

Affirmatively Furthering Fair Housing Part II: The Assessment Tool, HUD Data, and Community Participation



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HOUSING JUSTICE

National Housing Law Project

Housekeeping

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- Evaluations will be e-mailed to registrants after the webinar.
- MCLE certificates will be emailed to California attorneys in the next two weeks.
- Accompanying materials will be e-mailed to all registrants after the webinar.

Overview

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- **Brief Recap of Webinar, Part I**
- **Assessment of Fair Housing (AFH) Assessment Tool for Local Governments**
- **Introduction to HUD's AFFH Data and Mapping Tool**
- **A Closer Look at Community Participation Requirements**

AFFH Final Rule – Brief Recap of Part I

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- Issued in July 2015
 - Effective Date: August 17, 2015
- The AFFH Rule creates and amends HUD regulations to construct a new fair housing analysis framework, the Assessment of Fair Housing (AFH). The AFH is replacing the Analysis of Impediments (AI).
- HUD funding recipients (including states, local governments, and PHAs) must comply with the new AFFH Rule.
- HUD funding recipients will rely upon HUD-provided data, local data, and local knowledge to complete their AFHs.
- Community participation will be key to successful implementation.
- Implementation will be staggered.

Why Should the AFH Process Matter to Advocates?

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- The AFH process provides an opportunity for legal services and other advocates to think about the systemic problems experienced by their clients, such as:
 - Source of income discrimination
 - Displacement of residents due to economic pressures
 - Land use and zoning laws
 - Admissions and occupancy policies & procedures in publicly supported housing
 - ✦ Credit or criminal records policies?
 - ✦ Eviction policies/procedures?
 - ✦ Waitlist policies?
- The AFH process also requires HUD funding recipients to engage in goal-setting to address identified fair housing issues and the forces that are driving them. Legal services and other advocates have the opportunity to influence these goals.
- What about enforcement?

The AFH Assessment Tool

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What is the AFH Assessment Tool?

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- The Assessment Tool is the blueprint for completing the Assessment of Fair Housing (AFH), and is comprised of a series of questions and instructions.
- HUD has indicated that there will ultimately be three Assessment Tools:
 - Assessment Tool for Local Governments
 - Assessment Tool for PHAs
 - Assessment Tool for States/Insular Areas
- Each of the three Assessment Tools will feature different questions and instructions, but all will likely share a similar structure.
 - A note about joint/regional submissions

AFH Assessment Tool

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- The questions in the Assessment Tool will be completed by HUD funding recipients; HUD will review the responses.
- However, advocates should familiarize themselves with the basic structure of the Assessment Tool in order to better target their advocacy efforts in the AFH process.
 - The availability of the questions, instructions, and HUD-provided data allows advocates to perform the same analysis on certain issues and compare takeaways.
 - The Assessment Tool can provide useful context for community participation.

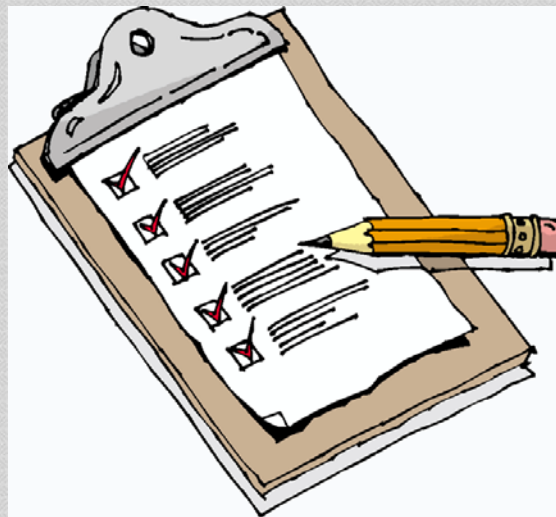
AFH Assessment Tool

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- Funding recipients must use three types of information to answer the questions in the Assessment Tool:
 - **National HUD-provided Data**
 - ✦ Provided via HUD's AFFH Data and Mapping Tool
 - **Local Data**
 - ✦ HUD determines statistical validity; local data must be relevant, readily accessible for little to no cost, attainable with reasonable amount of searching, and necessary for AFH analysis. 24 C.F.R. § 5.152.
 - **Local Knowledge**
 - ✦ Information that is relevant to the AFH, is known by (or becomes known to) funding recipient, and necessary for the AFH analysis. 24 C.F.R. § 5.152.

AFH Assessment Tool for Local Governments

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AFH Assessment Tool for Local Governments

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- Why are we focusing on the Local Government Assessment Tool?
- Current version issued in December 2015
 - Federal Register Notice: 80 Fed. Reg. 81,840 (Dec. 31, 2015).
 - This version is subject to change, as HUD is in the process of renewing the Assessment Tool.
- When will this Tool be used?
 - Local governments submitting an AFH on their own.
 - Joint/regional collaborations:
 - ✦ Between local governments
 - ✦ Between at least one local government + at least one PHA
 - ✦ In which a local government is the lead entity

Assessment Tool for Local Govts.: General Structure

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- Part I: Cover Sheet (with Certification)
- Part II: Executive Summary
- **Part III: Community Participation Process**
- **Part IV: Assessment of Past Goals and Actions**
- **Part V: Fair Housing Analysis**
- **Part VI: Fair Housing Goals & Priorities**
- Part VII: Appendices and Instructions
 - Instructions
 - Descriptions of HUD-provided maps & tables
 - Contributing Factor descriptions

Community Participation Section

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- Who was targeted for outreach efforts?
 - Persons who live in racially/ethnically concentrated areas of poverty
 - Limited English proficient persons
 - Persons who experience disabilities
 - Resident Advisory Boards
- Who was consulted in this process?
- How successful were efforts to obtain community input? If community participation was low, why?
- What did the community have to say? Why did the jurisdiction fail to accept any comments or views offered by the community?

Assessment of Past Goals and Actions

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- Jurisdictions are asked to note fair housing goals in recent planning documents (including the Analysis of Impediments), and to discuss:
 - Progress that has been made toward fair housing goals
 - Successes and where efforts have fallen short
 - Policies, steps, or actions that could achieve past goals or mitigate problems
 - How past goals have influenced current goals

How Do I Find Planning Documents?

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- Check the jurisdiction's website, or ask the jurisdiction directly
- Relman, Dane & Colfax has an online database of past Analyses of Impediments:
 - <http://www.relmanlaw.com/affh/jurisdictions.php>
- California Advocates
 - Housing Elements
 - ✦ <http://www.hcd.ca.gov/housing-policy-development/housing-resource-center/plan/he/>

Assessment Tool: Fair Housing Analysis

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- The Fair Housing Analysis focuses on four general fair housing issues:
 - Segregation/Integration
 - Racially/Ethnically Concentrated Areas of Poverty
 - Disparities in Access to Opportunity
 - Disproportionate Housing Needs
- Additionally, the Fair Housing Analysis includes analyses for three specific areas:
 - Publicly Supported Housing
 - Disability and Access
 - Fair Housing Enforcement, Outreach Capacity, and Resources

Select Questions: General Fair Housing Analysis

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- **Segregation/Integration**
 - “Discuss whether there are any demographic trends, policies, or practices that could lead to higher segregation in the jurisdiction in the future.”
- **Disparities in Access to Opportunity**
 - “Describe any disparities in access to transportation based on place of residence, cost, or other transportation related factors.”
- **Disproportionate Housing Needs**
 - “Compare the needs of families with children for housing units with two, and three or more bedrooms with the available existing housing stock in each category of publicly supported housing.”

Select Questions: Specific Areas of Focus

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- **Publicly Supported Housing Analysis**
 - “Are certain racial/ethnic groups more likely to be residing in one category of publicly supported housing than other categories (public housing, project-based Section 8, Other HUD Multifamily Assisted developments, and Housing Choice Voucher (HCV))?”
 - “Describe patterns in the geographic location for publicly supported housing that primarily serves families with children, elderly persons, or persons with disabilities in relation to previously discussed segregated areas or R/ECAPs?”
- **Disability and Access**
 - “Describe whether the jurisdiction and region have sufficient affordable, accessible housing in a range of unit sizes.”
 - “Describe the range of options for persons with disabilities to access affordable housing and supportive services.”
 - “To what extent are persons with different disabilities able to access and live in the different categories of publicly supported housing?”
- **Fair Housing Enforcement**
 - “Describe any state or local fair housing laws. What characteristics are protected under each law?”

Fair Housing Analysis: Mechanics

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- Using HUD-provided data, local data, and local knowledge, local governments will answer the questions in the Fair Housing Analysis section.
- In each section of the analysis, the local government will also identify significant **contributing factors** that are creating, perpetuating, increasing the severity of, or contributing to fair housing issues.
 - Example: If a city's zoning laws are perpetuating or increasing the severity of segregation, those zoning laws would be identified as a contributing factor for segregation.
- Demonstrating that systemic problems are in fact contributing factors to fair housing issues will be a crucial part of AFH advocacy.

Fair Housing Analysis: Contributing Factors

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- What is a “contributing factor”?
 - A factor that “creates, contributes to, perpetuates, or increases the severity of one or more fair housing issues.” 24 C.F.R. § 5.152.
- Examples of contributing factors in the Local Govt. Tool:
 - Displacement of residents due to economic pressures
 - Lack of community revitalization strategies
 - Land use and zoning laws
 - The availability, type, frequency, and reliability of public transportation
 - Source of income discrimination
 - Admissions & occupancy policy and procedures, including preferences in publicly supported housing (specific to publicly supported housing)
 - Impediments to mobility
 - Occupancy codes and restrictions

Fair Housing Goals & Priorities

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- Jurisdictions must prioritize the contributing factors identified for each fair housing issue.
- After justifying this prioritization, the jurisdiction will set one or more goals to overcome the effects of the identified contributing factors.
- The jurisdiction must identify “metrics and milestones for determining what fair housing results will be achieved.” 24 C.F.R. § 5.154(d)(4)(iii).
 - The Assessment Tool also asks jurisdictions to indicate the timeframe for achievement.

AFFH Data and Mapping Tool

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What is the AFFH Data & Mapping Tool?

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- HUD's AFFH Data & Mapping Tool consists of 17 maps and 15 tables.
- The Data & Mapping Tool is publicly available at:
<https://egis.hud.gov/affht/>
- **Important question to ask: Does this map/table reflect the reality my clients see? Does this look like my community?**
 - Importance of local data and local knowledge in the AFH process
 - Do more accurate local data and local knowledge exist?
- Other potential uses for the Data & Mapping Tool beyond the AFH process

Accessing the Data & Mapping Tool: Step 1

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- Select your state from the dropdown menu and then pick the city or county you are interested in.
- You can also choose to see a regional map.

Affirmatively Furthering Fair Housing Tool

Step 1: Pick your state.
...

Step 2: Pick your Jurisdiction
You must select a STATE first.

Region: No jurisdiction selected. **Jurisdiction** Region

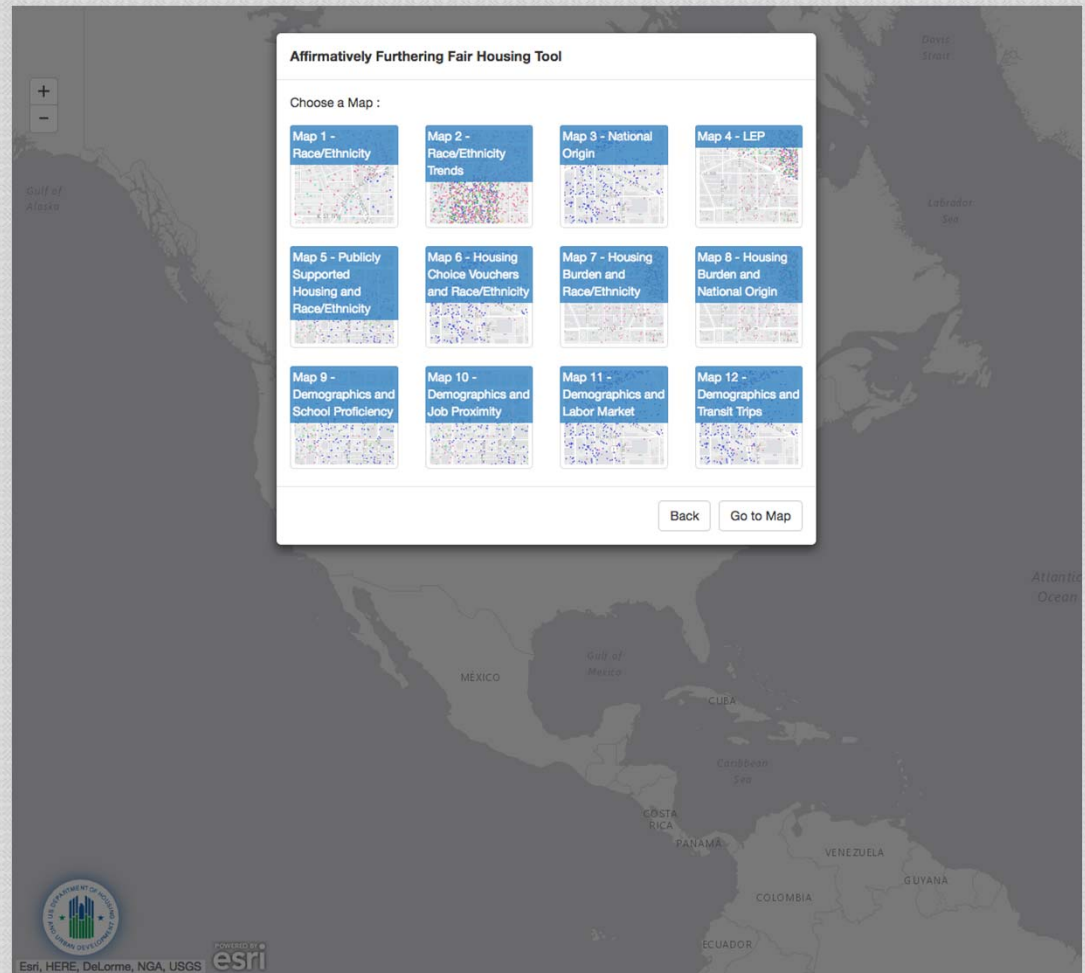
Choose a Map

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
powered by esri
Esri, HERE, DeLorme, NGA, USGS

Accessing the Data & Mapping Tool: Step 2

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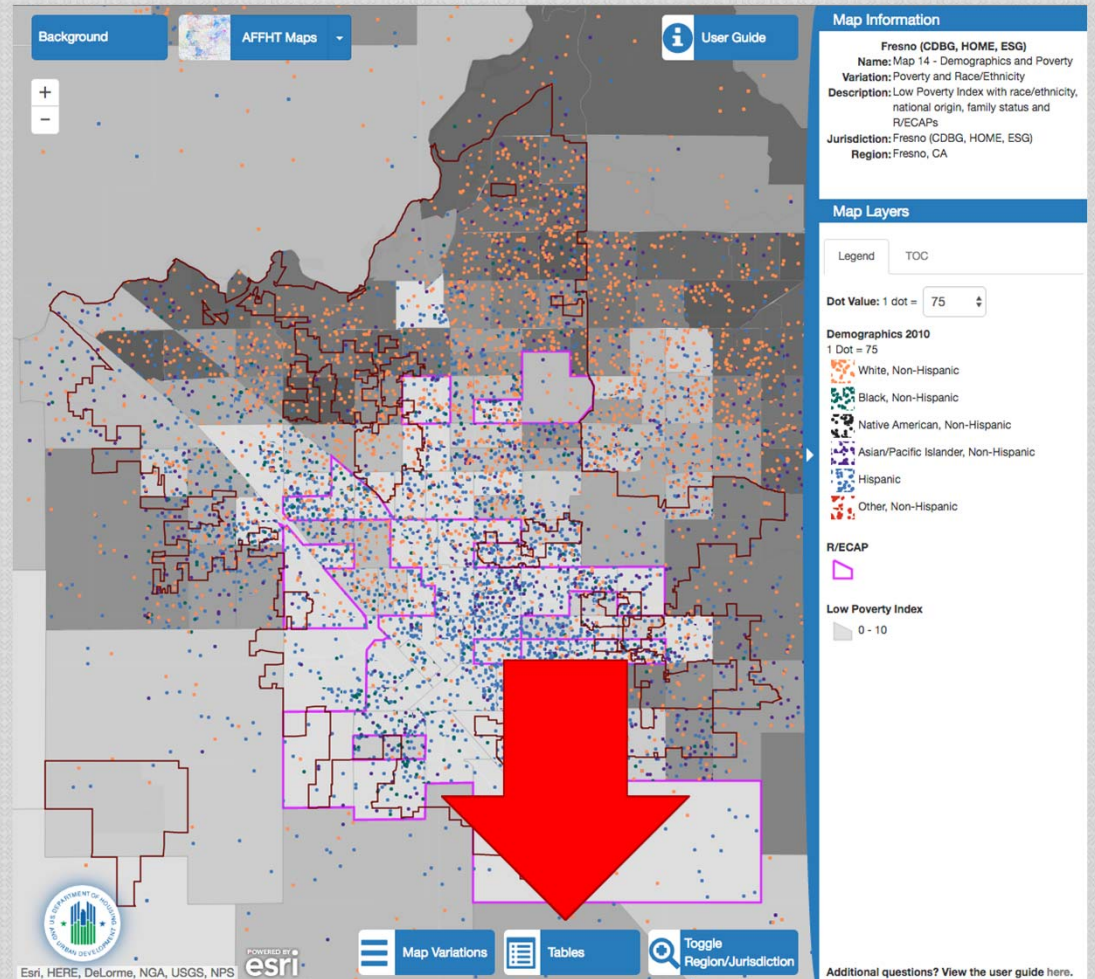
- Once you select a jurisdiction, you will be prompted to pick from the 17 maps.
- You will be able to switch between maps after you have selected one.



Accessing the Data & Mapping Tool: Step 3

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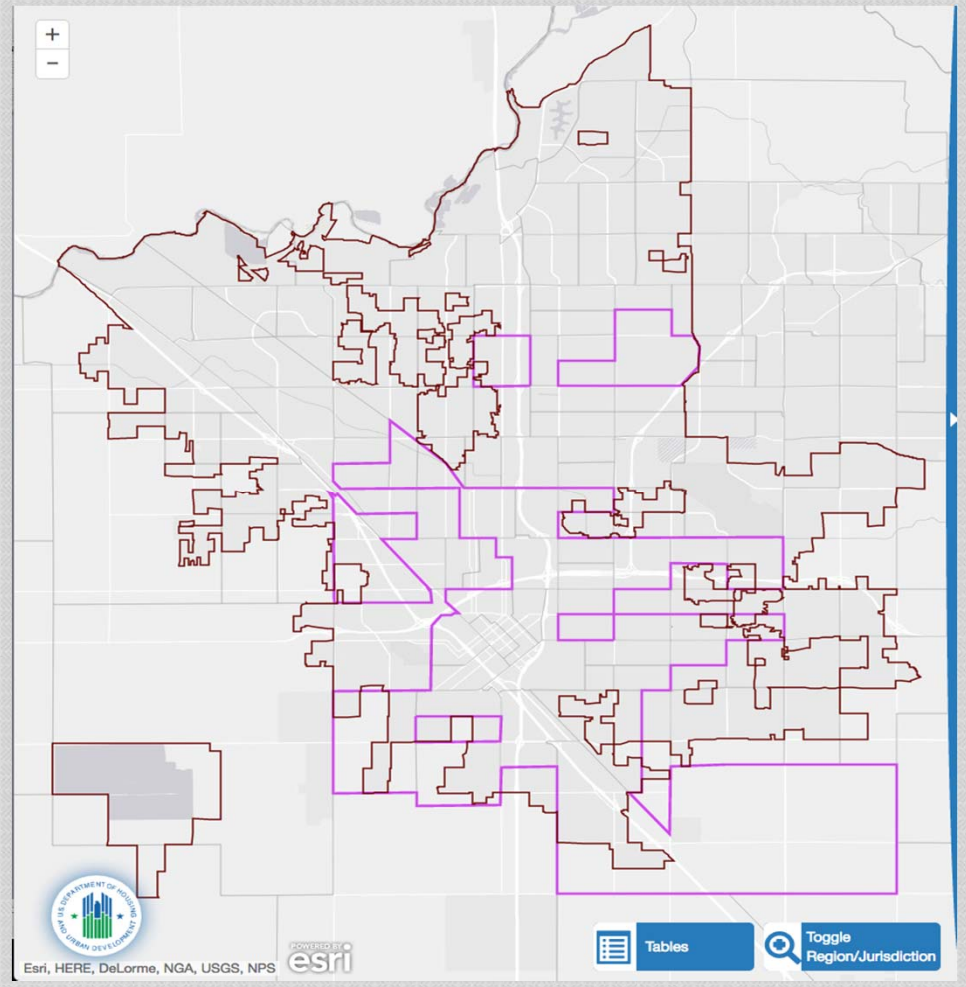
- To access a table, select any map and then click on the button in the bottom right hand corner to download the table.



Understanding the Basics

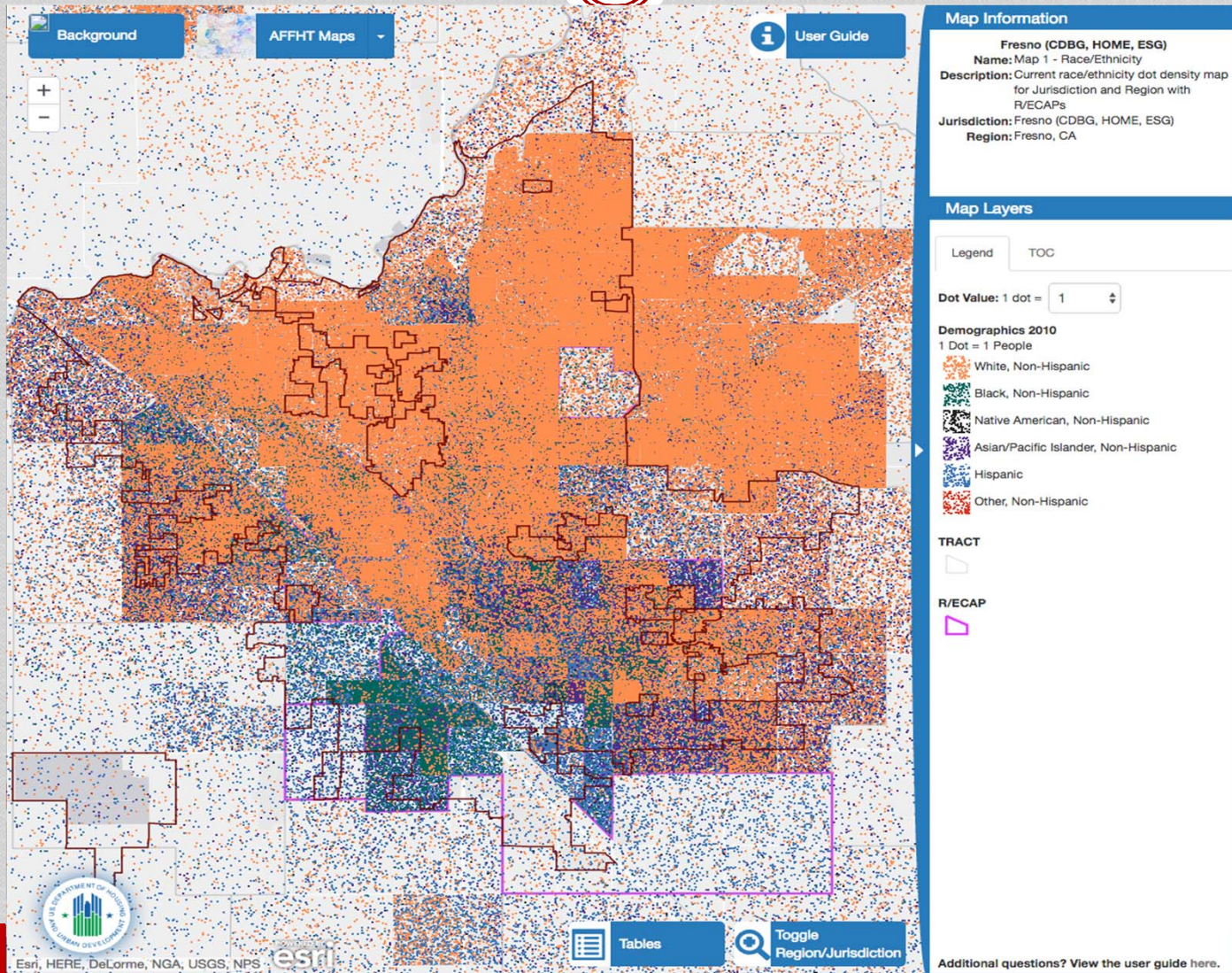
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- **Jurisdictions:** In each map, the jurisdiction you selected will be bounded by a rust red line.
- **Neighborhoods:** In each map, Census tracts are outlined in gray. Census tracts are small geographic areas containing an average of 4,000 people.



Example: Race/Ethnicity (Map 1)

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Maps vs. Tables

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- **Maps:** HUD's maps provide data for all Census tracts in a jurisdiction and can show variations in neighborhoods across a jurisdiction.
- **Tables:** HUD's tables provide information on the jurisdiction as a whole and can show disparities for protected classes versus non-protected groups across the city, county, or region.

Example: Publicly Supported Housing

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Map 5

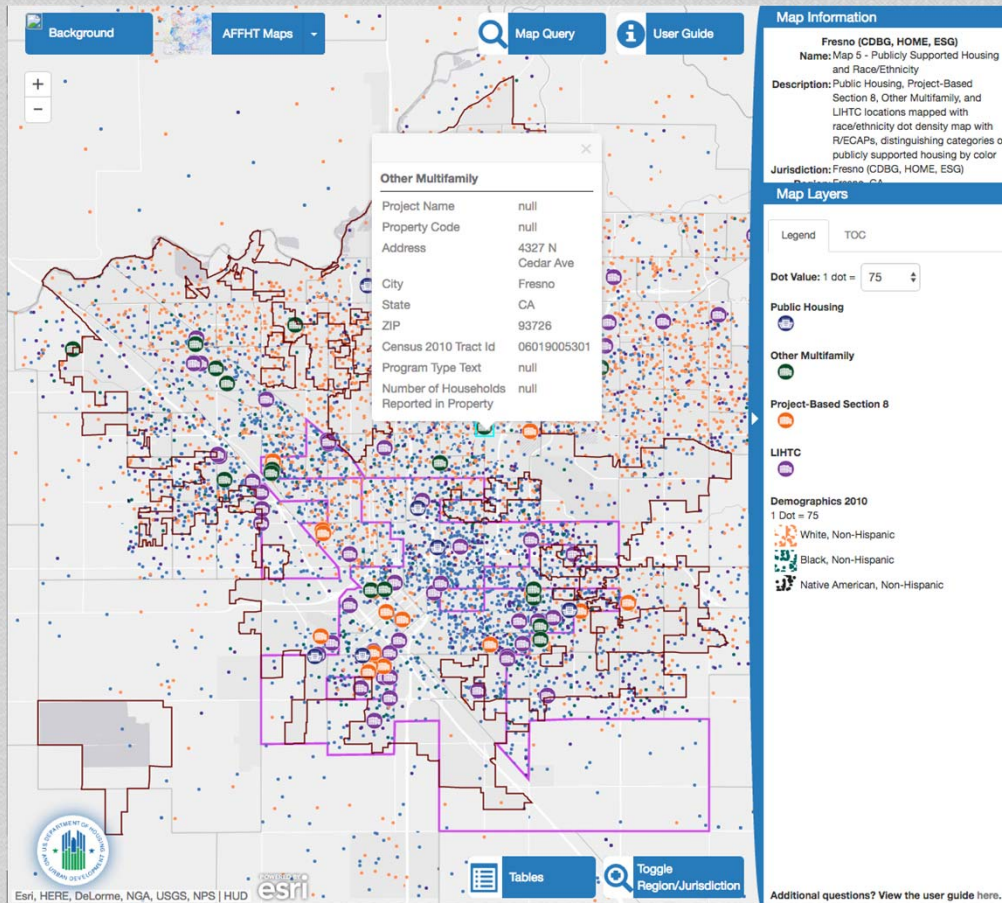


Table 5

Table 5 - Publicly Supported Housing Units by Program Category

Housing Units	(Fresno, CA CDBG, HOME, ESG) Jurisdiction	
	#	%
Total housing units	160,809	-
Public Housing	938	0.58
Project-based Section 8	1,715	1.07
Other Multifamily	223	0.14
HCV Program	10,034	6.24

Note 1: Data Sources: Decennial Census; APSH

Note 2: Refer to the Data Documentation for details (www.hudexchange.info).

Example: Publicly Supported Housing (cont.)

Table 8

Table 8 - Demographics of Publicly Supported Housing Developments, by Program Category

Public Housing					
(Fresno, CA CDBG, HOME, ESG) Jurisdiction	Public Housing Race/Ethnicity (%)	Public Housing Households with Children (%)			
Developments					
Fairview Heights Terrace	White	4	64		
	Black	33			
	Hispanic	56			
	Asian	6			
Yosemite Village	White	8	61		
	Black	26			
	Hispanic	55			
	Asian	10			
Parc Grove Commons II	White	3	73		
	Black	3			
	Hispanic	79			
	Asian	14			
Yosemite Village - Phase 2	White	12	83		
	Black	28			
	Hispanic	50			
	Asian	9			
Cedar Courts	White	5	65		
	Black	16			
	Hispanic	64			
	Asian	14			
Pacific Gardens	White	41	0		
	Black	23			
	Hispanic	32			
	Asian	0			

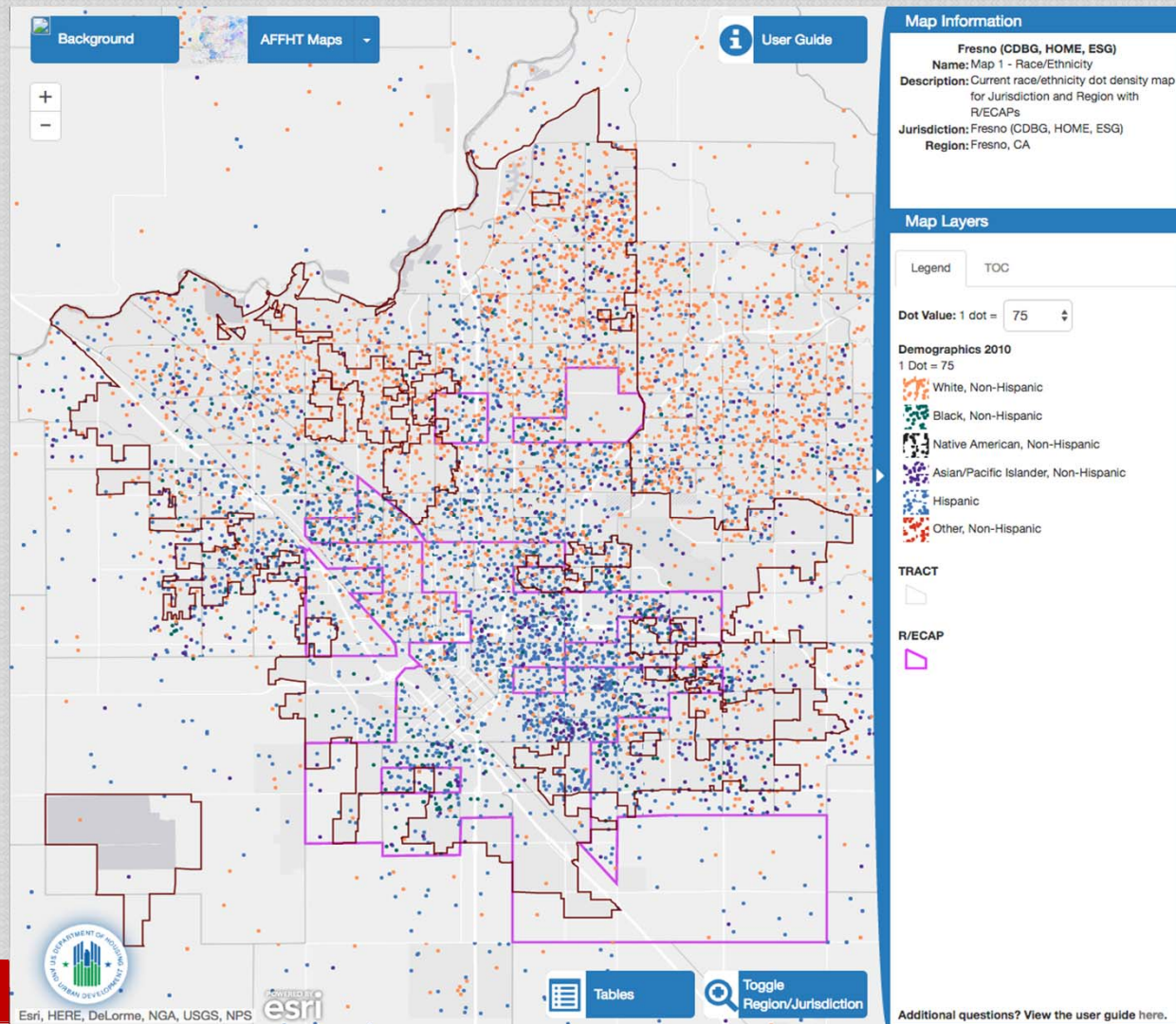
Measures of Poverty and Segregation

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- HUD uses three basic measures to help analyze the concentrations of poverty and segregation in a jurisdiction:
 - **R/ECAPs:** Highlights areas with a non-white population over 50% and a poverty rate above 40% or at/above 3x the poverty rate for the region, whichever is lower.
 - **Dissimilarity Index:** Compares the average concentration of whites and one other racial/ethnic group in a jurisdiction.
 - **Low Poverty Index:** Using poverty rates, this index compares the concentration of low-income people in an area or jurisdiction.

Example: Racial/Ethnic Concentrations of Poverty

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Opportunity Indices

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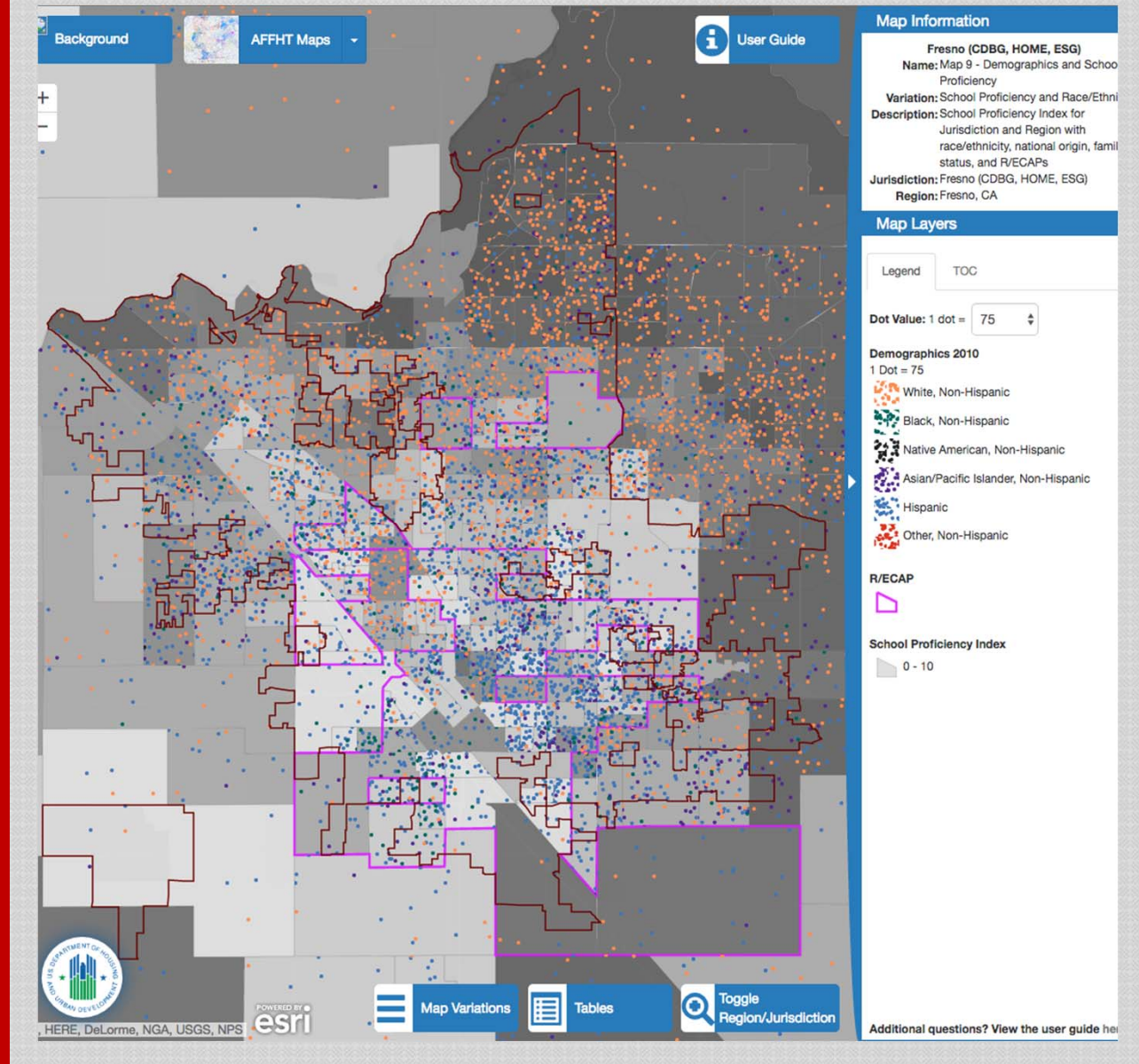
- The opportunity indices provide scores regarding access to opportunity in the jurisdiction in several areas.
 - Limitation: Opportunity indices are only available for three demographic groups: race/ethnicity, national origin, and family status.
- There are 7 opportunity indices, covering issues related to poverty, schooling, jobs, transportation, and the environment.
 - Limitation: A number of important areas, like crime and policing, health, and banking access, are not currently covered.
- All indices produce scores that are ranked, usually nationally, on a scale from 0 to 100, with a higher score (*i.e.* closer to 100) indicating “better” outcomes.
 - Limitation: Makes local and regional comparisons more difficult.

Example: School Proficiency Index

Where to find: Table 12, Map 9.

Purpose: This index measures the state exam scores of 4th graders in up to 3 elementary schools within 1.5 miles of a Census tract.

Limitations: The index does not account for other grade levels, private schools in the area, or racial segregation in schools. It also does not account for districts where school assignments are not tied to neighborhoods.

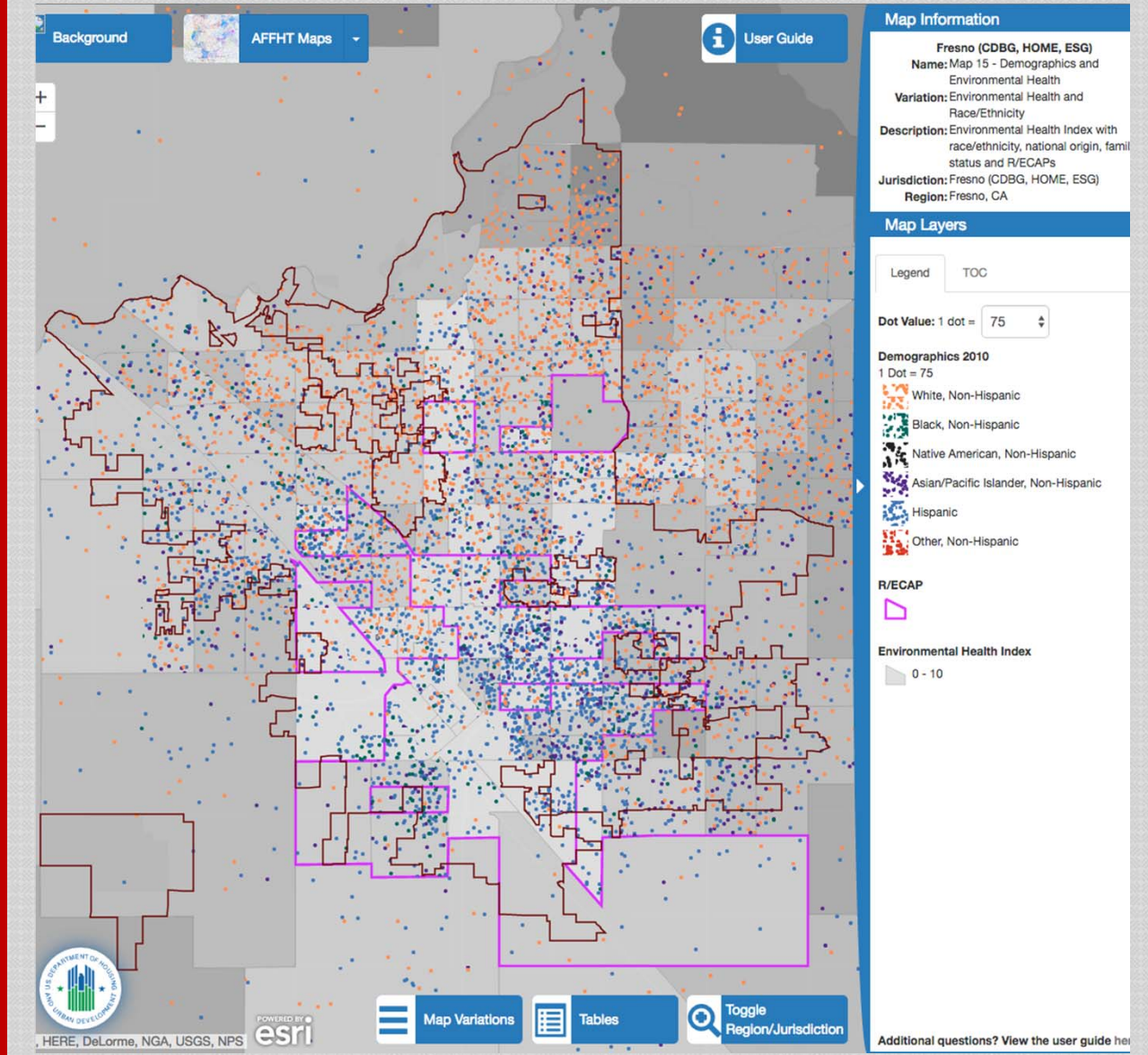


Example: Environmental Health Index

Where to find: Table 12,
Map 15

Purpose: This index
measures air quality.

Limitations: The data
only includes air toxins, is
outdated (from 2004),
and, according to the EPA,
is only valid for large
geographic areas, like
regions and states.



The Need for Local Data

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- To supplement what is provided within the AFFH Data & Mapping Tool, HUD requires the use of local data that can be located through reasonable searching, can be accessed at little/no cost, and that are necessary to complete the AFH.
- Local data sets are “subject to a determination of statistical validity by HUD.” 24 C.F.R. § 5.152.
- HUD emphasizes, though, that this does not mean that HUD will “apply a rigorous statistical validity test for all local data.” AFFH Rule Preamble, at 42,306.

Examples of Local Data

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- **Policing, Crime, and Safety:** HUD does not incorporate any information on policing, crime rates, or safety into the Data and Mapping Tool, but a number of sources on the web provide basic data. Advocates are encouraged to contact local police for the most reliable data.
- **Health Disparities and Services:** HUD does not incorporate any data on public health or access to health care services into the Data and Mapping Tool. Finding reliable health data is usually easiest on a state-by-state basis: the state department of public health's website is a good place to start.
- **Mortgage Data:** HUD lists "lending discrimination" as one of the possible contributing factors in the Assessment Tool, but does not include any data to verify whether it is a problem. The CFPB has useful maps and data tools that can provide this information.
- **More:** Consider looking for data related to banking access, public parks and recreation areas, foreclosures, political representation, and private investments.

The Need for Local Knowledge

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- Successful implementation of the AFFH Rule relies upon residents and advocates supplementing the data and analysis using local knowledge.
- Examples of “local knowledge” include “laws and policies, common neighborhood names and borders, and information about the housing market and housing stock.” (AFFH Assessment Tool Instructions)
- Community members and advocates should always ask themselves – **Do these data and maps make sense, given what I know about my community?**

A Hypothetical: City Z

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- The Problem:

Source of income discrimination against Section 8 Voucher holders is rampant in City Z. This reality results in higher cost burden and limited housing options for members of protected classes. Your clients report this issue to you, and community leaders have expressed concern about Voucher discrimination.

- The Question:

How can we use the AFH process as an advocacy avenue with City Z regarding this issue?

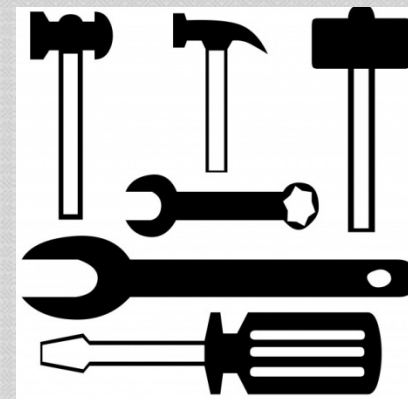
- The Advocacy Goal:

To make City Z aware of the problem, and to ensure that the goals emerging from the AFH process would eventually adequately and meaningfully address the problem.

Hypothetical (Cont.): “Tools” at Your Disposal

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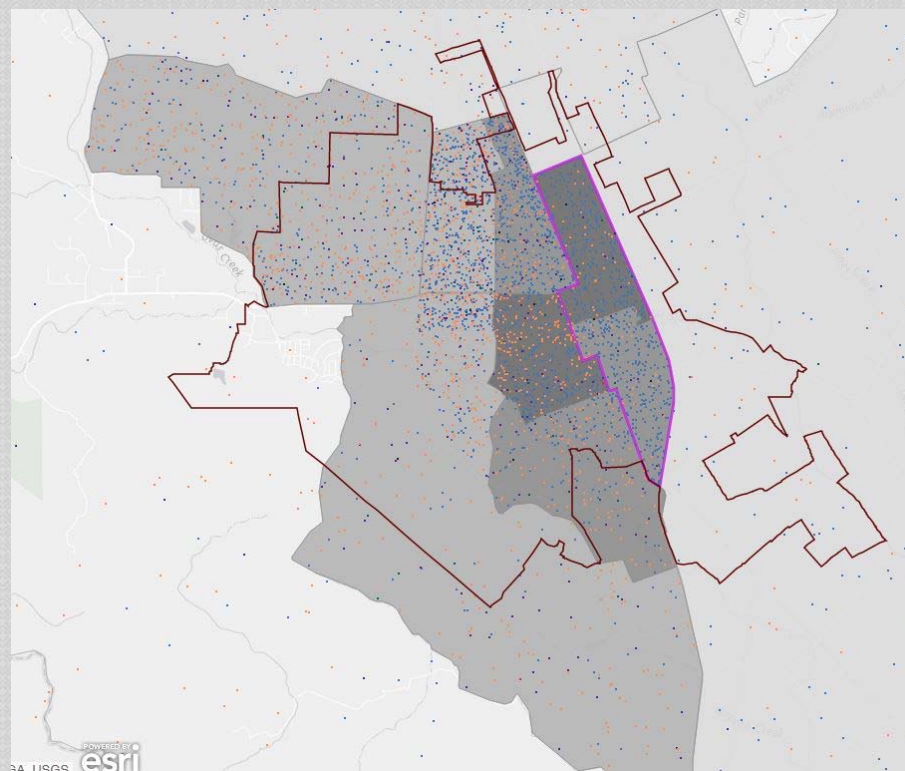
- The Assessment Tool structure
 - Source of income discrimination, community opposition, & lack of state or local fair housing laws are listed as “contributing factors” in various sections of the Assessment Tool’s Fair Housing Analysis
 - Just because a contributing factor is not listed in a particular section of the analysis does not mean it is irrelevant to the analysis
- The AFFH Data and Mapping Tool
- Local Data and Local Knowledge
- Community Participation Process



Hypothetical (Cont.): AFFH Mapping Tool

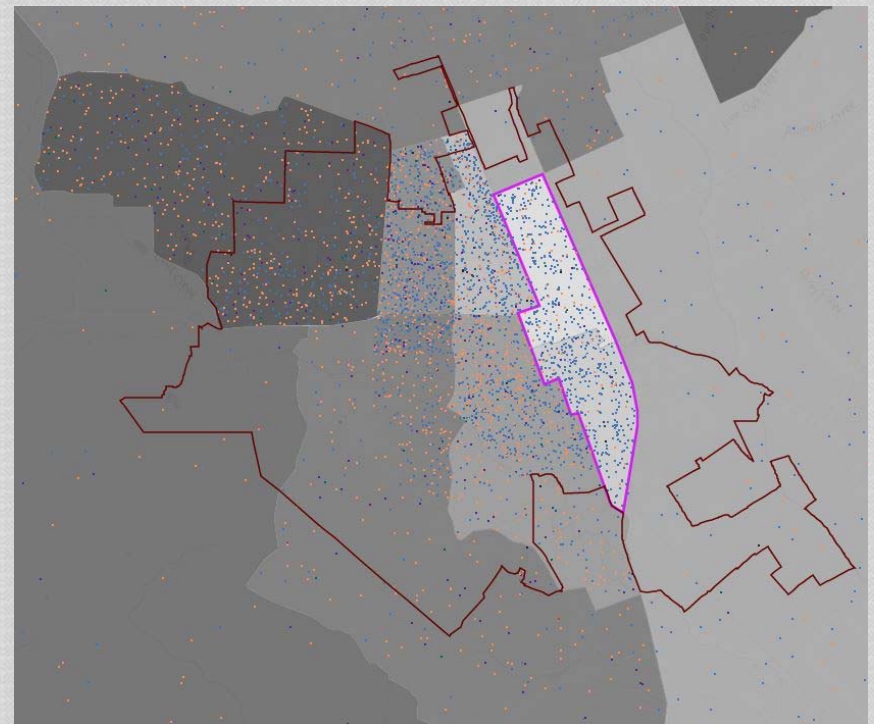
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Map 6: Voucher Households + Race/Ethnicity for Sample Jurisdiction



Darker gray = more Voucher households

Map 14 - Poverty Index + Race/Ethnicity for Sample Jurisdiction



Lighter shade = higher poverty exposure

Hypothetical (Cont.): Advocacy

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- Engage in the community participation process
 - Use the HUD-provided data if the data and maps reflect reality; if not, find more accurate sources of local data or local knowledge and present those to the locality
 - Build cross coalitions with other advocates
 - Attend meetings, hearings, and submit comments
- Comments
 - Linking the problem(s) you are seeing with specific fair housing issues, contributing factors, and goals.
 - ✦ Example: Writing comments outlining how source of income discrimination drives (is a contributing factor for) fair housing issues (segregation, disparities in access to opportunity, disproportionate housing needs, etc.)
 - Proposing one or more specific goals to address (and overcome) the problem:
 - ✦ Example: Advocates could propose the following goal in order to increase housing choice for Voucher families, and to curb discrimination against Voucher holders: City Z will adopt and enact a source of income discrimination ordinance that prohibits landlords from refusing to rent to Voucher holders on that basis. City Z's city council will put forth a proposal within 6 months, and enact that ordinance within a year's time. Upon passage, the City will engage in a concerted information campaign to inform housing providers of the new protection for Voucher holders.

Community Participation & Consultation

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Community Participation & Consultation Requirements

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- General requirements, 24 C.F.R. § 5.158
- Requirements specific to particular funding recipients
 - Local Governments, 24 C.F.R. § 91.105 (participation); § 91.100 (consultation)
 - States, 24 C.F.R. § 91.115 (participation); § 91.110 (consultation)
 - PHAs, 24 C.F.R. § § 903.13, 903.15, 903.17, and 903.19
- Today, we are focusing on requirements for Local Governments and PHAs

Community Participation: Local Governments

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- Local governments must adopt a **citizen participation plan** that “sets forth the jurisdiction’s policies and procedures for citizen participation.” 24 C.F.R. § 91.105(a)(1).
- If a local government has a citizen participation plan that predates the AFFH Final Rule, the plan must be amended to comply with the new rule. 24 C.F.R. § 91.105(a)(1).

Community Participation: Local Governments

24 C.F.R. § 91.105

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- A local government's citizen participation plan must/shall:
 - Provide for/encourage participation in the development or revision of the AFH, **especially by low- and moderate-income individuals**
 - **Encourage participation** of “local and regional institutions, Continuums of Care, and other organizations” in AFH development and implementation
 - Encourage participation **by residents of public and assisted housing** , as well as other low-income residents in targeted revitalization areas where these housing developments are located, in AFH development and implementation
 - Describe the jurisdiction's procedures for **determining language needs**, and require the jurisdiction to “take reasonable steps to provide language assistance” to ensure meaningful language access.
 - Provide for **technical assistance** to groups representing low- and moderate-income persons who want to comment on the AFH.

Community Participation: Local Governments (Cont.)

24 C.F.R. § 91.105

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- A local government's citizen participation plan must/shall:
 - Provide for a **minimum of one public hearing during the development of the AFH**
 - Provide at least 30 calendar days for **public comment**
 - Require the jurisdiction to **make HUD-provided data and supplemental information publicly available** to residents, public agencies, and other stakeholders
 - Require the jurisdiction to **publish the proposed AFH** such that stakeholders are afforded reasonable opportunity to review and submit comments.
 - Outline **how** the local government will publish its proposed AFH
 - Require the jurisdiction to **consider residents' comments/views, summarize them, and explain those not included**
 - Outline the process by which the jurisdiction will accept **resident complaints** regarding the AFH
 - Allow **public access to records** regarding the AFH

Participation and Consultation Requirements for PHAs

24 C.F.R. Part 903

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- PHAs, in preparing the AFH, must:
 - Consider the recommendations of the Resident Advisory Board(s);
 - Hold at least one hearing (at a convenient location for PHA residents) to discuss the AFH and invite public comment;
 - Make the AFH (and related documents & relevant information) available for public inspection at least 45 days before the public hearing;
 - Publish a notice about the availability of the AFH for public inspection, and hearing time/date/location, at least 45 days before the public hearing;
 - Consult the Resident Advisory Board/other resident organization when making changes in response to comments
 - Conduct “reasonable outreach activities” to encourage broad participation

Consultation: Local Governments

24 C.F.R. § 91.100

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- When developing the AFH, jurisdictions shall consult with certain entities, including:
 - Agencies providing the following:
 - ✦ Assisted housing
 - ✦ Health services
 - ✦ Social services (including services for children, the elderly, persons with HIV/AIDS, and homeless persons)
 - ✦ Organizations in the jurisdiction/region that represent members of protected classes
 - ✦ Organizations engaging in fair housing enforcement
 - PHAs

Q&A

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Thank You!

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