

Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois 2007



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Prepared by

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BEST PRACTICE

City of Naperville Analysis of Impediments to Fair Housing Choice Report

Funding Agency: City of Naperville

Contributors: Planning / Communications

Project Description

Communities receiving Community Development Block Grant funds are required to complete an Analysis of Impediments to Fair Housing to identify any public or private sector barriers to fair housing. While many communities approach this requirement as simply an exercise in data compilation, the City of Naperville sought to reinvent the AI by melding sound planning, legal, and sociological practices and principles into a high-quality, comprehensive, and innovative report. The Naperville AI puts forth a proactive comprehensive approach to nipping impediments to fair housing in the bud and bringing a halt to the nascent levels of segregation that are developing so the city can achieve a free housing market without racial discrimination. Considered most innovative is how the AI identifies what the racial and ethnic composition of Naperville would be in a free housing market truly determined by income and housing price and not a market distorted by discriminatory practices.

Table 24: Affordable Rental Costs in Naperville:
1990-2006

YEAR	Naperville		Dupage Co.		Will Co.		Chicago Metro Area	
	Median Rent	Spending More than 30 Percent of Income on Rent	Median Rent	Spending More than 30 Percent of Income on Rent	Median Rent	Spending More than 30 Percent of Income on Rent	Median Rent	Spending More than 30 Percent of Income on Rent
2000	\$942 *	33%	\$885 *	43%	\$686	35%	\$752	45%
2006	\$975	35%	\$919	42%	\$829	37%	\$830	50%

Source: U.S. Census Bureau, American Community Survey, 2002, 2006.

* Naperville figures are from the 2000 decennial census.

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Making Great Communities Happen

2009 BEST PRACTICE AWARD

presented for the

**City of Naperville
Analysis of Impediments (AI)
to Fair Housing Choice Report**

In recognition of an effort that reinvented the AI approach by melding sound planning, legal, sociological practices and principles into a high quality, comprehensive and innovative report.

Presented November 17, 2009
Naperville, Illinois



Naperville

PLANNING COMMUNICATIONS

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Chapter 1

Executive Summary

At the Crossroads

Naperville has reached a crossroads that nearly every growing city in major urban areas faces. City officials can decide whether:

- To proactively seek to restore a free market in housing and continue along the path of affirmatively advancing fair housing choice that Naperville has blazed with its fair housing ordinance and zoning treatment of residential care homes for people with disabilities, or
- Go down the road that far too many cities have followed and allow distortions in the housing market caused by discriminatory practices to produce a Naperville divided into racially and ethnically-segregated neighborhoods.

The recommendations proposed in Chapter 5 of this analysis of impediments to fair housing choice identify and explain how to curtail the discriminatory practices that distort the free housing market and lead to segregated neighborhoods. Implementing these recommendations can help nip in the bud the sort of residential segregation — and reduced housing choices — that plagues so many other larger cities.¹

Findings and Recommendations Summarized

Naperville has become more racially and ethnically diverse since 1980 when it was 96.6 percent Caucasian, 0.4 percent African American, 0.4 percent Hispanic, and 2.5 percent Asian. Today Naperville is about 80 percent White, 4.2 percent African American, 4.6 percent Hispanic, and 12.3 percent Asian.

But, as detailed in Chapter 5, Naperville has quite a way to go before the distortions of the housing market that racial discrimination has caused are overcome. The proportion of Naperville's population that is African American and Hispanic has long been substantially less than what would be expected in a free housing market without practices that discriminate against people on the basis

¹ This “Executive Summary” is no substitute for carefully reading this entire analysis of impediments. By definition an executive summary is just a summary, leaving out 99 percent of the information in the full report. The full report provides an extensive discussion of the data, documentation, and findings that places data in proper perspective and context — which is nearly impossible to accomplish in an executive summary.

of race or ethnicity.² In 1980, Naperville would have been 12.5 percent African American and 4.3 percent Hispanic. In 2000, Naperville would have been 12.6 African American and 8.9 percent Latino. While the low proportions of African Americans and Hispanics continue to reflect ongoing racial discrimination, the proportion of Naperville residents who are Asian (9.7 percent in 2000) exceeds what would be expected in a free housing market (4.2 percent).

This and other data in Chapter 3 suggest that it is very likely that members of the real estate industry still engage in practices that steer African Americans and Hispanics away from Naperville altogether.

And they may be steering minorities away from specific neighborhoods and to others within Naperville. There are early signs that minority concentrations *may* be developing in Naperville. Blacks, who constitute 4.2 percent of the city's population, comprise over 16 percent of one census tract. Hispanics and Asians constitute another 18 percent of that tract's population, creating the city's most intense concentration of minorities. In three other census tracts, the proportion of Asians is more than twice what it is citywide. In three census tracts, the proportion of Hispanics is 50 percent or more of the citywide percentage. And three census tracts are over 92 percent Caucasian.

While these figures are *no cause for immediate alarm*, they are so far out of kilter that they do suggest that the real estate industry may be directing members of minority groups to certain parts of Naperville where substantial numbers of minorities already live and Whites to parts of the city where few members of minority groups reside.

Naperville needs to proactively conduct testing of the sale and rental of residential properties to determine the extent to which racial steering is occurring so the city can work to put an end to these practices. More intensive training of real estate practitioners may be needed to put an end to discriminatory practices. It may be necessary to report violators to the U.S. Department of Housing and Urban Development for prosecution.

It is also possible that some self-steering is taking place in which members of some minority groups may not even consider living in Naperville or in some neighborhoods because they feel unwelcome. The city needs to work to expand the housing choices of members of these groups so they will consider housing they can afford anywhere in Naperville. Naperville needs to promote affirmative marketing of all of its housing to members of all racial and ethnic groups.

Naperville's incredible success has turned housing values into a double-edged sword, making ownership housing unaffordable to a growing proportion

2 The figures that follow reflect what the racial composition of Naperville would be in a free housing market undistorted by racially-discriminatory practices. It's a housing market where income determines who lives in Naperville. As explained at the beginning of Chapter 5, these figures reflect what the racial composition of Naperville would be with the actual mix of housing prices in place in each year and the actual incomes of the population.

of existing residents, not to mention potential residents. By 2000, around 20 percent of Naperville's homeowners were spending 30 percent or more of their gross income on housing.³ In 2006, the proportion of homeowners spending more than 30 percent on housing had risen to 29 percent. Of those Naperville homeowners with incomes under \$50,000, 68 percent were spending more than 30 percent on housing.

In 2000, 20 percent of all Naperville tenants were spending over 40 percent of their income on rent while 14 percent were spending more than half. In 2006, 29 percent were spending more than 35 percent of their income on housing.

To enable people of more modest means to remain in Naperville, the city needs to expand its limited stock of affordable housing and retain the affordable housing that now exists. Mandatory inclusionary zoning may be the most effective tool for producing additional dispersed housing affordable to people of modest means. Rezoning more land to the R3A, R3, and R4 residential districts will expand the opportunities to build additional affordable housing. Converting rental housing to low-equity cooperatives may be the most cost effective way to preserve the affordable housing that now exists in Naperville.

Naperville blazed a trail in support of fair housing choice with its own Fair Housing Ordinance that prohibits discrimination against classes that the nation's fair housing act does not cover. But few residents or potential residents even know it exists. To increase awareness, the city needs to distribute information about the city's Fair Housing Ordinance more widely and make its excellent web page on fair housing easier to find on the city's website. The city needs to make it easier to report potential fair housing violations, including training the city's phone operators on how to handle fair housing calls.

Naperville has been very generous in dispensing financial assistance to the roughly 40 residential care homes (group homes) in the city. Naperville's zoning code is far more receptive to group homes for people with disabilities than other Illinois jurisdictions. But the city continues to impose unwarranted, institutional building code requirements on group homes that detract from their residential nature. There is a need to review city Life Safety and building codes to bring them into compliance with the nation's Fair Housing Act. And there continues to be a need for city officials to exercise leadership to counter not-in-my-back-yard attitudes toward group homes.

Continuing discriminatory housing practices, mostly in the private sector, and Naperville's own success as a desirable place to live jeopardize the progress Naperville has made towards removing impediments to fair housing choice. It is Naperville's decision whether to proactively build on its achievements promoting fair housing, or stand by passively while impediments to fair housing become more entrenched and opportunities to prevent a segregated Naperville pass it by. The choice is Naperville's.

³ It has been long established that a household should not spend more than 30 percent of its gross income on its housing. This standard is discussed in more detail in Chapter 4.

Chapter 2

Basis of This Study

Like all cities that receive Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development, the City of Naperville is obligated to identify, analyze, and devise solutions to impediments to fair housing choice that may exist in the community. Maintaining high ethical standards, Naperville staff prudently contracted with an outside consultant to conduct this analysis under the valid belief that it would be a conflict of interest for a recipient of CDBG funds to conduct the analysis itself.

CDBGs combined what had been a slew of categorical grants to cities and counties into a single grant that gave recipients a fair amount of discretion in how they spent the funds. Passage of the Housing and Community Development Act in 1974 included an instruction from Congress to recipients of Community Development Block Grant (CDBG) funds to “affirmatively advance fair housing.”¹

Since 1968, the U.S. Department of Housing and Urban Development (HUD) has been under an obligation to “affirmatively advance fair housing in the programs it administers.”² In 1996, HUD officials very candidly reported:

“However, we also know that the Department [HUD] itself has not, for a number of reasons, always been successful in ensuring results that are consistent with the Act. It should be a source of embarrassment that fair housing poster contests or other equally benign activity were ever deemed sufficient evidence of a community’s efforts to affirmatively further fair housing. The Department believes that the principles embodied in the concept of “fair housing” are fundamental to healthy communities, and that communities must be encouraged and supported to include *real, effective*, fair housing strategies in their overall planning and development process, not only because it is the law, but because it is the right thing to do.”³

As a condition of receiving these federal funds, communities are required to certify that they will affirmatively advance fair housing. As clearly stated by HUD, benign activities do not make the cut. Seeking to comply with our na-

1 Public Law Number 93–383, 88 Stat. 633 (August 22, 1974). Most of this statute can be found at 42 U.S.C. §§1437 et seq. and 42 U.S.C. §§5301 et seq.

2 Office of Fair Housing and Equal Opportunity, U. S. Department of Housing and Urban Development, *Fair Housing Planning Guide*, (Washington, DC. March 1996), Vol. 1, i.

3 Ibid. Emphasis in original.

tion’s laws, HUD officials have determined that “Local communities will meet this obligation by performing an analysis of the impediments to fair housing choice within their communities and developing (and implementing) strategies and actions to overcome these barriers based on their history, circumstances, and experiences.”⁴

While the extent of the obligation to affirmatively advance fair housing is not defined statutorily, HUD defines it as requiring a recipient of funds to:

- ① Conduct an analysis to identify impediments to fair housing choice within the jurisdiction
- ② Take appropriate actions to overcome the effects of any impediments identified through the analysis, and
- ③ Maintain records reflecting the analysis and actions in this regard.”⁵

Throughout the nation, HUD interprets these broad objectives to mean:

- ➡ Analyze and eliminate housing discrimination in the jurisdiction
- ➡ Promote fair housing choice for all persons
- ➡ Provide opportunities for racially and ethnically inclusive patterns of housing occupancy
- ➡ Promote housing that is physically accessible to, and usable by, all persons, particularly persons with disabilities
- ➡ Foster compliance with the nondiscrimination provisions of the Fair Housing Act.”⁶

While HUD has proffered a multitude of suggestions for producing the required analysis of impediments to fair housing choice, each recipient community is able to conduct the study that fits it within the broad guidelines HUD offers. We have attempted do just that with this report.

The substantive heart of the Fair Housing Act lies in the prohibitions stated in §3604, §3605, §3606, and §3617. It is said that the most important part of these sections is §3604(a) which makes it illegal

To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, **or otherwise make unavailable or deny**, a dwelling to any person be-

4 Ibid.

5 Ibid., 1–2.

6 Ibid., 1–3.

cause of race, color, religion, sex, familial status, or national origin.⁷

The 1988 amendments to the Act added a similarly-worded provision that added discrimination on the basis of handicap in §3604(f)(1) and required that reasonable accommodations be made “in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.”⁸ In addition, the 1988 amendments that reasonable modifications of existing premises be allowed for people with disabilities and that renters must agree to restore the interior of the premises to the condition it was in prior to making the modifications.⁹ The amendments also required new multifamily construction to meet specified accessibility requirements in public areas and individual dwelling units.¹⁰

The highlighted provision, “or otherwise make unavailable or deny,” has been read to include a broad range of housing practices that can discriminate illegally, such as exclusionary zoning; redlining mortgages, insurance, and appraisals; racial steering; blockbusting; discriminatory advertising; citizenship requirements that have the effect of excluding African Americans from an all-white city’s public housing; harassment that would discourage minorities from living in certain dwellings; prohibiting white tenants from entertaining minority guests; and many more.¹¹

As much as practical under budgetary restraints, an analysis of impediments to fair housing choice should seek to determine if any of these practices are present. The Housing and Community Development Act of 1974 clearly states that the intent of Congress that the “primary objective” of the act and “of the community development program of each grantee is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.”¹²

It is clear that one of the key underlying purposes of the Housing and Community Development Act of 1974 is to foster racial and economic integration.¹³ This key goal of the act is reflected in the technical language “the reduction of the isolation of income groups within communities and geographical areas and

7 42 U.S.C. §3604(a). *Emphasis added.*

8 *Ibid.*, §3604(f)(3)(B).

9 *Ibid.*, §3604(f)(3)(A).

10 *Ibid.*, §3604(f)(3)(C).

11 Robert Schwemm, *Housing Discrimination: Law and Litigation*, §13:4–13:16, 2007.

12 42 U.S.C. §5301(e).

13 Daniel Lauber, “The Housing Act & Discrimination,” *Planning*, (February 1975): 24–25.

the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income.”¹⁴

Taken as a whole the act has “the goal of open, integrated residential housing patterns and to prevent the increase of segregation, in ghettos, of racial groups.”¹⁵ With such a panoptic goal, HUD is obligated to use its grant programs “to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases.”¹⁶ “Congress saw the anti-discrimination policy [embodied in the Fair Housing Act] as the means to effect the antisegregation–integration policy.”¹⁷

These purposes of the act have implications for the proper conduct of an analysis of impediments to fair housing choice expressed very clearly this past July when the federal district court in the Southern District of New York ruled “a local government entity that certifies to the federal government that it will affirmatively further fair housing as a condition to its receipt of federal funds must consider the existence and impact of race discrimination on housing opportunities and choice in its jurisdiction.”¹⁸ The court concluded “an analysis of impediments that purposefully and explicitly, “as a matter of policy,” avoids consideration of race in analyzing fair housing needs fails to satisfy the duty affirmatively to further fair housing.”¹⁹

This analysis of impediments seeks to comply with the purpose and spirit of the Housing and Community Development Act and the nation’s Fair Housing Act. Every effort has been taken to conduct a fair and balanced analysis that takes into account the sound planning, housing, and fair housing principles and practices.

Entering this project with no preconceptions except that Naperville is an highly desirable place to live, Planning/Communications approached this analysis of impediments to fair housing choice using the “CSI approach,” namely we let the evidence lead us to our conclusions. Some of the data we uncovered surprised us no less than it will surprise readers of this document. We have attempted to apply sound planning and fair housing principles to the facts we

14 42 U.S.C. §5301(c)(6).

15 *Otero v. New York City Housing Authority*, 484 F.2d 1122, 1134 (2d Cir. 1973).

16 *N.A.A.C.P. v. Secretary of HUD*, 817 F.2d 149, 155 (1st Cir. 1987) (Breyer, J.).

17 *United States v. Starrett City Associates*, 840 F.2d 1096, 1100 (2d Cir. 1988). The discussion in this paragraph is derived in large part from the discussion on pages 24 and 25 of the district court’s decision in *U.S. ex rel. Antidiscrimination Center of Metro New York, Inc. v. Westchester County, New York*, 495 F.Supp.2d 375, 385–386 (S.D.N.Y. 2007).

18 *U.S. ex rel. Antidiscrimination Center of Metro New York, Inc. v. Westchester County, New York*, 495 F.Supp.2d 375, at 387 (S.D.N.Y. 2007).

19 *Ibid.*, 388.

found in order to identify both immediate and potential impediments to fair housing choice and craft recommendations to overcome these impediments.

This is an analysis of “impediments” to fair housing choice. Consequently it focuses on those policies and practices that impede fair housing choice.

Limitations of This Analysis

This analysis of impediments to fair housing choice was prepared for the purposes stated herein. Consequently, it seeks to identify impediments and suggest solutions. However, it does not constitute a comprehensive planning program. Many of the identified issues warrant additional research and analysis by Naperville’s planning staff.

This analysis does not constitute legal advice.

We have assumed that all direct and indirect information that the City of Naperville supplied is accurate. Similarly, we have assumed that information provided by other sources is accurate.

Tempting as it always is to lift statements from any study out of context, please don’t! It is vital that this analysis of impediments be read as a whole. Conclusions and observations made throughout this study are often dependent on data and discussions presented earlier. Readers of early drafts of this analysis have reported that they were surprised to find their questions answered one or two pages later. Context is vital to correctly understanding this analysis and avoiding misleading or erroneous interpretations of its content.

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We would be remiss if we failed to acknowledge the very kind and helpful assistance of Program Analysis Cheryl Geder of the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, who provided prompt and thorough information about fair housing complaints.

We apologize if we left out anybody else who contributed to this report.

And we thank the citizens of Naperville who were consistently helpful and friendly throughout our on-site research.

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Chapter 3

Overview of the City of Naperville

Demographics

The fourth largest municipality in Illinois, Naperville continues to be one of the most dynamic, desirable, well-regarded, prosperous, and fastest growing cities in Illinois and nationally. Between 2000 and 2006, only Joliet and Aurora grew more in both raw numbers and percentages. Naperville, whose population grew by 11.1 percent or nearly 14,300 people during this period, ranks 56th nationally in terms of population growth. As shown in Table 1 below, the U.S. Census Bureau estimates Naperville’s population at 142,901 as of July 1, 2006. This analysis of impediments to fair housing choice finds that as a one of the state’s largest cities, Naperville is beginning to experience some of the phenomena that larger cities typically experience.

Table 1: Naperville Population Growth: 1960–2006

Naperville Population Growth: 1960–2006				
Year	Population	Increase	Percent Increase	Data Source
1960	12,933	—	—	Census Count
1970	22,617	9,684	75%	Census Count
1980	42,601	19,984	88%	Census Count
1990	85,351	42,750	100%	Census Count
1994	100,422	15,071	18%	Estimate
2000	128,358	27,936	28%	Census Count
2001	132,947	4,589	4%	Estimate
2002	136,091	3,144	2%	Estimate
2003	138,494	2,403	2%	Estimate
2004	140,636	2,142	2%	Estimate
2005	141,707	1,071	1%	Estimate
2006	142,901	1,194	1%	Estimate

Source: U.S. Census Bureau

The farming community that Joseph Naper and his family and friends established in 1831 incorporated as a village in 1857 and reincorporated as a city in 1890. Its population began to rapidly grow in the 1960s, and really exploded in the 1980s and 1990s following construction of Interstate 88 (I-88). The city has flourished economically as part of the Illinois Technology and Research Corridor located primarily along I-88. The Census Bureau’s American Community Survey estimates for Naperville a median household income of \$97,077 (Illinois \$52,006, nationally \$48,451), median family income of \$117,110 (Illinois \$63,121, nationally \$58,526), and per capita income of \$44,235 (DuPage County \$35,448, Illinois \$26,514, nationally \$25,257).

As evidenced in Table 2 below, relatively few Naperville residents live in poverty. Poverty rates in DuPage County, where most of Naperville is located, are substantially lower than for the entire State of Illinois. Although poverty rates for most categories are lower in Naperville than for all of DuPage County, the poverty rate among Naperville residents 65 and over is more than three times that of DuPage County and 55 percent greater than the state.

Poverty Rate by Category: 2006			
Category	Naperville Percentage in Poverty	DuPage County Percentage in Poverty	Illinois Percentage in Poverty
Age 65 and over	14%	4%	9%
Related children under 18 years old	1%	6%	17%
All families	2%	4%	9%
Female-headed households	16%	17%	28%
All categories	3%	5%	12%

Source: 2006 American Community Survey

Further study beyond the scope of this report is needed to determine why the poverty rate among people 65 and over is higher in Naperville and how to address the housing needs of these individuals, especially in light of Naperville’s recognition that “communities providing housing for all life stages are more stable communities because residents do not have to move out of the City as their housing needs change.”¹ It is possible that additional lower-cost senior-focused housing is needed, including group homes for the frail elderly.

Over the past 26 years, Naperville’s population has slowly become more racially diverse. Although Naperville’s population remains overwhelmingly Caucasian, the proportion of its Asian population has grown almost four fold since 1980. Since 1980, the proportions of Naperville’s population who are African American and Hispanic have grown nine and a half times while the proportion that is “Some other race” has nearly doubled.

According to Naperville’s *Consolidated Plan 2003–2007*, a minority population of 10 percent or more in an area is considered to be a “minority concentration.” The *1996 Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois*, reported that city staff “did not find any areas within the

1 Naperville Department of Community Development, *Naperville Comprehensive Master Plan 1998 East Sector Update* (Naperville, 1998), 40.

City with more than a ten percent minority population” — a conclusion echoed in the city’s *Consolidated Plan 2003–2007*.²

This 10 percent threshold for identifying minority concentrations is no longer appropriate because Naperville’s population in 2000 was nearly 15 percent minority. Nor can a single figure be applied to all minorities.

For a concentration of a minority group to exist, its proportion in a defined area would have to be more than its proportion of the total city population. For example, in 2000, Asians constituted 9.6 percent of Naperville’s population. Under these circumstances, a Naperville census tract that is 10 percent Asian or even a few percentage points higher would not suggest a concentration — it’s nearly the same as the proportion of Asians in the entire city.

On the other hand, as shown in Table 3 below, African Americans and Hispanics each constituted around 3 percent of Naperville’s population in 2000. A census tract that is 10 percent African American or Hispanic — more than three times the citywide proportion — would suggest a concentration that’s probably due to discriminatory practices that may be at work diminishing fair housing choice.

Conversely, census tracts that are well over 90 percent Caucasian in a city that is 85.2 percent white may also reflect real estate and other practices that interfere with fair housing choice at work.

Table 3: Racial Composition of Naperville: 1980–2006

Racial Composition of Naperville: 1980–2006						
Year	White	African American	Asian	Some Other Race	Two or More Races	Hispanic of Any Race
1980	96.6%	0.4%	2.5%	0.5%	N/A	0.4%
1990	92.9%	2.1%	4.8%	0.4%	N/A	1.8%
2000	85.2%	3.0%	9.6%	0.9%	1.2%	3.2%
2006*	80.2%	4.2%	12.3%	0.9%	1.5%	4.6%

* = Estimates from the *2006 American Community Survey*, U.S. Census Bureau.

Sources: 1980, 1990, and 2000 U.S. Census; 2006 American Community Survey. Rows do not add up to 100 percent due to some dual reporting. Figures from the *2006 American Community Survey* are estimates based on sampling, are subject to sampling variability, and are not as accurate as data from the decennial census. “Hispanic” is not a race and is reported separately because people of any race can be Hispanic.

2 Kent Group, *Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois* (Naperville, August 5, 1996), 17; City of Naperville, *2003–2007 Consolidated Plan* (Naperville, 2003), 25.

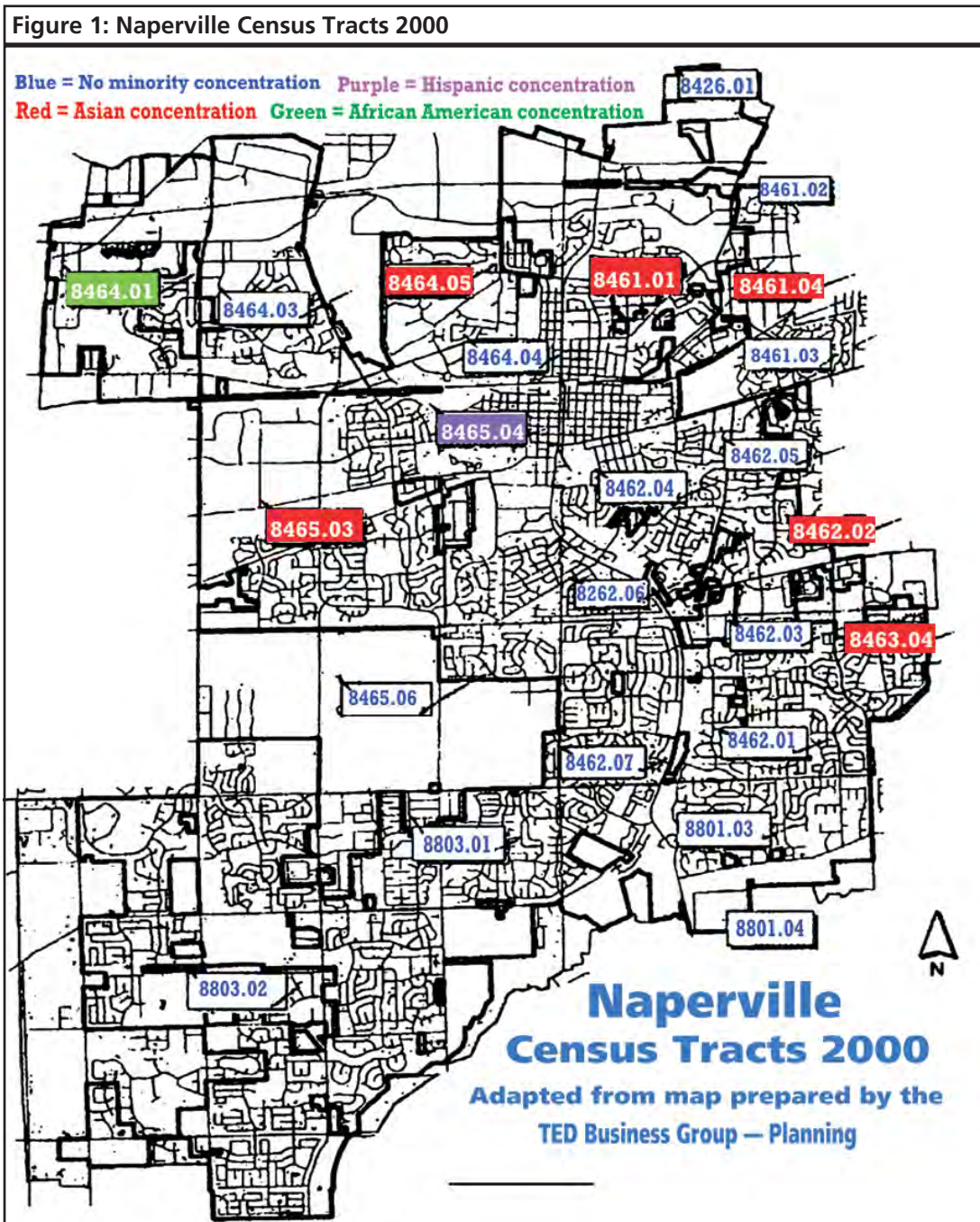
The 2000 census — the most recent highly accurate source of racial composition data by census tract — reveals that several areas of minority concentration are developing in Naperville and that minorities are barely present in others. As explained later in this analysis of impediments, these numbers reflect situations that can lead to greater minority concentrations down the road if the discriminatory practices that cause these distortions in the free housing market continue unfettered.

Table 4: Racial Composition of Naperville by Census Tract: 2000

Racial Composition of Naperville by Census Tract: 2000													
Census Tract	Total	White	Percent White	Black or African American	Percent Black or African American	Asian	Percent Asian	Some Other Race	Percent Some other Race	Two or More Races	Percent Two or More Races	Hispanic of Any Race	Percent Hispanic of Any Race
8461.01	5,990	5,054	84.4%	54	0.9%	780	13.0%	46	0.8%	56	0.9%	181	3.0%
8461.03	3,074	2,853	92.8%	65	2.1%	90	2.9%	23	0.7%	43	1.4%	104	3.4%
8461.04	1,342	1,014	75.6%	34	2.5%	258	19.2%	23	1.7%	13	1.0%	84	6.3%
8462.01	6,203	5,112	82.4%	268	4.3%	662	10.7%	61	1.0%	100	1.6%	208	3.4%
8462.02	1,489	1,148	77.1%	21	1.4%	291	19.5%	10	0.7%	19	1.3%	33	2.2%
8462.03	4,119	3,581	86.9%	59	1.4%	431	10.5%	18	0.4%	30	0.7%	80	1.9%
8462.04	6,667	6,294	94.4%	56	0.8%	233	3.5%	34	0.5%	50	0.7%	97	1.5%
8462.05	3,308	2,785	84.2%	40	1.2%	417	12.6%	12	0.4%	54	1.6%	79	2.4%
8462.06	4,380	4,104	93.7%	79	1.8%	126	2.9%	28	0.6%	43	1.0%	104	2.4%
8462.07	5,717	5,168	90.4%	82	1.4%	384	6.7%	37	0.6%	46	0.8%	129	2.3%
8463.04	5,025	3,674	73.1%	93	1.9%	1,168	23.2%	34	0.7%	56	1.1%	99	2.0%
8464.01	3,418	2,320	67.9%	573	16.8%	362	10.6%	86	2.5%	77	2.3%	257	7.5%
8464.03	6,913	5,848	84.6%	331	4.8%	568	8.2%	76	1.1%	90	1.3%	245	3.5%
8464.04	5,665	4,744	83.7%	218	3.8%	560	9.9%	54	1.0%	89	1.6%	233	4.1%
8464.05	3,328	2,720	81.7%	50	1.5%	503	15.1%	9	0.3%	46	1.4%	71	2.1%
8465.03	11,068	8,777	79.3%	375	3.4%	1,593	14.4%	152	1.4%	171	1.5%	445	4.0%
8465.04	6,014	5,441	90.5%	138	2.3%	218	3.6%	143	2.4%	74	1.2%	467	7.8%
8465.06	7,264	6,202	85.4%	206	2.8%	708	9.7%	69	0.9%	79	1.1%	254	3.5%
8801.03	8,472	7,462	88.1%	136	1.6%	733	8.7%	33	0.4%	108	1.3%	159	1.9%
8803.01	9,106	8,054	88.4%	235	2.6%	673	7.4%	61	0.7%	83	0.9%	221	2.4%
8803.02	19,796	16,991	85.8%	774	3.9%	1,622	8.2%	136	0.7%	273	1.4%	610	3.1%
Totals	128,358	109,346	85.2%	3,887	3.0%	12,380	9.6%	1,145	0.9%	1,600	1.2%	4,160	3.2%

Source: 2000 Census, United States Census Bureau

In 2000, several census tracts are showing high concentrations of specific minorities. These are highlighted in red in Table 4 above. Tract 8464.01 in Naperville’s northwest corner is 67.9 percent white with minority populations of 16.8 percent African American (compared to 3 percent citywide), 10.6 percent Asian, 2.5 percent some other race, 2.3 percent two or more races, and 7.5 percent Hispanic of any race (compared to 3.2 percent citywide). While a census tract with 10.6 percent Asian population in a city with a 9.6 percent Asian population does not suggest any diminution of fair housing choice among Asians, the relatively high percentages of African Americans and Hispanics do. With the substantial 10.6 percent Asian population this tract is at least one-third minority, a concentration that *very likely* results from discriminatory housing practices that distort the free housing market and obstruct fair housing choice.



Data from the 1990 census strongly suggest that this concentration has been building since at least 1990. In 1990, minorities comprised about 15 percent of the population in census tract 8464.01. African Americans made up 10.6 percent of the residents, Asians 3.4 percent, and Hispanics 3 percent (Hispanics can be of any race, so the total of minority groups may not equal the total of “minorities”). In 1990, African Americans constituted 2.1 percent of the citywide population, Asians 4.8 percent, and Hispanics 1.8 percent. With the proportion of minorities doubling in ten years, the data from 1990 and 2000 strongly sug-

gest that the census tract *may* be in the early stages of the kind of racial and ethnic change that leads to resegregation. Eventually this neighborhood *could* become nearly all minority — *if action is not taken to correct these the discriminatory practices that distort Naperville’s free housing market economy.*

Table 5: Naperville Housing Tenure 2000 Census By Race

Census Tract	Naperville Housing Tenure 2000 Census By Race															
	Owner Occupied Households							Renter Occupied Households								
	Total Population (Not Households)	Occupied housing units: Total	Total Number of Occupied Ownership Housing Units	Percent Ownership	White	Black or African American	Asian	Other Races	Two or more races	Total Number of Occupied Rental Housing Units	Percent Rental	White	Black or African American	Asian	Other races	Two or more races
8461.01	5,990	2,101	1,756	83.6%	1,538	13	194	6	5	345	16.4%	283	4	48	6	4
8461.03	3,074	1,101	575	52.2%	543	5	20	2	5	526	47.8%	502	11	4	3	6
8461.04	1,342	427	381	89.2%	304	6	65	5	1	46	10.8%	37	3	4	2	0
8462.01	6,203	2,081	1,768	85.0%	1,583	40	153	7	15	313	15.0%	209	50	37	10	7
8462.02	1,489	542	326	60.1%	284	3	37	0	2	216	39.9%	154	5	51	1	5
8462.03	4,119	1,341	1,286	95.9%	1,152	17	108	2	7	55	4.1%	46	2	5	1	1
8462.04	6,667	2,245	2,139	95.3%	2,053	11	60	7	8	106	4.7%	99	2	3	2	0
8462.05	3,308	1,017	905	89.0%	793	9	97	1	5	112	11.0%	88	3	15	3	3
8462.06	4,380	1,561	1,210	77.5%	1,173	10	19	3	5	351	22.5%	303	18	22	3	5
8462.07	5,717	1,876	1,836	97.9%	1,692	26	107	6	5	40	2.1%	34	1	4	0	1
8463.04	5,025	1,477	1,434	97.1%	1,093	29	305	5	12	43	2.9%	31	2	8	2	0
8464.01	3,418	1,673	248	14.8%	199	15	29	2	3	1,425	85.2%	1,037	225	110	26	27
8464.03	6,913	2,733	1,379	50.5%	1,241	33	83	12	10	1,354	49.5%	1,116	87	116	17	18
8464.04	5,665	2,680	1,448	54.0%	1,360	17	55	6	10	1,232	46.0%	959	86	150	12	25
8464.05	3,328	1,266	1,151	90.9%	997	11	137	0	6	115	9.1%	103	6	1	1	4
8465.03	11,068	4,025	2,912	72.3%	2,384	70	404	25	29	1,113	27.7%	922	81	74	26	10
8465.04	6,014	2,423	1,461	60.3%	1,403	8	37	5	8	962	39.7%	839	45	34	27	17
8465.06	7,264	2,525	2,224	88.1%	1,968	50	183	11	12	301	11.9%	253	23	19	5	1
8801.03	8,472	2,508	2,462	98.2%	2,204	42	188	6	22	46	1.8%	42	2	2	0	0
8803.01	9,106	2,522	2,477	98.2%	2,216	66	171	14	10	45	1.8%	42	2	0	1	0
8803.02	19,796	5,627	5,498	97.7%	4,788	217	445	28	40	129	2.3%	106	11	8	3	1
Total	128,358	43,751	34,876	79.7%	30,908	698	2,897	153	220	8,875	20.3%	7,205	669	715	151	135
Percent	100%	100%	79.7%	—	88.6%	2.0%	8.3%	0.4%	0.6%	20.3%	—	81.2%	7.5%	8.1%	1.7%	1.5%

Note: Data was available only by race. *Hispanic* is an ethnic classification, not a racial classification. Source: 2000 Census, U.S. Census Bureau

In 2000, 85.2 percent of the dwelling units in census tract 8464.01 were rental, making it the most substantial concentration of rental housing in Naperville. African Americans comprise 15.8 percent of the rental households and 6 percent of the ownership households — the highest proportions of any Naperville census tract.

Another high concentration of minority renters is in tract 8462.01 where one third of the 313 tenants are minorities, nearly half African American and more than one-third Asian. The tract overall is 85 percent homeowners, only 13 percent of whom are members of minority groups.

While there are no concentrations of African Americans in other Naperville census tracts, four other census tracts show unusually high concentrations of Asians and/or Hispanics. Tract 8463.04 was 23.2 percent Asian in 2000 while tracts 8461.04 and 8462.02 were 19.2 and 19.5 percent respectively. Tract 8461.04 also had a substantial Hispanic population of 6.3 percent, nearly double the citywide percentage, and with other minority groups added in, was at least 25 percent minority in a city that was between 15 and 18 percent minority.

As of 2000, concentrations of Asians were also developing in tracts 8461.01 (13 percent), 8464.05 (15.1 percent), and 8465.03 (14.4 percent). In a city that is 9.6 percent Asian, these figures are not alarming and could have little influence on fair housing choice. However, they do bear monitoring.

There are no concentrations of Hispanics as intense as the 16.8 percent concentration of African Americans in census tract 8464.01. While Hispanics constitute 3.2 percent of Naperville's population, there *may* be early signs of concentrations appearing in census tracts 8464.01 (7.5 percent) and 8465.04 (7.8 percent). These tracts also bear monitoring, although at this stage these figures are not alarming.

Five census tracts in the heart of Naperville were over 90 percent white in 2000, a situation that suggests that a fair number of real estate agents *may* be illegally steering minorities away from these neighborhoods. Census tract 8462.04 was 94.4 percent white; tract 8462.06 was 93.7 percent; tract 8461.03 was 92.8 percent; tract 8462.07 was 90.4 percent; and tract 8465.04 was 90.5 percent. These tracts bear monitoring. In a free housing market, they should have larger proportions of minorities.

Public Schools

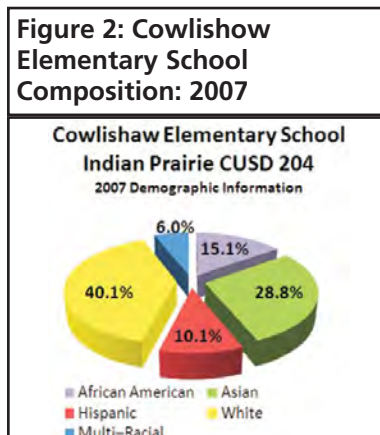
Please note: This examination of the public schools is a candid discussion of racial attitudes that may make readers who have not studied the dynamics of racial segregation and resegregation uncomfortable. There may be a temptation to read into it more than what is stated. Please don't. What is meant is what is written below — nothing more, nothing less.

In the minds of home seekers, the public schools play a major role in determining the desirability of a neighborhood and city. Naperville's school districts — Naperville Community Unit School District 203 and Indian Prairie School

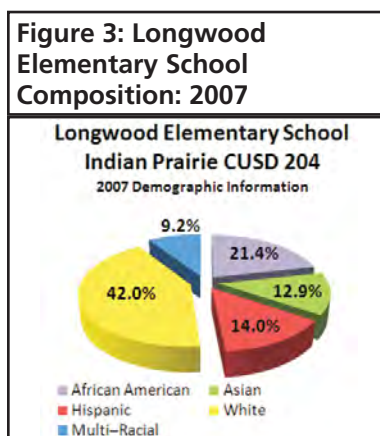
District 204 — continue to be among the top-ranked academically in Illinois. The very high quality of education available at *all* of Naperville’s public schools is one of the city’s most attractive characteristics.

All of the public schools in Districts 203 and 204 that serve Naperville became more racially and ethnically diverse between 1999 and 2007 with the exception of District 203’s Prairie Elementary where the relatively small proportion of Hispanics fell nearly in half and Asians fell by nearly one-fifth.³

More relevant to fair housing choice, however, is that the majority of students at both Longwood and Cowlshaw elementary schools are members of racial or ethnic minorities. *By itself, this means nothing.* Academic performance at both schools is strong — the percentage of pupils at both schools who meet or exceed state standards is around the average for District 204 and *substantially above the state average.*



The racial composition of public schools is significant to fair housing because researchers have long known that changes in school racial composition can foreshadow changes in the racial composition of the surrounding community. The challenge to fair housing derives from the way potential Caucasian home seekers perceive the “quality of schools” as a major factor in choosing a home. No matter how inaccurate this view is and regardless of objective standards, a great many white people perceive predominantly white schools as superior,⁴ and predominantly minority schools as inferior. So even though students at a school may be doing well, there are white people who avoid moving into its attendance area because whites are in the minority at the school.



Throughout the nation, when the student body of a public school has become mostly African American, the school and surrounding neighborhood have nearly always “reseggregated,” changed from nearly all-white to nearly all-black over an average of 13 years. So-called “white flight” does not necessarily take place. White demand for housing in the neighborhood shrinks while the

3 All data on public schools reported here are from the Interactive Illinois Report Card, available online at <http://iirc.nui.edu>. The proportion of Latin pupils at Prairie declined from 4.3 to 2.9 percent, and Asians from 8.2 to 5.7 percent.

4 Juliet Saltman, *A Fragile Movement: The Struggle for Neighborhood Stabilization* (Westport, Connecticut: Greenwood Publishing Group, 1990), page 629 of the 1989 manuscript.

proportion of members of minority groups moving in grows.⁵ *While this kind of resegregation has been the usual pattern, it does not have to be inevitable.*

So far this is *not* the situation at Longwood or Cowlshaw. The student body at both schools represents a very healthy diversity. However, Longwood serves census tract 8464.01 with Naperville's largest concentration of Blacks at 16.8 percent and all minorities at 32.1 percent in 2000. Between 2000 and 2006, the proportion of African American pupils at Longwood has held pretty steady, with a high of 23.2 percent in 2000 and currently 21.4 percent. The proportion of Hispanics at Longworth has nearly tripled, from 5.7 percent in 2000 to 10.9 percent in 2006 and 14 percent in 2007. The proportion of Asians increased by half from 8.1 percent in 2000 to 12.9 percent in 2007. These figures for 2007 suggest that while the proportion of African Americans living in census tract 8461.01 has been quit stable this decade, there *may* have been significant immigration of people of Asian and Latin ancestry and a decline in the number of Caucasian residents since the 2000 census. There is a *possibility* that a majority–minority neighborhood could be developing here.

At Cowlshaw, the proportion of African Americans has quadrupled, from 3.8 percent in 2000 to 15.1 in 2007. The proportion of Hispanics has doubled, from 4.9 percent in 2000 to 10.1 percent in 2007 while the proportion of Asians has increased by more than four–tenths, from 20.4 percent in 2000 to 28.8 percent in 2007. As the proportion of Caucasians at Cowlshaw has declined from 70.9 percent in 2000 to 40.1 percent in 2007, it is *possible* that a majority–minority neighborhood could be developing here as well. About one–third of Cowlshaw's student body lives in Aurora which makes learning where the minority students attending Cowlshaw live more significant.⁶

This is how racially and ethnically integrated neighborhoods begin to “re-segregate” into primarily minority neighborhoods due largely to discriminatory real estate practices that distort the housing market.⁷ Resegregation from a predominantly white or integrated neighborhood to a primarily minority or nearly all–minority neighborhood is *not inevitable as long as action is taken to correct these distortions in the housing market.*

Due to the misinformed attitudes of many Caucasians described above, it would behoove the city to monitor the annual reports of racial composition at Longwood, as well as Cowlshaw, to quickly spot any further shift in racial composition which could reflect a reduction in demand for housing in this neighborhood from any identifiable racial group.

5 Ibid. Also see Daniel Lauber, “Racially Diverse Communities: A National Necessity,” in Wendy Kellogg, ed., *African Americans in Urban America: Contemporary Experiences* (Dubuque: Kendall/Hunt, 1996), 180–200.

6 The percentage of children from low–income households at both schools has *no correlation* to the race or ethnicity of the student body.

7 These phenomena are explained in detail in Chapter 5.

As of this writing, the racial/ethnic composition of these two schools does *not* pose an impediment to fair housing choice. If the city implements the recommendations suggested in Chapter 5, it is likely that strong demand for housing in these two areas from all races and ethnicities will continue and they will establish themselves as stable multi-racial neighborhoods.

Transportation

Like most other affluent outer-ring suburbs, the vast majority of Naperville residents drive their cars to work. Only 1.8 percent of Naperville households lack access to a motor vehicle while 31.1 percent have access to only one vehicle.⁸ The city, though, realizes that the lack of a comprehensive, general transit system can pose a substantial strain on low-income households. The city recognizes that it is hard to afford a car for the 3 percent of its population in poverty in 2006.⁹ It is well-established that proximity to employment is important to people with modest incomes, especially for those at or near the poverty level.

According to the 2006 American Community Survey, 75 percent of Naperville's working residents 16 and over drove to work alone, 5 percent car pooled, 10 percent took public transportation, 1 percent walked, and 2 percent used other means. Their average commute was 33 minutes. The other 8 percent worked at home.

City officials are very much aware of the need to improve transportation in Naperville. The city's *Comprehensive Transportation Plan* explains that "Traffic congestion is often cited as a transportation problem in our region. Air pollution associated with congestion harms the environment, wastes natural resources, and affects human health. Congestion costs people time and money. All of these problems can be translated into quality of life issues for the region and individual communities such as Naperville."¹⁰

It not surprising that like other well off outer-ring suburbs, Naperville does not offer a traditional full public transit system. However, the regional Pace transit system provides bus service to Naperville's primary employment centers including downtown Naperville (mostly retail and restaurant jobs), Westfield Fox Valley Shopping Center, the I-88 Corridor (technology positions, a magnet for high quality office jobs in the region, most Naperville hotels, many service jobs), Route 59 Corridor (office, retail, restaurant jobs), 75th Street Corridor (office, retail, restaurant jobs), Ogden Avenue (office, retail, restaurant jobs), and Edward Hospital (medical) south of downtown.

8 "Selected Housing Characteristics," *2006 American Community Survey*, U.S. Census Bureau.

9 City of Naperville T.E.D. Business Group, *Overview of Naperville Transit Needs and Markets* (Naperville, August 9, 2007), 11.

10 City of Naperville, *Naperville Trip Reduction Plan* (Naperville, 2002), 2.

Commuters constitute the core of Pace bus passengers with 17 Pace routes that feed the two Metra commuter rail stations in Naperville. The Route 59 Train Station has about 5,000 daily boardings, making it the busiest station in the entire Metra system.¹¹ The downtown Naperville station experiences over 3,600 boardings per day. Commuter rail service to Chicago is frequent throughout the day, especially in rush hours. However, the reverse commute from Chicago to Naperville is poorly served with only one express train back to Chicago in the evening and three from Chicago to Naperville in the morning. Express trains reduce the nearly 70 minute Metra commute by a half hour.

Businesses, especially along the I-88 Corridor, have been telling the city that this lack of express service “is a key constraint to attracting and retaining” reverse community “employees from Chicago” and inner-ring suburbs.¹²

Frustratingly, the frequency of Pace bus service to destinations in Naperville has been cut recently due to a lack of state funding. Reductions in public transportation can only make it more difficult for people of modest incomes to get to work and will lead to further traffic congestion and longer commutes for the entire labor force.

Since 2004, Naperville has participated in the Ride DuPage demand-responsive transport system for seniors and people with disabilities, two populations that are among the most transit-dependent.¹³ The city recognizes that the individuals whom Ride DuPage serves will remain transit-dependent and that their numbers will grow as the Naperville population ages and households that include people with disabilities move to Naperville. With the local school districts’ excellent reputation for educating children with disabilities and the substantial number of group homes for people with disabilities in Naperville, the city expects the transit-dependent population to grow. The average monthly ridership has grown from 1,800 in 2004 to 3,533 in early 2007. While the long-term introduction of general transit services would reduce the need for the Ride DuPage demand-responsive transport system, the need for Ride DuPage transit will continue to grow in the short term.¹⁴

11 It is noteworthy that a day care center is located within a block of the station, offering working commuter parents a convenient location. In addition, this day care center is within walking distance of the substantial concentration of multi-family housing to the north and northwest.

12 City of Naperville T.E.D. Business Group, *Overview of Naperville Transit Needs and Markets* (Naperville, August 9, 2007), 7.

13 In a demand-responsive transit system, small vehicles are dispatched to the homes of individuals and then follow a route based on the passengers’ various destinations.

14 *Ibid.*, 6-7.

Employment

Naperville continues to enjoy a vigorous, growing economy that offers many employment opportunities at all skill and salary levels. The city continues to be known as a prestigious corporate address in large part due to corporate, research, and manufacturing offices for top companies as ranked by *Fortune* magazine. For over 20 years, these companies and others have populated major business and industrial parks, largely along the I–88 corridor in Naperville’s north end. These types of companies dominate the list of “Major Naperville Area Employers” shown in Table 6 below.

While the phenomenal economic growth Naperville experienced in the 1900s has slowed as Naperville approaches “build out,” the city has continued to enjoy significant growth in the number of businesses and jobs as illustrated on the next page by Table 7, “Growth in Naperville Private Sector Jobs: 1996–2006” and Table 8, “Private Sector Businesses in Naperville: 1997–2006.”

Major Naperville Area Employers: 2006		
Employer	Nature of Employer	Number of Employees
Edward Hospital & Health Services	Hospital and health services	4,600
Nicor Gas	Natural gas distributor	3,700
Indian Prairie School District #204	Kindergarten through grade 12 school district	3,100
Naperville School District #203	Kindergarten through grade 12 school district	2,435
Lucent Technologies	Telecommunications designer, developer, and manufacturer	1,943
bp Amoco (British Petroleum)	Research and technology center for chemicals, oil, and gas	1,800
OfficeMax	Office supplies, office furniture, business services, copying, printing	1,500
Tellabs	Telecommunications equipment manufacturer	1,338
City of Naperville	City operations and services	1,043
ONDEO Nalco Company	Chemical manufacturing	1,000
Laidlaw	Student and school transportation services	450
North Central College	Comprehensive liberal arts college	450
ConAgra	Manufacturer and marketer of packaged meat and poultry products for the retail sector	380
Calamos Investments	Financial management company	265
Phoenix Closures Inc.	Plastic molding facility/molded closures	230
Solor Communications	Direct mail production including printing and	230
Trizetto Group	Healthcare serving health plan members	225
Kraft Foods	Food processing and production	200
Source: Naperville Development Partnership		

Meanwhile, the size of Naperville’s labor force has grown by 3 to 5.2 percent each year this millennium as illustrated on the next page by Table 9, “Naper-

Table 7: Growth in Naperville Private Sector Jobs: 1996–2006

Growth in Naperville Private Sector Jobs: 1986 – 2006			
Year	Number of Private Sector Jobs	Year	Number of Private Sector Jobs
1986	23,714	1997	50,899
1988	29,614	1998	56,657
1989	33,566	1999	62,714
1990	40,522	2000	63,877
1991	42,995	2001	62,998
1992	44,883	2002	62,371
1993	46,465	2003	60,784
1994	47,782	2004	62,637
1995	48,316	2005	63,632
1996	48,820	2006	66,902

Source: Illinois Department of Employment

Table 8: Private Sector Businesses in Naperville: 1997–2006

Private Sector Businesses in Naperville: 1997–2006	
Year	Number of Private Sector Businesses
1997	3,318
1998	3,451
1999	3,611
2000	3,684
2001	3,681
2002	4,197
2003	4,380
2004	4,539
2005	4,789
2006	5,072

Source: *Where Workers Work 2007*. Illinois Department of Employment, pages 62, 64.

Table 9: Naperville Labor Force: 2000–2006

Naperville Labor Force: 2000–2006				
Year	Size of Work Force	Number Employed	Number Unemployed	Unemployment Rate
2000	72,277	69,982	2,295	3.2%
2001	73,615	70,448	3,167	4.3%
2002	73,315	69,487	3,828	5.2%
2003	73,952	70,151	3,801	5.1%
2004	74,780	71,385	3,395	4.5%
2005	75,180	72,001	3,179	4.2%
2006	76,899	74,572	2,327	3.0%

Source: Illinois Department of Employment Security

Table 10: Unemployment Rates: 2000–2006

Unemployment Rates: 2000–2006			
Year	Naperville	Dupage County	Illinois
2000	3.2%	3.3%	4.5%
2001	4.3%	4.4%	5.4%
2002	5.2%	5.5%	6.5%
2003	5.1%	5.5%	6.7%
2004	4.5%	5.0%	6.2%
2005	4.2%	4.7%	5.7%
2006	3.0%	3.4%	4.5%

Source: Illinois Department of Employment Security

ville Labor Force: 2000–2006.” And while the city’s labor force has grown, its unemployment rate has actually been falling since 2003. As Table 10, “Unemployment Rates: 2000–2006,” shows on the next page, Naperville’s unemployment rate continues to be substantially less than for the state as a whole and a bit less than for all of DuPage County.

The range of industries served by these 66,902 jobs in 2006 runs the full gamut as shown on the next page in Table 11, “Naperville Jobs by Industry: 2006.”

However, in recent years the nature of jobs in Naperville has been shifting away from higher paying jobs and more towards lower-paying service economy positions. These lower-wage service-sector jobs have been growing at three times the rate of higher-salary manufacturing positions transforming DuPage County into a “major hub for lower-wage service-sector jobs.” These lower-wage service-sector positions have grown faster than any other sector in both DuPage and Will Counties.¹⁵

Racial composition of workers compared to residents

As of 2000, the most recent year for which reliable data are available, the proportion of people working in Naperville who were African American or Hispanic was greater than their proportions among Naperville residents.

While 3 percent of Naperville’s population was African American, the proportion of people working in Naperville who were African American was 1.8 times greater, namely 5.4 percent as shown on the next page in Table 12, “People Who Work in Naperville by Race and Ethnicity: 2000.” The proportion of Hispanics working in Naperville was 2.68 times greater than the proportion of Naperville’s residents — 8.6 percent compared to 3.2 percent of residents. Interestingly, the proportion of Asians working in Naperville was nearly one-third of the proportion of Asians living here — 9.6 percent of Naperville residents compared to 6.6 percent of Naperville workers.

Table 11: Naperville Jobs by Industry: March 2006

Naperville Jobs by Industry: March 2006	
Industry (NAICS)	Number of Jobs
ALL INDUSTRIES	66,902
AGRICULTURE, FORESTRY, FISHING, & HUNTING (11)	128
MINING (21)	37
UTILITIES (22)	24
CONSTRUCTION (23)	3,357
MANUFACTURING (31-33)	2,450
FOOD	298
WOOD PRODUCTS	9
PRINTING & RELATED SUPPORT	666
NONMETALLIC MINERAL PRODUCTS	129
PRIMARY METAL PRODUCTS	43
FABRICATED METAL PRODUCTS	265
MACHINERY	52
COMPUTER & ELECTRONIC PDTS.	112
ELECTRICAL EQUIPMENT, APPLIANCES, & COMP.	165
MISCELLANEOUS MANUFACTURING	84
WHOLESALE TRADE (42)	2,756
RETAIL TRADE (44-45)	11,431
TRANSPORTATION & WAREHOUSING (48-49)	1,516
INFORMATION (51)	1,108
FINANCE & INSURANCE (52)	5,114
REAL ESTATE & RENTAL & LEASING (53)	968
PROFESSIONAL, SCIENTIFIC & TECHNICAL SERVICES (54)	9,558
MANAGEMENT OF COMPANIES & ENTERPRISES (55)	2,320
ADMIN. & SUP. & WASTE MANAGEMENT & REMED. SERVICES (56)	6,259
EDUCATIONAL SERVICES (61)	1,289
HEALTH CARE & SOCIAL ASSISTANCE (62)	8,197
ARTS, ENTERTAINMENT & RECREATION (71)	1,012
ACCOMMODATIONS & FOOD SERVICES (72)	5,541
OTHER SERVICES (except PUBLIC ADMINISTRATION) (81)	3,677
Industries in which there were no jobs in Naperville are omitted.	
Source: <i>Where Workers Work</i> Excel data, tables available from the Illinois Department of Employment Security online at http://imi.ides.state.il.us/wwwwork.htm .	

15 Business and Professional People in the Public Interest, *A Snapshot of Affordable Housing Need in Naperville*, (Chicago, December 2006), 1.

These figures have implications for the transportation issues raised earlier, especially for reverse commuters. They also have implications for the basic sound planning principle of enabling people to live near their work so as to minimize the length of their commutes. Living near work helps minimize air pollution and gas consumption, as well as reduce wear and tear on streets and highways (and reduce the frequency of rebuilding them),¹⁶ and foster family values by enabling workers to spend more time with their families rather than in time-consuming commutes.

Table 12: People Who Work in Naperville by Race and Ethnicity: 2000

People Who Work in Naperville by Race and Ethnicity: 2000					
Occupational Group	All Groups	White Non-Hispanic	Black Non-Hispanic	Asian Non-Hispanic	Hispanic
Total Employed in Naperville	67,413	52,632	3,625	4,463	5,814
	100%	78.1%	5.4%	6.6%	8.6%
Management, Business, and Financial Workers	100%	85.2%	5.1%	5.0%	3.3%
Science, Engineering, and Computer Professionals	100%	66.7%	5.0%	22.6%	4.5%
Healthcare Practitioner Professionals	100%	81.6%	3.1%	12.2%	2.0%
Other Professional Workers	100%	89.2%	2.9%	3.3%	3.8%
Technicians	100%	82.9%	7.5%	5.4%	3.3%
Sales Workers	100%	86.1%	4.3%	3.2%	5.4%
Administrative Support Workers	100%	80.8%	7.3%	3.4%	7.8%
Construction and Extractive Craft Workers	100%	87.0%	1.7%	0.9%	9.4%
Installation, Maintenance, and Repair Craft Workers	100%	78.5%	5.1%	5.7%	8.8%
Production Operative Workers	100%	49.2%	6.2%	6.6%	35.0%
Transportation and Material Moving Operative Workers	100%	68.4%	8.1%	0.9%	19.9%
Laborers and Helpers	100%	62.6%	4.8%	1.8%	29.4%
Protective Service Workers	100%	75.1%	20.6%	2.1%	2.2%
Service Workers, except Protective	100%	65.6%	6.1%	6.9%	19.0%

Source: 2000 Census EEO Data Tool at http://www.census.gov/hhes/www/eeoindex/page_c.html

16 City of Naperville, *Naperville Trip Reduction Plan* (Naperville, 2002), 2–3.

Reducing the time spent commuting increases the desirability of living in a community. A well-regarded 2004 study arrived at the “unambiguous conclusion” that, “The length of their commute to work holds a dominant place in Americans’ decisions about where to live. Americans place a high value on limiting their commute times and they are more likely to see improved public transportation and changing patterns of housing development as the solutions to longer commutes than increasing road capacities.”¹⁷

More specifically, this random-sample national survey found:

- “A limited commute time is, for most Americans, an important factor in deciding where to live. Being within a 45-minute commute to work is rated highest among a list of fourteen priorities in thinking about where to live (79% “very” or “somewhat” important), followed by easy access to highways (75%) and having sidewalks and places to walk (72%).
- “A short commute is particularly important to people who plan to buy a home in the next three years (87%) and women and African Americans place high importance on sidewalks and places to walk (76% and 85%, respectively).”¹⁸

These figures also illustrate the need for more housing affordable to people of modest incomes and lend credence to the probability that discriminatory practices against African Americans and Hispanics are at play in the Naperville’s real estate industry. The lower proportion of Asians among Naperville workers than in the city’s population suggests that the city’s growing Asian population is not solely the byproduct of substantial numbers of Asians working in Naperville and that racial steering *may* be occurring.

Availability of land for residential development

Naperville’s phenomenal growth is slowing as reflected in Table 13 below, “Changes in New Construction Building Permits Issued: 1998–2005.” The city is almost built out, with little or no land available for annexation. Employing

17 Belden Russonello & Stewart Research and Communications, *2004 American Community Survey National Survey on Communities* (October 2004), 1. Available online as a PDF file at <http://smartgrowthamerica.org/narsgareport.html>

18 Ibid. 7, 9.

traditional Euclidean zoning, the city has relatively little land left for development.

Table 13: Changes in New Construction Building Permits Issued: 1998–2005

Changes in New Construction Building Permits Issued: 1998–2005				
Year	Single Family Homes Permits	Percent Change From Previous Year	Office and Industrial	Percent Change From Previous Year
1998	2,254	—	37	—
1999	1,948	-13.6%	40	8.1%
2000	542	-72.2%	30	-25.0%
2001	422	-22.1%	36	20.0%
2002	458	8.5%	24	-33.3%
2003	472	3.1%	34	41.7%
2004	370	-21.6%	39	14.7%
2005	368	-0.5%	31	-20.5%

Source: Naperville Development Partnership

By far, the largest category of land use in Naperville is residential, occupying slightly more than half of the city’s land. Eighty–seven percent of the residential land has been developed with single–family housing.

This development has been achieved under a comprehensive plan adopted in 1985 and amended several times by the *1996 Northwest Sector Revision*, *1998 East Sector Update*, *2000 Downtown Plan*, and *2002 Southwest Community Area Plan*.

A thorough review of these plan components reveals no explicit discussion of attainable or affordable housing nor any overt discussion of achieving economic, racial, or ethnic diversity, although city staff, the Plan Commission, and City Council have historically interpreted some statements in city plans as referring to affordable housing. These statements appear on the next two pages. These plans designate substantial amounts of land for additional low-density housing (1.75 to 2.5 dwelling units per acre) with some for medium–density housing (8 dwelling units per acre).

The *Naperville Comprehensive Master Plan 1996 Northwest Sector Revision* calls for new residential construction to maintain the residential densities and

lot sizes that existed. The plan designates 13.2 percent of the land in the sector for low-density residential (2.5 dwelling units per acre) and 14.5 percent for medium density residential development (8 dwelling units per acre). Planning Department staff report that city officials have interpreted the following as including affordable housing for people of modest incomes:

“However, it is also important that a variety of housing types and lot sizes be available to accommodate the needs of a wide range of people who wish to live in our community.... Such variety is particularly meaningful for empty-nesters, newly married couples, single persons, and senior citizens who either want to move into Naperville, or are current residents wishing to relocate into this part of the community.”¹⁹

The *Naperville Comprehensive Master Plan 1998 East Sector Update* allocates 49 percent of the land in the sector (8,689 acres) for low-density residential and 4 percent (734 acres) for medium-density residential development. It recognizes that **“communities providing housing for all life stages are more stable communities because residents do not have to move out of the City as their housing needs change.”**²⁰

Under Goal 2, two policies read:

“Encourage developers to combine a variety of housing types such as townhouses, duplexes, and apartments blended with single-family detached units in a unified and imaginative land use arrangement through the planned unit development process.

Table 14: Existing Land Uses: July 2007

Existing Land Uses: July 2007			
Land Use	Square Miles	Acres	Percentage
Total Residential	16.2	10,350.0	50.3%
Single Family	14.0	8,987.4	43.7%
Two-Family	0.2	135.8	0.7%
Town House	0.6	367.5	1.8%
Multi-Family	1.1	703.7	3.4%
Senior Housing	0.2	155.7	0.8%
Total Commercial	2.5	1,620.0	7.9%
Commercial Service	0.3	213.4	1.0%
Commercial Trade	1.3	816.4	4.0%
Eating/Drinking Establishments	0.1	68.4	0.3%
Office	0.8	522.0	2.5%
Total Industrial	2.0	1,273.3	6.2%
Manufacturing	0.3	171.1	0.8%
Research and Development	0.9	566.9	2.8%
Warehouse/Distribution	0.8	535.2	2.6%
Total Institutional	1.8	1,167.9	5.7%
Educational	1.1	716.8	3.5%
Religious Institutions	0.3	220.2	1.1%
Other Institutional	0.4	230.9	1.1%
Total Open Space/Recreational	6.0	3,867.0	18.8%
Cemetery	0.1	46.8	0.2%
Forest Preserve	0.5	348.8	1.7%
Golf Course	0.9	555.7	2.7%
Parks	4.4	2,807.6	13.6%
Recreational/Entertainment	0.2	108.0	0.5%
Total Other	3.6	2,309.3	11.2%
Transportation Utilities	1.0	626.9	3.0%
Multiple Land Uses	0.0	8.2	0.0%
Undeveloped/Agricultural	0.4	247.7	1.2%
Vacant/Pending Development	2.2	1,426.6	6.9%
Total All Land Uses	32.2	20,587.6	100.0%

Source: Naperville Community Development Department

19 City of Naperville, *Naperville Comprehensive Master Plan 1996 Northwest Sector Revision* (Naperville, 1996), 33.

20 Naperville Department of Community Development, *Naperville Comprehensive Master Plan 1998 East Sector Update* (Naperville, 1998), 40. Emphasis added.

“Medium/high density residential development should be located to provide accessibility and a transition between low density residential and more intensive uses or transportation elements.”²¹

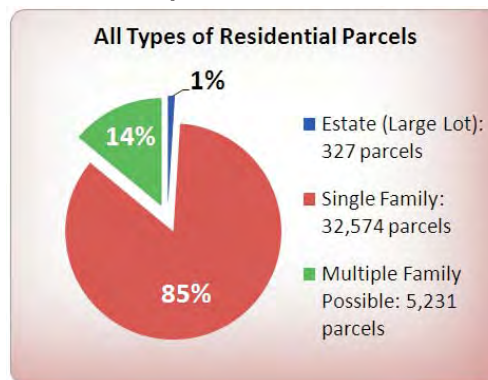
The *Downtown Plan* calls for single-family detached to continue to be the predominant residential use around downtown Naperville while allowing for small townhouse and condominium developments in each of the Transitional Use Areas. The plan says that new housing units might be appropriate above new retail or service uses related to or connected to the commuter station in the transit-oriented development suggested at the intersection of Washington and North avenues. The city will study the land uses in this area in 2008.

The *Southwest Community Area Plan* has the largest amount of undeveloped land remaining in Naperville. The plan calls for 499 acres to be developed as low-density residential, 119 acres as medium-density, 30 acres as high density (up to 15 dwelling units per acre), and 141 acres for senior citizen housing including assisted living developments. One goal of the plan is “A range of housing opportunities meeting a variety of lifestyles.” Staff reports that “variety of lifestyles” has been interpreted as including affordable housing for people of more modest incomes.

A primary tool for implementing Naperville’s plans is its traditional Euclidean zoning ordinance which provides for planned unit developments that allow greater development flexibility and mixed uses. The zoning code also includes a provision for voluntary inclusionary zoning that, of this writing, no developer has used.

As of July 2007, Naperville had relatively little available land that is zoned residential, only 161 parcels. What land is available for residential use is almost entirely zoned for large lot development.

Figure 4: All Types of Residential Parcels in Naperville

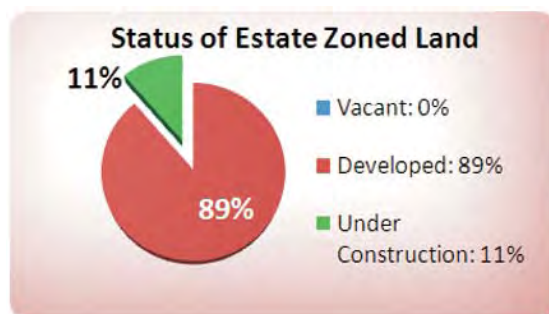


21 Planning staff report that this reference to “a variety of housing types” in the previous paragraph has historically been interpreted to include affordable housing.

Estate Districts

There is no vacant land left in the three estate districts with very large lot zoning (**E1**: 2½ acre minimum lot size; 165 feet minimum lot width; **E2**: 40,000 square feet minimum lot size; 125 feet minimum lot width; **E3**: 20,000 square feet minimum lot size; 35 feet minimum lot width). As of this writing, the 20 parcels left are all under construction.

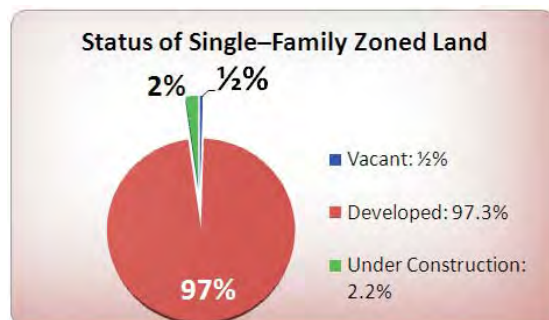
Figure 5: Status of Estate Zoned Land



Single-Family Districts

The rest of Naperville’s exclusively single-family zoning districts are the R1, R1A, R1B and the planned unit development (PUD) versions of them. Nearly all of the remaining vacant parcels zoned any type of residential are in the R1A PUD district where the only residential structures allowed are single-family detached houses with a 10,000 square foot minimum lot size. Even though the R1A PUD district offers the flexibility that planned unit developments permit, the restriction of residential structures to single-family detached housing does not encourage implementing inclusionary zoning there since it doesn’t allow for the attached single-family units or multiple-family dwellings likely to be needed to provide units affordable to households of modest means.

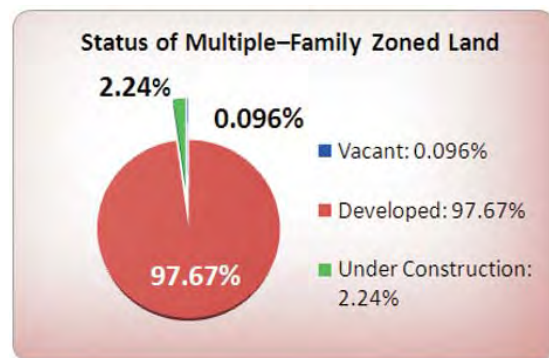
Figure 6: Status of Single-Family Zoned Land



Zoning Districts Allowing Multiple-Family Housing

Naperville’s zoning code offers four districts in which multiple-family housing can be built — if there were any developable land in these districts. As of this writing, there were only five vacant parcels on 2.25 acres in these districts. Infill development in these districts and redevelopment offer the only realistic opportunities for inclusionary zoning that could produce housing affordable to households of modest incomes.

Figure 7: Status of Multiple-Family Zoned Land



In addition to single-family detached homes, the **R2** district allows as of right, two-family dwellings and duplexes, all with a minimum lot size of 6,000 square feet. Although single-family attached homes are not listed as a permitted use in the R2 district, the zoning code says that single-family attached homes require 4,000 square feet per unit in this zone.

The **R3A** zone allows as of right duplexes and single-family detached housing with a 6,000 square foot minimum lot area. Building three or more single-family attached units requires a minimum lot area of 4,350 square feet times the number of dwelling units. Multiple-family dwellings are allowed at up to eight units per acre and a minimum lot size of at least 4,350 or 4,000 square feet depending on when the property was annexed to Naperville.

The **R3** district allows as permitted uses duplexes and single-family detached dwellings with a 6,000 square foot minimum lot area. Three or more single-family attached units require a minimum lot size of 4,000 square feet per dwelling unit. Multiple-family and two-family dwellings and duplexes are allowed as of right. The minimum lot area per dwelling unit for multi-family housing is 2,600 square feet.

The **R4** zone allows as of right all of the residential uses permitted in the R3 zone plus apartment hotels with a minimum lot size of 2,100 square feet per unit (same as for multiple-family buildings). Duplexes and single-family detached units require a 6,000 square foot minimum lot area although when building three or more single-family attached units, 4,000 square feet are required per unit.

The **R5** district allows single-family mobile homes as permitted uses. No land is mapped to the R5 district.

Table 15: New Construction Building Permits Issued: 2001–2007									
New Construction Building Permits Issued: 2001–2007									
Year	Single Family Home Permits	Single Family Dwelling Units	Townhouse Permits	Townhouse Dwelling Units	Duplex Permits	Duplex Dwelling Units	Apartment & Condo Permits	Apartment & Condo Dwelling Units	Commercial Building Permits
2001	422	422	338	338	4	4	68	298	36
2002	441	441	227	227	2	2	79	394	24
2003	460	460	142	142	22	22	42	42	33
2004	366	366	82	82	36	36	37	37	42
2005	368	368	87	87	40	40	257	257	31
2006	249	265	113	97	34	34	26	210	59
2007*	127	127	43	47	2	2	8	4	39
Total	2,433	2,449	1,032	1,020	140	140	517	1,242	264
Figures do not include building permits for additions or alterations, garages, sheds, patio, porch, decks, swimming pools, spas, signs, air conditioning, or site development. * 2007 figures are through August 2007.									
Source: City of Naperville, TED Business Group									

Given the amount of land zoned in each residential district, it is not surprising that slightly more than half of the new residential units constructed with building permits issued during the last six years were single-family dwellings, as shown above in Table 15, “New Construction Building Permits Issued: 2001–2007.” About 25 percent were for multiple-family housing, although no breakdown was available between condominiums and rentals.

Zoning and Housing for People with Disabilities

A great many municipal zoning ordinances fail to make the “reasonable accommodation” for community residences for people with disabilities (group homes, halfway houses, and recovery communities) that the 1988 amendments to the nation’s Fair Housing Act (FHA) require. The FHA requires local jurisdictions to make a “reasonable accommodation” in their zoning rules and regulations to enable community residences for people with disabilities to locate in the same residential districts as any other residential use.²² Relatively few cities have used their zoning codes to affirmatively advance fair housing for people with disabilities.

Naperville’s zoning continues to be the exception. It is among the most receptive zoning in Illinois for community residences for people with disabilities — which Naperville’s zoning code defines as “residential care homes.”

The Naperville zoning code allows any residential care home — which by zoning ordinance definition are for people with disabilities — to locate in every residential district as of right as long as it has any required state license or certification. If a required state license or certification has been denied, the zoning code, by definition, prohibits establishment of the residential care home — a perfectly reasonable and legal provision. If the State of Illinois does *not* require a license or certification, the residential care home is allowed in every residential district as of right.

Naperville’s zoning for group homes is among the most receptive in Illinois.

Given the more restrictive zoning provisions that most other Illinois jurisdictions impose on community residences for people with disabilities, it is fair to report that Naperville’s less restrictive zoning **affirmatively advances fair housing choice** for people with disabilities who wish or need to live in a community residence.

A word of caution. Like other cities with the same type definition of “family” that Naperville uses, Naperville faces a potential legal quandary. While it is *not* likely to come up, city officials should be aware of it and prepared to deal with it in a legal manner.

22 42 U.S.C. §3604(f)(B) (1988).

The city's zoning definition of "family" allows up to three unrelated persons to live together. When "family" is defined as Naperville defines it within the context of the full zoning ordinance, the courts have consistently found that such a definition includes residential care homes for people with disabilities that house three or fewer unrelated individuals. So when a residential care home houses no more than three unrelated people with disabilities, Naperville must allow it as of right in all residential zoning districts, even if a required state license is denied. Due to the definition of "family," such an unlicensed or uncertified home does not violate the zoning code. Because such a home would be illegal under state law but legal under Naperville zoning, it would be up to the State of Illinois to close it. Again, this situation is very unlikely to arise. Our research did not find any instances in Naperville of an occupancy permit being denied to a residential care home with just two or three residents that had been denied a required state license.

We identified 38 residential care homes in the City of Naperville, nearly all for people with physical, developmental, or mental disabilities. One home houses elderly people with disabilities while Serenity House is a recovery community for ten women recovering from drug and/or alcohol addictions. Because the city does not currently maintain a map or listing of existing residential care homes, there may be some additional residential care homes that escaped our review.

The city has provided financial assistance for housing that serves people with disabilities. For fiscal years 2003 through 2008, Naperville has awarded Community Development Block Grant (CDBG) funds totaling \$182,129 to the Katherine Manor Apartments, a 32-unit complex serving low-income people with physical disabilities, managed by the Illinois Independent Living Center. At least two of the units are occupied by people with Section 8 housing certificates.

Serenity House has received \$35,563 in CDBG funding and Social Service awards during this time frame.

For these same years, the city granted \$26,542 in CDBG funds and Social Service awards to the Senior Home Sharing group home that enables seven elderly individuals with disabilities to live in a family-like group home near downtown Naperville. Its Martin Avenue Apartments have received \$86,238 in funding.

Little Friends operates 27 group homes for people with developmental disabilities in Naperville. The city has provided \$686,683 in CDBG funding to Little Friends, including \$225,000 to help purchase a single-family home for use as a residential care home.

The Ray Graham Association operates three group homes for people with developmental disabilities in Naperville and received \$65,035 from Naperville for its homes. Like the officials at Little Friends, Ray Graham officials report that their experiences with Naperville government have been "wonderful." The only problem they report is the lack of existing accessible housing and affordable

housing in Naperville. They report that the cost of vacant land makes new construction of residential care homes prohibitively expensive.

Table 16: Noninstitutionalized Naperville Residents Reporting a Disability: 2006			
Noninstitutionalized Naperville Residents Reporting a Disability: 2006			
Age Range	Number Reporting a Disability	Percentage Reporting a Disability	National Percentage Reporting a Disability
5 through 15	1,618	5%	6%
16 through 64	4,163	5%	12%
65+	3,317	38%	41%
All ages 5 and over	9,098	7%	15%

Source: Naperville city, Illinois; 2006 American Community Survey, Selected Social Characteristics in the United States: 2006; and S1801, Disability Characteristics, 2006 American Community Survey.

The Alliance for the Mentally Ill of DuPage County continues to operate its group home for six very low-income adults with severe mental illness that was the focus of a successful 1996 lawsuit against the City of Naperville when neighborhood opposition led to the city refusing to issue an occupancy permit.²³ In 1993, the City of Naperville had awarded \$96,788 to AMI to help buy a house in which to locate this group home. Substantial neighborhood opposition to the establishment of the group home arose, followed by the city seeking to impose institutional Life Safety Code requirements on the group home. In accord with the majority view, the court found that the city violated the Fair Housing Act and enjoined the city from applying these provisions to the group home.

Since then, the Alliance for the Mentally Ill of DuPage County reports that it has not experienced any problems with the City of Naperville and it has received \$18,650 in CDBG and Social Service awards from fiscal year 2003 through 2008.

In 2006 neighborhood opposition to a proposed group home surfaced and the City of Naperville initially denied zoning approval. Edward Hospital (under its name “Linden Oaks Hospital”) sought to establish Arabella House, a residen-

²³ *Alliance for the Mentally Ill v. City of Naperville*, 923 F. Supp. 1057 (N.D. Ill. 1996). The trial court applied the reasoning used by the Sixth Circuit in *Marbrunak v. City of Stow*, 974 F.2d 43 (6th Cir. 1992). A similar result was reached in *Proviso Association of Retarded Citizens v. Village of Westchester, Illinois*, 914 F.Supp. 1555 (N.D. Ill. 1996). However, in *Hemisphere Building Company v. Village of Richton Park*, 171 F.3d 437 (7th Cir. 1999), the court wrote that it “disapproved” of the two earlier decisions. We are a bit unclear as to the implications of this language and would urge that cities err on the side of caution when applying building and life safety codes to housing for people with disabilities.

tial care home for eight females 16 and older recovering from eating disorders.²⁴ That spring, Edward looked into purchasing three adjacent houses on Edgewater Drive, a block east of the hospital. It purchased two of them, one for use as the group home and the other to use as an office. Vocal opposition arose from among the neighbors. The hospital was under contract to purchase a third house as well, but never bought it.

The city's initial formal response was in a May 26, 2006 letter from Naperville's city manager in which he stated, "From the information the City has been able to acquire thus far, we believe the two recent acquisitions of adjacent houses represent [sic] an intrusion of the existing hospital campus and business use into a residentially zoned district. This conclusion is based on the proximity of the houses to the hospital, the proposed office use, the reliance of the homes on the hospital campus for service such as parking facilities, staff, deliveries and medical services and the hospital's current expansion limitations."

He went on to write, "The establishment of a "group home" should not rely on proximity to the hospital and should have the ability to be located anywhere within the community. Indeed, the therapeutic value of group homes depends upon full integration into a residential area. The consideration of one home for administrative office uses further supports the conclusion." He concluded that the hospital would have to submit an application for a rezoning, presumably for both houses.

On June 16, 2006, Edward Hospital submitted a letter with its proposal for the group home, saying that the hospital would sell the second house. On June 20, the Illinois Department of Public Health confirmed that the state does not require a license for this type of residential care home "as long as no medical or psychiatric services are being provided at the home."²⁵ On June 22, the acting zoning administrator offered a zoning determination in which he wrote that the city had "determined that the use of either of these homes is an expansion of the Edward Hospital and Linden Oaks business uses into a residential area. In order to provide these services at [address omitted] Edgewater Drive, Edward Hospital will be required to file a petition to rezone the property to the appropriate zoning classification."²⁶

The hospital chose to appeal the zoning administrator's decision regarding the house which it proposed to use it as a residential care home. Negotiations

24 Disclosure: Edward Hospital retained the legal services of the primary author of this report in the spring of 2006 on the zoning aspects of this matter. However, the author was not involved in any way with the application to the city nor negotiations with the city. In fact, he learned of the details recounted here only a year later, long after his services to the hospital had ended in 2006.

25 Letter from William Bell, Chief, Division of Health Care Facilities, Illinois Department of Public Health, to Mary Lou Maestro, CEO, Linden Oaks Hospital, dated June 20, 2006.

26 Letter from Daniel DiSanto, Acting Zoning Administrator, and Marcie Schatze, Director of Transportation, Engineering & Development, City of Naperville, to Mary Lou Maestro, President, Linden Oaks Hospital, dated June 22, 2006.

with the city took place and a 20-year agreement was reached in which the city rescinded its zoning determination and issued the necessary permits for the residential care home. Edward Hospital agreed “that it will not own or operate another residential-care home within one half mile of the [boundary of the hospital’s property].”²⁷ The hospital agreed to sell the second house and that it “will be barred and estopped from challenging this Agreement as constituting a violation of any law, including the Fair Housing Act, 42 U.S.C. Section 3601 *et seq.*”²⁸

As of this writing, Arabella House is one of a very few residential group homes that house young women recovering from eating disorders.

The City of Naperville required that a fire and smoke detector system be installed with full access panel to the Naperville Fire Department. Exit signs were also required. Although a secondary means of egress was in place, Arabella House was required to modify the doors in the basement to meet full code requirements as an exit egress.

Operators of other residential care homes in Naperville also reported that they have been required to comply with similar code requirements that are not imposed on other residential uses.

Observations: To avoid misinterpretation of the city’s actions, it is important to note that Naperville officials were quite correct to require a zoning change to allow one house to be used as an office. It certainly would have been an improper expansion of the hospital into the residential district. And the city was quite right to imply that the therapeutic value of the group home would be enhanced by locating further away from the hospital, rather than across the street.

However, the application submitted was only for the residential care home. No matter how much locating away from the hospital might enhance the likelihood of residents fully integrating into the community, Naperville’s zoning code allows every group home as a permitted use in all residential districts with no spacing distance from any other land use. There is simply no basis in Naperville’s zoning code to have suggested that a rezoning was needed for the residential care home itself.

27 Agreement Between the City of Naperville and Edward Hospital, entered into September 5, 2006, 2.

28 *Ibid.*, 3.

Chapter 4

Status of Fair Housing in Naperville

Private Sector Compliance Issues

Fair Housing Complaints and Studies

It would appear that attention to fair housing complaints among the various governmental agencies in DuPage County has declined since Naperville's 1996 *Analysis of Impediments to Fair Housing Choice* was conducted. Efforts to obtain information on fair housing complaints from DuPage County government ran into numerous dead ends. While the Housing Resource Unit in the county's Department of Community Services supposedly fields fair housing complaints and refers them to the HOPE Fair Housing Center, no one at the county could provide any figures on the number of complaints the county had received in any recent year. Even the 2005 analysis of impediments for DuPage County contains no data from the county itself on fair housing complaints it received; all of its data on fair housing complaints came from the HOPE Fair Housing Center.¹

Complaints Filed With the HOPE Fair Housing Center

The HOPE Fair Housing Center reported 408 fair housing complaints and inquiries related to Naperville properties from 2005 through August 2007 as shown below in the table "Naperville Fair Housing Complaints Filed with HOPE Fair Housing: 2005–2007." Some complaints were dual category. For example, the alleged offender may have discriminated on the basis of both race and familial status. Violations involving rental properties outnumbered those involving sales by more than five to one.

Perhaps reflecting the aging population, the highest number of complaints was based on disability with race a close second. However, race outpaced disability when it came to sales by a more than two to one margin. The number of complaints based on familial status and national origin were close behind. Many of the harassment and retaliation complaints were for actions taken by condominium associations against renters of condominium units.

¹ DuPage County Community Development Division, *Analysis of Impediments to Fair Housing in the DuPage County Area* (Wheaton, IL, March 10, 2005).

A sampling of fair housing violations regarding properties in Naperville that HOPE investigated or tested include:

- A new apartment complex failed to make its rental office and many of its units accessible to people in wheelchairs — a violation of fair housing laws. The U.S. Department of Housing and Urban Development (HUD) and HOPE were able to require the developer to make the modifications needed to make the complex wheelchair accessible.
- A condominium association refused to make a reasonable accommodation to an elderly woman with disabilities who requested a parking space close to the entrance to her unit. The association refused to provide the space until HOPE got involved with its attorney and forced it to make the reasonable accommodation.

Table 17: Naperville Fair Housing Complaints Filed with HOPE Fair Housing Center: 2005–2007

Naperville Fair Housing Complaints Filed with HOPE Fair Housing: 2005–2007								
Type of Complaint	All Complaints		Rental		Sales		Other: Including lending and insurance	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Race	105	25.7%	58	23.9%	21	46.7%	26	21.7%
National Origin	78	19.1%	45	18.5%	15	33.3%	18	15.0%
Familial Status	84	20.6%	49	20.2%	0	0.0%	35	29.2%
Disability	119	29.2%	69	28.4%	9	20.0%	41	34.2%
Gender	Not reported	0.0%	Not reported	0.0%	Not reported	0.0%	Not reported	0.0%
Religion	Not reported	0.0%	Not reported	0.0%	Not reported	0.0%	Not reported	0.0%
Harassment	12	2.9%	12	0.0%	0	0.0%	0	0.0%
Retaliation	10	2.5%	10	0.0%	0	0.0%	0	0.0%
Total Reported	408	100%	243	100%	45	100%	120	100%

Source: HOPE Fair Housing Center. The time frame included is 2005 through August 2007.

- A Naperville real estate agent steered a HOPE tester, who was African American to Aurora, and away from primarily white neighborhoods in Naperville, solely because of her race.
- A large apartment complex in Naperville refused to rent to a woman with severe visual impairments who required a certified guide dog. The manager of the complex said that it had a “no pets policy” and it would not make an exception for this woman. HOPE and the woman had to file a lawsuit in federal court because the management refused to change its policy. A settlement was reached shortly before the trial would have started.
- Residents of another Naperville apartment complex were harassing a minority family. Management refused to assist the family until HOPE got involved in the case.

- HOPE encountered numerous “typical race” cases where landlords misrepresent the availability of apartments and/or the terms and conditions of rental leases to members of protected classes.
- HOPE continues to receive a significant number of complaints of discrimination against families with children. These complaints usually involve steering families with children to first floor apartments or so-called “family buildings,” charging higher rents based on the number of children in the family, and outright denial of availability when housing units are actually available.

Of the approximately 4,334 complaints HOPE received from DuPage County, about 9 percent involved property in Naperville.² Naperville accounted for 14.2 percent of DuPage County’s 904,161 population in 2000 and about 15 percent of its estimated population in 2006. Clearly the proportion of fair housing complaints filed with HOPE relative to its proportion of DuPage County’s entire population has declined since Naperville’s 1996 *Analysis of Impediments to Fair Housing Choice* when the city’s proportion of complaints was greater than the city’s percentage of the total county population.

Testing for Housing Discrimination

HOPE has been proactively testing housing practices in Naperville for signs of illegal discrimination. In the spring of 2005, HOPE conducted “Source of Income” tests in Naperville to determine whether apartment owners, managers, and leasing agents (hereinafter referred to as lessors) would rent to tenants with “housing choice vouchers” and if they would, whether they would without regard to race, national origin, disability, or the presence of children (familial status).

Because so much initial screening of prospective tenants is done by phone, HOPE conducted phone tests calling rental listings from that week’s newspaper, not a random sample. All three testers — one Caucasian, one African American, and one Hispanic — passed HOPE’s Voice Screening Panel to make sure they had a racially- or ethnically-identifiable speech pattern.

HOPE’s Caucasian tester made 160 initial calls, of which 60 were answered. Thirty-nine (65 percent) either would not rent to this white person with a housing voucher or knew nothing about the housing voucher program. Twenty-one (35 percent) said they would rent to the caller. The other two testers then called these 21 numbers using the same script, but with the “recognizable” speech pattern of a Latino and African American. Only 42 percent of the lessors would rent to the African American caller and just 52 percent would to the Hispanic caller.

This study suggests that prospective African American tenants can expect to encounter racial discrimination *more than* half the time and Latinos *nearly* half the time.

2 HOPE Fair Housing Center, 2005 *Annual Housing Discrimination Complaint Report*; 2006 *Annual Housing Discrimination Complaint Report*; January 1 to August 30, 2007 *Annual Housing Discrimination Complaint Report*.

In the summer of 2007, HOPE testers called 105 landlords advertising apartments for rent, 65 of whom were in Naperville. The white tester called all 105 lessors while the comparison calls were split between an African American and a Latina tester. Half of the Naperville landlords gave different information to the Caucasian and minority testers. Those landlords either steered the minority tester to a different unit or quoted a different rent, security deposit, or date on which the unit would be available. Test calls made to landlords in Arlington Heights, Cicero, and DeKalb yielded statistically identical results.

HOPE conducted two other studies involving Naperville properties, one of which tested whether landlords would accept a disabled tenant with a service animal. Because the Naperville samples were so infinitesimal, it would not be fair to report such statistically insignificant results here.

The U.S. Department of Housing and Urban Development conducted a *Housing Discrimination Study* in 2002 that found that in the Chicago area African American and Hispanic home buyers faced some form of discrimination in 25 percent of their interactions with real estate agents. It also found that African Americans experienced discrimination 20 percent of the time when seeking to rent and Latinos 25 percent of the time.

Complaints Filed With HUD

The vast majority of fair housing complaints submitted to HOPE do *not* result in lawsuits. However, a small percentage of those that HOPE cannot remedy on its own do move on to the regional Office of Fair Housing and Equal Opportunity of the U.S. Department of Housing and Urban Development (HUD).

Table 18: Types of Naperville Fair Housing Complaints Filed with HUD: 1987–2007

Types of Naperville Fair Housing Complaints Filed with HUD: 1997–2007								
Type of Complaint	All Complaints		Rental		Sales		Not Specified	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Race	19	49%	11	44%	3	50%	5	25%
National Origin	4	10%	2	8%	1	17%	1	5%
Familial Status	3	8%	2	8%	0	0%	1	5%
Disability	13	33%	6	24%	0	0%	7	35%
Gender	2	5%	0	0%	0	0%	2	10%
Religion	1	3%	1	4%	0	0%	0	0%
Retaliation	3	8%	1	4%	1	17%	1	5%
Coercion	6	15%	2	8%	1	17%	3	15%
Total Reported	39	100%	25	100%	6	100%	20	100%

Source: Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development; and Illinois Department of Human Rights. Some of the 35 complaints filed were for two or more types of fair housing discrimination.

As the above Table 18, “Naperville Fair Housing Complaints Filed with HUD: 1997–2007” shows, complaints related to renting outnumbered those related to sales four to one. Race continues to be the most common basis of discrimination in rentals and sales, with disabilities second in rentals. Of the 35 complaints filed with HUD, 13 resulted in a “no cause determination;” nine were resolved or settled; four were withdrawn by the complainant without resolution; three were dismissed for lack of jurisdiction; two were closed because the complainant failed to cooperate; and no reason was given for closing four of the complaints.

Complaints Filed with the Naperville Fair Housing Advisory Commission

As discussed in Chapter 2, Naperville has adopted its own fair housing ordinance that extends protection based on marital status, ancestry, military status, sexual orientation, and legal source of income. In 1996, the City of Naperville created its Fair Housing Advisory Commission (FHAC) in response to the city’s 1996 *Analysis of Impediments to Fair Housing Choice*. The Mayor appointed the first Fair Housing Officer in 1997 and the FHAC held its first meeting on November 7, 1997.

All of the eight complaints filed with the city’s Fair Housing Advisory Commission beginning with 2001 have been for rental situations. Four of the complaints were based on disability, two of which were found to be invalid and two valid. One was resolved; the other was dismissed because the complainant refused to cooperate with the investigation. Two cases were based on racial discrimination, one resolved and one in which discrimination was not found. The case based on familial status was resolved through mediation by the city’s legal director.

One case involved source of income, a class protected by Naperville’s ordinance, but not by the nation’s Fair Housing Act. The landlord had refused to accept the tenant’s Section 8 housing subsidy voucher. The 2003 case was tabled pending the court appeal of a related case and dismissed in 2007 due to the length of time since the complaint was filed. It appears that the provision in Naperville’s Fair Housing Ordinance that prohibits discrimination based on “legal source of income” does not include housing assistance like Section 8 housing choice vouchers.

Table 19: Naperville Fair Housing Complaints Filed with HUD: 1997–August 2007

Naperville Fair Housing Complaints Filed with HUD: 1997– August 2007	
Year	Number of Complaints
2007	4
2006	7
2005	6
2005	4
2003	2
2002	1
2001	1
2000	5
1999	4
1998	0
1997	1

Source: Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development

One reason for so few complaints filed under Naperville’s Fair Housing Ordinance may be the very short 90–day statute of limitations.³ From a practical standpoint, most victims of housing discrimination need more than 90 days to even realize they can file a complaint. There is a need to lengthen the time period in which an alleged victim of housing discrimination can file a complaint with the City of Naperville.

It is very likely that people seeking housing in Naperville are unaware of the city’s more stringent and expansive Fair Housing Ordinance. See the discussion beginning on page 58 for more details. While the city’s website provides a very helpful online page of information about the FHAC and fair housing, it is very difficult to find that page. Neither the FHAC nor “fair housing” is listed in the category tree or its sub–trees on the left–hand side of the website pages. To find the fair housing page, a viewer must conduct a search for “fair housing” and find the link to the FHAC’s page. As with all websites, when users must dig so deep to find information, most users — especially the least computer savvy, which is likely to include those most vulnerable to fair housing discrimination — will give up the effort and never reach Naperville’s very informative FHAC fair housing page.

There is a need to assure that all perspective Naperville home buyers and renters are aware of their fair housing rights under local, as well as federal and state fair housing laws.

Incidents of Hate Crimes and Acts of Racial Violence

While Naperville did not report any hate crimes from 1991 to 1995, it reported nine hate crimes for 2003 through 2006 and no hate crimes in 2007 as of this writing. Three of the crimes were committed against victims who were Jewish and six against victims identified as African American or “multi–racial.”

Table 20: Hate Crimes in Naperville: 2003–2007

Hate Crimes in Naperville: 2003–2007					
Date	Racial Basis	Victim's Race	Race of suspect	Religion Basis	Victim's Religion
2003					
1/4/2003	Yes	African American	Unknown	—	—
2/10/2003	Yes	African American	White	—	—
7/29/2003	—	—	White	Yes	Jewish
11/4/2003	Yes	African American	White	—	—
2004					
9/8/2004	Yes	African American	Unknown	—	—
9/19/2004	—	—	Unknown	Yes	Jewish
2005					
2/8/2005	Yes	African American	White	—	—
2006					
3/25/2006	Yes	Multi-racial	Unknown	—	—
5/1/2006	—	—	Unknown	Yes	Jewish
2007					
No hate crimes reported this year as of October 12, 1007					
Source: Naperville Police Department					

3 Under both federal and Illinois fair housing laws, the statute of limitations is one year from the date of the alleged violation to file with the U.S. Department of Housing and Urban Development or the Illinois Department of Human Rights. A victim has two years if he files directly in federal district or state circuit court.

Home Mortgage Lending Practices

Historically, throughout the nation, roadblocks to fair housing choice have included the practices of the lending community that have denied mortgages to minorities, especially African Americans, at a substantially higher rate than Caucasians. The *Analysis of Impediments to Fair Housing Choice* conducted for Naperville in 1996 found that the denial rates for African Americans and Hispanics from 1992 through 1994 were two to three times greater than for white applicants. The study concluded that, “at a minimum, further scrutiny of the denied applications” was warranted “to determine if these minority applicants were denied for purely economic reasons.”⁴

Table 21: Home Purchase Loan Applications: Naperville 2004–2005								
Home Purchase Loan Applications: Naperville								
Reporting Year: 2005								
Race/Ethnicity	Total Applications	Number Issued	Percent Issued	Approved Not Accepted	Number Denied	Percent Denied	Withdrawn	Closed Incomplete
American Indian or Alaskan	15	10	66.7%	0	5	33.3%	0	0
Asian	1,277	971	76.0%	105	113	8.8%	72	16
African American	450	282	62.7%	42	78	17.3%	35	13
Hispanic	573	396	69.1%	52	75	13.1%	40	10
White	5,191	4,186	80.6%	320	346	6.7%	258	81
Other	160	135	84.4%	11	6	3.8%	7	1
Unknown	554	352	63.5%	61	53	9.6%	74	14
Total	8,220	6,332	77.0%	591	676	8.2%	486	135
Reporting Year: 2004								
Race/Ethnicity	Total Applications	Number Issued	Percent Issued	Approved Not Accepted	Number Denied	Percent Denied	Withdrawn	Closed Incomplete
American Indian or Alaskan	18	12	66.7%	1	4	22.2%	1	0
Asian	1,153	890	77.2%	89	91	7.9%	64	19
African American	438	283	64.6%	55	55	12.6%	36	9
Hispanic	577	423	73.3%	57	56	9.7%	30	11
White	5,525	4,575	82.8%	369	244	4.4%	261	76
Other	185	141	76.2%	23	10	5.4%	6	5
Unknown	769	503	65.4%	59	71	9.2%	116	20
Total	8,665	6,827	78.8%	653	531	6.1%	514	140

Source: Woodstock Institute, compiled from Home Mortgage Disclosure Act Tables

The *Analysis of Impediments* went on to conclude:

“While it is unclear if the lending community can be considered an impediment to fair housing choice in the Naperville

4 Kent Group, *Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois*, (Naperville, August 5, 1996), 39.

area based on HMDA [Home Mortgage Disclosure Act] data alone, other factors such as borrower intimidation, lack of understanding of the home loan application and credit reporting processes, as well as perceived socio-economic barriers are often issues reported by other jurisdictions in their interaction with the lending community. Based on the disparity in loan denial ratios by racial group in the Naperville area during the three year period examined (regardless of whether the denials were based purely on poor credit/economic decisions), we would suggest the local lending community provide education and outreach to the minority community to better prepare applicants prior to submitting a loan application.”⁵

During 2004 and 2005, the overall rate of denials across the board was not much different than in 1992–1994. During the earlier period, denial rates for the total population ranged from 4.4 to 6.2 percent. In 2004–2005, the overall denial rates were 6.1 and 8.2 percent respectively. Disturbingly, denial rates for all categories of minorities rose in this later period. In the 1992–1994 period, 10.9 to 15.5 percent of applications from African Americans were denied. A decade later, the denial rate was 12.6 to 17.3 percent. For Hispanics the denial rates rose less, from a range of 7.2 to 13.2 percent to 9.7 to 13.1 percent. Among Asian applicants, the range rose even less from 3.6 to 6.9 percent up to 7.9 to 8.8 percent. Among the small number of American Indian and Alaskan applicants, the denial rate rose from zero in two years and 18.8 percent in 1993, to a range of 22.2 to 33.3 percent in 2004–2005.

However, to put these denial rates in perspective, they should be compared to the rates for the six-county Chicago metropolitan area shown in Table 22 on the next page.

Across the board, denial rates were higher for every category in the six-county metropolitan area than in Naperville. This data would seem to suggest that either applicants for mortgages in Naperville were generally more qualified for loans than the broader metropolitan-wider population and/or that discriminatory practices were less in Naperville.

What is still missing is the reason loans were denied — that is the key bit of information that would determine whether lending practices are impeding fair housing choice in Naperville. Frustratingly, because the HMDA does not collect that information, it would be prudent for the City of Naperville to get at least a sample of local lenders to provide that information. If the data show that minority applicants were denied loans because they were unqualified, then the concerns raised a decade ago would be no longer valid.

5 Ibid., 40.

Table 22: Home Purchase Loan Applications: Cook, DuPage, Kane, Lake, McHenry and Will Counties: 2004–2005								
Home Purchase Loan Applications: Cook, DuPage, Kane, Lake, McHenry, and Will Counties								
Reporting Year: 2005								
Race/Ethnicity	Total Applications	Number Issued	Percent Issued	Approved Not Accepted	Number Denied	Percent Denied	Withdrawn	Closed Incomplete
American Indian or Alaskan	477	282	59.1%	39	88	18.4%	63	5
Asian	17,476	12,192	69.8%	1,455	2,198	12.6%	1,286	345
African American	42,819	20,556	48.0%	5,236	11,143	26.0%	4,423	1,461
Hispanic	50,348	29,791	59.2%	4,784	9,718	19.3%	4,669	1,386
White	147,112	110,009	74.8%	9,710	14,577	9.9%	9,983	2,833
Other	3,118	2,286	73.3%	230	309	9.9%	238	55
Unknown	21,115	10,610	50.2%	2,869	3,607	17.1%	3,372	657
Total	282,465	185,726	65.8%	24,323	41,640	14.7%	24,034	6,742
Reporting Year: 2004								
Race/Ethnicity	Total Applications	Number Issued	Percent Issued	Approved Not Accepted	Number Denied	Percent Denied	Withdrawn	Closed Incomplete
American Indian or Alaskan	687	365	53.1%	72	171	24.9%	71	8
Asian	15,398	11,178	72.6%	1,360	1,592	10.3%	955	313
African American	34,763	17,926	51.6%	5,282	7,619	21.9%	3,002	934
Hispanic	42,344	26,940	63.6%	4,761	6,480	15.3%	3,038	1,125
White	138,527	106,401	76.8%	10,620	11,329	8.2%	7,595	2,582
Other	3,238	2,412	74.5%	262	293	9.0%	188	83
Unknown	21,965	11,239	51.2%	2,971	3,896	17.7%	3,048	811
Total	256,922	176,461	68.7%	25,328	31,380	12.2%	17,897	5,856

Source: Woodstock Institute, compiled from Home Mortgage Disclosure Act Tables

However, without that additional information, questions remain. Since the denial rates for African Americans in Naperville are roughly three times that of whites in 2004 and 2005, actually a slight increase from 1992–1994, the concerns registered a decade ago about lending to African Americans are still valid. Since the 2004–2005 denial rates for Hispanics is about twice that of Caucasians, these same concerns about lending to Hispanics remain real. Since the 2004–2005 denial rates for Asians are roughly double that of whites when it had been roughly the same as for Caucasians in 1992–1994, these concerns extend to Asians now as well. And since the small American Indian and Alaskan population seeking mortgages in Naperville was denied loans at rates of 22.2 and 33.3 percent in 2004 and 2005 respectively when none were denied in 1992 and 1994 and only 18.8 percent in 1993, it appears that these concerns extend to American Indians and Alaskans now as well.

Enacted in 1977, the Community Reinvestment Act⁶ was intended to encourage depository institutions, consistent with safe and sound banking operations, to help meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods. Ratings are published for specific institutions that the Federal Deposit Insurance Corporation (FDIC) has examined. These banks are rated “outstanding,” “satisfactory,” “needs to improve,” or “substantial noncompliance.” Twenty percent of the depository institutions in Naperville have received ratings of “outstanding.” The rest were all rated “satisfactory.”

Home Appraisal Practices

As found in Naperville’s 1996 *Analysis of Impediments to Fair Housing Choice*, we did not uncover any evidence of discriminatory practices by home appraisers regarding Naperville properties.

Naperville Real Estate Firms and Developers

Real estate firms tend to be the first place where members of the public learn about how the Fair Housing Act can affect them. A regulation issued by the U.S. Department of Housing and Urban Development requires all real estate offices to prominently display the Fair Housing Poster (HUD form HUD-928.1A(8-93)).

In the course of our field work in Naperville, we randomly selected four real estate offices to visit to see if they actually placed the HUD poster in a prominent location. We visited the firms on a Friday in September. One firm had the poster on the wall in its common area where any customer could see it. Two did not. The poster was not in any common area. The fourth firm was closed.

We also checked the brochures for the firms and other advertising to identify the racial/ethnic composition of their agents. The firm with the HUD poster had a racially and ethnically-diverse set of agents. The agents at one firm were all white, although its advertising sign on its front window listed the foreign languages — all European — each agent spoke. However, the photographs of people in this firm’s brochure were racially and ethnically-diverse.

We visited the sales office of a 215-unit condominium conversion and could not find the HUD fair housing poster in any common area where a potential buyer might see it.

We also visited a model home and sales office of one developer. No fair housing poster was visible in the common areas where customers could meet with an agent and read dozens of flyers and brochures about this developer’s homes. All of the employees we saw were white.

6 12 U.S.C. 2901. The Community Reinvestment Act is implemented by Regulations 12 CFR parts 25, 228, 345, and 563e. Ratings for specific banks can be searched online at <http://www2.fdic.gov/crapes>.

This effort was not intended to be a thorough, scientific examination of the racial composition of the professional sales staff at Naperville real estate offices nor of whether or not they place the HUD fair housing poster in a prominent place. It does suggest that more thorough research would be prudent to determine the extent to which real estate offices display the HUD fair housing poster, the hiring practices of real estate offices, and their advertising practices.

Apartment Leasing Firms

Similarly, the leasing offices of apartment complexes are required to display the HUD Fair Housing Poster in a prominent location. We randomly chose two apartment complexes and found that both displayed the HUD fair housing poster in areas where it's likely customers would see it. The promotional package of one development included seven full color photographs showing "residents." Two included African Americans and one included Asians. This complex is located in the census tract 8464.01, the most racially-diverse tract in Naperville.

Real Estate Advertising

We also examined a random sample of real estate publications featuring Naperville properties as well as websites of five builders with developments in Naperville.

Two builder websites had no pictures of people. Three pictured only Caucasians. The fourth featured people of all races, including a Caucasian-Asian couple on its homepage. This builder included a racially/ethnically diverse group of people in a fair number of photographs on its site and in its television commercial.

We also examined six real estate magazines available at the real estate offices we visited in Naperville. Between them, there were two photographs of Asian "home buyers" and one African American. A fair number of real estate agents were pictured in the six magazines. At least five of the agents pictured were Hispanic. None was African American or Asian.

Public Sector Compliance Issues

Land–Use Controls and Building Codes

Residential Care Homes

As discussed beginning on page 31, Naperville allows residential care homes for people with disabilities as a permitted use in all residential districts. The only restriction is that such homes must have any license or certification that the State of Illinois requires. If the state does not require license or certification, the residential care home is allowed as of right.

The 1996 *Analysis of Impediments* reported on the Alliance for the Mentally Ill’s (AMI) successful lawsuit against Naperville for imposing institutional Life Safety Code requirements on AMI’s group home following the development of neighborhood opposition to the home.⁷ Ten years later neighborhood opposition to a residential care home for young women recovering from eating disorders surfaced and was followed by the zoning administrator ruling that the home was not allowed in the R1A district in which it would be situated.⁸

While Naperville’s zoning for community residences for people with disabilities is one of the most receptive to group homes in Illinois, these two events suggest that when neighborhood opposition arises, city officials have been known to impose impediments on the fair housing rights of people with disabilities by misinterpreting or misapplying zoning and/or building code requirements.

It would appear that city staff and other officials could use a refresher course in what the Fair Housing Act means for residential care homes for people with disabilities including how the Fair Housing Act prohibits practices that “often result from false or over–protective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may impose.”⁹

Vigilance Recommended

As noted in the discussion of zoning for community residences that begins on page 31, Naperville’s zoning for residential care homes is one of the most receptive and least restrictive in the State of Illinois. The vast majority of home rule Illinois jurisdictions allow community residences for people with disabilities as permitted uses in residential districts (which is what the Fair Housing Act

7 Discussed beginning on page 33 of this report.

8 See the discussion of the series of events and actions regarding this home beginning on page 33.

9 House of Representatives Report Number 711, 100th Congress, 2nd Session. 335 (1988) *reprinted in* 1988 U.S.C.C.A.N. 2173.

mandates) only if they comply with a spacing distance between group homes and are licensed or certified by the state.¹⁰ Unlike Naperville, many illegally exclude halfway houses and recovery communities for people recovering from alcohol or drug addiction even though they are covered by the Fair Housing Act. If the operator of a proposed community residence wishes to locate within the spacing distance of an existing community residence or the state does not require a license or certification, the proposed community residence must obtain a special use permit. The spacing distance offers the least restrictive approach to enabling community residences to locate in the residential districts in which they belong and prevents concentrations from developing that undermine their ability to achieve the normalization and community integration that is their reason for being.

The risk inherent in Naperville's permissive approach is that concentrations of community residences can develop and become so intense as to create a *de facto* social service district. Our research found several very small concentrations developing — nothing even close to creating a *de facto* social service district yet. To the northwest of the intersection of Plainfield–Naperville Road and 75th Street, three residential care homes are located within 1110 feet of each other; two are within 422 feet of one another, less than a block. Five residential care homes are within 1,425 feet of each other northwest of the intersection of Washington and Ogden. Two are within 211 feet; another three are within 370 feet of each other, two of which are adjacent to each other.¹¹ About half a mile east are two others next to each other. In another part of town, two are within 633 feet of one another. All of these house people with developmental disabilities. The recovery community is only two blocks from one group home for people with developmental disabilities. It is likely, however, that the residents of each of these residential care homes are unaware of the existence of the other home.

It is *extremely unlikely* that any of these homes currently interferes with the ability of other residential care homes to foster normalization or community integration. However, establishing additional residential care homes on the same blocks as these existing clusters *could* very well interfere with normalization and community integration.

While it would seem logical that the operators of residential care homes would try to locate new homes away from existing ones, researchers have documented clustering by some operators going back to 1983.¹² We are aware of instances in other cities where operators have established or sought to establish four to seven community residences adjacent to each other. Consequently,

10 Planning/Communications, *Recommendations to the Illinois General Assembly on Zoning for Community Residences* (Springfield, IL: Illinois Planning Council on Developmental Disabilities, January 31, 1991), 17–20, A–2 — A–11.

11 These may be independent apartments living units, each with three or fewer residents. If that's the case, they comply with the city's definition of "family" and should not be considered residential care homes.

12 General Accounting Office, *An Analysis of Zoning and Other Problems Affecting the Establishment of Group Homes for the Mentally Disabled* (Washington, D.C., 1983).

the city would be prudent to monitor the locations of residential care homes and, if serious clustering starts to develop, consider precautions to prevent more intense concentrations of residential care homes that could interfere with normalization and community integration. We want to stress that only monitoring is called for at this time, nothing more.

Affordable Housing

When it comes to the cost of housing, Naperville's prosperity and desirability become a double-edged sword. While homeowners enjoyed unusually rapid increases in property values during the decade or so preceding 2007, these increases have outpaced increases in household income and altered the affordability landscape in Naperville as well as in similar communities.

Economists and housing experts have long used the rule of thumb that the a home is affordable when its purchase price is no more than two and a half or three times the buyer's gross annual income.¹³ Their other test that applies to both owner *and* tenant households is that housing is affordable if the household spends no more than 30 percent of its gross monthly income on housing. This is not an arbitrary figure. Spending more than 30 percent on housing, leaves a typical lower-, middle-, and upper-middle class household less money for essentials like food, clothing, furniture, transportation, health care, savings, and health insurance. Local businesses suffer the most from this reduction in spending money due to high housing costs. Spending more than 30 percent on housing denies spending to other sectors of the economy unless households strapped for cash go into credit card debt. While it's not surprising that households with modest incomes face the tightest housing cost squeeze, data for Naperville show that the squeeze is also affecting higher income owners of single-family homes to an unanticipated degree.

Affordability of Ownership Housing

To make sense of the plethora of available data, many researchers report on median household incomes and median home values. The median is the middle. For example, half of Naperville's households have incomes above the median and half below it.

On the next page, Table 23, "Affordable Home Ownership Costs in Naperville: 1990–2006," shows how the skyrocketing value of Naperville single-family detached houses has become that double-edged sword.

In 1990, a household with the median income in Naperville (\$60,979) could afford a house costing as much as \$182,937. The median value of a single-family detached house was \$176,200, over \$6,000 less than what a median income Naperville household could afford. So more than half of Naperville's residents could afford to buy a single-family detached house in Naperville — in 1990.

¹³ For purposes of this analysis, we will err on the conservative side and use three times the median income to establish the price of an affordable house in Naperville rather than two and a half times.

Table 23: Affordable Home Ownership Costs in Naperville: 1990–2006

Affordable Home Ownership Costs in Naperville: 1990–2006								
Year	Median Household (HH) Income	Affordable Home Price for the Median HH Income	Median Value of Single-Family (SF) Detached Houses	Median HH Income to Afford Median SF Detached House	Median Value of Townhouses and Condominiums	Median HH Income to Afford Median Townhouse or Condo	Median Home Value of Both Types Ownership Housing	Median HH Income to Afford Median Home Both Types
1990	\$60,979	\$182,937	\$176,200	\$58,733	N/A	N/A	\$176,500	\$58,833
2000	\$88,771	\$266,313	\$295,000	\$98,333	N/A	N/A	\$254,200	\$84,733
2006	\$97,077	\$291,231	\$445,000	\$148,333	\$214,700	\$71,566	\$367,808	\$122,603

Sources: Median household incomes are from the 1990 and 2000 U.S. Census, and 2006 *American Community Survey*, U.S. Census Bureau. The median value of single-family detached homes for 1990 is from the U.S. Census. Median home values for both types of ownership housing in 1990 and 2000 are from the 1990 and 2000 U.S. Census. Median values of single-family detached homes in 2000 and all three home values in 2006 are from the actual completed sales of Naperville residences listed with the Multiple Listing Service (MLS). Note that MLS figures do *not* include homes sold by owner.

Methodology: “Affordable Home Price for the Median HH Income” is three times the “Median Household Income.” The median HH income to afford each type of ownership housing is one-third of the median value for each type of housing.

Between 1990 and 2000, the median household income in Naperville rose 45 percent while the median value of single-family detached dwellings rose 67 percent. While that was great news for existing Naperville homeowners, it was bad news for any household earning less than \$98,333, the gross annual income needed to afford the median priced house in Naperville. In 2000, the actual median price of a single-family detached house (\$295,000) was now \$29,000 greater than the median price affordable to the median income Naperville household (\$266,313). More than half the single-family detached houses were beyond the financial means of more than half of Naperville’s households.

Between 2000 and 2006 the value of houses in Naperville had grown so much that a household at the 2006 median income of \$97,077 earned \$51,256 *less* than it took to afford a median priced house in Naperville. In 2006, even more Naperville households were unable to afford an even larger percentage of Naperville single-family detached houses. The spread between a median priced home affordable to the median income Naperville household (\$291,231) and the actual median value of single-family houses (\$445,000) had grown to over \$153,000 from just \$29,000 at the turn of the century.

The implications of these findings are reflected in other data reported by the U.S. Census Bureau. In 2000, about 20 percent of Naperville homeowners were spending 30 percent or more of their monthly income for housing.¹⁴ Sixty-eight percent of households with annual incomes below \$50,000 were spending more than 30 percent of their monthly income on their houses. In 2006, 29 percent of Naperville’s single-family detached homeowners were spending 30 percent or more of their monthly income to own their houses.

In 2006, a larger proportion of Naperville residents could afford townhouses (single-family attached dwellings) and condominiums than single-family detached houses. In fact, the median household income needed to afford these dwellings was \$25,511 less than the city’s median household income. The catch is that the vast majority of Naperville’s ownership housing is single-family detached houses.

These trends are not unique to Naperville. In DuPage County, the proportion of homeowners who spent more than 30 percent of their income on housing rose from 25 percent in 2002 to 34 percent in 2006. In Will County, the proportion grew from 29 percent to 37 percent. The entire metropolitan area saw an increase from 28 percent in 2002 to 38 percent in 2006. Median incomes and median house values in Naperville were higher in 2002 and 2006 than in DuPage County, Will County, and the metropolitan Chicago area.¹⁵

Affordability of Rental Housing

About 15 percent of Naperville’s housing stock is rental, down from 20 percent in 2000 and 24 percent in 1990.¹⁶ As shown in Table 24, “Affordable Rental Costs in Naperville: 1990–2006,” the *median-income* Naperville household has no problem affording the median rent here. ***However, the vast majority of Naperville tenants earn less than Naperville’s median income. Higher income households tend to own rather than rent.*** Consequently, it is essential to look at the per-

Affordable Rental Costs in Naperville: 1990–2006			
Year	Median Household Income in Naperville	Affordable Rent for the Median Household Income	Median Rent in Naperville
1990	\$60,979	\$1,524	\$698
2000	\$88,771	\$2,219	\$942
2006	\$97,077	\$2,426	\$975

Sources: 1990 and 2000 U.S. Census, and 2006 American Community Survey, U.S. Census Bureau.

14 These housing costs included mortgage payments, property tax, and homeowners insurance.

15 U.S. Census Bureau, *American Community Survey*, 2002, 2006.

16 U.S. Census Bureau, U.S. Decennial Census 1990, 2000.

centage of income rental households are spending on rent to determine actual affordability to tenants as shown below in Table 25, “Rental Affordability for Various Jurisdictions: 2002–2006.

Table 25: Rental Affordability for Various Jurisdictions: 2002–2006

Rental Affordability for Various Jurisdictions: 2002–2006								
Year	Naperville		DuPage County		Will County		Chicago Metro Area	
	Median Rent	Spending More Than 30 Percent of Income on Rent	Median Rent	Spending More Than 30 Percent of Income on Rent	Median Rent	Spending More Than 30 Percent of Income on Rent	Median Rent	Spending More Than 30 Percent of Income on Rent
2002	\$942 *	33% *	\$885	43%	\$686	35%	\$752	45%
2006	\$975	35%	\$919	42%	\$829	37%	\$830	50%

Source: U.S. Census Bureau, *American Community Survey*, 2002, 2006.

* Naperville figures are from the 2000 decennial census.

Within Naperville, 29 percent of all rental households were spending over 35 percent of their gross monthly income on rent in 2006. In 2000, 20 percent were spending over 40 percent on rent while 14 percent were spending more than half.¹⁷ As explained earlier in this chapter, spending over 30 percent of one’s income on rent is stretching it; spending 40 or 50 percent or more poses a serious affordability problem with negative implications for the local Naperville economy. *So while housing is affordable to most Naperville tenant households, it is a serious problem for three in ten tenant households.*

The nearly 30 percent of Naperville’s tenant households that spend 35 percent or more on housing face an affordability problem.

Table 26: Median Income for Various Jurisdictions: 1999–2005

Median Income for Various Jurisdictions: 1999–2006				
Year	Naperville	DuPage County	Will County	Chicago Metro Area
1999	\$88,777	\$67,887	\$62,238	\$51,680
2006	\$97,077	\$73,677	\$72,816	\$57,008

Source: U.S. Census Bureau, *U.S. Census*, 2000, and *American Community Survey*, 2006.

17 Precise comparisons between 2000 and 2006 are impractical because the sources of this data, the 2006 *American Community Survey* and the 2000 Census, use different breakdowns on the percentage of income spent on rent.

With lower median incomes for residents of DuPage County as a whole, Will County, and the entire Chicagoland area, a smaller proportion of their households could find Naperville housing of any type that they could afford.

Conclusions on Affordable Housing

For people in professions that provide essential community services such as teachers, police, firefighters, nurses, and city employees, the relatively high cost of Naperville housing greatly reduces the opportunity to find affordable housing in Naperville, especially ownership housing. A growing proportion of the service and retail employees of Naperville businesses simply cannot afford to live close to their jobs. The shift from higher-paying jobs to lower-wage service sector positions only exacerbates the declining number of affordable housing opportunities in Naperville.

Ownership of single-family detached houses in Naperville is less and less affordable to middle-income households. Ownership of attached dwellings and condominiums is also becoming less affordable to moderate-income households. The city's rental stock remains relatively affordable to households earning at the median, while options for lower-income households such as the elderly, recent high school and college graduates, and service-sector employees, continue to shrink along with the number of rental units in Naperville.

While the increase in housing values has slowed or even fallen in 2007 due in large part to the nationwide mortgage default crisis, a sizeable affordability gap remains in Naperville as well as in other cities. If this gap continues, a growing number of people who work in Naperville will be unable to live in Naperville. Already Naperville employers struggle to attract and retain employees due to the shortage of affordable housing near the jobs. If a full range of housing options is not available to all workforce sectors, it is likely that Naperville will have a difficult time attracting more businesses and maintaining its robust local economy.

Comparative Housing Affordability

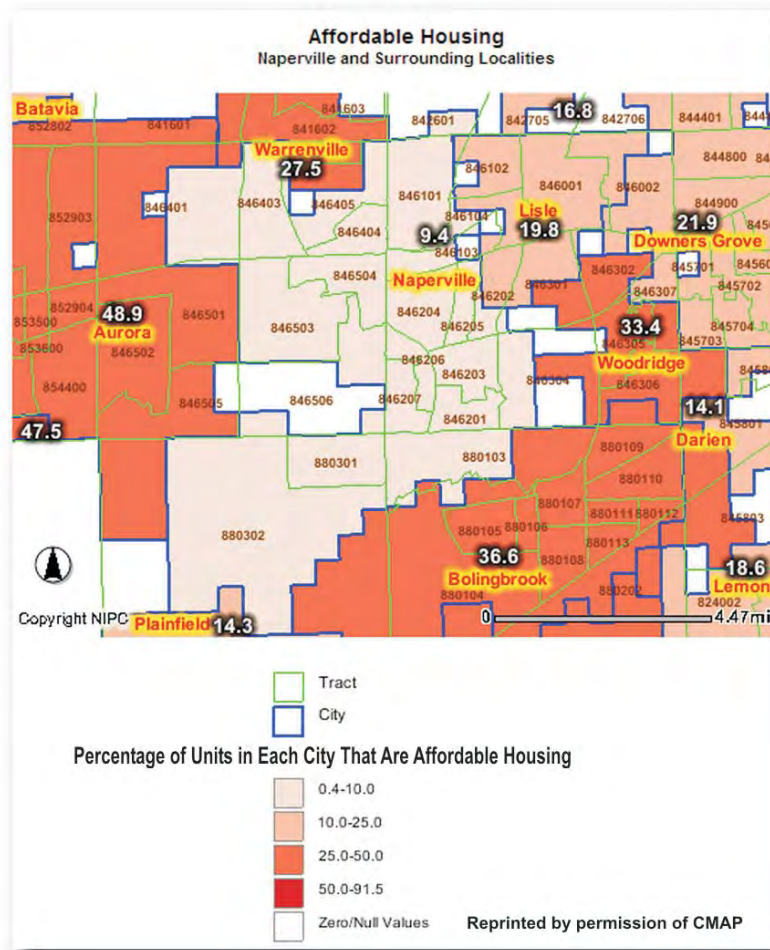
The determinations of housing affordability Illinois Housing Development Authority made as mandated by the Illinois Affordable Housing Planning and Appeal Act cannot be ignored.¹⁸ This study reports that 9.4 percent of Naperville's dwelling units are affordable to working households. In accord with the mandate of the act, the method used to calculate the maximum affordable monthly payment for rental and for-sale housing relied on *regional* income data from the Primary Metropolitan Statistical Area.

"These maximum affordable payments were compared to decennial Census data describing the housing supply in each local government, producing a count of the total number of affordable rental units and affordable for sale units in

¹⁸ Building Research Council, *Report on Affordable Housing Planning and Appeal Act Public Act 93-595, as amended by Public Act 93-678*, (Champaign, IL: University of Illinois, July 23, 2004).

each local government. In the case of for sale units, the maximum affordable monthly payment was first converted to a maximum affordable house value. The total number of affordable units was divided by the total number of housing units to produce the percentage of affordable housing units in each local government.” Statewide, 52.9 percent of housing units were affordable according to the methodology used and required by the state legislation.¹⁹

Figure 8: Affordable Housing Naperville and Surrounding Locations



Source: Chicago Metropolitan Agency for Planning.

Officials from Naperville and some other cities found to have less than 10 percent affordable dwelling units, argue that the Illinois Housing Development Authority should have used a different methodology to calculate affordability, one that relied on *local* income data from each city rather than *regional* data. Under this method, Naperville officials report that 20 percent of the Naperville’s housing is affordable to “working” people living in Naperville.

¹⁹ Ibid., 1. Ownership units are considered affordable if a family earning 80 percent of the area median income does not spend more than 30 percent of its gross income on housing costs while rental units are considered affordable to a family earning 60 percent.

Figure 8 above, “Affordable Housing Naperville and Surrounding Localities,” shows the percentage of units affordable to these households with modest incomes for Naperville and neighboring communities — using the IHDA regional methodology. To place Naperville in perspective, the other DuPage County jurisdictions with a smaller percentage of affordable units than Naperville are Oak Brook (1.6 percent), Wayne (1.99 percent), Burr Ridge (2.9 percent), Hinsdale (8.37 percent), and Oakbrook Terrace (8.83 percent). The 24 other DuPage County municipalities and unincorporated DuPage County have a higher proportion of affordable housing than Naperville.²⁰

As of this writing, there is no legal basis to believe that the methodology the state used is not that required by the state law. Whether or not the methodology the state law requires is a sound approach is apparently open to public debate.

Affordability of Naperville housing may also be falling due to the continuing conversion of rental housing to condominiums. The rental stock has shrunk from 25 percent of the city’s housing stock in 1990 to barely over 17 percent in 2005, further reducing the number of dwellings that working households can afford.²¹

As explained in detail in Chapter 5, the proportions of African Americans and Hispanics living in Naperville in 2000 was well below what would be expected with the cost of housing in 2000 in a free market housing economy. With a growing gap between income and housing costs, this disparity could grow even greater.

Treatment of Proposals to Build Affordable Housing

Both Naperville planning staff and DuPage United told us that since the 1996 *Analysis of Impediments*, two residential developments with affordable components have been proposed and denied approval.

In 2007 the City Council denied minor zoning changes (conditional use, parking variance, plat subdivision) needed for a proposal by the Alden Foundation to build a three-story 51 unit affordable apartment structure for active adults 62 and older. Eighty percent of the units were to be reserved as affordable for 30 years. Neighbors opposed the zoning changes on the basis of storm water run-off, wetland preservation, the necessity of providing two access points, parking and the location of overflow parking, traffic, landscaping, tree preservation, land use consistency, and the height of the proposed structure.

20 DuPage County Development Commission, *DuPage County Consolidated Plan 2005–2009* (Wheaton: DuPage County, 2005) 43.

21 Business and Professional People in the Public Interest, *A Snapshot of Affordable Housing Need in Naperville* (Chicago, December 2006), 2.

The Plan Commission voted against approval due to concerns about parking, density, and traffic.²²

The professional planning staff analysis, however, reported that the developer's proposal fully addressed the concerns and issues raised and was

“...in concert with the East Sector Master Plan's goal of promoting a diverse stock of housing in the city. The proposed project provides an affordable housing alternative to a growing portion of the population (seniors) that is increasingly underserved and marginalized by market forces. The petitioner has also proposed to bring the entire site into compliance with all applicable landscape codes. City staff finds the proposed development to be of a superior quality that will help add a needed service to the residents of Naperville while complying with all provisions related to the R3 Zoning District.”²³

Our research suggests that objections from neighbors led to denial of the application.

The application for the Prairie View Apartments sought to rezone a commercial property for residential use. Following a November 25, 2006 public hearing, the developer scaled back its proposal down from 120 dwelling units, 102 of which would be affordable, to 96 units, 82 of which would be affordable under the Illinois Housing Development Authority's standard.²⁴

Numerous homeowner associations significantly opposed the affordable nature of the development. School District 204 and the DuPage County Forest Preserve District also opposed the rezoning.

To obtain a rezoning, the developer had to provide ample justification to deviate from the city's land use plan. The zoning standards that had to be met to amend the zoning map include:

“2.1. The amendment promotes the public health, safety, comfort, convenience and general welfare and complies with the policies and official land use plan and other official plans of the city; and

“2.2. The trend of development in the area of the subject property is consistent with the requested amendment; and

²² *Memorandum to Peter T. Burchard and Marcie Schatz From Greg Jones* dated February 26, 2007.

²³ *Ibid.*, 6.

²⁴ *See* page 53.

“2.3. The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification; and

“2.4. The property cannot yield a reasonable return if permitted to be used only under the conditions allowed under the existing zoning classification; and

“2.5. The subject property has not been utilized under the existing zoning classification for a substantial period of time; and

“2.6. The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.”²⁵

According to the professional planning staff’s report, the applicant did not meet these criteria. Staff noted, “In closing, staff would like to reiterate that the city is committed to the promotion of affordable housing options but does not feel that the provision of affordable housing should trump all other land use and zoning obligations identified within the city’s various governing policy documents.” The Plan Commission voted to deny the zoning change. The applicant withdrew its application before it went to the City Council.

Accessing Information About Fair Housing

The city’s 1996 *Analysis of Impediments to Fair Housing Choice* reported that there was “no definitive contact within Naperville for fair housing complaint intake and assistance.” The city has sought to overcome this impediment by making the city’s Community Grants Coordinator the city’s Fair Housing Officer and liaison to the city’s Fair Housing Advisory Commission.

However, a citizen trying to learn whom to contact stills runs into some barriers. To see if a citizen who feels he’s been discriminated against can get help with a possible fair housing complaint, we called the city’s main number, 630/420–6111 during business hours. The operator was initially stumped, but quickly thought to transfer us to Code Enforcement. There we got a very kind woman who immediately said that her department did not handle fair housing complaints. She finally remembered that somebody named Katie handled them. She eventually transferred us to the proper person.

We also called the Community Relations Department — a department many people would intuitively think of when fair housing comes up — and got a very friendly individual who initially admitted to not having a clue, but then ran through a number of acronyms in her mind and gave us Katie’s number. She

²⁵ Naperville, Illinois City Code, §6–3–7.

told us that Katie would probably tell us to go to the city’s website and conduct a search for “fair housing.”

Once a potential complainant reaches the Fair Housing Officer, he will be well served. The officer either mails or emails the person a complaint intake form and describes the procedure to him. Staff provides professional assistance and advice to the commission. Staff will informally suggest that the potential complainant file a complaint with the HOPE Fair Housing Center. If the complainant is interested in HOPE, staff provides contact information for HOPE. The Fair Housing Officer handles the complaint administratively. She forwards the complaint to the chairperson and secretary of the FHAC and the City Attorney. If the FHAC determines at its next meeting that the face of the complaint states a violation, the chairperson appoints a panel of at least three commission members to review it. The review panel may request additional information from the charged party and may seek to settle the matter by mediation. The panel makes a report to the full FHAC stating whether there is probable cause for filing the complaint and whether the complaint should go to the full commission for a public hearing. A public hearing with due process rights may be conducted. A decision based on written findings of fact is produced. The city council may review the FHAC’s decision and can require additional information from the parties. Judicial review would be the next step.

If you go to the city’s website, the only ways to get to the very helpful page on fair housing are to conduct a search for the term “fair housing” or select “Government” from the home page’s category tree, choose “Boards and Commissions,” and then select “Fair Housing Advisory Commission” — a process that is hardly intuitive.

The page itself is called “Fair Housing Advisory Commission.” Its content is quite helpful and fairly intuitive. Near the top of the page is an easily accessible link to the “Complaint Process.” While some reorganization of material could make it even easier to use, it provides more useful information than comparable pages on the websites of other Chicago–area cities. An aggrieved party can download a complaint form; compare the fair housing ordinances of the city, State of Illinois, and the nation; see a list of actions that constitute housing discrimination; read examples of statements that constitute housing discrimination; see several ways to contact the Fair Housing Advisory Commission about a possible complaint; and get some “fair housing tips” when searching for a place to live. Links are provided to the HOPE Fair Housing Center, Chicago Area Fair Housing Alliance, Illinois Department of Human Rights, and the Office of Fair Housing and Equal Opportunity of the U.S. Department of Housing and Urban Development.

The page, however, does not alert viewers that a fair housing complaint must be filed within 90 days of the alleged discrimination. Because this time frame is so much less than the one to two years allowed under federal and state fair housing law, it is crucial that potential complainants under Naperville’s fair housing law be quickly apprised of the much shorter statute of limitations.

Chapter 4: Status of Fair Housing in Naperville

The page also includes a list of the classes protected by Naperville's more expansive fair housing ordinance. This list is buried in the middle of a long paragraph. Because Naperville's law covers more classes of people than the federal law, the city might want to highlight this list of classes to make it easier to spot, perhaps by listing them in a sidebar.

Chapter 5

Impediments and Possible Solutions

Naperville's Makeup in a Free Housing Market

One of the most insightful and objective tools for determining whether impediments to fair housing choice exist is to compare the actual racial composition of a city with what the racial composition would be in a free housing market undistorted by discrimination. In a free housing market economy, household income, not race nor ethnicity, determines who lives in the community. On the following pages, Figures 9, 10, and 11 each show what the racial composition of Naperville was in 1980, 1990, and 2000 respectively, and what the racial composition would have been if housing were a free market without the distortions caused by racially discriminatory housing practices, largely by the private sector.

When the actual proportions of minorities are significantly less than the proportions that would exist in a free housing market, it is very likely that factors other than income, social class, or personal choice are influencing who lives in the community. Researchers have concluded “that race and ethnicity (not just social class) remain major factors in steering minority families away from some communities and toward others.”¹

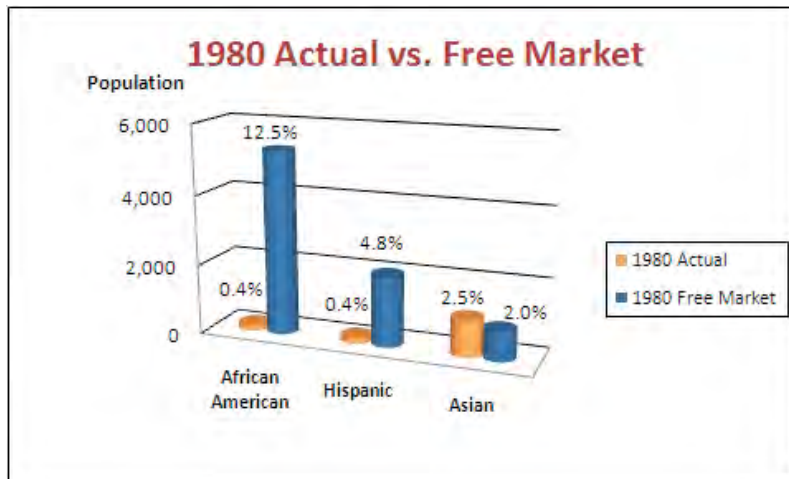
These figures can show whether impediments to fair housing choice based on race or ethnicity are present in Naperville. In addition, the 20-year longitudinal view going back to 1980 can reveal the degree of progress Naperville is making toward removing impediments to fair housing choice for the racial and ethnic groups that have historically faced housing discrimination nationally.

To place Naperville's data in perspective, in 1980 there were only nine municipalities in the Chicago region where the actual percentage of African Americans was within five percentage points of the percentage expected in a free housing market. By 1990, only four of these nine still had a proportion of Afri-

1 D. Coleman, M. Leachman, P. Nyden, and B. Peterman, *Black, White and Shades of Brown: Fair Housing and Economic Opportunity in the Chicago Region* (Chicago: Leadership Council for Metropolitan Open Communities, February 1998), v. The methodology, first developed by Harvard economist John Kain, is explained in detail beginning on page 17. A PDF file of the entire study (28.1 megabytes) can be downloaded at <http://www.luc.edu/curl/pubs>.

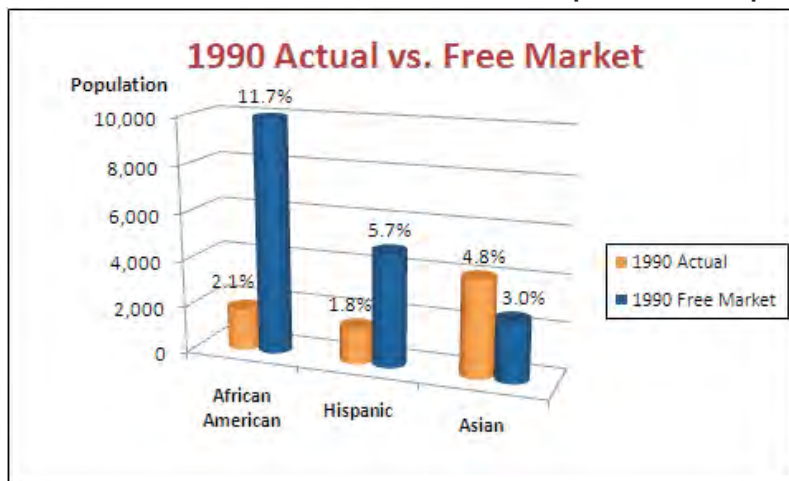
can Americans close to what it would be in a free housing market. Hispanic actual percentages were close to free market percentages in 17 communities in 1980. By 1990 that figure had fallen to ten. Similarly, the number of communities in which the Asian population differed significantly from what would be expected in a free housing market fell from 1980 to 1990. Researchers report that these changes suggest increasing concentration of minorities within the Chicago region. These trends and data provide a perspective for evaluating what is happening in any individual city within the region.

Figure 9: 1980 Actual vs. Free Market Racial Composition of Naperville



Between 1980 and 2000, Naperville, however, experienced a slow, but steady increase in the proportion of African Americans and Latinos among its population. In a free housing market, 31 times as many African Americans would have lived in Naperville in 1980 than actually did (12.5 percent of the city’s population in a free housing market versus 0.4 percent actual). In 1990 the discrepancy had shrunk to 5.5 times as many. In 2000, 4.2 times as many African Americans would have lived in Naperville than actually did (3 percent of Naperville’s population versus 12.6 percent in a free market).

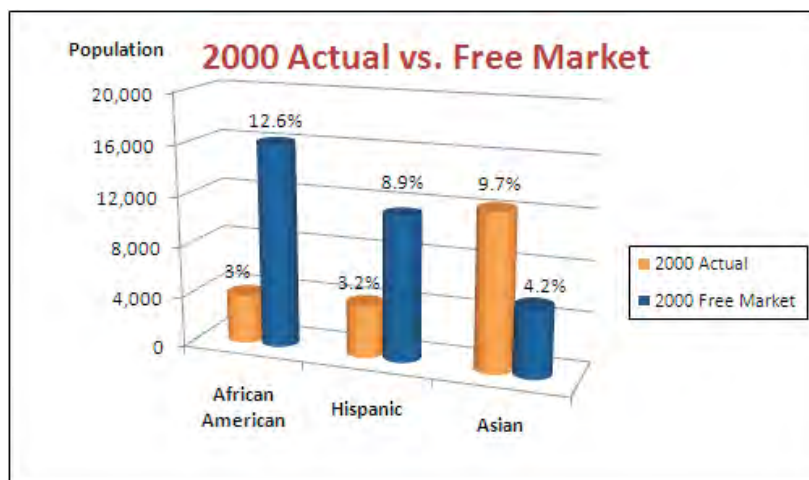
Figure 10: 1990 Actual vs. Free Market Racial Composition of Naperville



In 1980, in a free housing market, 12 times as many Hispanics would have lived in Naperville than actually did (0.4 percent actual versus 4.8 percent in a free housing market). In 1990, the difference had fallen to 3.2 times (1.8 percent actual versus 5.7 percent in a free housing market). By 2000, the proportion of Naperville’s population that would have been Latino in a free housing market was 2.8 times that of the actual population (8.9 percent free market versus 4.2 percent actual).

The proportion of Asians in Naperville has long exceeded what would be expected in a free housing market. Back in 1980 the proportion of Asian in the actual population was one and a fourth times what would be expected in a free housing market (2.5 percent actual versus 2 percent free market). In 1990, this figure had grown to one and six tenths (4.8 percent actual versus 3 percent in a free housing market). In 2000 the proportion of Asians living in Naperville had grown to more than three times *greater* than would be expected in a free housing market (13.3 percent actual compared to 4.2 percent in a free housing market).

Figure 11: 2000 Actual vs. Free Market Racial Composition of Naperville



These figures suggest that while African Americans and Hispanics still face barriers to fair housing choice in Naperville, those impediments have more than disappeared for Asians — if Asians were not concentrated in some neighborhoods and severely underrepresented in others as they are. They also suggest that the impediments to fair housing for African Americans and Hispanics are slowly shrinking. While Naperville has a long way to go before its African American and Hispanic populations approach the proportions you would expect in a free–economy housing market where only income matters, the city has made incremental progress during the past 20 years, more so for Hispanics than for African Americans. *These observations do not suggest that action is no longer needed to remove impediments to fair housing choice in Naperville, but simply that progress has been made.* As noted in this report, more needs to be done and done quickly before the opportunities are lost.

A privately spoken explanation for the continued high level of segregation in the Chicago is that people would rather live with their own kind, that minori-

ties choose of their own free will to live in segregated neighborhoods. Researchers report, however, that

“...we must strongly caution that while people of color often decide to buy or rent in segregated minority communities this should not be seen as representing a widespread African American or Latino desire to live in separate communities. Quite to the contrary, even where there is self-selection and an attraction to substantial African American or Latino communities, this is a function of the discomfort that many minority group members either have felt or believe they will feel if they move into a predominantly-white, Anglo community. It is a result of the continued perception and experience of discriminatory behavior.”²

Indeed, Oak Park planners were often stumped when higher-income African Americans expressed a preference for Naperville as a prestige location to live. Some did move to Naperville, others bought homes in Oak Park where it was believed they felt more welcome.³

When African Americans, for example, move to segregated neighborhoods, they pay a substantial price. It is well documented that the value and appreciation of homes in segregated minority neighborhoods is generally less than those in heavily white and stable integrated areas. Segregated minority neighborhoods also often lack jobs and business investment opportunities making them economically unhealthy compared to stable integrated and predominantly white areas.⁴ For the rapidly growing Black middle and upper classes, living in predominantly segregated minority neighborhoods denies them the full economic and educational benefits of middle- and upper-class status enjoyed in stable integrated and predominantly Caucasian neighborhoods.

Because Naperville’s actual African American population continues to be a fraction of what would be expected in a free housing market, potential African American residents at all income levels do not, for whatever reason, feel welcome in Naperville or are being discouraged from moving there by discriminatory real estate practices such as racial steering.

2 Ibid., 29.

3 Based on the author’s own experience as senior planner for Oak Park as well as conversations over the years with other Oak Park planners. This is merely an anecdotal observation, not the product of a scientific study. Oak Park’s racial composition is roughly what would be expected in a free housing market.

4 *Black, White and Shades of Brown: Fair Housing and Economic Opportunity in the Chicago Region*, 28–29. (see chap. 5, n. 1).

Private Sector Impediments

The most substantial impediments to fair housing choice in Naperville emanate from the private sector. It is likely that real estate practices — not unique to the Naperville area — have led to the distortions in the housing market that have depressed the numbers of African Americans and Hispanics among Naperville’s population.

Yet there is much that Naperville can do to help correct these distortions in the housing market as suggested by the recommendations below.

The leadership of Naperville’s elected officials is crucial to overcoming the identified impediments to fair housing choice. This is a time for positive, constructive leadership committed to achieving these goals, the kind of courageous leadership that made America great.

These private sector impediments are very interrelated as are many of the solutions. Together these recommendations offer a fairly comprehensive approach to countering the distortions in the private sector housing market that have resulted in restricted fair housing choice for African Americans and Hispanics.⁵

Prevention: Nipping Impediments in the Bud

Impediment #1 Both rental and ownership real estate practices that direct minorities only to integrated neighborhoods and predominantly minority neighborhoods, and that direct whites only to virtually all-white neighborhoods constitute one of the most substantial impediments to assuring that people of all races and ethnicities enjoy the full range of housing choices envisioned by the Fair Housing Act and Community Development Block Grant Program. As discussed in Chapter 3 and above, the proportion of African-American and Hispanic people living in Naperville is far below what would be expected if only income determined who lives in Naperville *with* the city’s actual mix of housing types and prices. In addition, several areas of Naperville are developing substantial concentrations of minority residents, several public elementary schools have become majority-minority, and many areas of Naperville have extremely low numbers of minority groups living in them. Historically these phenomena result from distortions in the housing market caused by discriminatory practices — they do not happen by accident and there is nothing natural about these levels of racial and economic segregation. It is vital that Naperville be proactive to identify and curtail these practices before they can lead to increased socioeconomic segregation.

⁵ Impediments are not listed in order of importance. They are organized into a logical progression.

Recommendation Proactively conduct testing of sale and rental properties to identify such practices as racial steering and other violations of the Fair Housing Act at an early stage. Naperville should contract with an organization experienced in fair housing testing to conduct periodic testing of real estate agents, developers, landlords, and apartment managers to identify racial and ethnic steering within Naperville and steering of minorities away from Naperville. Such testing should include controlled samples that are large enough to provide statistically significant results and findings. Potential contractors include the HOPE Fair Housing Center and Apartments West operated by the Oak Park Regional Housing Center.⁶ Findings should be shared with the U.S. Department of Housing and Urban Development for possible prosecution of fair housing law violators.

Impediment #2 Real estate practices such as steering impose a major barrier to ensuring that people of all races consider the full range of housing choices they can afford. Such impediments to fair housing choice can quickly change the racial/ethnic make up of a neighborhood. While it is hard to imagine that any real estate broker or apartment manager is unaware of fair housing laws, the disparity between Naperville’s actual racial/ethnic composition and its composition if only income determined who lives in Naperville strongly suggests that practices like steering are more common than one might expect.

Recommendation More intensive training of real estate professionals is needed to discourage steering based on race, ethnicity, familial status, or disability, the four primary bases of fair housing complaints in Naperville. Naperville should consider establishing a mandatory periodic training program for all real estate professionals practicing in Naperville that candidly examines fair housing issues, illegal practices, and proper practices to make them more sensitive to fair housing issues and less likely to engage in illegal practices. Given the substantial number of fair housing complaints in Naperville based on discrimination against people with disabilities and households with children, rental agents should also receive substantial training on these matters.

Impediment #3 Our sampling of the offices of real estate agents and rental offices revealed a paucity of Asian, Hispanic, and African American agents. The presence of minority agents constitutes a “welcome sign” to potential minority group home seekers. Real estate firms often advertise with photographs of their agents. When all of their agents are white, minorities — rightly or wrongly — often interpret that as a sign that minorities are not welcome in that community.

Recommendation Working closely with organizations of local real estate professionals as well as with the offices of local real estate firms, developers,

6 HOPE Fair Housing Center can be reached at 630/690–6500, Bernard Kleina, Executive Director. The Oak Park Regional Housing Center can be reached at 708/848–7150, Rob Breymaier, Executive Director.

and property management firms, Naperville should seek to increase their efforts to recruit African Americans, Hispanics, and Asians as residential real estate agents, leasing agents, and property managers.

Expanding Housing Choices

Impediment #4 Similarly, when display ads and brochures for real estate — ownership or rental — depict residents of only one race or ethnicity, they send a clear message of who is welcome and not welcome in the development, thus limiting the housing choices home seekers perceive as available to them.

Recommendation Naperville should work closely with local developers and landlords to include people of all races as well as Hispanics in their display advertising and brochures. The city should seriously consider filing fair housing complaints against those developers and landlords who fail to use racially/ethnically-diverse models in their display advertising and brochures.

Impediment #5 While steering may account for much of the disparity between Naperville's actual racial composition and its composition in a discrimination-free market, in far too many instances members of minority groups will *not even consider* seeking housing in a prosperous, highly desirable community like Naperville because they perceive — for whatever reason, no matter how unfounded — that they would not be welcome in Naperville. As discussed in Chapter 3, the proportion of African Americans and Hispanics in Naperville's working population is greater than among Naperville's residents in all income classifications, suggesting this concern is valid.

Recommendation Naperville should contract with an organization like Apartments West that seeks to expand the housing choices of potential tenants to include the full array of choices including cities like Naperville. Operated by the Oak Park Regional Housing Center, Apartments West provides assistance to potential tenants to expand their choices of where to rent to locations closer to their work or school. To overcome perceptions of not being welcome in a city, Apartments West escorts potential tenants to showings of apartments. The program has been very successful at enabling African Americans to move to communities much closer to their jobs, often communities in which they wrongly assumed they would not be welcome.

Impediment #6 Given how much the racial and ethnic composition of Naperville's actual population differs from what it would be if only income determined who buys and rents in Naperville, there is a need to expand the housing choices of minorities, especially African Americans and Hispanics of all income levels in Naperville. They need to be aware of ownership and rental opportunities in neighborhoods besides those that have a substantial proportion

of minority residents. With some Naperville neighborhoods showing early signs of potential for developing into racially– or ethnically–identifiable areas, it is crucial to make sure that members of these minority groups know about the full range of housing choices available to them and feel welcome in all areas of Naperville.

Recommendation Naperville should require “affirmative marketing” of all new residential developments and buildings in order to receive a building permit, zoning, or subdivision approval. The underlying concept is to make home seekers aware of the full array of housing choices available to them.⁷ In Illinois, Hazel Crest and Matteson have adopted ordinances to require developers to affirmatively market their new construction ownership and rental housing. A building permit cannot be issued until the village approves the developer’s affirmative marketing plan.⁸ Local governments can also develop affirmative marketing plans in conjunction with the management or owners of apartment complexes. Goals would be established and a record kept on the racial composition of current occupants and those looking for housing in the complex so the plan’s success can be evaluated. The legality of these affirmative marketing requirements was upheld in *South Suburban Housing Center v. Board of Realtors*.⁹

For the developer, affirmative marketing means taking special steps to promote traffic from particular racial or ethnic groups that are otherwise unlikely to compete for their housing. These steps can include:

- 6–A** Advertising targeted to the racial or ethnic groups that have not been competing for the housing in addition to normal marketing methods
- 6–B** Using press releases, photographs, promotions, and public service announcements to dispel stereotypes and myths concerning multi–racial living patterns
- 6–C** Training and educating all personnel participating in real estate sales and rentals and in marketing in affirmative marketing techniques and the facts about multi–racial living
- 6–D** Collecting occupancy data and data on who looks at units — accurate racial data is vital for achieving and preserving racial diversity

7 Affirmative marketing is nothing new. The precursor of modern affirmative marketing rests in the 1972 federal government requirement that all developers who use Federal Housing Administration insurance must file an affirmative marketing plan with the U.S. Department of Housing and Urban Development to encourage a racially integrated housing market. These plans are to specify “efforts to reach those persons who traditionally would not have been expected to apply for housing.” Quoted in Phyllis Nelson, *Marketing Your Housing Complex in 1985* (Homewood, IL: South Suburban Housing Center, 1985), 10.

8 James Engstrom, *Municipal Fair Housing Notebook: A Description of Local Ordinances, Tools, and Strategies for Promoting a Unitary Housing Market* (Park Forest, IL: Fair Housing Legal Action Committee, 1983), 11, 97.

9 713 F.Supp. 1069, 1086 (1989).

6-E Using public relations to place newspaper and television features that focus on individuals and groups that represent racial diversity

6-F Educating residents about racially/ethnically–diverse living.¹⁰

Impediment #7 Early signs of minority concentrations, particularly in northwest Naperville (census tract 8464.01) pose an impediment to fair housing choice in Naperville.¹¹ When parts of a city become racially–identifiable (not uncommon in cities as large as Naperville has become) some real estate professionals have been known to steer minorities to areas perceived as minority or integrated neighborhoods and to direct them away from predominantly white areas of a town. They have also been known to direct Caucasians away from integrated and predominantly minority neighborhoods and to predominantly white neighborhoods. This practice is a major cause of resegregation — if whites are steered away from integrated neighborhoods, then only minorities will be moving in and the neighborhood will inevitably resegregate. The key to maintaining racially–diverse neighborhoods is to maintain demand for housing from all races and ethnic groups.

Based on how much the racial composition of Naperville differs from what would be expected in a free housing market economy with no racial discrimination, there is a need to keep track of racial composition between decennial censuses to nip in the bud any steering or other discriminatory practices before trends toward resegregation advance and become irreversible.

Recommendation Naperville should establish methods to gather data on the race/ethnicity of people moving to, out of, and within Naperville. By maintaining accurate information on housing questions, a city can quickly respond to rumors and half truths that inevitably are spread about a community’s integrated housing such as the Naperville census tracts that have substantial minority populations discussed beginning on page 14. Equally important, no municipality can determine what strategies it should employ unless it has an up–to–date racial/ethnic profile of all neighborhoods and blocks so it can identify emerging trends that may reflect illegal activities and threaten the ability to maintain multi–racial/ethnic demand for housing. Data that show rapid racial/ethnic change can alert city officials to possible illegal real estate practices.¹² Proven tools the city may wish to use include several that make use of information that apartment managers and real estate firms already gather:

10 *Marketing Your Housing Complex in 1985*, 12–36 (see chap. 5, n. 6).

11 As noted earlier in this report, in 2000 the population in census tract 8461.01 was one–third minority, half of which was African American.

12 John Perry, *Memorandum to President and Board of Trustees. Subject: Data Collection*, Village of Park Forest, September 8, 1983.

7-A A very useful, cost-free, and easily accessible early-alert tool is the annual report card for each Naperville public school available online from the State of Illinois' Interactive Illinois Report Card, available online at <http://iirc.nui.edu>. See the discussion on page 18. This recommendation supplements the following recommendations and is not a substitute for them.

7-B The city should establish a partnership with school districts 203 and 204 to adopt a joint policy of affirmatively promoting stable, racially and ethnically integrated/diverse neighborhoods.

7-C The city needs to know whether the minority households in the Longwood and Cowlshaw attendance zones are segregated in specific buildings or blocks or are living throughout the attendance areas. These residential patterns can identify whether or not it is likely that steering or other illegal discriminatory practices that distort the housing market are at play. The city should start working with the School District 204 to map specifically where minorities attending Longwood and Cowlshaw live each year. A longitudinal view would be particularly valuable for identifying trends, if any.

7-D Requiring managers of rental properties to submit a monthly or quarterly report that identifies the race/ethnicity of home seekers and the addresses of the apartments they were shown and the address of the apartment they ultimately rented (if known). A record of the name, address, and phone number of each prospect must be maintained and provided to the city upon request.

7-E Alternatively, Naperville might consider adopting an ordinance to license landlords that requires reporting the race of tenants upon a change of dwelling occupants in order to monitor practices, prevent racial concentrations from developing, and identify rental buildings where minorities appear to be excluded. It is essential that any ordinance require strict confidentiality in the use of the data, precisely define and limit access to the information, and impose substantial penalties for any violation.

7-F Requiring real estate firms to submit a monthly or quarterly report that identifies the race/ethnicity of home seekers, the addresses of the for-sale properties they were shown, and the address of the home they ultimately bought (if known). A record of the name, address, and phone number of each prospect must be maintained and provided to the city upon request. Both Matteson and Glenwood, Illinois, have adopted ordinances requiring the accumulation of this data. It is essential that any ordinance require strict confidentiality in the use of the data, precisely define and limit access to the information, and impose substantial penalties for any violation.

Testing is another tool that can help alert the city to illegal real estate practices like steering that distort the housing market and lead to the development

of minority concentrations, exclusively white neighborhoods, and the potential for resegregation. Recommendations regarding testing appear on page 65.

Condominium Associations

Impediment #8 Fair housing complaints filed with HOPE strongly suggest that the practices of some condominium associations and their managers have established barriers to fair housing choice, especially for households with disabilities or children. The refusal to make reasonable accommodations for people with disabilities by allowing some modification to enable them to enjoy their property or common area like anybody else places a substantial barrier to fair housing choice as do practices hostile to families with children.

Recommendation Naperville should contract with an organization well-versed in fair housing law like HOPE to conduct periodic workshops for condominium association officers and their management firms to make them fully aware of the type of modifications to dwelling units and common areas as well as other reasonable accommodations needed to meet the mandates of the fair housing laws of Naperville, the State of Illinois, and the nation.

Mortgage Lending

Impediment #9 When it comes to home loan lending practices, it would appear that little has changed since Naperville's 1996 *Analysis of Impediments to Fair Housing Choice*. African Americans and Hispanics continue to be denied home mortgage loans at substantially greater rates than Caucasians.

Recommendation Based on disparity in loan denial rates, it would appear there is a need to provide members of minority groups, especially African Americans, with financial counseling to better prepare applicants *before* they submit a mortgage loan application. Such counseling should include educating potential home buyers to recognize what they can actually afford to purchase, preventing the use of subprime mortgages and predatory loans that have produced the current nationwide wave of foreclosures, budgeting monthly ownership costs, building a reserve fund for normal and emergency repairs, recognizing racial steering by real estate agents, and encouraging consideration of the full range of housing choices available. The city could contract with an organization such as HOPE or the Oak Park Regional Housing Center to provide this service and arrange with real estate firms and lenders serving Naperville to identify applicants who are likely to benefit from such counseling. While this impediment is not unique to Naperville, in the absence of an effective statewide or national effort to overcome it, local action is warranted.

Public Sector Impediments

Building a Climate To Overcome Private Sector Impediments

Impediment #10 As many of the recommendations for overcoming the private sector impediments suggest, they cannot be mitigated without a solid commitment from the City of Naperville. It will take a public–private partnership to enable Naperville to establish a free market in housing.

Recommendation The City of Naperville needs to expressly embrace the concept of a stable, racially and ethnically–integrated community as a goal and commit itself to achieving this goal, perhaps stating this goal in its Fair Housing Ordinance or other city council resolution. The leadership of elected officials is key to implementing this recommendation and to building community support for this goal.

City officials might want to consider using Fair Housing Month to establish a community dialogue on the need to fully expand housing choices and to learn how other communities have accomplished this goal. They should consider establishing an on–going public education effort to help citizens learn the facts on these issues including that stable, racially and ethnically–diverse neighborhoods increase property values and better prepare their children for the racially and ethnically–diverse workplaces in which they will be employed.

Naperville’s Planning Process

Impediment #11 It appears that issues like affordable housing and fair housing in Naperville have been treated separately from the rest of the city’s very extensive and thorough planning and implementation efforts. Our review of the city’s comprehensive plan elements in Chapter 3 of this report found no explicit mention of housing affordable to people of modest incomes nor any mention of fair housing concerns. This bifurcation of the planning process inevitably leads to treatment of affordable and fair housing as a secondary issue.

Recommendation Planning for affordable housing and fair housing in Naperville should be fully integrated into the comprehensive planning and implementation process. A mechanism should be developed to include the city’s Fair Housing Advisory Commission in the comprehensive planning process to help assure that issues of affordable housing and fair housing are incorporated into the city’s routine planning and implementation processes. The FHAC should be thought of as a partner to the Plan Commission. At a bare minimum, the Fair Housing Advisory Commission should be notified in a timely manner of all meetings that involve planning or new developments. This recommenda-

tion does not suggest that the FHAC become a shadow planning commission or a shadow zoning board of appeals. It does suggest that the FHAC be treated as an equal partner with the plan commission and zoning board of appeals when it comes to matters that affect affordable housing or fair housing.

Recommendation To fully integrate planning for affordable housing and fair housing into the planning and implementation processes, staff review of every development proposal that includes residences should include an explicit evaluation of its impact on providing affordable housing and on promoting fair housing. The city must be careful to assure that new affordable housing is dispersed throughout the city and not concentrated or clustered together in just a few locations where affordable housing is already in place.

Naperville has already begun to implement these recommendations. Planning staff reports that is conducting an “attainable housing needs assessment” to determine if any gaps exist between the housing supply and the city’s area median income. Staff reports that this qualitative analysis is intended to provide an overview of the city’s housing stock and identify areas in which Naperville can help promote a balanced housing supply.

Impediment #12 Opportunities to build new housing affordable to people of modest incomes, especially among Naperville workers, are dwindling thanks to the extensive new construction of the past decade that has left very little land for residential development in Naperville, skyrocketing land costs and property values, continuing conversions of rentals to condominiums, and the near “build out” of Naperville. During this time, no developer has chosen to use Naperville’s voluntary inclusionary zoning provisions. The loss and exclusion of such affordable housing places additional barriers to fair housing choice.

Recommendation Naperville should consider enacting an immediate moratorium on granting any new building permits or zoning approvals for residential development until it can amend its zoning ordinance to establish mandatory inclusionary zoning. Experts on inclusionary zoning have known for quite a while that voluntary inclusionary zoning does not work. And they have known that mandatory inclusionary zoning gets affordable housing built without reducing developers’ profits or anybody’s quality of life.¹³ A moratorium is needed to allow for changes in the zoning code to make inclusionary zoning mandatory while there is still some residentially-zoned land available for development.

Any mandatory inclusionary zoning requirements should kick in at a threshold of four or five units. The density bonus formula should enable the developer to enjoy total profits that are comparable to when no affordable units are included. Density bonuses should be set to not adversely affect the character of the community. Any developer claiming it cannot make a fair return if afford-

¹³ For a thorough, expert analysis of the inclusionary zoning experience, see “Inclusionary Zoning : Lessons Learned in Massachusetts,” *NHC Affordable Housing Policy Review* 2 no. 1 (January 2002).

able units are included should be required to open its books and actually prove that assertion under oath.

Recommendation While this analysis leads us to conclude that there is a substantial need to expand Naperville’s housing stock that is affordable to its workers of modest incomes, the city is undertaking its own analysis of housing needs as discussed above under “Impediment #11.” It is crucial, however, that the city keep its existing affordable housing affordable, thus mitigating any gaps the city’s own research may find and preventing gaps from starting. In the long run, prevention of a problem is far less costly to taxpayers

Although not the only solution, one of the nation’s most successful,¹⁴ and cost-effective tools for preserving affordable housing has been converting rental apartments to low-equity or limited-equity cooperatives.¹⁵ Just as the city has used its Community Development Block Grant to fund the purchase of houses for operators of residential care homes and to rehabilitate other residential care homes, it should seriously considering using its CDBG funds to buy down the cost of apartment buildings to convert to low-equity cooperatives.

The city would be most prudent to consider emulating the way the District of Columbia has very successfully used Community Development Block Grant money to permanently preserve existing affordable housing. Since the early 1980s, the District has used CDBG money as interest-free loans to tenant associations that wish to buy their rental buildings and convert them to limited-equity cooperatives, thus making them affordable to their target population nearly in perpetuity. The CDBG loans cover the soft costs of converting: tenant organizing and attorney, architect, engineering, and permit application fees. The loans are repaid to the city from the permanent financing the low-equity cooperative obtains from the private mortgage loan market. The city would need to educate tenants in existing developments about this alternative to renting and conventional home ownership and provide professional guidance to tenant groups that are interested. The Chicago area is rife with organizations

14 Jonathan Zimmer, *From Rental to Cooperative: Improving Low and Moderate Income Housing*, Sage Professional Papers in Administration and Policy Studies, Vol. 4. (Beverly Hills, CA: Sage Publications, 1977).

15 Low-equity cooperatives control housing costs by keeping the single largest cost of homeownership, mortgage debt service (30 to 50 percent of the landlord’s monthly ownership costs), constant even when units change hands. Households that purchase a share in a cooperative association comprise the association which actually owns the cooperative. This share entitles a household to occupy a dwelling unit and pay a monthly “rent.” The cost of a share can range from a few dollars to a few thousand dollars. The key difference between market rate cooperatives and limited-equity coops is that the limited-equity’s bylaws limit increases in resale price of a share to some rate typically less than the rate of inflation. This form of ownership can be applied to both multifamily and single-family housing, on a single site or scattered sites. By keeping housing costs down, many residents of low-equity cooperatives save enough money to afford a conventional ownership home without any government subsidy. This approach minimizes the amount of government spending on affordable housing while turning renters into homeowners. Residents of low-equity coops are able to deduct from their income tax their percentage of the cooperative’s mortgage interest and property tax just like any other homeowner.

that can guide tenants through the conversion process.¹⁶ It is hard to imagine a use of CDBG funds that gives more bang for the buck.

Mutual housing associations, a close relative to limited-equity cooperatives is another cost-effective alternative. Both forms of ownership can be used with any type of housing, multi-family and well as single family homes. Both are structured to avoid the need for ongoing taxpayer subsidies.

Impediment #13 The high cost of land and the relatively small amount of undeveloped land zoned residential certainly impede any new construction of affordable housing and implementation of inclusionary zoning.

Recommendation While respecting the overall goals of its comprehensive plan, Naperville should seriously consider rezoning more land to R3A, R3, and R4 residential districts which offer the best opportunities to build housing affordable to households with incomes below Naperville's median. The city can use Community Development Block Grant funds to buy down the cost of land in exchange for the inclusion of dwellings affordable to households with modest incomes.

Assistance on Fair Housing Complaints

Impediment #14 “Who do you call?” remains the question for anybody who thinks they've been victimized by fair housing discrimination in Naperville. It's a substantial barrier to fair housing choice when somebody who thinks she may have been discriminated against is not immediately referred to the proper fair housing person by the first person to whom she speaks at City Hall.

Recommendation Naperville should make it very easy for people who think they may have been victimized by housing discrimination to get assistance. The city should train all of its operators (including everybody who might answer the phone at the police department) to refer callers about fair housing to the designated staff person in City Hall. The designated individual should be well-versed in fair housing law and practices. At least one backup individual should be assigned to field calls for when the designated individual is not available.

Information about fair housing violations and remedies should be easy to find on the city's website as discussed below. The proper number to call for assistance with fair housing should be listed on the “Who Do I Call?” web page under a clear heading like “Fair Housing Complaints.” However, the city should

¹⁶ Assistance is also available from the National Association of Housing Cooperatives, 1444 I St., NW, Suite 700, Washington, DC 20005; 202/737-0797; <http://www.coophousing.org>.

not rely heavily on the Internet because many of those who face housing discrimination may not have ready access to the Internet, be very skilled on the Internet, or read English well enough to use the city's website effectively. Also see the recommendation immediately below.

Impediment #15 Home seekers, both ownership and rental, are unaware of Naperville's more expansive Fair Housing Ordinance. It is very difficult to find information about the city's ordinance. (See the discussion beginning on page 41.)

Recommendation Naperville should adopt a proactive approach to disseminating information about its own Fair Housing Ordinance. The city would be prudent to:

15-A Update the Fair Housing Advisory Commission's fair housing brochure with a clear explanation of what the city's Fair Housing Ordinance means, what classes are covered, the deadline for filing a complaint, and instructions on how to easily obtain a complaint form and file a complaint. The brochure should include the specific URL for the city's web page on fair housing where examples of illegal behavior can be posted. The entire brochure should also be available as a PDF file to download from the city's website.

15-B Amend the city's Fair Housing Ordinance to require that every prospective client be given this brochure when she first meets with a residential real estate broker, residential rental or leasing agent, property manager, landlord, condominium owner seeking to rent his unit, or other person showing ownership or rental property in the City of Naperville. The city might want to consider also requiring that copies of this brochure be available at all units shown to prospective tenants or buyers.

15-C Make Naperville's web page on fair housing much more accessible to viewers. The link to "Fair Housing" should be no lower than one submenu in the category tree on Naperville's website. To avoid confusion to people unfamiliar with Naperville's government structure, there should be a listing for "Fair Housing" in addition to the listing of the "Fair Housing Advisory Commission." The "Fair Housing" web page should be revised to include the text of the city's Fair Housing Ordinance rather than a cryptic link to it in the city's online municipal code book. To facilitate use by people without much web sophistication, the ordinance text should be on an HTML page, not just a PDF file for downloading. The site should more clearly list the protected classes because Naperville's ordinance protects more classes than the state or federal statutes. The first page on fair housing should make it very clear that complaints must be filed with the city within 90 days of the alleged discriminatory act. Everything should be written and designed in a very user-friendly manner that is easily understood by people with little Internet experience.

Impediment #16 Even if somebody is aware of Naperville’s Fair Housing Ordinance, the ordinance allows relatively little time to file a complaint. Under federal and state fair housing law, a victim of housing discrimination has a full year after the date of the alleged violation to file a complaint with the appropriate agency. Naperville allows just 90 days.

Recommendation Amend Title 10, Section 5, §10–5–6–1 of the Naperville Municipal Code to allow a complaint to be heard as long as it is filed within one year of the alleged unlawful act that forms the basis of the complaint.

Residential Care Homes for People With Disabilities

Impediment #17 The City of Naperville continues to impose unwarranted building code and Life Safety Code requirements on residential care homes, especially when neighbors have opposed a residential care home. State agencies also engage in this practice. For example, it is highly unlikely there is any legal justification to require exit signs or the full access panel to the fire department that the city required of Arabella House, a residential care home for young women with eating disorders. Requiring institutional-type features only detracts from the residential setting the residential care home needs to succeed and can add substantial costs to establishing the home that could prevent some homes from opening.

Recommendation Education on this issue is needed for elected and appointed city officials and professional city staff who deal with zoning and building codes for residential care homes. At the beginning of the term of each new City Council, plan commission, and Zoning Board of Appeals, the city’s Fair Housing Commission should sponsor a workshop on zoning and the application of building and Life Safety Codes to residential care homes. Appropriate city zoning and planning staff should also attend this workshop. The workshop should be conducted by an expert on the Fair Housing Act and zoning and the application of building and Life Safety Codes to residential care homes. The city should provide an adequate budget for this workshop to be conducted shortly after each city election.

Impediment #18 Naperville’s 1996 *Analysis of Impediments* identified the practices noted immediately above as an impediment to fair housing choice and “emphasize[d] the importance of city officials to take a stance that strongly counters “not in my back yard” attitudes.”¹⁷

It is highly doubtful that the city could legally impose any building code or Life Safety Code requirements on a residential care home that it does not im-

¹⁷ *Analysis of Impediments to Fair Housing Choice, City of Naperville, Illinois*, 54 (see chap. 4, n. 4).

pose on any other residence of the same structure (single-family detached, attached, multiple-family). The legislative history of the Fair Housing Amendments Act of 1988 says that the act prohibits “the application or enforcement of otherwise neutral rules and regulations on health, safety and land-use in a manner which discriminates against people with disabilities. Such discrimination often results from false or over-protective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may pose. These and similar practices would be prohibited.”¹⁸ Requirements imposed by any state agency also must comply the Fair Housing Act.

Recommendation It would be highly prudent if the City of Naperville were to review its Life Safety Code and building code to identify those provisions the city has been applying to residential care homes and identify the specific factual basis for each provision. The city should amend its codes to eliminate those provisions that result “from false or over-protective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may pose.” No code provision should be retained simply because it is based on a national code — those codes can violate the Fair Housing Act but they have escaped judicial scrutiny due to the nature of the litigation system. At a minimum, affirmatively advancing fair housing requires such a review and revision.

Impediment #19 The City of Naperville continues to regulate the location of residential care homes in full compliance with the Fair Housing Act, with one of the most receptive zoning provisions in the state. As explained beginning on page 47, there are early signs that clustering of these residences on specific blocks and neighborhoods may have started. Such clustering could undermine the ability of residential care homes to achieve the normalization and community integration that is their reason for being and could, if unchecked, become an impediment to fair housing choice by allowing *de facto* social service districts to develop.

Recommendation *At this point in time, some vigilance is needed.* The City of Naperville would be very prudent to monitor the location of present and future residential care homes to establish an early warning system that would identify potentially harmful clustering. The city would be prudent to maintain a map, strictly in-house, that shows exactly where each residential care home is located. City staff should update the map whenever a new residential care home is opened. If, and *only* if serious clustering of residential care homes on specific blocks or in specific neighborhoods begins, the City of Naperville *might* wish to *consider* amending its zoning code to impose no more than a one-block (660 foot) spacing distance between residential care homes allowed as of right and require a special use permit to locate within that spacing distance. *Again,*

¹⁸ House of Representatives Report 711, 100th Congress, 2nd Session, 311 (1988), *reprinted in* 1988 U.S.C.C.A.N. 2173.

it is emphasized that this measure should be considered only if there are clear indications of such concentrations developing.

Conclusion

Naperville has reached a crossroads that nearly every growing city in major urban areas faces. One road follows an “it can’t happen here” attitude and allows discriminatory real estate practices that segregate neighborhoods to continue to distort the free housing market. The other path affirmatively advances fair housing choice by proactively seeking to restore a free market in housing. The recommendations proposed in this report to identify and curtail the discriminatory practices that distort the free housing market and lead to segregated neighborhoods can help Naperville walk along the later path and prevent the sort of residential segregation that plagues so many other larger cities from getting a foothold in Naperville.

It’s a choice between going down the road that far too many cities have followed or continuing along the path of affirmatively advancing fair housing choice that Naperville has blazed with its fair housing ordinance and zoning treatment of residential care homes for people with disabilities.

It’s Naperville’s choice to make.