

Section 2: Fair Housing Law, Municipal Policies, and Complaint Analysis

Overview

This section conceptualizes fair housing in five components that paint a picture of the current policies and laws that affect fair housing and fair housing choice. This analysis entails a review of state laws, regulations, administrative policies, procedures, and practices and assesses whether any of these impede the location, availability, affordability, and accessibility of housing.

Introduction

Impediments to fair housing choice may be acts that violate a law or acts or conditions that do not violate a law, but preclude people with varying incomes from having equal access to decent, safe, and affordable housing. Fair housing choice is defined, generally, as the ability of people with similar incomes to have similar access to housing.

The first part of this section will address the existing statutory and case law that works to remove impediments and promote fair housing choice. The federal Fair Housing Act can be effective in mitigating barriers to fair housing choice, depending upon enforcement efforts. Related laws and case law that provide further interpretation, understanding, and support to the Fair Housing Act will also be discussed. The Texas Fair Housing Act and the City of Waco's Fair Housing Ordinance were reviewed and compared to the federal fair housing law to determine whether they offered similar rights, remedies, and enforcement to the federal law and might be construed as being substantially equivalent. Pertinent related laws, such as the Community Reinvestment Act and Home Mortgage Disclosure Act, were reviewed and will be mentioned in terms of how they can facilitate fair lending. Various case decisions pertaining to fair housing issues were reviewed and are incorporated in the discussion below.

The second part discusses the level of enforcement activity in the municipality. All investigations of fair housing complaints are conducted through the City of Waco's Fair Housing Administrator or the regional U.S. Department of Housing and Urban Development.

A difficult, but intertwined, aspect of fair housing choice is the availability of affordable housing. Adequate, decent, safe, and affordable housing for people of all incomes should be available. Minimizing housing costs for very low- and low-income households usually requires some form of subsidy that is, oftentimes, generated utilizing federal, state, and/or local government dollars. The City of Waco has housing programs designed to rehabilitate and produce affordable housing. These efforts are detailed in the third part.

Numerous documents were collected and analyzed to complete these sections. The key documents were the Consolidated Plans prepared by the City of Waco, the community profile section of this impediment analysis, the City's zoning ordinances, and documentation on various housing programs and projects, including new initiatives offered by the City of Waco. City staff also provided information on their various efforts to develop affordable housing in the past and present, and concerning their plans for the future. Regulatory and public policies are reviewed in the fourth part.

An analysis of fair housing complaints is covered in the fifth part. The Fair Housing Act of 1988, as amended, makes it unlawful to discriminate on the basis of race, color, religion, national origin, disability or familial status. Therefore, complaints can be filed under any of these bases.

The last part contains conclusions about fair housing barriers based on existing law, enforcement efforts, complaint analysis, and the availability of affordable housing.

2.1. Fair Housing Law

The Federal Fair Housing Act (the Act) was enacted in 1968, and amended in 1974 and 1988 to add protected classes, provide additional remedies, and strengthen enforcement. The Act, as amended, makes it unlawful for a person to discriminate on the basis of race, color, sex, religion, national origin, handicap, or familial status. Generally, the Act prohibits discrimination based on one of the previously mentioned protected classes in all residential housing, residential sales,

advertising, and residential lending and insurance. Prohibited activities under the Act, as well as examples, are listed below.

It is illegal to do the following based on a person's membership in a protected class:

- Misrepresent that a house or apartment is unavailable by:
 - ✓ Providing false or misleading information about a housing opportunity,
 - ✓ Discouraging a protected class member from applying for a rental unit or making an offer of sale, or
 - ✓ Discouraging or refusing to allow a protected class member to inspect available units;
- Refuse to rent or sell or to negotiate for the rental or sale of a house or apartment or otherwise make unavailable by:
 - ✓ Failing to effectively communicate or process an offer for the sale or rental of a home,
 - ✓ Utilizing all non-minority persons to represent a tenant association in reviewing applications from protected class members, or
 - ✓ Advising prospective renters or buyers that they would not meld with the existing residents;
- Discriminate in the terms, conditions, or facilities for the rental or sale of housing by:
 - ✓ Using different provisions in leases or contracts for sale,
 - ✓ Imposing slower or inferior quality maintenance and repair services,
 - ✓ Requiring a security deposit (or higher security deposit) of protected class members, but not for non-class members,
 - ✓ Assigning persons to a specific floor or section of a building, development, or neighborhood, or
 - ✓ Evicting minorities, but not Whites, for late payments or poor credit;
- Make, print, publish, or post (direct or implied) statements or advertisements that housing is not available to members of a protected class;
- Persuade or attempt to persuade people, for profit, to rent or sell their housing due to minority groups moving into the neighborhood by:
 - ✓ Real estate agents mailing notices to homeowners in changing area with a listing of the homes recently sold along with a picture of a Black real estate agent as the successful seller, or

- ✓ Mailed or telephonic notices that the "neighborhood is changing" and now is a good time to sell, or noting the effect of the changing demographics on property values;
- Deny or make different loan terms for residential loans due to membership in a protected class by:
 - ✓ Using different procedures or criteria to evaluate credit worthiness,
 - ✓ Purchasing or pooling loans so that loans in minority areas are excluded,
 - ✓ Implementing a policy that has the effect of excluding a minority area, or
 - ✓ Applying different procedures (negative impact) for foreclosures on protected class members;
- Deny persons the use of real estate services;
- Intimidate, coerce or interfere; or
- Retaliation against a person for filing a fair housing complaint.

In addition to prohibiting certain discriminatory acts, the Act places no limit on the amount of recovery and imposes substantial fines. The fine for the first offense can be up to \$10,000; the second offense, up to \$25,000; and the third offense, up to \$50,000.

The Fair Housing Act requires housing providers to make reasonable accommodations in rules, policies, practices, and paperwork for persons with disabilities. They must allow reasonable modifications in the property so people with disabilities can live successfully. The Texas Workforce Commission – Civil Rights Division highlights seven technical requirements in the Accessibility Guidelines for covered buildings.

- Accessible Entrance on an Accessible Route
- Accessible Public and Common Use Areas
- Usable Doors
- Accessible Routes Into and Through the Dwelling Unit
- Accessible Light Switches, Electrical Outlets, and Environmental Controls
- Reinforces Walls in Bathroom
- Usable Kitchens and Bathrooms.

Fair Housing Act and Advertising

It is unlawful to make, print, publish, or post (direct or implied) statements or advertisements that housing is not available to members of a protected class. According to the Federal Act, advertisement under this section refers not only to published ads in newspapers, but also to any other statements that are written, verbal, or non-verbal. Discriminatory advertisements include, but are not limited to, applications, brochures, signs, banners, photographs, symbols, human models, and spoken words and phrases which convey the message that dwellings are available or are not available to a particular protected class. Generally, ads should not contain words that express a preference based on a protected class. There are a few exemptions such as housing for older persons, private clubs, shared-living housing, and religious organizations. A general rule of thumb on terms to use when advertising the sale or rental of a dwelling is to describe the property, not the person. Catchwords, such as "exclusive", "private" or "integrated" may convey a preference for one group over another and send signals about a community's makeup.

The Fair Housing Act does not require the use of the Equal Opportunity logo or slogan in any ad. However, using the logo is good solid evidence of the company's commitment to fair housing compliance. Regulations do require the display of the HUD fair housing poster at any brokerage office and at dwellings under construction. A review of the real estate classified section of the local news papers from February to May 2007 did not reveal any questionable advertising based on a lack of racial diversity in photographs over an extended period of time. Real estate publications such as Real Estate Source (Volume 6 Issue 1), Real Estate Book (Volume 17 Number 11) were reviewed. Of the 160 pages of advertising, only about 40 (25%) advertisers advertise with the equal housing opportunity logo or slogan. Including this logo is a means of educating the home seeking public that the property is available to all persons. A failure to display the symbol or slogan may become evidence of discrimination if a complaint is filed. In the real estate publications reviewed, of the five advertisements that showed pictures of prospective clients, four advertisements showed only White individuals or families. Only one advertisement contained an image which included a member of a protected class. Advertising only Whites as prospective clients may send out a message that minorities are not welcome to the community.

The 1972 amendment to the federal Fair Housing Act of 1968 instituted the use of an equal housing opportunity poster. This poster, which can be obtained from HUD, features the equal housing opportunity slogan, an equal housing statement, and the equal housing opportunity logo. When HUD investigates a broker for discriminatory practices, it considers failure to display the poster as evidence of discrimination.

In a landmark ruling in *United States v. Hunter*, 459 F.2d 205 (4th Cir.), the Court of Appeals ruled that the Fair Housing Act applies to newspapers and other media that publish discriminatory advertisements even though another person placed the advertisement. That case, decided in 1972, involved a classified advertisement seeking a tenant for an apartment in a "white home". The United States Government brought the case against the newspaper seeking injunctive relief to prohibit the newspaper from publishing discriminatory real estate advertisements. The Court also ruled that section 3604(c) of the Fair Housing Act, the provision stating that discriminatory real estate advertising is prohibited, is not a violation of the First Amendment and it further ruled that the basis for determining whether an ad violates section 3604(c) is determined by how an "ordinary" reader would interpret the ad.

FHAP / FHIP Explanation

The U. S. Department of Housing and Urban Development (HUD) provides funding to state and local governmental agencies to enforce local fair housing laws that are substantially equivalent to the Fair Housing Act. Once a state and/or city have a substantially equivalent fair housing law, they can attempt to become certified as a Fair Housing Assistance Program (FHAP) Agency and receive funds for investigating and conciliating fair housing complaints or they can become a Fair Housing Initiatives Program (FHIP) Agency and receive funds for education, promoting fair housing, and investigating allegations. It should be noted that a city must be located in a state with a fair housing law that has been determined by HUD to be substantially equivalent. The city must then adopt a law that HUD concludes is substantially equivalent in order to participate in the FHAP Program. The local law must contain the seven protected classes - race, color, national origin, sex, religion, handicap, and familial status - and must have substantially equivalent violations, remedies,

investigative processes, and enforcement powers. In addition, the process for investigating and conciliating complaints must mirror HUD's.

HUD's process begins when an aggrieved person files a complaint within one year of the date of the alleged discriminatory housing or lending practice. The complaint must be submitted to HUD in writing. However, this process can be initiated by a phone call. HUD will complete a complaint form, also known as a 903, and mail it to the complainant to sign. The complaint must contain the name and address of the complainant and respondent, address and description of the housing involved, and a concise statement of the facts, including the date of the occurrence and the complainant's affirmed signature. Upon filing, HUD is obligated to investigate, attempt conciliation, and resolve the case within 100 days. Resolution can be a dismissal, withdrawal, settlement or conciliation, or no determination as to cause.

The FHAP certification process includes a two-year interim period when HUD closely monitors the intake and investigative process of the governmental entity or non-profit applying for substantial equivalency certification. Also, the local law must provide enforcement for aggrieved citizens where cause is found. It can be through an administrative hearing process or filing suit on behalf of the aggrieved complainant in court.

The FHIP certification process is contingent on which type of funding the agency is applying. There are four programs to which an agency can apply; Fair Housing Organizations Initiative (FHOI), Private Enforcement Initiative (PEI), Education Outreach Initiative (EOI), and Administrative Enforcement Initiative (AEI). Currently, there is no funding under the AEI status.

The State of Texas enacted the Texas Fair Housing Act in 1989. The State's Act was determined by HUD to be substantially equivalent. The City of Waco also has a local fair housing ordinance that provides substantially equivalent rights and remedies to those granted under the federal law. The Texas Workforce Commission, formally known as the Texas Commission of Human Rights is the state FHAP agency.

Fair Housing Court Case Examples

There are other laws that augment or promote fair housing choice. Recent developments discussed here pertain to court cases and decisions that have developed in fair housing, as well as other laws that have been utilized to enhance fair housing efforts.

Since the inception of the Act, insurance companies have taken the position that they are not covered by the Act. However, in 1992 a Wisconsin Appeals Court determined that the Act "applies to discriminatory denials of insurance and discriminatory pricing that effectively preclude ownership of housing because of the race of an applicant." The case was a class action lawsuit brought by eight African-American property owners, the NAACP, and the American Civil Liberties Union against the American Family Insurance Company. The plaintiffs claimed they were either denied insurance, underinsured, or their claims were more closely scrutinized than Whites. American Family's contention was that the Act was never intended to prohibit insurance redlining. The appeals Court stated, "Lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable." A 1998 court verdict against Nationwide Insurance further reinforced previous court action with a \$100 million judgment due to illegally discriminating against black homeowners and predominantly black neighborhoods.

Another case was settled for \$250,000 in Maryland when Baltimore Neighbors, Inc., a non-profit organization, alleged that real estate agents were steering. Fine Homes' real estate agents were accused of steering prospective African-American buyers away from predominantly White neighborhoods and Whites were almost never shown homes in predominantly African-American zip codes.

A 1999 joint statement from the Department of Justice and HUD details changing attitudes concerning group homes for disabled and mentally ill persons situated in residential neighborhoods. The statement indicates that group homes should be treated no different than non-related individuals sharing a home. If a jurisdiction has zoning rules limiting the number of

non-related individuals living in a home in a residential area, similar limits may be imposed on group homes for the disabled or mentally ill. If no such zoning rules exist, limiting non-related individuals, none may be set for group homes. This statement does not include half-way homes for ex-convicts, drug users, or persons who have been convicted of the manufacture or sale of illegal drugs.

In *City of Edmonds v. Oxford House*, the United States Supreme Court ruled that the Fair Housing Amendments Act of 1988 prevents communities from excluding group homes for the handicapped from single-family residential zones. Oxford House is a nonprofit umbrella organization with hundreds of privately operated group homes throughout the country that house recovering alcoholics and drug addicts. Recovering alcoholics and drug addicts, in the absence of current drug use or alcohol consumption, are included under the protected class of handicapped in the Fair Housing Act as amended in 1988. In *Oxford House v. Township of Cherry Hill*, 799 F. Supp. 450 (D. N.J. 1991), the federal court rejected a state court ruling that said recovering alcoholic and drug addicted residents in a group home do not constitute a single-family under the Township's zoning ordinance. In *Oxford House-Evergreen v. City of Plainfield*, 769 F. Supp. 1329 (D. N.J. 1991) the court ruled that the City's conduct, first announcing that the Oxford House was a permitted use only to deny it as a permitted use after neighborhood opposition, was intentionally discriminatory.

"Unjustified institutionalization of persons with mental disabilities...qualifies as discrimination." - was stated as the majority opinion of the U.S. Supreme Court. In a landmark decision by a 6-3 vote, the U.S. Supreme Court ruled in June 1999, that a state may not discriminate against psychiatric patients by keeping them in hospitals instead of community homes. The court said that the Americans with Disabilities Act (ADA) may require that states provide treatment in community-based programs rather than in a segregated setting. This case, known as the Olmstead case, ruled that community placement is a must when deemed appropriate by state professionals, agreed to by the individual with the disability, and resources available are sufficient. The courts agreed with "the most integrated setting" provision of the ADA.

In 2003, a settlement was ordered by the District Court in New Jersey for the owner of the internet website, www.sublet.com, who was found guilty of publishing discriminatory rental advertisements which is prohibited by the Fair Housing Act. It was the first of its kind to be brought by the Justice Department. It was thought to be imperative that the federal laws that prohibit discriminatory advertising should be enforced with the same vigor with regard to internet advertising as it would for print and broadcast media. The court ordered the site to establish a \$10,000 victim fund to compensate individuals injured by the discrimination. They were also ordered to pay a civil penalty of \$5,000, adopt a non-discrimination policy to be published on the website, and require all employees to undergo training on the new practices.

In February 2005, a federal court jury in Detroit sided with a 55-year-old disabled registered nurse in a decision that could solidify the right of mentally ill people to obtain exceptions to no-pet policies in apartment, condominium, and cooperative housing complexes. The verdict which awarded \$14,209 in actual damages and \$300,000 in punitive damages to the nurse is believed to be the first federal jury verdict to recognize mental illness as a disability under the federal Fair Housing Act.

Under the Fair Housing Act, apartment complexes and condominiums with four or more units and no elevator, built for first occupancy after March 13, 1991, must include accessible common and public use areas in all ground-floor units. An apartment complex near Rochester, New York was ordered to pay \$300,000 to persons with disabilities for not making its housing facility fully accessible, with \$75,000 set aside for the plaintiffs. They were required to publish a public notice of the settlement fund for possible victims and pay a \$3,000 civil penalty.

Fair Lending Laws

Unfair lending is more difficult to detect and to prove. However, there are laws, other than the fair housing law, to assist communities in aggressively scrutinizing fair lending activity. One such law is the Home Mortgage Disclosure Act (HMDA), which requires banks to publish a record of their lending activities annually. Frequently, fair housing enforcement agencies and nonprofits use these data to help substantiate a discrimination claim or to determine a bank's racial diversification

in lending. Another law frequently utilized by community organizations is the Community Reinvestment Act (CRA). When a bank wants to merge with or buy another bank or establish a new branch, the community has an opportunity to comment. Usually, the CRA commitments made by the bank are analyzed, utilizing other data such as HMDA, to determine adherence. The community can challenge the action if the bank has a poor record. Sometimes agreements can be reached with the bank promising a certain level of commitment to the community. Additionally, the Equal Credit Opportunity Act (ECOA) prohibits discrimination in lending generally and can be quite significant when it comes to securing information about unfair lending practices and imposing remedies, which may include up to one percent of the gross assets of the lending institution.

The Fair Housing Act and Homelessness

Homelessness is defined as lacking a fixed, regular, and adequate night-time residence; or the primary night-time residence is:

- A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
- An institution that provides temporary residence for individuals intended to be institutionalized; or,
- A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The Fair Housing Act's definition of "dwelling" does not include overnight or temporary residence so mistreatment of the homeless is not specifically covered by the Fair Housing Law although the inability of persons to find affordable housing, which may lead to homelessness, is a concern for those involved with fair housing.

Testing Rights

It has long been settled that fair housing testing is legal and that non-profits have standing to sue when certain criteria are met. These decisions make it feasible for non-profits to engage in fair housing enforcement activities.

2.1. Enforcement

The City of Waco's Fair Housing Administrator is responsible for hearing discrimination claims and determining what steps must be taken to resolve the situation. The Texas Workforce Commission – Civil Rights Division also takes complaints, investigates the issues, and attempts to conciliate the dispute. The process that the Commission follows was patterned after the process that HUD established for fair housing complaints prior to transferring enforcement activities to substantially equivalent entitlement communities that have completed the training requirements to become a Fair Housing Assistance Program (FHAP) agency. In Texas, HUD is mandated to turn over all complaints to the FHAP and if federal money is involved the FHAP has the option to turn the case back over to HUD.

The City's Fair Housing Administrator receives and investigates fair housing complaints. The complainants are informed of HUD's complaint process if they wish to file a complaint with the Regional HUD office in Fort Worth, Texas. If the Fair Housing Officer determines that a discriminatory practice has occurred, the case is recommended to the municipal court. No formal complaints have been received by the Fair Housing Administrator in the past few years. A number of calls were received regarding general information on fair housing, but no one filed a complaint. All callers were referred to the agencies that could help with their issue and were asked to file a written complaint if they continue to have problems. The City has improved its process for complaint intake and staff follow-up if a discrimination complaint is filed with HUD office.

Education and Outreach

An essential ingredient of fair housing opportunity and enforcement is the education of the public regarding the rights and responsibilities afforded by the fair housing law. This includes the education of housing and financial providers, as well as citizens, the potential victims of discrimination. It is important for potential victims of housing and/or lending discrimination to be aware of fair housing issues generally, know what may constitute a violation, and what they can do in the event they believe they may have been discriminated against. Likewise, it is important for

lenders, housing providers, and their agents to know their responsibilities and when they may be violating fair housing law.

Often, people may be unaware of their fair housing rights. Present day housing discrimination does not tend to be as overt. Instead of saying that no children are allowed, they may impose unreasonable occupancy standards that have the effect of excluding families with children. Rather than saying, "We do not rent to Hispanics," they may say, "Sorry we do not have any vacancies right now, try again in a few months," when, in fact, they do have one or more vacancies. Printed advertisements do not have to state, "no families with children or minorities allowed" to be discriminatory. A series of ads run over an extended period of time that always or consistently exclude children or minorities may very well be discriminatory. In addition, a person who believes he/she may have been discriminated against will probably do nothing if he/she does not realize that a simple telephone call can initiate intervention and a resolution on his/her behalf, without the expenditure of funds or excessive time. Thus, knowledge of available resources and assistance is a critical component.

The Housing and Community Development Services Department provides fair housing education and markets its housing programs to all citizens of the community. The City of Waco's Fair Housing Ordinance supports the administration and enforcement of fair housing regulations according to the state and federal fair housing laws. The objectives of the Ordinance are to encourage the City's Fair Housing Administrator to provide public information programs such as fair housing seminars, conferences, institutes, and symposia and distribute information regarding equal housing opportunity. The Housing and Community Development Services Department shares information with local realtors, bankers, and other housing providers on fair housing choice. The City uses both English and Spanish brochures that provide information on filing fair housing complaints and contacts to obtain more information. The City also participates in the Annual Housing Expo conducted on a weekend in March, which is free to the public and provides brochures and other information packets on fair housing and the City's housing programs. The City is working on the development of a basic educational vehicle which reflects the objectives of fair housing initiatives and will make this tool available to the private sector and local agencies involved in the housing industry.

2.2. Production and Availability of Affordable Units

An overview of the key characteristics affecting the housing environment in Waco will assist in assessing the adequacy and effectiveness of the housing programs designed and implemented by the City, in reaching the target market, and identifying and serving those who have the greatest need. Much of the information is taken from the Consolidated Plan, the Consolidated Annual Performance and Evaluation Report (CAPER), the Annual Action Plan, and other documentation provided by the City of Waco.

Grant funding for the past two years and the upcoming program year include entitlement allocations for Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME). Funding levels were shown in the table below:

Table 2.1: Funding Allocations

FY	CDBG	HOME
2007	\$1,712,030	\$971,361
2006	\$1,708,557	\$975,527
2005	\$1,899,732	\$1,037,613

Source: City of Waco CAPERs

The City of Waco utilizes CDBG and HOME funds to rehabilitate or reconstruct sub-standard housing and to provide low to moderate income families' opportunities to purchase new or existing homes. According to the 2004-2008 Consolidated Plan, the City administers the following housing programs:

Owner-Occupied Rehabilitation/Reconstruction Loan Program

The Residential Rehabilitation Program has as its purpose the prevention and elimination of deterioration, slums, and blighting influences in the community. Through the revitalization and conservation of the existing housing stock or reconstruction of extremely deteriorated housing units, the program seeks to preserve and restore stable, viable, and environmentally pleasing neighborhoods within the city. In order to participate, the property must be occupied by the owner as his/her primary residence (homestead) and located within the city limits of Waco. Loan terms will vary depending on the borrowers' ability to repay. Loans will be:

- Deferred-forgivable Loan,
- Fully Amortizing Loan,
- Partial Amortizing Loan,
- Deferred due-on-sale Loan, and
- Rehabilitation Loan Supplemented by Private Funds.

New/Acquisition Housing Loan Program

In conjunction with private lending institutions, the City of Waco will be offering financing to help low and moderate-income households purchasing a home in the city limits of Waco. The home purchase can be either a newly constructed residence (HOME Program funding) or an existing residential structure (HOME or CDBG funding). If a homebuyer wishes to purchase an existing property that needs repairs, the buyer will be assisted with both purchase and rehabilitation financing. Funds may be used to assist the borrower with down payment, closing costs, and impact fees including, but not limited to appraisal fees, credit report fees, origination fees, discount points, inspection fees, title search fees, commitment fees, termite report, survey, underwriting fees, document preparation fees, interest rate reductions or buy downs, and code related repairs required in the code and safety inspection.

Loan terms will vary depending on the borrower(s)' ability to repay. Loans may be either:

- Fully amortizing
- Partially amortizing
- Deferred — due on sale, or
- Deferred — forgivable as approved by the loan committee.

Interim Construction Loans

The Interim Construction Loan program has been developed to encourage developers and homebuyers (low- and moderate-income) to construct single-family housing in the central city, primarily within, but not limited to, the designated impact areas. Although no new funding is anticipated to be added to this program, the City plans to continue using the HOME program year

1998 funds totaling \$345,450 on a revolving basis. The City anticipates providing interim financing with these funds for at least 20 units during the current five year period.

Lot Sales Program

The City plans to continue the successful lot sales program by selling City-owned or tax foreclosure property at highly discounted prices for the development of owner-occupied housing. The City anticipates selling at least 150 lots during this period for the development of owner-occupied housing if the City, County, and School district continue to authorize this program. Most housing is developed for low-income households.

Emergency Repair Program

The Emergency Repair Program is designed to assist in the elimination of hazardous situations, for homeowners not qualified for a Residential Rehabilitation loan. The program is city-wide and operates on a first-come first-serve basis. The Emergency repair work addresses roof, plumbing, and electrical emergencies but may include other serious emergency situations that would be determined by City Inspector.

CHDOs-New Single-Family Construction

The City's CHDOs, Neighborhood Housing Services of Waco, Inc., Waco Community Development Corporation, and Waco Habitat of Humanity, continue to build new single-family homes for low-income homebuyers and provide education for prospective homebuyers.

Table 2.2, on the following page, duplicated from the 2005 Consolidated Performance Evaluation Report, shows the accomplishments of housing programs that provided affordable housing for lower income persons and diverse ethnic groups utilizing CDBG and HOME funding. During the 2005-2006 fiscal year, the City's Rehabilitation and Reconstruction program provided reconstruction assistance for five deteriorated single-family owner-occupied units. Neighborhood Housing Services (NHS) provided low-interest down payment and closing cost assistance loan to one low to moderate-income person for home purchase within the city under the CDBG revolving loan fund. Faith Covenant Support Services provided matching funds utilizing CDBG funding for seven homeowners that completed the Individual Development Account Services Program.

Table 2.2: Housing Program Accomplishments by Household Ethnicity:

Activity	# of Units	Income Group No More Than			Household Ethnicity				
		80%	50%	30%	White	Black	Asian	Other	Hispanic
CDBG:									
Reconstruction	5 units	5	0	0	3	2	0	0	0
Rehabilitation	1 household (a)	0	0	1	1	0	0	0	0
NHS Revolving Loan Fund	1 unit	1	0	0	0	0	0	0	
Faith Covenant IDA Homeownership	7 households (b)	3	2	2	2	5	-	-	3
HOME:									
Reconstruction	5	3	1	1	1	4	0	0	1
Down-payment and Closing cost assistance	15	15	0	0	5	8	0	2	3
NHSCHDO	4 (c)	0	0	0	0	0	0	0	0
Habitat of Humanity CHDO	8	3	5	0	6	2	0	0	5
Waco Community Development Corp	3	1	0	0	1	0	0	0	1
NHA Down-payment Closing Cost	1 (d)	0	0	0	0	0	0	0	0

Source: City of Waco 2005 CAPER

- a. This unit is also reported under Faith Covenant Homeownership and same under CHDO accomplishments. Thus ethnicity and income data not included.
- b. reported 7 in the City's HOME down-payment accomplishments and 1 in CHDO accomplishments. Thus ethnicity and income data not included.
- c. reported 4 in the City's HOME down-payment and closing cost assistance accomplishments. Thus ethnicity and income data not included.
- d. reported this unit in the City's HOME down-payment and closing cost assistance accomplishments. Thus ethnicity and income data not included.

2.3. Regulatory and Public Policy Review

The City's zoning ordinance, building code, and public policies were examined to reveal any current ordinances or policies that might impede fair housing and housing choice.

Though Waco's zoning ordinance defines 'family' as consisting of not more than four unrelated persons living together, the Ordinance allows Community Home I and II in residential districts to develop group homes for disabled persons. Community Home I, with no more than six unrelated disabled individuals, are allowed in single-family residential districts and Community Home II, with seven or more disabled persons, is allowed in higher density residential districts.

The City of Waco's Zoning Ordinance includes 10 types of residential districts with various lot sizes to accommodate housing development affordable to diverse income groups. The R-1A, R-1B, and R-1C single-family residence districts are intended to provide for low-density development in a spacious setting; for development of single-family dwellings at a moderate density; and for development of zero lot line dwellings with flexibility in determining the site layout. The R-2 district provides for development of single- and two-family dwellings in transitional areas. The five multiple-family residence districts provide for development of varied dwelling types at densities ranging from seven dwelling units per acre to 40 dwelling units per acre.

No fair housing impediments are identified in the City's building code.

2.4. Analysis of Fair Housing Complaints

Fair housing complaint information was received from the U.S. Department of Housing and Urban Development and provides a breakdown of complaints filed for Waco from January 1, 2000 through May 22, 2007. The complaints filed with HUD are received from the Fair Housing and Equal Opportunity (FHEO) regional office in Fort Worth, Texas. Twenty-seven complaints were filed according to one or more of seven bases, including: National Origin, Color, Religion, Familial Status, Handicap, Sex, and Race. Table 2.3, below, shows the breakdown. The total is more than 27 because some cases cited multiple bases in their claim.

Table: 2.3: Fair Housing Complaints by the Basis of Complaint (2000-2007)

Protected Class	Race/Color	National Origin	Familial Status	Handicap	Sex	Religion	Totals
2000	1			1	1		3
2001	3		1				4
2002				1	1		2
2003	1			2	1		4
2004	5			1	1		7
2005	1	2		3	2		8
2006	1	1		2			4
2007							
Total	12	3	1	10	6		32

Source: U.S. Department of Housing and Urban Development – Fort Worth Regional Office

Of the 27 complaints, 25 were closed with a satisfactory resolution and two cases are pending. Four cases were closed with conciliation where probable cause was found prior to being conciliated. Seventeen cases were closed with a no cause determination. This means that justification for the complaint was not applicable to the Fair Housing Act. Two cases were dismissed due to lack of jurisdiction. One complaint was withdrawn and in one complaint the complainant failed to cooperate or could not be located. Table 2.4, below, shows the tally of the case closure types by year the case was opened.

Table: 2.4: Type of Case Closure (2000-2007)

Type of Closure	2000	2001	2002	2003	2004	2005	2006	2007	Total
Case Conciliated	1		1		1	1			4
No Probable Cause	2	3	1	2	2	4	3		17
Withdrawn					1				1
Unable to Locate Complainant						1			1
Lack of Jurisdiction		1			1				2
Totals	3	4	2	2	5	6	3		25

Source: U.S. Department of Housing and Urban Development – Fort Worth Regional Office

2.5 Conclusions and Implications for Fair Housing Barriers

The State of Texas and the City of Waco both have fair housing laws that are substantially equivalent to the federal Fair Housing Act. Fair housing enforcement is provided through the City's Fair Housing Administrator and the Texas Workforce Commission – Civil Rights Division, the state FHAP. They are mandated by HUD to investigate fair housing complaints and work to educate the community and housing professionals on fair housing issues. The Housing and Community Development Services Department shares information with local realtors, bankers, and other housing providers on fair housing choice. The City uses both English and Spanish brochures that provide information on filing fair housing complaints and contacts to obtain more information. Since, the current level of complaints is comparatively low, this might indicate that potential complainants may not be aware of their rights under fair housing law. Over the past eight years, a total of 27 complaints have been received and investigated through HUD.

A review of the real estate advertising in the community revealed that only 25 percent of advertisers show the equal housing opportunity logo or slogan. While, the Fair Housing Act does not require the use of the Equal Opportunity logo or slogan in any ad, using the logo is good solid evidence of the company's commitment to fair housing compliance. Of the advertisements that showed pictures of prospective clients, only one in five show minority members as prospective clients. Advertising only Whites as prospective clients may send out a message that minorities are not welcome in the community.

Waco currently receives over \$2.6 million per year in CDBG and HOME entitlements. The City of Waco operates housing programs funded with these allocations and works to address housing priorities defined in the 2004-2008 Consolidated Plan. The City utilizes CDBG and HOME funds to rehabilitate or reconstruct sub-standard housing and to provide low to moderate-income families' opportunities to purchase new or existing homes.

A review of Waco's municipal codes reveals that the City has a Fair Housing Ordinance. No impediments were identified in the City's zoning ordinance or building code.