

STATE OF WEST VIRGINIA  
FISCAL YEAR 2020 UPDATE TO THE ANALYSIS  
OF IMPEDIMENTS TO FAIR HOUSING  
(DRAFT)



Updated: March 2020

WEST VIRGINIA DEVELOPMENT OFFICE | WEST VIRGINIA HOUSING DEVELOPMENT FUND

## Cover Sheet

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  - a. West Virginia Development Office – Lead Agency
  - b. West Virginia Housing Development Fund
6. **Period covered by this assessment:** Fiscal Year 2019: July 1, 2020 to June 30, 2020

# State of West Virginia

## 2020 Update to the Analysis of Impediments to Fair Housing

### INTRODUCTION

The State of West Virginia is required to submit certification that it is affirmatively furthering fair housing to the U.S. Department of Housing and Urban Development (HUD). The certification has three elements and requires that the State of West Virginia:

1. Complete an Analysis of Impediments to Fair Housing Choice;
2. Take actions to overcome the effects of any impediments identified through the analysis; and
3. Maintain records reflecting the actions taken in response to the analysis.

HUD defines impediments to fair housing choice in terms of their applicability to local, state and federal law. These impediments include:

1. Any actions, omissions or decisions taken because of race, color, religion, sex, disability, familial status, or national origin that restrict housing choices or the availability of housing choice.
2. Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices based on race, color, religion, sex, disability, familial status, or national origin.

The West Virginia Development Office (WVDO) administers the Community Development Block Grant (CDBG) program, the Emergency Solutions Grant (ESG) program and the Housing for Persons with AIDS (HOPWA) program; while the West Virginia Housing Development Fund (WVHDF) administers the HOME Investment Partnerships (HOME) program and the Housing Trust Fund (HTF). These programs and agencies work collaboratively to fulfill HUD's mission for each program and to Affirmatively Further Fair Housing.

This document serves as the 2020 update to the Analysis of Impediments (AI) that will provide any necessary historical information, propose actions to be taken during the upcoming year to eliminate the impediment, or propose data to remove the impediment from future reporting.

At the end of this program year, as part of the Comprehensive Annual Performance Evaluation Report (CAPER), the State of West Virginia will report on actions to affirmatively further fair housing. The State will provide a summary of the AI and a description of the actions taken during the past program year, along with an analysis of the impact of these actions.

## SUMMARY OF THE PROCESS

As required by HUD, West Virginia completed an original AI in 1998, with updates annually. In 2014, the WVDO and WVHDF obtained community input regarding the impediments to Fair Housing choice to provide an Interim Update to the existing AI, and in preparation for the enactment of HUD's new rule regarding the Assessment of Fair Housing (AFH). This update included the distribution of a survey to community stakeholders and training and feedback regarding previously identified impediments.

The 2014 Interim Update indicated that several previously identified impediments had been adequately addressed. Subsequently, in May 2016, the State submitted its 2016 Update to the AI to provide historical information and propose actions to be taken during the upcoming year. Within the 2016 Update to the AI, the State provided the information necessary to remove five (5) impediments from future reporting. This action was based upon the findings of the 2014 Interim Update and relevant data provided by collaborative State agencies and related nonprofit organizations, advocacy groups and service providers. In this update to the AI, the State will provide the information necessary to add one (1) impediment for future reporting.

The 2020 Annual Update to the AI confirms the continued presence of all impediments identified in the 2019 Annual AI Update. Additionally, community feedback obtained via the 2020-2024 Consolidated Plan Community Needs Assessment and through consultations, a tenth impediment is added -- Lack of an adequately funded Human Rights Commission.

The State of West Virginia will continue to update action steps through the new Consolidated Plan years 2020-2024. Information and data compiled in this process may lead to the removal of previously identified impediments or the identification of new impediments.

### **Limited English Proficiency**

Upon review of the State's FY 2016 CAPER, the FHEO Director of the HUD Pittsburgh Field Office indicated that the State of West Virginia must undertake and/or update its four-factor analysis for Limited English Proficiency (LEP) in accordance with the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.

According to the US Census Bureau 2015 American Community Survey (ACS) 5-Year estimates, the total LEP population for any given language would not exceed 1,000 people or 5% of the population in any county or community within the State of West Virginia. The ACS data estimates the population of the State was nearly 1,750,012 with approximately 13,963 individuals five years or older who speak English "less than very well". The State of West Virginia has less than 1% LEP.

There are multiple languages that are spoken in the State of West Virginia with Spanish and Chinese being the largest, but still less than 5%. Federal safe harbor rules suggest written translation of vital documents where the size of a language group is 1,000 or more in number or more than 5 percent of the eligible population.

In 2020, the State's Public Notices will continue to reflect the availability of reasonable accommodations for persons with disabilities and language assistance for persons who have limited English proficiency. All public meeting locations are accessible for persons with disabilities.

## SUMMARY OF IMPEDIMENTS

The State of West Virginia has identified nine (10) impediments to fair housing:

1. Discrimination in Rental Housing.
2. Discrimination within Housing Brokerage Services.
3. Resistance to Low-Income Housing Development.
4. Lack of understanding by project administrators, local governments, architects, contractors, and citizens of the Accessibility Requirements in the Fair Housing Amendments Act of 1988.
5. Lack of affordable housing in West Virginia.
6. Lack of Permanent Supportive Housing (PSH) for homeless persons and families in West Virginia.
7. Lack of land use planning and zoning and its adverse effect on affordable residential construction or rehabilitation, and
8. Barriers that zoning and land use can present to the construction or rehabilitation of affordable housing. Note: Impediments 7 and 8 are combined for reporting purposes.
9. Reports of sexual harassment in rental housing.
10. Lack of an adequately funded Human Rights Commission.

## IMPEDIMENTS TO BE ADDRESSED IN FY2020

Impediments to fair housing choice in West Virginia are identified in the State's Analysis of Impediments to Fair Housing. One (1) impediment is newly identified by the State of West Virginia and the nine (9) other impediments are continued from the previous update to the Analysis of Impediments to Fair Housing. Each impediment is outlined below, followed by background information, an evaluation of the effectiveness of actions taken, and the degree to which these impediments remain and require additional strategies and actions to overcome.

### 1. Impediment: Discrimination in Rental Housing

#### **Historical Information:**

Discrimination in rental housing based on race and familial status is viewed as an impediment to fair housing in the State of West Virginia. One of the factors influencing discrimination against minorities and families with children is the lack of knowledge that landlords and the public may have concerning state and federal fair housing laws.

The West Virginia Human Rights Commission (WVHRC) strives to maintain an education and outreach program that is used to address this impediment. The WVHDF and WVDO provide support to the WVHRC in the performance of its education and outreach efforts by spreading awareness of training events and opportunities, cosponsoring events and presenting at such events. The WVHRC continues to experience staffing shortages and budget challenges that somewhat impede their ability to fully achieve their mission.

The WVHRC continues to investigate instances of discrimination under its FHAP agreement with HUD.

The HRC is granted this authority under 5-11A-9 of the WV Fair Housing Act, <http://www.wvlegislature.gov/wvcode/Code.cfm?chap=05&art=11A>. The Act gives the HRC authority to undertake studies with respect to housing practices, publish and disseminate reports and recommendations, and administer programs related to fair housing.

**Evaluation of Effectiveness of Past Actions Taken:**

Impediments that relate specifically to awareness of fair housing requirements, laws and options available to those who feel they have been discriminated against include:

- Lack of understanding by potential home renters and the public about requirements of the Fair Housing Act
- Lack of awareness on the part of the public regarding assistance provided by the West Virginia Human Rights Commission in resolving Fair Housing disputes

While progress has been achieved, the information below indicates a lack of understanding of the Fair Housing Act and other fair housing laws that guarantee fair access and equal opportunity in housing.

<u>Basis of Cases Closed</u> <u>by the West Virginia Human Rights Commission</u> <u>July 1, 2019 – June 30, 2020</u>		
<u>Protected Class</u>	<u># of Cases</u>	<u>% of Cases</u>
<u>Disability</u>	6	75%
<u>Race</u>	1	12.5%
<u>Reprisal</u>	1	12.5%
<u>Total</u>	8	100%

Disability is by far the most prevalent basis of discrimination cases filed in the past several years and is projected to continue. The prevalence of discrimination based on disability was borne out by survey respondents in the original AI, many of whom identified discrimination against these protected classes and continuing impediments to fair housing in the state.

According to the WV Attorney General’s Office, Civil Rights Division racial discrimination cases are declining in number and the two main categories that are now emerging are familial status and disability, the latter often related to service/assistance animals. This information is confirmed above and specific action as it relates to service animals will be explored below through Impediment Number

4: The lack of understanding by project administrator, units of local government, architects, contractors, and citizens of Accessibility Requirements in the Fair Housing Amendments Act of 1988.

In FY2019, the WVDO, WVHDF, and WVHRC created and distributed the 2020-2024 Consolidated Plan Community Needs Assessment. A section of this survey was dedicated to assessing Fair Housing concerns and needs throughout the State. Through the survey, the State was able to review barriers to Fair Housing previously included in the Analysis of Impediments and identify one new impediment to fair housing. Additionally, through the survey, the state confirmed that the nine previously identified impediments are still present.

### **Strategies and Actions to Overcome the Impediment:**

The following strategies and actions have been developed:

**Strategy 1:** Identify fair housing issues specific to the protected classes during the FY2020 program year.

**Action 1:** WVDO will continue to work with the WVHRC and WVHDF to design and distribute a survey to collect and assess information on what barriers exist to fair housing in the state. In this effort, the WVDO will engage diverse stakeholders, particularly those representatives of protected classes, in distributing the survey.

**Action 2:** The WVDO and WVHDF will continue to work cooperatively to promote the services of the WVHRC related to fair housing. Activities may include, but are not limited to, training, outreach and/or studies related to issues that affect protected classes.

**Strategy 2:** Work with federal, state and local organizations to increase capacity to address public awareness of fair housing to potential victims of rental discrimination.

**Action 1:** The WVDO will review its website for opportunities to post information on fair housing to broaden awareness of fair housing issues and requirements to the public, WVDO partners grantees, and vendors.

**Action 2:** The WVHDF will utilize social media to increase the effectiveness of education and outreach program events to attract broad and diverse attendees.

**Action 3:** Collaboratively, the WVDO and WVHDF will identify opportunities to increase awareness for a fully funded and staffed WVHRC.

## 2. Impediment: Discrimination within Housing Brokerage Services

### **Historical Information:**

Discrimination by realtors was not identified as one of the most pervasive fair housing impediments, although through the original AI, results indicated that problems did exist. Realtors play an important role in the rental, sale, and purchase of housing. Their knowledge of and commitment to upholding fair housing laws is an important part of ensuring that all West Virginians have fair housing choice.

The West Virginia Association of Realtors and the West Virginia Real Estate Commission train real estate professionals in Fair Housing, Cultural Diversity and Ethics. These organizations strive to ensure that realtors are thoroughly trained. The West Virginia Association of Realtors provides mandatory training and continuing education programs for the West Virginia Real Estate Commission through a cooperative agreement between the two entities. The Association provides training to its members that features courses devoted specifically to Fair Housing, Code of Ethics, and Avoiding Risk.

Fair housing requirements are mandatory at the onset of licensure and continuing fair housing education is required in the State of West Virginia.

### **Strategies and Actions to Overcome the Impediment:**

The following new strategy and action have been developed:

**Strategy 1:** Work with the Realtors' Association to provide training to realtors in the State.

**Action 1:** The WVDO and WVHDF will seek opportunities to assist in or expand on the Fair Housing training offerings that are provided to the members of the Association.

**Action 2:** The WVDO and WVHDF will continue to stress the importance of Fair Housing in any communications with the Realtor's Association and the West Virginia Real Estate Commission.

## 3. Impediment: Resistance to Low-Income Housing Placement

### **Historical Information:**

Historically, the State of West Virginia has categorized this impediment as one related to what is commonly referred to as "Not in My Backyard" mindset (NIMBY). Communities have expressed that they do not desire proximity to affordable housing developments. This is often the result of negative views and stereotypes about low-income families.

Often the opposition is not from the community leaders or zoning policies, but rather from concerned citizens. The WVHDF has taken a proactive approach to be a resource to community leaders to address concerns raised by citizens, such as a belief that crime rates will increase or that property values will decrease.

The WVHDF continues to work with developers and local governments to increase the number of educational opportunities across the State to breakdown misconceptions related to low-income housing development within communities.

The WVHDF theme, "Building Better Communities," is highlighted in the Low-Income Housing Tax Credit (LIHTC) Program brochure. This document explains that affordable housing is critical to the economic stability of West Virginia and its local governments. Further, LIHTC properties serve a diverse array of State residents, including veterans, individuals with disabilities or special needs, the elderly, and working families. The WVHDF continues to demonstrate that well-planned affordable housing programs provide multiple benefits.

Through the Property Rescue Initiative and its linkages to the West Virginia Community Development HUB, the Northern West Virginia Brownfields Assistance Center and the West Virginia University Land Use and Sustainable Development Clinic, the State is serving communities throughout the State with specific assistance regarding current laws and regulations that have the potential to impact housing development activities. The reach of these organizations alone provides the potential for the discussion of Fair Housing concerns to reach hundreds of attendees from multiple counties and hundreds of different organizations.

The agencies are working to create stronger partnerships with local public housing authorities through dialogue with public housing providers, residents. Public meetings regarding Annual Action Plan and other events are conducted at public authority housing offices. This effort is aimed at creating a stronger connection with the beneficiaries of these services and better understanding of challenges and concerns.

As the State's economy changes, so does the "NIMBY" sentiment in communities. As hard-cost development funds continue to dwindle, it has proven more efficient and effective to place individuals in communities through individual rental units than in congregate living situations. Continuums of Care in the State utilize Rapid Rehousing and Housing First Models to achieve successful placement of people in individual units.

#### **Evaluation of Effectiveness of Past Actions Taken:**

- The WVHDF has provided data and counseling to community leaders so that they and the citizens can be educated on the reality of what affordable housing is in a manner which alleviates concerns.
- When communities are not able to address issues of blighted and abandoned property, if left to persist, the property could create negative attention and subsequently cause larger community concerns. Thus neighborhoods, often which are low-income, are less desirable and developers elect not to develop them. Therefore, the impact for low-income families is lack of choice or access to safe, affordable housing.
- While previously unsuccessful, numerous organizations continue to actively pursue legislation that would give local governments right of first refusal for auctioned real estate. This action would address the persistent problem of investors buying low-cost property only to leave it undeveloped.
- To address this prevalent need, the West Virginia Legislature created the "Property Rescue Initiative" (PRI) in 2015. This legislation directed the WVHDF to dedicate \$1 million per year for five years to a loan pool that local governments could access to address abandoned and dilapidated structures.

Additionally, the PRI provides technical assistance to communities to acquire and/or remove dilapidated properties from their communities and to address other issues that arise in blighted neighborhoods.

- As the State continues to focus on Rapid Rehousing efforts, placing people in communities through landlord relationships has helped to decrease the “NIMBY” concerns in communities.
- After further review of data associated with various locations, the State has concluded that only one barrier previously reported is an impediment to fair housing choice: community opposition.
- During the creation of the 2020-2024 State of West Virginia Consolidated Plan, the WVDO included activities that “prevent or eliminate slum and blight”. This decision was based on results from the 2020-2024 Consolidated Plan Community Assessment survey and will allow the State to accept and award CDBG project applications that address blighted and abandoned properties.

**Strategies and Actions to Overcome the Impediment:**

The following strategy and actions have been developed:

**Strategy 1:** Review current laws and regulations that have the potential to impact housing development activities.

**Action 1:** At least annually review Property Rescue Initiative funding usage to determine if local governments can address abandoned and dilapidated structures adequately and if the subsequent impact is furthering low-income development.

**Action 2:** Increase number of educational opportunities across the State to breakdown misconceptions related to low-income housing developments within communities. The WVHDF has established and achieved a target of at least one community presentation annually and will continue this initiative into the coming program year.

**Strategy 2:** To promote the development of affordable housing, identify and provide additional funding opportunities to address issues of blighted and abandoned property.

**Action 1:** The WVDO will provide education and training to communities interested in creating demolition and brownfield mitigation programs to eliminate slum and blight. Additionally, the WVDO will promote demolition and brownfield mitigation programs as eligible activities under the State’s CDBG program.

4. Impediment: The lack of understanding by project administrators, units of local government, architects, contractors, and citizens of the Accessibility Requirements in the Fair Housing Amendments Act of 1988.

**Historical Information:**

The State has undertaken numerous training activities over the last several years to specifically increase communication regarding Fair Housing and related topics. To maximize compliance with HUD guidance from 2013, the State plans to continue previous training activities and expand to specifically cover items

related to Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings under the Fair Housing Act.

**Evaluation of Effectiveness of Past Actions Taken:**

- As the State continues to increase training opportunities, the importance of evaluating past trainings and providing more specific guidance to help design professionals, developers and builders better understand their obligations, and to help persons with disabilities better understand their rights regarding the "design and construction" requirements for covered multifamily dwellings under the federal Fair Housing Act, is increasing.

State of West Virginia FY 2020 Planned Training Opportunities	
Training Conference	Topics to be Addressed
West Virginia Human Rights Commission’s Annual Fair Housing Event	Multiple fair housing issues including accessibility in multi-family properties, prohibitions under Fair Housing Act, complaint process history of Fair Housing and management issues related to fair housing including reasonable accommodations and modifications
West Virginia Housing Development Fund Training	Accessibility requirements under Section 504, ADA and the Fair Housing Act
West Virginia Housing Conference	WVHDF presentation on Fair Housing, WVHDF presentation on Special Needs Housing

- The WVDO developed a two-page guide to Fair Housing as it relates to all Grantees and presents the material as part of the implementation meeting for new projects. The WVDO will continue to develop materials necessary to cover all required and critical components of the project that must be addressed for compliance to program regulations.
- During Fair Housing Month, a Proclamation endorsed by the Governor of the State of West Virginia is secured and sent to all Grantees, as well as a sample resolution for local government use to demonstrate its participation in Fair Housing Month and renew its commitment to affirmatively further fair housing. The local governments and Grantees are also reminded that they will be required to submit annual reports to the WVDO describing required activities to affirmatively further fair housing in each community. This includes relevant subrecipients of HOME funds that submission of affirmative marketing plans must also be submitted.
- In 2016, the WVDO created an additional step to the CDBG application process to provide a more thorough Fair Housing Plan. The new format ensures that local elected officials submit an adequate fair housing plan utilizing the guidelines provided by the State. It is expected that local officials will consider fair housing law upon submission of a CDBG application. When funded, fair housing law is repeatedly emphasized throughout the life of each project, through the contract, project implementation meeting, training, and annual reporting, as described below:

- **Funding Contracts:** Fair Housing language is included in the cover letter of the grant agreement. The agreement also contains a fair housing clause under the Administrative Requirements and Procedures section that defines the Fair Housing Act and certifies that the Grantee will take actions necessary to affirmatively further fair housing. In FY2017, the contract language was updated to include penalties to be imposed if the grantee does not conduct activities which affirmatively furthers fair housing.
- **Project Implementation Meeting:** Once a project has been awarded funding, a mandatory joint meeting is held between WVDO staff, a Regional Planning and Development Council administrator, the Grantee, and project engineer, to discuss the implementation strategy of the project. During this meeting, Fair Housing information is distributed which defines Fair Housing and which answers the question “What is Affirmatively Furthering Fair Housing?” The Grantee is given examples of how to affirmatively further fair housing as requirement and condition of receiving federal funding.
- **Training:** Each grant administrator is provided access to the CDBG Policies and Procedures Manual. The manual contains a Civil Rights chapter that provides a complete review of fair housing law as well as examples of fair housing Resolutions, a fair housing poster, and a fair housing handout and complaint pamphlet.
- **Annual Reporting:** During the month of May, WVDO mails each Grantee a packet of required quarterly reporting forms. The Grantees are required to report activities relating to affirmatively further fair housing and any fair housing complaints during the reporting period. All reports are due at the end of each quarter of the fiscal year.
- **Monitoring:** The WVDO monitoring tool requires that the Grantee list actions taken to affirmatively further fair housing. Monitoring also ensures that records are maintained as required by Title VIII certification and assurances.
- As service animals are becoming more widely used by individuals in need, the State must engage program administrators, etc., regarding the federal regulations related to such. Past evaluation notes that there is a lack of specific guidance or training which explains the circumstances under which the Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, may require housing providers to allow applicants and tenants to use “service” and “assistance” animals. New training explains that housing providers must accommodate applicants and tenants who need an "assistance animal," which includes any animal that "works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability," as stated by HUD's Special Notice on Assistance Animals and Reasonable Accommodations for Persons with Disabilities from April 30, 2013.

### **Strategies and Actions to Overcome the Impediment:**

The following strategies and actions have been developed:

**Strategy 1:** Increase training opportunities that offer comprehensive and detailed instruction programs related to the promotion of compliance with the Fair Housing Act design and construction requirements.

**Action 1:** WVDO will attend training for the Fair Housing Accessibility FIRST Program Supported by HUD and explore securing new training for WV.

**Strategy 2:** Continue previously identified training activities around the State.

**Action 1:** WVDO will continue coordinating with the WVHDF fair housing training activities

**Strategy 3:** Continue to provide comprehensive guidance material to be used at New Grantee Training.

**Action 1:** WVDO staff will continue to provide comprehensive material for new projects that cover all federal and state program requirements for compliance in properly managing all aspects of a CDBG project.

**Action 2:** Conduct evaluations of Grantee fair housing plans for compliance to applicable regulations and provide an analysis of information submitted under required annual reporting of fair housing activities and any complaints received. Determine if trends exist and target future training to identified weaknesses.

**Strategy 4:** Provide training activities relating to increasing knowledge of service animal requirements.

**Action 1:** Partner agencies will continue to incorporate training for providers across the State that covers the importance of accommodating tenants with service animals. Service animal training has been implemented into the WVHDF training modules and will continue into FY 2020.

## 5. Impediment: The lack of affordable housing in West Virginia.

### Historical Information:

States' lack of affordable housing has become a nationwide issue. The strategies outlined below are aligned with Community Action Agencies development efforts through the WVHDF's Community Housing Development Organization (CHDO) HomeRent Programs. Agencies and private developers need to participate in developing affordable housing

From a policy perspective, it has also been discussed that the state could help identify additional revenue sources for affordable housing development. For example, a portion of real estate taxes (or closing costs) on each home sale could be put toward supporting housing. Tax credits for low income housing work, but occupancy requirements are generally restrictive (i.e. good credit, clean criminal record, etc.).

The West Virginia Statewide Housing Needs Assessment was last updated in April 2019 for the WVHDF, which identifies data on current housing types and trends in the State of West Virginia along with demographic data on the tenant population. This assessment has shown a continued significant shortage of decent, affordable rental housing across the state and has indicated a great need for housing for the elderly as that is the fastest growing demographic across the State.

#### **Evaluation of Effectiveness of Past Actions Taken:**

- The State continues to promote the development of affordable housing. Through the Qualified Allocation Plan (QAP) related to the Low-Income Housing Tax Credit (LIHTC) program, the WVHDF attempts to balance the location of LIHTC properties between high opportunity areas and areas of high minority, high poverty populations. The QAP incentivizes developers to locate projects in areas with accessibility to quality services and transportation and ensures that projects do not become concentrated in specific areas. In the most recent revision to the QAP, the WVHDF restructured the scoring to create a balance between meeting the need as required under the tax credit program and preventing the concentration of housing in areas of high poverty.
- In addition, the new QAP removed a scoring criterion that provided points for developers who obtained a letter of community support. It was believed that due to the competitive nature of the awarding of credits, and the closeness of scores between those who are selected and those who are not, that all developers were submitting projects for only those jurisdictions from which they were positive they could obtain this letter. The WVHDF felt that this could potentially give a jurisdiction a veto power just by refusing to give a letter. Therefore, removing this requirement is believed to create more fairness by opening new jurisdictions to the possibility of development and by rooting out areas of NIMBYism that previously could have gone unidentified.
- The West Virginia Affordable Housing Trust Fund was transferred to the West Virginia Housing Development Fund in June 2018 and is now named the West Virginia Affordable Housing Fund. The programs of the West Virginia Affordable Housing Fund will be able to be leveraged with other sources of funding to produce additional projects and meet the needs of those in most need in the state.

#### **Strategies and Actions to Overcome the Impediment:**

The following new strategies and actions have been developed:

**Strategy 1:** Define specific housing needs that need addressed.

**Action 1:** The WVHDF will refer to the 2019 Housing Needs Assessment, as well as other applicable documents/studies, to recognize housing needs so that its affordable housing programs can appropriately to the State's needs. Based on 2017-2019 LIHTC production activity, the WVHDF estimates that approximately 440 LIHTC units will be newly constructed or substantially rehabilitated in 2020.

**Strategy 2:** Evaluate program change effectiveness issues to address affordable housing across the State.

**Action 1:** The WVHDF reviews/revises the LIHTC Program QAP every 2 years to address, among other factors, affordable housing needs. The WVHDF anticipates providing approximately \$59 million dollars of funding for affordable housing from the LIHTC, HOME, and HTF programs in the coming year.

**Action 2:** The WVDO will work with the WVHDF and the State's four Continuums of Care to identify where housing gaps exist and when appropriate, refer homeless service providers to the WVHDF for potential new projects.

## 6. Impediment: Lack of rapid rehousing and permanent supportive housing for homeless persons and families in West Virginia.

As HUD prompts CoCs and recipients to reevaluate services offered through housing programs and encourages other cost-effective housing models, the need for Permanent Supportive Housing (PSH) and Rapid Rehousing (RRH) continues to increase each year with the Continuums of Care (CoC) competitions.

While the CoCs in the State of West Virginia do not receive new amounts of funding annually, often HUD permits the submissions bonus applications during the national CoC competition. As these opportunities become available, the CoCs apply for additional program funding.

### **Historical Information:**

The West Virginia Interagency Council on Homelessness (WVICH) was initially formed in May 2004 and reorganized in 2007 by then Governor Joe Manchin. On November 13, 2013, Governor Earl Ray Tomblin issued an executive order which re-established the WVICH, with the West Virginia Department of Health and Human Resources, Bureau for Behavioral Health and Health Facilities as the lead agency. In December 2015, the WVICH released its updated five-year plan to prevent and end homelessness in West Virginia.

Through this Council, several work groups have been formed to focus on specific populations experiencing homelessness with clear plans in addressing issues and appropriate housing options. The State's Emergency Solutions Grant (ESG) focuses funding Rapid Rehousing based on community needs assessment.

With the change in State Administration in 2017, the WVICH went inactive; however, the Governor's Office has recently restored the council.

### Evaluation of Effectiveness of Past Actions Taken:

- A lack of Permanent Supportive Housing (PSH) remains an issue. Acuity data demonstrates an increased need for Rapid Rehousing (RRH), which is considered permanent housing by HUD and is separate from PSH. Many transitional housing projects are converting their housing to either PSH or RRH.
- With little new money available to the four continuums of care (CoC) in the State, New units must come from a reallocation from low-performing projects to new projects due to reduction in funding levels as reflected in the last CoC grant submission by the WV Balance of State.

### Strategies and Actions to Overcome the Impediment:

The following new strategies and actions have been developed:

**Strategy 1:** Become more involved in the CoCs to better quantify needs.

**Action 1:** The WVDO will regularly review Homeless Management Information System data for trends and community needs. Additionally, the WVDO holds quarterly meetings with all four Continuums of Care to discuss the needs of the homeless populations in which they serve. When possible, the WVDO will attend monthly CoC meetings.

**Strategy 2:** Encourage CoCs to utilize all available funding, including the WVHDF, for development of needed housing projects.

**Action 1:** The WVDO and WVHDF will continue to collaborate with the CoCs to implement strategies of the 5-year Consolidated Plan related to housing needs, policy development and access to resources and services.

**Action 2:** The WVDO will continue to explore the possibility of reestablishing the WVICH or creating a new council for strategic planning, to address statewide homeless needs, and to identify appropriate housing options throughout the State of West Virginia.

7. Combined Impediments 7 and 8: Lack of land use planning and zoning and the effects this could adversely have on affordable residential construction or rehabilitation. Barriers that zoning and land use can present to the construction or rehabilitation of affordable housing.

### Historical Information:

The State of West Virginia continues to take the lead in approaching this issue. Realizing the economic, environmental and social benefits of land use planning and zoning, as well as of planned remediation

and adaptive reuse of property, the State is demonstrating support of several related initiatives. The WVDO supports these efforts and participates wherever possible to enhance collaboration among the many individuals and groups involved.

Due to its mountainous topography, the State has somewhat limited amounts of developable land. Further, many of the State's communities were built along river valleys and streams and did not adequately consider the risk of flooding. Awareness of land use planning and more effective land use is needed to provide safer communities, improve livability, and increase community development.

#### **Evaluation of Effectiveness of Past Actions Taken:**

Undertaking new land use management practices and promoting the productive reuse of idled and underutilized commercial, industrial and mining properties will maximize the State's valuable resource and foster reuse of sites with existing public infrastructure.

A critical issue in the state is that of blight--abandoned and dilapidated properties. An estimated 16.2% of the housing units in the state are vacant, as compared to 12.3% nationally (US Census Bureau, 2015). The negative impacts of blight include depressed property values, increased crime, and overall community demoralization through the prevalence of eyesores and decrepit structures. Strong land use planning and enforcement will assist in addressing blight and promoting community revitalization.

While many planning and zoning issues are addressed in West Virginia Code, Chapter 8A: Land Use Planning, many areas of the state lack the expertise to fully implement each component of the Land Use Planning law. According to the Code, these comprehensive plans must be updated every 10 years, and many were updated in 2014. These comprehensive plans address the following issues: Land Use, Housing, Transportation, Infrastructure, Public Services, Recreation, Economic Development, Community Design, Preferred Development Areas, Renewal and/or Redevelopment, Financing, and Historic Preservation. In addition, comprehensive plans must be prepared prior to a subdivision or zoning ordinance.

To address the need for stronger land use planning and practices, the West Virginia University College of Law, Land Use and Sustainable Development Law Clinic (LUSD Law Clinic) continues to provide services to local governments, landowners, and non-profit organizations to develop comprehensive planning and enforcement.

The LUSD Law Clinic provides technical assistance to local government officials, planners and other land use decision-makers to encourage sustainable development in appropriate areas of the community.

Currently, the LUSD Law Clinic has worked with the following communities to create new comprehensive plans:

- Town of Athens
- Town of Beverly
- Calhoun County
- Town of Clendenin
- Doddridge County
- City of Fairmont (Update)

- Town of Gauley Bridge
- City of Glen Dale
- Hampshire County (Update)
- City of Hinton
- Town of Marlinton
- City of Martinsburg (Update)
- McDowell County
- Mercer County
- City of Montgomery
- Town of Moorefield
- City of Philippi
- Pocahontas County
- City of Ravenswood
- City of Smithers
- Town of Sophia
- City of Spencer
- City of St. Albans
- City of Thomas
- Town of Wardensville (Review)
- City of Weirton
- City of White Sulphur Springs
- Wirt County

**Strategies and Actions to Overcome the Impediment:**

The following strategies and actions have been developed:

**Strategy 1:** Increase training activities relating to land use and zoning activities.

**Action 1:** Coordinate with Statewide Mountain State Land Use Academy, in partnership with the West Virginia Chapter of the American Planning Association, to present an annual conference for providing advanced training on floodplain management, neglected and dilapidated properties and source-water protection.

**Mountain State Land Academy Annual Statewide Conference:**

The first Mountain State Land Academy Annual Statewide Conference was held May 3 and 4, 2016 in partnership between the LUSD Law Clinic and the West Virginia Chapter of the American Planning Association. This event is specifically designed to educate local government officials on land use issues, such as zoning, floodplain management and abandoned properties.

In previous years, the WVDO and WVHDF have participated as speakers at the Land Use Academy to co-present on Fair Housing. Participants have included local government leaders, members of planning and zoning boards, and other professional representatives with direct impact on local fair housing initiatives.

It was previously noted that the State has not performed any analysis of any zoning ordinances to determine whether there may be provisions that unduly restrict fair housing choice. The WVDO and WVHDF participation as speakers at this conference provides an opportunity to discuss this issue with

agencies the agencies and personnel that may contribute expertise in this area. It is anticipated that this analysis would be part of the AFH.

**Strategy 2:** Evaluation of past development and future collaborations.

**Action 1:** The WVDO and WVHDF will document number of additional collaborations that have occurred because of the partnership to bring interested developers to the table to discuss development of properties assisted through the Property Rescue Initiative.

**Strategy 2:** Strengthen partnership between WVDO, the LUSD Law Clinic, and the state's Regional Planning and Development Councils.

**Action 1:** The WVDO will work with the Regional Planning and Development Councils (RPDCs) in West Virginia to accurately assess and identify communities that have comprehensive planning in place and those who do not. This information will allow the WVDO and LUSD Law Clinic to better address where local land use planning is needed in the state.

**Action 2:** Work with LUSD Law Clinic to develop projects for comprehensive planning that can be funded programs housed at the WVDO. Such programs include, CDBG Program (Planning Grants and Technical Assistance) and the Flex-E Grant Program.

### **Property Rescue Initiative:**

As mentioned above, blight is a prevalent and critical issue in the state. Blighted properties deter the creation of safe, decent and affordable housing, hinder economic growth and create safety hazards. The spread of blight reduces property values and has negative implications for surrounding property owners, business districts and entire communities. To illustrate this point, the City of Richwood has identified more than 110 abandoned structures in a community of 2,000 residents. Likewise, the City of Fairmont has identified 300 vacant or dilapidated structures within nine square miles.

Several resources are being utilized to address this issue. In 2015, the LUSD Law Clinic released, "From Liability to Viability: A Legal Toolkit to Address Neglected Properties in West Virginia." The toolkit is applicable to residential, commercial, industrial and vacant properties. Contributors included attorneys, mayors, code enforcement officials, land use planners and community leaders.

The State's ongoing struggle with blighted property has spurred the creation of the Abandoned Properties Coalition, which includes the LUSD Law Clinic, the West Virginia Community Development HUB and the Northern West Virginia Brownfields Assistance Center. The WVHDF is a critical partner in this coalition to incorporate Fair Housing issues into these ongoing efforts.

As stated with respect to Impediment Number 3: Resistance to Low-Income Housing Placement, the West Virginia Legislature created the Property Rescue Initiative (PRI) in 2015. This legislation directed the WVHDF to dedicate \$1 million per year for five years to a loan pool that local governments can

access to address abandoned and dilapidated structures. Additionally, the PRI provides technical assistance to communities to acquire and/or remove dilapidated properties from their communities.

Through the PRI and its linkages to the LUSD Law Clinic, West Virginia Community Development HUB, and the Northern West Virginia Brownfields Assistance Center, the State is serving communities with specific assistance regarding current laws and regulations that have the potential to impact housing development activities.

## 9. Impediment: Sexual harassment in rental housing.

### **Historical Information:**

The addition of this impediment follows an October 2015 article posted on The HUDdle blog, which specifically speaks of a case in West Virginia. This case was also recently mentioned in April 2015 by a representative of HUD during a Fair Housing training. The blog states, “In another egregious case, landlords in West Virginia agreed to pay \$120,000 in damages and civil penalties to settle allegations that three agents sexually harassed and retaliated against female tenants.” HUD referred this case to the Department of Justice.

The State of West Virginia further pursued this information with HUD FHEO to learn of further details. Based upon the information learned and additional recommendations, the State will be adding this as a new impediment that has been identified for further research on its impact and ways to ameliorate the impediment or its effects.

### **Evaluation of Effectiveness of Past Actions Taken:**

The State of West Virginia attempted to provide education and training opportunities to various landlord organizations across the state; however, few are active. Of those organizations that are active, none were responsive or receptive to education or training opportunities.

### **Strategies and Actions to Overcome the Impediment:**

The following strategies and actions have been developed:

**Strategy 1:** Continue Efforts to Increase provide education and outreach by the State.

**Action 1:** The partner agencies will produce educational information that will be distributed across the State to specifically publicize the existence of this issue and provide tenants with contact information for remedies available should it be experienced.

## 10. Impediment: Lack of an adequately funded Human Rights Commission.

### **Historical Information:**

While preparing the 2020-2024 Consolidated Plan, the WVDO hosted a Fair Housing Focus Group session on February 13<sup>th</sup>, 2020. Attendees included representatives from the West Virginia Development Office (WVDO), West Virginia Housing Development Office (WVHDF), West Virginia Balance of State Continuum of Care (WV BoS CoC), West Virginia Human Rights Commission (WVHRC), and the West Virginia Association of Housing Agencies (WVAHA).

During the Fair Housing group discussion, it was brought to the attention of all attendees that the West Virginia Human Rights Commissions (WVHRC) is wholly inadequately funded. Due to limited funding, the WVHRC is unable to adequately compensate staff which has resulted in a significant reduction in the number of employees and an inability to retain talented and knowledgeable staff. Subsequently, this has led to an inability for the organization to effectively promote Fair Housing, provide communities throughout the State with Fair Housing education, and to investigate and close claims of Fair Housing violations.

### **Evaluation of Effectiveness of Past Actions Taken:**

This is a newly identified impediment. Evaluation of effectiveness of actions taken will take place the next time the Analysis of Impediments to Fair Housing (AI) is updated.

### **Strategies and Actions to Overcome the Impediment:**

The following strategies and actions have been developed:

**Strategy 1:** Identify other funding streams/supports to aid the West Virginia Human Rights Commission (WVHRC) promote Fair Housing.

**Action 1:** The partner agencies will assist the WVHRC identify additional/alternative funding/resources to support Fair Housing Activities such as promotion, education, and investigation of Fair Housing violations.

**Action 2:** While creating the 2020-2024 State of West Virginia Consolidated Plan, the WVOD will include activities that “address and promote fair housing”. This was identified as a need in the 2020-20204 Consolidated Plan Community Assessment survey and will allow the State to accept and award CDBG project applications that promote Fair Housing.

## CONCLUSION

With this report, the State hopes to demonstrate its commitment to affirmatively furthering fair housing. The assistance and guidance of the HUD Pittsburgh Field Office and the FHEO Director are most welcome in this effort. Supporting documents are provided where indicated within this report.

Should you have any questions or need additional information about any of the information presented in this report, please contact Ryan Halsey, CDBG Project Manager, West Virginia Development Office, by phone at (304)957-2096 or by email at [Ryan.J.Halsey@wv.gov](mailto:Ryan.J.Halsey@wv.gov).