private housing agencies	N/A	The Swedish unitary housing system ensures that everybody is included in the regular housing market. However, certain measures such as priorities in housing queues allows for the greater inclusion of socially and economically vulnerable households (Hansson, 2021).

Table A1. International housing preference policies

Preference type	Country	Focus population	Preference specifics	Enforcing entity	Legal challenges	Evaluation of preference's impact
Minimum purchase value requirements	Malaysia	Foreign nationals	Restricts foreigners from purchasing lower cost property. Malaysia sets minimum investment thresholds to channel foreign investment into the mid- to high-end property market.	Unclear	N/A	N/A
Malay Reserve Lands	Malaysia	Malay Muslims	Malay reservation lands can only be sold by and purchased by Malays.	Sultan in each Malaysian state	N/A	N/A
Home Purchase Loan Scheme	Hong Kong, China	Tenants	Provides interest-free loans to tenants of both public and private rental flats.	Hong Kong Housing Authority	N/A	N/A
Social Housing	Austria	Residents of Vienna	Applicants for subsidized housing must be at least 18 years old, have lived in the city for at least two years, and be an Austrian citizen. They must also earn at or below income thresholds.	City of Vienna	N/A	N/A
Speculation and vacancy tax	Canada	Foreign homeowners	Taxes foreign homeowners with a primarily foreign income so they can contribute fairly to British Columbia's tax system. Turns vacant homes into housing for residents.	Government of British Columbia	N/A	In the fifth year, British Columbia received CAD\$81 million in revenue to help fund affordable housing. 83% of the revenue comes from foreign owners, untaxed worldwide earners, Canadians living outside of BC, and "other" non-BC resident owners.

Table A2. International housing preference policies

Preference type	Country	Focus population	Preference specifics	Enforcing entity	Legal challenges	Evaluation of preference's impact
Underused housing tax	Canada	Foreign homeowners	Penalizes foreign national homeowners with a federal 1% tax on their vacant or underused housing.	Government of Canada	N/A	N/A
Empty Homes Tax	Canada	Homeowners	Penalizes homeowners whose houses are deemed or declared empty with a 3% tax. Empty homes are turned into rentals for Vancouver residents. The revenue contributes to the city's affordable housing fund.	City of Vancouver	N/A	N/A
Foreign ownership restrictions	Philippines	Foreign nationals	Prohibits foreigners from owning land outright. Foreigners can buy property from a corporation, buy a condominium, or buy a leasehold property.	Government of the Philippines	N/A	N/A
Foreign ownership ban	New Zealand	Foreign nationals	The New Zealand Labour Party passed the Overseas Investment Amendment Bill in 2018 to ban most foreigners from purchasing residential property. Foreigners with New Zealand Residency and non-resident Australian and Singaporean nationals are exempt.	Government of New Zealand	National Party leaders want to repeal the ban. However, the ban has not been repealed. They have suggested to impose a 15% purchase tax on purchases of at least NZ\$2 million (US\$1.2 million).	N/A

Table A3. International housing preference policies

Appendix 12.B

Preference type	Country	Focus population	Preference specifics	Enforcing entity	Legal challenges	Evaluation of preference's impact
Priority for First Timers	Singapore	First-time applicants to HDB flats	First-timer households receive two ballot Chances. First-Timer (Parents & Married Couples), or FT(PMC), receive three ballot chances. Having more ballot chances increases the odds of receiving a higher queue number.	Housing and Development Board	N/A	N/A
Ethnic Integration Policy (EIP)	Singapore	Underrepresented ethnic groups in the neighborhood the housing is located	Limits are set on the proportion of races in every HDB neighborhood and block.	Housing and Development Board	N/A	Although the EIP is supposed to foster racial harmony, it instead "embeds racialized socioeconomic inequalities into housing patterns across Singapore" (Yap, 2022, p. 14).
Family and Parenthood Priority Scheme	Singapore	Married couples with children and young married couples	Parents with young children or couples who are expecting can apply for BTO and SBF flats.	Housing and Development Board	N/A	N/A
Multi-Generation Priority Scheme & Married Child Priority Scheme	Singapore	Parents and their married child	Parents must submit a joint application with their married child in the same or nearby block.	Housing and Development Board	N/A	N/A
Third Child Priority Scheme	Singapore	Families with more than two children	Families with more than two children receive one ballot under this scheme.	Housing and Development Board	N/A	N/A

Table B1: Singapore housing preference policies

Preference type	Country	Focus population	Preference specifics	Enforcing entity	Legal challenges	Evaluation of preference's impact
Assistance Scheme for Second-Timers (Divorced/Widowed Parents)	Singapore	Divorced or widowed persons with children	Allows single parents to apply for a flat a second time.	Housing and Development Board	N/A	N/A
Tenants' Priority Scheme	Singapore	Tenants	Helps tenants of HDB rental flats to purchase their own home after living in a rental for at least two years.	Housing and Development Board	N/A	N/A
Senior Priority Scheme	Singapore	Seniors	Supports seniors with purchasing a two-room Flexi flat to age-in-place in a familiar environment or live near their parents/ married child.	Housing and Development Board	N/A	N/A

Table B2: Singapore housing preference policies

Appendix 12.C

Preference type	State/territory	Focus population	Preference specifics	Enforcing entity	Legal challenges	Evaluation of preference's impact
Residency preference	New York	New York City residents	Applicants who live, work, or will work within the five boroughs of NYC will be selected for eligibility interviews before applicants who do not.	New York City Housing Authority	N/A	N/A
Neighborhood Resident Housing Preference	California	San Francisco residents	Prioritizes residents living in the same Supervisorial District or within a ½ mile radius of a City Affordable Housing Project.	Mayor's Office of Housing and Community Development	N/A	N/A
Live/Work Preference	California	Households that live or work in San Francisco	Prioritizes applicants for affordable housing who live or work in the city.	Mayor's Office of Housing and Community Development	N/A	N/A
Employment Priority	Colorado	Long-term employees in Pitkin County	Qualifying candidates can enter the lottery for affordable housing. Those who have worked for a longer period of time receive more lottery chances.	Pitkin County Housing Authority	N/A	N/A
Tenant Preference	California	Low-income applicants living in "high-displacement" areas of San Jose	California SB 649 allows cities to establish local tenant preferences to stabilize neighborhoods and prevent lower-income households from being displaced from their homes.	The City of San Jose Housing Department	N/A	N/A

Table C1: U.S. housing preference policies

Preference type	State/territory	Focus population	Preference specifics	Enforcing entity	Legal challenges	Evaluation of preference's impact
Indigenous preference	Minnesota	Urban Native Americans	Little Earth is the country's only Native American preference project-based Section 8 Program. It is not a Reservation, but a predominantly Native public housing complex.	Little Earth Management	N/A	N/A
N/NE Preference Policy	Oregon	Applicants who were displaced, or at risk of displacement, from Portland's North and Northeast (N/NE) neighborhoods due to "urban renewal"	The program provides down payment assistance or rent-subsidized housing to applicants with high preference. Applicants score up to three points through their previous or current address. More points can be given if their parents, guardian, or ancestor lived in the affected areas.	Portland Housing Bureau	N/A	Survey results from the Emanuel Displaced Persons Association revealed that Black respondents thought that the policy was not adequate in terms of restitution (Sevcenko, 2018).
Affordable Housing Preference Policy (HPP)	California	Households who were displaced from Berkeley or are experiencing housing insecurity and/or homelessness	Applicants can score up to three points if they been displaced due to BART construction, foreclosure, and eviction. Four additional points are awarded to families with children, houseless individuals, past or current ties to redlined areas, and historical ties to redlined areas.	City of Berkeley Health, Housing, and Community Services Department.	N/A	N/A

Table C2: U.S. housing preference policies

Preference type	State	Focus population	Preference specifics	Enforcing entity	Legal challenges	Evaluation of preference's impact
Lahaina Community Land Trust (LCLT)	Hawai'i	Displaced Lahaina fire survivors	LCLT is a nonprofit whose goal is to acquire and hold lands to build housing that can be purchased or leased at affordable rates.	Lahaina Community Land Trust	N/A	N/A
Methow Housing Trust	Washington	Methow Valley residents	Develops affordable housing with community investments. Residents can purchase affordable homes on community trust lands. Homeowners lease the land for a renewable, 99-year lease term.	Methow Housing Trust	N/A	N/A
InDEED deed restriction program	Colorado	Town of Vail workforce	An owner can add a restriction that will run with the land upon future sales. The Vail InDEED program will determine the value of the restriction and provide the owner with a cash payment.	Vail Home Partners (Town of Vail and Vail Local Housing Authority)	N/A	N/A
Short-term rental regulations	New York	New York City residents	Local Law 18 requires NYC homes on Airbnb to register with the city to stop illegal short-term rentals and increase housing inventory for NYC residents.	Mayor's Office of Special Enforcement	N/A	Airbnb (2024) reports that this law increased hotel prices and had no significant impact on housing for NYC residents. Ultimately, rents continued to rise and visitors had limited options for accommodations.

Table C3: U.S. housing preference policies

Appendix 12.D

Focus Group Materials

AGENDA

Fair Housing Resident Preference Focus Group

1. Introductions

- a. 12-12:05pm

2. Poll Everywhere Brainstorming Activity

- a. 12:05-12:10pm
- b. current state of housing policy in Hawai‘i
- c. Benefits of implementing a housing preference in Hawai‘i
- d. Biggest barriers to implementing housing preference

3. Summary Description of Policies

- a. 12:10-12:20pm
- b. We each describe the ones we summarized

4. Selection of Policy Activity

- a. 12:20-12:30pm
- b. Green = Potentially most effective policy
- c. Orange = Most feasible policy to implement in Hawai‘i

5. Discuss Most Effective

- a. 12:30-12:40pm
- b. Let’s discuss XX since most people selected it as potentially the most effective.
 - i. Why do you think this would be effective?
 - ii. Are there barriers to implementing this policy?
 - iii. Are there specific industries/stakeholders that may oppose this? why?

6. Discuss Least Feasible

- a. 12:45-12:55pm
- b. Let’s transition to feasibility. What issues did you think about to decide if something was feasible or not?
- c. Let’s discuss XX since the least people selected it as the most feasible. What are the concerns?
 - i. Is there any way to overcome those concerns?

7. Wrap-Up

- a. 12:55-1pm
- b. Mahalo and will follow up with email providing opportunity for more feedback
- c. Makana

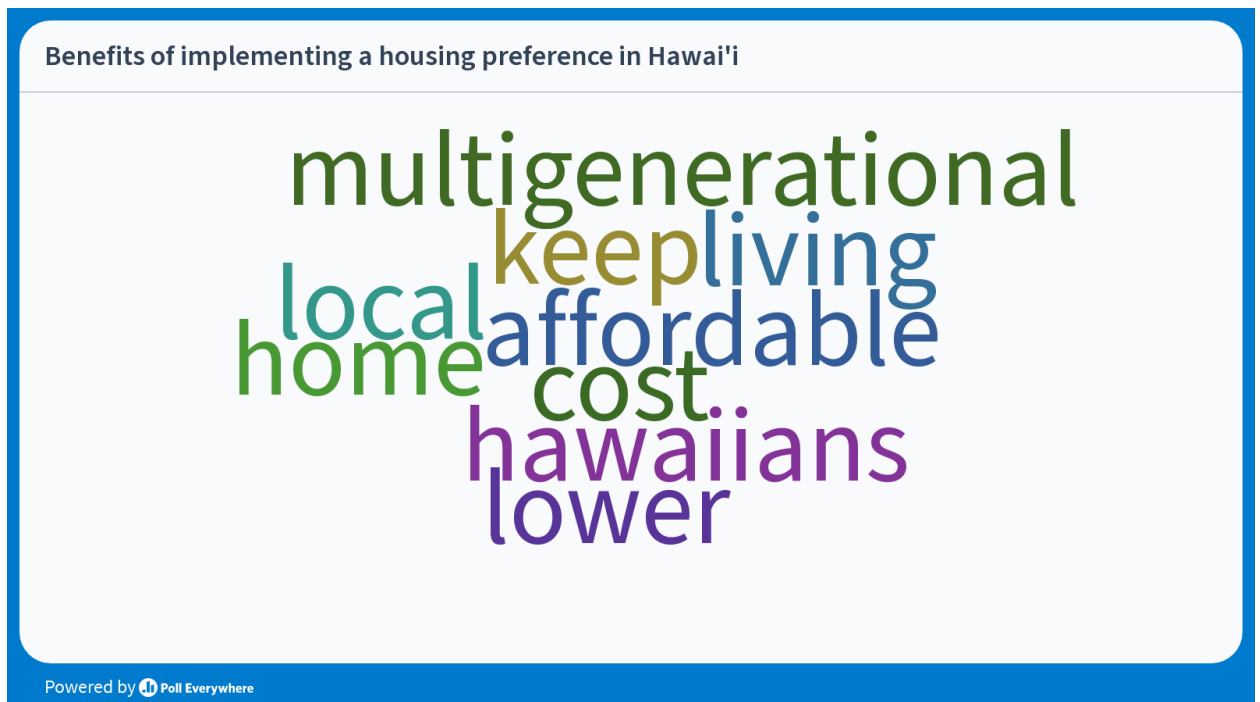
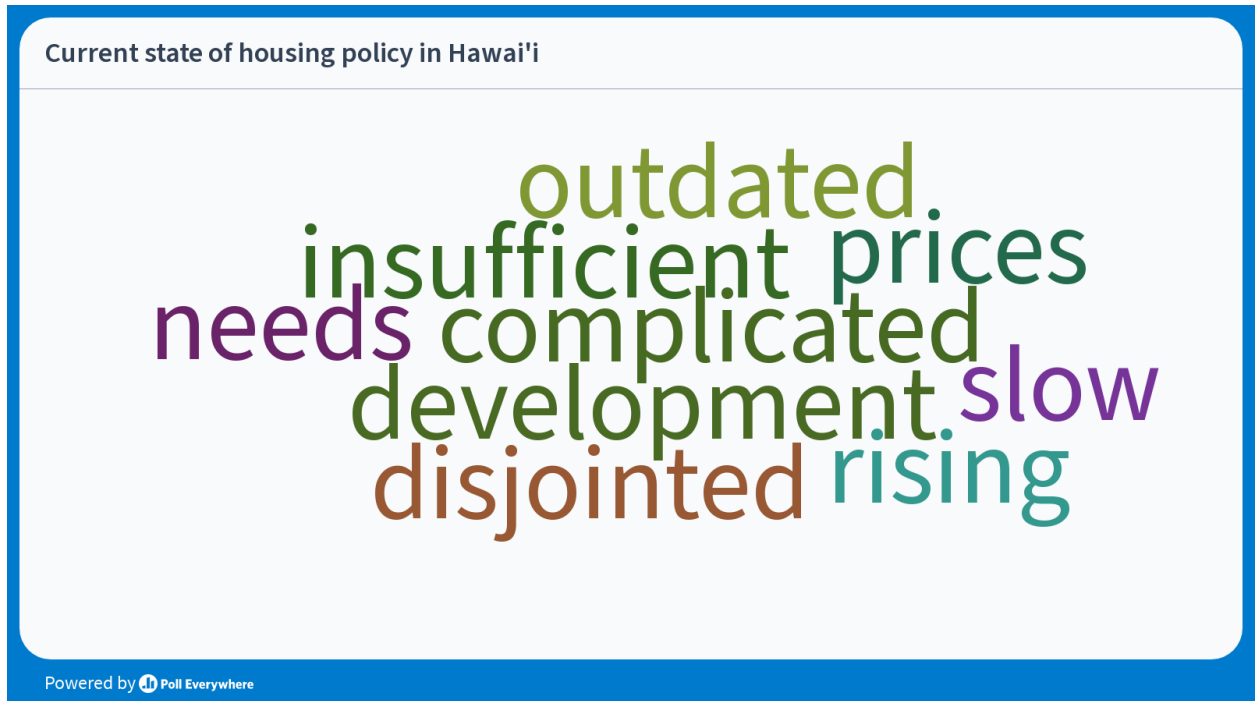
Probing Questions

- NE Preference Policy – Portland, OR, USA
 - Do you foresee a legal issue with having a prior resident preference?
 - Could this be construed as disadvantaging new US citizens and therefore creating an equal treatment concern?
- Minimum purchase value requirements – Malaysia
 - Can we treat foreign citizens differently for housing sale prices?
 - Would US citizens oppose this differential treatment on principle?
- Affordable Housing Preference Policy – Berkeley, CA, USA
 - Could we add a race or NH preference criteria?
 - Can displacement due to private party actions be considered (e.g., remodeling rental unit, tearing house down to build monster home? If so, how?
- Empty Homes Tax – Vancouver, CAN
 - How can we monitor this? Would people really state that the unit was empty?
 - What if the unit was empty for only part of the year?
 - Mandating rental when a unit is high end may not be useful and many empty units are still owned by developers. How do we encourage these to be rented?
- Foreign ownership ban – New Zealand
 - The constitution prohibits us from not allowing citizens of other states to purchase land, but can we implement a ban against non-US foreign citizens?
 - If not an outright ban, can we make the process more challenging?
- Municipal Housing Queue – Sweden
 - Clearly there are cultural mismatch concerns, but do you see any potential constitutionality issues with having a significant amount of our housing be public housing?
 - Putting aside the difficulty in implementing the shift to this option, are there any other legal issues that you can think of?
 - The housing queue model prioritizes certain subpopulations (i.e., local residents, families, etc.), do you think such a preference would be allowable?
 - If it depends, which do you think would be allowable and why?
 - Which do you think would not be allowable and why?
- Lāhainā Community Land Trust – Lāhainā, HI
 - How do we ensure that the LCLT is adequately funded to add to the corpus and to build?

- How do we ensure that the LT Board members are qualified and intentional?
 - Compare this option to the Deed restrictions. Which seems more palatable?
- InDEED Deed Restriction - Vail, CO
 - How can we anticipate future desires of homeowners? For example, if there was a restriction requiring residency, but the owner wanted to sell to a grandchild who was moving back?
 - How can we create sample language and or think through all the potential downstream needs?

Appendix 12.E

Word Clouds from PollEverywhere Brainstorming Activity



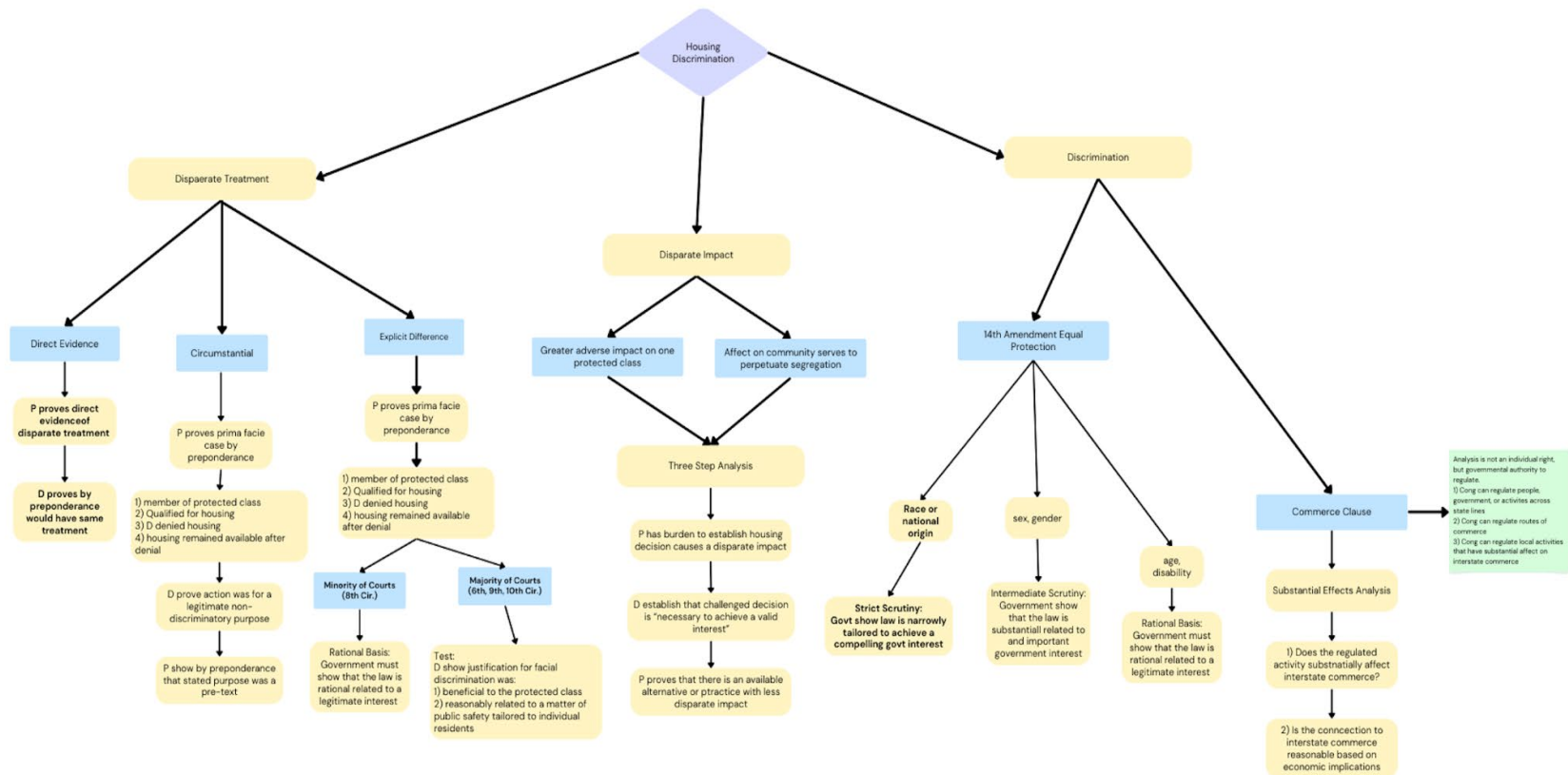
Barriers to implementing a housing preference in Hawai'i

A word cloud visualization showing the barriers to implementing a housing preference in Hawai'i. The words are arranged in a cluster, with 'lawsuits' at the top in purple, 'infrastructure' in green, 'ignorance' in teal, 'costs' in orange, 'pathy' in brown, 'nimby' in blue, 'laws' in dark blue, 'conservation' in red, and 'construction' in green at the bottom.

lawsuits
infrastructure
ignorance
costs
pathy
nimby
laws
conservation
construction

Powered by  Poll Everywhere

Legal Pathways



Appendix 12.G: Housing Navigation Case Study

The vignette case study below, authored by Joy Lynn ‘Alohilani Barredo Alegarbes, shares one example of a housing navigation program that also aims to address specific barriers to fair housing for Native Hawaiian households, through the use of housing navigation and intensive case management, as well as through culturally-tailored and culturally-concordant programming. While researchers did not study the housing outcomes of participants, which are yet to be seen, the model offers an inspiration for both navigation and Native Hawaiian-focused interventions to create fair housing opportunity. It also demonstrates the potential for synergies across program areas (for example, by connecting early childhood support to housing navigation services for families).

Case Study: Housing Navigation at Lili‘uokalani Trust

Joy Lynn ‘Alohilani Barredo Alegarbes

The housing navigator position is very new to Lili‘uokalani Trust because, historically, the organization did not venture into housing. However, in observing the current needs of Hawaiians, it became necessary to embed housing navigation into Lili‘uokalani Trust’s Ho‘okahua early childhood initiative. In ‘Ōlelo Hawai‘i (the Hawaiian language), ho‘okahua means “to lay a foundation.” Ho‘okahua has a two-generation approach, focusing on mākuā (parents) who have a child in their care between the ages of zero to five, as well as those who are expecting and are currently after the twenty-week mark in their pregnancy. As early childhood is critical in the development of keiki (children), especially during the zero to five year window, Lili‘uokalani Trust wanted to ensure that the ‘ohana (families) were supported with a holistic approach to their wellness – and housing is a large part of their approach. The kuleana (responsibility, privilege) of the Housing Navigator position is to support the ‘ohana that are in Ho‘okahua with housing support. Respondents from Lili‘uokalani Trust made it clear that this is not a housing program: it is an early childhood program that offers housing support.

The respondents from Lili‘uokalani Trust explained that every ‘ohana is on their own housing journey – some may already be connected to a housing provider, either in their shelter or transitional housing, or while receiving rental assistance from another organization. If this is the case, Lili‘uokalani Trust’s housing navigator assists the ‘ohana in following the plans that are already in place, supporting them on the pathway that has been charted for them. However, if an ‘ohana is not connected to any kind of housing support, the housing navigator steps in to conduct their housing assessment, understand what their needs are and figure out what their qualifications or eligibility may be for different housing programs. The housing navigator takes the lead on that journey and connects them to the resources necessary to secure appropriate temporary or long-term housing.

At the time of the interview, Ho‘okahua was in the process of reviewing and signing a lease for approximately 18 units (a mix of studios, one-bedroom and two-bedroom apartments) at 1060 Bishop Street in Honolulu on the island of O‘ahu to accommodate families of varying sizes. Lili‘uokalani Trust also offers Lydia House as an alternative housing option for single young adults; the engagement center occupies the ground floor, and the floors above are supportive housing. Local partnerships with RYSE and HHHRC facilitate assessments and connect potential tenants to HMIS. These programs are being piloted on O‘ahu with the hope that they can be expanded into neighboring communities across the pae‘āina (island chain) for those who are in need of housing support.

Respondents at Lili‘uokalani Trust explained that they have discovered that housing does not end houselessness; we must understand the multifaceted reasons why houselessness happened to these ‘ohana in the first place. This is the motivation behind Lili‘uokalani Trust’s different approaches to housing support, from meeting immediate needs through the Lydia House engagement center, alternative housing options and the development of a culture-based housing curriculum that connects ‘ohana to their kūpuna (elders).

‘Ohi: a culture-based housing curriculum

‘Ohi is the name that was given to Lili‘uokalani Trust’s housing education curriculum during the first cohort, which was facilitated by their housing navigator. In ‘Ōlelo Hawai‘i, ‘ohi means “to gather, to harvest.” Respondents at Lili‘uokalani Trust explained that this curriculum was developed to prepare the ‘ohana in Ho‘okahua to not only secure housing, but to equip them with some of the skills and knowledge necessary to truly transform that house into a home. The ‘Ohi curriculum is grounded in ‘ike kūpuna (ancestral knowledge), designed to give ‘ohana a sense of belonging and restore their identity as Hawaiians. This curriculum will grow with them as they transition into long-term, more permanent housing. Respondents referred to this as “an opportunity to house Hawaiians in a very Hawaiian way.”

Given the general task of housing the ‘ohana in the Ho‘okahua early childhood program, Lili‘uokalani Trust’s housing navigator began with a list of standards to create strong applicants in Hawai‘i’s competitive housing market.

The next step was to consult with landlords and property managers who have participated in rental assistance programs, in the hopes of understanding what would make it easier for them to be more inclined to continue to participate in these programs; the ‘ohi housing curriculum was informed by these expectations. In an effort to make sense of this long, continually growing list of information for the ‘ohana in Ho’okahua, Lili ‘uokalani Trust’s housing navigator worked with a colleague to translate and culturally embed this information into a format grounded in ‘ike kūpuna. This was a crucial step as, according to the respondents, “it's hard to retain things that you're not connected to.”

13.0 IMPEDIMENTS IDENTIFIED BY PROPERTY MANAGERS AND REALTORS

Our private industry respondents, who were professionals in realty or property management, qualitatively identified several barriers to housing access and fair housing, perceived issues with the housing subsidy process, and perspective on the landlord side of landlord-tenant relationships. Development funding was noted as a major impediment towards expanding Hawai‘i’s housing supply, with high initial costs and long construction times reported as hindering prospective renters and home buyers from finding property, in a down-stream effect. Several of our respondents recognized financial burden and high cost of living as a major barrier for prospective tenants. Some of our respondents suggested that housing unit regulations be relaxed, as some of their non-compliant, illegal units were perceived as perfectly habitable should regulations be shifted. Such a change was suggested to be a means of improving supply by increasing housing density.

Our respondents noted complicating factors for voucher-holding tenants that may compound existing barriers to housing. Despite holding a voucher, tenants often still need to prove their income is 2.5 to 3 times higher than the established rent of a property. Our respondents suggested that voucher holders, especially those in poverty, cannot afford this percentage once the voucher or subsidy program ends, which was reportedly often mid-lease. Voucher holders with outstanding debt, poor rental history, or a criminal background may have difficulty finding a property that will accept them regardless of the subsidized rent. Further complicating housing navigation for voucher-holding tenants is a reported lack of education. Private-sector landlords expressed concern that these tenants do not understand the importance of showing up to meetings, keeping their properties clean and orderly, paying rent on time, and the process of holding and filling out required forms and documents. At the same time, some

landlords suggested that landlords themselves need educational initiatives to better understand the populations they are working with, the protections and regulations applicable to voucher-holding tenants, and the struggles these tenants face in the housing market.

The most common complaints voiced by landlords surrounded the housing regulations themselves. Several landlords suggested that eviction moratoriums and rent freezes should be reversed, as they impart financial burdens on property owners they would like to see recompense for. The majority of private sector respondents also voiced negative opinions on the HUD Section 8 documentation process, stating that these documents and forms were overly complex, unnecessary, and too rigid regarding the condition and regulation of Section 8 compliant properties. To landlords, relaxing this process might improve engagement with Section 8 and similar programs.

13.1 Financial and Developmental Barriers

Many realtors and property managers identified affordability as a fundamental barrier to housing access in Hawai‘i. These respondents identified barriers on both sides of this issue; on the one hand households have multiple financial barriers when attempting to qualify for a mortgage or apply for an apartment. On the other side, the perennial shortage of housing relative to demand means that prices are often out of reach for many families born and raised in the State.

13.1.1 Down payments and loans as barriers for potential home buyers

Private industry respondents reported that, in their observation, a lack of affordable housing is the primary barrier to homeownership. One real estate agent and property manager from Maui discussed the difficulties that local residents – especially young families and singles – face in affording housing, noting that many have steady jobs and good credit, but struggle with the substantial down payments. A different respondent from Maui added that the high initial cost

of purchasing a home on Maui limits the ability of marginalized communities to grow by creating wealth and building equity. She discussed the challenges of fixing existing fair housing issues, suggesting that a generational approach focused on education and dignity is essential. Another real estate agent from Maui, also stated that economy and high cost of living are the biggest barriers for “the average person” to purchase a home on Maui. She has seen that people need two or four incomes in order to afford to buy a home; conversely, many people from outside of Hawai‘i are able to purchase homes here because they have higher education and higher levels of income.

Another real-estate agent, echoing other respondents, cited both high housing prices and significant recurring expenses – particularly those associated with loans and credit card debt – as a primary challenge, especially for first-time buyers in Hawai‘i. One respondent shared a story about one young couple that continues to stand out among all her experiences as a realtor. According to this respondent: the couple had approximately \$30,000 in savings and met with a loan officer to discuss the different plans for which they could qualify. The loan officer explained that they would only be able to qualify for a \$100,000 loan and flagged their recurring expenses of debt service and credit card payments as limiting their borrowing power. He explained that they needed to pay these off in order to qualify for a better loan, and so the couple made changes – they took part-time jobs, stopped eating out – and was able to pay off their debts within a year. Once all the debt had been cleared, they were able to qualify for a \$200,000 loan. Our respondent highlighted this story, because the couple took their loan officer’s advice to heart and were able to clear their debts in a very short time, even though neither was working a particularly high-paying job. She admires them for taking the situation seriously. As she put it, “Otherwise, they’re going to live in, you know, Mākaha.”

13.1.2. Development Delays and Lack of Supply

Another respondent who is a real estate agent in Hawai‘i County described specific challenges for would-be first-time home buyers in a new subdivision in Hawai‘i County, a project that in theory should be accessible to first time homebuyers. This project made use of “excellent” loan options for first time homebuyers. However, she noted how permitting delays related to construction added burdens to loan applicants, adding 8-10 months by one measure, to the loan process. This is one example of how Hawai‘i’s relatively robust housing regulatory system can limit or delay programs such as the Lakeland project in Kamuela (Inafuku et al. 2022). Importantly, other respondents and sources point to other factors such as limits in land, labor, and supply markets as key issues (Kent 2022).

Most homebuyers are, of course, purchasing existing properties, but the Kamuela program provides some insight into the challenges of increasing the housing supply in ways that might benefit first time homebuyers. Our respondent described working with the son of a developer who created the subdivision in Lakeland, an area that was once considered more affordable but “it’s getting less and less now.” She spent a significant amount of time explaining to the developer’s son the ways in which entry-level loans worked in this program: residents were required to get pre-approved for a construction loan for a kit home from HPM Packaged Homes, which would allow them to build their first home at the Lakeland subdivision. But before the bank would lend, they needed to ensure that all permits were in place and that regulatory issues would not restrict development. This requirement is typical as construction loans are uncollateralized and thus banks need to ensure a clear path to construction for underwriting purposes.

Unfortunately, according to our respondent, it took 8 to 10 months from the time a buyer made an offer until closing because of delays in the permitting process. She emphasized to us that asking a seller to take an offer and then wait for 8 to 10 months before closing was a big request and well outside the timeline for purchasing existing property. This respondent also stressed that programs like this were a rare opportunity for first-time homebuyers who are very short on funds, as the down payment to loan ratio was very small. Despite the delays, she worked hard to keep the seller interested, and 8 or 9 of the twelve properties sold to first time home buyers. She explained this as “exciting because then you're actually seeing first time families and homeowners are able to do this. But it takes a lot of education and patience and some unusual concessions, if you will, from sellers to want to participate.” In her words, “it was a really good program, just a slow one.”

Such supply issues do not only impact homeowners and renters can be directly impacted by limitations put on the number of housing units. Sometimes this means restrictions on new development, but it also represents restriction of accessory dwelling and other types of “illegal” dwellings that can sometimes serve a critical source of affordable housing. Another real estate agent from Maui told us they are an advocate for reviewing local rental prices and legalizing currently illegal rental units to alleviate challenges, while also addressing the risks associated with increased rents due to legal restrictions. She suggested that creating pathways to legalize currently illegal rental units (i.e. garages, ‘ohana units) could provide affordable housing options and relieve financial pressure on homeowners. This respondent explained that Maui has a lot of housing that is divided into multiple units – for example, separating the house or closing the garage to make it livable – but the majority of these units are illegal. She elaborated, “It's an affordable unit. But it has to be all hush hush. But you can still pay taxes on it... The county

comes and says, okay, that's a new illegal unit, we're going to shut it down. Well, okay, now we're going to raise the rent [on our legal units], because we only have one unit, and it's now going to be \$3,000.00, instead of \$2,000.00... [People] cannot find any place else... the rents are too high for them to get a one or two bedroom."

13.1.3 Multiple background, credit and high-income requirements as barriers for potential renters

A property manager reported challenges she has experienced in qualifying tenants for rentals in the two apartment complexes she manages on Maui. According to this respondent, this is primarily due to low incomes, unverifiable incomes, and credit issues. First and foremost, tenants must make two and a half times their monthly rent in order to qualify for a rental at the properties she manages. This is a common heuristic used by property managers to reduce non-payment of rent in the event of income fluctuations or unanticipated expenses. In this respondent's case, this traditional screening metric was supplemented by a VantageScore¹, which utilizes a proprietary algorithm to summarize credit, collections, past debts to landlords, and utility debt to predict a potential tenant's ability to pay a reliable rent.

This respondent reported that she frequently explains to applicants and her co-workers the "box that people have to fit in" with regard to income and background screening, and that she consistently does what she can "to push the limits of the box, without breaking the box;" in other words, while she cannot supersede the requirements dictated by the owner, she wants to make sure that all income is considered and all tenants are given a fair assessment of their ability to pay. In her view, it does not matter where a potential renter has come from, so long as they fit the requirements – it is only their ability to do so that gives them the opportunity to rent in the apartment complexes she manages.

This type of formal screening is endemic in professionally managed properties and some research has cited concerns regarding third party scoring systems such as VantageScore. While one's credit score is not entirely predictive on one's ability to pay, it is at least somewhat transparent and proven techniques are available for credit repair. The alternatives, however, can be opaque to low-income families, and fair housing enforcement agencies have struggled to identify the degree to which such scoring systems have a disparate impact on historically marginalized groups.

13.1.4 Barriers for potential tenants renting with subsidies

The above examples stress the challenges associated with housing access for a large portion of the State's population. These issues are even more severe in the case of households with a subsidy – either a Housing Choice Voucher (formerly Section 8) or a voucher from a specialized homelessness program. These households experience additional barriers as indicated by our discussions with property managers.

A property manager from Oahu explained the difficulties she encounters when case workers from Catholic Charities bring tenants to view a property who do not make 2.5 to 3 times the amount of rent, as they will not qualify for the unit; she believes the case workers do this is because she has a reputation of wanting to help. This manager suggested that certain case workers may be more likely to bring potential tenants to a listing with her name on it, mentioning to them that she can assist them in filling out the application, which might then increase their chances of qualifying for the property. However, no matter how well the application is completed, the potential tenant will not qualify unless they make 2.5 to 3 times the amount of rent. Such rent multipliers are appropriate in the unsubsidized market – it benefits neither landlords nor tenants to accept someone who cannot afford the rent. For those with HCV,

however, the tenant portion of the rent is fixed at roughly 30 percent of the tenant's income, making income multipliers unnecessary. For this reason, courts have generally considered income multipliers to be a violation of so-called Source of Income discrimination legislations, which makes it illegal for landlords to deny a family simply because of their voucher status. In our respondent's case, she is most likely referring to a homelessness voucher program which is often time-limited. Because these vouchers may expire in the middle of the lease, landlords often wish to ensure their tenants' ability to pay in the absence of a voucher, an enormous barrier for most individuals experiencing homelessness.

Of course, income multipliers are not the only reasons that subsidized households can be denied a unit. Families who are eligible for subsidies have, almost by definition, limited financial resources and a history of housing insecurity. This can create blemishes on their background checks that make it difficult to secure housing. One realtor respondent described how her previous employer performs background and credit checks and also requires landlord references for all potential renters. This employer additionally requires that tenants do not have an outstanding debt larger than \$5000.00; however, if a potential renter has debt higher than the \$5,000.00 limit but shows that they have an arrangement to pay that down, the management company is open to overwriting them to qualify them for the rental.

When asked for potential solutions to identified fair housing concerns, our private industry interviewees frequently raised the need for financial literacy and education for potential tenants. Respondents stressed the importance of financial literacy training to help low-income 'ohana navigate housing applications and improve creditworthiness; they also noted the lack of financial literacy training for applicants in affordable housing programs, which further complicates access for underserved groups. One respondent cited the specific need for education

about available housing opportunities, such as the self-help homes that will be built in Ouli on Hawai‘i Island, on land donated to the Hawai‘i Island Community Development Corporation (HIDC). This respondent suggested financial literacy training for people already on the list and education to help get others onto the list:

“When we talk with HICC, they do no [...] financial literacy training. So they have a ton of applicants, and most of them don't qualify. And so when we were looking at how we could help, one of the things we thought was, wow, if we did some financial literacy training for underserved groups, that could really help them perhaps qualify, especially when you know something's coming online in, say, six or eight months, that might be enough time for them [to learn] basic skills on how to clean up their credit, how to how to qualify for a loan you know these sort of things.”

Respondents agreed that prospective tenants need education on how to be a “good” tenant, how to clean up their credit, how to fill out an application, how to provide income statements when applying for properties, and how to take care of a property. According to multiple respondents, a tenant first demonstrates that they are “good” by showing up for scheduled appointments when viewing the apartment, pays their rent on time, maintains their unit in excellent condition and understands how to be a “good” neighbor by minimizing the impact that their animals and guests have on other tenants. A respondent reported that this education is particularly needed for those transitioning from shelters or relying on assistance programs, raising concerns about this group’s lack of knowledge regarding property maintenance and community standards. She suggested that developing educational programs for tenants on property care and community living could help bridge these gaps.

Educational training on fair housing law and cultural sensitivity for landlords was also a proposed solution. One respondent emphasized that landlords may not be aware of legal prohibitions against discrimination, including legal requirements regarding familial status and other factors. She further pointed out that biases (for example, a preference for smaller families)

often influence landlord decisions, which can further complicate the housing landscape for vulnerable groups, including individuals with disabilities and those in recovery. Property managers voiced the view that this education falls under the property manager's role, as they often have more clarity on these issues than the landlords of the properties they manage due to their engagement in fair housing training and other professional development.

13.2 Housing Regulations and Assistance Programs

In addition to affordability, respondents discussed barriers faced by subsidized tenants when trying to access private rental housing. Specifically, they articulated how the various administrative burdens of the voucher programs reduced their enthusiasm for subsidized tenants. They also discussed how, in their view, various other housing regulations – emotional support animals and eviction moratoriums, for example – had overall negative impacts on the rental market.

13.2.1 Delays and difficulties: Landlord and property managers' views of Section 8/Housing Choice Vouchers (HCV) and other subsidized housing

Landlords are often resistant to participating in subsidized housing programs. Some of this related to tenant characteristics and credit worthiness as described below. But other issues are embedded in the programs themselves, which can make it hard for landlords to accept tenants with vouchers.

A property manager at one county subsidized property and had a battery of complaints about the current regulatory system. She said that the forms she was required to fill out and the wait time before she started receiving the state subsidy portion were, in her words, “nonsense.” She recounted her experience of managing a single-family residential home that had been divided into five separate units, which was occupied when she took over management of the

property. She was required to fill out all of the paperwork from the county in order to receive the subsidy for the tenant to ensure that rent paid was directly to her firm: he would pay a portion, and the county would pay a portion each month. She reported that it took three months for the paperwork to be processed and for management to receive payment. As a result, they were not able to collect rent from the tenant for two months. She emphasized that these lengthy delays can accrue significant debt for landlords and managers of a given property.

This respondent further explained that, though she is a college graduate and reviews contracts for a living, she had no understanding of the paperwork she was required to fill out or how to do it correctly, describing it as "redundant" and "repetitive" as the applications ask for the same information multiple times. She identified this process as an impediment for prospective tenants, as "a mom and pop [landlord] are not going to sit there and mess with that paperwork" and that any sort of interaction with the regulatory bodies is "just insane. It takes so much time." She feels that the people who want to help are being punished. This respondent called for a more streamlined process and direct assistance for landlords from the Ombudsman, who should have the responsibility to walk them through these applications.

A different property manager also noted that the Housing Choice Voucher regulations were "a pain in the butt" and overly complex, with paperwork that was extremely difficult to understand. This respondent explained, "The paperwork is a different language. And it was in English, and I only know English." She noted that some prospective tenants she worked with appeared to be confused by the complexity of HUD HCV forms. She exemplified this issue with a story about Micronesian clients, who she described as needing to bring in family members and work with her, in person, to properly translate and fill out application and financial forms. This respondent further cited delays in moving new tenants into HCV apartments due to difficulties in

scheduling the required inspections; however, she noted that her experience with the Hawai'i County HUD office was positive overall, as they worked closely with her to make sure that things went relatively smoothly. She explained that the process to prove necessary adjustments had been made (for example, replacing faulty smoke detectors) was fairly simple; the management company was permitted to make these adjustments themselves and send proof via video to the Section 8 HCV office, so inspectors were not required to return for a second inspection to verify that the necessary work had been completed. She further noted that it usually took about three weeks for paperwork/inspections to go through, but she found this to be acceptable.

13.2.2 Negative Perceptions of Section 8/HCV Tenants

Another realtor discussed the significance of fair housing and her initial reluctance to reject Section 8 HCV applications, though she has to “think twice now” due to a long list of negative experiences with these tenants in the past. She recounted difficulties with Section 8 HCV tenants, some of which have come from shelters, who want to rent but, in her view, “they have no knowledge of it. They don't take care of the properties.” She has experienced issues such as property damage and a lack of understanding of how to take out the trash, which results in food and refuse littering the sidewalks outside of the building; this behavior only changes after explaining to the tenants multiple times that they have to put their trash in plastic trash bags before placing it outside on trash day (and not before then). This realtor further explained that she has often experienced “Islanders” who are Section 8 HCV tenants and do not understand how to live with neighbors; in her view, this was demonstrated by the many guests who loiter on the property while drinking beer and the children who are playing while running up and down the stairs, “screaming at 10 o'clock at night.” She explained her hesitancy to accept Section 8

HCV applicants: “I have to think twice now, because I've done this so many times... We want to give them a chance, especially when they have a kid, and they say... ‘They're closing down our shelter, so we need some place else to go.’ And when you call the shelter, they say, ‘Oh, these are the cleanest people.’ But that's not always true.”

Emphasizing that she did not want to appear prejudiced, this respondent explained her understanding that sharing with family is a part of her tenants’ culture. This puts her in a difficult position, as she also knows that many of their family members may not have jobs or other forms of support; but she feels that tenants are not always honest in disclosing the number of people who are actually living in their unit. She has often been told that the additional people she sees consistently inside the home are babysitting or watching the house; but they always seem to be performing tasks that suggest they are living in the unit, such as laundry or cooking.

Issues related to overcrowding and parking were a key concern among the private industry respondents interviewed. One respondent shared another story about a tenant with a child and who was part of the Rent to Work program, which provides “short term rental subsidy assistance to persons experiencing conditions of homelessness AND willing to enter employment, to increase their income through ‘earned wages’” (City and County of Honolulu Department of Community Services WorkHawai‘i Division, n.d.-b). This tenant was supposed to pay a portion of his rent, but he frequently missed work; and then he brought his parents to live with him and his child in the unit, after which the respondent, a property manager, encouraged him to call the social worker to find another place for his parents to live. She explained the frustrations of their neighbors, as the parents would “park all over the place” and not only in the parking stall that was designated for the unit. Whenever she would call to explain that they could not park there, especially overnight, the tenant would simply not answer his phone. Eventually,

another child began living in the unit; she broke the tenant's TV and he kicked her out of the house. The child was then seen "roaming around the property" and "sleeping in the hallway," which was alarming to the neighbors. This was a particularly difficult situation for our respondent, as she advocated to take a chance on this tenant and his child. "In his defense," she explained that they moved out when he was unable to pay the rent, helping her avoid a costly eviction.

Continuing to share her experiences with Section 8 HCV, the same respondent also criticized the city and state for their "inadequate response" to housing issues. In her words, "The people that we need to police even more than just the mom and pops or the property managers are the city and the state." She shared a story about a tenant displaced by a fire, which started because the unit did not have electricity and the tenant resorted to using candles. She was able to find him another place to live, but the unit affected by the fire – a wooden townhouse structure – was never fixed, despite her multiple calls to follow up. At the time of the interview, it had been five months since the fire and repairs to the unit had not yet been addressed. This respondent called for greater accountability from city and state agencies regarding housing repairs and for oversight of Section 8 habitability requirements.

Another real-estate agent from Hawai'i County noted that transportation and distance from urban centers such as Hilo and Kona were an issue for herself and for tenants in rural Puna on Hawai'i Island. When asked about her experience with fair housing regulations and mediation services, she explained that mediation regulations do not work well for her, as both she and the tenant would have to drive two hours to get to the courtroom to even meet with mediators. She did not mention the remote options for mediation that are offered by the Mediation Center of the Pacific in accordance with Act 57's Eviction Mediation Program, which states "Once a

mediation session is scheduled with the tenant, the landlord will be electronically notified of the date and time of the mediation session, and provided with a Zoom link (Mediation Center of the Pacific, n.d.-c). This may reveal a lack of understanding of the mediation program among property managers.

As a property manager in Puna, a relatively rural area, our respondent felt a sense of distance or even mistrust of county offices. She hinted at a concern that many of her properties would not meet Section 8 standards, which creates a reluctance to engage with this program. She continued to emphasize transportation as a major challenge, as many of her renters and buyers work in the urban center of Hilo which is nearly two hours' drive from Puna. She explained that buses in Puna are unreliable, and so the majority of people either drive or "catch rides." This respondent spent a lot of the interview discussing what she saw as the biggest impediment, for both her and her clients, the rural status of Puna and what she saw as unrealistic HUD regulations for properties in that area. When asked about her experience with HUD regulations, our respondent reported that her properties in Puna largely lack a mainline sewage connection, and that she often had to explain the use of solar, catchment, and septic systems to her potential renters or buyers. More importantly, she reported that it is difficult for her to meet Section 8 regulatory standards for her properties, citing high renovation costs that disincentivize her from expanding her docket of Section 8 households. While this respondent was hesitant to share more details on the condition of her properties, she did mention that she felt that the "realities" of rural property management are rarely discussed by state legislature, and thus the regulations don't fit her situation. This respondent suggested that some kind of county outreach program or satellite office would make a difference for folks who are unfamiliar with the housing market and need to travel long distances to meet with county workers.

A different property manager also mentioned the lack of information Honolulu legislators have about the housing/geographical realities of Hawai‘i Island and other neighbor islands; Hawai‘i island does not have the density of employment opportunities that O‘ahu does, and as a result the need for low-income housing is greater. This respondent explained that there has never been a time when she had vacant properties – in her experience, there is always a tenant seeking placement.

13.2.3 Property manager and real estate agents’ wariness of animals for reasonable accommodation requests

Property managers we spoke to expressed the view that some tenants may also take advantage of the Fair Housing Act (FHA) reasonable accommodation for emotional support animals. “The FHA requires covered entities to make reasonable accommodations so that individuals with disabilities have equal housing opportunities, which includes the opportunity to enjoy and use a dwelling”. Respondents discussed issues related to emotional support animals, noting instances of tenants misrepresenting their pets. One respondent explained that she has often seen the same animals (such as dogs that bark at her every time she is at a property she manages). She will ask the tenant, “OK, you have a dog? And they said, ‘No, that's our friend's dog. We're just watching him.’” How do you watch it when nobody else is home?”

This respondent also shared a story about a dog that both she and the owner had heard barking, followed by a “Shhh!” from inside the unit. She followed up with the tenants, who she described as “locals” and “not islanders or anything like that.” She asked them, “Hey, do you guys have a dog? And they said, ‘Oh, yeah, it's our service animal.’ I said, a service animal? ‘Well, no, emotional support animal.’ I said, well, you didn't talk to us about it, you know? I'd like to see your paperwork. And so, of course, they sent it to me right away, but it's kind of like,

why did they shush the dog if they felt like they were entitled to have a support animal?” She explained, “I see that so many times, the doctor that signs the letters from California or Las Vegas, you know... The kind that they buy online.”

Another real-estate agent further emphasized the importance of responsible tenant practices and the challenges posed by similar pet accommodations – she has experienced, for example, a renter who claimed that all 10 chickens found on the property were emotional support animals. A respondent from Maui also shared an account from a colleague about someone who rented a unit and had two cats. Management told the tenant that this was not allowed, and so the tenant sued management and won – because the cats were support animals.

These responses reveal how property managers and realtors hear stories from colleagues or have direct experiences that lead to a sense of skepticism toward reasonable accommodation requests from tenants relating to pets. Unfortunately, some tenants may in fact misrepresent their pets in ways that spur suspicion and even misinformation about pet-related accommodations.

13.2.4 Landlord-Tenant Relations and Evictions

Landlords shared with us the view that eviction moratoria create risks and reluctance to rent property; while some long-term landlords maintain reasonable rents out of compassion, the broader market pressures create frustrations for both tenants and landlords. One property manager respondent raised the issue of vacant properties due to the current moratorium on evictions on Maui, initiated as a response to the catastrophic wildfires.³ This respondent reported her view that many landlords would rather leave a property vacant than rent to a potentially troublesome tenant.

This respondent described a current situation in which she has one tenant who is renting a 2-bedroom unit from a landlord who insists on keeping prices as fair as possible, despite the

ability to raise rents to market rates. The monthly rent for the tenant's 2-bedroom unit is \$1,600.00, inclusive of utilities, but the tenant has not paid since November 2023. She explained that "they said, 'With the moratorium, you can't take us out.' That's what it is right now. But it's these people that are creating additional costs for the owners. They're also tying up housing for somebody that should have it... So that's the frustration that we get as, these abusers of... moratorium or HUD or housing crisis. So, you know, there is a rental shortage, but there's also a lot of rentals sitting empty." Our respondent attributed this dilemma in part to FEMA, who is paying \$7,000.00 a month for empty houses and indicated that homeowners are "scared" because of "all the rules."

According to our respondent, the moratorium on Maui is not protecting people who need housing. She said that, under her management alone, she has 10 rentals sitting empty and another 12 that are empty and receiving FEMA funding. She reported that the

"Twelve owners are scared. The moratorium came out, you know. So... there is a lot of housing sitting empty." She explained that she does not understand why FEMA does not simply rent 2 houses with the \$7,000.00 they are offering, instead of paying for an empty house. She elaborated, "I have people call me all the time, good local people looking for a place. Somebody will call and say, 'Oh, so-and-so has an empty cottage.' And [the landlord says], 'Oh, no, no, I don't want to rent it right now,' which is sad. But I get it, because I have to deal with how to get rid of these people that shouldn't be in the house. So there is more housing than what used to be. Unfortunately, a lot of it does come down to the money. If you get an empty house at \$7,000 and you put somebody in, what are you going to put them in for?"

These situations reveal a stark disconnect between the housing shortage and the number of empty rentals on Maui after the August 2023 wildfires.

In her view, there is no going back to lower rental prices in this context: "We're not going to go back to \$2,000.00 Right? So now you have to do \$3,000.00 or \$4,000.00, which just took all our local people out, our limited income people out, our kūpuna (elders)." Our respondent

further discussed Maui's long-term exemption, which provides property tax breaks to property owners who rent to local tenants. She explained, "but they constitute what the rents are and everything. And I think somebody should look at that data to see what our local people are actually charging for rents. And if they're sitting empty as well, I mean, tax-wise too. The tax burden is heavy on us right now."

A different respondent added that the moratorium on evictions on Maui has led to substantial financial losses for property owners:

"I had two people. One was at \$20,000 and the other one was at \$15,000. Some people were at \$5,000 or \$7,000. I have a \$17,000 delinquency right now. Another \$7,000.00 delinquency and another \$5,000.00 delinquency, and I can't do anything about it, because of the moratorium. When they're in a lease, I can do a non-renewal and that's what I can do. But if I have somebody who's not in a lease, they've been on month-to-month or whatever for a reason, and the moratorium hit, there's nothing I can do about it. When the owners lose money like that, it makes it difficult for everybody, right? So my heart goes out to people who are struggling. At the same time, if we as a culture made better choices about things, these things wouldn't be an issue... We all have our moments of being down... and by the grace of God that could be me at any given point. But I do, at the same time, hold people accountable... If people qualify, that means that we deem them financially able to pay rent, and we expect that."

Yet another property manager noted that she sees lack of landlord/government cooperation as a serious impediment to housing availability. She explained that things like eviction moratoriums put serious financial strain on landlords, especially "mom and pop" properties. She said, "In the eviction moratorium the one saving grace was there was a Rent Relief Fund. But just this last year, because of the Maui fire, we had another eviction moratorium come through, and legislation speaking to eviction moratoriums. And it passed, but it said that you had to be a fire victim." She continued to explain that landlords are trying to pay mortgages, taxes and utilities with no revenue coming in: "The government put people at the risk of going bankrupt and having foreclosures upon them... Telling someone that no matter what is

happening, the tenant doesn't have to pay. That's wrong." She does not believe that rent freezes or rent controls are a good idea and pointed out that, "Government hasn't built any housing."

13.4 Conclusions and Recommendations

Interviews with property managers and real estate agents paint a complex picture of barriers to fair housing throughout the state. Our respondents pointed to a lack of available housing supply as a first order affordability problem. When supply is low and demand is high, housing prices increase resulting in a gradual replacement of low- and middle-income households with higher income families. Hawai'i has many inexorable barriers to supply such a limited amount of developable land (both literally and for ecological reasons). But some of the supply shortage is self-inflicted as counties limit options that could promote density. This can range from an irresponsible focus on single family homes, which present a host of negative environmental externalities while housing very few persons per acre, to planning and permitting processes that create enormous delays and, ultimately, benefit the protectionist objectives of wealthy homeowners over other groups.

Respondents also pointed to frustrations with what researchers would call "housing readiness." There is no doubt that research is nearly unanimous in its support of providing homeless individuals with housing, first and foremost. But so-called "housing first" should never be "housing only" and challenges faced by individuals with mental health and substance abuse issues ultimately result in landlord hostilities towards subsidized housing programs. A concerted effort to help all individuals, regardless of barriers, sustain their housing will certainly help landlords – as our respondents mentioned – but it will have even more substantial impacts on renters themselves.

Such an effort goes hand-in-hand with efforts to reduce administrative burdens of the housing programs, particularly those that disincentivize enthusiastic participation from landlords. Obviously all programs need guardrails to prevent exploitation, but many of the regulations tied to our current housing programs fail to benefit tenants in a meaningful way and could be substantially reformed.

Finally, the issues of so-called emotional support animals, represents a key need for fair housing education. The issue is tricky. For some individuals, an emotional support animal is an essential part of health and well-being. But for others, landlords are right to be suspicious. HUD and other fair housing groups have provided more specific guidance on these issues in ways that attempt to benefit landlord and tenant needs.⁴ The more landlords are informed about these issues the more consistent they will be about providing reasonable accommodations without feeling they are being taken advantage of.

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14.0 MASTER SUMMARY OF RECOMMENDATIONS

In this section, we have compiled the recommendations made in previous sections of this report. Most recommendations are related to respondent interviews and the two sub-analyses focused on Native Hawaiian Issues and Local Preferences and thus relate to issues from Chapters 6-13. However, for review, we also summarize some potential impediments discussed in the Demographic and Statistical chapters (Chapters 1-5) though the main purpose of those chapters is to describe general population characteristics as well as the condition of the housing market of Hawai‘i. **Further details about each of the impediments identified as well as proposed solutions are contained in the relevant body chapters of this report (enumerated sections correspond to the main chapters above). It is strongly recommended that readers refer to the relevant chapters when considering a finding of an impediment and a related recommendation for addressing that impediment.** It is also worth noting that several of the funding agencies are already directly engaged in addressing the impediments identified here and also working in alignment with the recommendations provided. For these issues, our recommendations are meant to reinforce and underscore the importance of existing efforts (notable examples include the regular April Fair Housing month, which entails education for a broad swath of the public as well as for real estate professionals like landlords, property managers, and other housing service providers).

Our recommendations here are derived primarily from public input and recommendations from experts that our research team interviewed, including non-profit organization leaders, government officials, and private sector representatives (details of our data collection and interviews are described in Chapter 1). In the previous chapters of this report, we provide further details about what our interview respondents shared and what they would like to see in response to the identified barriers to fair housing. These chapters also provide context and secondary

research to interpret and validate the input we received. We seek to avoid offering specific guides for the enactment of these recommendations, in order to allow multiple departments or initiatives to tackle these recommendations in diverse ways. However, the body chapters of this report offer more information about possible mechanisms through which different agencies may address the identified impediments.

Also, this report does not rank these impediments and recommendations in terms of relative priority. This decision is aligned with the original goals of the analysis and to meet the collective needs of the diverse funding agencies. Given the diversity of agencies and jurisdictions covered by this analysis, it is important for each agency to identify *their own priority recommendations* based on strategic needs, resources, capacity, and potential alignment with state goals or local needs.

2.0 DEMOGRAPHIC PROFILE

Impediment 2.1: There remain disparities by race/ethnicity in both household income and homeownership, creating potential financial barriers to housing access on the private market. Racial/ethnic disparities in household median income as well as homeownership rates persist, thus creating potential barriers to access to fair housing on the private market. This reflects trends long-noted by social scientists. Of the largest racial groups in the state, Native Hawaiians and Other Pacific Islanders report relatively low rates of homeownership.

Recommendation 2.1.1 See recommendations below. Invest particularly in homeownership counseling and targeted financial programs to support racial/ethnic groups historically under-represented among homeowners.

3.0 SEGREGATION, OPPORTUNITY AND POVERTY CONCENTRATION and 4.0 SUBSIDIZED HOUSING DEMOGRAPHICS AND LOCATION

Impediment 4.1: Subsidized households (i.e. those participating in HCV or residing in LIHTC or Public Housing communities) are more likely to live in higher-poverty tracts. Despite relatively few areas of concentrated poverty across Hawai‘i, there is an identifiable association between tract poverty rates and subsidized housing. For HCV households, the prevalence of households (27%) in high-poverty tracts is roughly twice the statewide average for

renters (compared to 10% for all households and 14% for renter households) and LIHTC households' rate of exposure to poverty—19% live in tracts with poverty rates of 20% or higher—also exceeds the state averages. 43% of Public Housing residents live in high-poverty census tracts. Higher poverty areas in the state also tend to have larger populations of Native Hawaiian and Other Pacific Islander residents, showing some indication of spatial exclusion. This can create barriers to economic mobility and general well-being for some of Hawai'i's most vulnerable residents.

Recommendation 4.1.1: Affirmative efforts should be made including the siting of subsidized housing in low-poverty areas, something that the State has struggled to achieve historically. In order to promote alternative siting, funding must be invested to promote building in such areas, and policy and community outreach must be expended to overcome neighborhood opposition to low-income neighbors, multifamily development, or subsidized projects.

Recommendation 4.1.2.: See below for recommendations to prevent discrimination and support neighborhood access for HCV recipients.

Impediment 4.2: There is an overlap between participation in federally and state-funded housing subsidy programs and membership in other protected classes. Despite the limits of statistics on the background characteristics of subsidized households, it is clear that many subsidized households in housing assistance programs (HCV, LIHTC and Public Housing) are not only low-income but part of a group that has been historically marginalized or at risk of discrimination based on their age, gender, family status, disability, or race/ethnicity. Just over a third of subsidized households have children, two-thirds are female-headed, and roughly 30% are female-headed with children (except for Project-Based Section 8, which is much lower). Disability is also common among this population, with one-in-five subsidized individuals qualifying as disabled.

The data suggests that subsidized households are slightly more likely to be non-white than the general population (80%) and that this is particularly true in Public Housing (88%) and less true in HCV and Project-Based Section 8. Subsidized households in Public Housing are also more likely to be non-white 63% of subsidized households (and 79% of Public Housing households) selected “Asian American and Pacific Islander,” a large group that constitutes some of Hawai'i's highest and lowest earning ethnicities.

Remedy 4.2.1: For Housing Vouchers, as discussed below, it is necessary not only to prohibit discrimination against HCV recipients but to actively fund enforcement and testing to ensure compliance. Similarly, recent work has pointed to the value of housing navigation to help low-income voucher families achieve a broader range of residential

outcomes. Special attention should be made in programming to the intersection between voucher or assisted status and other protected statuses (such as race/ethnicity, disability status, family status, etc.), given the potential for compounded barriers or discrimination.

5.0 FAIR HOUSING COMPLAINT DATA

Impediment 5.1: Disability and Retaliation are the most frequent types of fair housing complaints . According to data provided by state and federal agencies, most fair housing complaints that come to enforcement agencies concern disability and retaliation. Retaliation cases make up a large proportion of HUD and HCRC cases, and questions still remain about why this is the case.

Remedy 5.1.1: Consider remedies to fair housing impediments based on disability further discussed below.

Remedy 5.1.2: The relatively high rates of retaliation in Hawai‘i seem unique but poorly understood. Experts have suggested that there is something unique about personal relationships and the housing market in the context of Hawai‘i such that landlords are more likely to respond pointedly to perceived breaches of interpersonal trust by tenants. Research be performed to investigate the relatively high rate of landlord retaliation found in Hawai‘i.

Impediment 5.2: Discrimination based on Sex, Race/Color, and Family Status are also top complaints. Across the three main data sets, complaints on the basis of sex (including sexual orientation) are a top three concern (the second most common concern in the LASH data). When considered along with gender-based discrimination, or in its own right, sex-based discrimination in various forms appears to be a major concern for fair housing in Hawai‘i. In terms of frequency, complaints related to discrimination on the basis of sex are followed by complaints about discrimination based on race and/or color. The next most frequent complaints relate to family and marital status. These are the top five most common issues across the main data sources.

Remedy 5.2.1: Future analyses should focus on overlapping concerns related to “sex” (which federally in recent years has been defined expansively to include gender identity/expression and sexual orientation, etc.) and gender (which include gender expression and identity). Discrimination on the basis of sex can also include sexual harassment. While a relatively recent analysis of impediments to fair housing for Hawai‘i focused on disability, with good reason, a future analysis could more deeply focus on potential concerns related to sex and gender-based discrimination.

Impediment 5.3: Complaints about discrimination based on national origin/ancestry and race/color also occur. Complaints regarding national origin and ancestry (including relating to language) also occur regularly, and according to LASH data, appear to be the most frequent basis of complaints for Micronesian households. As discussed below, community stakeholders who informed other portions of this report identified challenges experienced by Micronesian households, including those who have Limited English Proficiency. Also, LASH data suggests that fair housing complaints based on race/color are a concern especially for African Americans (for whom this was the most frequent basis of complaint).

Remedy 5.3.1: Consider remedies to fair housing discrimination based on national origin/ancestry and race/color further discussed below.

Remedy 5.3.2: Future analyses should aim to specify how much language barriers are reflected in the patterns of national origin/ancestry discrimination. Future research should focus on distinct barriers facing racial/ethnic subgroups including Micronesian as well as Black/African American households.

6.0 DISABILITY AND HEALTH

Impediment 6.1: As stated above, according to enforcement agencies, Disability is the most frequent source of fair housing complaints (or the second most frequent source of complaints, after retaliation, depending on the data source).

Impediment 6.2: Hawai‘i has a shortage of housing at all income levels, but especially for those with physical disabilities. Stakeholders also emphasized the need for design elements to promote physical accessibility among subsidized units.

Recommendation 6.2.1: Accelerate the pace of initiatives to increase the inventory of accessible housing. A variety of initiatives to increase the stock of affordable housing accessible to those with disabilities were described in the 2016 report on the *Analysis of Impediments to Fair Housing Choice in Hawai‘i with a Focus on People with Disabilities* (CDS 2016). This current report amplifies the recommendations of that analysis, as the situation has not appreciably improved.

Recommendation 6.2.2: Increase targeted funding to develop accessible housing in all forms (i.e. residences, apartments, subsidized housing)

Recommendation 6.2.3: Implement universal design in all new building projects to enable visitability and aging in place.

Interview data suggest that those with disabilities who have experienced homelessness and chronic homelessness face the steepest barriers to accessing housing, including on the private market and through traditional assistance programs. Continue to support housing first programs which serve the homeless population. Interview data suggest that

those with disabilities who have experienced homelessness and chronic homelessness face the steepest barriers to accessing housing, including on the private market and through traditional assistance programs.

Impediment 6.3: A large share of the homeless population also reports having one or more disabling conditions (55% as of 2024, according to the Point-in-Time count (PIC 2024)). Interviews with experts who serve this community also stress the vulnerability of those with disabilities in the homeless population who often have extreme difficulties finding housing, though can be served by permanent and stable options in *kauhale* situations or other assisted programs.

Recommendation 6.3.1: Support a variety of housing projects including “*kauhale*” type projects, or communal living communities, to serve individuals and households with disabilities transitioning out of homelessness. Continue to invest heavily in housing first programs, with special attention to those groups in protected classes (including those with disabilities, victims of gender-based violence, etc.).

Impediment 6.4: Online applications create new barriers for those living with disabilities. This is significant given the fast proliferation of online-based service applications, especially since COVID 19.

Recommendation 6.4.1: Develop accessibility guidelines for online applications and websites listing apartments funded with public subsidies. We recommend the development of universal best practices across all state and local agencies. The policy on the accessibility of programming and services can be found in Section 6, Appendix E. Please see also specific guidelines for website accessibility in Section 6, Appendix F.

Recommendation 6.4.2: Secure an expert assessment of language used on online housing applications by public agencies. Consultant should make recommendations to reduce jargon and improve readability across all forms of disability.

Recommendation 6.4.3: Publicly disseminate best practices to real estate groups and developers to promote application accessibility in the unsubsidized housing stock.

Impediment 6.5: Landlords need more education on fair housing issues related to tenants living with disabilities. This education would increase landlord comfort with leasing to individuals with disability and clarify the rights and responsibility of all parties.

Recommendation 6.5.1: Increase fair housing education and support for landlords regarding the housing process for people with disabilities. In particular, there appears to be a lack of understanding related to reasonable accommodation. The fair housing community currently hosts several trainings throughout the year, continued efforts should

be made to reach a variety of landlords and property management companies (including small and mid-sized landlords).

Recommendation 6.5.2: Provide training and translation support for personnel offering housing support to people with disabilities. For example, a lease “cheat sheet” may be helpful for case managers to help clients with developmental disabilities understand their leases in very simple terms. This may require collaboration between attorneys and property management agencies.

Impediment 6.6: A major challenge for Aging and Disability Resource Centers (ADRCs) in realizing their potential to be a one-stop shop for people with disabilities includes limitations they face in navigating services and programs that are not within their immediate scope (see recommendations in CDS 2016).

Recommendation 6.6.1: Identify resources to increase ADRC capacity in housing, allowing them to realize their potential to help clients navigate the State’s complex housing market and assistance programs. ADRCs may require collaboration with local or county elderly affairs or other social service programs to achieve this.

Recommendation 6.6.2: Increase funding to county ADRCs to provide direct services including emergency preparedness rosters in the event of a disaster.

Recommendation 6.6.3: Increase communication and shared information between government and non-profit entities who have responsibilities related to housing, and entities focused on aging or disability, including ADRCs and other elderly affairs organizations and agencies.

Impediment 6.7: A lack of knowledge, skills and attitudes necessary to support people with disabilities exists among personnel and systems that are often the “gatekeepers” of housing opportunities (CDS 2016: 108). Whether intentional or not, such deficiencies can result in discrimination, exclusion and a lack of equity throughout the housing application process.

Recommendation 6.7.1: Establish and support new and existing methods of anonymous reporting so that people with disabilities have a pathway to pursue their housing concerns without fear of retaliation from landlords. HCRC maintains a significant caseload focusing on disability and retaliation. Further consider actions that can be taken to discourage/prevent retaliation, as current initiatives are often reactive, responsive only after the retaliation has already occurred.

Impediment 6.8: The presence of assistance animals can complicate housing qualifications for people with disabilities, as landlords can be hesitant to rent to people with animals even when for disability accommodation.

Recommendation 6.8.1: Increase dissemination of clear guidance and education on service animals for both landlords and tenants. Education initiatives for landlords and property managers should be focused on helping them to understand the differences between service animals, emotional support animals and pets, as well as the laws for reasonable accommodation. Education and training for people with disabilities should focus on how to minimize their service animals' impact on neighboring tenants.

7.0 VOUCHER PROGRAMS AND SOURCE OF INCOME PROTECTIONS

Impediment 7.1: Despite recent legislation (i.e. Act 310) explicitly prohibiting “source of income” (SOI) discrimination, there are multiple challenges facing households attempting to use rental subsidies such as Housing Choice Vouchers (HCV), Emergency Housing Vouchers, and other forms of rental subsidies (e.g. those for homelessness or for veterans) on the private rental market. Households experience protracted searches and often must request extended time in order to lease-up.

Recommendation 7.1.1: Updates to Act 310 would make the law stronger and prevent direct and indirect discrimination of voucher holders. For example, enforcement authority should be vested in a specific agency, likely the Hawai'i Civil Rights Commission (HCRC). Penalties also likely need to be increased or modified to cover legal fees and to create stronger deterrence. Once enforcement authority is established, funding should be allocated for proactive enforcement and testing of source of income (SOI) discrimination. Enforcement results should be well-publicized to ensure compliance.

Impediment 7.2: There is a lack of public awareness and understanding of the specifics of Act 310. There are many points of confusion related to exemptions and enforcement.

Recommendation 7.2.1: There is a need for clear and concise informational material relating to the function and protections of Act 310. Real estate professionals, managers, and housing agencies should be provided with clear and cogent public-facing materials to clarify the obligations under the law and to provide information to clients who suspect they have faced discrimination. Public agencies should develop an informational website to share to clarify the terms and obligations of Act 310 as existing web resources are very limited or hard to find. Clients need to understand how to seek damages.

Impediment 7.3: There are reports of secondary discrimination among assisted households or voucher holders that are also racial minorities, especially for Micronesian and/or other Pacific Islanders and some other linguistic and ethnic minority households.

Recommendation 7.3.1: Further educational outreach to landlords and property managers on the topic of cultural practices and legal protections of racial minority and LEP communities is critical. Efforts should take care to address the specific needs and

risks of indirect and direct discrimination against ethnic and racial minorities including diverse Pacific Islander and Micronesian groups in order to alleviate secondary status discrimination for voucher holders.

Impediment 7.4: Agencies and real-estate professional report continued bias among real estate professionals against voucher holders as well as other sources of landlord reluctance to lease-up to voucher beneficiaries.

Recommendation 7.4.1: Strong and established educational and facilitatory programs aimed at landlords is needed to support landlord comprehension and engagement with voucher programs. Different forms of engagement should employ different forms of communication and outreach, such as: in-person meetings, sharing of online resources, landlord summits, small gatherings, or presentations by agency staff at real-estate professional meetings, etc. Consider collaboration with experts on this topic, as well as incentives for landlord and real-estate professionals participation.

Recommendation 7.4.2: Establish and fund landlord liaisons or other staffing within housing agencies to support the dissemination of information about the programs and their strengths and benefits to landlords and the public. Consider incentives for participation in landlord programs, including programs for landlords to gain access to guidance or referral resources if they identify potential tenant violations of leasing agreements.

8. TECHNOLOGY AND DIGITAL TOOLS

Impediment 8.1: Barriers exist relating to the implementation and use of digital tools in the administrative, maintenance, and outreach initiatives of housing development and management organizations; this includes a lack of knowledge and digital access among certain communities (e.g. Native Hawaiian kūpuna), inefficiency of current online platforms in engaging clients and landlords, a lack of connection between agencies and organizations within the digital space, and a lack of connection between the digital and in-real-life spaces that offer housing support. These issues were reported across organizations in all sectors of the housing ecosystem, from homeless services groups to developers to legal clinics.

Recommendation 8.1.1: Consider engaging a consultant to evaluate online materials and develop online platforms to effectively provide services to client groups. This can increase new client outreach, improve the ability to quickly service existing clients and increase client engagement and intake. Agencies may consider collaboration with entities such as HCRC, LASH and HUD, in particular for use of their websites to provide easily accessible and clearly understandable educational materials, made available online for any client group to access at any time.

Recommendation 8.1.2: Organizations can increase their online presence to educate and incentivize landlords on housing-related issues and encourage them to engage with housing-first programs and increase the efficacy of the housing-first program through digitization of systems. Consider ways in which additional training can be provided, in addition to active social media and marketing.

Recommendation 8.1.3: Supplement current educational programs with stable, updatable online platforms and materials. Consider engaging a consultant to achieve this.

Recommendation 8.1.4: Build relationships with landlords and property managers via educational outreach programs in the digital space; this is important for organizations to get "their foot in the door" and promote participation in housing programs. Digitization provides improved flexibility in scheduling and administering any kind of educational or community-building session. Consider collaboration with non-profit organizations and funding opportunities (e.g. grants) to achieve this.

Recommendation 8.1.5: Dedicate educational and training resources towards Native Hawaiian kūpuna (elderly) to improve this at-risk population's ability to find and live in affordable housing.

Recommendation 8.1.6: Retain some level of in-person appointments and support. A significant portion of Hawai'i's population is unable to effectively operate in a digital-only environment. Increase the practice of hosting a group setting for elderly and kūpuna populations, as this appears to be more successful in reaching these communities.

Recommendation 8.1.7: Overall, continue to ensure multiple modes of communications are available: phone-based communication, postal mail, and in-person access, in addition to digital options.

Impediment 8.2: There are substantial digital equity concerns for racial minority populations, specifically those with limited English-language Proficiency and those living in technologically underserved areas. Unlike the relationship between technology and elderly populations, this relationship tended to be identified by our respondents as an issue of digital access rather than an issue of digital literacy and ongoing support (although digital literacy does wrap around into a larger access issue).

Recommendation 8.2.1: Hire or work with local community leaders or organizations within the underserved areas to facilitate access to their housing services and emergency relief. Organizations including non-profit collaborators should consider available funding options (e.g. CDBG funds) for this service.

Recommendation 8.2.2: Organizations should utilize community collaborations to fully understand the needs of the communities and the on-the-ground realities of their situation; which in turn allows them to customize services and outreach, improving their aid capacity. Consider the avenues available for communities to formally submit their

comments and express their needs so that organizations and other non-profits can take the initiative to address them.

Recommendation 8.2.3: Work directly with community members who are either bilingual or technologically savvy (or ideally both) to assist other community members with translation of digital assets. This method was reported as the best way to counter geographic and linguistic barriers overall. It provides a means to strengthen the ties between the community and the organization, and to improve the self-determination of the community itself. Identify local leaders, organizations and other non-profits who could assist in administering program services with a high degree of trust and outreach. As the efficacy of online translation services are sometimes substandard, this method was reported to additionally improve the level of comprehension of the rights, forms, and practices associated with programs for client groups.

Impediment 8.3: Language is a barrier not only for accessing digital forms, but for understanding the (primarily digitally administered) rights and protections that tenants and housing seekers hold.

Recommendation 8.3.1: Limit the complexity of digital platform language to improve translation as a secondary measure.

Recommendation 8.3.2: Digital writers should bear in mind that the complexity and specificity of English legal terminology is often not interculturally shared. Limiting complexity of language should be a general best-practice so that digital platforms are easy to comprehend for non-English speakers.

Recommendation 8.3.3: Provide any housing-related resources in multiple languages, alongside resources for translation into less common languages in Hawai‘i. Consider hiring consultants/translators to achieve this.

Impediment 8.4: In the Native Hawaiian Services sector, there is a lack of digital literacy amongst our elderly and kupuna populations.

Recommendation 8.4.1: Accelerate efforts to reduce geographic and linguistic barriers through in-person document verification and having a user-friendly backend system.

Recommendation 8.4.2: Offering a nearly 24/7 assistance line can be valuable in assisting and directing clients towards whatever resources or programs they are seeking. Assess the agencies and non-profit organizations able to provide these services and increase their ability to do so.

Recommendation 8.4.3: Retain some level of in-person services for both translation and digital documentation/form filling assistance. This is a valuable measure towards limiting the digital divide surrounding the affordable housing system, particularly considering

elderly and kupuna digital barriers. Consider collaboration between counties, agencies, organizations and other non-profits to achieve this.

9. RACE/ETHNICITY, NATIONAL ORIGIN, AND LANGUAGE

Impediment 9.1 As discussed above, among those filing official complaints with Legal Aid Society, individuals identifying as Black or African American are most often filing complaints based on race/color (with disability as the 2nd largest category). Among those complainants identifying as Micronesian, the largest categories of complaints relate to national origin or ancestry (with family status) as the next most common complaint. While the numbers in these data are small, this pattern of complaint data coupled with interview findings suggests persistent and diverse barriers in accessing housing related to race/ethnicity and national origin/ancestry for these groups.

Recommendation 9.1.1: Education and outreach about fair housing rights and avenues to redress experiences of discrimination should make sure to include these groups, among others. Housing agencies and other non-profit housing and civil rights advocates should collaborate with community leaders from within the African American and Micronesian and Pacific Islander communities to build trust, mitigate discrimination, and support affirmative housing access for members of these groups.

Impediment 9.2: Advocates for immigrants and language minorities with whom we spoke stressed that English speakers are at an advantage in the housing space, in comparison to Limited English Proficiency (LEP) households.

Recommendation 9.2.1: Focus on multi-language informational materials. Several of our respondents expressed the need for Hawai'i's information outreach to be offered in several languages, including less common ones such as Chuukese and Ukrainian. While Hawai'i's state and nonprofit services do offer a variety of language options, forefronting those options in dissemination is recommended. For various Micronesian languages, including Chuukese, consider the needs of speakers of different dialects. This is a unique challenge for the state of Hawai'i given the significant ethnic and national origin diversity of our population.

Impediment 9.3: Many newly arrived immigrant households may not be eligible for government housing programs and struggle with complex lease agreements. Civil rights advocates have witnessed firsthand the difficulty of gaining interpretation for complicated written communication.

Recommendation 9.3.1: Expand education initiatives. Both our nonprofit and private sector respondents recommended expanding educational outreach programs to reach a

greater portion of LEP populations, and to simplify the wording of both educational and informational materials to assist in comprehension and client-side translation.

Impediment 9.4: Cultural differences, including a reluctance to self-advocate when interacting with managers, landlords, or housing authorities, can also compound language access barriers.

Recommendation 9.4.1: Push to raise awareness of tenant rights among LEP and racial and ethnic minorities. Several of our respondents noted that minority tenants have issues navigating the housing market and landlord relations, and improving their understanding of the rights, protections, and support they have would help these populations to do so. Non-profit organizations can consider engaging translators and community leaders to achieve this. Community leaders in the Micronesian community have found success by partnering with other non-profits in order to be available to also learn about potential remedies to experiences of language-based exclusion in the housing (for example, when tenants do not understand notices shared by housing management and thus risk not responding).

Impediment 9.5: Respondents noted how cultural misunderstandings and implicit or explicit discrimination amongst the public at large against Micronesian -origin people, including Chuukese, Marshallese and Palauan groups or citizens of the Freely Associated States (FAS) is also prevalent in the housing market.

Recommendation 9.5.1: Formation of a committee or advisory council to generate long-lasting and effective solutions to language and racial discrimination in the housing market, and to hopefully guide relatively vulnerable groups, especially diverse Micronesian origin and Pacific Islander groups in finding safe and secure housing.

Recommendation 9.5.2: Provide continued funding and partnership to specific advocacy groups within the Micronesian communities in each county to include them in educational efforts around fair housing rights and to help them successfully navigate difficult rental markets.

11. GENDER AND LBGQT+

Impediment 10.1 Among fair housing complaints received by agencies including HUD, HCRC, and LASH, discrimination on the basis of sex or gender is a top issue. Depending on the agency, it is either the 2nd or 3rd most common type of fair housing complaint (after disability and for one agency, retaliation). This pattern of complaint data suggests strong barriers for fair housing on the basis of sex or gender.

Recommendation 10.1.1: Education and outreach about fair housing rights and avenues to redress experiences of discrimination should make sure to include groups with

expertise on issues related to sex and gender, including experts on provisions of VAWA and domestic violence. Housing agencies and other non-profit housing and civil rights advocates should collaborate with and partner with community leaders in these areas. Future analyses should focus on these topics.

Impediment 10.2 Survivors of intimate partner violence still sometimes face threats of eviction due to disruptive behavior or impacts attributed to the abusive partner, which violate VAWA (Violence Against Women Act) protections. Also, members of the public are unclear about which housing programs (public housing, voucher programs) include a preference for domestic violence victims.

Recommendation 10.2.1: Landlord, property manager, and agency education and training should continue to include attention to VAWA protections and to mitigate illegal evictions related to domestic abuse. Where housing assistance and public housing programs include preference of DV victims, this should also be clearly publicized and discussed in public-facing resources.

Impediment 10.3: LBGTQ+ youth face distinct risks of being homeless and estranged from families and support systems. Such youth also face unique vulnerabilities related to risk of drug use and mental illness.

Recommendation 10.3.1 Policies and programs to serve homeless youth should target LBGTQ+ youth and include attention to addiction and mental illness risks.

Impediment 10.4: Transgender clients face perceived barriers accessing emergency shelters as well as drug treatment or “clean and sober” housing, though expert respondents did not specify why. One possibility is clients may anticipate gender-based discrimination and lack of fit within gender binaries.

Recommendation 10.4.1: Emergency and low-barrier transitional shelters should investigate potential sources of gender- based and transgender discrimination and reasons for perceived exclusion among some transgender clients. Shelters and housing services should continue to use gender-affirming language and reiterate services are available without discrimination based on sex (including gender expression and identity, per state law).

Impediment 10.5: While HIV status is a separate protected status, some advocacy organizations address HIV status as related to gender and transgender status. Respondents report a lack of awareness exists about HIV status as a protected class and report that some landlords appear to discriminate against these groups.

Recommendation 10.5.1: Education programs for landlords and property managers should include attention to protections for HIV status groups.

11A. NATIVE HAWAIIAN HOUSING

Impediment 11.1: There is an exceptionally high rate of Native Hawaiians informally sheltering others. A reduction in Native Hawaiian-led households, due to outmigration or loss of residence, may result in a substantial overall loss of housing stock and shelter for highly vulnerable individuals and families.

Recommendation 11.1.1: Treat efforts to support and increase Native Hawaiian homeownership as a tool to maintain housing and shelter generally, especially for the hidden homeless and barriers unique to them.

Recommendation 11.1.2: Provide targeted support for and partnership with Native Hawaiian-led households informally sheltering hidden homeless and “doubling-up” or experiencing overcrowding.

Impediment 11.2: Data that aggregates Native Hawaiian and Other Pacific Islanders may be insufficient in understanding the issues faced by Native Hawaiians.

Recommendation 11.2.1: Where possible, fund data collection and collect and annually report disaggregated data on Native Hawaiians, as well as Native Hawaiians and other Pacific Islanders, to monitor issues related to housing, including housing discrimination, use of housing vouchers, and other areas directly or indirectly connected to impediments to fair housing choice.

Recommendation 11.2.2: The Hawai‘i Civil Rights Commission should resume such reporting, and all applicable state and county entities reporting housing-relevant data should do the same.

Recommendation 11.2.3: Explore whether adding a state-level prohibition against discrimination based on Indigenous status or Native Hawaiian status may encourage more effective collection and reporting of Native Hawaiian data on housing.

Impediment 11.3: While similarly as likely to be arrested as the general population, Native Hawaiians are highly overrepresented among the incarcerated and formerly incarcerated.

Recommendation 11.3.1: Continue to support and strengthen culturally-grounded re-entry programs, address housing and employment discrimination against those with criminal records, and create post-incarceration housing support initiatives. Non-profit

organizations, among other entities, may consider housing access during community re-entry as within their scopes of work.

Impediment 11.4: Discriminatory practices in the housing and finance/mortgage market have prevented Native Hawaiians from accessing safe, affordable, and fair housing. In addition to its tangible impact on Native Hawaiian home ownership, asset building and access to financial tools, discriminatory practices against Native Hawaiians and other historical injustices foster distrust of financing agencies and government institutions.

Recommendation 11.4.1: Build upon existing financial literacy programs for Native Hawaiians, and provide direct financial assistance for Native Hawaiian renters and home buyers. Personalized and community-based education, engagement-heavy approaches that personalize support and community ties, as well as direct funds, can help overcome traditional financing barriers to housing. This may be especially true when direct support is paired with culturally-grounded financial literacy education and coaching from a trusted, community-based organizations. State agencies and DHHL should consider increasing financial support for such efforts.

11B. HHCA FOCUSED RECOMMENDATIONS

Impediment 11.5: The multigenerational underfunding of DHHL’s mission puts the Department in the position of responding to a mix of urgent, immediate needs and long-term responsibilities. On the urgent, immediate end of the spectrum are homeless individuals on the waitlist, followed by the hidden homeless and other vulnerable populations.

Recommendation 11.5.1: DHHL should continue to emphasize activities that will ultimately contribute to home ownership, while also continuing to expend a limited, targeted amount of resources on rental and transitional housing support for highly vulnerable waitlisted Native Hawaiians.

Impediment 11.6: Practical factors that include scarce funding (relative to need), infrastructure costs for development in rural and/or remote areas leave DHHL with the unideal options if it is to provide long-term housing stability for as many eligible Native Hawaiians as possible.

Recommendation 11.6.1: DHHL’s provision of new housing stock should include a limited, strategic mix of higher-density housing options, especially on O‘ahu.

Recommendation 11.6.2: DHHL should provide clarity as to what forms of financial assistance are available to both homestead lessees interested in building SDUs on their property and HHCA-eligible Native Hawaiians looking to rent out these SDUs.

Recommendation 11.6.3: While secondary to the provision of on-campus long-term housing, DHHL's off-campus rental efforts should carefully consider the rights and well-being of all impacted communities.

Recommendation 11.6.4: To fulfill the vision of the Hawaiian Homes Commission Act, the State of Hawai'i and federal government must provide ongoing, significant additional funding far beyond what has been provided in recent years.

Recommendation 11.6.5: Continue to educate decisionmakers about the benefits for Congressional adoption of Act 80, SLH 2017. However, to result in an overall increase in the number of Native Hawaiians in safe, stable housing, passage of Act 80 must be coupled with further increases in DHHL funding that results in overall increase in HHCA housing stock, as mentioned in the previous recommendation. Consider exploring federal funds for grant writing.

12. USING LOCAL PREFERENCES TO ALLEVIATE THE HOUSING CRISIS

Impediment 12.1: There is a lack of clarity regarding the legality of local preference and prioritization rules in Hawai'i

Recommendation 12.1.1: Seek input from the Department of Housing and Urban Development regarding the fair housing implications of local preferences for subsidized housing in Hawai'i.

Impediment 12.2: There is a shortage of available land, affordable housing for local residents, and opportunities to purchase or rent housing by local residents

Recommendation 12.2.1: Convene a task force composed of experts in housing, including researchers, advocates, financiers, builders, and community members to address the issue of improving housing access to local residents. The task force should be provided sufficient time to fully gather information including analyzing policies in other states, counties, and possibly internationally. In addition, the task force should be charged with developing policy solutions and making recommendations. This type of detailed work will likely take several years to complete, especially if the task force is not funded. Details about best practices for forming such a task force as well as community advisory boards is contained in chapter 12.

In particular, the task force should be charged to review and formulate proposals on the following specific policies that the scoping review identified as promising:

- Implementing housing preferences for low-income housing based on employment location;

- Development of a housing preferences point system that provides points for existing local residents (e.g., having resided in Hawai‘i continuously for the last 5 years), homeless, employment location, parental status, having experienced domestic violence, etc.;
- Implementing government-incentivized deed restrictions with specific recommended template language;
- Creating a down payment support program for individuals who can show historic ties to an ahupua‘a (similar to the Kalipi ruling (Kalipi v. Hawaiian Trust Co., Ltd., 1982) providing gathering rights for individuals who can show historic ties to an ahupua‘a);
- Implementing a community preference for low-income housing applied to individuals who currently reside in an area (Vasudevan, 2024);
- Creating a down payment support program for individuals who meet certain criteria, including, but not limited to: employment location, employment in a key sector, historic ties to an ahupua‘a or community, prior familial ties to a geographic area, parental status, and income.

Impediment 12.3: Even if suitable land exists, ensuring that there is affordable housing that is available for local residents can be a challenge. Zoning policies, out-of-state buyers, use of land for construction of luxury developments or short-term rentals can all present barriers to the development and availability of affordable housing.

Recommendation 12.3.1: Develop and make publicly available handouts of deed restrictions. This handout should provide information to the public as there appears to be movement around this mechanism for maintaining affordable housing. At a minimum, the public should be aware of the benefits, the potential issues, and the process for implementing a deed restriction on their property.

Impediment 12.4: Hawai‘i has some laws and regulations in place that may make the development of a Community Advisory Board difficult; however, it would be a valuable entity to broaden the perspective of State and Counties in Hawai‘i as they develop and implement regulations.

Recommendation 12.4.1: Formation of Community Advisory Board(s). CABs can be key in supporting the development of holistic policies that consider a variety of perspectives. While agencies have mechanisms to solicit input from the community, a CAB is invested in the policymaking process and are selected based on expertise on a topic. Ideally, a shared CAB could be created where different state and county agencies could bring questions to them for feedback.

Impediment 12.5: Hawai‘i’s housing market is one of the most expensive in the nation. As an individual goes through the housing continuum, they are faced with complex decisions some of which may result in prolonged crisis. Because many housing policies and programs are complex it can be difficult for someone in crises to fully understand the best path forward.

Recommendation 12.5.1: Identify funding for housing navigators and support existing housing navigator and counseling programs. Housing navigators support individuals experiencing homelessness or other challenges in becoming adequately housed. Just as a healthcare navigator supports individuals who are experiencing a health crisis, housing navigators support individuals and families who are experiencing housing crises. Housing navigators could be a paid position, but could also be volunteers or could be nonprofit organizations that operate in coordination with state and local entities.

Impediment 12.6: The land and housing conditions that exist in Hawai‘i do not align with those that exist in most of the United States. Not only do we have a very limited amount of land, but as a tropical paradise the land is inflated in value. It is widely recognized that many Hawai‘i residents and, especially Native Hawaiians, have been forced to out-migrate; the failure of affirmative actions to support our residents and Indigenous peoples is inconsistent with the second goal of the Fair Housing Act.

Recommendation 12.6.1: Hawai‘i already restricts the sale of public lands to foreign nationals (Haw. Rev. Stat., 2015), but should consider expanding these limits. Significant leeway exists in how to structure such a restriction to account for the potential benefit of creating stability. For example, creating a prohibition on nonresident foreign nationals from owning more than one home in Hawai‘i or restricting the amount of foreign owned agricultural lands.

Impediment 12.7: Island communities, like Hawai‘i, where the ability to build additional housing or stretch beyond the boundaries of a municipality is not just a theoretical limit, but a physical limit, cannot sustain units sitting empty waiting for the owners to visit for weeks at a time.

Recommendation 12.7.1: Implement a vacancy and second home property tax. Vacancy and second home laws can be seen as a type of foreign home ownership limit law, however, it could apply more broadly. Vacancy taxes and second home taxes do not facially discriminate against non-resident citizens or nonresident aliens. For a review of the benefits of such a tax, see Section 12.8.6. Recent evidence suggests that in certain highly appealing markets, vacancy and second home taxes could be economically fruitful. Working with communities and researchers to better understand the impacts to

local residents should be undertaken by hosting public meetings and supporting data-driven research.

13. IMPEDIMENTS IDENTIFIED BY PROPERTY MANAGERS AND REALTORS

Impediment 13.1: Realtors and property managers identified affordability as a fundamental barrier to housing access in Hawai‘i. These respondents identified barriers on both sides of this issue; on the one hand, households have multiple financial barriers when attempting to qualify for a mortgage or apply for an apartment. On the other side, the perennial shortage of housing relative to demand means that prices are often out of reach for many families born and raised in the state.

Recommendation 13.1.1: Accelerate efforts to increase inventory of available housing supply. We acknowledge this is a broad objective and would direct attention to numerous efforts at the state and local levels that offer a host of recommendations including streamlining the permitting system, upzoning around transit and within the urban core, and subsidy allocation toward affordable housing development.

Impediment 13.2: Challenges faced by individuals with mental health and substance abuse issues who may participate in housing programs such as housing first vouchers may result in landlord hostilities towards subsidized housing programs.

Recommendation 13.2.1: “Housing first” initiatives should never be “housing only” as challenges faced by individuals with mental health and substance abuse issues may result in landlord hostilities towards subsidized housing programs in general. Though a concerted effort to help all individuals, regardless of barriers, sustain their housing will certainly help landlords, it will have even more substantial impacts on renters themselves. Consider integrating services into transitional and supportive property managing organizations and nonprofits. State agencies, where possible, when awarding funding or tax credits to support affordable projects should include incentives and funding for wraparound support services.

Impediment 13.3: Some landlords and housing development professionals perceive that housing programs on the supply side (e.g. housing credit programs) as well as the demand side (e.g. voucher programs) involve administrative burdens and “red tape.”

Recommendation 13.3.1: Reduce administrative burdens of the housing programs, particularly those that disincentivize enthusiastic participation from landlords. Though all

programs need guardrails to prevent exploitation, specific regulations tied to our current housing programs could be reformed. Agencies may solicit public comment on specific rules that could be streamlined. Also, different counties have had success overcoming landlord perception that housing programs are too burdensome by creating regular opportunities for landlords to contact housing staff by phone or through regular meetings and landlord summits or by helping landlords overcome unfair stereotypes about housing programs and gain familiarity with inspection and lease-up responsibilities.

Impediment 13.4: A lack of understanding exists between landlords and property managers on differences between service animals, emotional support animals and pets, as well as the laws for reasonable accommodation. Landlords and property managers report being suspicious of the legitimacy of renters with service animals.

Recommendation 13.4.1: Fair housing education on service animals is needed for both landlords and tenants, even as HUD and other fair housing groups have provided more specific guidance on these issues in ways that attempt to benefit landlord and tenant needs. The more landlords are informed about these issues, the more consistent they will be about providing reasonable accommodations without feeling they are being taken advantage of. This can continue to be a topic of discussion during the April fair housing trainings and other ongoing landlord education initiatives.