

## SECTION V.

### Analysis of Impediments to Fair Housing Choice

This section contains an updated Analysis of Impediments to Fair Housing Choice (AI) for the State of New Mexico. The AI was conducted using a similar methodology as the Five-Year Consolidated Plan and includes data from the seven public forums; a citizen survey; key person interviews; and reviews and analyses of data on fair housing complaints, legal cases, and mortgage lending, as well as state barriers to affordable housing.

#### Public Forums

Seven public input meetings were held around the State. The meetings were advertised thirty days in advance. Flyers were distributed by housing partners in the community and postcards were mailed to 750 individuals on MFA's mailing list. The meetings were also advertised in newspapers and on the radio across the State. One meeting was held in each of the Northwest, Southwest, and South Central regions. Two meetings were held in the Eastern Plains region and in the Southeastern region. A total of 100 participants attended the meetings. Participants included nonprofit housing development organizations, local (city and county) government, local elected officials, public housing authorities, social-services agencies, councils of government, lenders, realtors, for-profit developers, homeless service providers, representatives of federal elected officials, mental health providers, and individual citizens.

Staff from the New Mexico Mortgage Finance Authority (MFA), the Consolidated Plan consultants and the Department of Finance and Administration (DFA), Local Government Division (LGD), presented information on the Consolidated Plan, the planning process, past activities and priorities, and current programs.

Participants were first asked to identify housing and community development needs in their communities. The Consolidated Plan consultant then lead a discussion on fair housing and asked participants to identify instances of housing discrimination and barriers to fair housing choice. Following the discussion on fair housing, participants were asked to prioritize the needs in their community. Participants were asked to vote for the three housing and community development areas that they would spend money on to improve their communities.

The exhibits on the following page present information from the individual forums on fair housing issues and barriers to housing choice.

Exhibit V-1.  
Top Housing, Community Development, and Fair Housing Needs – Alamogordo

<b>Are people discriminated against when trying to find housing in your community? What happens? Are there other barriers that prevent people from finding the housing they need?</b>
Need a statewide ombudsman to educate for fair housing
Lack of code enforcement (substandard rental housing)
No procedure for fair housing complaints
Lack of knowledge about fair housing
Blatant discrimination
Lack of affordability
Increasing utility costs
Census tracks don't show low- to moderate-income populations that are there
Vacant lots owned by absentee owners with higher incomes distort picture of need for low-income households

Source: MFA Consolidated Plan Forums

Exhibit V-2.  
Top Housing, Community Development, and Fair Housing Needs – Farmington

<b>Are people discriminated against when trying to find housing in your community? What happens? Are there other barriers that prevent people from finding the housing they need?</b>
Discrimination is based on familial status
Landlords won't rent to women with history of domestic violence
Predatory lending is a barrier

Source: MFA Consolidated Plan Forums

Exhibit V-3.  
Top Housing, Community Development, and Fair Housing Needs – Lordsburg

<b>Are people discriminated against when trying to find housing in your community? What happens? Are there other barriers that prevent people from finding the housing they need?</b>
Renters will not ask for repairs because of fear of losing their housing
Discrimination exists based on reputation of family (multigenerational communities)
Groups withhold information on programs (Realtors/lenders)
Fair Housing complaints go out of state – not effective
People fear that they will not be believed, no one will listen
Housing authority priorities – some use, some don't

Source: MFA Consolidated Plan Forums

Exhibit V-4.  
Top Housing, Community Development, and Fair Housing Needs – Portales

<b>Are people discriminated against when trying to find housing in your community? What happens? Are there other barriers that prevent people from finding the housing they need?</b>
Single women with children are discriminated against
Housing costs are an impediment to fair housing
Houses don't meet HUD's housing quality standards

Source: MFA Consolidated Plan Forums

Exhibit V-5.  
Top Housing, Community Development, and Fair Housing Needs – Roswell

<b>Are people discriminated against when trying to find housing in your community? What happens? Are there other barriers that prevent people from finding the housing they need?</b>
<p>"I've had clients be told they don't look disabled so they don't deserve special considerations."</p> <p>"Sometimes people with children are discriminated against."</p> <p>"There is a lot of discrimination against voucher holders."</p> <p>"A brain injured person was evicted without 30 days notice. He didn't know his rights and was taken advantage of by the landlord."</p> <p>"We're always able to get landlords to fix-up rentals, even if our (disabled) clients aren't assertive."</p> <p>Bad credit stemming from unemployment and/or health care expenses related to workplace injuries can be a barrier to obtaining a mortgage.</p> <p>"A lot of folks in Roswell still don't know about MFA's downpayment assistance program. The banks and Realtors need more brochures to hand out on the subject."</p>

Source: MFA Consolidated Plan Forums

Exhibit V-6.  
Top Housing, Community Development, and Fair Housing Needs – Truth or Consequences

<b>Are people discriminated against when trying to find housing in your community? What happens? Are there other barriers that prevent people from finding the housing they need?</b>
<p>Families with children have difficulty finding rental units</p> <p>The mechanism for dealing with Fair Housing complaints is to call HUD</p> <p>Largest landlord in the community is a government agency. As a result there are few issues with regard to fair housing but it creates other affordable housing issues</p> <p>MFA is only associated with one bank in the community. Individuals don't have knowledge of MFA programs as a result</p> <p>Biggest barrier to fair housing is that knowledge is not distributed to appropriate populations - there is a lack of information</p> <p>Need to ask HUD to be a partner rather than only focusing on enforcement</p> <p>Predatory lenders exist because they fill a need not served by the conventional mortgage market. They provide financing to those unable to access conventional lending tools. The victims don't know they are being victimized. These include anyone not ser</p> <p>Predatory lenders use direct mail and are on the corner with bright buildings and big signs</p> <p>Similarly, for sale by owner examples exist which structure the loan with a large balloon payment</p> <p>Some people have left the power grid and are living with solar power but get dinged by lenders.</p> <p>Project Fair Change is a state program offering foreclosure counseling and education regarding predatory lending but it is not active in T or C.</p> <p>The foreclosure rate in the area could be lowered with education and training</p>

Source: MFA Consolidated Plan Forums

<b>Are people discriminated against when trying to find housing in your community? What happens? Are there other barriers that prevent people from finding the housing they need?</b>
Families with children are discriminated against (large families)
Access units for the handicapped
Lending rates discourage people from applying
Farm Bureau discourages Hispanics from applying

Source: MFA Consolidated Plan Forums

Top fair housing issues and barriers. There are several common themes related to fair housing that emerged in the public forums:

**Discrimination based on familial status.** In 5 of the 7 forums, attendees said that families and women with children are discriminated against when trying to find housing. This was the most frequently cited barrier to fair housing across the forums.

**Lending barriers.** The second most frequently mentioned fair housing barrier encompassed a variety of lending practices. Many attendees mentioned concern about predatory lending activities in their communities. Some attendees mentioned that the lack of lending tools to serve clients with bad or poor credit may create barriers. Several attendees said that lack of knowledge about and the limited presence of lending assistance programs, such as MFA’s down payment assistance program, create barriers to fair housing.

**Need for a statewide fair housing organization.** In most of the forums, lack of knowledge about fair housing issues was mentioned as a top barrier. Attendees offered solutions to mitigate this problem, including having a statewide “ombudsman” dedicated to investigating and resolving fair housing issues. In one forum, attendees said they feel it is ineffective for fair housing complaints to be investigated out of state and that these should be handled within the state.

**Lack of affordable housing.** Several attendees cited lack of affordable housing in their communities as a fair housing barrier.

**Discrimination based on disability.** In a few of the forums, attendees said that persons with disabilities have difficulty finding housing, both because of blatant discrimination and the lack of housing in rural areas to serve their needs.

#### Key Person Interviews

The key people interviewed for the Consolidated Plan and AI were asked if their clients had access to fair housing (and why or why not). They were also asked to identify barriers to fair housing choice in their communities.

The interviewees were split on the seriousness of fair housing issues in their communities. Many of them said that fair housing issues were not a concern, and that the knowledge and information on fair housing was adequate in their communities.

In contrast, several interviewees mentioned discrimination against American Indians as problematic (this is documented in a recent HUD testing study, which is discussed later in this chapter).

About half of the interviewees identified specific barriers to fair housing choice in their communities and statewide. These are summarized below:

#### Discrimination.

- For persons with disabilities, the biggest barrier to fair housing for this population are dog policies. Landlords are not willing to make appropriate accommodations for those with service dogs.
- Also, a problem is the zero tolerance policies on violence. The one strike rule kicks out a kid with ADD.
- Discrimination usually can be remedied after the Governor's Commission on Disabilities intervenes.
- Discrimination occurs widely and openly against persons with mental illnesses.
- The most vulnerable populations are those who are disabled and those who do not speak English. Landlords perceive a need to make modifications (even if they don't need to), or that the mentally ill will do damage, or that non-English speakers are illegal immigrants.
- Not a problem getting clients into housing but with staying in. Landlords tend to intimidate them until they move out.

#### Knowledge, education and lending.

- People need training , education, and monitoring. A major barrier is access to credit and predatory lending.
- Most people lack knowledge about their individual rights. Also, predatory lenders are a problem because they get to people after they have been evicted.
- More common are structural barriers to fair housing such as the practice whereby loan officers and realtors are paid on commission and therefore want to do larger loans and sell larger homes.
- Landlords should be licensed and required to take educational classes on fair housing (to receive a license).

#### Citizen Survey

As part of the Consolidated Plan and AI process, a citizen survey that was provided to attendees of the public forums held during the Consolidated Plan public input process. The surveys were also distributed to citizens via stakeholders (e.g., housing authorities, homeless shelters) who attended the public input meetings. About half of the respondents to the survey (51.6 percent) attended a Consolidated Plan meeting<sup>1</sup>.

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<sup>1</sup> It should be noted that the survey was not distributed in such a way that the results are representative of the State's citizens overall. As such, some area bias may exist in the data. For example, the only respondents from north western and central New Mexico were those living in the Family Crisis Center in Farmington. In addition, respondents from the southern part of the State were mostly from the Silver City area.

Citizens and stakeholders returned 91 completed surveys to MFA. A copy of the survey instrument is located in Appendix A. Although the survey data are not statistically representative of the State's residents overall, the data emphasize the greatest areas of need in the State according to citizens mostly living in rural areas. The survey also contained a few questions related to fair housing issues, which are discussed below.

*Experience with housing discrimination.* Twelve of the respondents (13 percent) reported being discriminated against in their life, one of whom said they experienced the discrimination out of state (in California). The cities where the alleged discrimination took place included Tucumcari, Roswell (2 cases), Farmington, and Las Cruces. The top reasons survey respondents said they were discriminated against included race (31 percent) and being low income (another 31 percent)<sup>2</sup>. Another 15 percent cited bad credit and 8 percent said they were discriminated against because they had children. Of those that reported discrimination, only two people acted on the issue and claimed a satisfactory resolution to the problem. The rest did nothing.

*Sources of fair housing information.* Respondents were also asked about where they would go if they wanted to get more information on their fair housing rights. Most said they would consult HUD's website (26 percent) or their unit of local government (21 percent). Other frequent responses included contacting a local housing authority (17 percent) or conducting an Internet search (16 percent).

#### Complaint Data and Legal Analysis

The State of New Mexico has a Human Rights Act that was enacted in 1969 and covers discrimination in employment, housing, credit, and public accommodation. The Act prohibits discrimination based on race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, and physical or mental handicap. The Act differs from the Federal FHA in that it covers employment discrimination, in addition to housing discrimination. More importantly, it does not offer protection from discrimination based on familial status. In addition, the reasonable accommodation provision is defined in terms of employment, not housing.

Citizens in New Mexico who believe they have experienced discrimination may report their complaints to HUD's Office of Fair Housing and Opportunity (FHEO), the New Mexico Human Rights Commission, and, in some municipalities, local governmental offices.

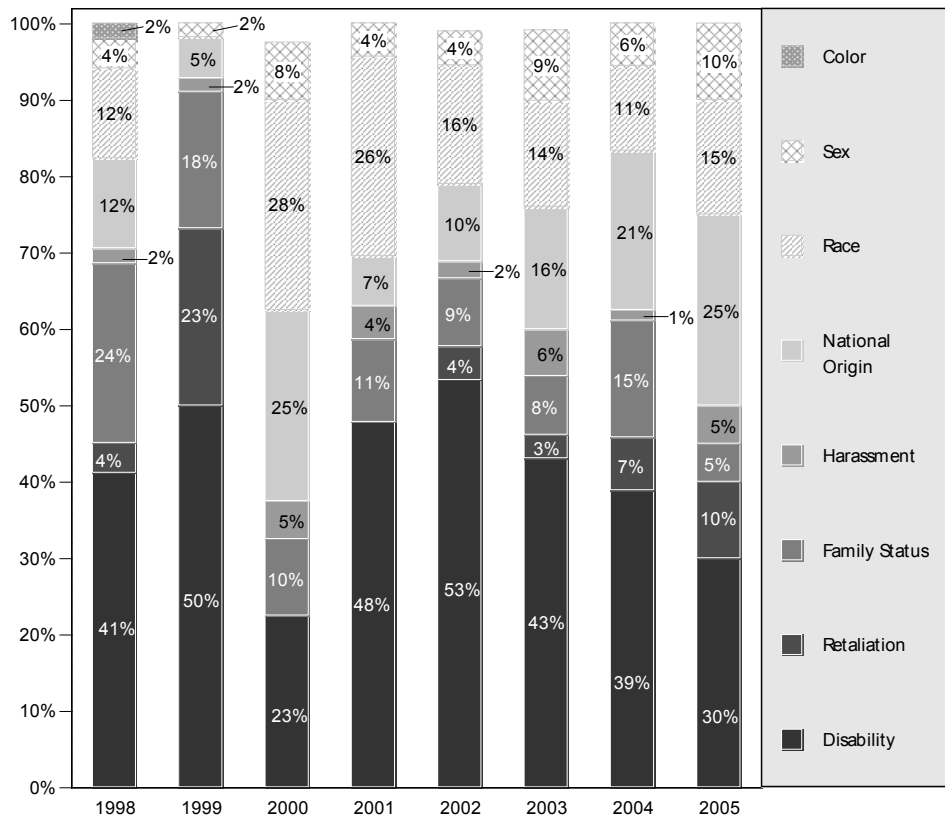
As part of the AI, these organizations were contacted and requested to provide summary information about cases that had been filed by or against organizations or residents in New Mexico. We also reviewed the State Human Rights Law procedures for taking and investigating complaints.

*Complaints filed with HUD.* HUD provided us with summary data on housing discrimination complaints filed between 1998 and 2005. Exhibit V-8 on the following page, displays individual case data for complaints filed in the State of New Mexico during this period. Although the type of complaints vary from year to year, the most consistent reasons for discrimination in the complaints are disability, race, national origin, and familial status.

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<sup>2</sup> It should be noted that being low-income is not a protected class under federal or State fair housing law.

Exhibit V-8.  
Individual Case Complaints Filed in with HUD, 1998 to 2005



Source: U.S. Department of Housing and Urban Development, April 2005

We also examined how the cases were resolved and compared resolutions by type of complaint. These data are presented in Exhibit V-9. As shown below, the majority of complaints were found to have “no cause” or were successfully resolved through conciliation.

Exhibit V-9.  
Disposition of Complaints Filed with HUD, by Type, New Mexico, 1998 to 2005

	No Case Determination	Conciliation/Settlement Successful	Complaint Withdrawn	Dismissed for Lack of Jurisdiction	Unknown	Other	Total
Disability Status	43%	31%	14%	4%	4%	4%	100%
Family Status	38%	43%	11%	0%	4%	4%	9%
Sex	44%	24%	14%	5%	10%	3%	3%
Harassment	54%	23%	15%	8%	0%	0%	3%
National Origin	62%	12%	7%	3%	7%	9%	11%
Race	53%	17%	14%	3%	9%	4%	3%
Retaliation	62%	15%	8%	0%	15%	0%	3%

Source: U.S. Department of Housing and Urban Development, April 2005.

Complaints filed with the State Human Rights Commission. According to the State's Human Rights Division (Division), complaints about housing discrimination are not investigated by the agency, but referred directly to HUD. The agency reports receiving between one and two calls annually that concern housing discrimination.

**Recent Legal Cases.** As part of the fair housing analysis, recent legal cases were reviewed to determine significant fair housing issues and trends in New Mexico. Searches of the Department of Justice case and the National Fair Housing Advocate databases found 10 published cases involving the Fair Housing Act in New Mexico. These cases are described below.

**United States vs. Madrid (2004).** In June 2004, this complaint was filed in response to resident complaints of harassment to tenants living on the properties of Trinity Housing Living Service—owned, operated, and managed by David Madrid who is a resident of Albuquerque. Residents, typically mentally disabled, complained of persistent physical and sexual harassment, as well as abusive and discriminatory harassment, including but not limited to verbal harassment. The allegations include the threatened eviction of discriminated tenants if they sought legal action. In addition, specific instances of sexual abuse to female tenants were followed with threats of eviction or discrimination if legal action was sought.

**United States vs. Javier Villegas and Jose Villegas (2003).** In January 2003, the United States Attorney's Office for the District of New Mexico, on behalf of HUD, alleged a breach of a conciliation agreement on the part of Javier Villegas, the owner of a rental trailer in Albuquerque, and Jose Villegas, the adult son of Javier Villegas. Javier and Jose Villegas entered into a conciliation agreement with HUD regarding two sexual harassment complaints, but then failed to pay the \$1,500 agreed upon in the conciliation process. This case was brought to the courts to enforce the conciliation agreement, enjoin the Villegases from violating the Fair Housing Act, award compensatory and punitive damages to the complainants, and assess a civil penalty.

**United States vs. Queens Point Manor, et. Al (2003).** In January 2003, Queens Point Manor was charged with fair housing discrimination when they refused to rent apartments on the basis of familial status. The Fair Housing Project of the Legal Aid Society of Albuquerque, Inc. conducted testing at Queens Point Manor and found that the apartment complex had stated preferences to rent to families without children and quoted higher rental rates to families with children. In addition, the complex had published advertisements designed to promote renting to families without children. The Court prohibited Queens Point Manor from future acts of discrimination on the basis of familial status and required the implementation of the following ameliorative measures: rescind the policies set forth above, include "Families with Children Welcome" in all advertising, implement fair housing training for employees, submit to record keeping and reporting requirements, and pay \$12,000 for damages to aggrieved persons and a civil penalty. The Court order will remain in effect for three years and nine months and applies to all rental properties owned/managed or operated by the owners/managers of Queens Point Manor.

**United States vs. Fair Plaza Associates, et. Al (2002).** In September 2002, the United States filed a lawsuit against the owners and managers of the El Pueblo Apartments, the Fair Plaza Apartments, and the Playa del Sol Apartments in Albuquerque, alleging familial status and race discrimination. The allegations include the apartment owners/managers refusing to rent an apartment to a man with a small child, and wrongfully evicting a tenant after his African American fiancée moved in. Additionally, the owners/managers gave different information about available units to paired

testers from the local Legal Aid Society and from the Division based on the race of the testers and whether the testers had children.

**United States vs. Sunburst Mobile Home Village, Inc. (2002).** On November 26, 2002, the Housing Division charged Mr. Geiger, the owner of Sunburst Mobile Home Village, and Mr. Riviera, the Mexican American onsite manager, for engaging in a pattern or practice of discrimination on the basis of national origin in violation of the Fair Housing Act. Specifically, their rental practices revealed a pattern of discriminatory treatment of tenants and rental applicants of Cuban national origin. The defendants were charged \$19,000 in monetary damages and a \$1,000 civil penalty. Additionally, the defendants were required to establish nondiscriminatory standards and procedures at the mobile home park, notify all employees and tenants of their nondiscriminatory policies, attend fair housing training, pay for three years of fair housing testing, and file reports with the Justice Department for three years.

**United States vs. Vernon (1999).** Based upon evidence obtained through the Legal Aid Society of Albuquerque's testing program, the Justice Department claimed that the owner and operator of Monterey Manor Apartments discriminated against African Americans and families with children. African American testers who visited the complex were informed that there were no apartment units available, while the paired White tester was told that there was a unit either available or becoming available shortly. The former resident manager admitted liability of the charge and was required to pay \$75,000 in monetary relief, including \$25,000 in civil penalties for the owner of the complex, and \$1,000 in civil penalties for the former resident manager. The court also required the owner to send his employees to fair housing training, implement and advertise non-discriminatory rental policies, and pay for self-testing over the next several years.

**United States Justice Department vs. First National Bank of Doña Ana County (1997).**<sup>3</sup> In 1997, a federal court approved a settlement agreement resolving charges that First National Bank of Doña Ana County engaged in a pattern of discrimination against Hispanic borrowers seeking financing for mobile homes from January 1992 through March 1995. Discriminatory practices allegedly included applying stricter underwriting standards to Hispanics than to similar White applicants, in violation of the Fair Housing Act and Equal Credit Opportunity Act. First National Bank of Doña Ana County, at the time the largest bank in Las Cruces, agreed in the settlement to establish a \$485,000 fund to compensate the Hispanic applicants who were unfairly denied loans. The bank also agreed to create a \$750,000 fund allowing applicants to purchase mobile homes at reduced interest rates, First National Bank also consented to target Doña Ana County's Hispanic population for homeownership seminars and marketing programs.

According to the settlement agreement, First National Bank cooperated voluntarily with the investigation and denied all allegations in the complaint. The bank maintained that its mobile home lending program provides nondiscriminatory assistance to the Hispanic population in Doña Ana County.

It should also be noted that First National Bank received an "Outstanding" CRA rating in 1995 despite the high number of Hispanic application denials. The investigating office reported later that the review of the bank's records did not contain an evaluation of mobile homes loans because it was believed the mobile home loan review was completed in 1993. However, the Justice Department's investigation uncovered discriminatory treatment of the bank's mobile home loans, beginning in 1990.

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<sup>3</sup> United States of America v. First National Bank of Doña Ana County, Civil Action No.: 97-0096 HB.

First National Bank of Doña Ana County was sold to First Security Corporation in 1999. In 2000, First Security corporation merged with Wells Fargo & Company.

**United States Justice Department vs. Village of Hatch, New Mexico (1996).**<sup>4</sup> In a second Doña Ana County case, the Village of Hatch agreed to pay \$260,000 to settle claims that it had violated the Fair Housing Act by discriminating against Hispanic individuals by selectively enforcing a zoning ordinance that banned mobile homes. The lawsuit alleged that Hatch’s zoning ordinance barring mobile homes, was only enforced in areas of the town that were mainly populated by legal migrant farm workers. Due to the ordinance, several persons were forced to relocate from Hatch and live in substandard areas outside of town, known as “colonias.”

**Sandoval vs. Mazer (1995).** In September 1995, Jose Rudy Sandoval and his ex daughter-in-law, Lori Ann Sandoval, filed a claim against Boyd and Carmen Mazer, owners of the North Court Mobile Home Park, for refusal to rent based on familial status, and violation of the Fair Housing Act. Mr. Sandoval attempted to purchase a mobile home for Ms. Sandoval and her children, located in the North Court Mobile Home Park. However, he was unable to purchase the mobile home because the Mazers refused to lease the space upon which the mobile home was located, indicating that they did not want children on their property. The Mazers claim that their refusal to rent was due to problems with the septic system at the time, and because of their policy requiring all homes to be occupied by the owner. However, mobile home park managers, Eugene and Bernadette Padilla, testified that the Mazers repeatedly instructed them not to rent space to families with children or teenagers.

**United States vs. Wes Winters, Jr. (1994).** The United States, on behalf of Clyde and Judy Mercer and Susan Anderson, sued Wes Winters, Jr., in October 1994, for refusing to rent or negotiate on the basis of familial status. Wes Winters, Jr., owns and operates Wes Winters Resort Park, a park for manufactured residential homes. The court found Wes Winters, Jr. liable for fair housing discrimination and ordered him to pay compensatory and punitive damages to the Mercers and Ms. Anderson. Further, the order enjoined him from further fair housing discrimination, required him to take certain ameliorative actions, and ordered him to maintain records by which his compliance with the ruling could be monitored for a period of three years.

#### Discrimination of American Indians in Housing

According to a study done by the Urban Institute for the Department of Housing and Urban Development in 2003, American Indians are more likely to be discriminated against when looking for rental housing in cities than any other group in America. The study, *Discrimination in Metropolitan Housing Markets: Phase 3—Native Americans*, made use of the paired testing method, in which an American Indian prospective renter or homebuyer with a similar economic status as a White prospective renter or homebuyer, would make an inquiry about the same properties. According to the study, the discrimination encountered was not “outright door slamming, but a pattern of treatment that favors Whites and ultimately limits the housing choices and increases the cost of housing search for American Indians.”<sup>5</sup>

The study showed American Indian renters were most likely to be discriminated against, approximately 29 percent of the time. Previous studies of African Americans, Asians and Pacific

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<sup>5</sup> *Discrimination in Housing Markets: Phase 3—Native Americans*, U.S. Department of Housing and Urban Development, September 2003.

Islanders, and Hispanic/Latinos showed discrimination rates of 22 percent for African Americans, 21 percent for Asians and Pacific Islanders, and 26 percent for Hispanic/Latinos.

The study looked at metropolitan areas within three states (Minnesota, Montana and New Mexico). The metropolitan areas tested included in New Mexico included Albuquerque, Las Cruces, and Santa Fe. One hundred twenty-five tests were completed on rental units in New Mexico and 100 tests were completed on homeownership units in New Mexico. Discrimination levels for American Indians for rental units were 25.7 percent and 16.6 percent for homebuyer discrimination.

There are four types of measured discrimination for renters: housing availability (do they lie to you about whether a unit is for rent?), housing inspections (do they let you see the place?), housing costs (the incentives, price citations, or discounts given), and agent encouragement (did they make arrangements for contact, or give you the right phone number?). In New Mexico, *only housing availability* showed a statistically significant chance that American Indians are being discriminated against.

There are five types of measured discrimination for buyers: housing availability, housing inspections, geographic steering (do they encourage you to live in one place rather than another), financing assistance (similar to housing cost for renters), and agent encouragement. The only statistically significant measure was in regards to *geographic steering* where American Indian homebuyers were not shown homes in neighborhoods that were predominantly White.

#### Lending Analysis

This section contains a review of recent New Mexico legislation and State initiatives concerning fair lending practices and an analysis of data for home purchases and home improvement loans made by lending institutions with home offices in New Mexico, as well as lending institutions who are not located in New Mexico but have made loans in the State. It also includes a review of Community Reinvestment Act rankings of financial institutions located in the State that are located outside of the metropolitan areas, and a review of Primary Mortgage Insurance Companies data.

The Federal Financial Institutions Examination Council (FFIEC) is responsible for facilitating public access to data that depository institutions must disclose under the Home Mortgage Disclosure Act of 1975 (HMDA). The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS), and to make recommendations to promote uniformity in the supervision of financial institutions.

Community Reinvestment Act (CRA) ratings and Home Mortgage Disclosure Act (HMDA) data from the FFIEC are commonly used in AIs to examine fair lending practices within a jurisdiction. Used in conjunction, these data sets can identify potential or existing lending discrimination or community disinvestment. A new data set of private mortgage insurance companies (PMIC) was also obtained and reviewed in this analysis.

New Mexico Legislation. New Mexico Governor Richardson recently signed into law The Home Loan Protection Act (SB 449 or HB 649), a law addressing predatory lending issues in New Mexico. The law became effective on January 1, 2004.

The Act's key protections on high-cost home loans include a limitation on the financing of fees to two percent of the loan amount, and a requirement that all potential borrowers first talk with a certified housing counselor who can explain the costs of the loan. On all loans, the bill requires that borrowers receive the best loan they qualify for from a financial institution, regardless of which affiliate they apply to, and that refinancing provide borrowers with a reasonable tangible net benefit. The interest rate (not APR) threshold is set at the comparable Treasury rate plus 7 percent on first liens, comparable Treasury rate plus 9 percent on second liens.

The Act also contains the following provisions, which, in general, prohibit many of the common components of predatory loans:

- Basic loan flipping protection — requires reasonable tangible net benefit on any refinancing;
- Prohibits financing of single-premium credit insurance;
- For all high-cost home loans:
  - Requires home counseling;
  - Ability to repay requirement — safe harbor for lender if meets FHA/VA guidelines;
  - No balloon payments;
  - No negative amortization;
  - No increased interest rate after default;
  - No more than two prepaid payments;
  - No mandatory arbitration clause that limits borrower's legal rights;
  - Fees to modify, renew, extend or amend high-cost loans have to be bona fide, reasonable and actual;
  - No encouragement of default on previous loan;
  - Late payment protections (including limit to 5 percent of payment amount); and
  - No prepayment penalty (all prepaids are already illegal under current New Mexico law aside from the Alternative Mortgage Transaction Parity Act of 1982 (AMTPA) issues; the practical effect of this is just to provide additional remedies on high-cost home loans).<sup>6</sup>

<sup>2005</sup> proposed legislation. At the time this section was produced, there were several bills before the State legislature to regulate more closely the subprime and predatory lending industry:

**HB 372, SB 200, and SB 787 Consumer Loan Act.** These bills would cap interest rates on consumer loans at 36 percent a year and require operators to be licensed.

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<sup>6</sup> Data on the New Mexico Home Loan Protection Act (SB 449 and HB 649) is taken from ACORN, March 8, 2003, <http://www.acorn.org/index.php?id=1036>.

**HB 65 Payday Loan Regulation and HB 674 Regulation of Payday Loans.** These bills relate to financial transactions and provide for the regulations of payday loans.

**SB 675 Mortgage Lenders & Brokers Licensure Act.** The bill creates licensing requirements for mortgage lenders and mortgage brokers; provides power to the Director of Financial Institution's Division of the Regulations and Licensing Department; imposes fees; enacts the Mortgage Lenders and Brokers Licensure Act; and provides penalties.

**SM 42 Loan Originator Licensing & Education.** This bill is requesting a study, a report, and recommendations regarding individual loan originator licensing and education requirements.

**SB 694 Home Loan Flipping Provisions.** This is an act about amending provisions concerning the practice of flipping a home loan.

**SB 258 Legal Education Loan Repayment Program.** This bill is in its final version. It is an act relating to legal education; establishing a legal education Loan Repayment Program for Attorneys serving in public service employment; creating a Public Service Law Advisory Committee.

**Payday loans.** The New Mexico Attorney General, Patricia Madrid, launched an advertising campaign on in March 2005 warning, New Mexico consumers of the potential dangers of high interest payday loans. Payday loans are short term, high interest loans. The advertising campaign includes information on the Attorney General's website ([http://www.ago.state.nm.us/divs/cons/loans/cons\\_loans.htm](http://www.ago.state.nm.us/divs/cons/loans/cons_loans.htm)) and television public service announcements.

**CRA review.** The federal CRA requires that financial institutions progressively seek to enhance community development within the area they serve. On a regular basis, financial institutions submit information about mortgage loan applications as well as materials documenting their community development activity. The records are reviewed as part of CRA examinations to determine if the institution satisfied CRA requirements. The assessment includes a review of records as related to the following:

- Commitment to evaluating and servicing community credit needs;
- Offering and marketing various credit programs;
- Record of opening and closing of offices;
- Discrimination and other illegal credit practices; and
- Community development initiatives.

The data are evaluated and a rating for each institution is determined. Ratings for institutions range from substantial noncompliance in meeting credit needs to an outstanding record of meeting a community's credit needs. Approximately 26 percent of the ratings in New Mexico were completed for banks outside of the entitlement cities.<sup>7</sup> Exhibit V-10 shows the CRA Ratings for 277 examinations of 94 financial institutions with home offices in New Mexico cities outside of the metropolitan areas for which CRA exam data were reported.

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<sup>7</sup> The entitlement cities include Albuquerque, Farmington, Las Cruces, Rio Rancho and Santa Fe.

Exhibit V-10.  
 CRA Ratings, Areas Outside of the MSAs in  
 New Mexico,  
 July 1990 to April 2005

Note: Some banks may have been examined more than once.  
 Source: FFIEC Interagency CRA Rating, April 2005.

Rating	Number of examinations	Percent
Outstanding	63	23%
Satisfactory	208	75%
Needs Improvement	6	2%
Substantial Noncompliance	0	0%

As shown in the exhibit, three-quarters of the institutions currently have a rating of satisfactory, and 23 percent were rated outstanding. This distribution of rankings is similar for banks located in the entire State of New Mexico. However, 9 percent of the ratings for the entire State received a “needs improvement” rating.

In recent years, the significance of CRA ratings in measuring community investment has been questioned by many involved in local community development. As the financial condition of banks has improved, audits have become less frequent, so CRA ratings are not always a recent measure of community investment performance. Furthermore, with the expansion of online lending and bank mergers, measures of local lending have become less important in measuring local access to credit. Therefore, it is important to examine other lending data along with the CRA data when considering the performance of lending institutions.

Home Mortgage Disclosure Act (HMDA) Analysis. The National Fair Housing Alliance reported that in 2003, mortgage lending discrimination was the second largest form of discrimination reported to private fair housing groups throughout the United States.<sup>8</sup> The best source of analysis of mortgage lending discrimination is HMDA data. HMDA data consist of information about mortgage loan applications for financial institutions, savings and loans, savings banks, credit unions, and some mortgage companies.<sup>9</sup> The data contain information about the location, dollar amount, and types of loans made, as well as racial and ethnic information, income, and credit characteristics of all loan applicants. The data are available for home purchases, loan refinances, and home improvement loans.

HMDA data can provide a picture of how different applicant types fare in the mortgage lending process. These data can be used to identify areas of potential concern that may warrant further investigations. For example, by comparing loan approval rates of minority applicants with nonminorities that have similar income and credit characteristics, areas of potential discrimination may be detected.

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<sup>8</sup> 2004 *Fair Housing Trends Report*, National Fair Housing Alliance, April 7, 2004.

<sup>9</sup> Financial institutions are required to report HMDA data if they have assets of more than \$32 million, have a branch office in a metropolitan area, and originated at least one home purchase or refinance loan in the reporting calendar year. Mortgage companies are required to report HMDA if they are for-profit institutions, had home purchase loan originations exceeding 10 percent of all loan obligations in the past year, are located in an MSA (or originated five or more home purchase loans in an MSA) and either had more than \$10 million in assets or made at least 100 home purchase or refinance loans in the calendar year.

The Federal Reserve is the primary regulator of compliance with fair lending regulations. When federal regulators examine financial institutions, they use HMDA data to determine if applicants of a certain gender, race, or ethnicity are rejected at statistically significant higher rates than applicants with other characteristics. The Federal Reserve uses a combination of sophisticated statistical modeling and loan file sampling and review to detect lending discrimination.

The HMDA data tables in this section present summary HMDA data for the State of New Mexico as a whole, and data outside of three Metropolitan Statistical Areas (MSA) in New Mexico. The MSAs not included are: Albuquerque MSA, Las Cruces MSA, and Santa Fe MSA. It should be noted that discriminatory practices cannot be definitively identified from a review of aggregate HMDA data. Lending discrimination tests require detailed statistical analysis and comparative tests of individual loan files. However, examinations of denial rates and general applicant characteristics can suggest areas for further examination.

**Loan applications and action taken.** HMDA data available for the 2003 calendar year were used in this analysis. During 2003, there were 5,830 government guaranteed home mortgage loan applications made in the areas outside of the MSAs of the State, and 50,010 conventional loan applications in the areas outside of the MSAs of the State.

As for the entire State of New Mexico, there were 33,133 government guaranteed home mortgage loan applications and 183,218 conventional loan applications.

Forty-nine percent of the applications for government guaranteed loans were originated and 11 percent of these applications were denied in the areas outside of the MSAs. Conventional home purchase loans had an origination rate of 43 percent and 26 percent of the applications denied. (Higher origination rates for government guaranteed loans are typical since these loans usually provide more flexible underwriting standards). Most of the loan applications were for refinancing existing home loans; these represented 68 percent of the applications. Twenty-eight percent were for home purchases. Four percent were for home improvement loans.

For the entire State of New Mexico, 51 percent of the applications for government guaranteed loans were originated and 7 percent of these applications were denied. Conventional home purchase loans had an origination rate of 50 percent with 18 percent of the applications denied. Again, most of the loan applications were for refinancing existing home loans; these represented 68 percent of the applications. Twenty-eight percent were for home purchases. Three percent were for home improvement loans.

**Race/ethnicity of loan applicants.** Forty-eight percent of the State's loan applications made outside the MSAs (about 26,900 applications) were from applicants who reported their race to be White. The race/ethnicity for 22 percent of the applicants was unknown or not reported (about 12,400). Twenty-four percent were from persons of Hispanic origin (about 13,200 applications) and 3 percent of the applications were from American Indians (about 1,600).

Forty-eight percent of the entire State of New Mexico's loan applications (about 103,600 applications) were from applicants who reported their race to be White. The race/ethnicity for 21 percent of the applicants was unknown or not reported (about 46,000). Twenty-six percent were from persons of Hispanic origin (about 55,300 applications).

**Loan amounts.** Exhibit V-11 and V-12 shows the loan amounts by loan purpose (purchase, improvement, or refinance), by race and ethnicity for the areas of the State where a MSA was not reported, and for the entire State.

In the areas outside of the MSAs, the loan amounts requested for home purchases were fairly similar, with Whites, African Americans, and persons reporting an Other race or not reporting their race. Asian households requested the highest amounts for loan purchases, with an average amount of \$117,700. For refinances, Asians, Whites, and “Other” had the highest loan balances for refinancing; African Americans had the lowest. In general, however, the average loan requests are similar enough that they would not be a primary factor in explaining variance in denial rates among minority groups.

Exhibit V-II.

Average Loan Amount Requested by Loan Purpose and Race/Ethnicity, Areas Outside of the MSAs of New Mexico, 2003

<b>Race/ Ethnicity</b>	<b>Home Purchase</b>	<b>Home Improvement</b>	<b>Refinance</b>
American Indian/Alaskan Native	\$57,741	\$11,307	\$92,055
Asian/Pacific Islander	\$117,701	\$20,500	\$109,137
African American	\$98,938	\$16,080	\$89,492
Hispanic/Latino	\$71,343	\$17,402	\$90,705
White	\$99,164	\$25,144	\$105,959
Other	\$98,411	\$60,140	\$104,339
Unknown	\$96,081	\$28,794	\$90,598
Not Applicable	\$83,031	\$71,714	\$110,048

Source: FFIEC HMDA Raw Data 2003 and BBC Research & Consulting.

For the State overall, the loan amounts requested for home purchases were fairly similar, with Whites, African Americans, and persons reporting an Other race or not reporting their race. Asian households requested the highest amounts for loan purchases, with an average amount of \$142,342. For refinances, applications where the race was unknown had the highest loan balances for refinancing, and Asians and Whites had the next loan balances for refinancing; American Indians had the lowest. In general, however, the average loan requests are similar enough that they would not be a primary factor in explaining variance in denial rates among minority groups.

Exhibit V-12.

Average Loan Amount Requested by Loan Purpose and Race/Ethnicity, New Mexico, 2003

Race/ Ethnicity	Home Purchase	Home Improvement	Refinance
American Indian/Alaskan Native	\$77,167	\$12,926	\$106,132
Asian/Pacific Islander	\$142,342	\$36,257	\$130,515
African American	\$122,306	\$26,869	\$117,566
Hispanic/Latino	\$102,306	\$20,194	\$108,901
White	\$133,067	\$32,335	\$133,616
Other	\$132,801	\$35,969	\$125,767
Unknown	\$128,330	\$29,821	\$118,604
Not Applicable	\$114,304	\$98,128	\$145,255

Source: FFIEC HMDA Raw Data 2003 and BBC Research & Consulting.

**Dispositions of loans.** Overall, 50 percent of loans in New Mexico were originated, while 43 percent of loans in the areas outside of the MSAs were originated. In the areas outside of the MSAs, 7 percent of the loan offers were not accepted by the applicants and 25 percent of the loan applications were denied by the financial institutions. Eleven percent of the loan applications were withdrawn by applicants during the application process; 2 percent of the loan files were closed for incompleteness; and 13 percent of the loans were purchased by an institution.

As shown in Exhibit V-13, in the areas outside the MSAs, American Indian/Alaskan Natives had loan origination rates 30 percent lower than Whites, and “Unknown” applicants were 29 percent lower than Whites. American Indians and “Others” had the highest loan denial rates at 50 percent and 41 percent, respectively.

Exhibit V-13.

Action Taken on Loan by Race/Ethnicity, Areas Outside of the MSAs of New Mexico, 2003

Race/ Ethnicity	Loan originated	Loan not accepted by applicant	Loan denied	Application withdrawn	File closed	Purchased by institution	Total
American Indian/Alaskan Native	25%	8%	50%	12%	1%	3%	1,624
Asian/Pacific Islander	50%	7%	22%	8%	4%	8%	227
African American	41%	8%	30%	9%	4%	9%	569
Hispanic/Latino	43%	8%	31%	10%	2%	6%	13,243
White	56%	7%	19%	8%	2%	9%	26,936
Other	31%	6%	41%	14%	2%	6%	809
Unknown	26%	7%	34%	24%	2%	6%	9,041
Not Applicable	2%	0%	1%	1%	-	96%	3,391
<b>All loan applications</b>	<b>43%</b>	<b>7%</b>	<b>25%</b>	<b>11%</b>	<b>2%</b>	<b>13%</b>	<b>55,840</b>

Source: FFIEC HMDA Raw Data 2003 and BBC Research & Consulting.

As shown in Exhibit V-14, the State of New Mexico’s American Indian/Alaskan Natives had loan origination rates 27 percent lower than Whites, and “Unknown” applicants were 29 percent lower than Whites. American Indians and “Others” had the highest loan denial rates at 40 percent and 29 percent, respectively.

Exhibit V-14.  
Action Taken on Loan by Race/Ethnicity, New Mexico, 2003

Race/ Ethnicity	Loan originated	Loan not accepted by applicant	Loan denied	Application withdrawn	File closed	Purchased by institution	Total
American Indian/Alaskan Native	35%	7%	40%	11%	1%	6%	3,154
Asian/Pacific Islander	61%	7%	13%	6%	3%	11%	2,183
African American	49%	6%	22%	9%	2%	12%	2,673
Hispanic/Latino	51%	7%	22%	9%	2%	9%	55,370
White	62%	6%	12%	7%	2%	11%	103,609
Other	42%	6%	29%	14%	2%	6%	3,320
Unknown	33%	7%	27%	21%	3%	10%	30,119
Not Applicable	2%	0%	0%	0%	-	97%	15,924
<b>All loan applications</b>	<b>50%</b>	<b>6%</b>	<b>17%</b>	<b>9%</b>	<b>2%</b>	<b>17%</b>	<b>216,352</b>

Source: FFIEC HMDA Raw Data 2003 and BBC Research & Consulting.

Exhibits V-15 and V-16 show the origination and denial rates for conventional loans and government guaranteed loans by race/ethnicity for the entire State and the areas outside of the MSAs. government guaranteed loans had higher denial rates than conventional loans. Denial rates were also higher in the areas outside of the MSAs than the denial rates for the State of New Mexico.

American Indian/Alaskan Natives had the highest percentage of conventional loans and government guaranteed loans denied for both locations.

Exhibit V-15.  
Action Taken on Conventional Loans by Race/Ethnicity, New Mexico, 2003

Race/ Ethnicity	All Loan Applications			Outside of MSAs		
	Loan originated	Loan denied	Total	Loan originated	Loan denied	Total
American Indian/Alaskan Native	32%	<b>44%</b>	2,665	24%	<b>52%</b>	1,520
Asian/Pacific Islander	62%	14%	1,948	51%	23%	199
African American	45%	<b>27%</b>	1,895	36%	<b>36%</b>	412
Hispanic/Latino	49%	<b>24%</b>	45,521	42%	<b>32%</b>	11,993
White	62%	13%	89,045	55%	20%	23,974
<b>All loan applications</b>	<b>50%</b>	<b>18%</b>	<b>183,219</b>	<b>43%</b>	<b>26%</b>	<b>50,010</b>

Source: FFIEC HMDA Raw Data 2003 and BBC Research & Consulting.

Exhibit V-16.  
Action Taken on Government Guaranteed Loans by Race/Ethnicity, New Mexico, 2003

Race/ Ethnicity	All Loan Applications			Outside of MSAs		
	Loan originated	Loan denied	Total	Loan originated	Loan denied	Total
American Indian/Alaskan Native	54%	14%	489	47%	21%	104
Asian/Pacific Islander	52%	6%	235	46%	14%	28
African American	57%	10%	778	55%	14%	157
Hispanic/Latino	57%	11%	9,849	56%	16%	1,250
White	61%	6%	14,564	61%	11%	2,962
<b>All loan applications</b>	<b>51%</b>	<b>7%</b>	<b>33,133</b>	<b>49%</b>	<b>11%</b>	<b>5,830</b>

Source: FFIEC HMDA Raw Data 2003 and BBC Research & Consulting.

**Reasons for loan denials.** The HMDA data contain some information about the reasons for denials of the loan applications. For all loans that were denied in the State of New Mexico, the primary reason was credit history (30 percent), followed by other (20 percent), and incomplete credit application (16 percent). There was little difference between the reasons for denial among minorities and Whites.

The following exhibit shows the reasons for denial by race and ethnicity for the State of New Mexico.

Exhibit V-17.  
Reasons for Denial of Loans by Race and Ethnicity, New Mexico, 2003

Denial Reason	American Indian/Alaskan Native	Asian/Pacific Islander	African American	Hispanic/Latino	White	Other	Unknown	Not Applicable	Total
Debt-to-income ratio	12%	15%	13%	15%	12%	7%	21%	15%	14%
Employment history	3%	4%	1%	2%	2%	2%	1%	5%	2%
<b>Credit history</b>	<b>42%</b>	<b>31%</b>	<b>34%</b>	<b>33%</b>	<b>26%</b>	<b>18%</b>	<b>30%</b>	<b>20%</b>	<b>30%</b>
Collateral	14%	8%	12%	12%	14%	9%	15%	20%	13%
Insufficient cash	2%	2%	2%	2%	2%	1%	2%	5%	2%
Unverifiable information	1%	5%	3%	2%	4%	2%	2%	5%	3%
<b>Credit application incomplete</b>	<b>8%</b>	<b>18%</b>	<b>17%</b>	<b>14%</b>	<b>20%</b>	<b>28%</b>	<b>12%</b>	<b>10%</b>	<b>16%</b>
Mortgage insurance denied	0%	0%	0%	0%	0%	0%	0%	0%	0%
<b>Other</b>	<b>18%</b>	<b>18%</b>	<b>18%</b>	<b>19%</b>	<b>20%</b>	<b>34%</b>	<b>17%</b>	<b>20%</b>	<b>20%</b>
<b>All loan applications</b>	<b>1,138</b>	<b>285</b>	<b>540</b>	<b>11,427</b>	<b>12,606</b>	<b>855</b>	<b>5,335</b>	<b>20</b>	<b>32,206</b>

Note: The Reasons for Denial fields are optional fields where they identify why an application was not approved. As many as three reasons may be reported.

Source: FFIEC HMDA Raw Data 2003 and BBC Research & Consulting.

As demonstrated in the exhibits, poor credit history is the major reason for application denials. Incomplete credit applications, the category “Other,” high debt-to-income ratio, and lack of collateral are other primary factors for loans to be denied.

**Denials by county.** Seventeen percent of all loan applicants in the State of New Mexico were denied. The following exhibit shows the loan denial rates by county. There are 27 counties with denial rates above the State denial rate of 17 percent. These counties are highlighted in bold below. Hidalgo County and Guadalupe County had the highest denial rates in the State, with 44 percent and 38 percent, respectively, of their loans denied.

Exhibit V-18.  
Percent of Loans Denied by County, New  
Mexico, 2003

Source: FFIEC HMDA Raw Data 2003 and BBC Research &  
Consulting.

County	Percent Denied	Total Applications
Bernalillo	13%	92,076
<b>Carton</b>	<b>31%</b>	<b>197</b>
<b>Chaves</b>	<b>23%</b>	<b>4,452</b>
<b>Cibola</b>	<b>33%</b>	<b>1,135</b>
<b>Colfax</b>	<b>21%</b>	<b>1,363</b>
<b>Curry</b>	<b>19%</b>	<b>3,312</b>
<b>DeBaca</b>	<b>26%</b>	<b>57</b>
<b>Dona Ana</b>	<b>18%</b>	<b>16,333</b>
<b>Eddy</b>	<b>27%</b>	<b>3,241</b>
<b>Grant</b>	<b>23%</b>	<b>1,959</b>
<b>Guadalupe</b>	<b>38%</b>	<b>261</b>
<b>Harding</b>	<b>29%</b>	<b>21</b>
<b>Hidalgo</b>	<b>44%</b>	<b>206</b>
<b>Lea</b>	<b>30%</b>	<b>3,374</b>
Lincoln	15%	3,080
Los Alamos	4%	3,286
<b>Luna</b>	<b>28%</b>	<b>1,327</b>
<b>McKinley</b>	<b>34%</b>	<b>2,102</b>
<b>Mora</b>	<b>33%</b>	<b>206</b>
<b>Otero</b>	<b>20%</b>	<b>4,643</b>
<b>Quay</b>	<b>30%</b>	<b>416</b>
<b>Rio Arriba</b>	<b>23%</b>	<b>3,149</b>
<b>Roosevelt</b>	<b>28%</b>	<b>918</b>
Sandoval	14%	18,341
<b>San Juan</b>	<b>25%</b>	<b>9,510</b>
<b>San Miguel</b>	<b>32%</b>	<b>2,291</b>
Santa Fe	13%	22,935
<b>Sierra</b>	<b>23%</b>	<b>856</b>
<b>Socorro</b>	<b>28%</b>	<b>1,057</b>
<b>Taos</b>	<b>19%</b>	<b>3,807</b>
<b>Torrance</b>	<b>31%</b>	<b>1,506</b>
<b>Union</b>	<b>25%</b>	<b>221</b>
<b>Valencia</b>	<b>24%</b>	<b>8,322</b>
<b>NA</b>	<b>29%</b>	<b>391</b>
<b>Total</b>	<b>17%</b>	<b>216,351</b>

Exhibit V-19 shows denial rates by race/ethnicity for each county in New Mexico. Although some of the minority populations may be small within the counties, it is still a good method to compare denials throughout the State. The shaded areas of the exhibit indicate denial rates by race/ethnicity that are greater than the percentage of loans denied for the county overall.

A look at the exhibit reveals the Hispanic/Latino loan applicants *consistently* have a higher percentage of loan applicants that are denied when compared to the overall county denial rate they are located in, than other race/ethnic categories. Guadalupe County was the only county where White loan applicants had a higher percentage of loans denied (40 percent) relative to the percentage of loans denied in the county (38 percent).

Exhibit V-19.

Percent of Loans Denied by Race and Ethnicity and County, State of New Mexico, 2003

County	American Indian/ Alaskan Native		Asian/ Pacific Islander		African American		Hispanic/ Latino		White		Total Applications	
	% denied	Loans	% denied	Loans	% denied	Loans	% denied	Loans	% denied	Loans	% denied	Loans
Bernalillo	25%	864	13%	1,408	20%	1,416	18%	24,400	9%	43,467	13%	92,076
Carton	0%	1	0%	0	0%	1	29%	14	30%	124	31%	197
Chaves	36%	14	25%	16	35%	46	31%	1,289	16%	2,159	23%	4,452
Cibola	57%	84	100%	1	38%	8	34%	335	26%	437	33%	1,135
Colfax	33%	9	0%	0	50%	4	33%	241	15%	810	21%	1,363
Curry	39%	18	23%	22	29%	94	32%	496	17%	1,695	19%	3,312
DeBaca	0%	0	0%	0	0%	0	45%	11	14%	29	26%	57
Dona Ana	33%	75	10%	105	27%	171	27%	5,187	12%	6,414	18%	16,333
Eddy	28%	25	25%	12	32%	25	31%	689	24%	1,669	27%	3,241
Grant	31%	16	0%	1	0%	8	31%	489	17%	938	23%	1,959
Guadalupe	0%	1	100%	4	0%	0	35%	164	40%	25	38%	261
Harding	0%	0	0%	0	0%	0	33%	9	14%	7	29%	21
Hidalgo	0%	0	0%	0	0%	0	43%	63	39%	74	44%	206
Lea	50%	18	15%	20	48%	79	36%	844	26%	1,591	30%	3,374
Lincoln	8%	12	0%	11	25%	8	25%	397	12%	2,089	15%	3,080
Los Alamos	6%	16	7%	103	33%	12	8%	247	3%	2,435	4%	3,286
Luna	0%	1	50%	4	20%	15	34%	453	24%	539	28%	1,327
McKinley	59%	427	18%	17	33%	21	31%	373	22%	618	34%	2,102
Mora	0%	1	0%	0	100%	2	36%	104	29%	48	33%	206
Otero	46%	46	9%	22	18%	129	27%	684	16%	2,479	20%	4,643
Quay	100%	2	50%	2	0%	1	28%	106	24%	197	30%	416
Rio Arriba	51%	78	0%	8	33%	15	22%	1,734	19%	707	23%	3,149
Roosevelt	17%	6	0%	2	50%	2	41%	160	24%	489	28%	918
Sandoval	38%	341	12%	170	18%	330	17%	3,890	11%	9,500	14%	18,341
San Juan	49%	753	23%	35	43%	46	30%	972	21%	5,472	25%	9,510
San Miguel	73%	15	0%	6	17%	18	36%	1,235	20%	483	32%	2,291
Santa Fe	26%	161	7%	152	13%	104	18%	5,821	10%	11,863	13%	22,935
Serra	33%	6	0%	1	33%	3	29%	112	21%	546	23%	856
Socorro	58%	12	13%	8	21%	19	38%	359	20%	429	28%	1,057
Taos	37%	35	19%	21	0%	0	28%	1,127	13%	1,934	19%	3,807
Torrance	29%	14	0%	2	14%	7	38%	369	26%	779	31%	1,506
Union	0%	1	0%	0	0%	0	31%	49	25%	138	25%	221
Valencia	33%	95	34%	29	16%	87	27%	2,837	19%	3,297	24%	8,322
NA	14%	7	0%	1	50%	2	35%	110	23%	128	29%	391
<b>Total</b>	<b>40%</b>	<b>3,154</b>	<b>13%</b>	<b>2,183</b>	<b>22%</b>	<b>2,673</b>	<b>22%</b>	<b>55,370</b>	<b>12%</b>	<b>103,609</b>	<b>17%</b>	<b>216,351</b>

Note: The shaded areas indicate a higher percentage of loans denied than the county overall.

Source: FFIEC HMDA Raw Data 2003 and BBC Research & Consulting.

**What do the data suggest?** There are many reasons that loan approval rates may vary for applicants in the same income brackets—credit ratings, net worth, and income to debt ratios play a large role in the decision to deny or approve a loan. Without individual data about the applications analyzed previously, it is difficult to assess the presence of discrimination by race, ethnicity, or gender. Disparities in approval rates between racial and ethnic groups or genders are not definitive proof of housing discrimination; rather, the presence of disparities suggests the need for further inquiry. The data are also useful in determining what government sponsored programs might be needed to fill the gaps between what the private market is willing to provide and what is needed.

The HMDA data highlight areas where governments can work to improve access to credit for citizens. As shown in Exhibit V-17, poor credit histories and incomplete applications are the top reasons that credit is denied to citizens in the State of New Mexico.

The data also show that most minority populations (other than Asians) have higher denial rates than Whites for conventional loans. The denial rates for government guaranteed loans are more similar. However, statewide denial rates are slightly lower than denial rates in areas outside of the metropolitan areas.

**PMIC Analysis.** The Private Mortgage Insurance Companies (PMIC) dataset consists of seven private mortgage insurance companies that *voluntarily* compile and disclose data about the disposition of applications for mortgage insurance on conventional mortgages. The data contains information such as sex, race, national origin, loan amount, income, and property location on applications issued in a calendar year.

Private Mortgage Insurance (PMI) is extra insurance that lenders require from most homebuyers who obtain loans that are more than 80 percent of their new home’s value. In other words, buyers with less than a 20 percent down payment are normally required to pay PMI. However, recently there have been financing tools provided to homebuyers to avoid paying PMI. An example of this are second mortgages that typically are interest only loans.

In the State of New Mexico there were approximately 17,600 PMI applications made in 2003. Eighty-one percent of those applications were approved and one percent was denied. American Indians/Alaskan Natives had the highest denial rates with 5 percent of the PMI applications denied. Overall, there was little difference between the PMI originations and denials among minorities and Whites. These data are presented in Exhibit V-20.

Exhibit V-20.  
PMIC Action Taken on Insurance Applications by  
Race/Ethnicity for Loans Completed in New Mexico, 2003

Race/ Ethnicity	Loan insured	Application approved but not accepted	Application denied	Application withdrawn by applicant	File closed	Total
American Indian/Alaskan Native	81%	15%	3%	1%	0%	121
Asian/Pacific Islander	85%	11%	1%	3%	0%	152
African American	83%	13%	0%	3%	1%	187
Hispanic/Latino	80%	15%	1%	4%	1%	4,194
White	82%	13%	1%	4%	0%	8,520
Other	92%	6%	0%	2%	0%	726
Unknown	78%	16%	2%	3%	0%	3,666
<b>Total</b>	<b>81%</b>	<b>14%</b>	<b>1%</b>	<b>3%</b>	<b>0%</b>	<b>17,566</b>

Source: FFIEC PMIC Raw Data 2003 and BBC Research & Consulting.

When comparing PMI insurance applications made to areas outside of the metropolitan areas to the entire state, similar overall results concerning PMI originations and denials occurred—a 79 percent origination rate and 2 percent denial rate for areas outside of the MSAs. Asians and persons reporting an Other race had the highest approval rates of 94 percent and 92 percent, respectively. American Indians/Alaskan Natives had the highest denial rates with 5 percent of the insurance applications denied. In general, there was little difference between the insurance approval and insurance denial among minorities and Whites.

Exhibit V-21.  
 PMIC Action Taken on Insurance Applications by Race/Ethnicity  
 for Loans Completed in New Mexico Outside of the Metropolitan Areas, 2003

Race/ Ethnicity	Loan insured	Application approved but not accepted	Application denied	Application withdrawn by applicant	File closed	Total
American Indian/Alaskan Native	72%	23%	5%	0%	0.0%	60
Asian/Pacific Islander	94%	6%	0%	0%	0.0%	31
African American	79%	16%	0%	5%	0.0%	43
Hispanic/Latino	78%	15%	2%	5%	0.4%	957
White	79%	15%	2%	3%	0.3%	2,849
Other	92%	6%	0%	2%	0.0%	241
Unknown	78%	17%	1%	3%	0.0%	953
<b>Total</b>	<b>79%</b>	<b>15%</b>	<b>2%</b>	<b>3%</b>	<b>0.3%</b>	<b>5,134</b>

Note: The Metropolitan Areas include Albuquerque, Las Cruces and Santa Fe.  
 Source: FFIEC PMIC Raw Data 2003 and BBC Research & Consulting.

### Summary of Impediments to Fair Housing Choice

This section has examined fair housing impediments to residents in the State of New Mexico, focusing on the State’s nonentitlement areas. The section examined data from a variety of sources including seven public forums; a citizen survey; key person interviews; and reviews and analysis of data on fair housing complaints, legal cases, and mortgage lending, as well as State barriers to affordable housing.

The following barriers to fair housing were identified through this research:

**Presence of discrimination.** A review of complaint data, legal cases, and anecdotal evidence discussed in the public forums and key person interviews suggest that housing discrimination occurs in the State of New Mexico. In the citizen survey conducted for this study, 13 percent of citizens said they had faced housing discrimination. (This is very consistent with a nationwide study conducted for HUD, which found 14 percent of adults believed they had experienced housing discrimination). The top reasons for discrimination in the complaint data were disability, race, national origin, and familial status. Attendees at the forums said that discrimination based on familial status is a particular problem in many communities.

In addition, a recent study conducted by HUD found that American Indians in the State’s urban areas (Albuquerque, Santa Fe, and Las Cruces) experienced discrimination in rental transactions 25.7 percent of the time and in homebuying transactions 16.6 percent of the time. The study found that American Indians were told that rental housing was unavailable when it actually was, and were “steered” away from areas that were predominantly White by real estate professionals helping them locate a home to purchase.

**State fair housing law.** The State of New Mexico does not have a fair housing law that offers the same protections as the Federal Fair Housing Act (FHA). Although the State Human Rights Act prohibits discrimination on the basis of sexual orientation (which is not protected under federal fair housing law), the State’s Act does not cover familial status or have a reasonable accommodations provision related to housing.

The public forums and key person interviews suggest that discrimination based on familial status and discrimination based on disability occur in many communities in New Mexico and create barriers to fair housing choice. If the State were to make its fair housing law equivalent to the Federal FHA, citizens would have greater opportunities to pursue housing discrimination complaints at the State level. Currently, citizens who feel they have been discriminated against are referred to HUD to make a complaint, and do so via HUD's fair housing complaint hot line.<sup>10</sup>

*Disparities in loan origination rates and credit issues.* A review of home mortgage transactions in New Mexico found that, in 2003, American Indians had loan denial rates that were much higher than the rates of other racial and ethnic groups (50 percent of the loans applied for by American Indians in the State's non-MSAs were denied). The data also show that government guaranteed loans have much less disparity in loan origination and denial rates than conventional loans. Finally, the data found that the top reason for denials across every racial and ethnic group was poor credit history.

The HMDA data analysis also highlighted particular counties in the State where denial rates are much higher than the State's overall. These include Carton, Guadalupe, Hidalgo, Lea, McKinley, Mora, Quay, San Miguel, and Torrance.

The HMDA Analysis suggests that the State should invest in credit and homebuyer counseling programs—particularly in nonmetropolitan areas—to improve citizens' understanding of how to manage personal debt. The State should also work to ensure that minority populations are aware of government guaranteed loan programs, which appear to better serve these populations than conventional loan programs. Finally, financial literacy and homebuyer educational campaigns should be targeted—largely to American Indians and Hispanics/Latinos—in counties where denial disparities are the greatest and denial rates are high overall.

Finally, on a related note—the key people who were interviewed for the Consolidated Plan and AI repeatedly mentioned a need for New Mexicans to be better informed about their fair housing rights and better educated about lending products, to avoid being victims of predatory loans.

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<sup>10</sup> The City of Albuquerque has a Human Rights Office that does investigate some housing discrimination complaints under the City's fair housing ordinance. Constraints on funding prevent the office from investigating all complaints that are received.