

**Analysis of Impediments**

**to**

**Fair Housing Choice**

**in the**

**City of Portland**

**2005**

Prepared by the Greater Portland Council of Governments  
Accepted by Portland City Council March, 2005

# **Analysis of Impediments to Fair Housing Choice in the City of Portland 2005**

Prepared by the Greater Portland Council of Governments

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## A. Executive Summary

As the state's largest municipality, Portland is a thriving urban city that serves as the cultural and economic capital of Maine. Its stable economy, dynamic quality of life, and changing demographics have bolstered the demand for safe, decent, and affordable housing opportunities. How will Portland continue to grow while preserving its historic role as a beacon for diversity?

As an entitlement community under the Federal Community Development Block Grant program, the City of Portland is required to conduct an analysis to identify impediments to fair housing choice through a comprehensive review of local regulations affecting the location, availability, and accessibility of housing as well as programs, policies, and practices, both public and private, that affect housing choice. To identify impediments, the analysis draws on a variety of data sources:

- Demographic trends based on the 2000 Census
- Zoning and land use policies
- Discrimination complaints filed with HUD and/or the Maine Human Rights Commission
- Home Mortgage Disclosure Act (HMDA) data
- Results of a paired testing pilot conducted by Pine Tree Legal Assistance
- Interviews with service providers in Greater Portland

The analysis is intended to serve as a review of existing data, not as an investigation into alleged complaints. Based on available data, we conclude that although there are instances of alleged or actual discrimination in terms of access and tenure to housing occurring within the city of Portland, no patterns of overt discrimination can be identified. There are, however, patterns, policies, and practices that have the effect of restricting housing choice on the basis of race, color, religion, sex, disability, familial status, national origin, and source of income:

- High concentrations of race and poverty in certain Portland neighborhoods
- Housing costs that outpace income growth, creating an affordability gap of \$300 for renters and \$80,000 for first-time homebuyers
- Home mortgage loan denial rates for Native Americans and African Americans that are three times the metropolitan area's average
- Lack of City enforcement of accessibility standards for new construction
- Inadequate regional transit service to existing and planned employment centers that may limit job opportunities

To address these impediments, the following actions are recommended:

- Full implementation of Portland's Housing Plan
- Paired testing in the rental and real estate markets
- Increased fair housing education and training
- Homebuyer and credit counseling targeted to minority homebuyers

## **I. Introduction**

### **A. Purpose**

As the state's largest municipality, Portland is a thriving urban city that serves as the cultural and economic capital of Maine. Its stable economy, dynamic quality of life, and changing demographics have bolstered the demand for safe, decent, and affordable housing opportunities. How will Portland continue to grow while preserving its historic role as a beacon for diversity?

As an entitlement community under the Federal Community Development Block Grant program, the City of Portland must certify to the United States Department of Housing and Urban Development (HUD) under Section 808 of the Fair Housing Act that it is affirmatively furthering fair housing. This certification requires the city to:

- 1) Conduct an analysis to identify impediments to fair housing choice
- 2) Take appropriate action to overcome the effects of impediments
- 3) Maintain records reflecting the analysis and actions taken

This analysis is intended to fulfill the first stage of the certification process and provide the framework for future action.

### **B. Fair Housing**

This analysis is intended to identify impediments to fair housing choice through a comprehensive review of local regulations affecting the location, availability, and accessibility of housing as well as programs, policies, and practices, both public and private, that affect housing choice. Impediments are defined by HUD as:

- 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 choices
- Actions, omissions, or decisions that have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin.

In addition, the Maine Human Rights Act prohibits landlords from refusing to rent or to impose different terms of tenancy on any individual receiving federal, state or local public assistance. The City of Portland prohibits discrimination based on sexual orientation.

In 1996, the City of Portland completed its first Analysis of Impediments to Fair Housing Choice in consultation with the Portland law firm of Moon, Moss, McGill & Bachelder. While the analysis did not find "any pattern or practice of housing discrimination in the city of Portland," it did uncover incidents of discrimination directed at the poor, large families with children, people of color, and people with disabilities in need of congregate living quarters. As a

result of this first analysis, Portland developed the following Fair Housing Goals and Strategies for incorporation into its Consolidated Plan.

### **Fair Housing Goals**

1. Eliminate incidents of housing discrimination.
2. Remove barriers to housing opportunities related to race, religion, ethnicity, familial status, gender, disability, source of income, and sexual orientation.

### **Fair Housing Strategies**

1. Ensure that written material explaining the fair housing rights of all populations and the enforcement mechanisms available. Make these materials available in several languages and at homeless shelters, City of Portland Social Services Division, Refugee Resettlement Program, soup kitchens and social clubs for persons with disabilities and other appropriate locations.
2. Include fair housing information in homebuyer education classes offered by the City's Housing and Neighborhood Services Division.
3. Continue to direct all calls coming to the City which may involve a fair housing issue to the Fair Housing Officer to determine if a formal complaint should be made to the Maine Human Rights Commission.
4. During the period covered by the 2000-2005 Consolidated Plan the City of Portland will be re-surveying the community and conducting interviews with leading advocacy organizations in order to update its 1996 Analysis of Impediments to Fair Housing.

#### **A. Methodology**

Following a competitive bid process, the City of Portland contracted with the Greater Portland Council of Governments to conduct this analysis. In addition to meeting HUD guidelines, the analysis provides a snapshot of Portland's role in the regional housing market, building on the City's recently adopted Housing Component of its Comprehensive Plan. To identify impediments, the analysis draws on a variety of data sources:

- Demographic trends based on the 2000 Census
- Zoning and land use policies
- Discrimination complaints filed with HUD and/or the Maine Human Rights Commission
- Home Mortgage Disclosure Act (HMDA) data
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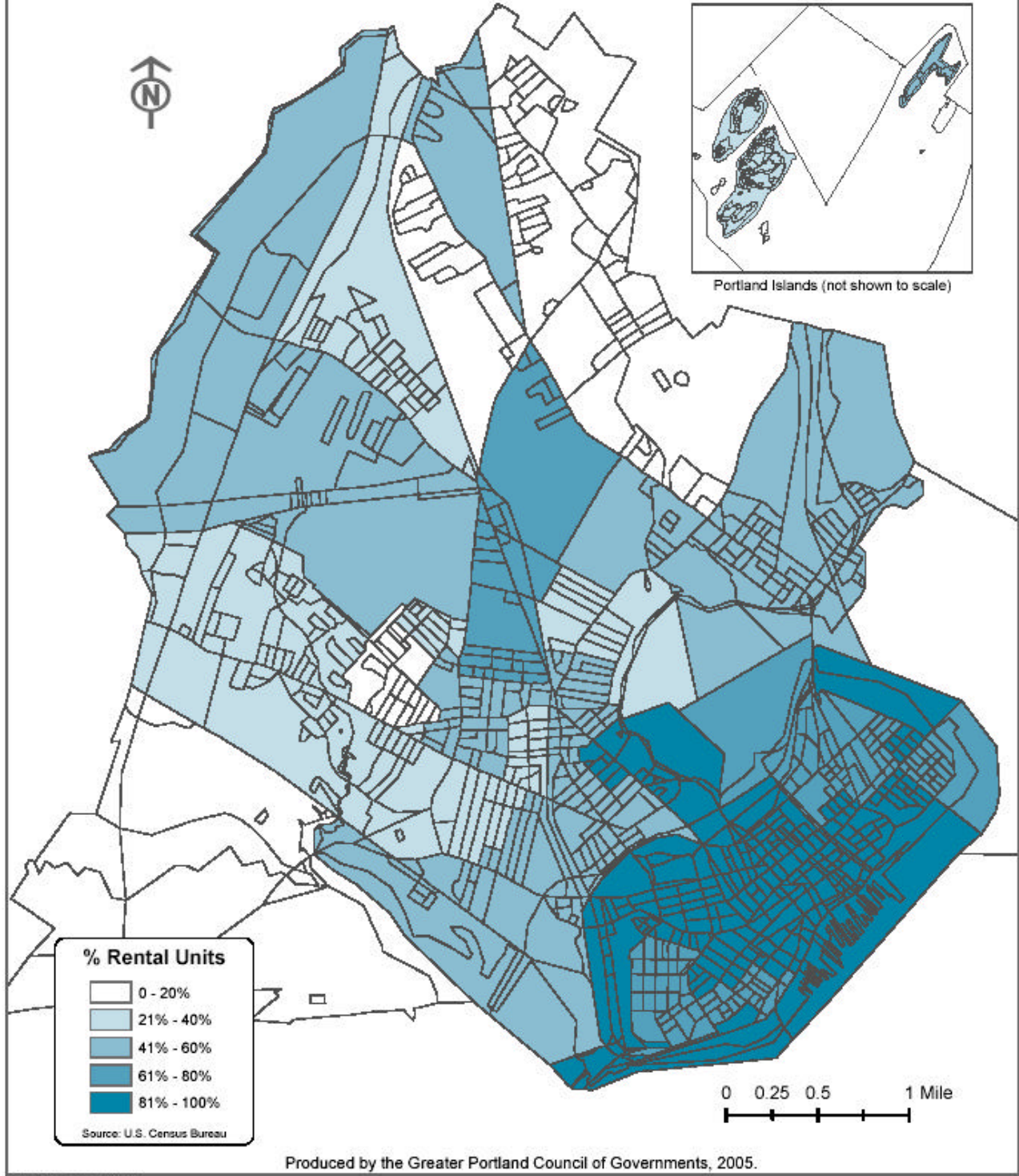
## **II Housing Market**

### **A. Greater Portland Housing Market**

Portland is a great place to live. Its bustling port, dynamic downtown, excellent schools, celebrated architecture, dramatic ocean views, and fine museums and hospitals make the city a desirable location to live, shop, work, and raise a family. According to the U.S. Census Bureau, Portland is one of the top 10 metropolitan areas in the United States, and the top city in the Northeast, attracting an immigration of college-educated young people. Indeed, Portland can be found on almost any top 10 list of “best” places to live – for the arts, recreation, doing business, bicycling, architecture, and general livability.

Portland is particularly attractive to newcomers due to the availability of rental housing. According to the 2000 Census, 58% of Portland’s occupied housing units are rentals, the highest percentage of any community in Maine. Rental units are concentrated on the peninsula, where Downtown, Parkside, and portions of Bayside and the West and East Ends boast a rental housing rate of over 80%. Off the peninsula, Stroudwater and portions of North Deering and Deering Center host the lowest concentrations of rental housing.

# City of Portland, Maine Rental Units by Census Block Group (2000)



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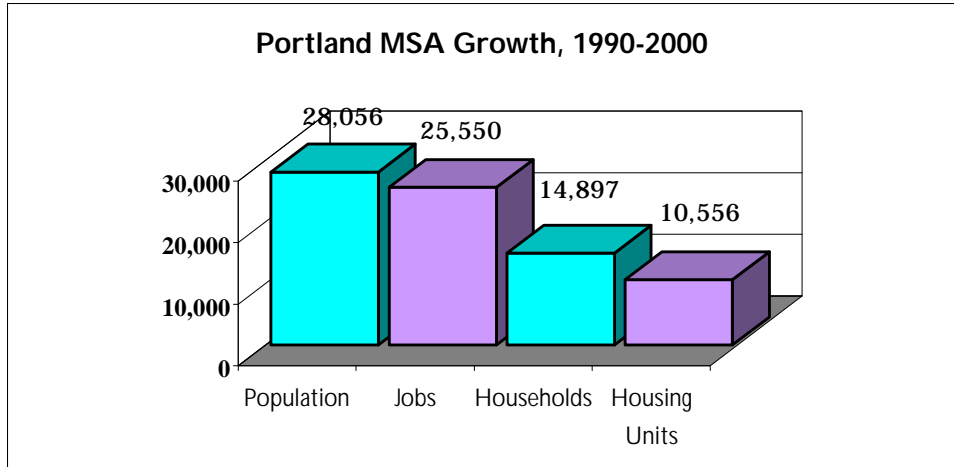
Although its population of 64,249 is virtually unchanged since 1990, the composition of the City is changing in significant ways. Driven by a 20% increase in the number of people living alone, the city gained over 1,500 new households from 1990 to 2000. Overall, average household size in the City of Portland declined 6%, a nationwide phenomenon fueled by a healthy economy as well as such socio-demographic trends as divorce, persons living longer, and people marrying later in life.

### Household Change in City of Portland, 1990-2000

	1990	2000	% Change
<b>Total households</b>	28,235	29,714	5%
<b>Family households</b>	14,705	13,547	-8%
Married-couple family	10,489	9,545	-9%
With own children under 18 yrs	4,533	3,940	-13%
Female householder, no husband present	3,449	3,127	-9%
With own children under 18 yrs	2,236	1,971	-12%
<b>Nonfamily households</b>	13,530	16,167	19%
Householder living alone	9,961	11,919	20%
65 and over	3,740	3,427	-8%
<b>Average household size</b>	2.19	2.08	-5%
<b>Average family size</b>	2.91	2.89	-1%

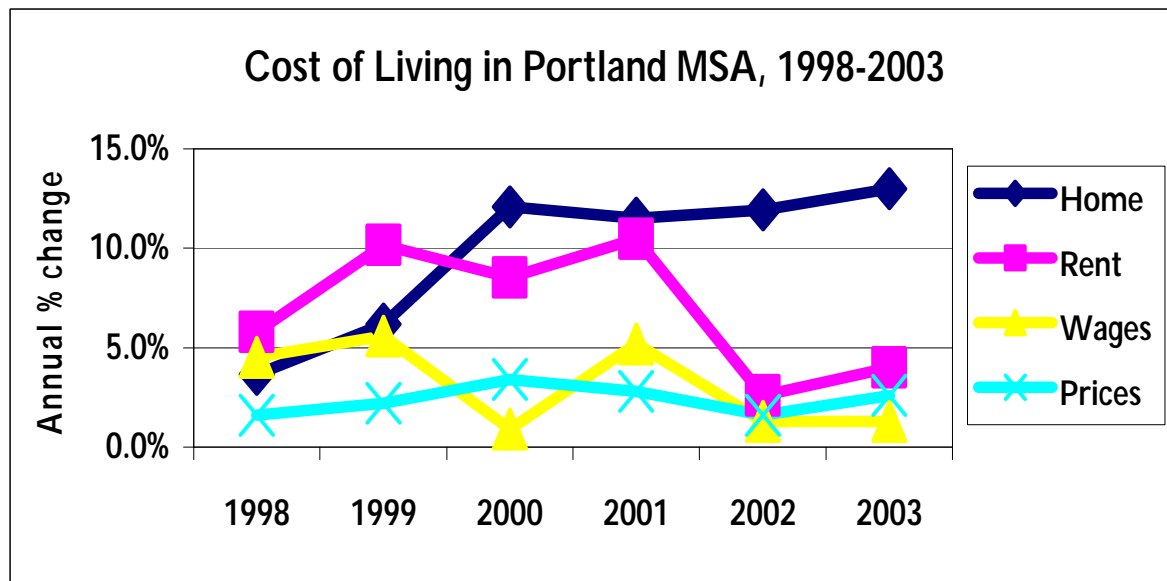
Source: U.S. Census Bureau

During the 1990's, less than 1,000 housing units were built to accommodate the city's 1,500 new households, driving the vacancy rate, as reported by the 2000 Census, down to 0.5% for homeownership units and 3.6% for rental units. But Portland was not alone. The housing crunch was mirrored in the greater metropolitan area. With a robust economy that generated almost as many jobs as people, the region grew almost 15,000 new households but just over 10,500 new housing units, driving the vacancy rate down to 0.7% for homeownership units and 4% for rental units. A healthy vacancy rate is considered to be 1% for homeownership units and 5% for rental units.



Source: U.S. Census, Maine State Housing Authority, Maine Department of Labor

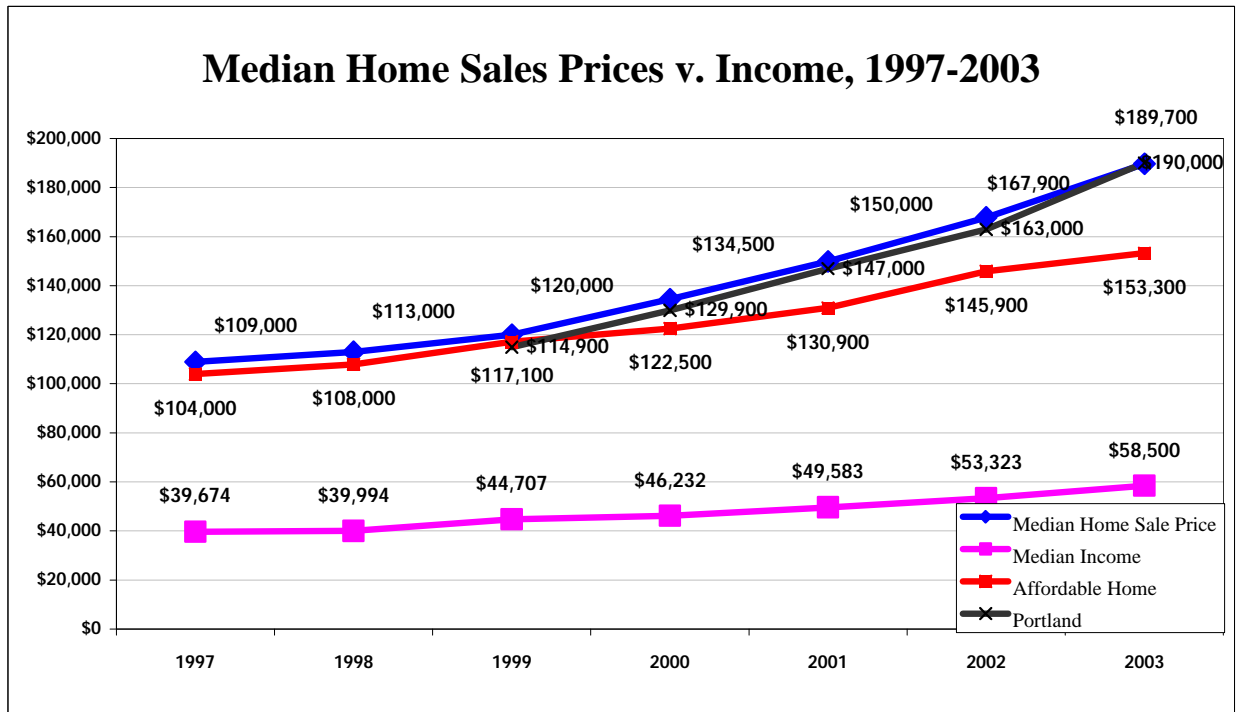
This housing crunch created a favorable market for sellers and landlords. In 1998, the regional housing market was in balance. A household earning the median income of \$40,000 could afford the median home sale price of \$113,000, even at higher interest rates. A worker making the average salary of \$29,000 could afford the average rent of \$639. In 1999, rent prices took off. In 2000, home sales jumped. While housing costs have witnessed double digit increases, average salaries have seen modest annual increases of only 1-5%. Overall, from 1998 to 2003, housing costs increased 2-3 times as much as wages.



Source: Maine State Housing Authority, Maine Department of Labor, and U.S. Department of Commerce

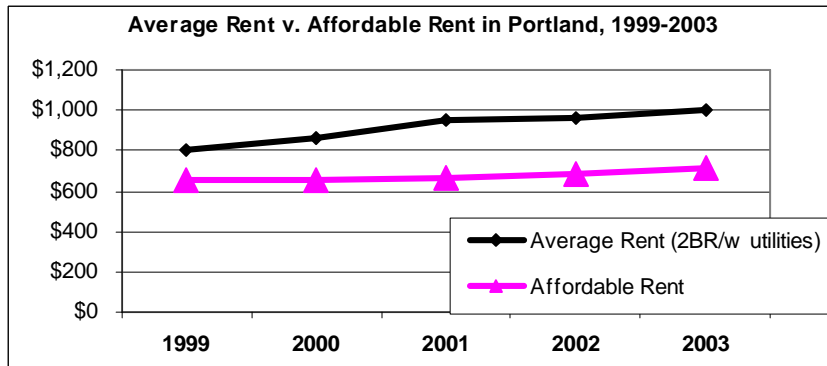
Taking a closer look, median home sale prices for all types of units in Greater Portland – condos, townhouses, single family homes – have increased at least 10% each year since 2000. Every year, the gap between the median home sales price and the affordable selling price for a household earning the median income is growing wider. The affordable selling price represents the maximum purchase price that a household earning the median income can afford, assuming the household puts down 5%, qualifies for a 30-year mortgage at the prevailing interest rate, and

does not spend more than 30% of their gross income for housing costs. In 2003, Portland households earning the median income of \$38,951 could afford a home costing no more than \$106,185. But the median home in the city of Portland cost \$190,000, \$83,815 more than they could afford. This affordability gap drives first-time homebuyers, who bring no equity to the table, to the fringe areas of Cumberland County as well as towns in other housing markets, such as Sebago Lake, Norway-Paris, Augusta, Lewiston-Auburn, and Bath-Brunswick, where median prices are less than \$150,000.



Source: Maine State Housing Authority

Changes in the rental market paralleled the home ownership market. In 1999, the average rental household earned \$26,068, half the income of households which owned their own homes. Such a household could afford a rent of \$652. But in 1999, the average rent for a 2 bedroom apartment in the city of Portland was \$802, \$150 higher than the affordable rent. Over the last five years, the gap between affordable rents and market rents has doubled. While market rents have increased 25%, the incomes of renter households have increased 10%, creating a gap of almost \$300 between market rents and affordable rents in the city. A worker in Greater Portland must now earn over \$17.00 per hour to afford the average 2 bedroom apartment. According to the Maine Department of Labor, the average retail or service job in the metropolitan area pays less than \$10 per hour.



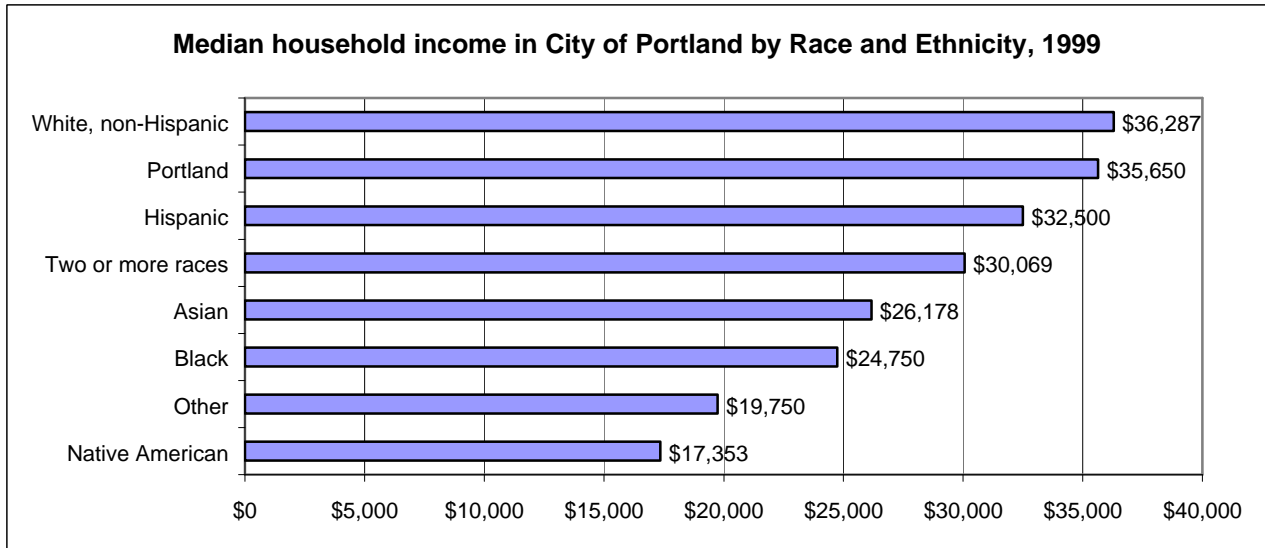
Source: Maine State Housing Authority, U.S. Census Bureau

Unlike the real estate bust of the early 1990's, housing demand is expected to remain strong for a variety of reasons. Since 2000, the steady downturn in the stock market has encouraged investors to cash out of Wall Street and into Main Street, where real estate returns are exceeding 10% per year. The terrorist attack of 9/11 has stimulated an outmigration from big cities to smaller towns that engender a sense of safety and stability. Indeed, in-migration to Maine is escalating, fueled by new residents from Massachusetts and New York.

The in-migration is not just from families and retirees but also from young and creative entrepreneurs seeking the vitality and opportunity afforded by smaller metropolitan areas. According to the U.S. Census Bureau, Portland is now one of the top 10 metropolitan areas in the United States, and the top city in the Northeast, attracting an immigration of college-educated young people. While this may be due in part to Portland's national reputation for "livability", it may also be the ripple effect of the robust housing market in Greater Boston, where the median home price now approaches \$500,000, and starter homes in the most desirable suburbs, such as Brookline and Weston, have topped the one million dollar mark. Finally, Portland remains Maine's beacon for diversity, boasting 23% of the state's non-White and 13% of the state's foreign born population.

### C. Link between Affordable Housing and Fair Housing

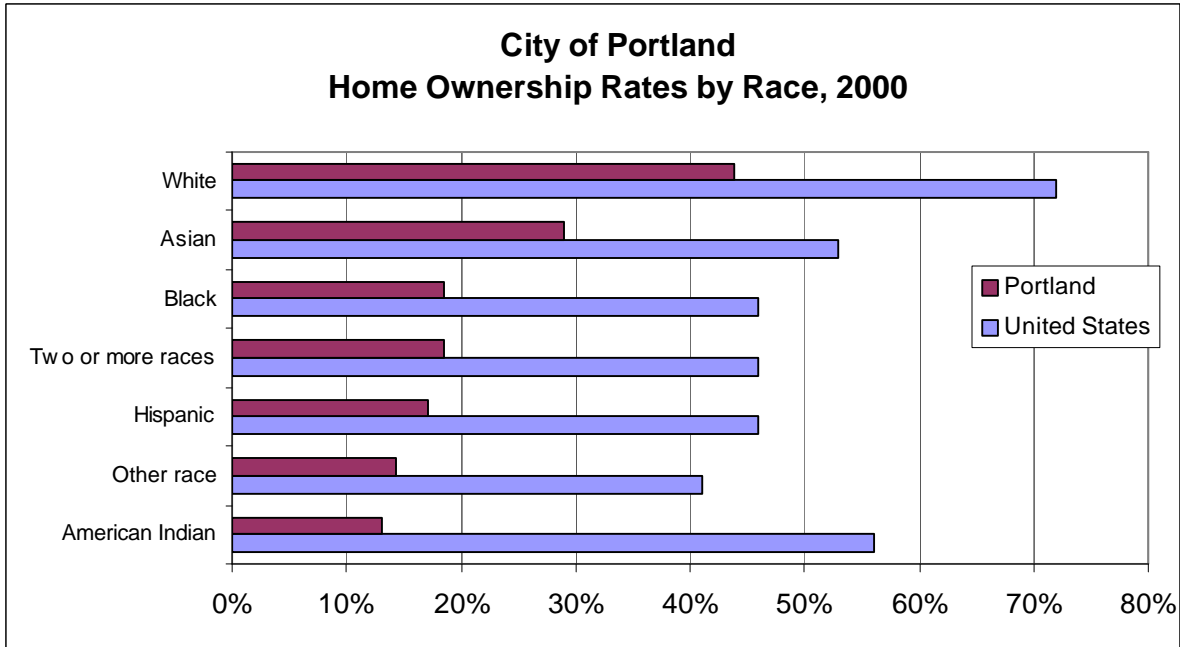
The lack of affordable housing is particularly hard on households headed by minorities or persons with disabilities. According to the 2000 Census, there are approximately 2,221 Portland households, 7% of all households in the City, headed by a minority. In 1999, the median income for these households was approximately \$26,266, just 59% of the metropolitan area's median income of \$44,707.



Source: U.S. Census Bureau

Income varies widely by race and ethnic group, with the city’s 234 Hispanic households earning the highest median income at \$32,500. The City’s 224 Native American households, however, fared the worst, earning \$17,353, less than 40% of the metro’s median. Unfortunately, no information is available from the Census on the median income of households headed by a person with a disability. With an income of \$26,266, a minority household could afford a home costing no more than \$69,000, just 60% of the median home sales price for the City of Portland in 1999. The same household could afford an apartment renting for \$650 per month, about 82% of the average rent for a two bedroom apartment in Portland in 1999. It is no wonder then, that low incomes have put home ownership out of reach for many of Portland’s minority households.

Every minority group in the City of Portland has a lower home ownership rate than the national average for its group. This may be because Portland’s minority residents are more likely to be foreign born than other minorities across the country. As recent immigrants or refugees, they may own fewer assets or possess limited English skills that might force even those with advanced degrees to settle for minimum wage jobs. Interestingly, there is virtually no information on the location of minority homeowners outside of Portland, South Portland, and Westbrook. Because surrounding suburban and rural towns have less than 50 households in any particular racial or ethnic group, information on their tenure status has been withheld by the Census.

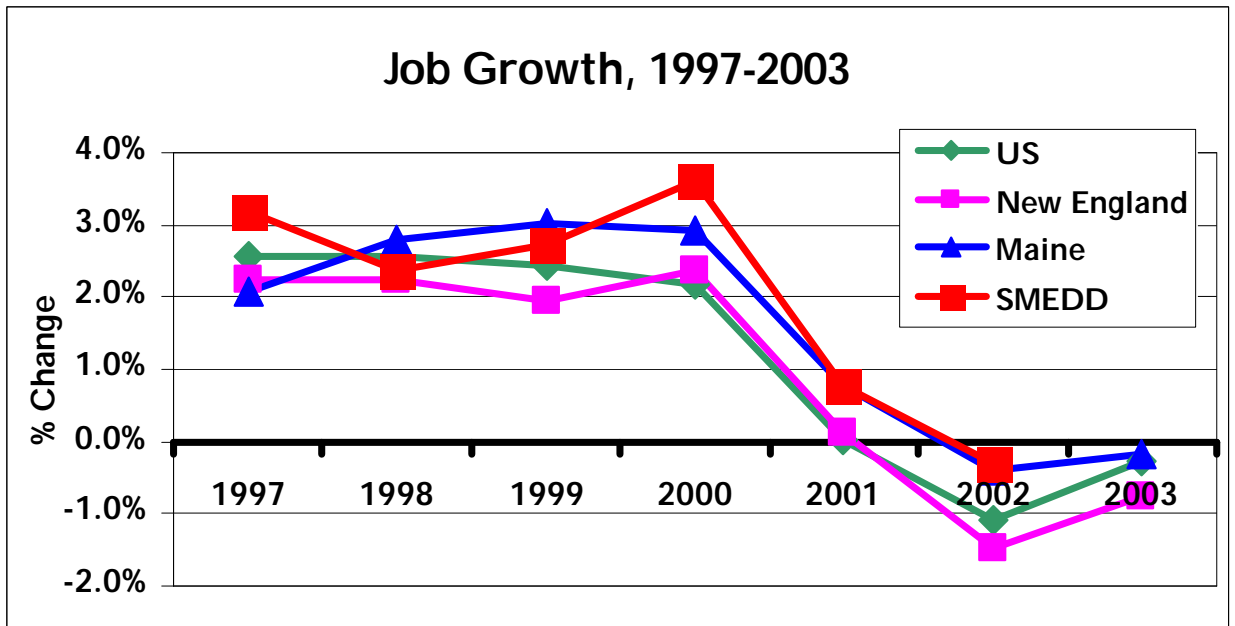


Source: U.S. Census Bureau

No updated income estimates are available specifically for minority households. However, if it is assumed that the income of minority households has increased as much as median income for all Portland households, 9%, then the median income for minority households in 2003 would be \$28,629. At this level, a minority household could afford a home costing no more than \$75,000, just 39% of the median home sales price for the City of Portland in 2003. The same household could afford an apartment renting for \$715 per month, about 72% of the average rent for a two bedroom apartment in Portland in 2003. Indeed, as the gap grows wider, it is no wonder that the lack of affordable housing was cited by every service provider interviewed for this analysis as the number one barrier to housing choice for minorities and persons with disabilities.

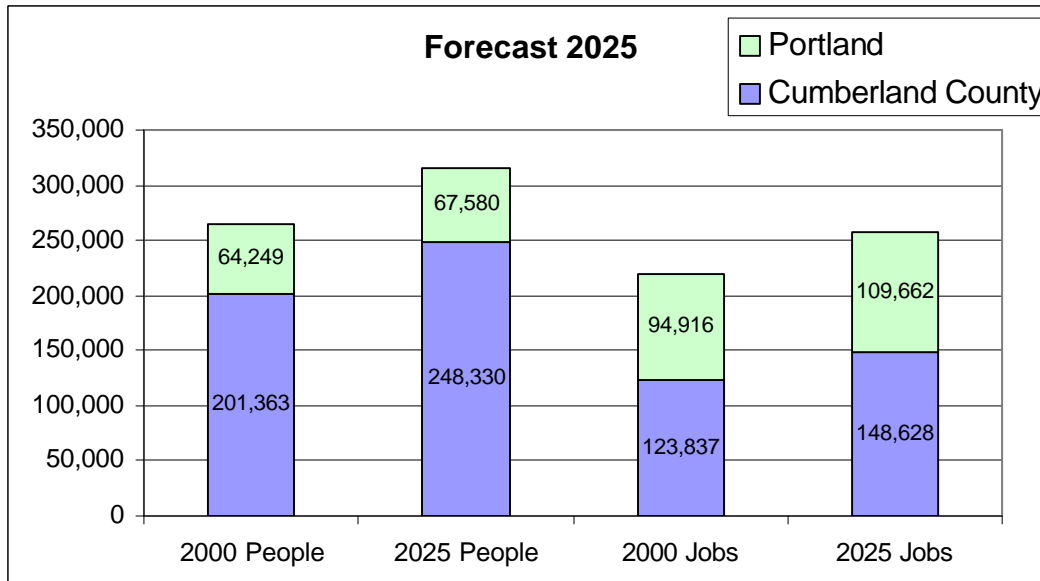
## B. Housing Supply and Demand, 2000-2015

The stable economy continues to sustain the region's booming housing market. Over the last three years, Southern Maine has weathered the recession better than New England or the country as a whole. While York and Cumberland counties lost over 6,500 jobs, including 4,000 in manufacturing alone, its net job growth of just 0.8% in 2001 bested the region and the country, at 0.1% and 0%, respectively. In 2002, the region posted a negative growth of 0.3%, still better than New England's at -1.5% and the nation, at -1.1%. From 1999-2003, unemployment in the Portland Metropolitan Statistical Area has remained rock bottom at less than 3%.



Source: Maine Department of Labor; U.S. Department of Labor; Federal Reserve Bank of Boston  
SMEDD stands for the Southern Maine Economic Development District, which includes all communities in York and Cumberland counties except for Brunswick, which, for planning purposes, is considered to be part of the Midcoast region.

Economic stability and growth is expected in the future. Although the forecast is not as rosy as that issued in the late 1990's, the Center for Business and Economic Research at the University of Southern Maine projects that Cumberland County will generate 39,527 jobs by 2025, an increase of 18%, which will support a population increase of 50,298, an increase of 19%. Virtually all net new jobs will be in the service sector.



In 2004, the Greater Portland Council of Governments (GPCOG) used the regional forecast to develop town-level projections on population, jobs, and households that are utilized by the Portland Area Comprehensive Transportation Study (PACTS), the Metropolitan Planning Organization for Greater Portland. All projections are generated using a top down econometric approach, where the control forecast for the county is assigned to municipalities based on their share of the county’s growth over the last 20 years and constrained by local knowledge of their capacity to accommodate future growth. Although the projections are not particularly sensitive to proposed public policies to attract growth, they do reflect the effectiveness of current public policies in producing growth.

The result, for Portland, is a declining share of the county’s population and jobs, down 3% and 1% respectively. The population projection is virtually identical to that issued by the Maine State Planning Office. No other state or regional organization generates town level employment forecasts for comparison purposes. In addition to the town level forecasts, PACTS has developed projections of population and jobs down to the neighborhood level based again, on past growth as well as local knowledge of the area’s ability to support future growth, such as planned public infrastructure investments. Both the town level and neighborhood level projections have been reviewed and approved by planning staff from the City of Portland who serve on the PACTS Planning Committee.

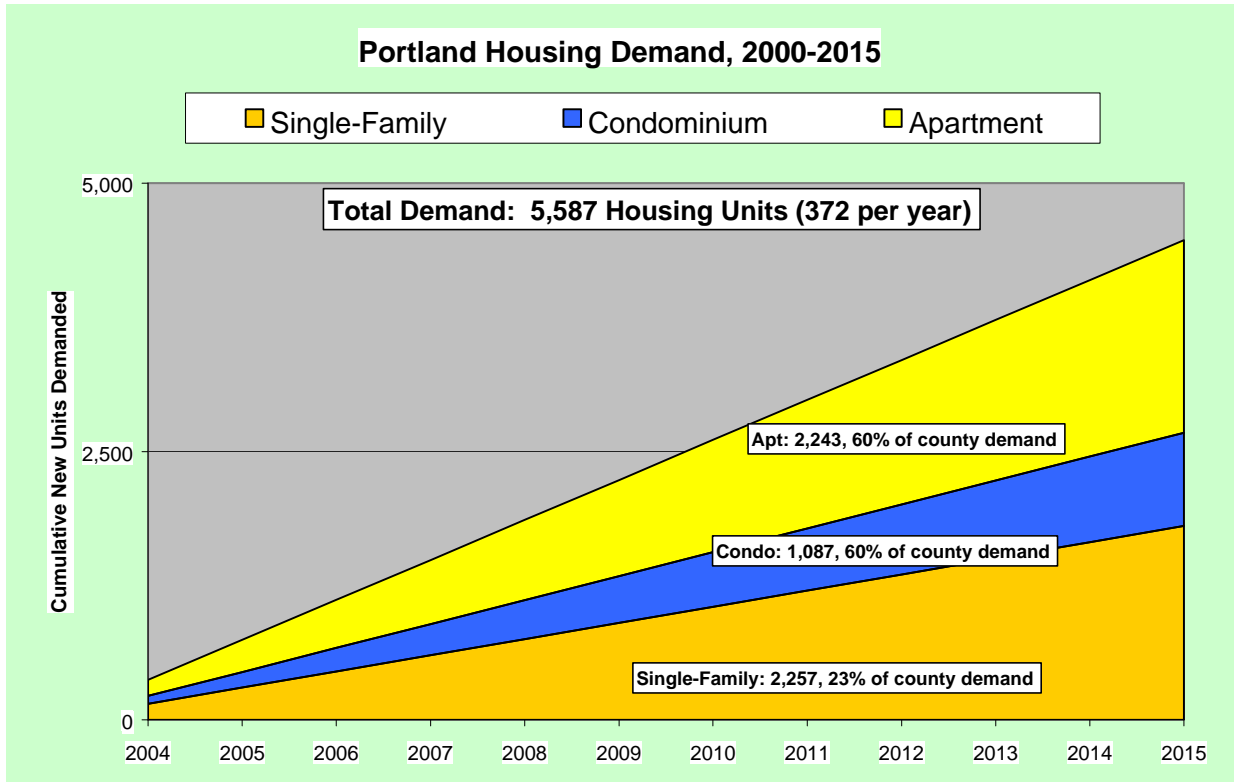
In 2002, the City of Portland adopted a bold Housing Plan to build 4,000 housing units in 10 years, which would increase its share of the county’s population from 24% to 25%. To be sensitive to this goal, GPCOG has developed a housing forecast for Portland that represents an ambitious growth rate of 15% in 15 years. It should be noted that this projection is more than four times the growth developed for the PACTS forecast for the same point in time.

## 2015 Population and Housing Forecast

	2000		2015		Forecast		Portland
	Portland	County	Portland	County	Portland	County	Share
Population	64,249	265,612	73,805	295,218	<b>9,556</b>	<b>29,606</b>	<b>25%</b>
Households	29,714	107,989	34,830	122,475	<b>5,116</b>	<b>14,486</b>	<b>28%</b>
Units	30,393	109,822	35,980	125,329	<b>5,587</b>	<b>15,507</b>	<b>29%</b>
Ownership	12,680	72,598	14,937	82,582	<b>2,257</b>	<b>9,984</b>	<b>18%</b>
<i>Occupied</i>	99.5%	99.3%	99%	99%			
<i>Vacant</i>	0.5%	0.7%	1%	1%			
Rental	17,712	37,224	21,043	42,747	<b>3,330</b>	<b>5,523</b>	<b>49%</b>
<i>Occupied</i>	96.4%	96.3%	95%	95%			
<i>Vacant</i>	3.6%	3.7%	5%	5%			

*Source: Greater Portland Council of Governments based on data from the 2000 Census and USM Center for Business and Economic Research*

To claim a 25% share of the county's population in 2015, Portland must grow to 73,805 people, an increase of 9,984 people that represents one third of the county's future growth. In order to accommodate these 9,984 people, the City must build a total of 5,587 units, of which 40% are ownership units and 60%, rental units. A surplus inventory of 362 units over and above what is now vacant is needed to drive up the vacancy rate and moderate price increases. In order to build these 5,587 units, the City must permit approximately 372 units per year. Over the last four years, the city has approved an average of 350 units per year. With the brisk pace of construction compared to the early 1990's, the City is on track to meet its population goals for the year 2015. Unfortunately, progress on this plan may not be validated until the year 2011, when the U.S. Census Bureau releases its 100% count of the city's population from 2010 Census. While Portland has built enough units from 2000-2002 to house 1,088 people, the U.S. Census Bureau estimates Portland's 2003 population as *minus 614* since 2000. This is due in part to Portland's demolition rates in the early 1990's, which the Census Bureau factors into its estimates.

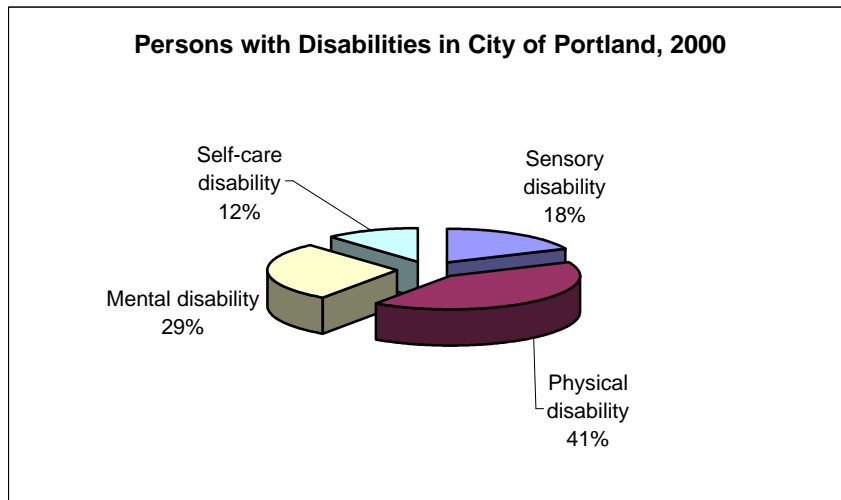


Source: Greater Portland Council of Governments with assistance from the Southern Maine Regional Planning Commission

### III. Fair Housing Trends

#### A. Housing Barriers by Demographic Group

Whether measured by ability, national origin, race, or income, Portland is home to the most heterogeneous population in the state. Almost one of every five residents is identified in the Census as having a disability. The largest category segment, 5,712 people or 9% of Portland's population, is physically disabled, followed by persons with a mental disability, 6%.

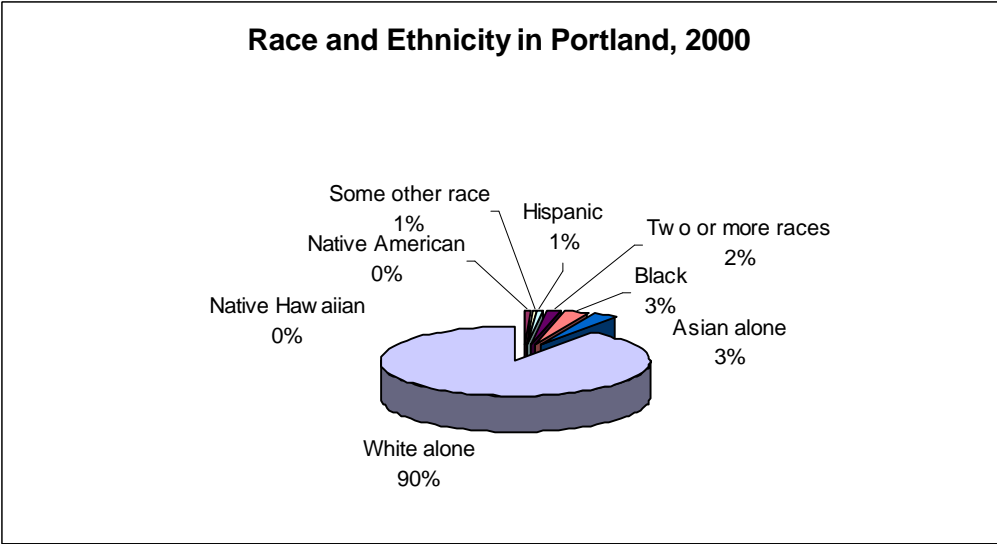


Over one fifth of disabled residents have a disability that requires them to seek care outside the home.

Foreign immigration is an important source of diversity in Portland. One out of every 13 Portland residents – 4,895, was born in a foreign country, up 49% since 1990. Less than half, 46%, represent a minority population. Asians

comprise the largest segment of minority newcomers, followed by Africans, 11%, and Hispanics, 4%. Over the past 30 years, Portland has experienced waves of immigration that fluctuate according to economic and political instability in the world, such as the Vietnam War, the famine in Ethiopia, and the break-up of the Soviet Union. While some come by choice or economic necessity, others arrive as refugees fleeing political persecution. According to Catholic Charities, the primary provider of refugee resettlement services in Maine since 1975, the influx of refugees has slowed considerably since the terrorist attack of 9/11, declining to less than 200 per year. Virtually all refugees since then, primarily from Afghanistan, Iran, Russia, and Africa, are joining family members who are already in Maine.

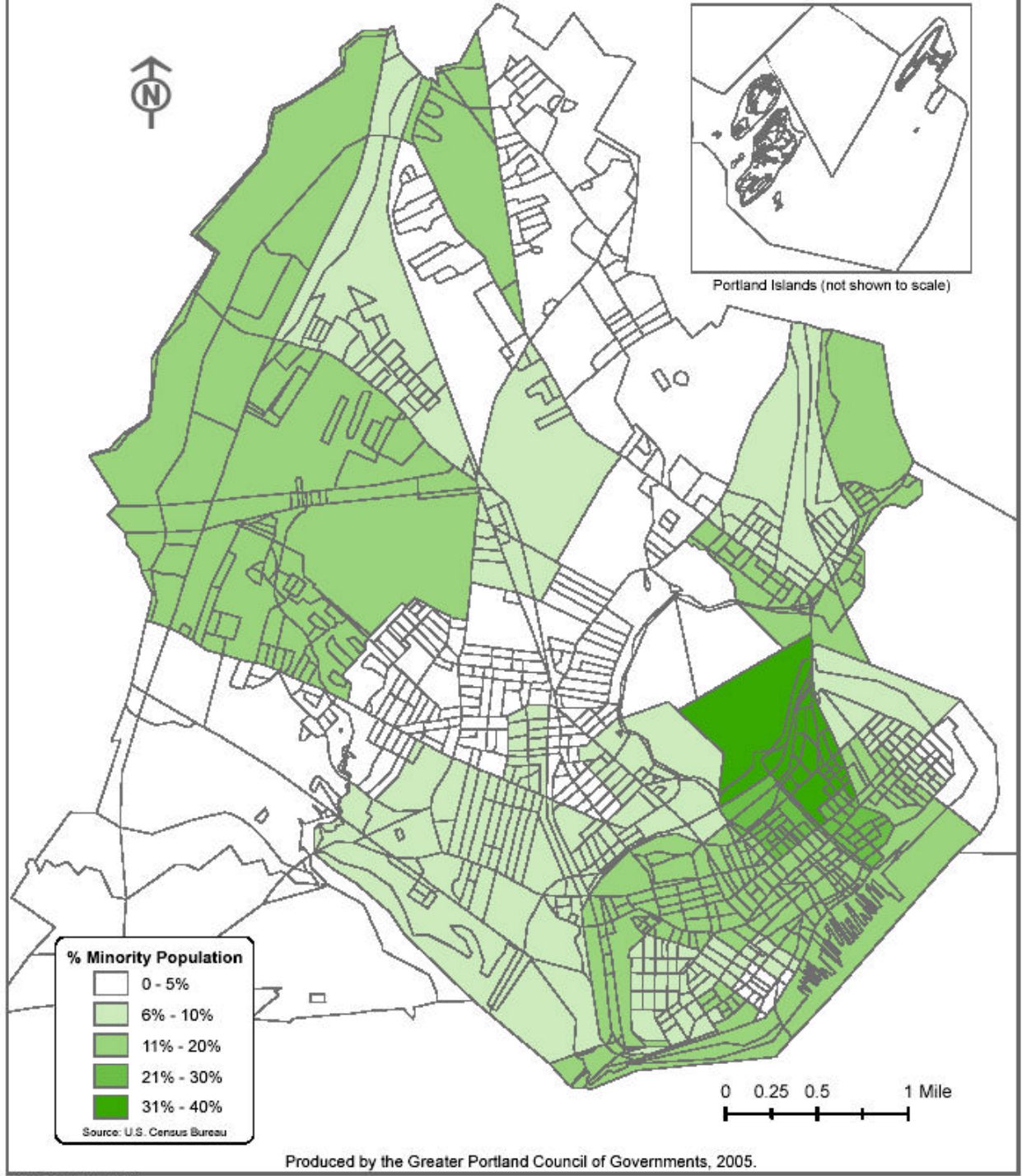
From 1990 to 2000, the minority population in the City of Portland almost tripled, from 2,513 people to 6,048 people. Asians constitute the largest minority group, followed by Blacks and persons who identified themselves with two or more races.



Portland neighborhoods share different degrees of diversity. The most diverse neighborhoods are located on the Portland peninsula, and the least, on the Islands, Deering Center, and North Deering.

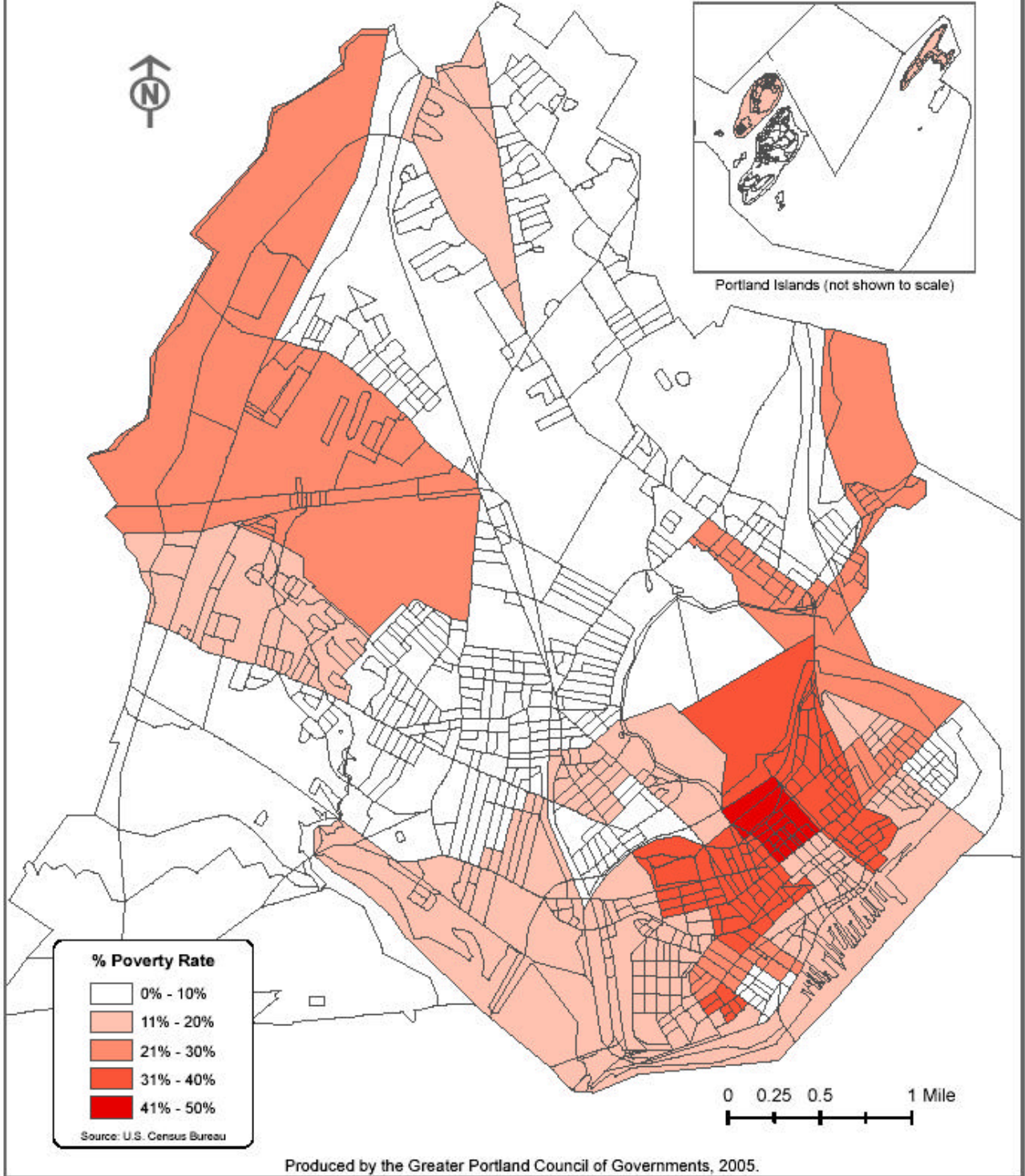
When examining Census data at the Block Group level, patterns of minority concentration become more evident. Seven block groups host minority concentrations of over 15%, including Bayside, West End, Riverton, Parkside, and East Deering. In some neighborhoods, this can be attributed to the presence of public housing. For example, the most diverse neighborhood in Portland is Bayside’s Tract 5, Block Group 1, with a minority concentration of 37%. But in Block 1022, which is home to Kennedy Park, the concentration of minorities is 61%, much higher than the neighborhood as a whole. That minorities might be concentrated is not necessarily a function of segregation but of affordability. As one service provider offered, “Everyone knows that’s where the cheap apartments are.”

# City of Portland, Maine Minority Population by Census Block Group (2000)

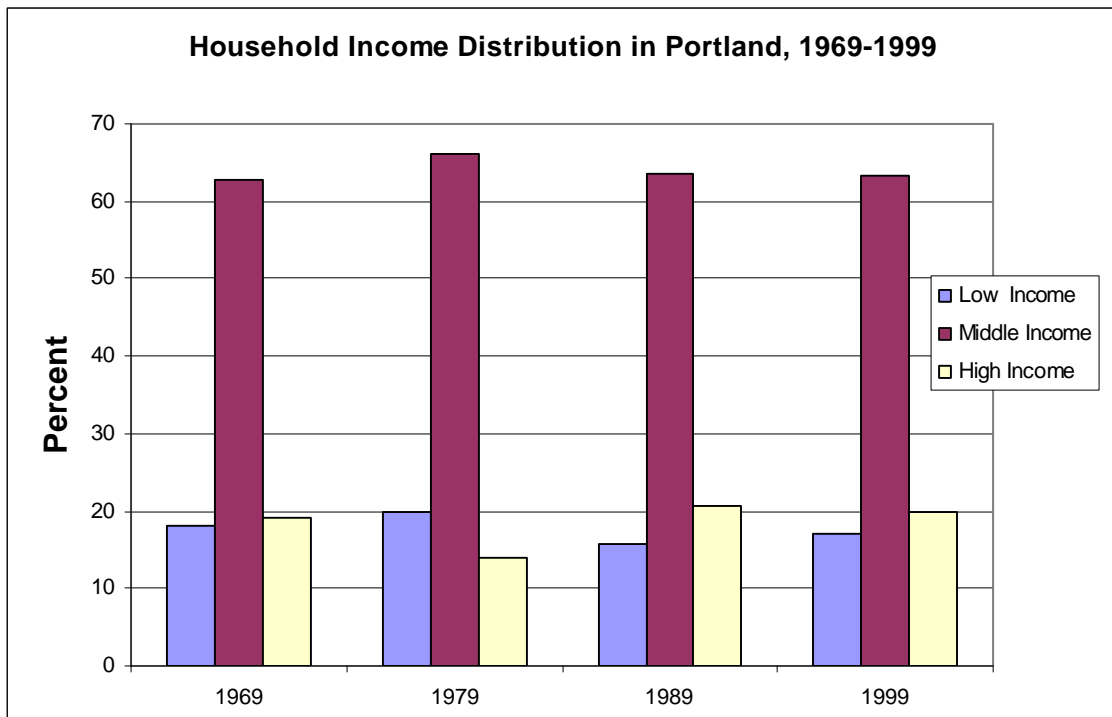


Over 14% of Portland's residents live in poverty, including 1,000 senior citizens and 2,370 children. Surprisingly, Portland households earn the second lowest median income in the county, just outpacing the Town of Harrison. Income follows a similar pattern of disparity by neighborhood, although not strictly along racial lines. Neighborhoods with a poverty rate in excess of 20% include Bayside, Parkside, Downtown, and parts of the West and East Ends.

# City of Portland, Maine Poverty Rates by Census Block Group (2000)

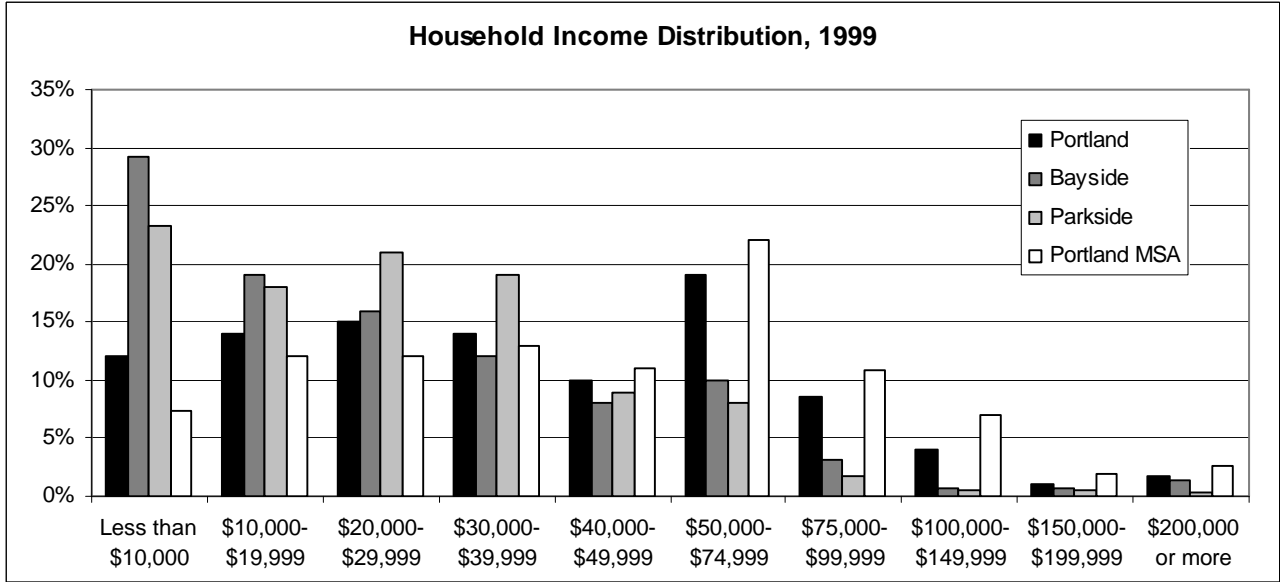


Overall, the city's demographics appear to be stabilizing. In 1980, the city's population plummeted to 61,772, its lowest level since 1910. In 1979, 20% of Portland's households were in the lowest 20% income bracket, compared to 17% in 1999. At the same time, high income households in the top 20% income bracket decreased to 14%, compared to almost 20% in 1999. From 1989 to 1999, however, there has been minimal change in the distribution of families by income bracket, with no category changing more than 1.3%. While there is still economic disparity among households, this also means that there is virtually the same percentage of low, middle, and upper income households in Portland in 1999 as there were in 1989. The trend holds true for families. From 1989 to 1999, the percentage of middle class families has increased 2.3%.



Source: U.S. Department of Housing and Urban Development

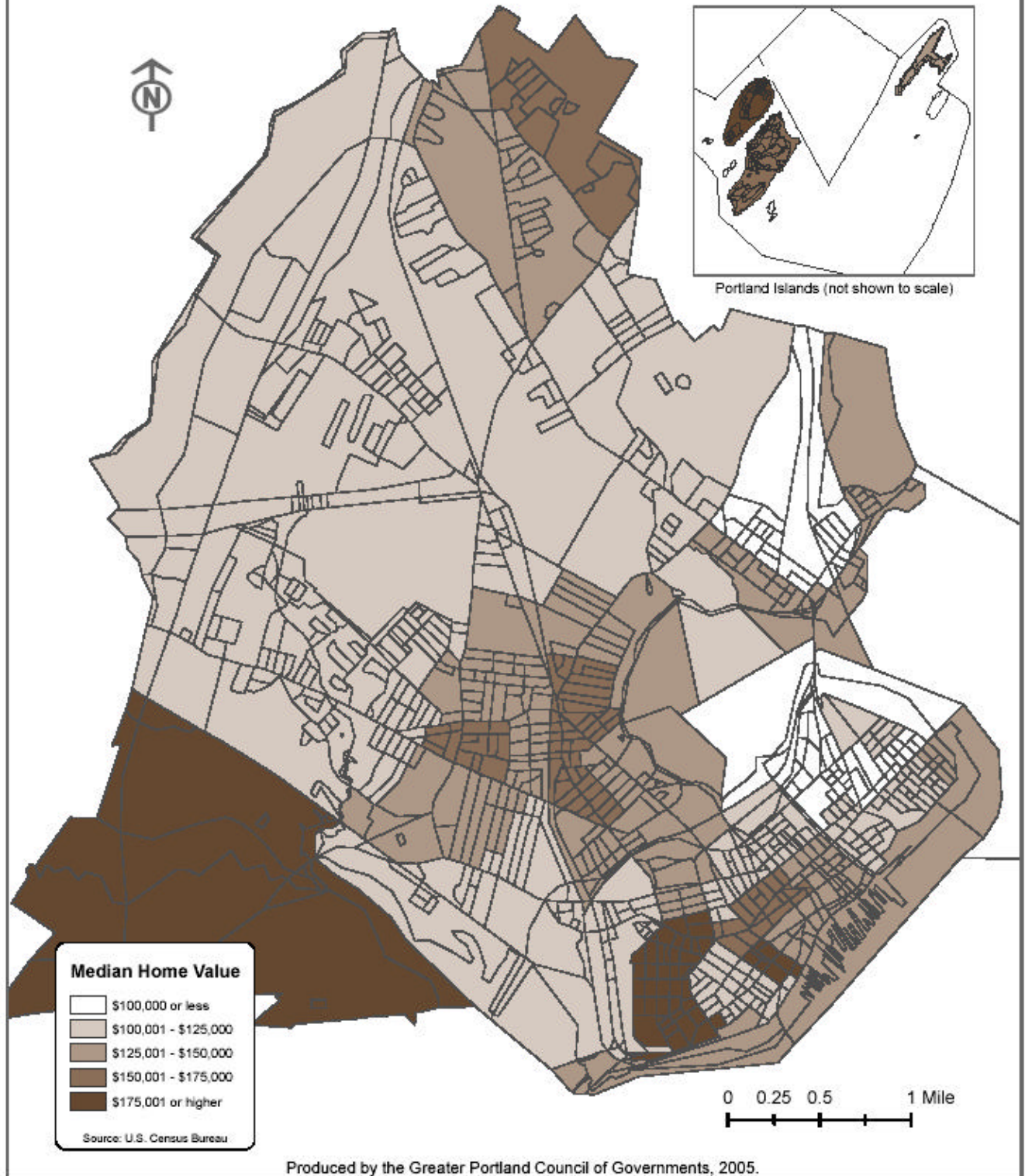
While the city is holding its own with the middle class, it appears to be losing ground with high income households and families. From 1989 to 1999, the city's percentage of high income households and families declined almost 1%. In Portland, just 7% of households earned over \$100,000 per year, compared to 12% for Greater Portland. Economic disparity is even more pronounced at the neighborhood level. In Bayside, 3% of households earned over \$100,000 per year, and in Parkside, just 1%.



Source: U.S. Census Bureau

At the other end of spectrum, the neighborhoods with the highest concentration of high income families also boast the highest median home values, including Stroudwater and portions of the Islands, West End, and North Deering. In these neighborhoods, the percentage of households earning over \$100,000 per year range is up to five times the city's.

# City of Portland, Maine Median Home Value by Census Block Group (2000)



portland\_census2.mxd

## B. Patterns of Discrimination

### 1. Complaints filed with HUD and/or Maine Human Rights Commission

Established in 1971, the Maine Human Rights Commission is the State agency charged with the responsibility of investigating and resolving complaints of unlawful discrimination in the areas of employment, housing, education, access to public accommodations, extension of credit, and offensive names. In 2002, the Maine Human Rights Commission entered into a new Agreement with the U. S. Department of Housing and Urban Development to address all allegations of unlawful housing discrimination in Maine. Last year, the Commission handled over 700 new charges, 83% of which involved allegations of employment discrimination. Over the last three years, 136 housing charges were filed with the Commission, 22 of which were identified by Commission staff as originating in the city of Portland. Since charges are not systematically filed, however, by the town in which the alleged discrimination took place, the exact number of charges in Portland can not be confirmed except by an examination of all case files.

#### Estimated Housing Charges filed with Maine Human Rights Commission from Portland 2001-2003

Disposition of Cases	Number
Reasonable Grounds	2
No Reasonable Grounds	11
Settlement and/or withdrawal with settlement	5
Dismissed	4
<b>Total</b>	22

Source: Maine Human Rights Commission

Over the last three years, two cases in the city of Portland have resulted in findings of unlawful discrimination. In *Berry v. Wellstone Condominium Association and Marshwood Management, Inc.*, the complainant successfully proved that because of her race, color, and ancestry, she was subjected to unequal and disadvantageous parking privileges. In *Kilmartin v. H.H. Sawyer Realty Company*, the complainant successfully proved that he was refused an apartment because he received Section 8 assistance.

With just two Portland cases resulting in reasonable grounds for a finding of discrimination, no discriminatory patterns in terms of policies or practices can be identified. According to Commission staff, confidentiality precludes the review of many case files by the general public. In some cases, investigator's reports are available for public review. In other cases which have been settled and/or withdrawn, no information is publicly available.

Absent direct evidence of intentional discrimination, the complainant must prove a *prima facie* case of discrimination. This generally involves a three-part test: the complainant must be a member of a protected class; the defendant must know that the complainant is a member of a protected class; and the complainant must suffer an adverse impact from action taken by the

defendant. The burden of proof then shifts to the defendant to demonstrate a legitimate, nondiscriminatory reason for their action, such as an economic justification.

According to the Maine Human Rights Commission, most housing charges from around the state involve allegations of discrimination based on disability. Acts of discrimination involving race and national origin are well known according to Chief Investigator Barbara Lelli, as a definite “no-no”, particularly in Portland, but the laws governing disability, familial status, and source of income are not as well understood. This reinforces the pattern identified by Pine Tree Legal Assistance, which provides legal advice to victims of alleged discrimination located across the state: 42% of the agency’s fair housing caseload involves allegations of discrimination based on disability, 33%, race and national origin, and 15% familial status and source of income.

Not all allegations of housing discrimination result in legal charges. Over the last three years, Pine Tree has investigated over 300 cases of alleged housing discrimination across the state but they are not the only nor the designated entry point into the legal system. For example, complaints may be filed online with HUD, called into a hotline maintained by the Maine State Housing Authority, or brought to the attention of city staff. According to Pine Tree, there are a number of reasons why fair housing allegations do not result in charges filed with the Maine Human Rights Commission. Many clients start the intake process but then “disappear”. Some simply do not want to relive the painful encounter, while others fail to provide updated contact information when they move. Months later, some clients resurface and want to file, but by then, it is too late.

## **2. Results from Pine Tree Legal Paired Testing pilot**

Pine Tree Legal Assistance is a statewide organization dedicated to meeting the legal assistance needs of Maine’s low-income residents in a variety of areas, including fair housing. In 2003, Pine Tree conducted a pilot program in Portland to identify systematic discrimination in the rental housing market. The agency recruited and trained a broad range of volunteers by age, ethnicity, religion, familial status, and disability. During the week of October 11-17, 2003, volunteers were assigned to work in pairs, one representing a protected class and the other, no protected class. Each member of the pair attempted to respond to the same classified rental ad in the local newspaper - contacting the landlord, scheduling an appointment, and visiting the apartment. Differences in the treatment received by each member of the pair were noted and recorded. Ten such tests were conducted, but only half were successfully completed; in the other half, one or both members of the pair did not successfully reach the landlord or see the apartment in question. Two tests found no discrimination. Of the remaining three, two encountered discrimination based on familial status, and one, source of income discrimination.

Since the testing program was intended as a pilot, no charges were filed with the Maine Human Rights Commission. Through the pilot, Pine Tree Legal enhanced their capacity to conduct a formal paired testing program in the future, including recruitment and training of volunteers, selection of test sites, debriefing, recordkeeping, and evaluation of tests.

### 3. Interviews with service providers

A total of 17 agencies were contacted by telephone for participation in the study. These agencies, identified with the assistance of Portland's Housing and Community Development Program Manager, were intended to represent a diversity of perspectives, including persons with disabilities, racial and ethnic groups, recipients of public assistance, and overall trends in discrimination against protected classes. Seven agencies consented to an interview by telephone or in person, where the following issues were discussed:

- Agency's role relative to housing issues and fair housing in particular
- Barriers faced by clients in attaining affordable housing
- Specific instances of housing discrimination within the City of Portland, including the rental and home ownership market
- Trends or patterns illuminated by discrimination complaints
- Role of the agency in raising and resolving complaints
- Recommendations to address fair housing in the City of Portland

None of the professionals interviewed could cite a specific instance of what they considered to be housing discrimination in the City of Portland. Virtually all, save the legal aid agencies and authorities, cited the lack of affordable housing as the most significant barrier to fair housing choice for all protected classes. Although no specific instances of discrimination were cited in terms of accessing housing, many professionals described activities by landlords that had a disparate impact on tenants who were members of protected classes, including the following:

- Failure to maintain and repair apartments
- Retaliation against tenants seeking repairs to their units
- Reluctance in allowing persons with disabilities to make physical changes at their own expense to an apartment for accommodation purposes
- Requiring certain tenants to renew their leases monthly
- Screening procedures that ask applicants to identify their national origin, citizenship status, and ability to speak English

A number of professionals specifically identified difficulties encountered by persons in protected classes to "maintain" their housing. Landlords fear that persons in protected classes, such as large families with children or persons with disabilities will cause more "wear and tear" than the "average" tenant, forcing the building to be "torn up." In extreme cases of retaliation, landlords, and even the tenant's neighbors, have harassed families by contacting Child Protective Services.

## Fair Housing Interviews with Public and Private Agencies

Agency	Contact	Status
Alpha One	Brad Strauss	Interviewed
Catholic Charities	Jeff Burgess	Interviewed
Key Bank	Charlie Kennedy, CRA	Interviewed
Maine Human Rights Commission	Barbara Lelli	Interviewed
NAACP	Rachel Talbot-Ross	Interviewed
Pine Tree Legal Assistance	Patricia Ender	Interviewed
Portland & Lewiston Collaborative Refugee Services	Susannah Dunlap	Interviewed
Portland Housing Authority	Mark Adelson, Bruce Loring, Ann Marie Card	Interviewed
Portland Planning & Development Department	Alex Yaegerman, Barbara Barhydt	Interviewed
Portland Planning & Development Department	Mike Nugent	Interviewed
Random Orbit, LLC	Peter Bass	Interviewed
U.S. Department of Housing & Urban Development, Bangor	Bill Burney	Interviewed
U.S. Department of Housing & Urban Development, Boston	Merryl Gibbs	Interviewed
Workforce Housing	Nathan Szanton	Interviewed
Bayside Neighborhood Association	Ron Spinella	Contacted
Disability Rights Center	Kim Moody	Contacted
Fleet Bank	David Haney	Contacted
Homesellers	Mary Ann Burns	Contacted
Immigration Legal Advocacy Project	Elizabeth Stickney	Contacted
League of United Latin American Citizens	Reverend Virginia Marie Rincon	Contacted
Maine State Housing Authority	Mike Martin	Contacted
Portland School Department	Grace Valenzuela	Contacted
PROP	Betsy Sawyer-Manter	Contacted
USM Center for the Prevention of Hate Violence	Steve Wessler	Contacted

### 4. Home Mortgage Disclosure Act, 2001-2003

Enacted by Congress in 1975, the Home Mortgage Disclosure Act (HMDA) requires certain financial institutions in metropolitan areas, such as banks, credit unions, and mortgage brokers, to report their lending activity by tract, income, and race. This information is aggregated and disclosed by the Federal Financial Institutions Examination Council (FFIEC) to assist:

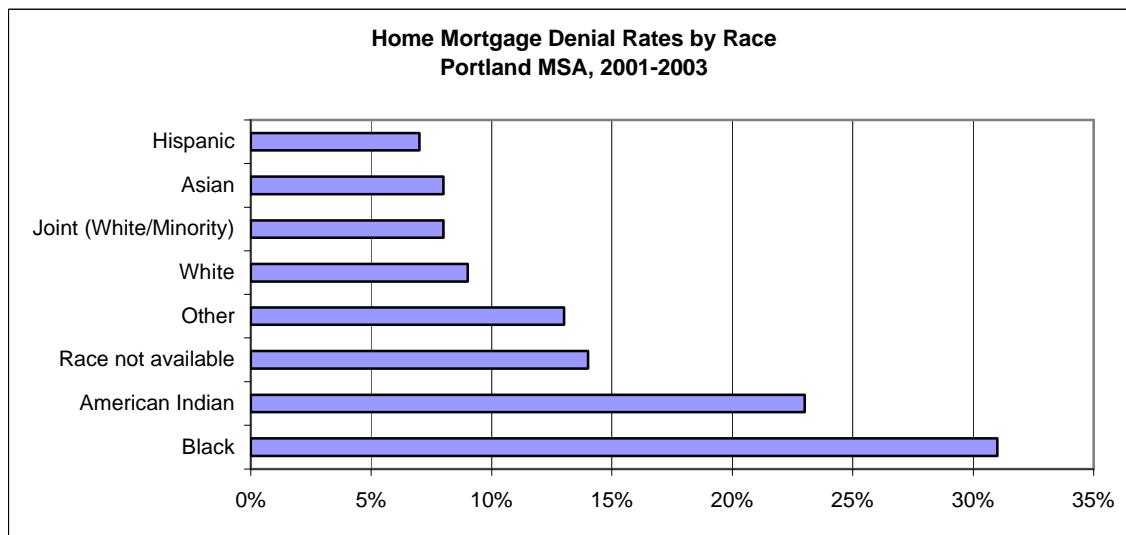
- in determining whether financial institutions are serving the housing needs of their communities;
- public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and
- in identifying possible discriminatory lending patterns.

In the Portland Metropolitan Statistical Area, over 5,000 applications for home mortgage and home improvement loans are received every year by over 100 financial institutions that are required to disclose their lending activities. Just 1% of applications in Greater Portland are filed by minority households, including Black and Hispanic.

Number of Loan Applications Received					
	1999	2000	2001	2002	2003
<b>Black</b>	24	25	31	26	31
<b>Hispanic</b>	28	21	22	22	32
<b>White</b>	5,769	5,609	5,356	5,333	4,785

Source: Compiled by Federal Reserve Bank of Boston based on 1999-2003 HMDA

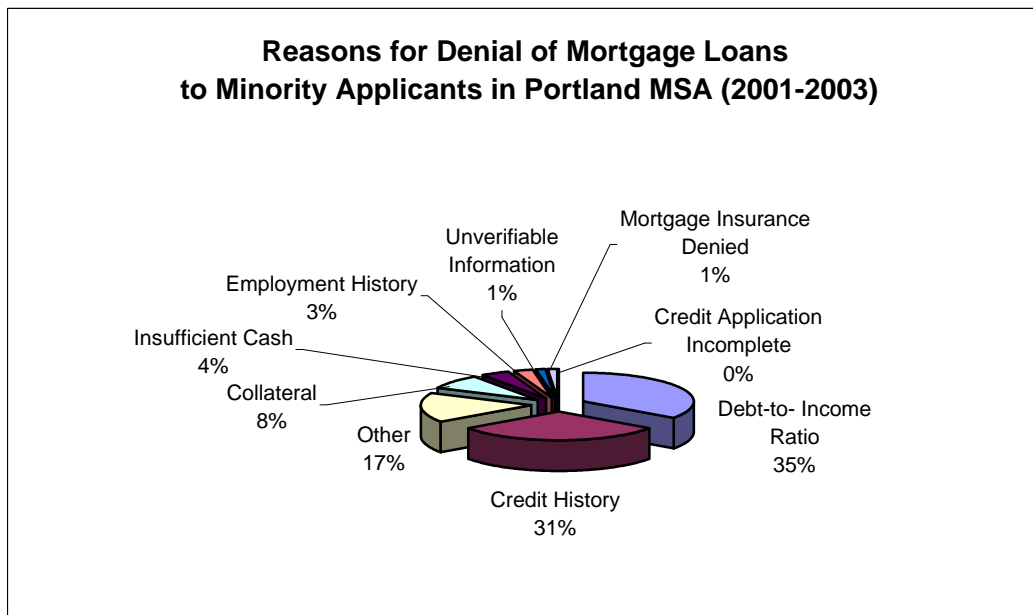
Denial rates vary widely by race and ethnicity. Denial rates are calculated by dividing the number of applications denied by the total number of applications received. Because the total pool of minority applicants is so small, the number of applicants was aggregated for a three year period to produce the chart below. For applicants identifying themselves only as White, the denial rate is 9%. Although Hispanic, Asian, and joint (white/minority) applicants fare better than average, denial rates for Native American and Black applicants are double or triple the rate for Whites.



Source: 2001-2003 HMDA data

Despite the dramatic disparity in denial rates, the reasons for denial are familiar to all applicants. From 2001-2003, over one third of minority applicants were rejected because their debt-to-income ratio was too high. This usually means that the purchase price of the property is too high given the applicant's income. The applicant may also carry too much other debt, such as credit card debt. Traditionally, lenders require that housing costs, including mortgage, taxes, title, and insurance, total no more than 28% of gross income, and all debt, no more than 36%. Other than seeking a lower priced home, the debt-to-income ratio can be reduced by the applicant by offering a substantial down payment, which in turn reduces the monthly mortgage payment for the borrower.

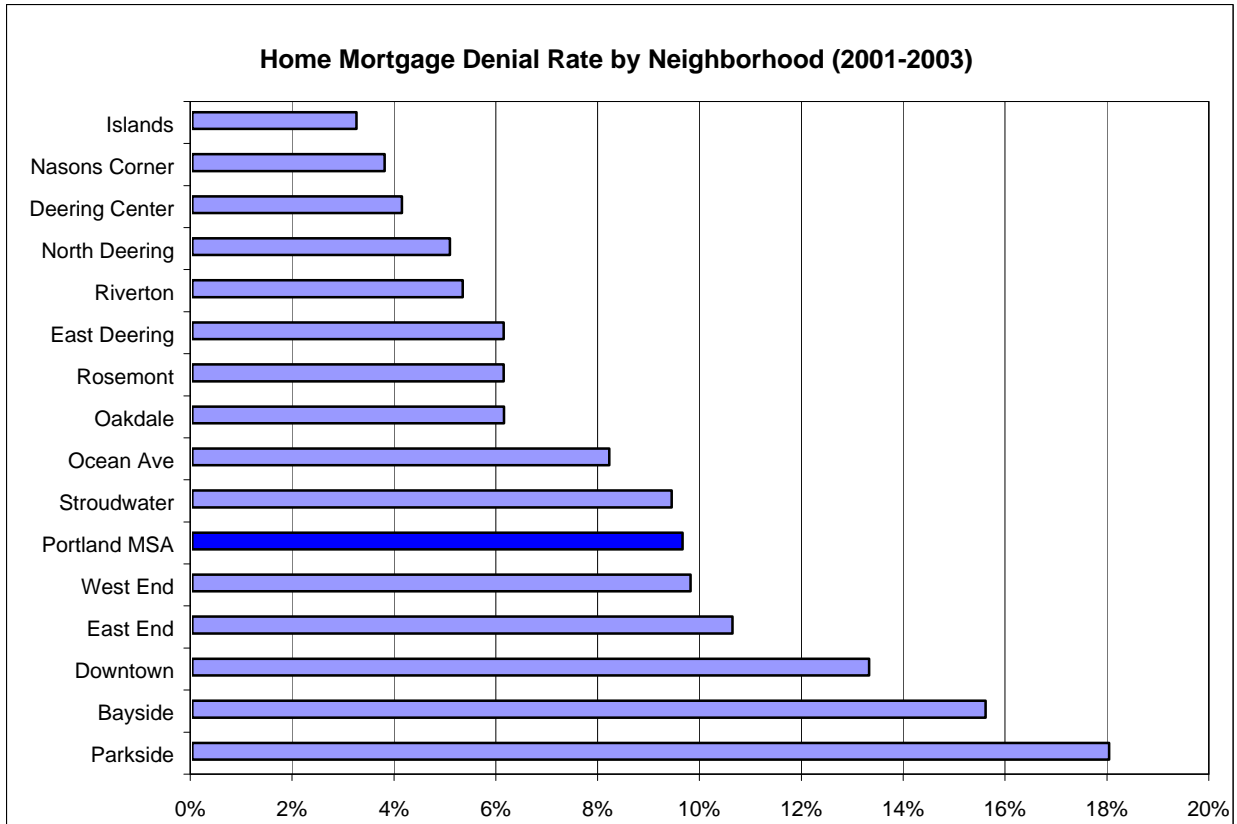
The other significant reason for application denial is credit history. As a rule, the lower the income level of the applicant, the more problems the applicant usually has with credit history, regardless of race. A closer look at HMDA data from the Portland MSA reinforces this pattern. According to Pine Tree Legal, some new Americans are taken advantage of by other lenders and sold “a lemon” that they are unable to clear from their credit history.



Source: 2001-2003 HMDA data

The Home Mortgage Disclosure Act also reports on the disposition of applications by the Census Tract in which the subject property, not the applicant, is located. Although tract boundaries are not exactly aligned with the boundaries of Portland’s neighborhoods, particularly on the peninsula, each tract was assigned to a neighborhood in order to calculate denial rates for properties located within them. For this analysis, loans for investment or home improvement purposes were excluded; only data on home mortgage loans by owner occupants for properties of 1-4 units was used. The average denial rate in the Portland MSA is approximately 10%.

Surprisingly, all of the neighborhoods on the Portland peninsula have denial rates that exceed the MSA average, with the denial rate in Bayside double the MSA rate. Other than the amount of the mortgage loan, HMDA does not disclose any other information about properties by tract. This disparity in denial rates might be attributed to a number of factors: high home sales prices that drive up the applicant’s debt-to-income ratio; substandard properties that do not qualify for private mortgage insurance or meet other underwriting criteria; and a small pool of applications generated for properties located in particular tracts, such as Bayside. A HMDA administrator for a Maine bank interviewed for this study supported the latter theory. Indeed, just 199 applications were made for home mortgage loans in Bayside, less than one third of North Deering’s 771, where the denial rate was 5%.



#### **IV. Fair Housing Policies and Programs**

Impediments to fair housing choice are defined as actions, omissions, or decisions that restrict housing choice or availability on the basis of race, color, religion, sex, disability, familial status, or national origin. Impediments may include policies, practices, or procedures in the public or private sector that:

- Constitute actual or potential violations of local, state and federal fair housing laws
- Are counterproductive to fair housing choice
- Have the effect of restricting housing opportunities

Although it is the most dynamic and diverse community in Maine, there is very little quantitative evidence of discrimination occurring within the City of Portland. Indeed, with just two legal findings of discrimination in the last three years, it would be presumptuous to name policies, practices, or procedures that constitute clear violations of the Fair Housing Act or the Maine Human Rights Act. Nevertheless there is anecdotal evidence cited by the region’s legal and social service providers of such behavior in the rental housing market on the basis of disability, race, national origin, familial status, and source of income. In addition, there are clear patterns that demonstrate that housing choice is limited:

- Since 1999, housing costs in Portland have increased four times faster than median income
- Certain neighborhoods in Portland host concentrations of race and poverty as much as four times the city average
- Portland's minority households earn less than 60% of the region's median income
- Although minorities comprise 4% of the population in the Portland housing market, they file just 1% of all home mortgage loans and are rejected at up to three times the region average

Whether these trends are institutionalized through public or private sector policy is the focus of this stage of the analysis.

## **A. Public Sector**

### **1. Regional Context**

Through planning, regulation and resource, municipalities can exert a powerful influence on the housing supply. In the age of sprawl, there is a perception that, when it comes to housing, Maine towns are merely at the mercy of private developers who are building what consumers demand. In reality, towns affect the diversity, availability, and affordability of housing through master planning, the provision of public infrastructure, and the implementation of land-use policy. In the Portland metropolitan area, most towns have assumed a reactionary posture to residential development, relying on the latter to manage, but not necessarily direct, growth.

Through large lot zoning, even on public sewer, suburban towns defeat the economies of scale necessary to build affordable housing, limiting the construction of small homes, apartments, condominiums, and congregate care facilities to a contract zone. The clear exception is senior housing, particularly condominiums, that do not generate school-age children. In the more rural towns, the force of law and the price of land ensure the acceptance of mobile homes as an affordable housing option. Through the economics of zoning, there was just one town left in 2003, down from seven in 2002, where the region's median income could afford the median priced home. Although smaller service centers, such as Bridgton and Freeport, are turning to housing as a downtown revitalization strategy, only the urban cities of Portland, South Portland and Westbrook employ a full arsenal of planning, regulatory, and resource strategies not only to manage and direct residential development, but indeed, to actively encourage it.

#### **a) Portland Planning Policies**

Throughout the 1990's, Portland focused on a variety of planning efforts designed to improve quality of life with the city, including historic preservation, industrial performance standards, downtown revitalization, creation of an arts district, multi-modal transportation planning, traffic calming, neighborhood redevelopment, special needs housing, and development of an open space and urban trail system. The implementation of these plans catapulted Portland to the "Top 10" of almost any list of best places to live. Despite these efforts, demographics trends showed that families with school-age children were leaving the city. Infill construction met with initial resistance from neighborhood groups, one of which launched a referendum on

city planning. Although unsuccessful, it was a significant event that led to positive changes for increased public notice and participation. And the infill project that spawned the referendum, as well as others that followed, demonstrated that new housing construction can be well designed, compatible with a neighborhood, and meet the City's overwhelming need for housing. Since then, despite some neighborhood concerns regarding traffic and parking associated with new development, the Planning Board has neither denied nor scaled back a single housing proposal.

In 2002, the City of Portland adopted *Housing: Sustaining Portland's Future*, a bold plan that identifies strategies to value, preserve and grow the city's housing stock. The plan, which was the result of a yearlong effort to respond to escalating rents and home sales prices, was governed by a citizen committee and staffed by the City's Planning and Housing and Neighborhood Services Divisions. The plan outlines six guiding policies:

- Adequate and diverse supply of housing
- Preservation of the existing housing stock
- Neighborhood stability and integrity
- Housing as a regional issue
- Development that sustains Portland's role as a healthy urban center
- Fair housing choice

Unlike other housing assessments, Portland's was unique in a number of respects: the plan connects housing with the city's economic future; the plan establishes population targets that exceed the region's forecasts; and the plan was adopted as a component of Portland's comprehensive plan, lending it teeth and credibility. Since its adoption, it has served as the foundation for regulatory changes in the City's zoning ordinance.

Portland has also embarked on a master planning process for all of its neighborhoods. In the late 1990's, the City began to focus a great deal of planning effort in Bayside, the "last and largest land resource" on the Portland peninsula. Located between the downtown district and Interstate 295, Bayside is one of the poorest and most diverse neighborhoods in the state. Plagued by disinvestment stemming from the era of urban renewal, Bayside is littered with scrapyards, blighted buildings, and substandard housing. The new plan is intended to transform Bayside into "an attractive urban gateway featuring a mix of uses," including housing, jobs, services, transportation, parks, trails, dining and shopping, all within walking distance of each other and the downtown. Since the development of the master plan, Bayside has attracted substantial investment, including two new office buildings, a supermarket, an apartment complex, other retail and service businesses, and a new rail-trail for bicycling and walking. Its planned technology park is expected to create 400,000 square feet of commercial and business space hosting 1,500 new jobs.

On the heels of its success with the Housing Plan and the Bayside master plan, Portland has launched a program to help each neighborhood develop its own master plan. Selected neighborhoods will receive assistance from the City in developing a foundation plan that includes a neighborhood profile, an inventory of local assets, a vision statement for its future, identification of issues, and strategies for future development. The ultimate goal is to adopt these foundation plans into the City's Comprehensive Plan.

Although neighborhood planning is not new to Maine, Portland's process is again, unique, in its effort to be comprehensive as well as to plan from the bottom up. The process is just underway and has the potential to positively impact fair housing by identifying locations for new housing, building support for a diversity of housing types, reducing isolation of public housing projects, and enhancing relationships among residents of all ages, incomes, abilities, and ethnicities.

## **b) Regulatory**

The City of Portland has sought to implement changes to align its zoning ordinance with the bold recommendations of the Housing Plan. The major challenge for the City is to encourage infill development that is compatible with the historic character and integrity of its urban and suburban neighborhoods. Recent policy changes to increase the supply and quality of housing include the following:

- Creation of infill zoning districts on the peninsula that do not require a minimum lot size
- Changes in frontage and lot coverage requirements in the R-3 off-peninsula zoning district in order to facilitate additions to single family homes and promote development on small lots
- Passage of ordinance requiring housing units eliminated through conversion or demolition to be replaced
- Encouragement of mixed use through the addition of second floor residential uses as a specifically permitted use in commercial districts
- Encouragement of well-designed infill development through donation of City-owned land on the peninsula for multi-family construction

The sum total of these efforts has been impressive. During the 1990's, the City permitted 1,084 units, when, accounting for demolition, resulted in a net increase of 922 housing units. Since 2000, approximately 1,400 housing units have been approved in Portland, 50% more than in the previous decade in less than half the time.

Where infill development is limited by a challenging site, the City has permitted the use of contract zoning and in some instances, contributed city land or vacated streets to enable projects to proceed. Under its enabling authority, which was enacted pursuant to 30-A MRSA Section 4503(9), contract zoning may be requested by the applicant for a development constrained by the "unusual nature or unique location" of the property. This rezoning, which must be approved by the City Council prior to site review by the Planning Board, must be deemed consistent with the City's Comprehensive Plan.

While contract zoning affords the City and the developer tremendous flexibility to develop on urban infill lots, it can add as much as 4-6 months to the development process. But the return has been well designed projects with public amenities that are compatible with existing neighborhoods, thus building support for future housing development. In some cases, contract zoning requests have led to ordinance changes in bulk and space requirement that preclude the need for the next developer to go through the process.

The analysis below summarizes the regulatory provisions in Portland’s zoning ordinance that facilitate the construction of affordable housing. The analysis was limited primarily to Residential Zones 1 through 7, which comprise over 50% of the city’s acreage, and was guided by the following principles:

- Where can strategies identified in the Portland Housing Plan be implemented?
- Are regulatory provisions consistent with the Fair Housing Act?

More analysis is required to determine how well these regulatory provisions are working, which are underutilized, and what additional measures might be instituted.

### Regulatory Strategies for Affordable Housing

Zoning Provision	Conditions
<b>High Density-Mixed Use</b>	<i>Development of a tract or buildings with two or more uses, such as residential, office, retail, or public in a compact, urban form.</i>
Housing along arterials	B-2 and B-2b allow multi-family over first floor commercial at a density of 1,000 square feet of land per unit, including provisions for shared parking.
Home occupations	Permitted in R-1 through R-7
Transit Oriented Development	B-6 zone in draft development for application in Bayside and Eastern waterfront
<b>Infill/Redevelopment</b>	<i>Development on undersized lots, vacant or abandoned, in established areas of the city already served by public facilities and infrastructure.</i>
Reduction in parking requirements	Planning Board may establish requirements for projects > 50,000 square feet. ZBA or Planning Board may consider shared parking options for mixed use projects. Contract zones may be used to reduce parking requirements. City's Community Development Committee is considering additional amendments.
Reduction in lot size and setbacks	R-6 and R-7, located on peninsula only, require no minimum lot size and must conform to design standards for neighborhood compatibility. Planned Residential Unit Development permitted in R-3, R-5 and commercial zones Contract zoning allows for increased density  Dimensional requirements in the off-peninsula R-3 District was amended to allow increased lot coverage and reduced lot width to facilitate the expansion of existing housing and promote development on small lots.
Conversion of Non-residential Buildings	In R-5, multi-family housing permitted but conversion of non-residential structure to 3 or more units is conditional use.
Disability variance	May be granted by Board of Appeals but limited to duration of disability or occupancy of unit by disabled person
Contract Zoning	Permitted at request of property owner for "unusual nature or unique location" of developments consistent with Comprehensive Plan. Since 2000, approximately one fourth of permitted housing units were approved through contract zoning.
<b>Diversity of Housing Types</b>	<i>Differences in housing type by unit size, form, tenure, or cost.</i>
Single family home	Permitted in R-1 through R-7 for occupancy by up to 16 persons
Two Family	Two-family permitted in R-4 through R-7

Starter homes on small lots	R-3, covering 26% of the city's land area, is the largest residential zone. Requires minimum lot size of 6,500, or 5,000 square feet for lots of record.  R-5, covering 22% of the city's land, requires minimum lot size of 6,000 (3,000/unit) or 3,000 square feet for a lot of record.  PRUDs allow reduced dimensional requirements in R-3 and R-5. Contract zones may be used to increase density.
Accessory Dwelling Units (to Single Family Detached Buildings)	One unit permitted as conditional use in R-1 through R-3. In R-4, alteration of residential or non-residential structure to one or more units is conditional use.
Single room occupancy lodging house	Permitted in R-6 and R-7 and B-1 through B-5; conversion of existing multi-family to SRO permitted as conditional use in R-5
Multi-family housing	Conditional use in R-4; permitted in R-5, R-6 and R-7
Special needs independent living units	Permitted in R-4, R-5, R-6 and R-7
Multi-family handicapped units	Permitted in R-1 through R-7 with no occupancy restrictions
Group homes (non-disabled only)	Conditional use only in R-1 through R-7 with occupancy by up to 12 persons
Mobile homes	Permitted in R-1 through R-7
Mobile home parks	Permitted as a Flexible Housing Overlay Zone
<b>Replacement Housing Policy</b>	Yes. Housing units slated for conversion or demolition in any zone must be replaced through new construction, conversion of non-residential structures to residential use, or \$50,000 per unit contribution to city's Housing Development Fund.
<b>Other Strategies not identified in City Ordinance</b>	
<b>Density Bonus</b>	<i>Increase in number of residential units beyond maximum allowed in zone in exchange for a public amenity, usually at the same site, such as open space or affordable units.</i>
<b>Exemption from Growth Caps</b>	<i>Exclusion of affordable and/or multi-family units from restrictions on the number of building permits that can be issued in a given year.</i>
<b>Inclusionary Zoning</b>	<i>Requirement for developments of a certain size, e.g., multi-family building or subdivision, to include a certain percentage of affordable housing units.</i>
<b>Impact Fee Waivers</b>	<i>Exclusion of affordable and/or multi-family units from certain development fees imposed for the future provision of public facilities or infrastructure.</i>
<b>Transfer of Development Rights</b>	<i>Program to transfer development rights from a rural or "sending" parcel to an urban or "receiving" parcel that can accommodate an increase in density.</i>

The Fair Housing Act requires new multi-family housing built after March 13, 1991 to be accessible. New construction of 4 or more units must comply with the following standards:

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

Alpha One provides training on these accessibility standards for code enforcement officers throughout the state. Although compliance is not required of single family homes, the City of

Portland does make funds available for this purpose as part of its Owner-Occupied Rehabilitation program. To ensure compliance, multi-family developments must be inspected for accessibility at the planning, design, and construction stage or the result can be inaccessible construction. In Vermont, for example, an accessible housing audit conducted by the Champlain Valley Office of Economic Opportunity found that 30% of newly constructed units were out of compliance. Violations included high doorway thresholds, narrow doorways, and small bathrooms and kitchens that were not maneuverable for a wheelchair.

Housing rehabilitation and construction in Portland must conform to the City’s building code, which is based on the International Building Code. Although the International Building Code includes a set of accessibility standards, the city has elected to delete these provisions from its building code and to instead rely on other agencies, including the Maine State Housing Authority and the State Fire Marshall’s Office, for enforcement. Assurance of compliance is required in order to obtain a building permit. The city does not, however, inspect new construction to determine whether they are accessible. Although there is no evidence that violations are occurring in Portland, the Maine state office of the U.S. Department of Housing and Urban Development reports that violations have been discovered in other parts of Maine where the State Fire Marshall’s Office has waived one or more accessibility provisions.

**c) Investments**

The City of Portland utilizes local, state and federal funding to shape the city’s built environment. As in most American cities, the era of urban renewal in the 1960’s and 1970’s wielded devastating impacts on some of Portland’s urban neighborhoods. The construction of I-295 and Franklin Arterial necessitated the demolition of hundreds of housing units, displacing residents primarily in Bayside and Libbytown. Today, these neighborhoods post the lowest home values in the city as well as high concentrations of race and poverty. The challenge for Portland is to balance the need for *mobility*, that maintains its status as the state’s economic engine, with *neighborhood stability and character*, that preserves its standing as one of the most livable cities in the country. To that end, a number of resources are available to support the development of public infrastructure:

Type	Administration	Public Infrastructure
<b>Local</b>	Capital Improvement Program Municipal Bonds	Local streets Sidewalks Parks and playgrounds Parking garages Public water and sewer
<b>CDBG</b>	Portland Division of Housing and Neighborhood Services	Local streets Sidewalks Parks and playgrounds Public water and sewer
<b>Transportation</b>	Portland Area Comprehensive Transportation Study Maine Department of Transportation Maine Turnpike Authority Maine Port Authority	Arterials and collectors Highways Intermodal terminals Public transit Trails
<b>Other</b>	Economic Development Administration Environmental Protection Agency	Parking Public water and sewer Publicly owned buildings

The public is invited to participate in the identification and development of the City's public infrastructure. Under the auspices of Portland's Division of Housing and Neighborhood Services, Portland hosts annual neighborhood meetings in each of its City Council districts. Other development opportunities are identified through the master planning process for neighborhoods, such as Bayside, Portland's Eastern Waterfront, and the Peninsula Traffic Study. Public hearings for specific projects, such as site review, provide yet another opportunity to shape the physical design of the city.

Next to a decent job and a safe place to live, transportation is arguably a top priority for fair housing. While almost one in five Portland households do not own a car, one in three minority households do not own a car. That makes the ability of minority head of householders to obtain and maintain a decent job dependent on their ability to get around safely and predictably by foot, by bicycle, and by bus. According to the 2001 passenger study commissioned by METRO, the Greater Portland Transit District, more than half of its riders rely on the bus to commute to work. Frequency varies by route, with Congress Street, Forest Avenue and Brighton Avenue boasting service every 20 minutes. On the other hand, buses run just once every hour or every half hour to Bayside, the waterfront, West End, North Deering, and East Deering. Some of the city's most important employment centers do not have any bus service, including Warren Avenue and Riverside Industrial Park.

Public transit is truly a regional issue. Although it continues to grow, Portland's dominance as the hub of the metropolitan area's employment has diminished. In 1980, Portland claimed 50% of all jobs in the county. By 2000, that share had declined 7%, with the biggest employment gains going to neighboring urban centers such as Westbrook and South Portland as well as outlying suburbs such as Falmouth, Scarborough, and Windham. Bus service, however, is much more limited to outlying urban centers and suburbs where jobs are moving than within the city of Portland. For example, buses run, depending on the route, as little as once every two hours to South Portland, Westbrook, Falmouth and Scarborough. Increasing coverage and frequency is complicated by the fact that there are three different providers of fixed route transit to outlying communities – METRO, South Portland Bus system, and the ShuttleBus. As a member community of METRO, the City of Portland provides 85% of the operating subsidy for public transit, with the City of Westbrook providing the other 15%. South Portland, while served by METRO, pulled out of the district in 1980 and elected to operate its own transit system. The Town of Falmouth, while served by METRO, has elected not to join, although it appropriates limited funds for some routes. The town of Scarborough, which is served by the ShuttleBus, contributes no funds for public transit. The exclusion of most neighboring towns from METRO places the burden on the City of Portland as the major sponsor of the region's public transit system.

By 2025, employment in Cumberland County is expected to grow by almost 40,000 jobs, with 37% of new jobs in the City of Portland and 63% going to outlying communities. For its part, the City must consider bus service to future employment centers within its boundaries, including the (old) Exit 7B of the Maine Turnpike, the new Mercy Hospital on the Fore River, West Commercial Street, and Bayside. If existing routes are to be expanded to include these new centers, building orientation, which is a regulatory function, will become an important consideration. The further a building is set back from the road, the more time it takes for the bus

to serve the development, which in turn, increases the time it takes the bus to run the route and, ultimately, decreases the frequency on that route. For Portland, frequency has been the most important tool for increasing ridership. When frequency on the Forest Avenue route, for example, was increased from 20 to 15 minutes, ridership increased 40%. While Portland can do its part, service to outlying communities, however, demands their participation in a more regional transit system.

## 2. Portland Housing Authority

The Portland Housing Authority assists over 2,700 households attain affordable housing opportunities in conventional developments, private rental market, and homeownership. According to the Housing Authority, the profile of its client base has changed over the last 20 years from serving the chronically poor to housing the working poor. The agency manages over 1,000 public housing units in 10 developments located both on and off the peninsula. Over 1,700 Section 8 vouchers are administered by the Housing Authority, allowing households to obtain rental units in the private market within a 10-mile radius of Portland. Through its Mod Rehab program, landlords agree to make units rehabilitated with public funds available for rent. In addition, the Housing Authority is developing home ownership units where applicants may use Section 8 vouchers as part of their mortgage payment. Collectively, these assisted housing opportunities impact 10% of the city's residents and housing units. Of concern to the Analysis are the following:

- Concentrations of race and income in public housing developments
- Admission, assignment and selection procedures
- Supportive programs and services

Housing developments managed by the Portland Housing Authority serve a diverse population representing 38 nationalities. Over 55% are new Americans. Somalians comprise the largest segment of newcomers, followed by Cambodians, Sudanese, and Vietnamese.

Country of Origin	Total	%
United States	1,110	44%
Somalia	407	16%
Cambodia	265	11%
Sudan	246	10%
Vietnam	235	9%
Ethiopia	36	1%
Afghanistan	32	1%
Congo	20	1%
El Salvador	20	1%
Puerto Rico	19	1%
Russia	18	1%
Other	92	4%
<b>Total</b>	<b>2,500</b>	<b>100%</b>

The most ethnically diverse developments are family units, and the least, elderly units as well as smaller developments with less than 30 units. Of the large, family-unit developments, Kennedy Park and Riverton are home to the highest concentrations of new Americans, over 70%. Indeed,

almost 60% of Somalians in public housing live in Riverton, comprising over one third of the development's residents. According to the Portland Housing Authority, this is no accident: 85% of Riverton's units contain three or more bedrooms suitable to meet the needs of large families. At Sagamore Village, which is home to an ethnic mix that more closely mirrors the housing authority's overall tenant base, just 25% of units contain three or more bedrooms, and none, five or six bedrooms.

The admissions process for all housing assistance is essentially "first come, first serve", with priority to the elderly, families with children, and disabled head of householders. First, applicants submit an application, including, for public housing, their preference for one of 40+ accessible units. Then applicants are placed on a waiting list but are also encouraged to apply in other communities for an opening, such as South Portland or Westbrook. During this time, it is the responsibility of the applicant to inform the Housing Authority of changes in their contact information. If they cannot be reached, their application will eventually be cancelled. When applicants reach the top of the list, they participate in an interview where final eligibility is determined. Once found eligible, applicants, for public housing, are offered the next available unit that suits their needs. If the applicant refuses the available unit, the applicant is moved to the bottom of the waiting list. If the applicant refuses a second offer, they are permanently removed from the list. The turnover rate for public housing is approximately 10%.

The Housing Authority's admission policy is governed by an overarching goal to mix incomes and deconcentrate poverty. First, the agency compares the incomes of existing tenants with that of the census tracts in which the developments are located. Then, it sets targets for mixing lower and higher income tenants. The primary strategy for deconcentration is "skipping": families at the top of the waiting may be passed over to reach another family with a lower or higher income to meet established targets. Although skipping of families for deconcentration purposes is applied uniformly to all families until targets are met, it is the Housing Authority's intention not to have a unit remain vacant longer than necessary. Overall, the goal is to have higher income families move into developments that are predominantly occupied by families with lower incomes and to have lower income families move into those that are predominantly higher income. No similar protocol exists to mix or deconcentrate developments by race and ethnicity.

To better serve its diverse base of clients, the Portland Housing Authority has developed a supportive network of programs and services. Of paramount importance is client communication. The Housing Authority maintains a list of over 150 interpreters versed in 40 different languages to assist in the translation of letters, notices, interviews, and meetings associated with admissions and tenancy. The only communications that are not routinely translated are the minutes of tenant council meetings. In addition, the larger housing developments offer on-site programs and services to support tenants, including education, health care, and child care.

## **B. Public and Private Sector**

### **1. Home ownership market**

The minority home ownership rate in Portland is roughly half of what it is across the rest of the United States. Although home ownership courses are sponsored by a number of service providers, including the Maine State Housing Authority, Peoples Regional Opportunity Program, Coastal Enterprises, and Alpha One, an average of 136 applications per year are filed by minority households in the metropolitan area, comprising less than 1% of all home mortgage applications.

In Greater Portland, minority households are rejected for home mortgage loans at up to three times the region average. Two theories for this trend have been espoused: that minority applicants are more likely to be recent immigrants with fewer assets and nominal credit histories; and that the total application pool is so small, any denial will drive up the rate. Indeed, one financial institution in Greater Portland was forced to explain to a federal investigator why their denial rate for Black households was 100%. The answer: there was just one application from a Black household, and it was denied. To test the latter theory, Portland’s data from the Home Mortgage Disclosure Act was compared with that of metropolitan areas in New England with similar demographics – Portsmouth, New Hampshire and Burlington, Vermont. While Greater Portland averages 52 applications per year from Black and Hispanic households, Portsmouth and Burlington average even less, 42 and 31, respectively. The chart below, compiled by the Federal Reserve Bank of Boston, illustrates the differences in these small metropolitan areas. While Portland does better by Hispanics than Portsmouth or Burlington, Black households fare the worst in Portland. Whether Black households are more likely to be new Americans than those in Portsmouth or Burlington would require further investigation, particularly since more than 60% of Black applicants in Portland in 2003 earned the region’s median income or higher.

**Denial Rates for Home Mortgage Loans, 2001-2003**

	2001			2002			2003		
	Portsmouth	Burlington	Portland	Portsmouth	Burlington	Portland	Portsmouth	Burlington	Portland
<b>Black</b>	13%	17%	19%	8%	8%	39%	10%	0%	36%
<b>Hispanic</b>	12%	0%	9%	15%	20%	5%	24%	12%	6%
<b>White</b>	15%	9%	10%	13%	7%	9%	15%	8%	9%

*Compiled by the Federal Reserve Bank of Boston based on data from the 2001-2003 Home Mortgage Disclosure Act*

Through extensive paired testing, the U.S. Department of Housing and Urban Development reports that discriminatory lending practices persist in the nation’s major metropolitan areas. Again posing as first time homebuyers, protected testers were subjected to differential treatment by being:

- Pre-qualified for “less” house than their incomes could support
- Offered less information about loan products
- Offered fewer loan products
- Encouraged to consider a Farmer’s Home Administration (FHA) loan
- Given less coaching and less follow-up contact

Again, without an audit or litigation, there is no evidence that such lending practices are occurring in Greater Portland. Indeed, all Maine banks or branches operating in the Portland metropolitan area have received a Community Reinvestment Act (CRA) rating of “Outstanding” or “Satisfactory”. Enacted by Congress in 1977, the Community Reinvestment Act evaluates the performance of certain financial institutions in helping to meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods. Although paired testing is not part of this evaluation process, the institution’s record of performance under the Home Mortgage Disclosure Act is subject to the CRA review.

Although many CRA investments are commercial in nature, Key Bank offers an innovative home mortgage product. Adapted from their headquarters in Cleveland, Ohio, Key Bank in Maine offers Home Assist, a product targeted to in-house banking customers earning 100% of median income. The program enables a borrower to purchase a home as a primary residence of up to \$185,000 by assuming a debt-to-income ratio as high as 40%. It is also available to borrowers with no income limits who are willing to purchase a home, again as a primary residence, in a low-moderate income tract. Through its purchase plus component, applicants may borrow more than the purchase price in order to rehabilitate the home. With a policy that gives a second, and even, a third look, at denials, the program is committed to investing in downtowns, villages, and neighborhoods. In Maine, Home Assist is managed by Key Bank’s regional CRA officer, based in Portland, who supervises three loan originators working out of Augusta, Auburn, and South Portland. Although the program attracts over 250 applications a year, the maximum purchase price is now proving to be a significant barrier to making loans in Portland. The Maine Chapter of the National Association for the Advancement of Colored People (NAACP) reports that not enough is being done by Maine banks to either outreach to minority homebuyers or develop loan products that are tailored to specific communities. Muslim beliefs, for example, prohibit the payment of interest; while innovative products have been developed in larger metropolitan markets, Maine banks do not offer any.

Recognizing this gap, the Maine chapter of the NAACP is embarking on a study of economic opportunity for minorities with funding from Bank of America negotiated as part of their recent merger with Fleet Bank. The study will include a focus on home ownership, small business development, and empowerment. Ultimately, the NAACP hopes to establish a community development corporation offering innovative financial programs tailored to the needs of Portland’s minority communities. It hopes to start first with a pilot program to guide 10 minority families through the ropes of home ownership.

Discrimination can occur long before the lending stage, however, even in small metropolitan markets. In 2002, the Champlain Valley Office of Economic Opportunity conducted 45 paired tests in Vermont’s 9 largest cities to examine the incidence of discrimination based on race and disability. Evidence of discrimination was found in 48% of the race tests and 25% of the disability tests. Posing as first time homebuyers, protected testers were subjected to differential treatment by being:

- Asked more personal questions, particularly about finances
- Requested to submit a credit report or to be pre-approved for a loan before receiving listings

- Offered listings below affordable price range
- Offered fewer or no listings that met specified criteria, including desired towns

In addition, disabled testers experienced trouble accessing almost two thirds of real estate offices. There is no evidence that such practices are occurring in Portland, as no real estate audits have been conducted in Greater Portland and no instances of discrimination found. In a seller’s market, however, realtors can afford to work with people they like or are comfortable with. This comfort level extends beyond the stage of initial inquiry, which was the subject of Vermont’s real estate practices audit. Where affordable homes often “go” the same day they are listed, buyers are pressured to make decisions quickly. Although certainly market driven, this experience can be confusing and intimidating. Buyers unable to make decisions quickly may be deemed as “less ready” by realtors and, in turn, receive fewer listings and even less coaching and encouragement.

## 2. Rental market

Based primarily on interviews with service providers, there is qualitative evidence of discriminatory behavior in Portland’s rental housing market. Clients representing protected classes have been subjected to alleged discriminatory behavior by landlords during their attempts to access housing as well as during their tenure. The following list is intended to be illustrative but not exhaustive:

<b>Basis</b>	<b>Reported landlord behavior</b>
<b>Race and national origin</b>	Screening to identify applicant’s national origin, citizenship status, and ability to speak English Failure to maintain and repair apartments Retaliation against tenants seeking repairs to their units Harassment by neighbors
<b>Disability</b>	Reluctance in allowing tenants to make reasonable accommodations at their own expense Required tenants to renew leases monthly
<b>Source of income</b>	Would not accept Section 8 Would not provide opportunity to inspect apartment
<b>Familial status</b>	Stated preference not to rent to families with children Stated apartment was unsuitable for children

These experiences in the Portland rental market are validated by the U.S. Department of Housing and Urban Development’s paired testing studies. Protected testers are subjected to differential treatment, including:

- Being told there are no suitable apartments available
- Difficulty in obtaining an appointment to inspect an apartment
- Requirement to demonstrate good credit before inspecting an apartment
- Steering of families to certain neighborhoods or units

These illegal actions, while subtle and hard to prove, are in the words of one study, “discrimination with a smile.”

Public and private agencies in Greater Portland have developed a number of programs to assist members of protected classes in accessing and maintaining housing. The following list is intended to be illustrative, rather than comprehensive.

**Planning.** A committee of public and private service providers meet once a month to coordinate the delivery of services to Portland's immigrant population. By sharing challenges faced by clients, agency staff have the opportunity to identify new ways to work together to meet needs. Participants include the Portland School Department, Catholic Charities, and various departments in the City of Portland.

**Education.** With funding from the U.S. Department of Housing and Urban Development, Pine Tree Legal Assistance launched an extensive Fair Housing education program in 2003, including the delivery of 25 workshops to over 200 consumers and 700 agency staff as well as the distribution of over 10,000 brochures in five languages. The Maine State Housing Authority also provides fair housing education for landlords, social service providers and mental health workers as well as owners and managers of multi-family developments constructed with state and federal funds. According to Pine Tree, their 2003 outreach effort tripled the number of charges filed with the Maine Human Rights Commission. Every year, the City of Portland's Division of Housing and Neighborhood Services distributes over 100 copies of the *Rights and Responsibilities of Landlords and Tenants*, which is also available as a free download on Pine Tree Legal's website. City staff also field daily calls about landlord-tenant issues, referring fair housing complaints where appropriate to the Maine Human Rights Commission.

**Access.** A number of agencies assist clients in accessing housing. A common principle is empowerment rather than management, i.e., staff provide advice and direction to clients but do not become directly involved in interventions with landlords. Alpha One, for example, has developed Adaptive Home, an online database of accessible units that can be searched by town or feature. In the past, they have also administered a grant program to help clients finance physical improvements to their own homes or apartments. The City of Portland's Social Services Division takes an active role in assisting refugees, secondary migrants, and asylum seekers locate emergency, transitional, and affordable housing opportunities.

**Tenure.** Tension between landlords and tenants are often the result of miscommunication, misunderstanding or lack of communication. For example, the exercise of certain religious beliefs by Somali families often conflicts with landlord's economic needs to conserve utilities, such as heat and hot water. Portland's Collaborative Refugee Services Program has developed a variety of programs to bridge this gap, including focus groups with landlords as well as multi-cultural workshops for tenants and landlords. The City also hosts a workshop on Winter safety and survival skills to introduce families from more temperate climates to the challenges of living in Maine.

## **V. Conclusions**

### **A. Impediments to Fair Housing**

***Saturation.*** Due to the high percentage of rental and public housing, certain neighborhoods exhibit high concentrations of race and poverty, particularly Parkside and Bayside.

***Affordability.*** Since 1999, escalating rents and home sale prices in Portland have outstripped wages by as much as four to one, disproportionately impacting Portland's minority households, who typically earn less than 60% of the region's and 75% of the city's median income.

***Public Investment.*** With more jobs moving out to the suburbs, inadequate transit service to existing and planned employment centers throughout the region disproportionately impacts the ability of minority households to obtain employment since one third do not have access to a vehicle.

***Home ownership market.*** The home ownership rate for Portland's minority households is less than half the rate of White's as well as the national average. Applications from minority households comprise less than 1% of all home mortgage applications in Greater Portland and are denied at a higher rate than those in similar New England cities.

***Accessibility.*** Due to staffing issues, the City relies on state agencies to ensure that new construction meets accessibility standards, leading to an enforcement gap post construction.

***Rental market.*** When it comes to "access" to housing, there is anecdotal evidence of intentional discrimination based on disability, source of income, and familial status. Although there is no direct evidence of intentional discrimination based on race or national origin, New Americans have experienced trouble in "maintaining" their housing tenure.

### **B. Recommendations to address impediments**

#### ***1) Full implementation of Portland's Housing Plan.***

The lack of affordable housing is consistently cited by community leaders as the primary impediment to fair housing. In Portland, a household earning the median income can no longer afford either the average home or two bedroom apartment, and every year since 1999, the gap has grown wider. With Portland's minority households earning less than 60% of the region's and 75% of the city's median income, the gap wields a disproportionate impact on fair housing. Full implementation of Portland's Housing Plan will increase the diversity and supply of housing, exerting a moderating influence on rents and home sale prices.

#### ***2) Paired testing in the rental and real estate markets.***

When it comes to "access" to housing, there is anecdotal evidence of intentional discrimination based on disability, source of income, and familial status. Pine Tree Legal Assistance's new

grant for additional paired testing and prosecution of cases in the rental market will document whether such discrimination is occurring and if so, how frequently. A similar study could be undertaken in the home ownership market, including the real estate and lending communities, to determine whether minority households receive adequate counseling, support and encouragement to purchase their first home.

**3) *Increased fair housing education and training.***

There is no evidence of patterns, policies, or practices that either intentionally discriminate against protected classes or exert a disparate impact on them. Lack of sufficient income, a problem concentrated in protected classes, is more of a barrier to housing than intentional discrimination. There is, however, anecdotal evidence of differential treatment of protected classes seeking to access and maintain their housing, including reports of delayed maintenance, unaddressed neighbor harassment, refusal to make reasonable accommodations, and refusal to rent based on source of income. But without the investigation and resolution of complaints via the Maine Human Rights Commission, it is impossible to determine the severity of this problem. Increased education and training for tenants, landlords and service providers is recommended, particularly with regard to access to rental housing based on disability, source of income, and familial status, and equal treatment of all protected classes during their tenure.

**4) *Homebuyer and credit counseling targeted to minority homebuyers.***

Native Americans and African Americans are three times as likely to be denied a home mortgage than White households in Greater Portland. With just 50 applications from minority households submitted to the region's 100+ lending institutions in any given year, no discriminatory policies and practices can be identified without further investigation of specific denials. In order to increase outreach to minority communities, better education of realtors and lenders is recommended regarding cultural differences as well as alternative financing programs.