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October 19, 2022

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Washington State Department of Commerce
1011 Plum Street
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Dear Ms. Hodgson:

Subject: Futurewise comments on the *Racially Disparate Impacts Guidance - DRAFT.*

Sent via email to: laura.hodgson@commerce.wa.gov

Thank you for the opportunity to comment on the on draft *Racially Disparate Impacts Guidance*. Futurewise strongly supports this project and the draft guidance. We do have some suggestions to improve the draft guidance.

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable and opportunity-rich communities, and that protect our most valuable farmlands, forests, and water resources. Futurewise has members and supporters throughout Washington State.

The guidance should document the role of exclusive single-family zoning, racially restrictive covenants, redlining, urban renewal, federal financing programs, and other policies and programs in suppressing homeownership and rental opportunities for Black, Indigenous, and people of color and the policies and regulations that can redress these impacts.

The Homeownership Disparities Working Group report summarizes how exclusive single-family zoning, racially restrictive covenants, redlining, urban renewal, and federal financing programs have suppressed homeownership by Black, Indigenous, and people of color in Washington State.¹ The report also documents the

¹ *Improving Homeownership Rates for Black, Indigenous, and People of Color in Washington: Recommendations from the Homeownership Disparities Work Group* pp. 17 – 19 (Sept. 2022 Final Draft) last accessed on Oct. 7, 2022, at: <https://www.commerce.wa.gov/building-infrastructure/housing/homeownership-disparities-workgroup/>. See also Paul Mogush, AICP,

differences in homeownership by different racial and ethnic groups and its negative economic consequences.² These policies also contribute to higher rents.³ As exclusive single-family zoning expanded to cover many neighborhoods, communities of color in neighborhoods with multi-family zoning were more subject to gentrification and displacement pressures as real estate development pressures were concentrated in those neighborhoods.

Other policies and regulations also contributed to racial discrimination in housing, businesses, and other aspects of society such as the expropriation of land from Native American tribes and nations.⁴ “Sundown” ordinances required certain minorities to be out of a city or town by a certain time each day, often at sundown, are another example of racial discrimination that prevented minorities from living and owning homes and businesses in some Washington State communities.⁵ Riots in communities also displaced racial and ethnic minorities.⁶ Washington State’s alien land laws prohibited non-citizens from owning land for housing and other purposes targeting Chinese and Japanese residents and also impacting Native Americans, South Asians, Koreans and many other groups.⁷ The internment of people of Japanese ancestry also contributed to a loss of land, housing, and

Advancing Racial Equity Through Land-Use Planning pp. 2 – 5 (American Planning Association Planning Advisory Service PAS Memo: May/June 2021) and enclosed in a separate email with the filename: “PAS-MEMO-2021-05-06 Advancing Racial Equity Through Land Use Planning.pdf.”

² *Improving Homeownership Rates for Black, Indigenous, and People of Color in Washington: Recommendations from the Homeownership Disparities Work Group* pp. 13 – 19 (Sept. 2022 Final Draft).

³ Paul Mogush, AICP, *Advancing Racial Equity Through Land-Use Planning* p. 4 (American Planning Association Planning Advisory Service PAS Memo: May/June 2021).

⁴ The information on the treaties expropriating Native American lands can be found at the [Native Land Digital](https://native-land.ca/) webpage last accessed on Oct. 11, 2022, at: <https://native-land.ca/> and the Library of Congress webpage [Indian Land Cessions in the United States, 1784-1894](https://memory.loc.gov/ammem/amlaw/lwss-iloc.html) last accessed on Oct. 11, 2022, at: <https://memory.loc.gov/ammem/amlaw/lwss-iloc.html>.

⁵ The [History & Social Justice](https://justice.tougaloo.edu/location/washington/) website has a “Historical Database of Sundown Towns” webpage that lists possible and confirmed Washington State sundown towns. Last accessed on Oct. 11, 2022, at: <https://justice.tougaloo.edu/location/washington/>. The [Race and Segregation in Washington Cities and Counties 1940-2020](https://depts.washington.edu/labhist/race-segregation.shtml) webpage from the Civil Rights & Labor History Consortium at the University of Washington identifies two cities as sundown towns. Last accessed on Oct. 11, 2022, at: <https://depts.washington.edu/labhist/race-segregation.shtml>.

⁶ Knute Berger, *A short, violent history of Puget Sound uprisings, protests and riots* [Crosscut](https://crosscut.com/2020/06/short-violent-history-puget-sound-uprisings-protests-and-riots) webpage (June 5, 2020) last accessed on Oct. 11, 2022, at: <https://crosscut.com/2020/06/short-violent-history-puget-sound-uprisings-protests-and-riots>. While this story describes the riots that lead to the expulsion of ethnically Asian residents in Seattle and Tacoma, minorities were also expelled by riots in other state cities.

⁷ Nicole Grant, *White Supremacy and the Alien Land Laws of Washington State* (The Seattle Civil Rights & Labor History Project, University of Washington) last accessed on Oct. 11, 2022, at: http://depts.washington.edu/civilr/alien_land_laws.htm.

income.⁸ There are undoubtedly other programs or regulations that lead to racial exclusion.

Some of these policies and regulations only formally applied to a few jurisdictions such as redlining that was only formally in place in Seattle, Tacoma, and Spokane.⁹ Many others such as land appropriation, restrictions on lending programs, and limits on land purchases applied statewide and nationwide for the national programs.

The *Racially Disparate Impacts Guidance* should explain and document the role of the programs and laws in suppressing homeownership and rental opportunities for Black, Indigenous, and people of color. The Guidance can assist cities and counties by documenting these programs and their effects.

For example, as part of the Minneapolis 2040 comprehensive plan update, the City of Minneapolis documented and explained the role exclusive single-family zoning, racially restrictive covenants, redlining, urban renewal, and federal financing programs have played in suppressed homeownership by Black, Indigenous, and people of color and how they also contributed to lack of affordable rentals.¹⁰ The Minneapolis 2040 comprehensive plan update then lead a community discussion on role of race in housing discrimination and the lack of opportunities for minorities to buy houses and build wealth and the precarious place that leaves minorities in our housing market for both ownership and rental units.¹¹ This conversation on race was an important part of the planning process for the Minneapolis 2040 plan that lead to abolition of exclusive single-family zoning in the city along with other policies to increase housing affordability.¹² We recognize these public education campaigns and conversations took time and resources that not all Washington jurisdictions will have. However, by clearly documenting the effects of exclusive single-family zoning, racially restrictive covenants, redlining, urban renewal, federal financing programs, and other programs and regulations in

⁸ Gwynn Guilford, *The dangerous economics of racial resentment during World War II* Quartz website (Feb. 13, 2018, last updated July 20, 2022) last accessed on Oct. 11, 2022, at: <https://qz.com/1201502/japanese-internment-camps-during-world-war-ii-are-a-lesson-in-the-scary-economics-of-racial-resentment/>.

⁹ *Mapping Inequality: Redlining in New Deal America* includes redlining maps for Seattle, Tacoma, and Spokane last accessed on Sept. 28, 2022, at: <https://dsl.richmond.edu/panorama/redlining/#loc=7/47.594/-122.498>.

¹⁰ Paul Mogush, AICP, *Advancing Racial Equity Through Land-Use Planning* pp. 2 – 5 (American Planning Association Planning Advisory Service PAS Memo: May/June 2021).

¹¹ *Id.* pp. 5 – 6, p. 9.

¹² *Id.* pp. 7 – 8.

suppressing homeownership and rental opportunities for Black, Indigenous, and people of color the *Racially Disparate Impacts Guidance* can help educate planners and the public and enable more jurisdictions to help implement effective public policy solutions and, if resources are available, undertake these community conversions.

The public policy solutions identified in the *Racially Disparate Impacts Guidance* should include allowing a wider variety of housing types at all affordability levels, especially in parts of the jurisdiction that lack options as a result of racially restrictive housing policies and practices. These should include limiting or eliminating exclusive single family zoning, planning and zoning to increase the supply of housing to help keep all housing more affordable,¹³ adopting and enforcing ordinances directed at prohibiting housing discrimination, undoing zoning policies that focus new development and market pressures disproportionately into Black, Indigenous and communities of color neighborhoods, publicizing resources to address housing discrimination, and providing information to interested property owners on how they can eliminate racially restrictive covenants from their chain of title.¹⁴ A critical policy is to plan for affordable, multifamily housing including affordable rental and homeownership options in high-opportunity areas that are targeted at undoing past harms.

Our comments on Step 1 include some sources of information related to racially restrictive covenants, redlining, and discrimination.

Comments on Step 1: Understand your community on pages 4 and 5 should also identify sources of information on racially discriminatory covenants and redlining.

We agree that data gathering and data analysis to understand the community is an important first step and agree with the recommendations. Step 1 should also identify sources of information on racially discriminatory covenants and redlining or refer to an appendix that includes this information. We recommend that the following resources be included:

- *Segregated Seattle* includes detailed maps showing residential locations for Blacks, Chinese, Filipinos, Japanese, Jews, Hispanics, Native Americans, and Whites in Seattle from 1920-2010, racial restrictive covenants from King

¹³ *Id.* pp. 6 – 7.

¹⁴ RCW 49.60.525, RCW 49.60.227.

County, and maps of subdivisions with racial restrictive covenants. Last accessed on Sept. 28, 2022, at:

<http://depts.washington.edu/civilr/segregated.htm>

- *Race and Segregation in Washington Cities and Counties 1940-2020*. The Civil Rights & Labor History Consortium at the University of Washington has prepared maps exploring the “race and segregation history for Seattle, Tacoma, Everett, Spokane, Vancouver, and the Tri-Cities as well as each county in Washington State from 1940 to the present” by census tract. Last accessed on Oct. 11, 2022, at:
https://depts.washington.edu/labhist/race_seggregation.shtml.
- The Civil Rights & Labor History Consortium at the University of Washington also has valuable articles and other materials on racial and ethnic and religious minority issues. Last accessed on Oct. 11, 2022, at:
<https://depts.washington.edu/labhist/browse.shtml#Asian>.
- *Mapping Inequality: Redlining in New Deal America* includes redlining maps for Seattle, Tacoma, and Spokane last accessed on Sept. 28, 2022, at:
<https://dsl.richmond.edu/panorama/redlining/#loc=7/47.594/-122.498>.
- The History & Social Justice webpage has a “Historical Database of Sundown Towns” webpage that includes a listing of Washington State sundown towns, really cities, identified with varying levels of evidence and certainty. The website describes the list for Washington as a work in progress. It is important to click on the city or town name to see the certainty of the designation as sundown town. Last accessed on Oct. 1, 2022 at:
<https://justice.tougaloo.edu/sundown-towns/using-the-sundown-towns-database/state-map/>. The History & Social Justice website also has a Using Research Information to Help a Sundown Town Overcome Its Past webpage last accessed on October 11, 2022 at: <https://justice.tougaloo.edu/sundown-towns/sundown-towns-overcome/>.

One helpful tool is to identify historic neighborhoods where various racial and ethnic people lived overtime. This data coupled with data on public facilities and services can help areas where local governments have underinvested, help craft policies and regulations to combat displacement, and to help make investments in affordable housing to help historical communities remain or return to the neighborhoods. *Segregated Seattle* includes detailed maps showing residential locations for Blacks, Chinese, Filipinos, Japanese, Jews, Hispanics, Native Americans, and Whites in Seattle from 1920-2010. The Civil Rights & Labor History Consortium at the University of Washington has prepared Race and

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Segregation in Washington Cities and Counties 1940-2020. Historic racial and ethnic neighborhoods can also be identified using census data.

Comments on Step 3: Evaluate the policies on pages 12 through 14

The *Racially Disparate Impacts Guidance* on page 14 correctly states that while the new housing element requirements focus on the housing element, the Growth Management Act's internal consistency requirement also require amendments to the land use, capital facility, and transportation elements so they are consistent with the housing element.

Comments on Step 4: Revise the policies on pages 14 through 16.

As part of the policy revision process, counties and cities should identify and address capital facility, transportation, and amenity under investment and deficiencies. The *Racially Disparate Impacts Guidance* includes good policies on capital facilities on page 32.

Historically, heavily polluting industries have been disproportionately sited in low-income neighborhoods and communities of color. We recommend that all residential neighborhoods be protected from pollution and other negative impacts.

Thank you for considering our comments. If you require more information, please contact me at telephone 206-343-0681 Ext. 102 or email: tim@futurewise.org.

Very Truly Yours,



Tim Trohimovich, AICP
Director of Planning and Law

Enclosure in a separate email