

2013 DOÑA ANA COUNTY  
FAIR HOUSING EQUITY ASSESSMENT AND REGIONAL AI



FINAL REPORT  
OCTOBER 18, 2013





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# Executive Summary

## A. Summary of Background Findings

### **SOCIO-ECONOMIC CONTEXT**

Analysis of demographic, economic, and housing data provides information about the level and results of past locational choices. As observed, several areas in the County represent equity concerns. These areas contain high rates of poverty, disproportionate concentrations of Hispanic persons, notable occurrences of Ethnically Concentrated Areas of Poverty (ECAP), and lack of connections to employment opportunities. Thus, the spatial distribution of areas lacking opportunity correlates with these areas.

### **FAIR HOUSING ENVIRONMENT**

A review of the fair housing profile in Doña Ana County revealed that two organizations provide fair housing services on state or local levels: the US Department of Housing and Urban Development (HUD) and the New Mexico Human Rights Bureau (HRB). However, no local nonprofit agencies or public agencies receive federal fair housing program grant funds to provide outreach and education, complaint intake, and testing and enforcement activities for providers and consumers of housing.

### **BARRIERS TO HOUSING CHOICE IN THE PRIVATE SECTOR**

Evaluation of the private housing sector included review of home mortgage loan application information, mortgage lending practices, fair housing complaint data, and results from the private sector section of the 2013 Fair Housing Survey.

Home Mortgage Disclosure Act (HMDA) data were used to analyze differences in home mortgage application denial rates in the County by race, ethnicity, sex, income, and Census tract. Evaluation of home purchase loan applications from 2004 through 2010 showed that there were 15,704 owner occupied loan originations and 4,137 denials, for an eight-year average loan denial rate in excess of 20.0 percent. Denial rates were highest in 2011, at 28.5 percent. These HMDA data also showed that Hispanic applicants experienced far higher rates of loan denials than did Non-Hispanic applicants, 28.0 percent versus 13.2 percent.

Analysis of originated loans with high annual percentage rates showed that American Indian and Hispanic populations were also disproportionately issued these types of lower-quality loan products. Hispanic borrowers experienced a more than twice that of non-Hispanic applicants, for example. With high proportions of low quality, high-annual percentage rate loans being issued to these particular groups, the burden of foreclosure may fall more heavily upon them.

Analysis of data from the Community Reinvestment Act (CRA), which is intended to encourage investment in low- and moderate-income areas, showed that business loans did not tend to be directed toward the areas with highest poverty concentrations in Doña Ana County as commonly as they were toward more higher-income areas.

Fair housing complaint data were analyzed from HUD. HUD data showed that 69 fair housing-related complaints were filed in the County from 2004 through 2012. The number of complaints filed with this

agency varied by year, ranging from a low of 1 to a high of 27. The protected classes most impacted by discrimination, based on the 69 complaints where cause was found, were familial status and disability, and the most common complaint issues related to discrimination in terms, conditions or privileges relating. While housing complaint data were requested from the HRB, no data were received.

Results from the private sector portion of the 2013 Fair Housing Survey, conducted in May and June of 2013 as part of the Regional AI process, showed that some respondents saw possible issues of housing discrimination in the County's private housing sector

### **BARRIERS TO HOUSING CHOICE IN THE PUBLIC SECTOR**

The status of fair housing influences within the Doña Ana County's public sector was evaluated through review of selected public services, local policies and practices; and the public sector section of the 2013 Fair Housing Survey.

Review of public services showed minimal public transit access to higher-poverty and rural parts of the County. Evaluation of the distribution of HUD-assisted rental properties and other affordable housing in the County demonstrated that these assisted housing options were not widely distributed, and tended to be concentrated in areas other than those with the highest poverty rates.

The 2013 Land Use Planning Interviews, conducted over the phone with planners from the County's jurisdictions, showed that many of these jurisdictions have in place some basic housing definitions such as "dwelling unit" and "family," but a few were somewhat restrictive and may not be in the spirit of affirmatively furthering fair housing. No communities define "disability" or housing for seniors in local codes, and only one community had policies affirming state law that provides for group homes in all residential areas. Most communities lack fair housing ordinances or practices. Further consideration of Fair Housing Act provisions for local municipalities may make for more equitable housing policies in Doña Ana County communities, and a more complete, consistent, and uniform approach could greatly benefit the County.

Results from the public sector section of the 2013 Fair Housing Survey revealed that few respondents in the County believe there are problematic practices or policies within the public sector. Of those that did, some noted land use policies and zoning laws that particularly impact protected class populations by limiting access to government services, and some respondents suggested that public transit services are lacking.

### **PUBLIC INVOLVEMENT**

Public involvement opportunities were an intrinsic part of the development of this Fair Housing and Equity Assessment (FHEA) and Regional Analysis of Impediments to Fair Housing Choice (AI). Activities included the 2013 Fair Housing Survey to evaluate current fair housing efforts, two targeted focus groups to address particular key issues in the housing market, and the three fair housing forums wherein citizens were offered the chance to comment on initial findings of the Regional AI and offer feedback on prospective impediments.

Results of the 2013 Fair Housing Survey showed that the majority of respondents felt that fair housing laws are useful, whereas many respondents were not familiar with fair housing law. Of the respondents

who answered the question, many noted the need for increased fair housing education and outreach activities, as well as increased fair housing testing and enforcement activities.

The public forums held in June of 2013 allowed citizens and agencies to voice concerns about barriers to fair housing choice. Comments received at these forums focused on discriminatory activities in the rental markets and discriminatory and predatory lending practices directed toward Hispanics.

## **B. Impediments, Suggested Actions, and Measurable Objectives**

### **Private Sector**

1. *Impediment:* Discriminatory terms, conditions, privileges, or facilities relating to rentals.

The inclusion of discriminatory terms, conditions, privileges, or facilities relating to rental as an impediment to fair housing choice within the Region was predominantly supported by fair housing complaint data and was shown to mostly affect the classes of familial status, race, and disability.

Suggestion: Additional training for landlords and property managers. Conduct additional complaint based testing related to unlawful discrimination.

2. *Impediment:* Failure to make reasonable accommodations or modifications.

Failure to make reasonable accommodation or modification, which was found to most commonly affect persons with both physical and mental disabilities, was supported by findings from analysis of fair housing complaint data as well as from input from the fair housing forum and fair housing surveys.

Suggestion: Additional training for landlords and property managers. Conduct additional complaint based and audit testing related to reluctance to make reasonable accommodation or modification.

3. *Impediment:* Preferences stated in advertisements for rental housing.

Evidence of statement of preferences in advertisements for rental housing as an impediment to fair housing choice within the Region was found in review of fair housing complaint data.

Suggestion: Additional training for landlords and property managers. Research possible violations in print and on-line media. Conduct mitigation if found.

4. *Impediment:* Steering activities in home sales markets.

In the Region, steering activities in the home purchase markets were found to be an impediment to fair housing choice based on findings from the review of past fair housing studies, and cases and results of the fair housing survey. Classes found to be commonly affected included national origin and race.

Suggestion: Additional training for real estate agents, brokers, and others involved in real estate transactions.

5. *Impediment:* Denial of home purchase loans.

Denials of home purchase loans were supported as an impediment to fair housing choice in the Region through examination of Home Mortgage Disclosure Act data as well as results of the fair housing survey. Denial was found to be predominantly based on race, national origin, and gender.

Suggestion: Utilize resources for first-time and lower-income homebuyers that belong to race, ethnic, and gender protected classes so that they can improve their credit rating, recognize questionable lending practices, and gain access to the fair housing system.

6. *Impediment:* Predatory lending in the home purchase market.

Many sources, including past fair housing studies and cases, Home Mortgage Disclosure Act data, and results of the fair housing survey identified predatory lending in the lending market as an impediment to fair housing choice within the Region. The classes of race and national origin were most frequently linked to this impediment.

Suggestion: Utilize resources for first-time and lower-income homebuyers that belong to race, ethnic, and gender protected classes so that they can improve their credit rating, recognize questionable lending practices and the attributes of predatory style loans, and gain access to the fair housing system.

7. *Impediment:* Lack of Understanding of Fair Housing and Fair Housing Laws.

Responses to the 2013 Fair Housing Survey, and comments received at the Fair Housing Forums, noted the lack of adequate outreach and education.

Suggestion: Work to enhance opportunities for fair housing education and trainings.

8. *Impediment:* Lack of adequate fair housing infrastructure.

Responses to the 2013 Fair Housing Survey, and comments received at the Fair Housing Forums, noted the lack of a local fair housing entity that might aid with both outreach and education, as well as testing and enforcement.

Suggestion: Work to establish a local Doña Ana County fair housing entity that would conduct outreach, education, testing and enforcement activities. Such action may be initiated with a Task Force lead by the Housing Assistance Council, or another partner of such stature.

## Public Sector

1. *Impediment:* Lack of County fair housing policies, ordinances or practices.

Results of the Fair Housing Survey, as well as comments at the Fair Housing Forums indicate that the County may lack or not have sufficient policies or practices that adequately address the duty to affirmatively further fair housing.

Suggestion: Draft a policy or ordinance that promote consistent, current, and transparent policies and practices that affirmatively further fair housing.

2. *Impediment:* Ineffective fair housing outreach and education efforts.

Doña Ana County lacks a fair housing advocacy base and needs a housing outreach and education component. This was supported by input received in the fair housing survey as well as in the fair housing forums.

Suggestion: Conduct more outreach and educational activities in a uniform, methodical, and consistent fashion. This should be done in consort with other local sponsors and handled through an intermediary agency.

3. *Impediment:* Land use planning decisions and operational practices resulting in unequal access to government services such as transportation.

Unequal access to government services, such as transportation, due to land use and planning decisions as well as past operational practices was documented in a review of Census Bureau data and the fair housing survey.

Suggestion: Enhance the reach and access of the public transportation system so that persons belonging to protected classes have improved access to the transportation service. This means better connecting their places of residence with prospective employment training and employment opportunities.

4. *Impediment:* Lack of inclusionary land development policies.

The fair housing survey revealed instances of policies that may restrict housing development, such as limiting lot size, dwelling type, and related locational issues. Therefore housing choice for certain groups, including families and persons with disabilities, is constrained. This is sometimes considered a “not in my backyard” mentality, or NIMBYism.

Suggestion: Consider a modification to the zoning and development codes that might better promote a more diverse building stock.

## C. Fair Housing and Equity Assessment Findings

Equity and access to opportunity are critical underpinnings of the Sustainable Communities Regional Planning Grant (SCRPG) program. Grantees are creating a more inclusive conversation on regional issues, with a particular emphasis on engaging those who have traditionally been marginalized from the community planning process. This has provided new insight into the disparate burdens and benefits

experienced by different groups across a region. One way to address these disparities is the Fair Housing and Equity Assessment (FHEA), which SCRPG program participants are required to complete.<sup>1</sup>

## **INTEGRATION AND SEGREGATION**

This FHEA evaluation quantified indexes of segregation. These indexes indicated that the County does not have significant levels of segregation.

## **RACIALLY AND ETHNICALLY CONCENTRATED AREAS OF POVERTY**

There were no areas in Doña Ana County that could be defined as Racially Concentrated Areas of Poverty (RCAP). On the other hand, there were 8 Census tracts that were made up of at least 40 percent poverty and 50 percent Hispanic and were Ethnically Concentrated Areas of Poverty (ECAP) throughout Doña Ana County. These areas tended to be located within the main travel corridors, south of the City of Las Cruces. While these areas have received moderate levels of public investment, it has been insufficient to change the status of the neighborhood.

## **AREAS OF OPPORTUNITY**

Areas of opportunity were quantitatively defined by a set of five relationships constructed of education, economics, housing, transportation, and public health. Within these categories, variables that were chosen include a school proficiency index, the percent of persons enrolled in school, high school graduation rates, job access, labor market indexes, the percent employed, the share of housing that is occupied, the lack of cost burdens, overcrowding, predatory loans, a transit index, travel times to work, the share of people walking to work, and an environmental index. All data was based upon Census tract-level information.

The County had a number of these areas and it is important that the ECAP areas and the linkages to the Opportunity areas be strengthened.

## **A CALL FOR PUBLIC AND PRIVATE INVESTMENT**

While specifying what particular efforts should be implemented throughout the County is beyond the scope of this part of the Doña Ana County Regional AI, key actions have been identified for consideration by policy makers. Substantive economic development, public infrastructure, and affordable housing investments will result in gains that will reduce disparities in burdens and benefits enjoyed by living in the County.

Areas that have received private sector investment in the past have typically not been in areas of lower income residents, as demonstrated by the Community Reinvestment Act data evaluation. Areas that contain ECAP areas are in need of both public and private investment.

Such investment can be removal of “other vacant” dwellings not available to the marketplace, rehab of existing structures, redevelopment of existing vacant buildings, redevelopment of underutilized housing, or replacement of old and dilapidated infrastructure. Expansion of the public transportation system is a key objective. Greater access to areas of opportunity would be a key in the process of creating opportunity to those currently not able to access these areas of the County. Additionally,

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<sup>1</sup> (HUD 2012) Regional Fair Housing and Equity Assessment

future investments in public and assisted housing, particularly for the production of affordable housing, should consider the spatial distribution of existing residents and whether the proposed affordable housing projects are overconcentrating racial and ethnic minorities.

Lastly, the County should consider monitoring the Community Reinvestment Act data so that business loans in the county might be equitably distributed. Impediment: Inequitable investment of Community Reinvestment Act resources. Encouraging specific lenders to move investment opportunities to areas of the region that tend to have lacked sufficient levels of investment in the past. This would be designed to enhance opportunities and expand economic development in areas that are typically underserved by such activities.

## **D. A Summary of Opportunities**

Doña Ana County has several opportunities to enhance fair housing choice and decrease disparities in social and economic well being of its citizens. This includes taking specific actions to overcome past locational choices that led to segregation, including discriminatory actions in both the rental and homeownership markets. The County also has specific opportunities in guiding public infrastructure investments to improve access to areas of opportunity as well as reducing the concentration of poverty in specific areas of the County



# I. Introduction

## A. Overview

In June 2009, the US Department of Housing and Urban Development (HUD), the U.S. Department of Transportation (DOT), and the U.S. Environmental Protection Agency (EPA) joined together to create the Partnership for Sustainable Communities. This is administered by HUD through its Sustainable Communities Regional Planning Grant Program (SCRPG).

The Viva Doña Ana regional project is sponsored by the Camino Real Consortium and funded by a grant through the Partnership for Sustainable Communities. It has seven distinct but related initiatives: the Comprehensive Plan for Sustainable Development, the Camino Real Corridor Management Plan, the Colonias Community Master Plan, Regional Capital Needs Plan, the Border Economic Development Plan, the Unified Development Code, and the Engagement and Education Program.

One of the requirements associated with receiving these federal funds is to support identifying priorities for future investments that enhance equity and access to opportunity. This is handled through a Fair Housing and Equity Assessment, much of the material covered in this report. Equity refers to development patterns that structure social and economic opportunities of residents, where uneven spatial development patterns may reinforce old racial and class divides, or even create new ones. Areas of opportunity are physical places, areas within communities that provide things one needs to thrive well, including quality employment, good schools, affordable housing, efficient public transportation, safe streets, good services, adequate parks, and full-service grocery stores. Areas lacking opportunity, then, have the opposite of these attributes. Equitable development requires thinking about equity impacts at the front end, prior to the investment occurring. That thinking involves analysis of demographic and market data to evaluate current issues for citizens who may have previously been marginalized from the community planning process.

That notion also involves three separate steps for completion of a Fair Housing Equity Assessment: 1) data, 2) deliberation; and 3) decision making. This report explores data that has been collected through both quantitative and qualitative methods and makes recommendations about the findings of the analysis. These recommendations are designed to initiate the deliberation of the equity discussions, identify areas of opportunity, as well as their antithesis, and aid decision making in prioritizing investments throughout the county.

On the other hand, and for nearly the last 20 years, HUD's Office of Community Planning and Development (CPD) has had in place rules consolidating the planning, application, reporting and citizen participation processes for four formula grant programs: Community Development Block Grants (CDBG), Home Investment Partnerships (HOME), Emergency Shelter Grants program (ESG), and Housing Opportunities for Persons with HIV/AIDS (HOPWA). The City of Las Cruces has followed these rules, as it is an entitlement jurisdiction that receives such funds, exceeding \$1 million in 2012 for both the CDBG and HOME programs. These rules also include a fair housing component, requiring such jurisdictions to "affirmatively furthering fair housing". This obligation has three elements:

- Conducting an analysis to identify impediments to fair housing choice,
- Taking appropriate actions to overcome the effects of any impediments identified therein, and
- Maintaining records reflecting the analysis and actions taken.

While the commitment to affirmatively further fair housing is not defined by statute, HUD requires its CPD grantees to conduct an analysis to identify impediments to fair housing choice within the jurisdiction and to take actions to overcome the impediments recognized in the study. HUD describes impediments to fair housing as:

- “Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin that restrict housing choices or the availability of housing choices and
- Any actions, omissions, or decisions which have [this] effect.”

While Title VIII of the Civil Rights Act of 1968 provides the list of federally protected classes listed above, states and local units of government may also enact fair housing laws that extend protection to additional classes of persons. The New Mexico Human Rights Act has extended fair housing protections based upon ancestry, sexual orientation, gender identity, and spousal affiliation.

HUD interprets the broad objectives of affirmatively furthering fair housing to include:

- Analyzing and working to eliminate housing discrimination in the jurisdiction;
- Promoting fair housing choice for all persons;
- Providing opportunities for racially and ethnically inclusive patterns of housing occupancy;
- Promoting housing that is physically accessible to and usable by all persons, particularly persons with disabilities; and
- Fostering compliance with the nondiscrimination provisions of the Fair Housing Act.

The Regional AI therefore represents a comprehensive examination of both quantitative and qualitative information. Extending beyond a simple identification of violations of fair housing law, this Regional AI is a process that explores key issues and obstacles that influence affirmatively furthering fair housing as well as the effectiveness of the fair housing system.

## **ECONOMIES OF SCALE IN FAIR HOUSING EVALUATIONS**

In January of 2012, HUD Secretary Shaun Donovan, recognizing that an FHEA and Regional AI are similar and overlapping studies, urged communities receiving a Sustainable Communities Regional Planning Grant who are required to prepare an FHEA also consider an alternative, the Regional Analysis of Impediments to Fair Housing Choice. A Regional AI can be a more valuable tool for effectively and proactively assessing fair housing issues at the regional level, as well as fulfilling one of several Sustainable Communities goals, making government more efficient and responsive to community needs.

The requirements of this Regional AI also provide communities with an opportunity of having their Analyses of Impediments conducted within a Regional context, as one larger study rather than separate potentially disparate sub-regional efforts. The Viva Doña Ana Regional Project therefore initiated the Regional AI approach, considering both a fair housing equity assessment and an analysis of impediments to fair housing choice; and, together these twin approaches to promoting fair housing in Doña Ana County more efficiently attains the duty to affirmatively further fair housing as well as forming educational tools to better inform our community and its citizens about fair housing and their rights and obligations under state and federal fair housing law.

Hence, this study was created out of requirements issued from the U.S. Department of Housing and Urban Development (HUD) and funding of two families of programs: one set from the Office of Sustainable Housing and Communities (OHSC) and the second from the Office of Community Planning and Development (CPD).

## **B. Lead Agency and Organizations**

The Viva Doña Ana organization was created in fall of 2011 as part of an Sustainable Communities Regional Planning Grant (SCRPG) application, when HUD awarded the region a \$2 million grant as part of the SCRPG Program. The grant application was led by the Camino Real Consortium, made up of nine organizations in the County:

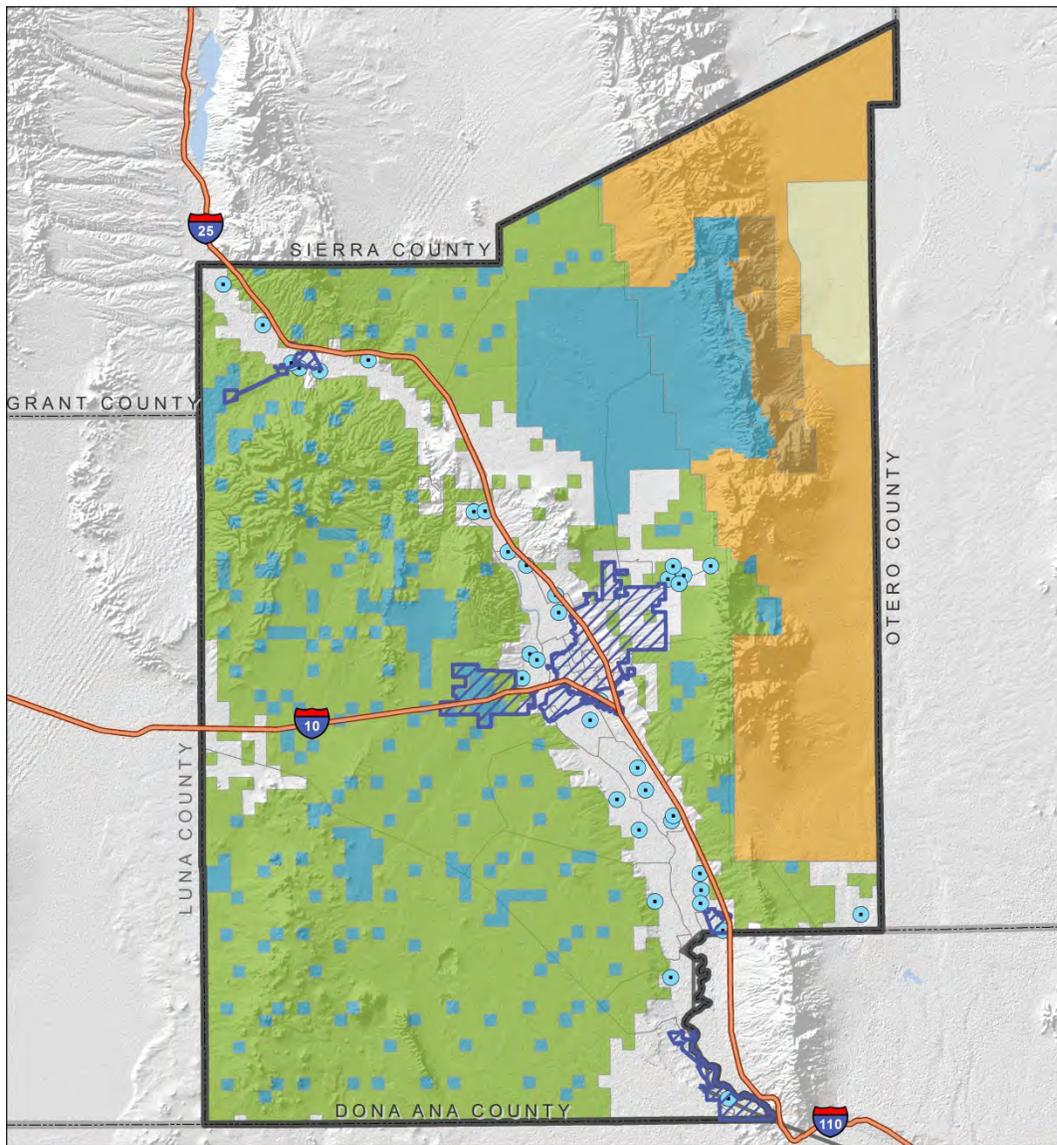
Doña Ana County  
City of Las Cruces  
New Mexico State University  
South Central Council of Governments  
Mesilla Valley Metropolitan Planning Organization  
El Paso Metropolitan Planning Organization  
South Central Regional Transit District  
Colonias Development Council  
Tierra del Sol Housing Corporation

Viva Doña Ana’s focus is on three specific aspects of Doña Ana County: people, places, and prosperity. Through the Viva Doña Ana project, the region will work together during public meetings, working sessions, community discussion groups, and other collaborative settings to address these three goals.

The Regional AI process was led by Doña Ana County, the Consortium, and consultant partners that are dedicated to planning and implementing projects to improve the future of the County through public participation.

The 2013 Doña Ana County FHEA and Regional AI addresses fair housing and equity issues in the entirety of Doña Ana County and its cities, villages, and colonias, as shown in Map I.1, on the following page. However, a very large portion of the County is managed by Federal agencies, such as the Bureau of Land Management, Department of Defense, Fish and Wildlife, and the National Park Service. Consequently, this FHEA and Regional AI really addresses those FHEA and Regional AI concerns that have transpired on non-federally managed land, areas also noted in Map I.1 on the following page; all subsequent maps appearing in this report have these geographic areas “greyed out” to better represent the applicable areas being considered under this Regional AI.

Map I.1  
 Doña Ana County  
 Cities, Villages, Towns, and Colonias  
 2013 Census Bureau Data



**Federally Owned Land**

-  Colonias
-  City, Town, and Village Boundaries
-  Census Tract Boundary

-  County Boundaries
-  Major Roads

**Federally Owned Land**

-  Bureau of Land Management
-  Department of Defense
-  Fish & Wildlife Service
-  National Park Service
-  Other Federally Owned Land

Data Source: USGS

## C. Research Methodology

The Regional AI process involves a thorough examination of a variety of sources from both the public and private sectors as related to housing, particularly for persons who are protected under fair housing laws. It also includes a broad array of information that is used to compute levels of concentrated poverty, indexes of segregation, and areas of opportunity. Additional Regional AI sources include Census data, employment and income information, home mortgage application data, business lending data, fair housing complaint records, surveys of housing industry experts and stakeholders, and a few telephone interviews with planners throughout the county. Some data and information were also received directly from HUD. The following describes the larger pieces of that analytical effort.

### **SOCIOECONOMIC DATA**

Secondary and quantitative data were drawn from the Census Bureau, including 2000 and 2010 Census counts, as well as American Community Survey data averages from 2007 through 2011. Data from these sources included population, households, racial and ethnic attributes of the population, household and personal income, poverty, housing occupancy, housing units by tenure, cost burdens, and housing conditions. Other data were drawn from records provided by the Bureau of Labor Statistics, the Bureau of Economic Analysis, and the Census Bureau's Longitudinal Employer-Households Dynamics (LEHD) employment statistics.

Specific data were drawn from HUD's Office of Policy Development and Research FHEA database, specifically designed for use with the Sustainable Communities Initiative (SCI) grant requirements associated with an FHEA. These data included such information as Racially Concentrated Areas of Poverty (RCAPs); Ethnically Concentrated Areas of Poverty (ECAPs); racial and ethnic indexes such as the isolation index, diversity index, dissimilarity index, and job access index. These data were derived for the Census tracts and block groups, and are presented in geographic maps.

### **BARRIERS IN THE PRIVATE SECTOR**

#### **Home Mortgage Disclosure Act Data**

To examine possible fair housing issues in the home mortgage market, Home Mortgage Disclosure Act (HMDA) data were analyzed. The HMDA was enacted by Congress in 1975 and has since been amended several times. It is intended to provide the public with loan data that can be used to determine whether financial institutions are serving the housing credit needs of their communities and to assist in identifying possible discriminatory lending patterns. HMDA requires lenders to publicly disclose the race, ethnicity, and sex of mortgage applicants, along with loan application amounts, household income, the Census tract in which the home is located, and information concerning prospective lender actions related to the loan application. For this analysis, HMDA data from 2004 through 2011 were analyzed, with the measurement of denial rates by Census tract and by race and ethnicity of applicants one key research objective. Another was to identify the groups and geographic areas most likely to encounter loans with unusually high annual percentage rates.

#### **Fair Housing Complaint Data**

Housing complaint data were used to analyze discrimination in the renting and selling of housing. HUD provided fair housing complaint data for the County from March of 2004 through August of 2012. This

information included the basis, or protected class pursuant to the complaint; the issue, or prospective discriminatory action, pursuant to the grievance; and the closure status of the alleged fair housing infraction, which relates to the result of the investigation. The review of fair housing complaints from within the County allowed for inspection of the tone, the relative degree and frequency of certain types of unfair housing practices, and the degree to which complaints were found to be with cause. Analysis of complaint data focused on determining which protected classes may have been disproportionately impacted by housing discrimination based on the number of complaints, while acknowledging that many individuals may be reluctant to step forward with a fair housing complaint for fear of retaliation or similar repercussion.

## **BARRIERS IN THE PUBLIC SECTOR**

### **Public Services**

Community features, including public services and facilities, are essential parts of good neighborhoods, leading to a more desirable community and more demand for housing in these areas. Conversely, lack of public services and facilities may be detrimental to neighborhoods. The Regional AI evaluated the location of multi-family assisted, low income housing tax credit housing, public housing, and housing choice voucher use compared to poverty and racial and ethnic concentrations, to evaluate whether the distribution of such housing correlated with over-concentrations of such groups.

### **Land Use Planning Interviews**

This Regional AI also reviews public sector land use policies and codes to evaluate any potential effects of public sector practices and policies that may not be in the spirit of affirmatively furthering fair housing.

Policies relating to housing development, special needs housing, and fair housing choice were addressed for jurisdictions in Doña Ana County in order to evaluate the public sector environment for a variety of housing types, including affordable housing, mixed-use housing, senior housing, and group homes. Because the policy environment of a jurisdiction can have a large effect on the type and quantity of housing built, in order to affirmatively further fair housing for all residents, local governments should consider the effects of their regulations.

In the County's cities and counties, as well as through its public sector planning and regional organizations, public sector policies were evaluated through the 2013 Land Use Planning Interviews, which were conducted over the phone with planning, community development, and building staff. Contact information for the appropriate planning and community development staff person or persons at these communities was provided by Doña Ana County. The purpose of the interviews was to gain detailed insight into common zoning and planning ordinances, practices, and policies and if they might be construed as not in the spirit of affirmatively furthering fair housing. Survey questions related to several commonly defined practices and terms, such as:

- Definitions of "dwelling unit" and "family";
- Occupancy standards;
- Definitions of "disability";
- Development standards for housing for persons with disabilities;

- Programs or practices relating to the development of affordable, mixed-use, accessible, or senior housing; and
- Policies relating to group homes or other special needs housing.

## **PUBLIC ENGAGEMENT AND INPUT**

### **Fair Housing Survey**

One of the methods HUD recommends for gathering public input about perceived impediments to fair housing choice is to conduct a survey. As such, Doña Ana County elected to utilize a survey instrument as a means to encourage public input in the Regional AI process. This step was a cost-effective and efficient method to utilize research resources.

The 2013 Fair Housing Survey targeted individuals involved in the housing arena, although anyone was allowed to complete the survey. The contact list was assembled by Doña Ana County, with the goal of targeting experts in at least the following areas:

- Residential and commercial building codes and regulations;
- Residential health and safety codes and regulations (structural, water, and sewer);
- Local land use planning;
- Banking and real estate;
- Renter rights and obligations, including civil rights; and
- Fair housing, disability, social service, and other advocacy organizations.

Furthermore, these entities were utilized to help promote public involvement throughout the Regional AI process. The 2013 Fair Housing Survey, an internet-based instrument, received 134 replies; this effort was conducted from March through June of 2013.

The survey was designed to address a wide variety of issues related to fair housing and affirmatively furthering fair housing. If limited input on a particular topic was received, it was assumed that the entirety of stakeholders did not view the issue as one of high pervasiveness or impact. This does not mean that the issue was nonexistent in the County, but rather that there was not a large perception of its prevalence, as gauged by survey participants.

### **Targeted Focus Groups**

To ensure consideration of feedback from key groups in the housing industry, the County held two targeted focus groups during the week of June 24 of 2013. One focus group addressed land use and zoning issues, as well as the concept of inclusionary zoning, while the other focus group was tailored to public housing providers and stakeholders.

### **Fair Housing Forums**

As part of the process of involving the public in the development of the Regional AI, the County also conducted three fair housing forums during the week of June 24 of 2013. These forums were designed to offer the public and stakeholders the opportunity to supply commentary on the status of fair housing in the County as well as provide feedback on the initial findings of the Regional AI.

## **PUBLIC REVIEW**

The County conducted the public input process associated with this Regional AI. The key actions that were used to notify the public of the Regional AI process included email announcements, public postings, newspaper advertisements and notices, phone calls, and other communication activities directed to citizens and stakeholders in the fair housing arena.

### **Public Review Period**

The public review period for the Regional AI Draft for Public Review occurred in August of 2013. This Regional AI is available online at [www.VivaDonaAna.org](http://www.VivaDonaAna.org).

## II. Socio-Economic Context

This section presents demographic, economic, and housing factors that influence housing choice in Doña Ana County. These data were collected from the Census Bureau, the Bureau of Economic Analysis, and the Bureau of Labor Statistics. Data were used to analyze a broad range of socio-economic characteristics, including population growth, race, ethnicity, segregation and integration, disability, employment, poverty, racially and ethnically concentrated areas of poverty, housing trends and areas of opportunity; these data are also available by Census tract, and are shown in geographic maps. Ultimately, the information presented in this section helps illustrate the underlying conditions that shape housing market behavior, housing choice, segregation, and opportunity in Doña Ana County.

To supplement 2000 and 2010 Census data, information for this analysis was also gathered from the Census Bureau’s American Community Survey (ACS). The ACS data cover similar topics to the decennial counts but include data not appearing in the 2010 Census, such as household income and poverty. The key difference of these datasets is that ACS data represent a five-year average of annual data estimates as opposed to a point-in-time 100 percent count; the ACS data reported herein span the years from 2007 through 2011. The ACS figures are not directly comparable to decennial Census counts because they do not account for certain population groups such as the homeless. However, percentage distributions from the ACS data can be compared to distributions from the 2000 and 2010 Censuses.

In addition, HUD’s Office of Policy Development and Research (PDR) in 2012 made available selected data for FHEA evaluations. Some of this information is by Census tract, such as unemployment rates by Census tract.

### A. Demographics

A review of demographic data can help to better understand past housing location choices, particularly as the information is related to age, race, ethnicity, and a few other parameters. It can also highlight if areas of segregation exist in Doña Ana County. This discussion begins with changes in the population.

#### POPULATION DYNAMICS

Table II.1 presents population counts in Doña Ana County, as drawn from the 2000 and 2010 Censuses and annual intercensal estimates. The County experienced a dramatic population increase, growing by 22.8 percent from 2000 through 2012, with a population of 214,445 by the July 2012 intercensal estimate. This is an annual growth rate of 1.7 percent per year; however, growth has slowed slightly since 2010, dipping to an annual growth rate of just 1.2 percent per year.

#### POPULATION BY AGE

Data on population by age in 2000 and 2010 in Doña Ana County, presented in Table II.2, show that the largest population groups in both Census counts represented persons aged 35 to 54 and 5 to 19, which comprised 23.9 and 23.3 percent in 2010, respectively. However, persons the age of 55 through 64 rose

**Table II.1**  
**Population Estimates**

Doña Ana County  
2000 & 2010 Census Data &  
Intercensal Estimates

Year	Estimate
Census 2000	174,682
July 2001 Est.	176,496
July 2002 Est.	178,464
July 2003 Est.	182,045
July 2004 Est.	184,939
July 2005 Est.	189,199
July 2006 Est.	193,701
July 2007 Est.	197,853
July 2008 Est.	200,855
July 2009 Est.	205,401
Census 2010	209,233
July 2011 Est.	212,944
July 2012 Est.	214,445
<b>Change 00-11</b>	<b>22.8%</b>

the fastest, some 66.2 percent over the decade; and, those the age of 65 or older rose quickly too, at 39.8 percent over the decade.

**Table II.2**  
**Population by Age**

Doña Ana County  
2000 & 2010 Census SFI Data

Age	2000 Census		2010 Census		% Change 00-10
	Population	% of Total	Population	% of Total	
Under 5	13,569	7.8%	15,541	7.4%	14.5%
5 to 19	45,742	26.2%	48,738	23.3%	6.5%
20 to 24	15,875	9.1%	18,969	9.1%	19.5%
25 to 34	22,611	12.9%	27,558	13.2%	21.9%
35 to 54	44,853	25.7%	50,078	23.9%	11.6%
55 to 64	13,520	7.7%	22,468	10.7%	66.2%
65 or Older	18,512	10.6%	25,881	12.4%	39.8%
<b>Total</b>	<b>174,682</b>	<b>100.0%</b>	<b>209,233</b>	<b>100.0%</b>	<b>19.8%</b>

More information regarding the elderly population was also collected from the 2000 and 2010 Census counts, as shown in Table II.3. While this group as a whole expanded by 39.8 percent over the decade, the share of persons aged 85 years or older rose by more than 52.7 percent, and those from the age of 80 to 85 rose 72.7 percent. These are incredibly fast growth rates. These particular age groups tend to have a higher incidence of frailties, such as difficulties with activities of daily living (ADLs). Two or more ADLs can be interpreted as an individual with disabilities. Hence, the older disabled age cohort expanded quite rapidly in Doña Ana County.

**Table II.3**  
**Elderly Population by Age**

Doña Ana County  
2000 & 2010 Census SFI Data

Age	2000 Census		2010 Census		% Change 00-10
	Population	% of Total	Population	% of Total	
65 to 66	2,422	13.1%	3,421	13.2%	41.2%
67 to 69	3,351	18.1%	4,641	17.9%	38.5%
70 to 74	5,065	27.4%	6,543	25.3%	29.2%
75 to 79	3,783	20.4%	4,914	19.0%	29.9%
80 to 84	2,102	11.4%	3,631	14.0%	72.7%
85 or Older	1,789	9.7%	2,731	10.6%	52.7%
<b>Total</b>	<b>18,512</b>	<b>100.0%</b>	<b>25,881</b>	<b>100.0%</b>	<b>39.8%</b>

## POPULATION BY RACE AND ETHNICITY

Between the 2000 and 2010 censuses, the total population in Doña Ana County increased sharply, as noted previously. The racial and ethnic composition of the County also changed. Whites increased their share of the total population from 67.8 percent to 74.1 percent, with a substantive decline in the “other” and two or more race groups, as seen in Table II.4 on the following page. Furthermore, the Hispanic population continued its’ expansion, rising to some 65.7 percent of the entire population of Doña Ana County.

**Table II.4**

**Population by Race and Ethnicity**

Doña Ana County

2000 & 2010 Census SFI Data

Race	2000 Census		2010 Census		% Change 00-10
	Population	% of Total	Population	% of Total	
White	118,478	67.8%	154,989	74.1%	30.8%
Black	2,723	1.6%	3,656	1.7%	34.3%
American Indian	2,580	1.5%	3,147	1.5%	22.0%
Asian	1,330	.8%	2,227	1.1%	67.4%
Native Hawaiian/ Pacific Islander	117	.1%	185	.1%	58.1%
Other	43,209	24.7%	38,685	18.5%	-10.5%
Two or More Races	6,245	3.6%	6,344	3.0%	1.6%
<b>Total</b>	<b>174,682</b>	<b>100.0%</b>	<b>209,233</b>	<b>100.0%</b>	<b>19.8%</b>
<b>Non-Hispanic</b>	64,017	36.6%	71,719	34.3%	12.0%
<b>Hispanic</b>	110,665	63.4%	137,514	65.7%	24.3%

The geographic distribution of racial and ethnic groups can vary significantly throughout an area. HUD has determined that an area demonstrates a disproportionate share of a particular population in a smaller subsection of an area when the percentage of that population is 10 percentage points or more above the study area average. For example, Doña Ana County’s black population represented 1.7 percent in 2010. If an area were to exceed 11.7 percent, then there would be a disproportionate share, or an overconcentration of such a population.

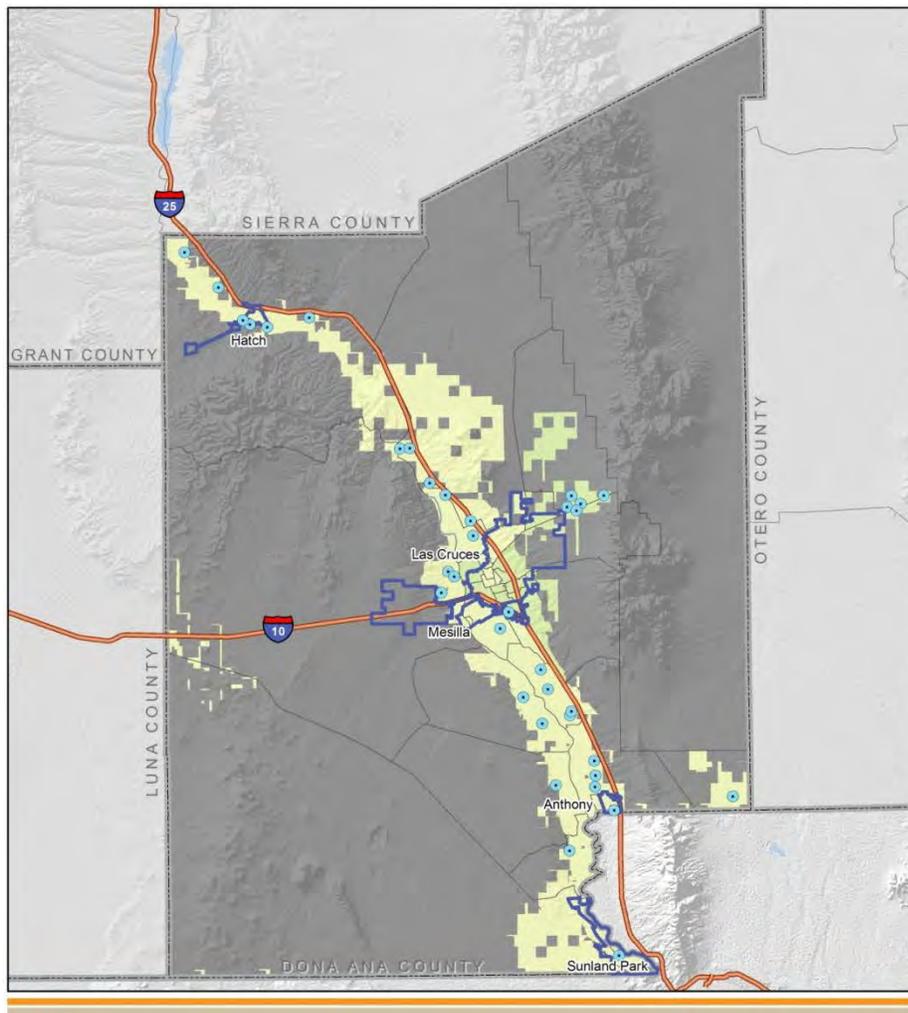
This analysis of racial and ethnic distribution was conducted by calculating race or ethnicity as the percentage of total population within each Census tract and then plotting the data on a geographic map for both 2000 and 2010. In this fashion, any over-concentrations of such populations can be seen, as well as the changes in such concentrations over time.

The disproportionate share of Hispanic persons was calculated from the 2010 Census as well. Overall, we see a rise in the Hispanic population, so Census tracts with concentrations above 75 percent would also indicate that an overconcentration of the Hispanic population existed in the County.

Map II.1, on the following page, presents the distribution of the concentration of black persons in 2000, an average of 1.6 percent. No Census tracts had disproportionate concentrations of black residents. The highest rates seen, above the average but below the disproportionate share threshold of 11.6 percent, were generally in the eastern side of the County and in the city of Las Cruces.

## Map II.1 Black Population by Census Tract

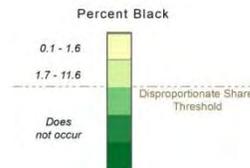
Doña Ana County  
2000 Census Data



### 2000 Black Population Distribution

2000 Average Black Population Among All Census Tracts in Doña Ana County = 1.6%  
Disproportionate Share Threshold = 11.6% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

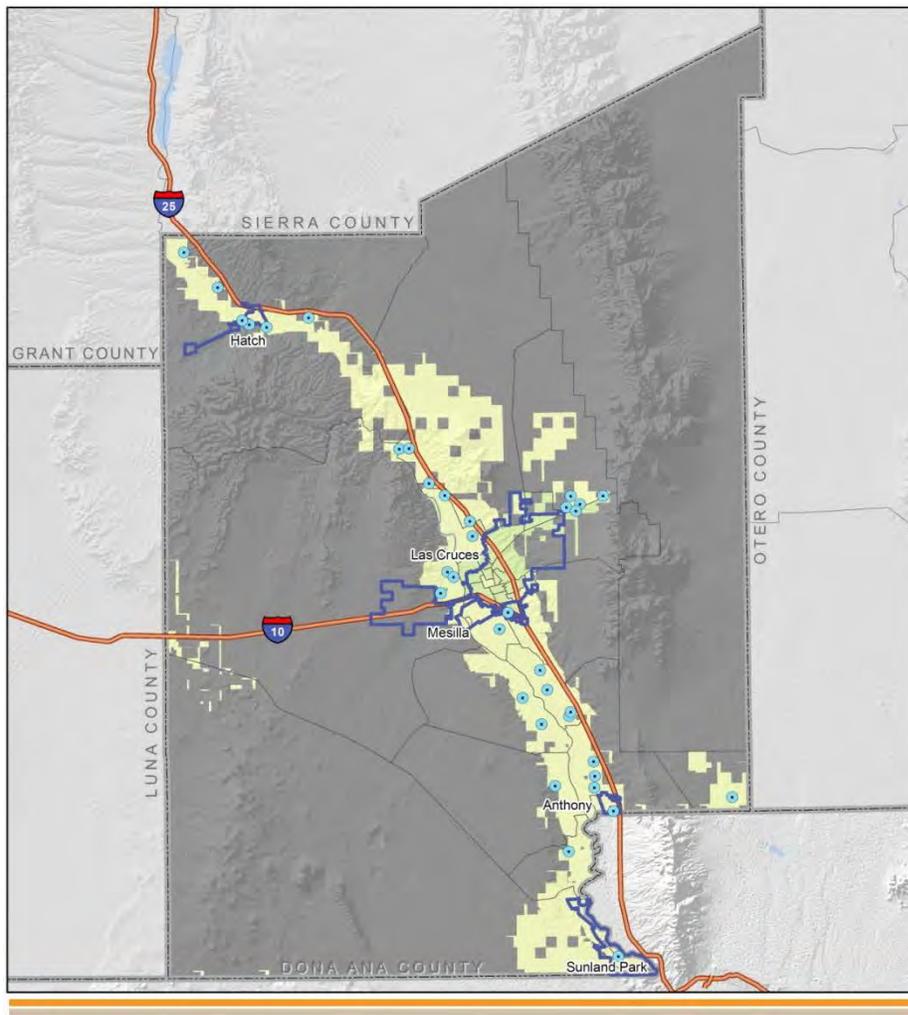


Data Source: 2000 Census, USGS, New Mexico State Land Office

The share of the total Black population rose only slightly over the decade, up from 1.6 to 1.7 percent. However, in 2010, one tract did hold a disproportionate share of black persons: the large tract making up most of the eastern side of the County and associated with the military installations there, was made up by 12.0 percent black persons. These are shown in Map II.2, on the following page.

## Map II.2 Black Population by Census Tract

Doña Ana County  
2010 Census Data



0 2.75 5.5 11 16.5 Miles

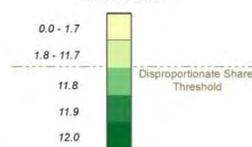


### 2010 Black Population Distribution

2010 Average Black Population Among All Census Tracts in Doña Ana County = 1.7%  
Disproportionate Share Threshold = 11.7% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

-  Colonias
-  City, Town, and Village Boundaries
-  Major Roads
-  Census Tract Boundaries
-  County Boundaries
-  Federal and State Owned Land

### Percent Black

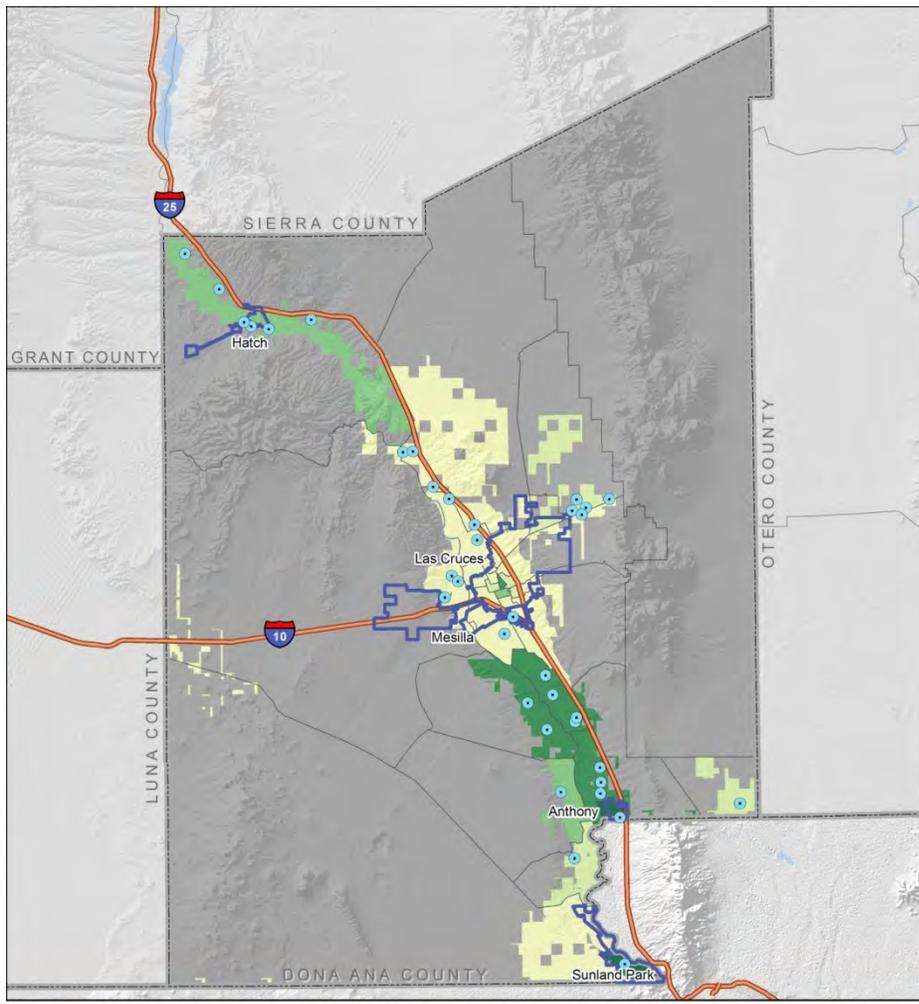


Data Source: 2010 Census, USGS, New Mexico State Land Office

Map II.3 shows the distribution of the Hispanic population in 2000. In that year, 63.4 percent of Doña Ana County's population were of Hispanic ethnicity (and any race), and several Census tracts showed disproportionate shares exceeding 93.1 percent. The highest concentrations of Hispanic persons were observed in Sunland Park, reaching as much as 97.9 percent. Around the colonias near Anthony, the concentration was between 83.1 to 93.0 percent.

## Map II.3 Hispanic Population by Census Tract

Doña Ana County  
2000 Census Data



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0 2.75 5.5 11 16.5  
Miles

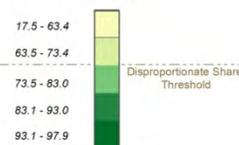


### 2000 Hispanic Population Distribution

2000 Average Hispanic Population Among All Census Tracts in Doña Ana County = 63.4%  
Disproportionate Share Threshold = 73.4% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

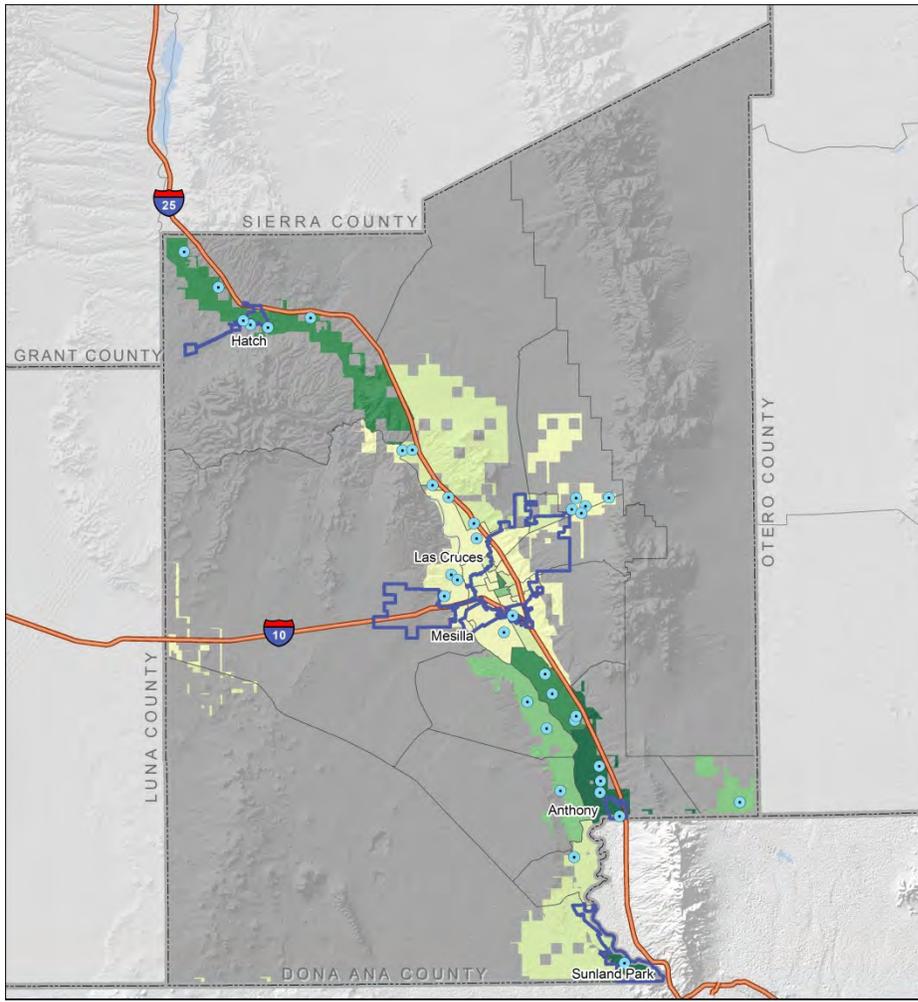
### Percent Hispanic



Data Source: 2000 Census, USGS, New Mexico State Land Trust

As shown in Map II.4, by 2010 the Hispanic population had experienced a small increase in share (65.7 percent countywide), but had increased dramatically in concentration in some areas. Tracts around Hatch and the surrounding colonias, as well as around the colonias southeast of Las Cruces, had increased to more than 84.1 and more than 92.1 percent, respectively. Sunland Park still held a disproportionate share of more than 92.1 percent.

**Map II.4**  
**Hispanic Population by Census Tract**  
 Doña Ana County  
 2010 Census Data



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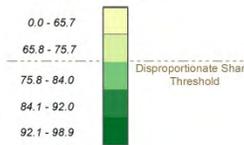


**2010 Hispanic Population Distribution**

2010 Average Hispanic Population Among All Census Tracts in Doña Ana County = 65.7%  
 Disproportionate Share Threshold = 75.7% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

**Percent Hispanic**



Data Source: 2010 Census, USGS, New Mexico State Land Trust

**DISABILITY STATUS**

The Census Bureau defines disability as a lasting physical, mental, or emotional condition that makes it difficult for a person to conduct daily activities of living or impedes him or her from being able to go outside the home alone or to work.

Among all persons aged 5 years or younger, as indicated in the 2011 three-year ACS estimates, 10.4 percent of the Doña Ana County population was disabled, with nearly 54.4 percent of all persons aged 75 or older with disabilities, as shown in Table II.5.

**Table II.5**  
**Disability by Age**

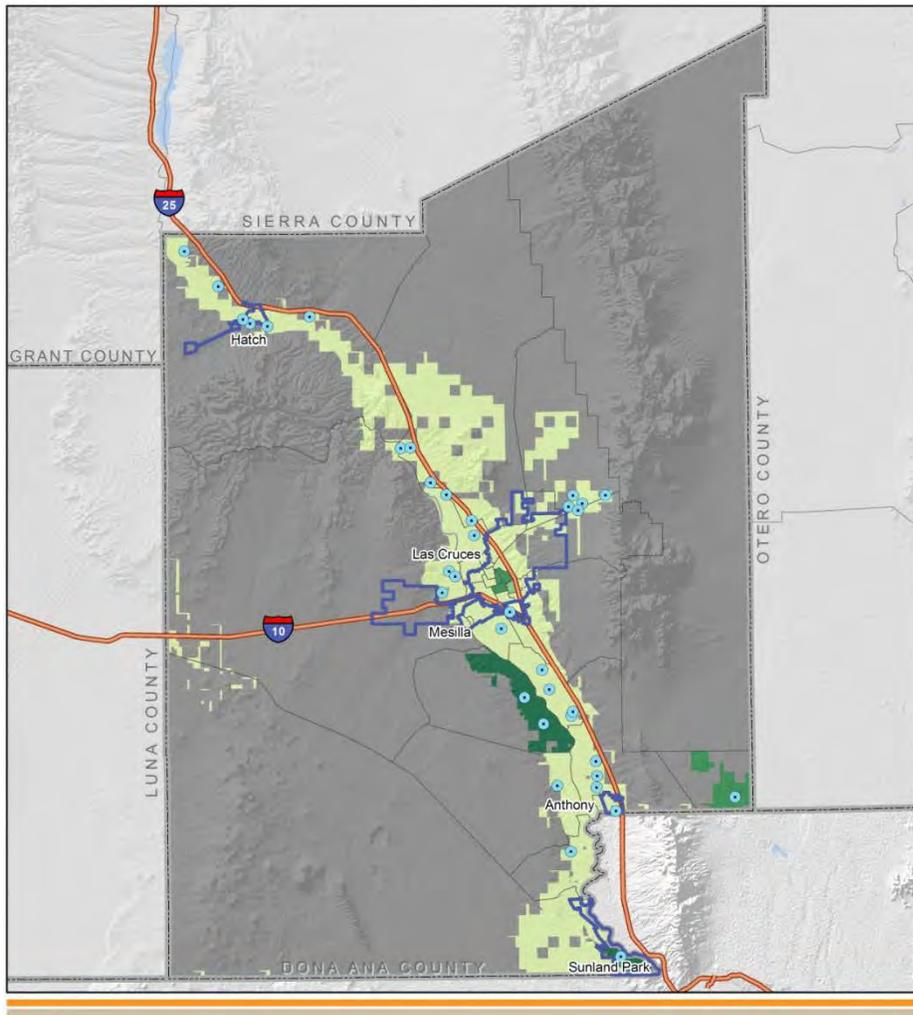
Doña Ana County  
2011 Three-Year ACS Data

Age	Male		Female		Total	
	Disabled Population	Disability Rate	Disabled Population	Disability Rate	Disabled Population	Disability Rate
Under 5	65	.8%	24	.3%	89	.6%
5 to 17	838	4.1%	422	2.1%	1,260	3.1%
18 to 34	1,099	4.2%	1,066	4.0%	2,165	4.1%
35 to 64	4,113	12.5%	3,762	9.8%	7,875	11.1%
65 to 74	1,837	26.3%	2,131	28.2%	3,968	27.3%
75 or Older	2,560	51.3%	3,517	57.0%	6,077	54.4%
<b>Total</b>	<b>10,512</b>	<b>10.6%</b>	<b>10,922</b>	<b>10.3%</b>	<b>21,434</b>	<b>10.4%</b>

Disability data from the ACS are not available by Census tract, as it is for a variety of other concepts, so geographic distribution of the disabled population in Doña Ana County as of the 2000 Census is presented in Map II.5, on the following page. As shown, disproportionate shares of up to 29.9 percent were seen, primarily in rural tracts such as those south of Mesilla and in the southeastern sectors of the County.

# Map II.5 Disabled Population by Census Tract

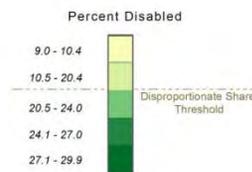
Doña Ana County  
2000 Census Data



### 2000 Disabled Population Distribution

2000 Average Disabled Population Among All Census Tracts in Doña Ana County = 10.4%  
Disproportionate Share Threshold = 20.4% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: 2000 Census, USGS, New Mexico State Land Office

## B. Segregation and Integration

As part of the data evaluation contained within a fair housing equity assessment, a set of computations are designed to test for the presence and degree of segregation or integration. These are quantitative indexes computed from the relative concentrations of selected classes or people within subsets of areas

compared to the larger area. To compute the segregation index for a county, a comparison is made between all Census tracts in the county. The results indicate the relative segregation or integration that occurred there.

While these indexes can give a point-in-time view of the status of a particular area, more interesting are the changes going on in Doña Ana County. Three indexes were computed: the diversity index, a measure of how even or uneven the population is distributed spatially within an area; the isolation index, a measure indicating whether a person of a particular group would meet a person of another group during their day; and the dissimilarity index, a measure of racial uniformity, or lack thereof. In all cases, these indexes range from 0 to 1 in value, with a value of 1 indicating total segregation and a value of 0 indicating total integration.

### SEGREGATION INDEXES

Table II.6 presents quantitative measures of segregation in Doña Ana County, as it relates to the interaction of the black/white and the Hispanic/Non-Hispanic populations, as calculated from the 2000 and 2010 decennial censuses.

The *dissimilarity index*, computed at the Census tract level for each county in Doña Ana County, gives some idea as to the degree that segregation of black and white persons occurs within each county. Again, with a value of 1, an area is totally segregated and with a value of 0, an area is totally integrated. HUD PDR data documentation also provides some insight into what these particular statistics mean. HUD suggests that an index value of .40 or less indicates low segregation, a value of .41 to .54 indicates moderate segregation; and a value of .55 or more suggests high segregation. As noted in Table II.6, Doña Ana County is an area with low segregation.

In a *diversity index*, a value of 1 indicates that all tracts have the same composition as the larger area, and a value of 0 indicates that all tracts have only one population subgroup. Doña Ana County has relatively little racial or ethnic diversity, due to the low level of non-white racial populations and their spatial distribution, as noted in Table II.6

An *isolation index* presents the propensity for a minority member to be exposed only to other minority members when leaving the house, with higher values representing greater isolation, and hence more segregation, and low values indicated less isolation. These values are quite low in Doña Ana County. In general, Doña Ana has relatively little racial or ethnic segregation, as defined by these segregation indexes.

### C. Economics

Data describing the economy are presented in the following section. This information highlights additional aspects to the factors influencing housing choice and the distribution of equity.

**Table II.6**  
**Segregation Indexes**

Doña Ana County  
2000 and 2010 Census Data

Group	2000	2010
Dissimilarity Index		
Black/White	0.29	0.26
Hispanic	0.35	0.35
Diversity Index		
Black/White	0.06	0.05
Hispanic	0.15	0.14
Isolation Index		
Black/White	0.01	0.01
Hispanic	0.06	0.06

## LABOR FORCE AND EMPLOYMENT

Data regarding the labor force, defined as the total number of persons working or looking for work, was gathered from the Bureau of Labor Statistics (BLS). Diagram II.1 graphically presents Doña Ana County's labor force and employment and the trends since 1990. The gap between the labor force and the number of employed persons represents the level of unemployment. As shown in Diagram II.1, the growth in both labor force and employment has been steady in the County since the early 1990s, though there was a slight decline and then slow in growth in employment after 2007.

Diagram II.1  
Labor Force and Total Employment

Doña Ana County  
1990–2011 | BLS Annual Data

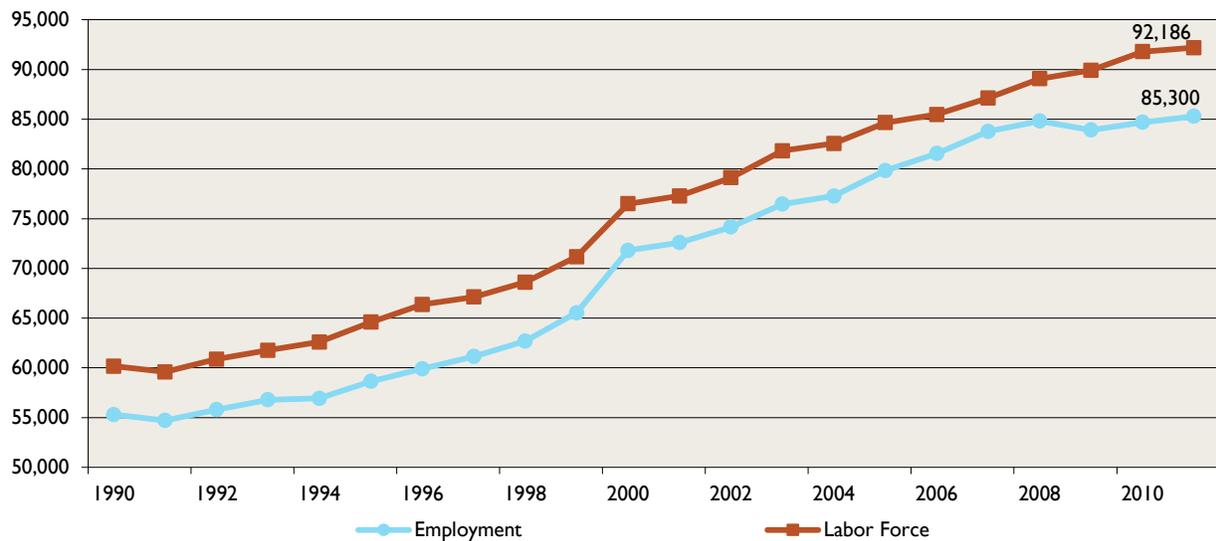
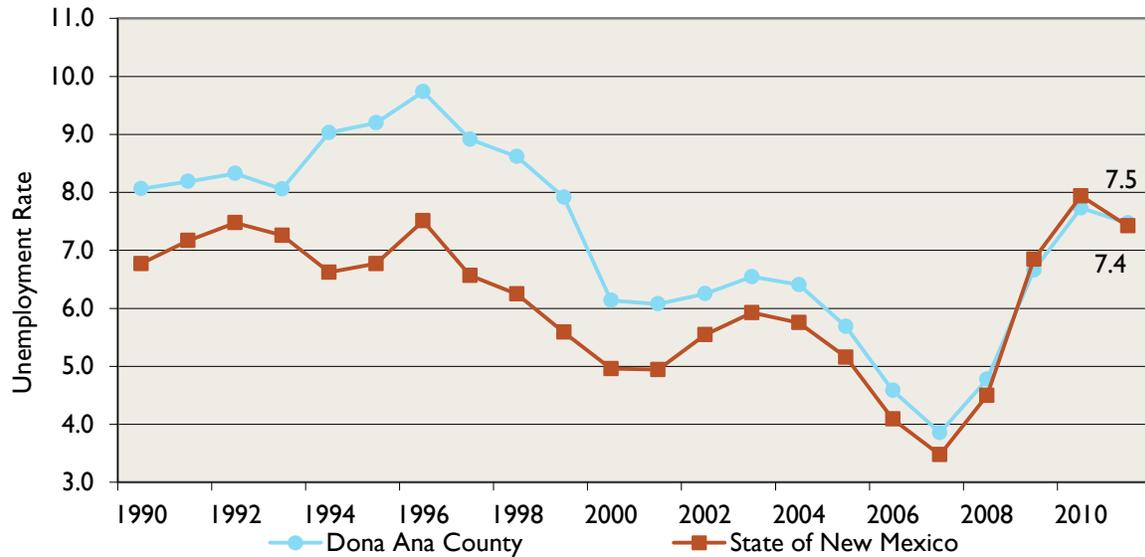


Diagram II.2. below, presents the yearly unemployment rates for Doña Ana County over this same period as compared to rates for the State of New Mexico. In the 1990s, unemployment was far higher in the County than in the rest of the state, although after 2007 and 2008 this gap greatly decreased, and in 2011 the County's rate was 7.5 as compared to 7.4 statewide.

## Diagram II.2 Unemployment Rates

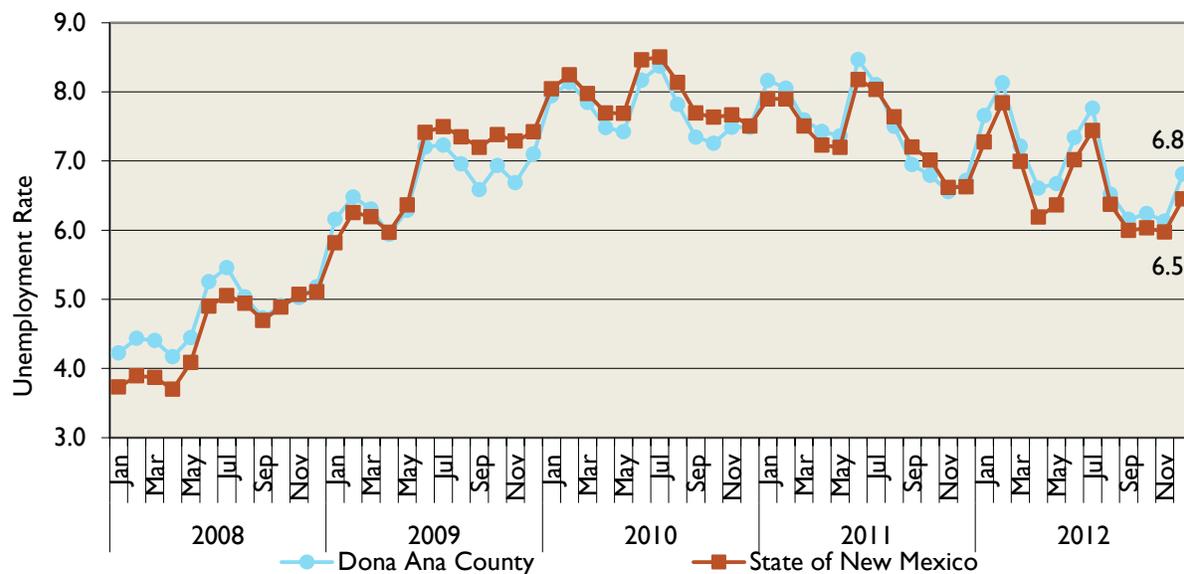
Doña Ana County  
1990–2011 | BLS Annual Data



When examined by month, dramatic seasonal fluctuation in unemployment rates can be seen, as shown in Diagram II.3. These changes in Doña Ana County were largely consistent with New Mexico changes, with unemployment rates quite seasonal in nature, highest in midwinter and early summer in all years.

## Diagram II.3 Monthly Unemployment Rates

Doña Ana County  
1990–2011 | BLS Annual Data

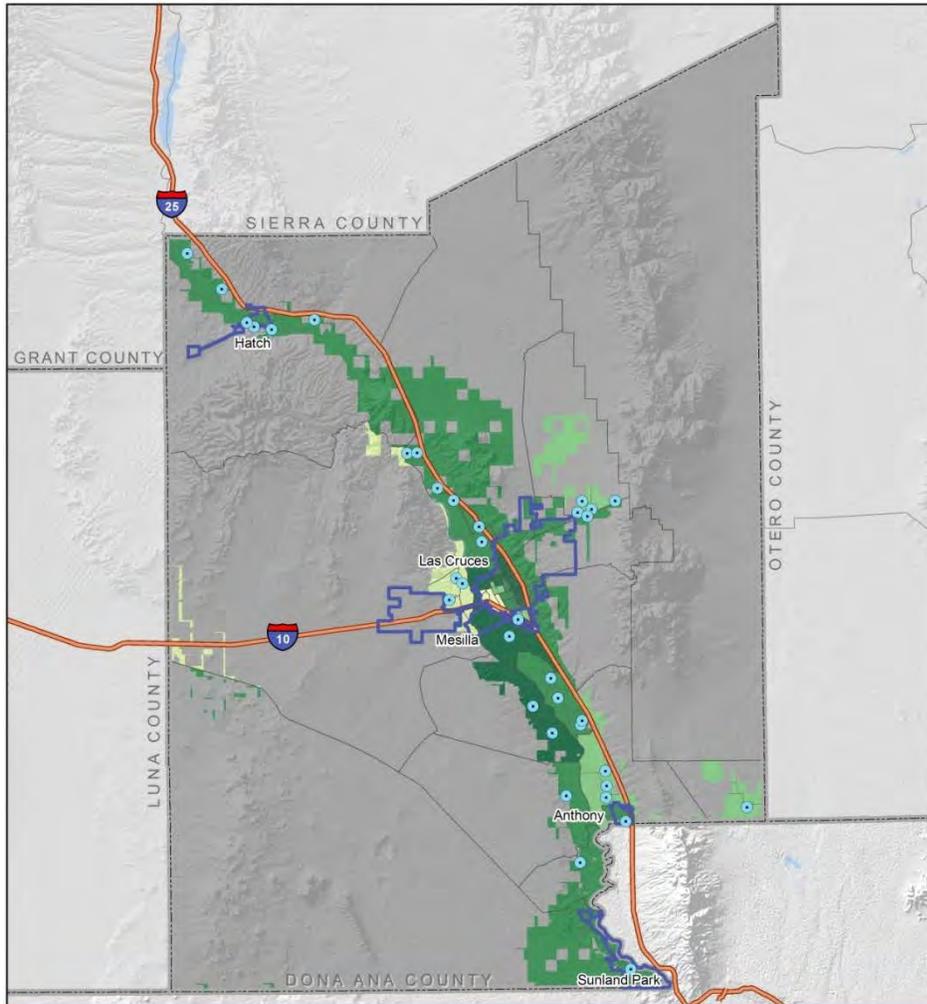


In addition, labor force participation rates varied significantly over Doña Ana County, as shown in Map II.6. The labor force participation rates, as computed by HUD's Office of Policy Development and

Research (PDR), were scattered across the urbanized and more rural areas of Doña Ana County, with rates as low as 39.7 percent seen in Las Cruces and rates as high as 88.6 seen in several areas.

### Map II.6 Labor Force Participation Rate by Block Group

Doña Ana County  
2012 HUD PDR Data

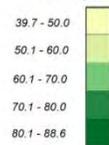


#### HUD Labor Force Participation Rate

The labor force participation rate for every tract as a whole is assigned to each block group within that tract.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

#### Labor Force Participation Rate



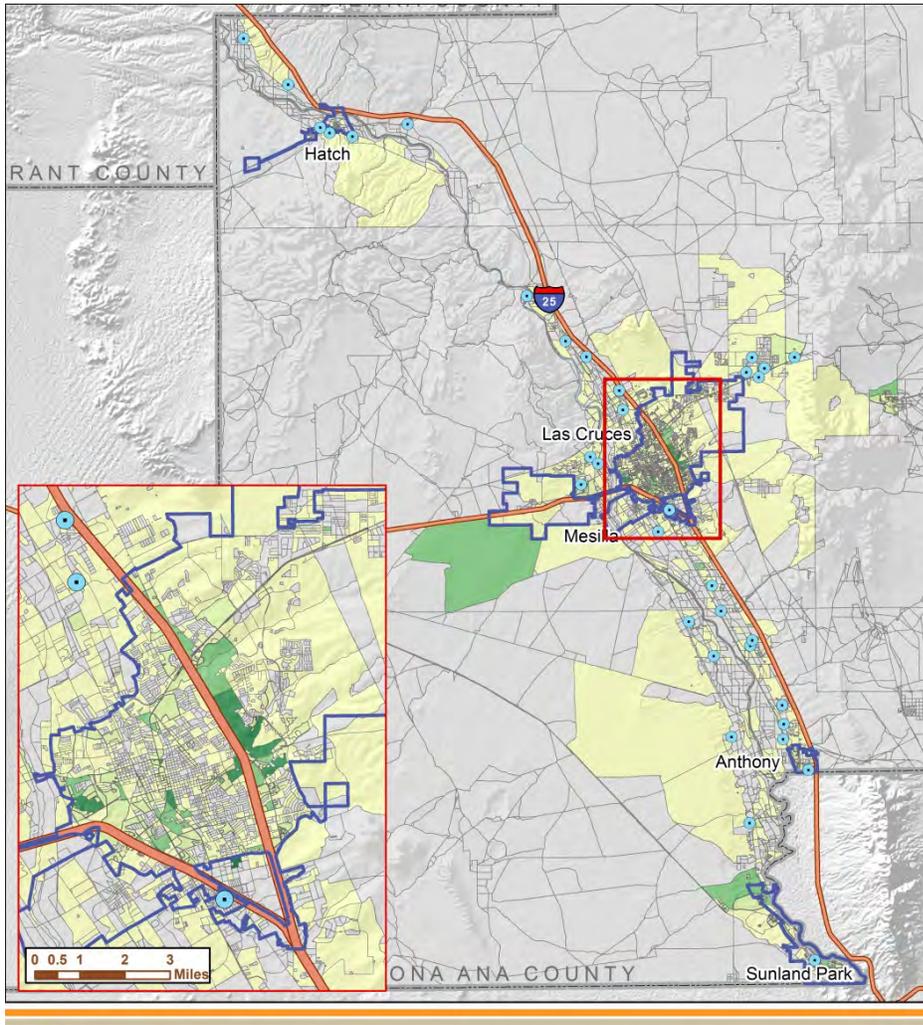
Data Source: 2012 HUD PDR, USGS, New Mexico State Land Office

Another measure of employment comes from the Census Bureau's Longitudinal Employer-Household Dynamics (LEHD) employment statistics. These data show the number of employees per Census block, and are shown for 2010 in Map II.7. As shown, many blocks had no employees, but several blocks in Las

Cruces employed up to 4,267 people. Blocks with up to 600 employees were also located in more rural areas east and west of Las Cruces and north of Sunland Park.

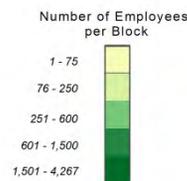
### Map II.7 Concentration of Employees

Doña Ana County  
2010 LEHD Data



#### 2010 Concentration of Employees per Block

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Block Boundaries
- County Boundaries

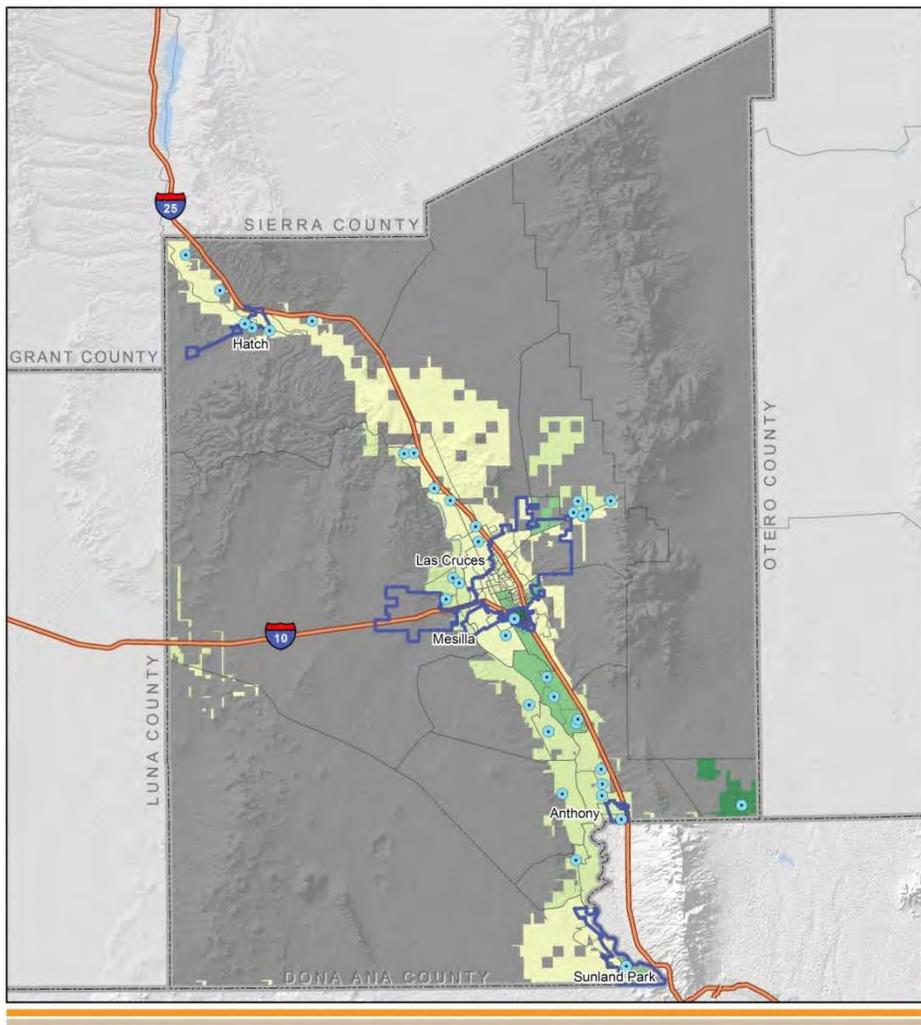


Data Source: 2010 LEHD

Map II.8 presents unemployment rates by Census tract across Doña Ana County, as reported by HUD PDR. As shown, some of these areas were also tracts with the highest rates of Hispanic or disabled persons, as presented previously.

## Map II.8 Unemployment Rate by Block Group

Doña Ana County  
2012 HUD PDR Data

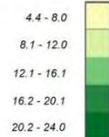


### HUD Unemployment Rate

The unemployment rate for every tract as a whole is assigned to each block group within that tract.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

### Unemployment Rate



Data Source: HUD PDR 2012, USGS, New Mexico State Land Office

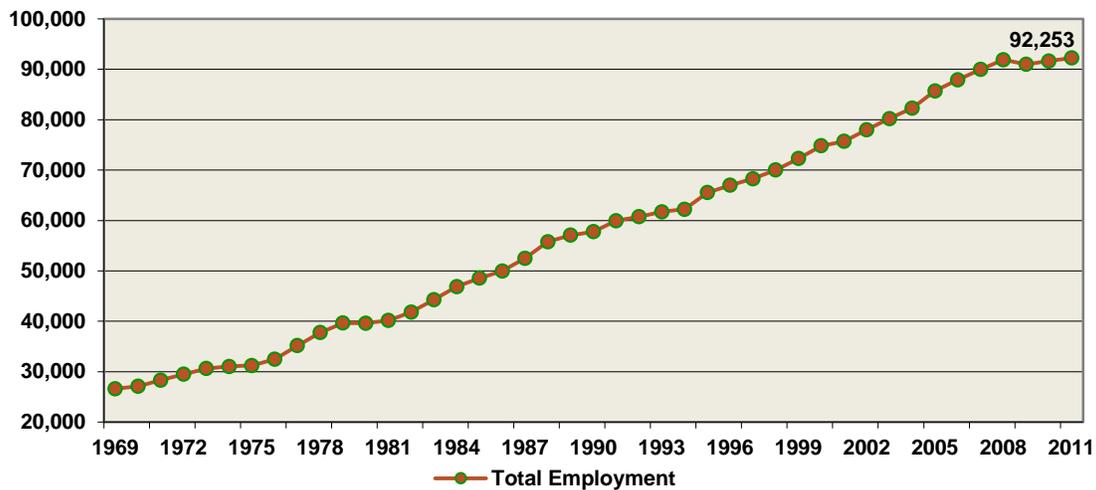
## FULL- AND PART-TIME EMPLOYMENT AND EARNINGS

The Bureau of Economic Analysis (BEA) provides an alternate view of employment: a count of both full- and part-time jobs.<sup>2</sup> Thus, a person working more than one job can be counted more than once. As

<sup>2</sup> Data are, in part, from administrative records, and the most current BEA data available were through 2011.

shown in Diagram II.4, total number of jobs in Doña Ana County, grew steadily over the period until it declined slightly after 2008. Nonetheless, the number of jobs grew from less than 30,000 in 1969 to more than 92,250 in 2011. Growth returned after 2009, though at a far slower rate than before the recession.

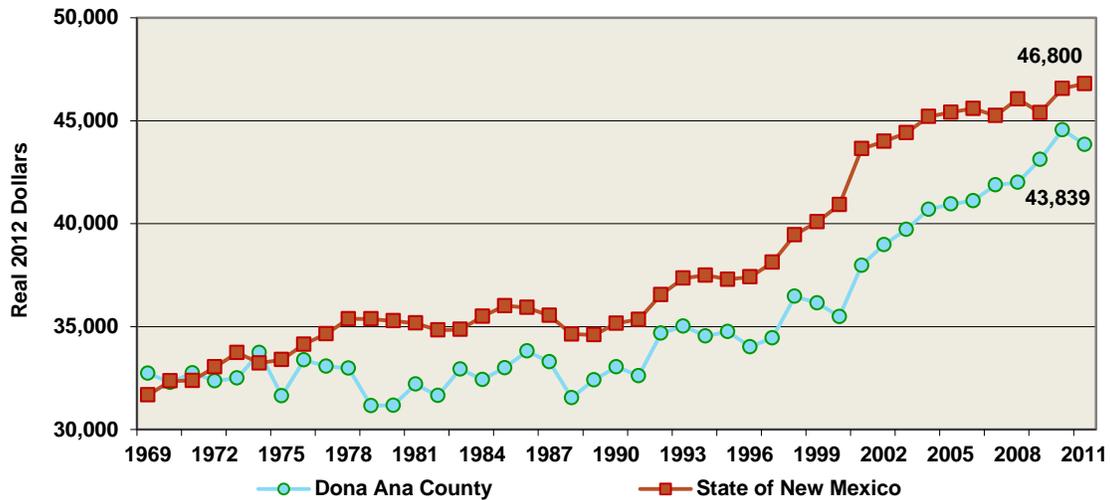
**Diagram II.4**  
**Total Full- and Part-Time Employment**  
 Doña Ana County  
 1969–2010 BEA Data



It is also important to compare the wages that workers experienced during recent harder economic times. Measuring average earnings per job is one method. When the total earnings from employment is divided by the number of jobs and then deflated to remove the effects of inflation, average real earnings per job is determined. Diagram II.5 shows real average earnings per job in Doña Ana County. While these numbers staggered over the 1970s, 1980s, and 1990s, they increased steadily in the 2000s. A sharp decline was then seen after 2010. Since the 1970s, earnings in Doña Ana County were consistently lower than the same figures across the state.

## Diagram II.5 Real Average Earnings Per Job

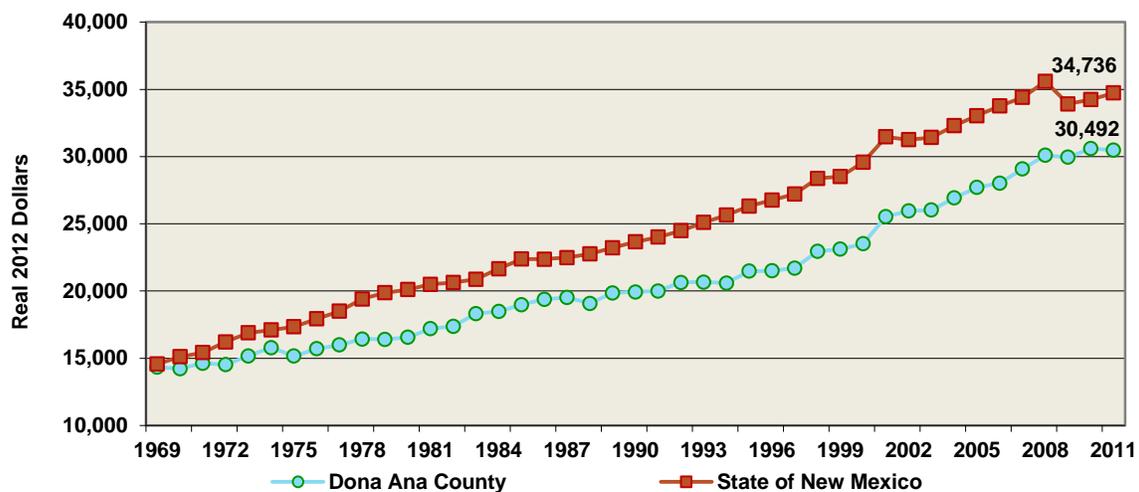
Doña Ana County  
1969–2011 | BEA Data, 2012 Dollars



Another gauge of economic health involves income from all sources: wages earned; transfer payments; and property income such as dividends, interest, and rents. When these figures are added together and divided by population, per capita income is determined. Diagram II.6 shows real per capita income in Doña Ana County from 1969 through 2011. Over the 40-year period, per capita income grew fairly steadily, though incomes did not increase as dramatically in the County as they did statewide. In 2009, this measure of economic well-being declined, and increased more slowly after that year.

## Diagram II.6 Real Per Capita Income

Doña Ana County  
1969–2011 | BEA Data, 2012 Dollars



## HOUSEHOLD INCOME

Table II.7 presents the number of households in Doña Ana County by income range, as derived from the 2000 Census count and the 2011 five-year ACS estimates. In 2000, 25.3 percent of households had incomes under \$15,000, and an additional 17.3 percent had incomes between \$15,000 and \$24,999. The largest shares were of households earning between \$35,000 and \$49,999, which comprised some 16 percent of all households. More recent ACS data showed that the percentage of households with incomes of less than \$15,000 decreased to 18.6, and the other lower-income categories decreased as well. The shares of households earning \$50,000 and more all increased. These findings suggest that incomes in the County improved between 2000 and 2011.

**Table II.7**  
**Households by Income**

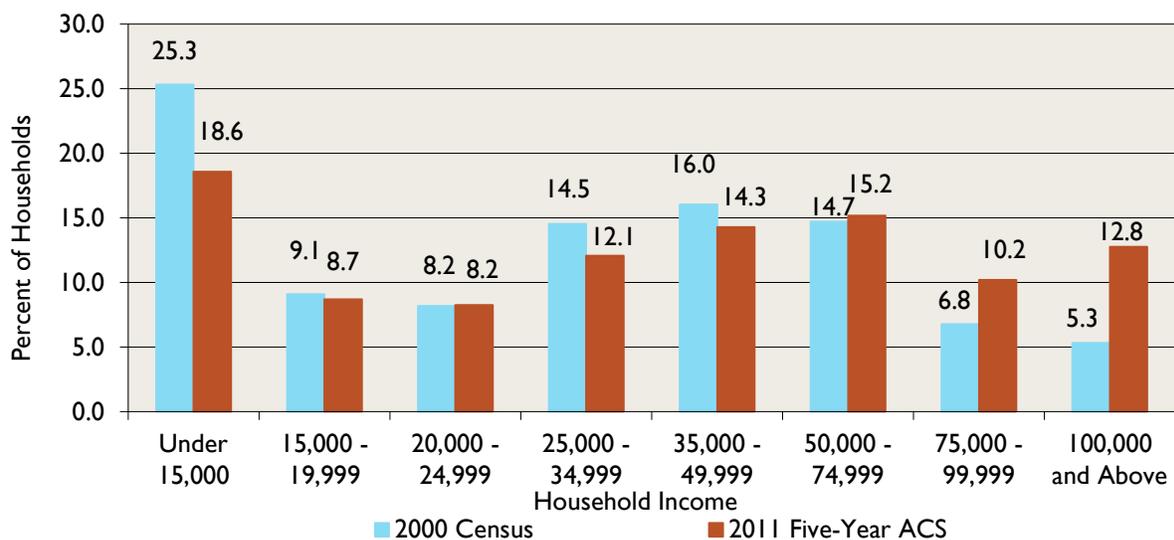
Doña Ana County  
2000 Census SF3 & 2011 Five-Year ACS Data

Income	2000 Census		2011 Five-Year ACS	
	Households	% of Total	Households	% of Total
Less than \$15,000	15,069	25.3%	13,514	18.6%
\$15,000 to \$19,999	5,405	9.1%	6,324	8.7%
\$20,000 to \$24,999	4,868	8.2%	5,998	8.2%
\$25,000 to \$34,999	8,645	14.5%	8,776	12.1%
\$35,000 to \$49,999	9,544	16.0%	10,400	14.3%
\$50,000 to \$74,999	8,746	14.7%	11,043	15.2%
\$75,000 to \$99,999	4,038	6.8%	7,413	10.2%
\$100,000 or More	3,164	5.3%	9,280	12.8%
<b>Total</b>	<b>59,479</b>	<b>100.0%</b>	<b>72,748</b>	<b>100.0%</b>

Diagram II.7 presents these income distributions graphically and further demonstrates the shift from lower- to higher-income households over time.

**Diagram II.7**  
**Households by Income**

Doña Ana County  
2000 Census SF3 & 2011 Five-Year ACS Data



## POVERTY

The Census Bureau uses a set of income thresholds that vary by family size and composition to determine poverty status. If a family's total income is less than the threshold for its size, then that family, and every individual in it, is considered poor. The poverty thresholds do not vary geographically, but they are updated annually for inflation using the Consumer Price Index. The official poverty definition counts income before taxes and does not include capital gains and non-cash benefits such as public housing, Medicaid, and food stamps. Poverty is not defined for persons in military barracks, institutional group quarters, or for unrelated individuals under age 15 such as foster children.

In Doña Ana County the poverty rate in 2000 was 25.4 percent, with 43,054 persons considered to be living in poverty, as shown in Table II.8. There were 6,059 children aged 5 and below living in poverty at that time, in addition to 2,323 persons aged 65 and older. The 2011 ACS data showed that poverty in Doña Ana County increased very slightly to 25.6 percent, but with the large growth in population, and very small increase in the poverty rate, many more people fell into poverty, some 51,167 persons.

**Table II.8**  
**Poverty by Age**

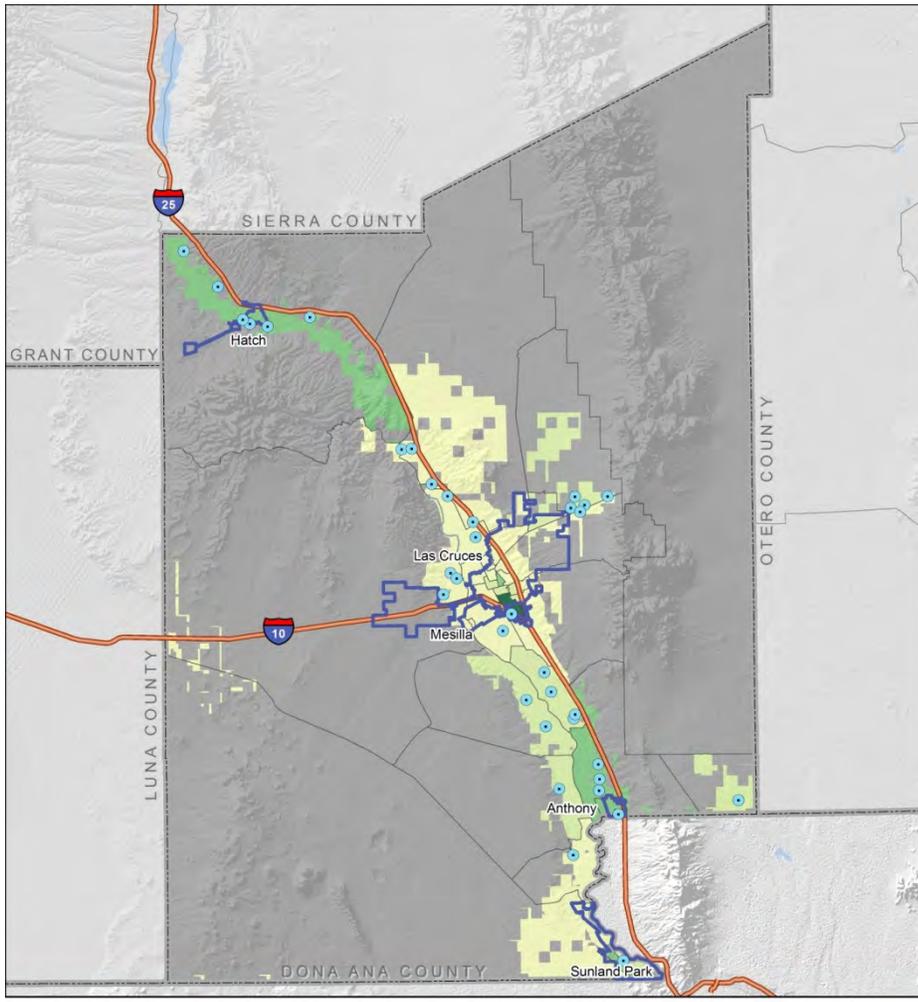
Doña Ana County  
2000 Census SF3 & 2011 Five-Year ACS Data

Age	2000 Census		2011 Five-Year ACS	
	Population in Poverty	% of Total	Population in Poverty	% of Total
Under 6	6,059	14.1%	8,054	15.7%
6 to 17	11,635	27.0%	11,708	22.9%
18 to 64	23,037	53.5%	27,829	54.4%
65 or Older	2,323	5.4%	3,576	7.0%
<b>Total</b>	<b>43,054</b>	<b>100.0%</b>	<b>51,167</b>	<b>100.0%</b>
<b>Poverty Rate</b>	<b>25.4%</b>	.	<b>25.6%</b>	.

Poverty was not spread evenly throughout the County, as some Census tracts had much higher rates of poverty than did others. Map II.9 presents the poverty rates in 2000 geographically. Census tracts that had a disproportionate share of persons living in poverty were those areas where the poverty rate was 35.4 percent or higher. As shown, disproportionate shares were seen around the colonias around Hatch and the southeastern part of the County, and rates as high as 53.1 percent were seen in southern Las Cruces.

# Map II.9 Poverty Rate by Census Tract

Doña Ana County  
2000 Census Data



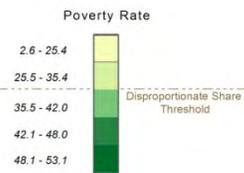
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BUILDING A SUSTAINABLE FUTURE | CONSTRUYENDO UN FUTURO SOSTENIBLE



### 2000 Poverty Rate Distribution

2000 Average Poverty Rate Among All Census Tracts in Doña Ana County = 25.4%  
Disproportionate Share Threshold = 35.4% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

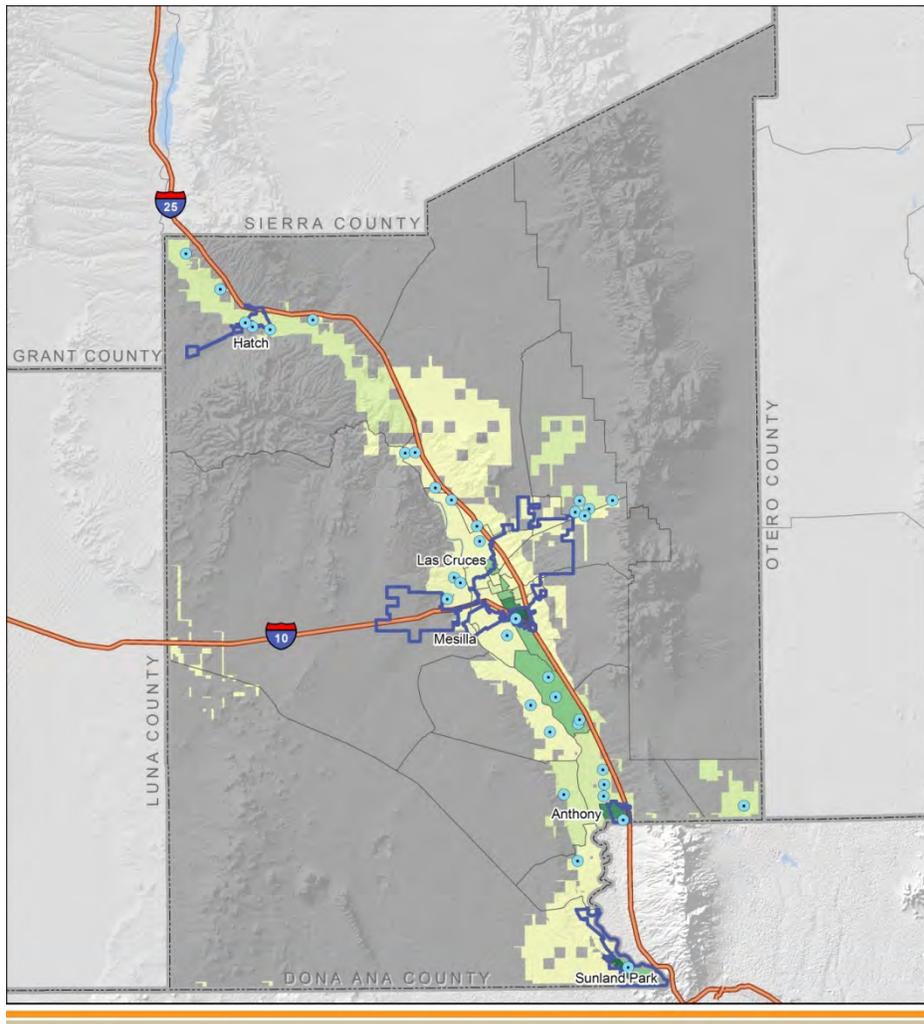
- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: 2000 Census, USGS, New Mexico State Land Office

Data from the 2011 ACS were also mapped to determine the spatial distribution of poverty. As shown in Map II.10, the severity of poverty in the more rural tracts declined, though poverty was still higher than the disproportionate share threshold in some tracts containing colonias communities, south of Las Cruces, as well as in some southern parts of the city.

**Map II.10**  
**Poverty Rate by Census Tract**  
 Doña Ana County  
 2011 Five-Year ACS Data



**2007–2011 Poverty Rate Distribution**

2007–2011 Average Poverty Rate Among All Census Tracts in Doña Ana County = 25.6%  
 Disproportionate Share Threshold = 35.6% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: American Community Survey, 2007-2011, USGS, New Mexico State Land Office

## D. Racially and Ethnically Concentrated Areas of Poverty

The geographic maps presented previously demonstrate that there were areas with high concentrations of poverty. Previously presented in this document are areas with high concentrations of racial and ethnic minorities. Together, these concepts were reviewed in detail by HUD’s definition for a racially concentrated area of poverty (RCAP) or ethnically concentrated area of poverty (ECAP). These areas exist when at least 50 percent of the population is non-white or Hispanic, respectively, and at least 40 percent of the population is in poverty. Hence, this classification system is binary: “yes” or “no” whether the condition exists in the Census tract.

HUD’s FHEA database presents data for racially and/or ethnically concentrated areas using the 2006–2010 five-year ACS data by Census tract. These data are presented in Map II.11 on the following page. As shown, most of these areas were seen in more urbanized areas of Doña Ana County, located in Las Cruces, Sunland Park, and the southernmost colonias.

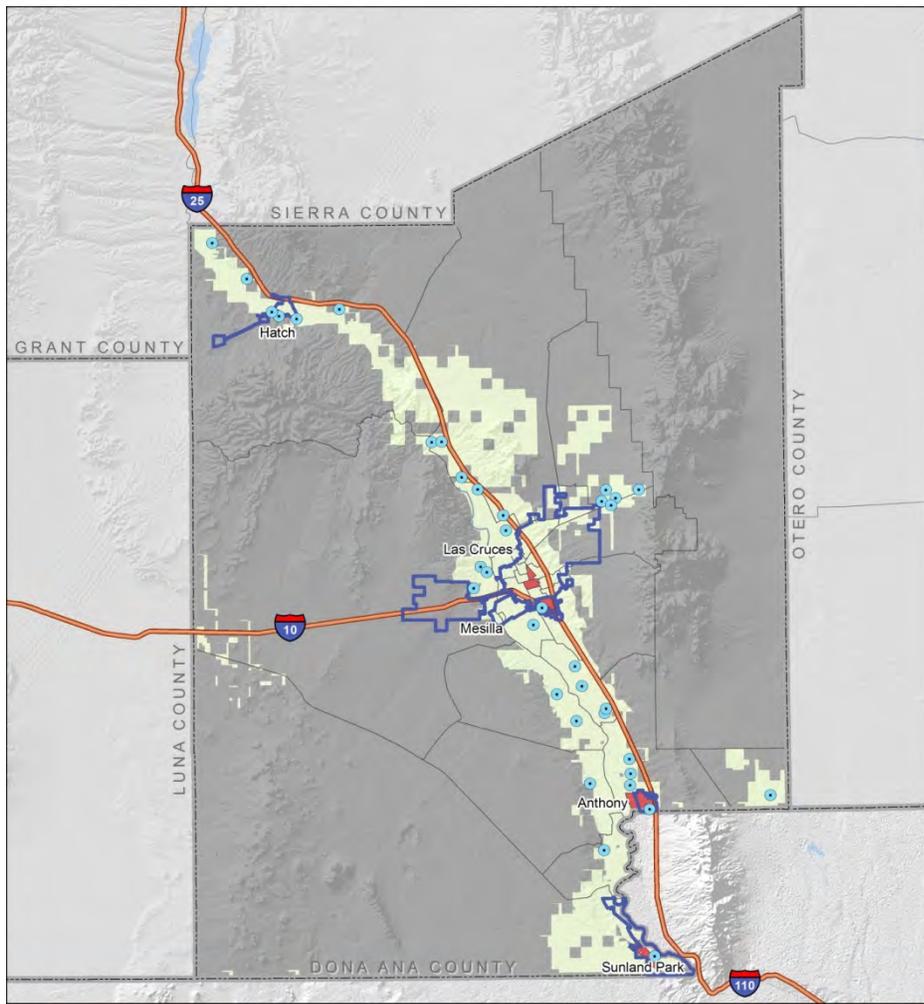
The RCAP and ECAP classification was updated using newer ACS data, as well as separating the racial and ethnic measures to better identify the areas of poverty. The resulting calculations are shown in the following tables and maps. As shown in Table II.9 there were 0 RCAP and 8 ECAP tracts in the County.

**Table II.9**  
**RCAP/ECAP Status**

Doña Ana County  
2000 Census SF3 & 2011 Five-Year ACS Data

Area	Number of Tracts	Race and Poverty	Hispanic and Poverty	Race OR Hispanic and Poverty	% ECAP or RCAP
Doña Ana County	41	0	8	8	19.50%

**Map II.11**  
**Racially/Ethnically Concentrated Areas of Poverty by Census Tract**  
 Doña Ana County  
 2012 HUD PDR Data



**2006–2010 Racially/Ethnically Concentrated Areas of Poverty (HUD PDR)**

A Census tract is considered a racially or ethnically concentrated area of poverty (RCAP/ECAP) when 50 percent or more of the population are non-white and/or Hispanic AND 40 percent or more of the total population are in poverty.

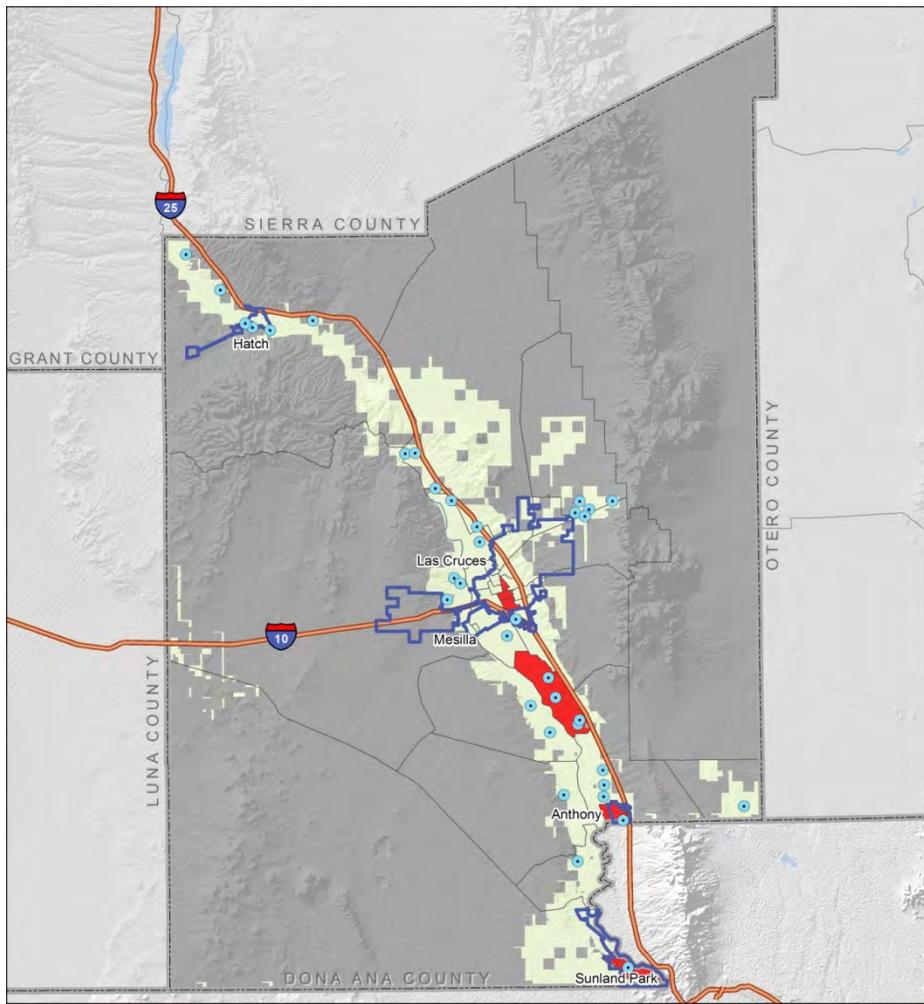
- |                                    |                              |                             |
|------------------------------------|------------------------------|-----------------------------|
| Colonias                           | Census Tract Boundaries      | RCAPs/ECAPs                 |
| City, Town, and Village Boundaries | County Boundaries            | Non RCAP/ECAP Census Tracts |
| Major Roads                        | Federal and State Owned Land |                             |

Data Source: 2006–2010 ACS via HUD PDR 2012, USGS, New Mexico State Land Office

The ECAP areas, shown in Map II.12, on the following page, were located in the cities of Las Cruces and Sunland Park as well as around several colonias southwest of Las Cruces.

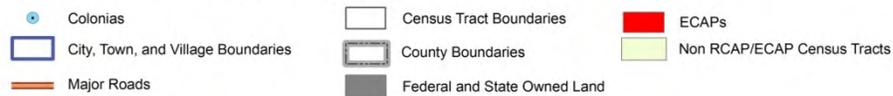
# Map II.12 Ethnically Concentrated Areas of Poverty by Census Tract

Doña Ana County  
2011 Five-Year ACS Data



## 2007–2011 Ethnically Concentrated Areas of Poverty

A Census tract is considered an ethnically concentrated area of poverty (ECAP) when 50 percent or more of the population are Hispanic AND 40 percent or more of the total population are in poverty.



Data Source: 2007–2011 ACS, USGS, New Mexico State Land Office

## E. Housing

Within the demographic and economic trends and influences, residents of Doña Ana County have exercised housing choice. Data presented in the following section document the outcomes of these choices according to several measures.

## CHARACTERISTICS OF THE HOUSING STOCK

Data regarding the number of housing units counted in Doña Ana County are presented in Table II.10. In total, the number of housing units increased by 25 percent between 2000 and 2010, from 65,210 to 81,492 units. During this time, the population of the County increased by 19.8 percent.

The change in the number of housing units demanded can also be examined by occupancy status. Between 2000 and 2010, the number of occupied housing units increased by a 26.8 percent, with renter households rising a rapid 39.6 percent. Consequently, homeownership fell from 67.5 to 64.2 percent, as seen in Table II.11. However, occupied housing units, which represent household formation, occurred at a rate that outpaced the rate of housing unit production. Consequently, the rise in vacant housing was very modest over the last decade

**Table II.10**  
**Housing Units**  
Doña Ana County  
2000 & 2010 Census SFI Data

Year	Units
2000 Census	65,210
2010 Census	81,492
% Change	25.00%

**Table II.11**  
**Housing Units by Tenure**

Doña Ana County  
2000 & 2010 Census SFI Data

Tenure	2000 Census		2010 Census		% Change 00-10
	Units	% of Total	Units	% of Total	
Occupied Housing Units	59,556	91.3%	75,532	92.7%	26.8%
Owner-Occupied	40,208	67.5%	48,514	64.2%	20.7%
Renter-Occupied	19,348	32.5%	27,018	35.8%	39.6%
Vacant Housing Units	5,654	8.7%	5,960	7.3%	5.4%
<b>Total Housing Units</b>	<b>65,210</b>	<b>100.0%</b>	<b>81,492</b>	<b>100.0%</b>	<b>25.0%</b>

## VACANT HOUSING

In regard to these vacant units, a portion of the vacant units in 2000 and 2010 were for rent, for sale, or for seasonal or recreational use. Unfortunately, many housing units are not actually in the housing market; these are neither being for sale or for rent ("other vacant"). This group grew by 17.9 percent, from about 1,763 units to 2,079 units, as noted in Table II.12, below.

**Table II.12**  
**Disposition of Vacant Housing Units**

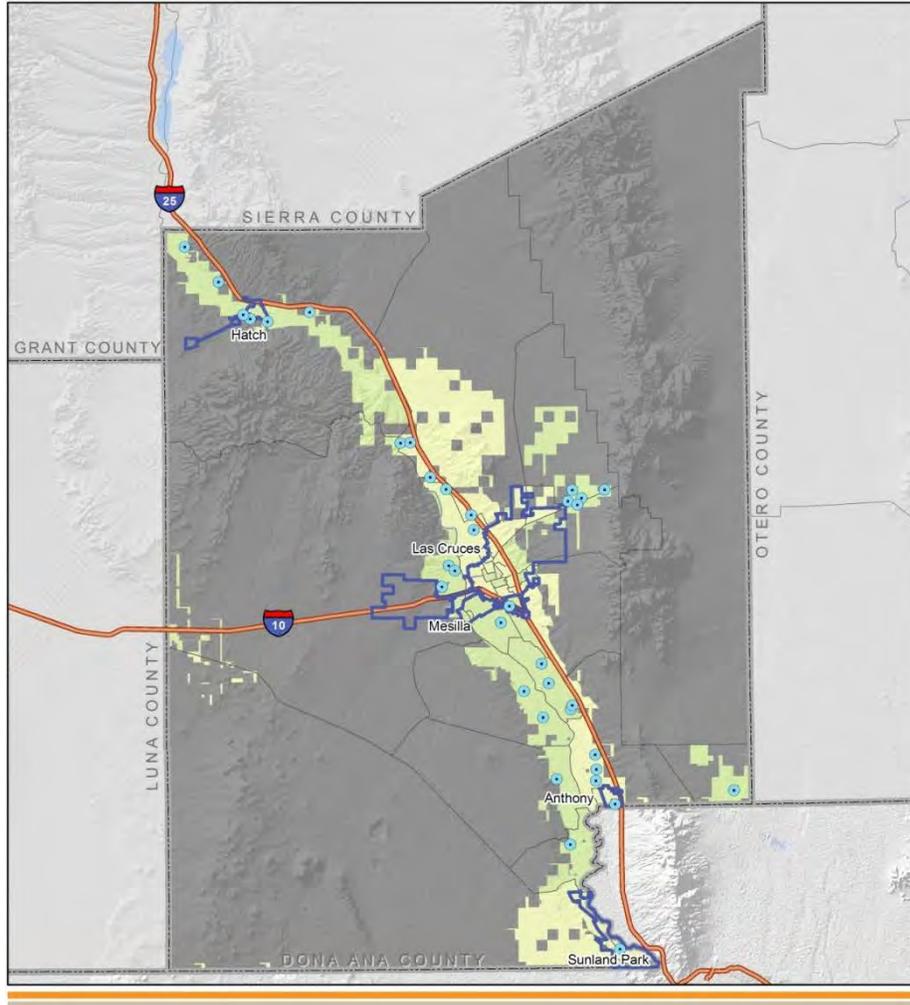
Doña Ana County  
2000 & 2010 Census SFI Data

Disposition	2000 Census		2010 Census		% Change 00-10
	Units	% of Total	Units	% of Total	
For Rent	2,233	39.5%	2,054	34.5%	-8.0%
For Sale	718	12.7%	889	14.9%	23.8%
Rented or Sold, Not Occupied	336	5.9%	242	4.1%	-28.0%
For Seasonal, Recreational, or Occasional Use	551	9.7%	680	11.4%	23.4%
For Migrant Workers	53	0.9%	16	0.3%	-69.8%
Other Vacant	1,763	31.2%	2,079	34.9%	17.9%
<b>Total</b>	<b>5,654</b>	<b>100.0%</b>	<b>5,960</b>	<b>100.0%</b>	<b>5.4%</b>

Map II.13 shows the concentration of vacant units per tract in 2010. The vacancy rate was 7.3 percent countywide and one tract demonstrated a disproportionate share as high as 18.8 percent. This large tract was located on the eastern side of the County. Some tracts in Las Cruces, Hatch, and surrounding rural areas had shares of vacant housing above the average but below the disproportionate share threshold.

### Map II.13 Vacant Housing Units

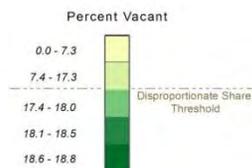
Doña Ana County  
2010 Census Data



#### 2010 Vacant Housing Unit Distribution

2010 Average Vacant Housing Units Among All Census Tracts in Doña Ana County = 7.3%  
Disproportionate Share Threshold = 17.3% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

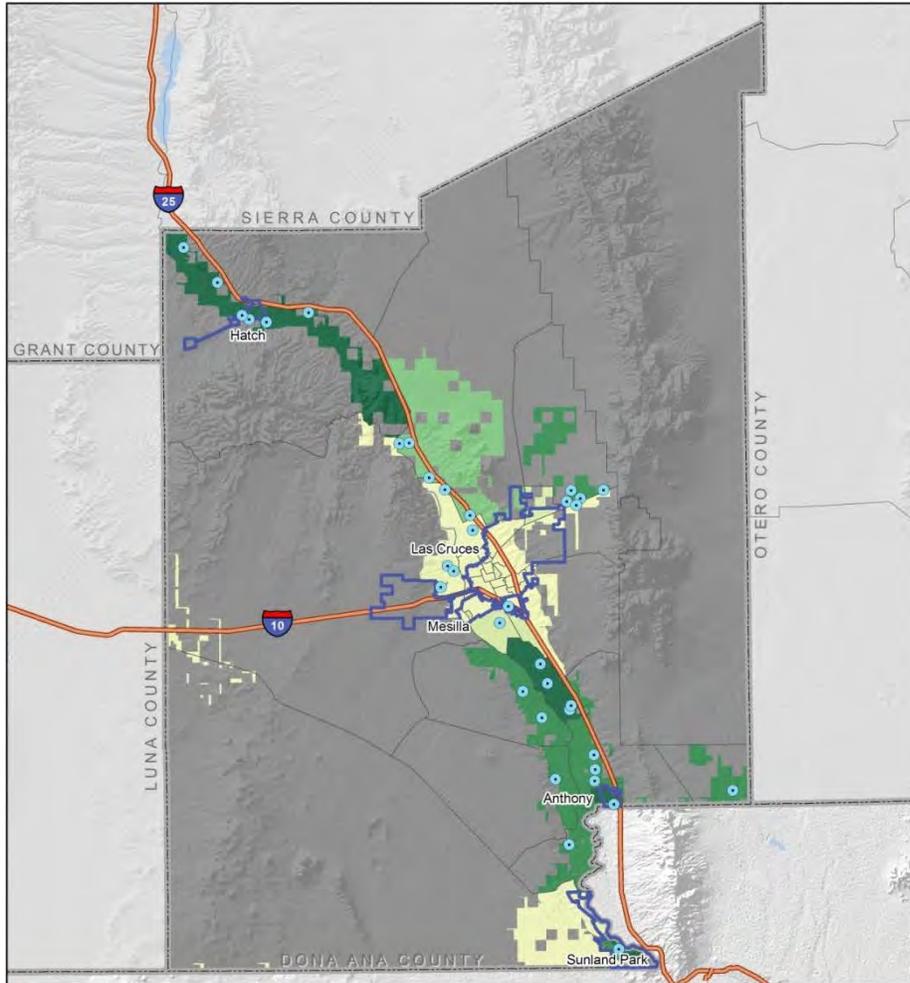


Data Source: 2010 Census, USGS, New Mexico State Land Office

The shares of “other vacant” units are presented in Map II.14. While there were indeed higher concentrations of other vacant housing in the urbanized areas, this problem is also seen in many areas far from the urbanized core of Doña Ana County.

### Map II.14 “Other Vacant” Housing Units

Doña Ana County  
2010 Census Data



#### 2010 "Other Vacant" Vacant Housing Unit Distribution

2010 Average Vacant Housing Units Among All Census Tracts Considered "Other Vacant" = 34.9%  
Disproportionate Share Threshold = 44.9% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: 2010 Census, USGS, New Mexico State Land Office

## HOUSEHOLD SIZE

Housing choices can also be examined by household size. The number of persons per household, as counted in Doña Ana County at the time of the 2000 Census and the 2010 Census, is presented in Table II.14. As shown in the table, while the numbers of all households' size groups is rising, the share of smaller households continues to rise and the share of larger households continues to fall. As noted, the share of one-person households rose from 21.3 to 24.2 percent and the number of two-person households rose from 30.6 percent to 31.6 percent. This is occurring at the same time that four person households fell by 2 percentage points, five person households by 0.7 percentage points; the number of smaller households, with declining persons per households; six person households by 0.5 percentage points, and seven or more person households by 0.4 percentage points.

Table II.14  
Households by Household Size

Doña Ana County  
2000 & 2010 Census SFI Data

Size	2000 Census		2010 Census		% Change 00-10
	Households	% of Total	Households	% of Total	
One Person	12,708	21.3%	18,289	24.2%	43.9%
Two Persons	18,210	30.6%	23,864	31.6%	31.0%
Three Persons	10,201	17.1%	12,623	16.7%	23.7%
Four Persons	9,332	15.7%	10,375	13.7%	11.2%
Five Persons	5,203	8.7%	6,065	8.0%	16.6%
Six Persons	2,311	3.9%	2,583	3.4%	11.8%
Seven Persons or More	1,591	2.7%	1,733	2.3%	8.9%
<b>Total</b>	<b>59,556</b>	<b>100.0%</b>	<b>75,532</b>	<b>100.0%</b>	<b>026.8%</b>

## HOUSING PROBLEMS

The 2000 Census reported some information regarding the physical condition of housing units. These data relate to overcrowding, incomplete plumbing or kitchen facilities, and cost burdens. A householder with one or more of these problems is considered to have all of which can be considered as a housing problem. While these data were not collected during the course of the 2010 Census, data were available for comparison from the 2011 ACS.

### Overcrowding

Overcrowding occurs when a housing unit has more than one person per room but less than 1.5, with severe overcrowding occurring with 1.5 persons per room or more. At the time of the 2000 Census, 3,546 households, or 3.3 percent of Doña Ana County, were overcrowded, and another 5.0 percent or 2,969 of households were severely overcrowded, as shown in Table II.15. This housing problem was considerably more prevalent in renter-occupied households compared to owner-occupied households. On the other hand, overcrowding generally declined over the decade, as presented in the 2011 ACS data, with the share of severely overcrowded households decreasing significantly for both owner- and renter-occupied households.

**Table II.15**  
**Overcrowding and Severe Overcrowding**

Doña Ana County  
 2000 Census SF3 & 2011 Five-Year ACS Data

Data Source	No Overcrowding		Overcrowding		Severe Overcrowding		Total
	Households	%	Households	%	Households	%	
<b>Owner</b>							
2000 Census	36,133	89.9	2,301	5.7	1,767	4.4	40,201
2011 Five-Year ACS	46,724	97.2	1,093	2.3	240	0.5	48,057
<b>Renter</b>							
2000 Census	16,908	87.4	1,245	6.4	1,202	6.2	19,355
2011 Five-Year ACS	23,192	93.9	1,294	5.2	205	0.8	24,691
<b>Total</b>							
2000 Census	53,041	89.1	3,546	6.0	2,969	5.0	59,556
2011 Five-Year ACS	69,916	96.1	2,387	3.3	445	0.6	72,748

### Incomplete Facilities

Incomplete plumbing or kitchen facilities are other indicators of potential housing problems. According to the Census Bureau, a housing unit is classified as lacking complete plumbing facilities when any of the following are not present: piped hot and cold water, a flush toilet, and a bathtub or shower. Likewise, a unit is categorized as deficient when any of the following are missing from the kitchen: a sink with piped hot and cold water, a range or cook top and oven, and a refrigerator.

At the time of the 2000 Census, 524 units, or 0.9 percent of all housing units in the County, were lacking complete plumbing facilities, as shown in Table II.16. The 2011 ACS data showed that the percentage of units with this housing problem decreased to an estimated 379 units, or 0.5 percent.

**Table II.16**  
**Households with Incomplete Plumbing Facilities**

Doña Ana County  
 2000 Census SF3 & 2011 Five-Year ACS Data

Households	2000 Census	2011 Five-Year ACS
With Complete Plumbing Facilities	59,032	72,369
Lacking Complete Plumbing Facilities	524	379
<b>Total Households</b>	<b>59,556</b>	<b>72,748</b>
<b>Percent Lacking</b>	<b>.9%</b>	<b>0.5%</b>

Table II.17 shows the number of housing units with incomplete kitchen facilities in the County. The most recent data reported slightly higher percentages of units with incomplete kitchen facilities than with incomplete plumbing facilities, with 0.7 percent of total units counted as incomplete in 2000 and 0.6 percent in 2010.

**Table II.17**  
**Households with Incomplete Kitchen Facilities**

Doña Ana County  
 2000 Census SF3 & 2011 Five-Year ACS Data

Households	2000 Census	2011 Five-Year ACS
With Complete Kitchen Facilities	59,144	72,304
Lacking Complete Kitchen Facilities	412	444
<b>Total Households</b>	<b>59,556</b>	<b>72,748</b>
<b>Percent Lacking</b>	<b>.7%</b>	<b>.6%</b>

## Cost Burden

The third type of housing problem reported in the 2000 Census was cost burden, which occurs when a household has gross housing costs that range from 30 to 49.9 percent of gross household income; severe cost burden occurs when gross housing costs represent 50 percent or more of gross household income. For homeowners, gross housing costs include property taxes, insurance, energy payments, water and sewer service, and refuse collection. If the homeowner has a mortgage, the determination also includes principal and interest payments on the mortgage loan. For renters, this figure represents monthly rent plus utility charges.

Table II.18 shows that 15.7 percent of all households were cost burdened and 13.1 percent were severely cost burdened in 2000. Nationally at that time, the average Census figures were 16.2 and 11.5 percent, respectively. The 2011 ACS data averages showed that cost burden and severe cost burden increased significantly, to 20.4 and 15.3 percent, respectively. The rates also increased for the subcategories. For example, the rate of cost burden for owners with a mortgage increased to 23.3 percent and the rate of severe cost burden for this group increased to 13.7 percent. For renters, the cost burden rate rose to 26.8 percent, and the severe cost burden rate rose to 25.5 percent. More than half of all renters are cost burdened.

**Table II.18**  
**Households Experiencing Cost Burdens**

Doña Ana County  
2000 Census SF3 & 2011 Five-Year ACS Data

Age	Cost Burden		Severe Cost Burden	
	Households	% of Total	Households	% of Total
<b>Owner with a Mortgage</b>				
2000 Census	2,649	16.6%	1,410	8.8%
2011 Five-Year ACS	6,672	23.3%	3,937	13.7%
<b>Owner without a Mortgage</b>				
2000 Census	557	5.8%	317	3.3%
2011 Five-Year ACS	1,564	8.1%	909	4.7%
<b>Renter</b>				
2000 Census	3,846	20.0%	4,124	21.4%
2011 Five-Year ACS	6,622	26.8%	6,285	25.5%
<b>Total</b>				
2000 Census	7,052	15.7%	5,851	13.1%
2011 Five-Year ACS	14,858	20.4%	11,131	15.3%

Renters with a severe cost burden are at risk of homelessness. Cost-burdened renters who experience one financial setback often must choose between rent and food or rent and health care for their families. Similarly, homeowners with a mortgage who have just one unforeseen financial constraint—such as temporary illness, divorce, or the loss of employment—may face foreclosure or bankruptcy. Furthermore, households that no longer have a mortgage yet still experience a severe cost burden may be unable to conduct periodic maintenance and repair of their homes, and in turn, may contribute to a dilapidation and blight problem. All three of these situations should be of concern to policymakers and program managers.

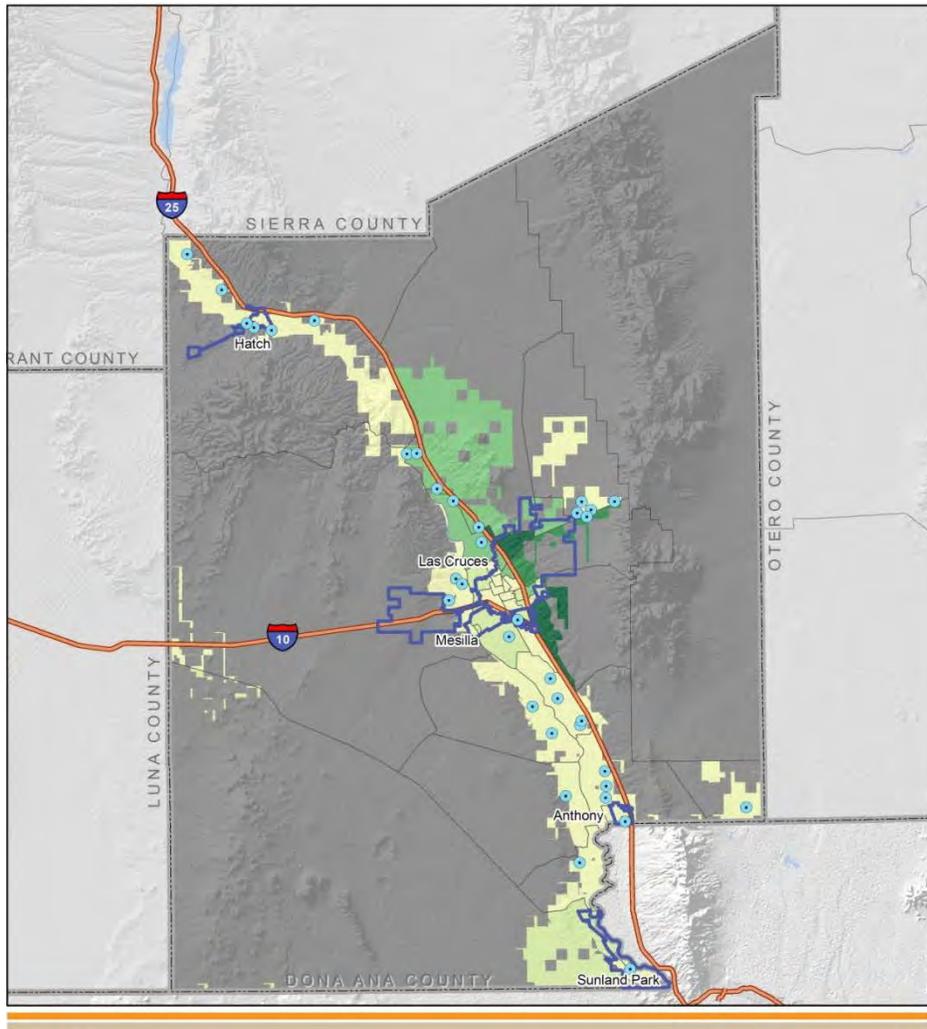
## HOUSING COSTS

The five-year ACS estimates also report data on housing costs, such as median contract rent and median home value. These figures are reported as median values per Census tract; as well as other Census geographies. However, the mean or median values cannot be computed for the entire Doña Ana County. Still, such values can be presented by Census tract, as with other concepts presented throughout this

document. Map II.15 presents data on median contract rent prices by Census tract. In general, the highest contract rents were seen outside of the most urbanized areas and east of central Las Cruces.

## Map II.15 Median Contract Rent

Doña Ana County  
2011 Five-Year ACS Data



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0 2.75 5.5 11 16.5 Miles

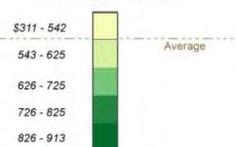


### 2007–2011 Median Contract Rents

2007–2011 Median Contract Rent in Doña Ana County = \$542

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

### Median Contract Rent



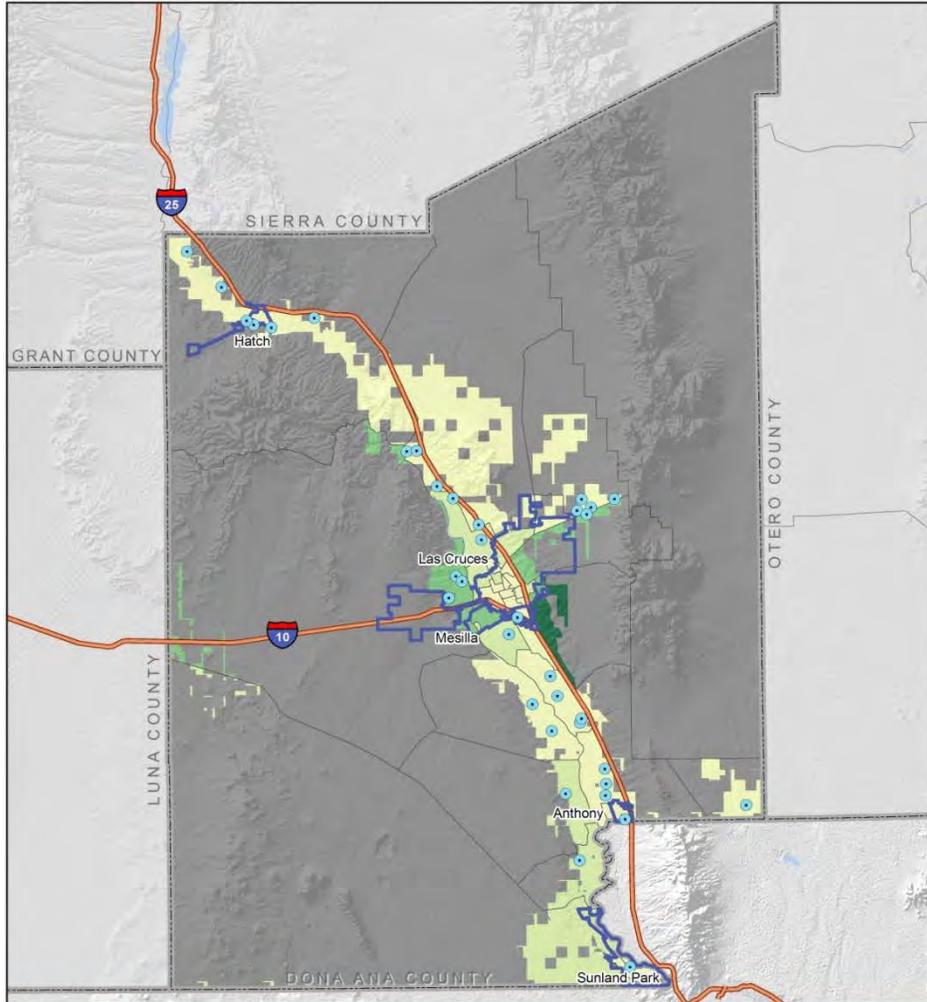
Data Source: 2007-2011 ACS, USGS, New Mexico State Land Office

## Owner-Occupied Housing Costs

The distribution of owner-occupied home values in Doña Ana County in 2011 is presented in Map II.16. Interestingly, few similarities can be seen when comparing this map to the previous map; most of the areas with the highest home values were not the same as the highest rent tracts, with the exception of the tract directly southeast of Las Cruces.

### Map II.16 Median Home Value

Doña Ana County  
2011 Five-Year ACS Data

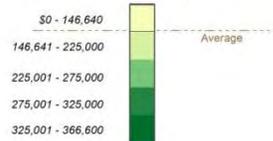


#### 2007–2011 Median Home Values

2007–2011 Median Home Value in Doña Ana County = \$141,900

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

#### Median Home Value



Data Source: 2007-2011 ACS, USGS, New Mexico State Land Office

## F. Areas of Opportunity

One of the key elements this Regional AI is an evaluation of the dynamics that enhance or limit opportunity. Addressing this issue can open a regional discussion about factors and investments that promote opportunity. Existing areas of opportunity are physical places, areas within communities that provide amenities one needs to thrive well, including quality employment, good schools, affordable housing, efficient public transportation, safe streets, good services, adequate parks and healthy food retailers. Areas exhibiting these attributes offer a higher quality of life. Areas lacking opportunity, then, have the opposite of these attributes. Equitable development requires thinking about equity impacts at the front end, prior to investment.<sup>3</sup> Defining the opportunity areas for Doña Ana County comprised assembling key data to create an opportunity index with values ranging from 0 (an area with no opportunity), to 1 (an area full of opportunity), thereby allow us to identify existing areas of opportunity in the County.

Data selected were derived from several sources, such as the PDR FHEA databases, Home Mortgage Disclosure Act (HMDA) information (discussed later in this document) as well as the 2010 Census and the 2011 ACS. Table II.19 presents a matrix of factors in five categories: education, economic conditions, housing, transportation, and health. Data from HUD’s FHEA databases are presented in maps II.17 through II.21. While the weighting of these neighborhood characteristics can vary significantly, the variables within each category are currently weighted equally, with each of the five categories contributing 20.0 percent to the total Opportunity Index.

Table II.1  
Opportunity Index Area Calculation Matrix

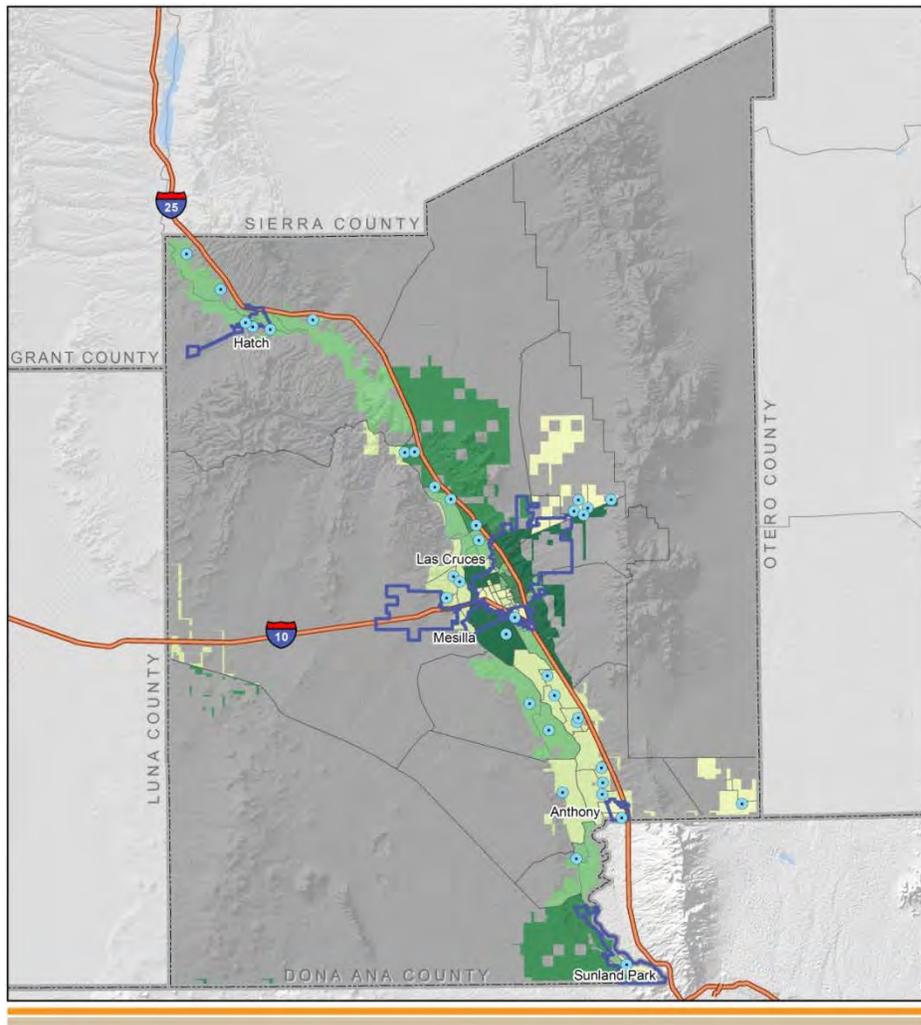
Doña Ana County  
2012 HUD PDR, 2004-2011 HMDA, Census 2010 SFI, and 2011 Five-Year ACS

Education	Economic	Housing	Transportation	Health
School Proficiency Index	Job Access Index	% Occupied Housing Units	Transit Index	Environmental Index
% of Persons Enrolled in School	Labor Market Index	% No Cost Burden	Travel Time to Work Index	
High School Graduation Rate	% Employed	% No Overcrowding	% Walking to Work	
		% Non-HAL Loans		

<sup>3</sup> Regional Equity and the Quest for Full Inclusion. PolicyLink, 2008.

# Map II.17 Labor Market Engagement Index by Block Group

Doña Ana County  
2012 HUD PDR Data

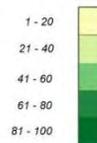


### HUD Labor Market Engagement Index

The Labor Market Engagement Index is based on the employment, labor force participation, and educational attainment of residents in each block group. An index score of 1 represents low-intensity labor market engagement and human capital; a score of 100 represents high engagement and education.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

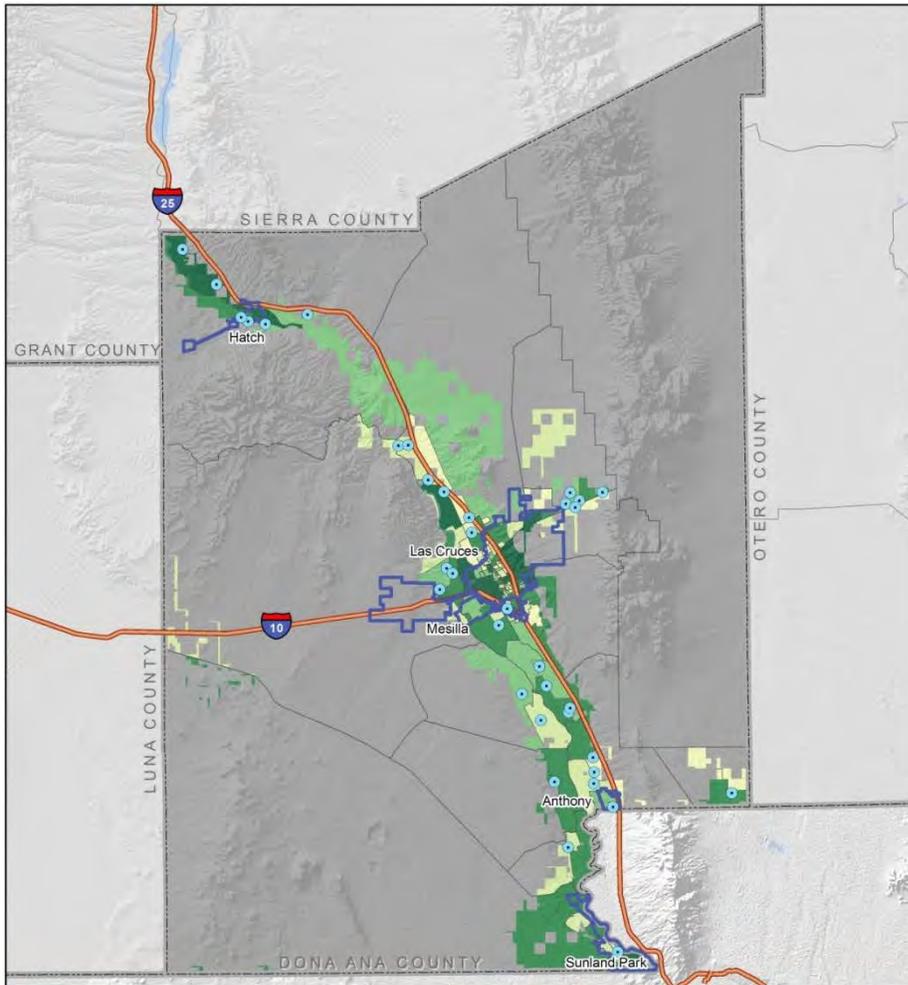
### Labor Market Engagement Index



Data Source: HUD PDR 2012, USGS, New Mexico State Land Office

# Map II.18 Job Accessibility Index by Block Group

Doña Ana County  
2012 HUD PDR Data

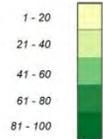


### HUD Job Accessibility Index

The Job Accessibility Index measures a neighborhood's distance to job locations, with the distance to a job location positively weighted by the number of job opportunities and inversely weighted by the competition in labor supply. An index score of 1 represents low access to job locations; a score of 100 represents high access.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

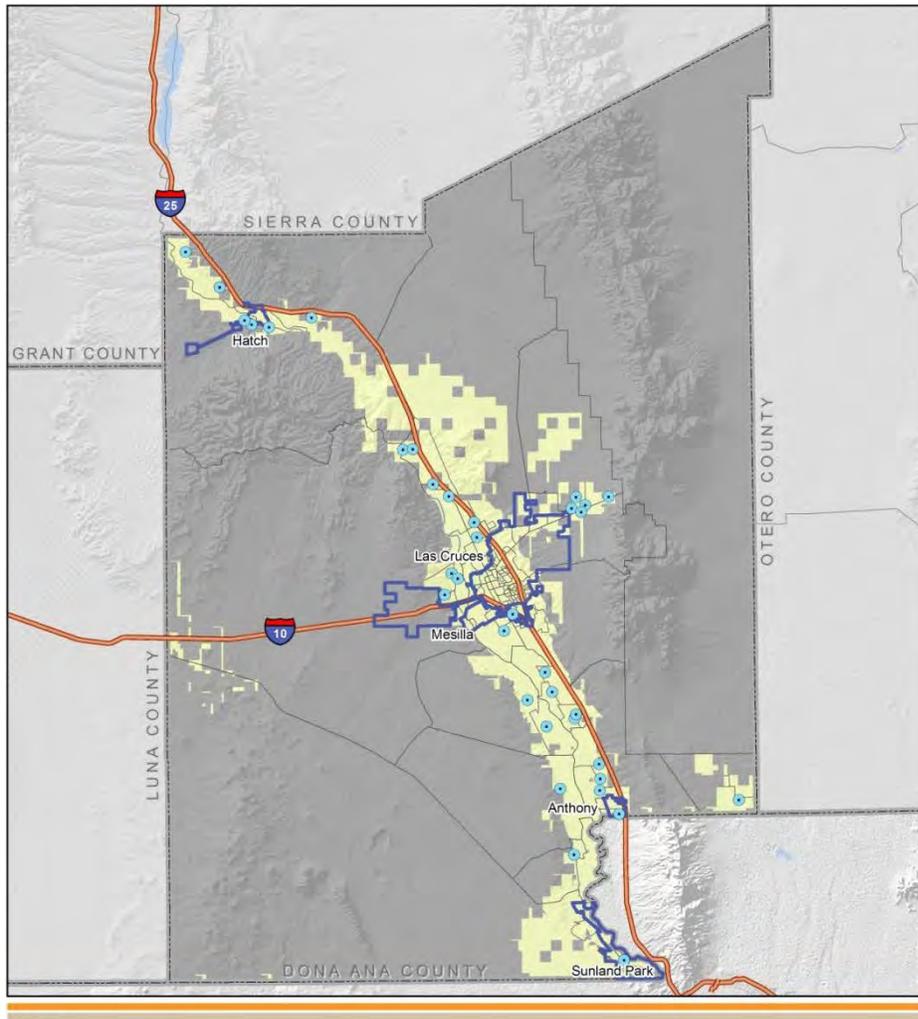
### Job Access Index



Data Source: HUD PDR 2012, USGS, New Mexico State Land Office

# Map II.19 Transit Accessibility Index by Block Group

Doña Ana County  
2012 HUD PDR Data



### HUD Transit Accessibility Index

The Transit Accessibility Index uses local transit system data and data on the number and type of jobs and services to evaluate the level of access to transit near each route and stop. An index score of 1 represents low access; a score of 100 represents high access to a range of amenities.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

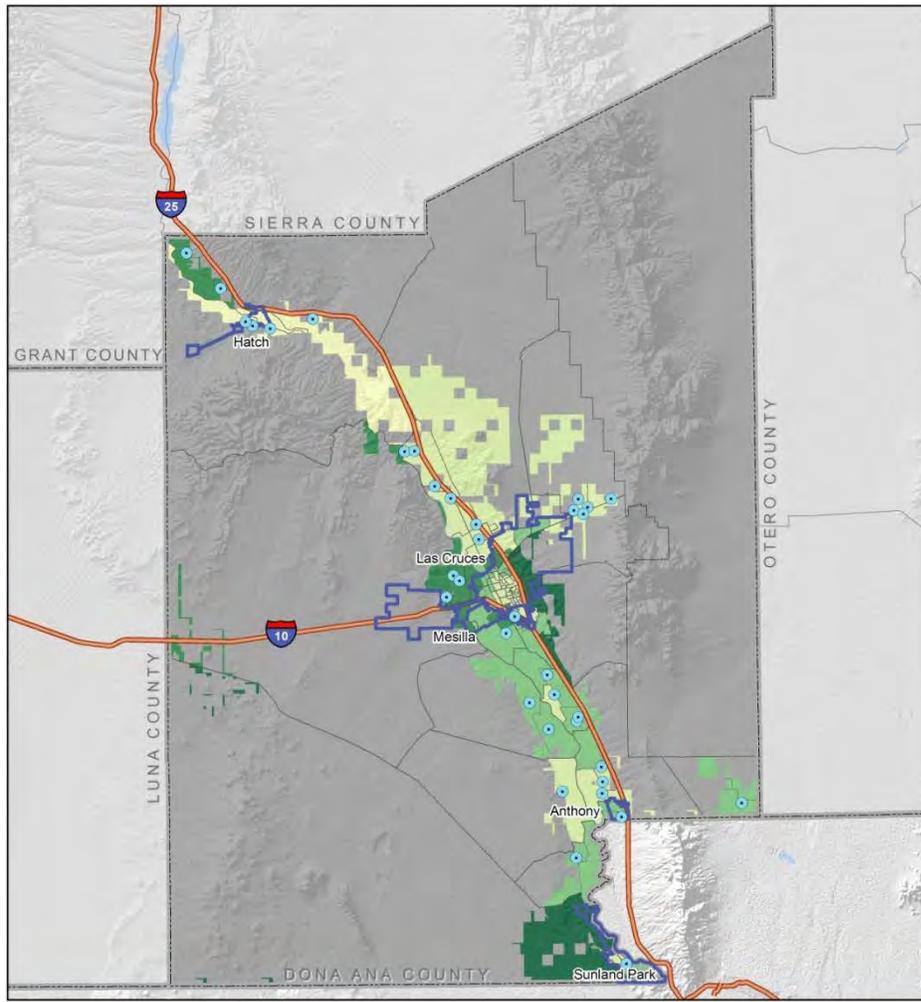
Data Source: HUD PDR 2012, USGS, New Mexico State Land Office

### Transit Index



# Map II.20 Neighborhood School Proficiency Index by Block Group

Doña Ana County  
2012 HUD PDR Data

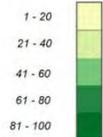


### HUD Neighborhood School Proficiency Index

The Neighborhood School Proficiency Index uses school-level data on students' performance on state exams for reading and math. An index score of 1 represents the lowest-performing elementary schools; a score of 100 represents high performing elementary schools.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

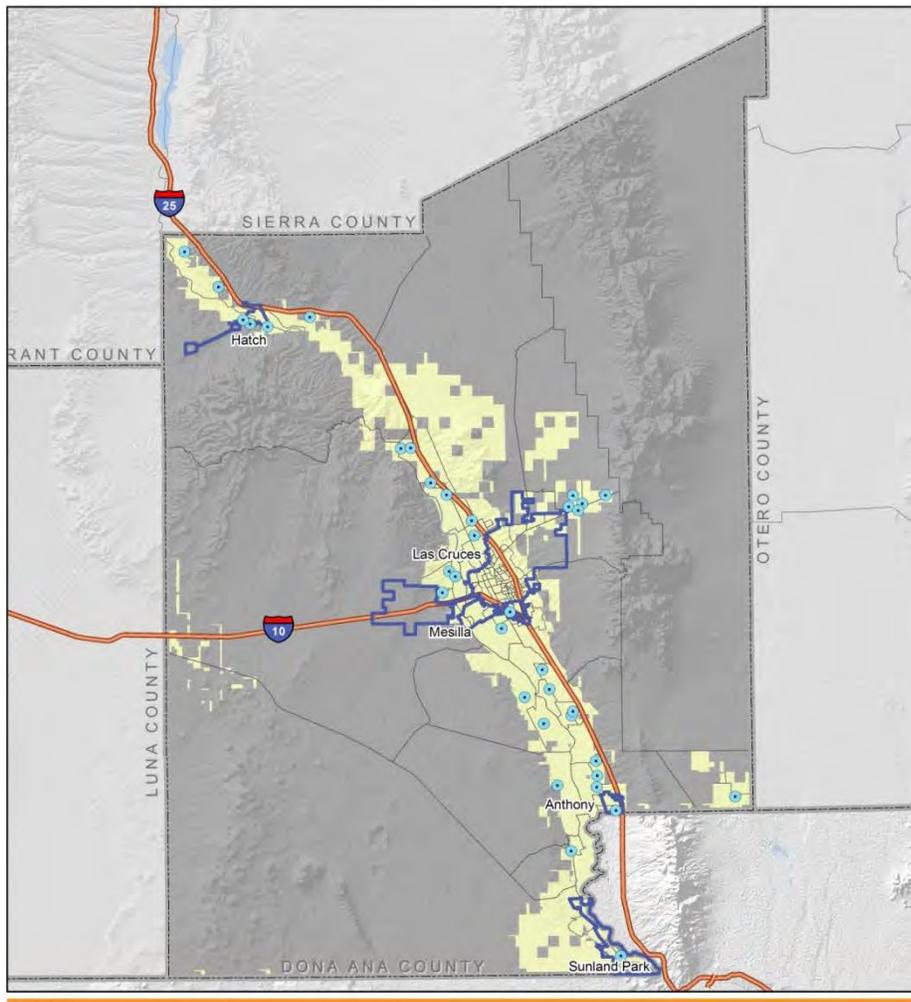
### School Proficiency Index



Data Source: HUD PDR 2012, USGS, New Mexico State Land Office

# Map II.21 Health Hazard Exposure Index by Block Group

Doña Ana County  
2012 HUD PDR Data

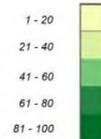


### HUD Health Hazard Exposure Index

The Health Hazard Exposure Index measures safety and risk for exposure to harmful toxins. An index score of 1 represents low safety; a score of 100 represents high safety from possible exposure to toxic industrial releases.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

### Health Hazard Exposure Index

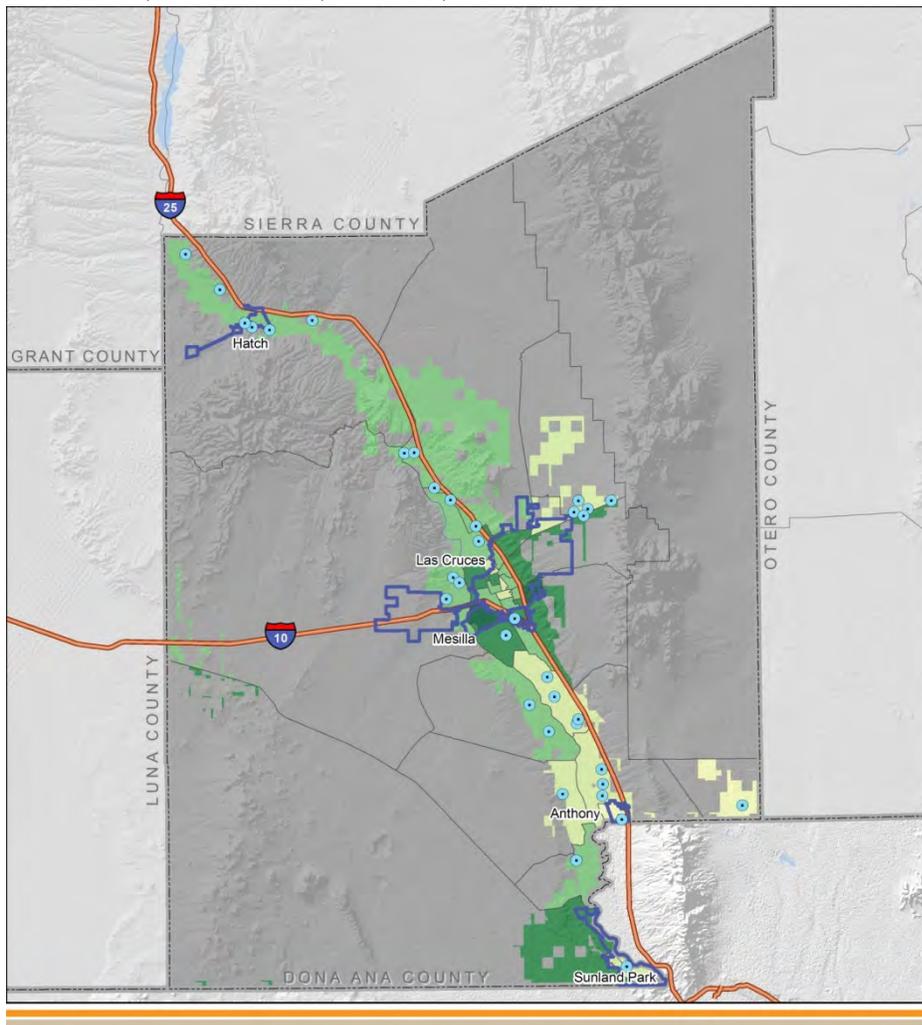


Data Source: HUD PDR 2012, USGS, New Mexico State Land Office

The opportunity index, defined by the 2010 Census Tract, represents a blending of five indexes. Each of the five areas related to education, economics, housing, transportation and health are equally weighted. Further each index value within the category is equally weighted. This derives the Census Tract Opportunity Index, as presented below in Map II.22.

## Map II.22 Opportunity Index by Tract

Doña Ana County  
2012 HUD PDR, 2004–2011 HMDA, 2010 Census, and 2007–2011 ACS Data



0 2.75 5.5 11 16.5 Miles

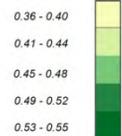


### Opportunity Indicator Index

Opportunity is measured as an average of education, economic, housing, and transportation factors, as measured through 2004–2010 HMDA data, 2010 Census data, and 2012 HUD PDR data. An index score of 0 represents few opportunities; a score of 1 represents many opportunities for education, economic, housing, and transportation choices.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

### Opportunity Index

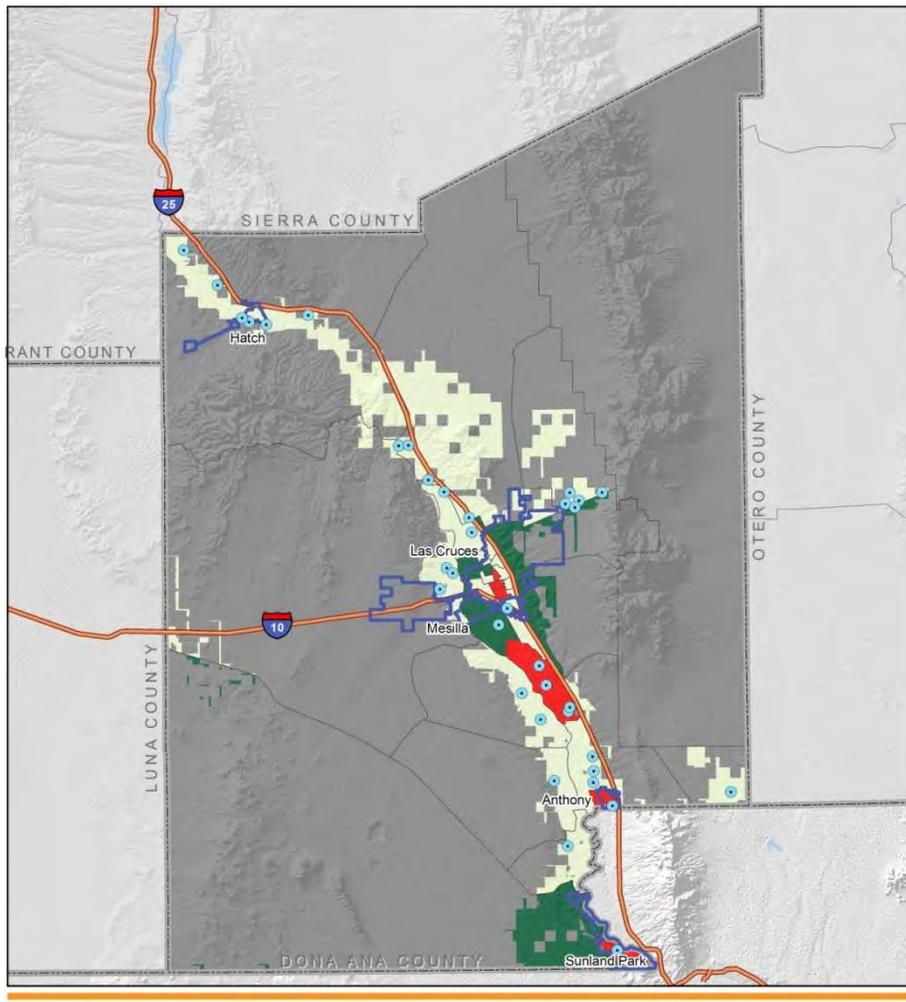


Data Source: 2012 HUD PDR, 2004–2011 HMDA, 2010 Census SF1, and 2007–2011 ACS, USGS, New Mexico State Land Office

Map II.23 shows the tracts with the greatest opportunity index score as well as tracts identified as ECAPs. As shown, none of these tracts overlapped or were located in the same areas as one another, with the highest opportunity tracts in rural areas such as the southernmost and easternmost tracts, as well as in the western parts of Las Cruces. Most of the ECAP areas were in or near colonias south of the city and along the southwestern borders of the County, and in central Las Cruces.

## Map II.23 Opportunity Areas and Ethnically Concentrated Poverty

Doña Ana County  
2004–2010 HMDA, 2010 Census, and 2012 HUD PDR Data



A CAMINO REAL CONSORTIUM PROJECT  
**VIVA DOÑA ANA**  
BUILDING A SUSTAINABLE FUTURE | CONSTRUYENDO UN FUTURO SOSTENIBLE

0 2.75 6.5 11 16.5 Miles



### Areas of Greatest Opportunity and Ethnically Concentrated Poverty

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Tracts with Greatest Opportunity Scores (0.49 - 0.55)
- Other Census Tracts
- County Boundaries
- ECAP Tracts
- Federal and State Owned Land

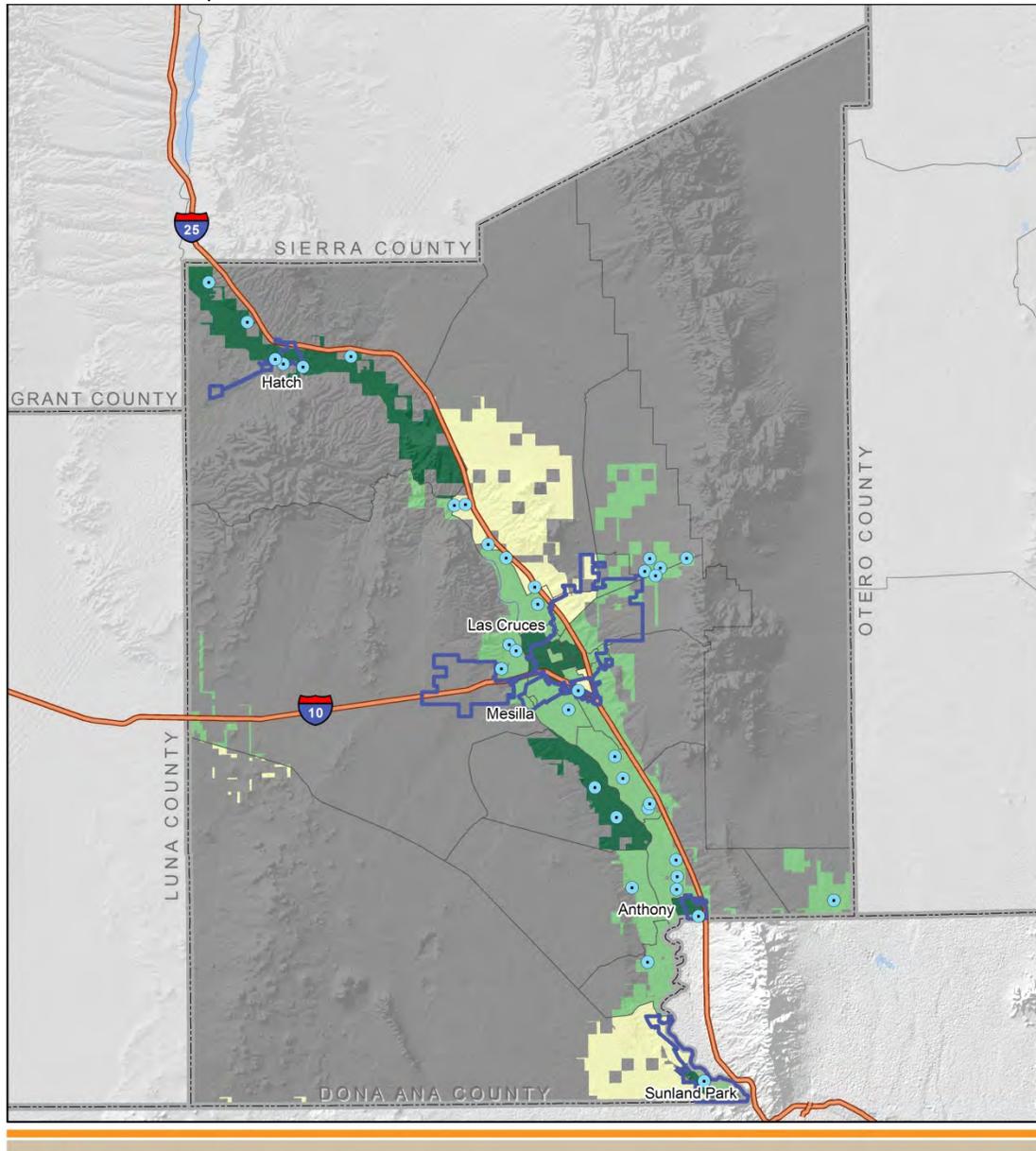
Data Source: 2012 HUD PDR, 2004–2011 HMDA, 2010 Census SF1, 2007–2011 ACS, USGS, New Mexico State Land Office

Before concluding this discussion of opportunity, it is appropriate to acknowledge that the City of Las Cruces, as well as Doña Ana County have been making some headway in some particular areas. While HUD 2012 PDR data was an excellent source for this evaluation of opportunity, some other more locally developed information might also be worth of consideration. In Maps II.24 and II.25, data prepared by the City of Las Cruces regarding transit need in the County in 2000 and 2010 is presented.



# Map II.24 Transit Need in 2000

Doña Ana County  
2000 Census and the City of Las Cruces



### 2000 Transit Needs Index

The transit needs index combines four census data variables to identify census tracts with high relatively high transit needs. Variables include: percent of households without a car, percent of individuals with a disability, percent of individuals over 65, and poverty rate.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries

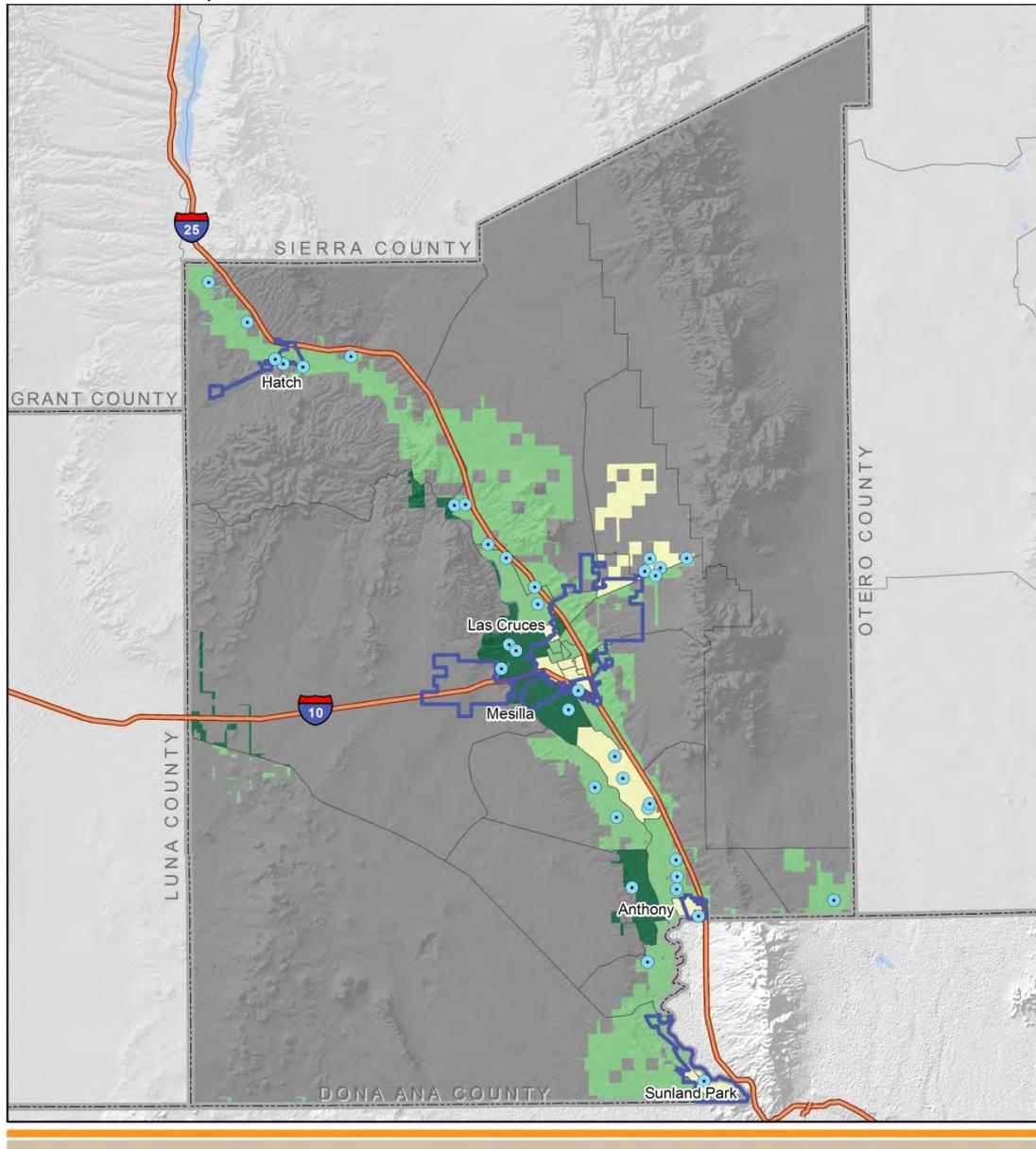
Level of Transit Need

- Acute (Low)
- Significant (Moderate)
- Major (High)

Data Source: 2000 Census, City of Las Cruces, USGS, New Mexico State Lsnd Office

# Map II.25 Transit Need in 2010

Doña Ana County  
2010 Census and the City of Las Cruces



## 2010 Transit Needs Index

The transit needs index combines four census data variables to identify census tracts with high relatively high transit needs. Variables include: percent of households without a car, percent of individuals with a disability, percent of individuals over 65, and poverty rate.

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries

Level of Transit Need

Acute (Low)

Significant (Moderate)

Major (High)

Data Source: 2010 Census, City of Las Cruces, USGS, New Mexico State Land Office

## G. Summary

Analysis of demographic, economic, and housing data provides information about the level and results of past locational choices. As observed, several areas in the County represent equity concerns. These areas contain high rates of poverty, disproportionate concentrations of Hispanic persons, notable occurrences of ECAPs, and lack of connections to employment opportunities. Thus, the spatial distribution of areas lacking opportunity correlates with these areas.



## III. Fair Housing Environment

The purpose of this section is to provide a profile the fair housing infrastructure in Doña Ana County. This includes an enumeration of key agencies and organizations that contribute to affirmatively furthering fair housing, an evaluation of the presence and scope of services of existing fair housing organizations, and a review of the complaint process.

### A. Fair Housing Infrastructure

#### FAIR HOUSING AGENCIES

##### U.S. Department of Housing and Urban Development

The U.S. Department of Housing and Urban Development (HUD) oversees, administers, and enforces the federal Fair Housing Act. HUD's regional office in Fort Worth, Texas oversees housing, community development, and fair housing enforcement in New Mexico, Arkansas, Louisiana, Oklahoma, and Texas. The Office of Fair Housing and Equal Opportunity (FHEO) in HUD's Fort Worth office enforces the Fair Housing Act and other civil rights laws that prohibit discrimination in housing, mortgage lending, and other related transactions in New Mexico. HUD also provides education and outreach, monitors agencies that receive HUD funding for compliance with civil rights laws, and works with state and local agencies under the Fair Housing Assistance Program (FHAP) and Fair Housing Initiative Program (FHIP), as described below.

##### *Fair Housing Assistance Program*

In the U.S., many state and local agencies have an ordinance or law that empowers a state or local governmental agency to enforce the state or local fair housing law. If HUD determines that the local entity can operate on a "substantially equivalent" level to federal agency enforcement activities, HUD contracts with that agency to process fair housing complaints and reimburses the jurisdiction on a per case basis.<sup>4</sup> FHAP grants are awarded to public, not private, entities and are given on a noncompetitive, annual basis to substantially equivalent state and local fair housing enforcement agencies.

When substantially equivalent status has been granted, complaints of housing discrimination are dually filed with the state or local agency and HUD, with the state or local agency investigating most complaints. When federally subsidized housing is involved, however, HUD will typically investigate the complaint. Regardless, the state or local agency is reimbursed for complaint intake and investigation and is awarded funds for fair housing training and education.

**FHAP Recipients in Doña Ana County:** In Doña Ana County, no agencies receive FHAP funds.

##### *Fair Housing Initiative Program*

A FHIP participant may be a government agency, a private nonprofit, or a for-profit organization. FHIPs are funded through a competitive grant program that provides funds to organizations to carry out projects and activities designed to enforce and enhance compliance with fair housing law. Eligible

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<sup>4</sup> (HUD FHEO n.d.) Title VIII: Fair Housing and Equal Opportunity

activities include education and outreach to the public and the housing industry on fair housing rights and responsibilities as well as enforcement activities in response to fair housing complaints, such as testing and litigation.<sup>5</sup>

The following FHIP initiatives, as defined on HUD's website, provide funds and competitive grants to eligible organizations:

*The Fair Housing Organizations Initiative (FHOI)* provides funding that builds the capacity and effectiveness of non-profit fair housing organizations by providing funds to handle fair housing enforcement and education initiatives more effectively. FHOI also strengthens the fair housing movement nationally by encouraging the creation and growth of organizations that focus on the rights and needs of underserved groups, particularly persons with disabilities.

[Eligible Grantees:] Applicants must be qualified fair housing enforcement organizations with at least two years of experience in complaint intake, complaint investigation, testing for fair housing violations, and meritorious claims in the three years prior to the filing of their application.

[Eligible Activities:] Grants may be used flexibly to support the basic operation and activities of new and existing non-profit fair housing organizations.<sup>6</sup>

*The Private Enforcement Initiative (PEI)* offers a range of assistance to the nationwide network of fair housing groups. This initiative funds non-profit fair housing organizations to carry out testing and enforcement activities to prevent or eliminate discriminatory housing practices.

[Eligible Grantees:] Fair housing enforcement organizations that meet certain requirements related to the length and quality of previous fair housing enforcement experience may apply for FHIP-PEI funding.<sup>7</sup>

[Eligible Activities:] Funds such activities as conducting complaint-based and targeted testing and other investigations of housing discrimination, linking fair-housing organizations in regional enforcement activities, and establishing effective means of meeting legal expenses in support of fair housing litigation.

*The Education and Outreach Initiative (EOI)* offers a comprehensive range of support for fair housing activities, providing funding to State and local government agencies and non-profit organizations for initiatives that explain to the general public and housing providers what equal opportunity in housing means and what housing providers need to do to comply with the Fair Housing Act.

[Eligible Grantees:] State or local governments, qualified fair housing enforcement organizations (those with at least 2 years of experience), other fair housing organizations, and other public or private nonprofit organizations representing groups of persons protected by the Fair Housing Act may apply for FHIP-EOI funding.

[Eligible Activities:] Funds a broad range of educational activities that can be national, regional, local, or community-based in scope. Activities may include developing education materials,

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<sup>5</sup> (HUD FHEO n.d.) What is the Fair Housing Initiatives Program (FHIP)?

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

analyzing local impediments to housing choice, providing housing counseling and classes, convening meetings that bring together the housing industry with fair housing groups, developing technical materials on accessibility, and mounting public information campaigns. National projects that demonstrate cooperation with the real estate industry or focus on resolving the community tensions that arise as people expand their housing choices may be eligible to receive preference points.<sup>8</sup>

*The Administrative Enforcement Initiative (AEI)* helps State and local governments who administer laws that include rights and remedies similar to those in the Fair Housing Act implement specialized projects that broaden an agency's range of enforcement and compliance activities. No funds are available currently for this program.<sup>9</sup>

**FHIP Grants in Doña Ana County:** No organization in Doña Ana County received FHIP grants over the past five years. Furthermore, no organization in New Mexico received a FHIP grant during the past five years.

## State Agencies

### *New Mexico Human Rights Bureau*

The New Mexico Human Rights Bureau (HRB) exists to enforce the New Mexico Human Rights Act. This agency has the role of education, training/education, and technical assistance in regard to human rights issues throughout the state. Additionally, the HRB accepts complaints of discrimination in employment, housing, credit, or public accommodation in New Mexico and mediates the resolution of the complaint.

## COMPLAINT PROCESS REVIEW

### U.S. Department of Housing and Urban Development

According to HUD's website, any person who feels that his or her housing rights have been violated may submit a complaint to HUD via phone, mail, or the internet. A complaint can be submitted to the national HUD office at:

Office of Fair Housing and Equal Opportunity  
Department of Housing and Urban Development  
451 Seventh Street SW, Room 5204  
Washington, DC 20410-2000  
Telephone: (202) 708-1112  
Toll Free: (800) 669-9777  
<http://www.HUD.gov/offices/fheo/online-complaint.cfm>

For New Mexico, the contact information for the regional HUD fair housing office in Fort Worth, Texas is:

Fort Worth Regional Office of FHEO  
U.S. Department of Housing and Urban Development  
801 Cherry Street, Unit #45

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<sup>8</sup> (HUD FHEO n.d.) What is the Fair Housing Initiatives Program (FHIP)?

<sup>9</sup> Ibid.

Suite 2500  
Fort Worth, Texas 76102  
(817) 978-5900  
1-800-669-9777

There is also a field HUD office located in Albuquerque. The contact information is:

Albuquerque Field Office  
625 Silver Avenue SW  
Suite 100  
Albuquerque, NM 87102  
(505) 346-6463

When a complaint is submitted, intake specialists review the information and contact the complainant in order to gather additional details and determine if the case qualifies as possible housing discrimination. Complaints specific to a state or locality that is part of HUD's FHAP organizations are referred to the appropriate parties, who have 30 days to address the complaint. If HUD is handling the case, the formal complaint is sent to the complainant for review and then sent to the alleged violator for review and response.

Next, the circumstances of the complaint are investigated through conducting interviews and examining relevant documents. During this time, the investigator attempts to rectify the situation through conciliation, if possible. The case is closed if conciliation of the two parties is achieved or if the investigator determines that there was no reasonable cause of discrimination. If reasonable cause is found, then either a federal judge or a HUD Administrative Law Judge hears the case and determines damages, if any.<sup>10</sup> A respondent may be ordered to:

- Compensate for actual damages, including humiliation, pain, and suffering;
- Provide injunctive or other equitable relief to make the housing available;
- Pay the federal government a civil penalty to vindicate the public interest, with a maximum penalty of \$10,000 for a first violation and \$50,000 for an additional violation within seven years; and/or
- Pay reasonable attorneys' fees and costs.<sup>11</sup>

### **New Mexico Human Rights Bureau**

The HRB also accepts fair housing complaints; complaints must be filed within 300 days of the incident, and can be filed in person, via telephone, or by mail. The contact information for the HRB is:

New Mexico Human Rights Bureau  
1596 Pacheco St., Suite 103  
Santa Fe, NM 87505  
(505) 827-6838  
1-800-566-9471

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<sup>10</sup> (HUD FHEO n.d.) HUD's Title VIII Fair Housing Complaint Process

<sup>11</sup> (HUD FHEO n.d.) Fair Housing--It's Your Right

After a complaint is filed the agency attempts mediation. If mediation of the complaint is not achieved, the case is investigated by the HRB as a neutral party. The purpose of the investigation is to determine probable cause. If probable cause is found, then the complaint is submitted to the Human Rights Commission (HRC) to determine resolution. The HRC consists of 11 governor-appointed members who hear cases in teams of three. The HRC has the right to award compensatory damages in human rights violation cases.<sup>12</sup>

While complaint data were requested from the HRB, no data were received as of the publication of this report. In addition, qualitative data observed during the production of this analysis indicate that most complainants turn to HUD rather than a local agency when facing housing discrimination issues, and may not receive attentive treatment from local agencies. This and other factors suggest that the state-level complaint system is not strong in Doña Ana County.

### **SUMMARY**

A review of the fair housing profile in Doña Ana County revealed that two organizations provide fair housing services on state or local levels: HUD and the New Mexico Human Rights Bureau. However, no local nonprofit agencies or public agencies receive federal fair housing program grant funds to provide outreach and education, complaint intake, and testing and enforcement activities for providers and consumers of housing.

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<sup>12</sup> (New Mexico Department of Workforce Solutions 2012)



## IV. Fair Housing Law, Study, and Case Review

As part of the Regional AI process, existing fair housing laws, studies, cases, and other relevant materials were reviewed on a national and state-level scale. Results of this review are presented in the following section.

### A. Fair Housing Laws

#### FEDERAL FAIR HOUSING LAWS

Several federal laws provide the backbone for U.S. fair housing legal structure. While some laws have been previously discussed in this report, a brief list of laws related to fair housing, as defined on the U.S. Department of Housing and Urban Development's (HUD's) website, is presented below:

- *Fair Housing Act*. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and persons securing custody of children under the age of 18), and handicap (disability).<sup>13</sup>
- Title VIII was amended in 1988 (effective March 12, 1989) by the *Fair Housing Amendments Act* . . . In connection with prohibitions on discrimination against individuals with disabilities, the Act contains design and construction accessibility provisions for certain new multi-family dwellings developed for first occupancy on or after March 13, 1991.<sup>14</sup>
- *Title VI of the Civil Rights Act of 1964*. Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.
- *Section 504 of the Rehabilitation Act of 1973*. Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.
- *Section 109 of the Housing and Community Development Act of 1974*. Section 109 prohibits discrimination on the basis of race, color, national origin, sex, or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant Program.
- *Title II of the Americans with Disabilities Act of 1990*. Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance, and housing referrals.
- *Architectural Barriers Act of 1968*. The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 be accessible to and useable by handicapped persons.

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<sup>13</sup> (HUD FHEO n.d.) Fair Housing Laws and Presidential Executive Orders

<sup>14</sup> (HUD FHEO n.d.) *Title VIII: Fair Housing and Equal Opportunity*

- *Age Discrimination Act of 1975*. The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- *Title IX of the Education Amendments Act of 1972*. Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.<sup>15</sup>

## FAIR HOUSING–RELATED PRESIDENTIAL EXECUTIVE ORDERS

- **Executive Order 11063**: Prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.
- **Executive Order 12892**: Requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The Order also establishes the President’s Fair Housing Council, which will be chaired by the Secretary of HUD.
- **Executive Order 12898**: Requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.
- **Executive Order 13166**: Eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally assisted and federally conducted programs and activities.
- **Executive Order 13217**: Requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community–based living arrangements for persons with disabilities.<sup>16</sup>

## STATE FAIR HOUSING LAWS

In addition to federal law, citizens of Doña Ana County are also protected by a statewide fair housing law, the New Mexico Human Rights Act, which extends additional protections based on sexual orientation, gender identity, spousal affiliation, and serious medical condition.<sup>17</sup>

## B. Fair Housing Studies

### NATIONAL FAIR HOUSING STUDIES

#### HUD Studies

In 2000, HUD released a publication entitled *Discrimination in Metropolitan Housing Markets*, which measured the prevalence of housing discrimination based on race and ethnicity in the U.S. This was the third nationwide effort to measure discrimination against minority home seekers since 1977, conducted in three phases.

<sup>15</sup> (HUD FHEO n.d.) Fair Housing Laws and Presidential Executive Orders

<sup>16</sup> (HUD FHEO n.d.) Fair Housing Laws and Presidential Executive Orders

<sup>17</sup> (2006 New Mexico Statutes 2006)

- Phase 1 – Black and Hispanic Populations:** The study, based on 4,600 paired tests in 23 metropolitan cities in the U.S., found large decreases in the levels of discrimination against black and Hispanic home seekers between 1989 and 2000. In the rental markets, a moderate decrease was seen in discrimination toward black individuals, who experienced adverse treatment more often than white individuals, whereas the Hispanic population was more likely to face discrimination in the rental markets than its black and white counterparts. Many black and Hispanic home seekers were told that units were unavailable, although the same units were available to white home seekers, and the black and Hispanic populations were also shown and told about fewer units. In addition, Hispanic individuals were more likely in 2000 than in 1989 to be quoted a higher rent than white individuals who sought to rent the same unit.
- Phase 2 – Asian and Pacific Islander Populations:** This study, conducted in 2000 and 2001 and based on 889 paired tests in 11 metropolitan areas in the U.S., showed that Asian and Pacific Islander individuals who sought to rent a unit experienced adverse treatment compared to white individuals in 21.5 percent of tests, which was similar to the rate black and Hispanic individuals saw. The study also showed that Asian and Pacific Islander prospective homebuyers experienced adverse treatment compared to white prospective homebuyers 20.4 percent of the time, with discrimination occurring in the availability of housing, inspections, assistance with financing, and encouragement by agents.
- Phase 3 – American Indian Population:** The last phase of HUD’s nationwide effort to measure housing discrimination involved estimating the level of discrimination experienced by American Indian individuals in their search for housing in metropolitan areas across Minnesota, Montana, and New Mexico. The findings showed that the American Indian population experienced adverse treatments compared to white individuals in 28.5 percent of rental tests. White individuals were consistently told about advertised units, similar units, and more units than American Indian individuals with similar qualifications. The high level of discrimination experienced by the American Indian population in these areas surpassed rates seen by Hispanic, black, and Asian individuals in the metropolitan rental markets nationwide.<sup>18</sup>

In April 2002, HUD released a national study that assessed public awareness of and support for fair housing law titled *How Much Do We Know?: Public Awareness of the Nation’s Fair Housing Laws*. The study found that only 50 percent of the population was able to identify most scenarios describing illegal conduct. In addition, 14 percent of the nationwide survey’s adult participants believed that they had experienced some form of housing discrimination in their lifetime. However, only 17 percent of those who had experienced housing discrimination had taken action to resolve the issue, such as filing a fair housing complaint. Finally, two-thirds of all respondents said that they would vote for a fair housing law.<sup>19</sup>

As a follow-up, HUD later released a study in February 2006 called *Do We Know More Now?: Trends in Public Knowledge, Support and Use of Fair Housing Law*. One aim of the study was to determine whether a nationwide media campaign had proven effective in increasing the public’s awareness of housing discrimination, and another goal was to determine the public’s desire to report such discrimination. Unfortunately, the study found that overall public knowledge of fair housing law did not improve between 2000 and 2005. As before, just half of the public knew the law regarding six or more illegal

<sup>18</sup> (HUD PD&R 2005) Discrimination in Metropolitan Housing Markets: National Results from Phase 1, Phase 2, and Phase 3 of the Housing Discrimination Study (HDS)

<sup>19</sup> (HUD PD&R 2002) How Much Do We Know? Public Awareness of the Nation’s Fair Housing Laws

housing activities. The report showed that 17 percent of the study's adult participants experienced discrimination when seeking housing; however, after reviewing descriptions of the perceived discrimination, it was determined that only about 8 percent of the situations might be covered by the Fair Housing Act. Four out of five individuals who felt they had been discriminated against did not file a fair housing complaint, indicating that they felt it "wasn't worth it" or that it "wouldn't have helped." Others did not know where to complain, assumed it would cost too much, were too busy, or feared retaliation. One positive finding of the survey was that public support for fair housing law increased from 66 percent in 2000 to 73 percent in 2005.<sup>20</sup>

## U.S. GAO Studies

In 2004, the U.S. General Accounting Office's (GAO) released a report titled *Fair Housing: Opportunities to Improve HUD's Oversight and Management of the Enforcement Process*. The GAO report found that between 1996 and 2003, the median number of days required to complete fair housing complaint investigations was 259 for HUD's Fair Housing and Equal Opportunity (FHEO) offices and 195 for Fair Housing Assistance Program (FHAP) agencies—far above the 100-day mandate. However, the report did find a higher percentage of investigations completed within that time limit. The GAO report also identified the following trends:

- The number of fair housing complaints filed each year steadily increased since 1998. An increasing proportion of grievances alleged discrimination based on disability and a declining proportion alleged discrimination based on race, although race was still the most cited basis of housing discrimination;
- FHAP agencies conducted more fair housing investigations than FHEO offices over the eight-year period. The total number of investigations completed each year increased slightly after declining in 1997 and 1998; and
- An increasing percentage of investigations closed without finding reasonable cause to believe discrimination occurred. However, a declining percentage of investigations were resolved by the parties themselves or with help from FHEO offices or FHAP agencies.<sup>21</sup>

## University Studies

In 2006, the University of Southern California and Oregon State University collaborated to study rental discrimination and race. The universities responded to 1,115 advertisements regarding apartment vacancies in Los Angeles County and signed the bottom of each email with Tyrell Jackson, a traditionally black name; Patrick McDougall, a traditionally white name; or Said Al-Rahman, a traditionally Arab name. Analysis indicated that individuals who were perceived as black were four times more likely to be discouraged from viewing an apartment than persons perceived as white, and individuals considered to be Arab were three times more likely to be discouraged from viewing an apartment than individuals who appeared white. The analysis also noted that applicants perceived as black were more likely to receive negative responses, such as the apartment was no longer available for market rate or above market rate apartments. For example, only an email signed Tyrell Jackson received a reply that reiterated the apartment cost to ensure the apartment was within the applicant's price range. The study also analyzed

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<sup>20</sup> (HUD PD&R 2006) Do We Know More Now? Trends In Public Knowledge, Support And Use Of Fair Housing Law

<sup>21</sup> (U.S. GAO 2004) Opportunities to Improve HUD's Oversight and Management of the Enforcement Process

the responses from private property owners versus corporate property owners, but found no statistical difference in the way the two groups responded to applicants of different races.<sup>22</sup>

## Nonprofit Studies

Released by the Poverty & Race Research Action Council in January 2008, *Residential Segregation and Housing Discrimination in the United States* asserts that many current governmental efforts to further fair housing actually result in furthering unfair housing practices across the U.S. This article suggests that fair housing efforts can cause residential segregation. For example, if the majority of public housing residents are non-white and most public housing accommodations are grouped in the same Census tracts, residential segregation results. Similarly, many Section 8 voucher holders are racial or ethnic minorities, and most housing that accepts Section 8 vouchers is grouped in selected areas, which again results in residential segregation. The report offers recommendations to curb such residential segregation, including dispersing public housing developments throughout cities and communities and providing greater incentives for landlords with several properties to accept the vouchers.<sup>23</sup>

Published in 2009 by the National Fair Housing Alliance (NFHA), *For Rent: No Kids!: How Internet Housing Advertisements Perpetuate Discrimination* presented research on the prevalence of discriminatory housing advertisements on popular websites such as Craigslist. According to the article, while newspapers are prohibited from publishing discriminatory housing advertisements, no such law exists for websites like Craigslist, as they are considered interactive internet providers rather than publishers of content. As such, they are not held to the same legal standards as newspapers. While individual landlords who post discriminatory advertisements may be held responsible, there are no such standards for companies like Craigslist that post the discriminatory advertisements. Newspapers and other publishers of content are required to screen the advertisements they accept for publishing for content that could be seen as discriminatory. This may include phrases like “no children” or “Christian only,” which violate provisions of the Fair Housing Act that state families with children and religious individuals are federally protected groups.<sup>24</sup>

In May 2010, the NFHA published a fair housing trends report, *A Step in the Right Direction*, which indicated that recent years have demonstrated forward movement in furthering fair housing. The report began with a commendation of HUD’s federal enforcement of fair housing law and noted the agency’s willingness to challenge local jurisdictions that failed to affirmatively further fair housing. In response to the recent foreclosure crisis, many credit institutions have implemented tactics to reduce risk. However, this report suggests that policies that tighten credit markets—such as requiring larger cash reserves, higher down payments, and better credit scores—may disproportionately affect lending options for communities of color and women. *A Step in the Right Direction* concludes with examples of ways in which the fair housing situation could be further improved, including addressing discriminatory internet advertisements and adding gender identity, sexual orientation, and source of income as federally protected classes.<sup>25</sup>

The 2010, the NFHA report *The Big Picture: How Fair Housing Organizations Challenge Systemic and Institutionalized Discrimination* focuses on promoting integrated communities and steps taken to eliminate discrimination within those communities. The first section highlights cities such as New

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<sup>22</sup> (Carpusor and Loges 2006)

<sup>23</sup> (U.S. Housing Scholars and Research and Advocacy Organizations 2008)

<sup>24</sup> (National Fair Housing Alliance 2009)

<sup>25</sup> (National Fair Housing Alliance 2010)

Orleans, Louisiana and Milwaukee, Wisconsin and the steps they have taken to eliminate discrimination within their housing markets. Also, the additional focus on discriminatory lending practices since the passing of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 led to the creation of the Consumer Financial Protection Bureau (CFPB). The CFPB was established to protect consumers from predatory loans and discriminatory practices. The report concludes with need for promotion of diverse communities where all residents have access to vital services such as decent schools, health services, and grocery stores.<sup>26</sup>

Released in April 2012 by the NFHA, *Fair Housing in a Changing Nation* reported that fair housing complaints dropped slightly in 2010, but disability complaints overall remained high. Discrimination complaints reported by classes not protected by the federal Fair Housing Act but under state or local fair housing laws, such as gender identity, marital status, and sexual orientation, were also filed at a greater rate. NFHA states that it is crucial to amend the federal Fair Housing Act to include these additional protected classes and thus serve more victims of housing discrimination. Since the establishment of the CFPB, in 2010 there was more focus on discriminatory lenders and making the mortgage market safer for consumers. *Fair Housing in a Changing Nation* concludes with the continuing need to focus on the foreclosure crisis and for HUD to release its final regulations on disparate impact, affirmatively furthering fair housing, and sexual harassment.<sup>27</sup>

## C. Fair Housing Cases

### NATIONAL FAIR HOUSING CASES

As noted in the introduction to this report, provisions to affirmatively further fair housing are long-standing components of HUD's Housing and Community Development programs. In fact, in 1970, *Shannon v. HUD* challenged the development of a subsidized low-income housing project in an urban renewal area of Philadelphia that was racially and economically integrated. Under the Fair Housing Act, federal funding for housing must further integrate community development as part of furthering fair housing, but the plaintiffs in the Shannon case claimed that the development would create segregation and destroy the existing balance of the neighborhood. Following the case, HUD was required to develop a system to consider the racial and socio-economic impacts of their projects.<sup>28</sup> The specifics of the system were not decided upon by the court, but HUD was encouraged to consider the racial composition and income distribution of neighborhoods, racial effects of local regulations, and practices of local authorities.<sup>29</sup> The Shannon case suggested to entitlement jurisdictions the responsibility of considering the segregation effects of publicly funded housing projects on their communities as they affirmatively further fair housing.

More recently, and in a landmark fraud case, Westchester County, New York, was ordered to pay more than \$50 million to resolve allegations of misusing federal funds for public housing projects and falsely claiming their certification of furthering fair housing. The lawsuit, which was filed in 2007 by an anti-discrimination center, alleged that the County failed to reduce racial segregation of public housing projects in larger cities within the County and to provide affordable housing options in its suburbs. The County had accepted more than \$50 million from HUD between 2000 and 2006 with promises of addressing these problems. In a summary judgment in February 2009, a judge ruled that the County did

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<sup>26</sup> (National Fair Housing Alliance 2011)

<sup>27</sup> (HUD FHEO 2012) 2012 FHIP Grants

<sup>28</sup> (HUD FHEO 2007) *39 Steps Toward Fair Housing*

<sup>29</sup> (Orfield 2005)

not properly factor in race as an impediment to fair housing and that the County did not accurately represent its efforts of integration in its AI. In the settlement, Westchester County was forced to pay more than \$30 million to the federal government, with roughly \$20 million eligible to return to the County to aid in public housing projects. The County was also ordered set aside \$20 million to build public housing units in suburbs and areas with mostly white populations.<sup>30</sup> As of August 2012, the County was still working to comply with the requirements of the settlement. The ramifications of this case are expected to affect housing policies of both states and entitlement communities across the nation; activities taken to affirmatively further fair housing will likely be held to higher levels of scrutiny to ensure that federal funds are being spent to promote fair housing and affirmatively further fair housing.

In 2008, \$3 billion of federal disaster aid was allotted to the Texas state government to provide relief from damage caused by hurricanes Ike and Dolly. These storms ravaged homes in coastal communities, many of which were owned by low-income families that could not afford to rebuild. However, instead of directing the federal funds to the areas most affected by the storms, the State spread funds across Texas and let local planning agencies spend at will. In reaction to this, two fair housing agencies in the state filed a complaint with HUD stating that the plan violated fair housing laws as well as federal aid requirements that specify half of the funds be directed to lower-income persons. In light of the complaint, HUD withheld \$1.7 billion in CDBG funds until the case was resolved. A settlement was reached in June 2010; the State was required to redirect 55 percent of the amount of the original funds to aid poorer families that lost their homes. The State was also asked to rebuild public housing units that were destroyed by the storms and to offer programs that aid minority and low-income residents in relocating to less storm-prone areas or areas with greater economic opportunities.<sup>31</sup> As of July 2012, the Texas General Land Office has executed an agreement with the Deep East Texas Council of Governments (DETCOG) to fulfill the housing objectives set through Conciliation Agreement that modified DETCOG's original housing program.<sup>32</sup>

## **LOCAL FAIR HOUSING CASES**

### **U.S. Department of Justice Cases**

The U.S. Department of Justice (DOJ) enacts lawsuits on behalf of individuals based on referrals from HUD. Under the Fair Housing Act, the DOJ may file lawsuits in the following instances:

- Where there is reason to believe that a person or entity is engaged in what is termed a “pattern or practice” of discrimination or where a denial of rights to a group of people raises an issue of general public importance;
- Where force or threat of force is used to deny or interfere with fair housing rights; and
- Where persons who believe that they have been victims of an illegal housing practice file a complaint with HUD or file their own lawsuit in federal or state court.<sup>33</sup>

No discrimination-based housing cases were filed in the County from July 2008 through July 2013.

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<sup>30</sup> (U.S. ex rel Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York 2009)

<sup>31</sup> (HUD 2010) (Title VIII); 06-10-0410-9 (Section 109)

<sup>32</sup> (Deep East Texas Council of Governments 2012)

<sup>33</sup> (U.S. DOJ Civil Rights Division 1968)

## RELATED NEW MEXICO FAIR HOUSING CASES AND STUDIES

A couple living in a 16-unit apartment complex in Albuquerque filed for discrimination based on familial status after their lease was terminated when the female tenant became pregnant. The couple was living in the complex on a month-to-month lease with a two person limit and when the landlord learned of the pregnancy, the couple was given a 30-day notice to leave the apartment based on violation of occupancy standards. The couple contacted HUD and charges were filed against the landlord based on the fact that the landlord did not confirm when the child was expected to be born or offer the couple the chance to move into a two-bedroom unit. The case was settled in January 2009 with possible settlement rulings of compensatory damages and civil penalties.<sup>34</sup>

In a landmark civil rights settlement announced in January 2010, the fifth-largest housing developer in the country agreed to retrofit thousands of apartment units across the country, including in the state of New Mexico, to make them more accessible for persons with disabilities. The lawsuit was filed by the National Fair Housing Alliance against A.G. Spanos Companies, based in California, and alleged that the company violated the Fair Housing Amendments Act. Specifically, the lawsuit noted the following violations:

- Lack of proper accessibility modifications for persons to enter the unit or the outside spaces, such as balconies or patios;
- Door widths for bathrooms, kitchens, bedrooms not made wide enough to accommodate people in wheelchairs or other mobility devices;
- Lack of maneuverable space in kitchens or bathrooms to allow in ease of usability for persons in mobility devices;
- Electrical and other controls such as thermostats, light switches, locks in apartments were out of reach of tenants in mobility devices.

The settlement outlined that the defendant had three years to retrofit more than 12,000 apartment units in more than 80 apartment buildings across the country. Among other fees and penalties, the company also agreed to create the NFHA Accessibility Fund to aid renters or homeowners with grants for modifications.<sup>35</sup>

## RECENT NEW MEXICO SUITS FILED BY THE U.S. DEPARTMENT OF JUSTICE

The U.S. Department of Justice (DOJ) enacts lawsuits on behalf of individuals based on referrals from HUD. Under the Fair Housing Act, the DOJ may file lawsuits in the following instances:

- Where there is reason to believe that a person or entity is engaged in what is termed a “pattern or practice” of discrimination or where a denial of rights to a group of people raises an issue of general public importance;
- Where force or threat of force is used to deny or interfere with fair housing rights;
- Where people who believe that they have been victims of an illegal housing practice file a complaint with HUD or file their own lawsuit in federal or state court.

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<sup>34</sup> <http://www.fairhousingblog.com/search/label/New%20Mexico>

<sup>35</sup> <http://www.docstoc.com/docs/38377374/National-Fair-Housing-Alliance-Files-Housing-Discrimination-Case>

In 2009 a disability discrimination suit was filed against a couple in Albuquerque for refusing to rent to a person with mental disabilities. In the case of *United States v. Guntharp*, the complainant alleged that the husband and wife who owned the apartment complex indicated that they preferred not to rent to persons with certain types of mental disabilities and thus effectively refused to show the apartment to the complainant. However, upon death of the male defendant in the case, the complainants requested that the remaining defendant make a charitable contribution to an organization benefitting homeless persons rather than pay financial retributions to the complainants.<sup>36</sup>

## **D. Summary**

A review of laws, studies, cases, and related materials relevant to fair housing in Doña Ana County demonstrated the complexity of the fair housing landscape. Fair housing law in the State of New Mexico, the New Mexico Human Rights Act, offers protections beyond the scope of the federal Fair Housing Act to protect persons based on sexual orientation, gender identity, spousal affiliation, and serious medical condition. No housing discrimination cases were filed with HUD or local complaint agencies in Doña Ana County over the past five years.

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<sup>36</sup> <http://www.justice.gov/crt/housing/fairhousing/caseslist.htm>



## V. Barriers to Housing Choice in the Private Sector

As part of the Regional AI process, the HUD suggests that the analysis focus on possible housing discrimination issues in both the private and public sectors. Examination of housing factors in the Doña Ana County's public sector is presented in **Section VI**, while this section focuses on research regarding the County's private sector, including the mortgage lending market, the real estate market, the rental market, and other private sector housing industries.

### A. Lending Analysis

Since the 1970s, the federal government has enacted several laws aimed at promoting fair lending practices in the banking and financial services industries. A brief description of selected federal laws aimed at promoting fair lending follows:

- The 1968 Fair Housing Act prohibits discrimination in housing based on race, color, religion, and national origin. Later amendments added sex, familial status, and disability. Under the Fair Housing Act, it is illegal to discriminate against any of the protected classes in the following types of residential real estate transactions: making loans to buy, build, or repair a dwelling; selling, brokering, or appraising residential real estate; and selling or renting a dwelling.
- The Equal Credit Opportunity Act was passed in 1974 and prohibits discrimination in lending based on race, color, religion, national origin, sex, marital status, age, receipt of public assistance, and the exercise of any right under the Consumer Credit Protection Act.
- The Community Reinvestment Act was enacted in 1977 and requires each federal financial supervisory agency to encourage financial institutions in order to help meet the credit needs of the entire community, including low- and moderate-income neighborhoods.
- Under the Home Mortgage Disclosure Act (HMDA), enacted in 1975 and later amended, financial institutions are required to publicly disclose the race, sex, ethnicity, and household income of mortgage applicants by the Census tract in which the loan is proposed as well as outcome of the loan application.<sup>37</sup> The analysis presented herein is from the HMDA data system.

#### HOME MORTGAGE DISCLOSURE ACT

The HMDA requires both depository and non-depository lenders to collect and publicly disclose information about housing-related applications and loans.<sup>38</sup> Both types of lending institutions must meet the following set of reporting criteria:

- The institution must be a bank, credit union, or savings association;
- The total assets must exceed the coverage threshold;<sup>39</sup>
- The institution must have had an office in a Metropolitan Statistical Area (MSA);

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<sup>37</sup> (Federal Reserve Bank of Boston 1993)

<sup>38</sup> Data are considered "raw" because they contain entry errors and incomplete loan applications. Starting in 2004, the HMDA data made significant changes in reporting, particularly regarding ethnicity data, loan interest rates, and the multi-family loan applications.

<sup>39</sup> Each December, the Federal Reserve announces the threshold for the following year. The asset threshold may change from year to year based on changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers.

- The institution must have originated at least one home purchase loan or refinancing of a home purchase loan secured by a first lien on a one- to four-family dwelling;
- The institution must be federally insured or regulated; and
- The mortgage loan must have been insured, guaranteed, or supplemented by a federal agency or intended for sale to the Federal National Mortgage Association (FNMA or Fannie Mae) or the Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac). These agencies purchase mortgages from lenders and repackage them as securities for investors, making more funds available for lenders to make new loans.

For other institutions, including non-depository institutions, additional reporting criteria are as follows:

- The institution must be a for-profit organization;
- The institution’s home purchase loan originations must equal or exceed 10 percent of the institution’s total loan originations, or more than \$25 million;
- The institution must have had a home or branch office in an MSA or have received applications for, originated, or purchased five or more home purchase loans, home improvement loans, or refinancing mortgages on property located in an MSA in the preceding calendar year; and
- The institution must have assets exceeding \$10 million or have originated 100 or more home purchases in the preceding calendar year.

HMDA data represent most mortgage lending activity and are thus the most comprehensive collection of information available regarding home purchase originations, home remodel loan originations, and refinancing. The Federal Financial Institutions Examination Council (FFIEC) makes HMDA data available on its website. While HMDA data are available for more years than are presented in the following pages, modifications were made in 2004 for documenting loan applicants’ race and ethnicity, so data are most easily compared after that point.

## Home Purchase Loans

As presented in Table VI.1, HMDA information was collected for all Census tracts in Doña Ana County from 2004 through 2011. During this time, there were 103,138 loan applications reported in the HMDA system. Of these, some 55,085 were for refinancing of housing and another 7,073 were for home improvement loan applications. The key issue to inspect pertains to those loan applications made for the purchase of a home. In Doña Ana County, there were 40,980 loan applications made between 2004 and 2011.

Table V.1  
Purpose of Loan by Year

Doña Ana County  
2004–2011 HMDA Data

Purpose	2004	2005	2006	2007	2008	2009	2010	2011	Total
Home Purchase	5,362	6,953	8,068	6,442	3,714	3,328	3,908	3,205	40,980
Home Improvement	935	1,151	1,294	1,222	991	620	497	363	7,073
Refinancing	7,380	7,586	8,247	8,174	6,167	7,097	5,587	4,847	55,085
<b>Total</b>	<b>13,677</b>	<b>15,690</b>	<b>17,609</b>	<b>15,838</b>	<b>10,872</b>	<b>11,045</b>	<b>9,992</b>	<b>8,415</b>	<b>103,138</b>

Within the context of this study, housing choice, it is important to evaluate owner-occupied home purchase transactions, particularly the success or failure of such transactions and who bears the burden of denials and high interest lending activities. The home improvement and refinancing loan application

categories typically apply to housing choices that have already been made. As seen in Table V.2, of the 40,980 loan applications, there were about 34,030 for owner occupied homes, the target which is to be inspected.

**Table V.2**  
**Occupancy Status for Home Purchase Loan Applications**

Doña Ana County  
2004–2011 HMDA Data

Status	2004	2005	2006	2007	2008	2009	2010	2011	Total
Owner-Occupied	4,412	5,471	6,163	5,284	3,237	3,023	3,591	2,850	34,031
Not Owner-Occupied	841	1,409	1,876	1,148	442	297	307	319	6,639
Not Applicable	109	73	29	10	35	8	10	36	310
<b>Total</b>	<b>5,362</b>	<b>6,953</b>	<b>8,068</b>	<b>6,442</b>	<b>3,714</b>	<b>3,328</b>	<b>3,908</b>	<b>3,205</b>	<b>40,980</b>

### *Denial Rates*

After the owner-occupied home purchase loan application is submitted, the applicant receives one of the following status designations:

- “Originated,” which indicates that the loan was made by the lending institution;
- “Approved but not accepted,” which notes loans approved but not accepted by the lender for other reasons;<sup>40</sup>
- “Application denied by financial institution,” which defines a situation wherein the loan application failed;
- “Application withdrawn by applicant,” which means that the applicant closed the application process;
- “File closed for incompleteness” which indicates the loan application process was closed by the institution due to incomplete information; or
- “Loan purchased by the institution,” which means that the previously originated loan was purchased on the secondary market.

These outcomes were used to determine denial rates presented in the following section. Factors in denial of home purchase loans, such as credit scores or down payment amounts, are not reported, but general reasons codes are reported, and are considered in the following narrative. Only loan originations and loan denials were inspected as an indicator of the underlying success or failure of home purchase loan applications. Take all together, there were some 15,704 loan originations and 4,137 loan applications denied over the eight year period. Owner occupied loan originations were greatest in 2006, when 2,917 were made, as seen below in Table V.3.

<sup>40</sup> An applicant’s failure to meet any of the customary loan commitment or closing conditions, such as clear-title requirements, acceptable property survey, acceptable title insurance binder, or clear termite inspection, causes the application to be coded “approved but not accepted.” (FFIEC 2013) Frequently Asked Questions, <http://www.ffiec.gov/hmda/faqreg.htm>

**Table V.3**  
**Loan Applications by Action Taken**

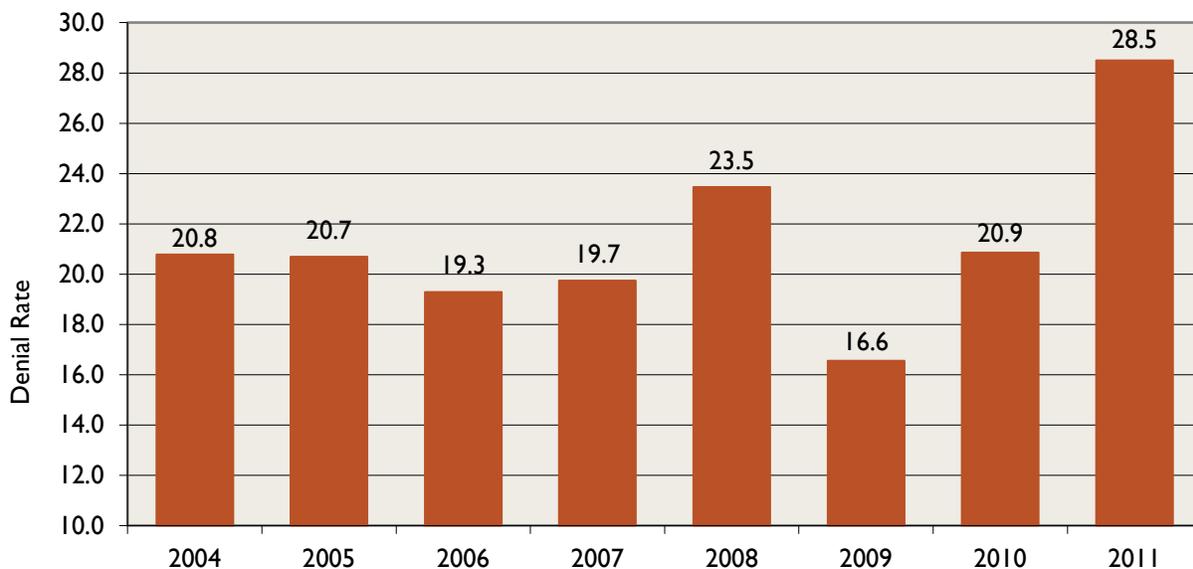
Doña Ana County  
 2004–2011 HMDA Data

Action	2004	2005	2006	2007	2008	2009	2010	2011	Total
Loan Originated	2,134	2,641	2,917	2,341	1,396	1,593	1,468	1,214	15,704
Application Approved but not Accepted	314	358	434	365	181	108	159	182	2,101
Application Denied	560	689	697	576	428	316	387	484	4,137
Application Withdrawn by Applicant	238	347	355	252	139	136	141	107	1,715
File Closed for Incompleteness	43	56	84	70	27	30	31	29	370
Loan Purchased by the Institution	1,123	1,366	1,674	1,680	1,065	833	1,405	834	9,980
Preapproval Request Denied	0	14	2	0	1	7	0	0	24
Preapproval Approved but not Accepted	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>4,412</b>	<b>5,471</b>	<b>6,163</b>	<b>5,284</b>	<b>3,237</b>	<b>3,023</b>	<b>3,591</b>	<b>2,850</b>	<b>34,031</b>
<b>Denial Rate</b>	<b>2,134</b>	<b>2,641</b>	<b>2,917</b>	<b>2,341</b>	<b>1,396</b>	<b>1,593</b>	<b>1,468</b>	<b>1,214</b>	<b>15,704</b>

Denial rates varied widely by year, as shown in Diagram V.1 on the following page. The highest denial rate occurred in 2011, at 28.5 percent, though rates were as low as 16.6 percent as recently as 2009.

**Diagram V.1**  
**Denial Rates by Year**

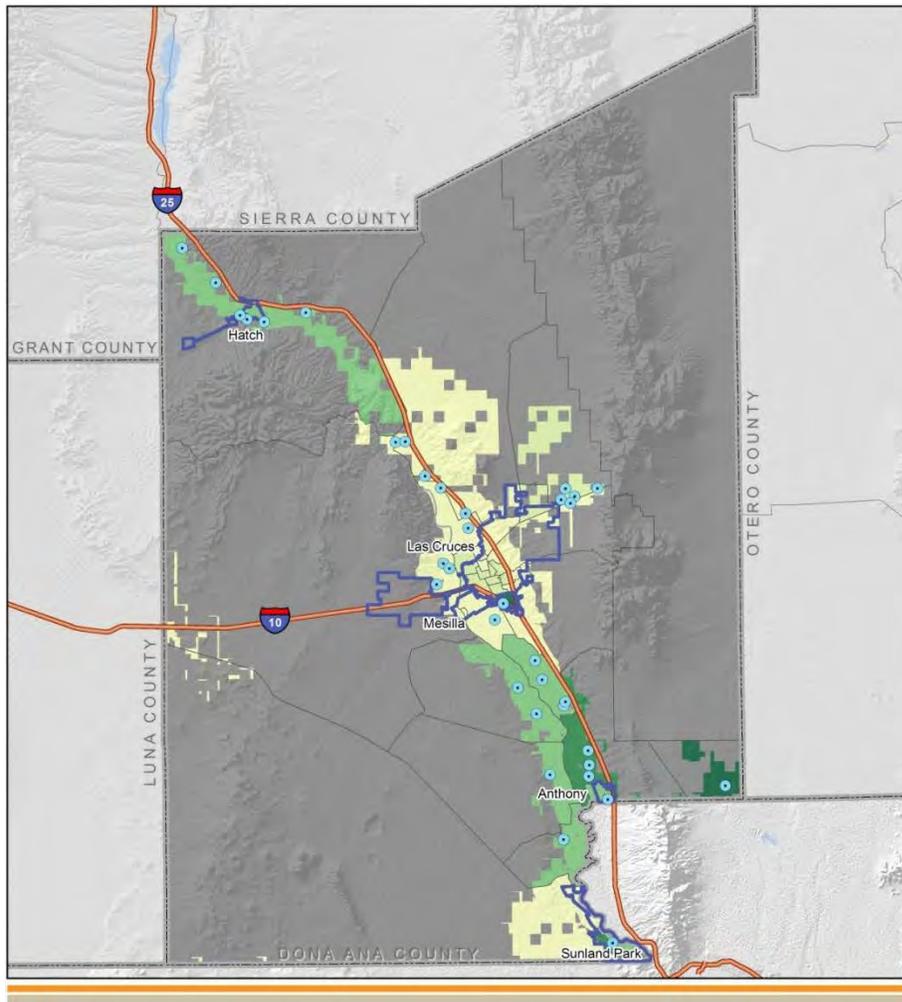
Doña Ana County  
 2004–2011 HMDA Data



Map V.1 shows the variation in denial rates by Census tract. Several tracts had average denial rates above the disproportionate share threshold of 30.9 percent. Rates as high as 80.0 percent were seen; many of these were in the more rural areas of Doña Ana County such as in the easternmost tracts and around the colonias in the northwest and southeast, although some parts of Las Cruces also saw the highest rates.

# Map V.I Denial Rates by Census Tract

Doña Ana County  
2004–2011 HMDA Data



### 2004–2011 Denial Rate Distribution

2004–2011 Average Denial Rate in Doña Ana County = 20.9%  
 Disproportionate Share Threshold = 30.9% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: 2004-2011 HMDA Data, USGS, New Mexico State Land Office

HMDA data were also used to determine denial rates by gender. Table V.4 shows that denial rates were not balanced, with females experiencing much higher denial rates than males for the most part. Between 2004 and 2011, on average, male applicants experienced a denial rate of 19.5 percent, while female applicants experienced a denial rate of 23.2 percent. The difference between denial rates for males and females hovered around 5 to 6 percent in several years, was only 1.2 percentage points different in 2008, but widened to 7.7 percentage points in 2011.

**Table V.4**  
**Denial Rates by Gender of Applicant**

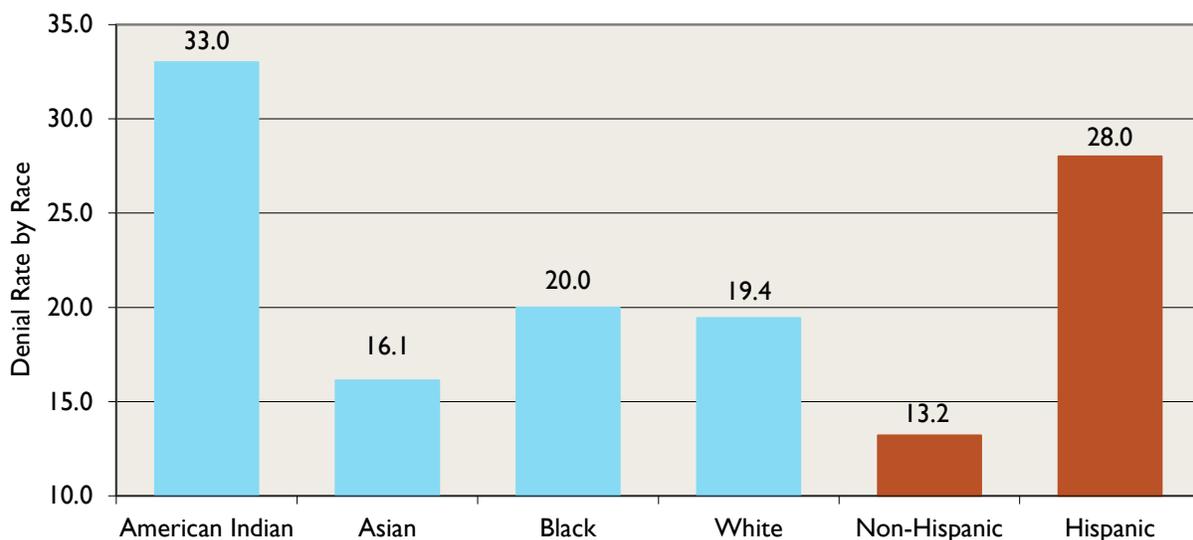
Doña Ana County  
 2004–2011 HMDA Data

Year	Male	Female	Not Available	Not Applicable	Average
2004	19.0%	23.5%	35.2%	%	20.8%
2005	19.3%	23.2%	24.8%	.0%	20.7%
2006	17.7%	22.1%	22.7%	.0%	19.3%
2007	18.5%	21.1%	29.1%	100.0%	19.7%
2008	23.8%	22.6%	24.7%	.0%	23.5%
2009	15.8%	18.0%	20.0%	.0%	16.6%
2010	19.2%	24.6%	18.2%	%	20.9%
2011	25.4%	33.1%	44.4%	.0%	28.5%
<b>Average</b>	<b>19.5%</b>	<b>23.2%</b>	<b>27.2%</b>	<b>6.7%</b>	<b>20.9%</b>

Denial rates were also calculated by race and ethnicity of loan applicants. Diagram V.2 presents denial rates for the racial groups of American Indian, Asian, black, and white and the ethnic categories of Hispanic and non-Hispanic. As shown, applicants of most minority race and ethnicity statuses experienced higher denial rates than white applicants; American Indian applicants had the highest denial rate among all categories, at 33.0 percent, followed by Hispanic applicants of any race, at 28.0 percent. This is a stark comparison to denial rates for non-white applicants, which is less than half, at 13.2 percent.

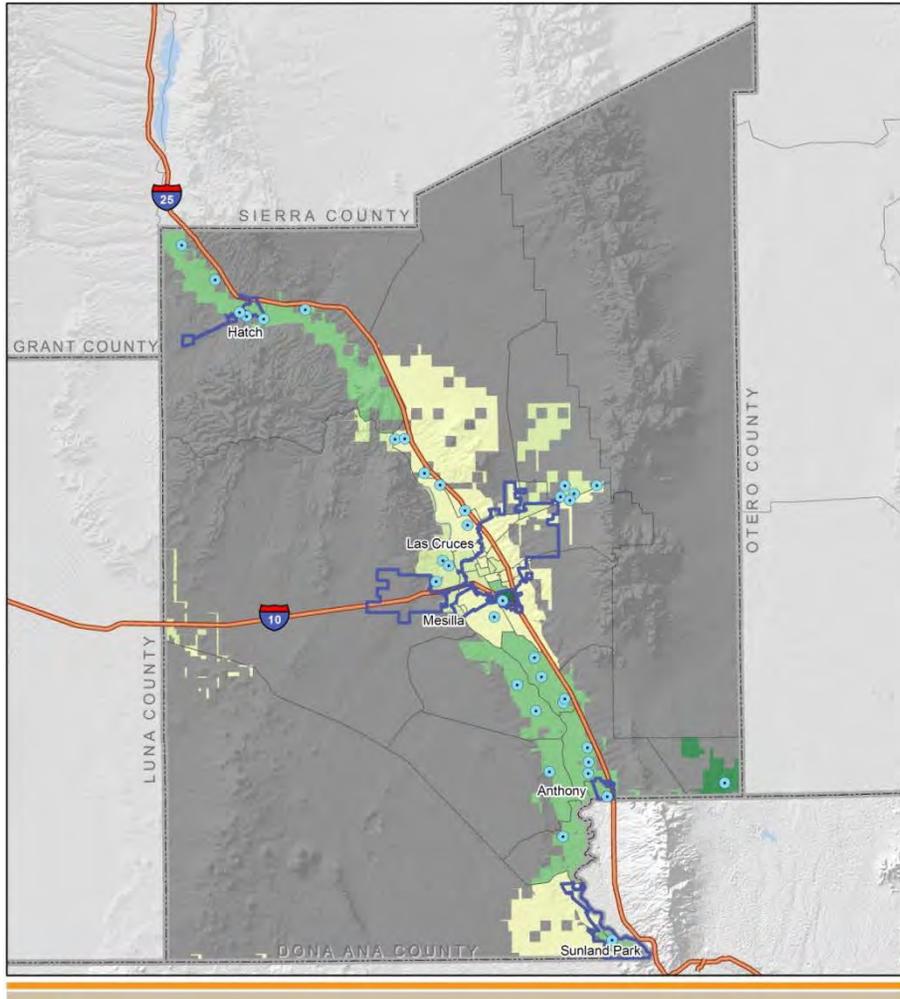
**Diagram V.2**  
**Denial Rates by Race and Ethnicity of Applicant**

Doña Ana County  
 2004–2011 HMDA Data



Map V.2 shows denial rates for Hispanic applicants in the County; these rates were more heavily weighted to rural tracts, with most of the tracts around colonias such as around Hatch and Sunland Park having rates as high as 75.0 percent. However, parts of Las Cruces experienced rates as high as 85.7 percent but also as low as 12.8 percent, suggesting large differences between neighborhoods.

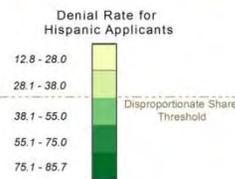
**Map V.2**  
**Denial Rates for Hispanic Applicants by Census Tract**  
 Doña Ana County  
 2004–2011 HMDA Data



**2004–2011 Distribution of Denial Rates for Hispanic Applicants**

2004–2011 Average Denial Rate for Hispanic Applicants in Doña Ana County = 28.0%  
 Disproportionate Share Threshold = 38.0% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- No Loan Applications
- Federal and State Owned Land



Data Source: FFIEC HMDA, 2004–2011, USGS, New Mexico State Land Office

The HMDA database includes information regarding the reason for a loan denial, although financial institutions are not uniformly required to fill out this field. Nevertheless, the most frequently cited categories of denials were credit history and debt-to-income ratio, as shown in Table V.5. These problems were appeared most prevalent from 2004 through 2007.

**Table V.5**  
**Loan Applications by Reason for Denial**

Doña Ana County  
2004–2011 HMDA Data

Denial Reason	2004	2005	2006	2007	2008	2009	2010	2011	Total
Debt-to-Income Ratio	63	86	102	122	81	59	91	97	701
Employment History	11	12	22	14	7	4	11	11	92
Credit History	175	203	174	147	126	111	123	124	1,183
Collateral	49	44	45	53	34	15	22	21	283
Insufficient Cash	30	16	16	24	6	12	15	13	132
Unverifiable Information	11	31	29	18	12	3	15	7	126
Credit Application Incomplete	38	56	51	43	27	22	10	8	255
Mortgage Insurance Denied	0	2	0	0	1	2	1	0	6
Other	53	59	89	44	19	14	24	18	320
Missing	130	180	169	111	115	74	75	185	1,039
<b>Total</b>	<b>560</b>	<b>689</b>	<b>697</b>	<b>576</b>	<b>428</b>	<b>316</b>	<b>387</b>	<b>484</b>	<b>4,137</b>

Table V.6 shows denial rates by income in Doña Ana County. As expected, households with lower incomes were more commonly denied. Households with incomes from \$15,001 to \$30,000 were denied an average of 39.0 percent of the time, while those with incomes above \$75,000 were denied 11.6 percent of the time on average.

**Table V.6**  
**Denial Rates by Income of Applicant**

Doña Ana County  
2004–2011 HMDA Data

Income	2004	2005	2006	2007	2008	2009	2010	2011	Total
\$15,000 or Below	61.3%	59.4%	40.6%	56.3%	50.0%	50.0%	66.7%	87.1%	57.8%
\$15,001–\$30,000	39.5%	37.3%	34.8%	34.4%	46.7%	31.2%	38.3%	53.8%	39.0%
\$30,001–\$45,000	20.1%	20.6%	23.6%	21.4%	26.4%	19.7%	21.7%	31.1%	22.7%
\$45,001–\$60,000	19.4%	17.9%	19.3%	15.7%	22.4%	12.4%	17.5%	19.6%	17.9%
\$60,001–\$75,000	9.1%	18.3%	15.2%	13.9%	14.4%	10.3%	10.8%	21.4%	14.3%
Above \$75,000	7.8%	10.6%	11.6%	14.9%	12.4%	9.3%	11.6%	14.2%	11.6%
Data Missing	25.0%	19.3%	18.2%	32.4%	31.6%	36.4%	45.5%	25.0%	24.1%
<b>Total</b>	<b>20.8%</b>	<b>20.7%</b>	<b>19.3%</b>	<b>19.7%</b>	<b>23.5%</b>	<b>16.6%</b>	<b>20.9%</b>	<b>28.5%</b>	<b>20.9%</b>

Table V.7 presents denial rates segmented by race or ethnicity and income. Minority racial and ethnic applicants often faced much higher loan denial rates than white applicants, even after correcting for income. For example, American Indian applicants in the county experienced higher loan denial rates than white applicants across all income levels; at incomes of \$15,000 to \$30,000, American Indian applicants experienced a denial rate of 43.6 percent compared to the white denial rate of 26.3 percent for that income group. At incomes over \$75,000, American Indian applicants had a denial rate of 20.0 percent compared to 11.1 percent for white applicants. Even more dramatic is the average denial rate for Hispanic persons having incomes above \$75,000. That is 8.6 percent compared to 16.9 percent for the comparable non-Hispanic population.

**Table V.7**  
**Denial Rates of Loans by Race/Ethnicity and Income of Applicant**

Doña Ana County  
 2004–2011 HMDA Data

Race	<= \$15K	\$15K–\$30K	\$30K–\$45K	\$45K–\$60K	\$60K–\$75K	Above \$75K	Data Missing	Average
American Indian	75.0%	43.6%	32.1%	33.3%	20.7%	20.0%	60.0%	33.0%
Asian	66.7%	23.3%	12.9%	24.1%	10.0%	9.6%	50.0%	16.1%
Black	50.0%	44.4%	23.7%	21.7%	13.9%	14.9%	33.3%	20.0%
White	53.9%	36.3%	21.1%	16.4%	13.3%	11.1%	22.9%	19.4%
Not Available	75.0%	63.3%	39.4%	28.7%	24.1%	15.0%	27.5%	33.2%
Not Applicable	%	26.7%	11.5%	.0%	.0%	14.3%	8.3%	12.5%
<b>Average</b>	<b>57.8%</b>	<b>39.0%</b>	<b>22.7%</b>	<b>17.9%</b>	<b>14.3%</b>	<b>11.6%</b>	<b>24.1%</b>	<b>20.9%</b>
Non-Hispanic	37.7%	26.8%	15.2%	12.7%	10.9%	8.6%	18.9%	13.2%
Hispanic	37.7%	26.8%	15.2%	12.7%	10.9%	8.6%	18.9%	13.2%

### *Predatory Lending*

In addition to modifications implemented in 2004 for documenting loan applicants' race and ethnicity, the HMDA reporting requirements were changed in response to the Predatory Lending Consumer Protection Act of 2002 as well as the Home Owner Equity Protection Act (HOEPA). Consequently, loan originations are now flagged in the data system for three additional attributes:

- If they are HOEPA loans;<sup>41</sup>
- Lien status, such as whether secured by a first lien, a subordinate lien, not secured by a lien, or not applicable (purchased loans); and
- Presence of high annual percentage rate loans (HALs), defined as more than three percentage points higher than comparable treasury rates for home purchase loans, or five percentage points higher for refinance loans.<sup>42</sup>

For the 2013 FHEA and Regional AI analysis, originated owner-occupied home purchase loans qualifying as HALs were examined for 2004 through 2011. These high annual percentage rate loans may be construed to be predatory in nature. Table V.8 shows that between 2004 and 2011, there were 49,901 HALs for owner-occupied homes originated in Doña Ana County representing 15.2 percent of the total. The number of HALs was highest in 2005 and 2006 when 16,650 and 14,515 were originated, comprising 25.1 and 24.9 percent of all mortgage loans, but decreased significantly afterward, and by 2011, only 124 HALs were made, or 0.6 percent.

**Table V.8**  
**Originated Owner Occupied Loans by HAL Status**

Doña Ana County  
 2004–2011 HMDA Data

Loan Type	2004	2005	2006	2007	2008	2009	2010	2011
Other	1,814	2,071	2,311	2,036	1,289	1,452	1,374	1,122
HAL	320	570	606	305	107	141	94	92
<b>Total</b>	<b>2,134</b>	<b>2,641</b>	<b>2,917</b>	<b>2,341</b>	<b>1,396</b>	<b>1,593</b>	<b>1,468</b>	<b>1,214</b>
Percent HAL	15.0%	21.6%	20.8%	13.0%	7.7%	8.9%	6.4%	7.6%

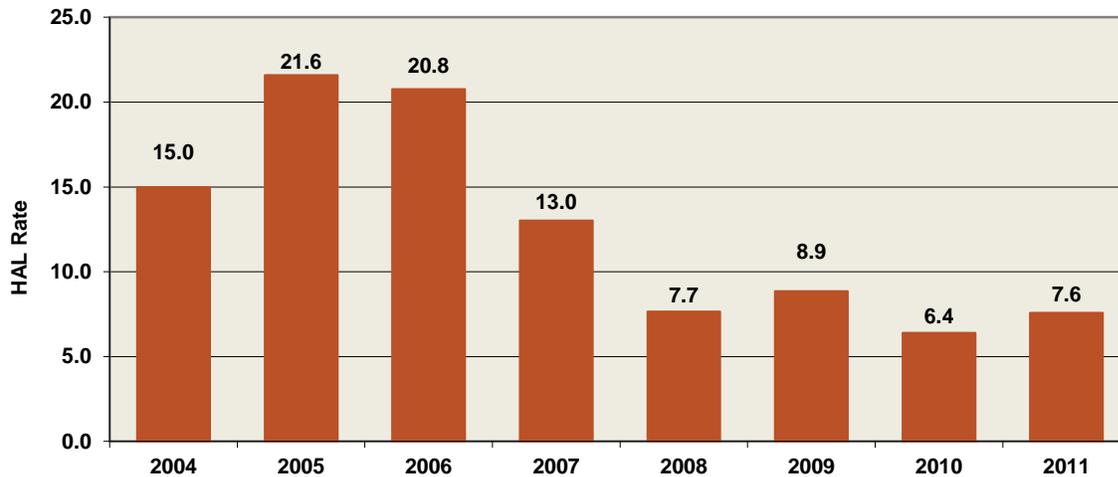
<sup>41</sup> Loans are subject to the HOEPA if they impose rates or fees above a certain threshold set by the Federal Reserve Board. (FFIEC n.d.) HMDA Glossary: H

<sup>42</sup> (Board of Governors of the Federal Reserve System 2002)

However, the rate at which these types of loans were originated varied substantially by year, as shown in Diagram V.3. A high of 21.6 percent of loans issued were HALs in 2005; this rate has been far lower since 2008. Further, the existing percentage rate of these predatory style loan instruments tends to be rather high in comparison to other areas of the US.

Diagram V.3  
HAL Rates by Year

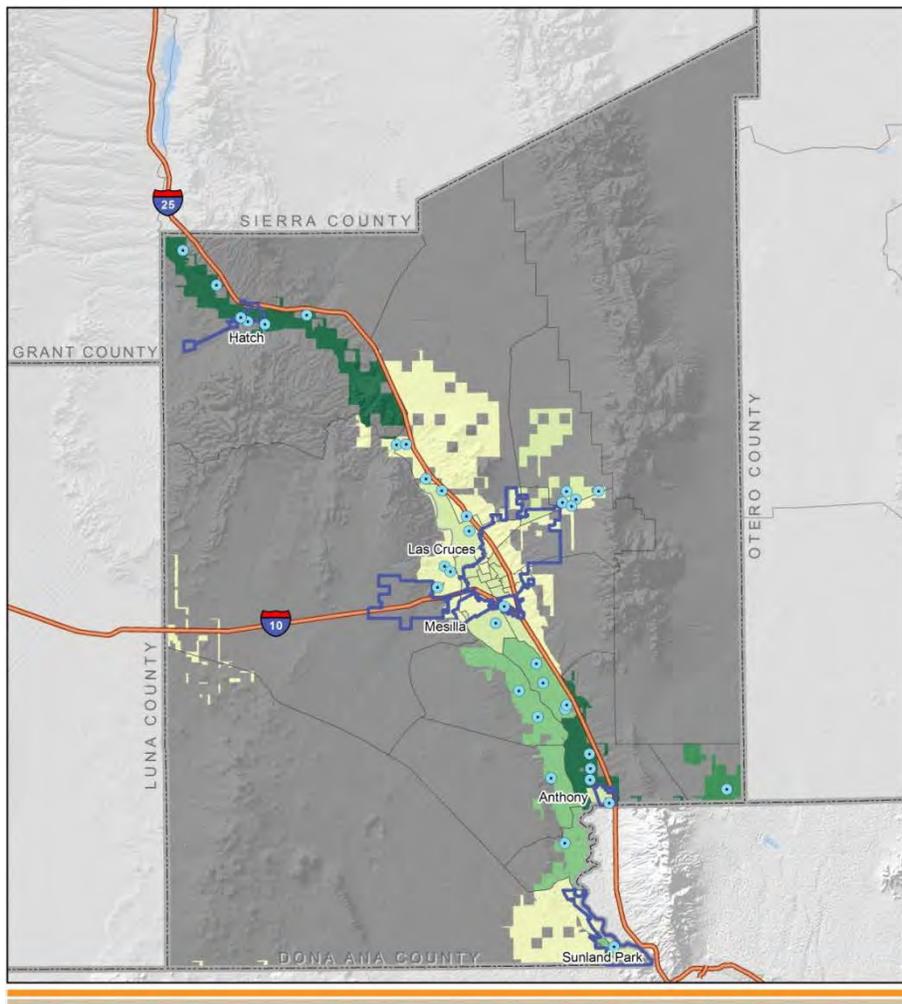
Doña Ana County  
2004–2011 HMDA Data



The spatial distribution of HALs in Doña Ana County is presented in Map V.3 on the following page. A few large tracts showed average proportions of borrowers who received HALs in excess of the disproportionate share threshold of 24.2 percent, particularly around Hatch and some of the colonias in the southeastern part of the County.

# Map V.3 Rate of HALs by Census Tract

Doña Ana County  
2004–2011 HMDA Data

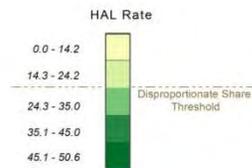


### 2004–2011 HAL Rate Distribution

2004–2011 Average HAL Rate in Doña Ana County = 14.2%

Disproportionate Share Threshold = 24.2% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: FFIEC HMDA, 2004–2011, USGS, New Mexico State Land Office

Though the average rate of HALs was 14.2 percent, it varied widely over the period and was most recently relatively low. Still, these data are a measure of the County’s underlying foreclosure risk for recent homeowners, and it is important to examine characteristics of applicants who received these HALs in the eight–year time period to see if there are lending patterns associated with these loan products. As shown in Table V.9, the group with the greatest number of HALs between 2004 and 2010 was white applicants, with 1,954 such loans. Hispanic applicants took out 1,277 home purchase HALs.

Fortunately, the number of HALs decreased significantly from 2006 to 2010 for all racial and ethnic groups.

**Table V.9**  
**HALs by Race/Ethnicity and Income of Applicant**

Doña Ana County  
2004–2011 HMDA Data

Race/Ethnicity	2004	2005	2006	2007	2008	2009	2010	2011	Total
American Indian	5	7	2	5	0	1	0	2	22
Asian	2	6	6	2	1	2	0	0	19
Black	4	10	12	7	2	0	1	0	36
White	269	501	528	262	96	137	88	73	1,954
Not Available	33	46	57	29	8	1	5	17	196
Not Applicable	7	0	1	0	0	0	0	0	8
<b>Total</b>	<b>320</b>	<b>570</b>	<b>606</b>	<b>305</b>	<b>107</b>	<b>141</b>	<b>94</b>	<b>92</b>	<b>2,235</b>
Non-Hispanic	133	206	231	117	40	41	23	24	815
Hispanic	158	336	325	170	63	100	67	58	1,277

While the highest numbers of HALs were often seen for white applicants, further evaluation of the HMDA data revealed that HALs were issued to Hispanic applicants in unusually high proportions, as shown in Table V.10. On average, 20.6 percent of loans taken by Hispanic who received a loan were HALs, while Non-Hispanics received such loans only 9.8 percent of the time.

**Table V.10**  
**Rate of HALs Originated by Race/Ethnicity and Income of Applicant**

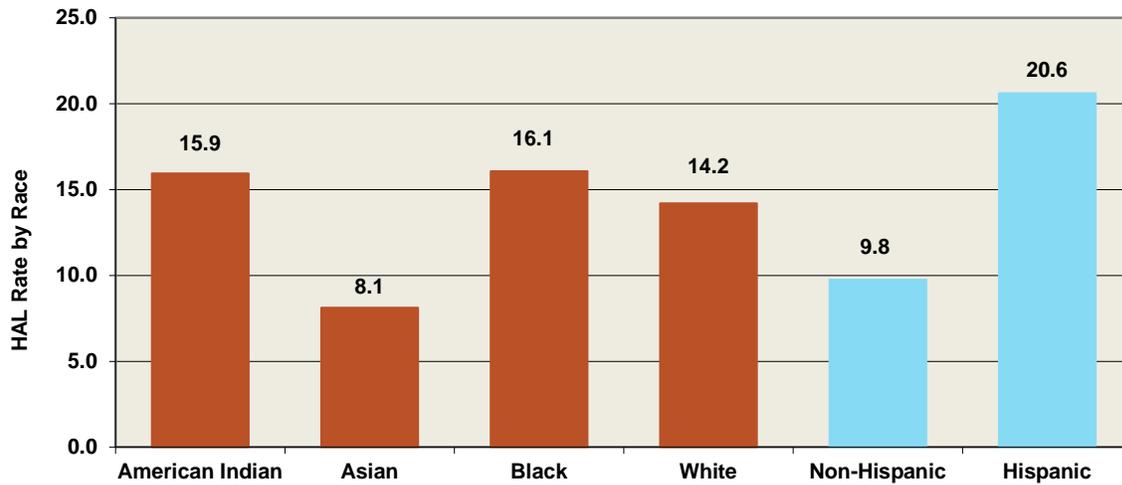
Doña Ana County  
2004–2011 HMDA Data

Race/Ethnicity	2004	2005	2006	2007	2008	2009	2010	2011	Total
American Indian	20.8%	36.8%	9.1%	22.7%	.0%	7.1%	.0%	15.4%	15.9%
Asian	6.1%	14.6%	15.4%	5.9%	5.3%	8.3%	.0%	.0%	8.1%
Black	12.9%	24.4%	40.0%	17.9%	10.0%	.0%	4.3%	.0%	16.1%
White	15.3%	22.2%	20.8%	12.7%	7.8%	9.4%	6.6%	6.6%	14.2%
Not Available	14.2%	16.6%	20.2%	15.3%	7.3%	1.4%	7.6%	26.6%	15.2%
Not Applicable	13.5%	.0%	14.3%	%	%	%	%	%	13.0%
<b>Total</b>	<b>15.0%</b>	<b>21.6%</b>	<b>20.8%</b>	<b>13.0%</b>	<b>7.7%</b>	<b>8.9%</b>	<b>6.4%</b>	<b>7.6%</b>	<b>14.2%</b>
Non-Hispanic	12.0%	14.3%	14.5%	9.3%	5.3%	4.9%	3.1%	3.9%	9.8%
Hispanic	21.3%	34.6%	29.7%	18.3%	11.2%	14.4%	10.2%	10.5%	20.6%

Diagram V.4 shows the rates of HALs issued to borrowers by race and ethnicity and visually demonstrates that Hispanic applicants were issued HALs more frequently over other loans than were other applicants. The rates were also slightly higher for American Indian and black applicants.

### Diagram V.4 HAL Rate by Race/Ethnicity

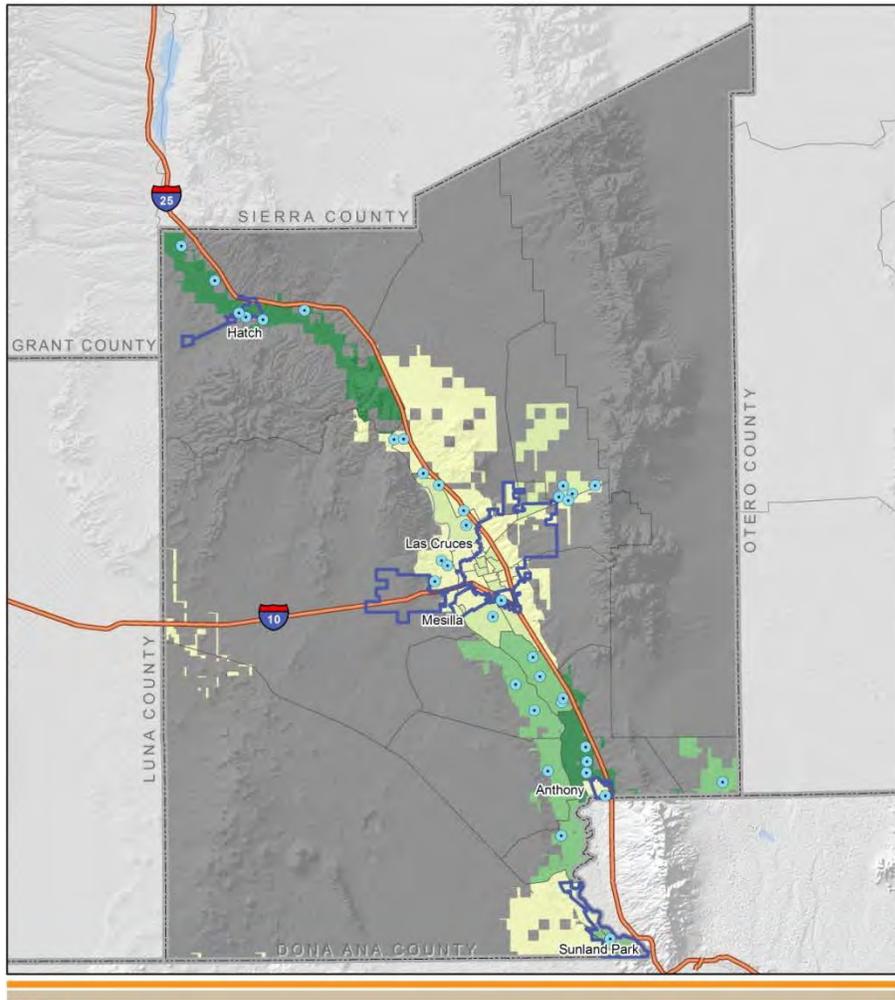
Doña Ana County  
2004–2011 HMDA Data



Map V.4 shows the rates of HALs to Hispanic borrowers across the County. These high concentrations were seen in very different areas than those shown in the previous map, and rates as high as 100.0 percent were seen in Hatch and surrounding some of the colonias in the southeastern parts of the County.

# Map V.4 HALs to Hispanic Borrowers by Census Tract

Doña Ana County  
2004–2011 HMDA Data

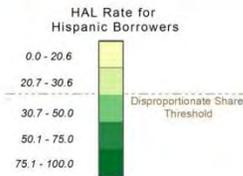


### 2004–2011 Distribution of HAL Rates for Hispanic Borrowers

2004–2011 Average HAL Rate for Hispanic Borrowers in Doña Ana County = 20.6%

Disproportionate Share Threshold = 30.6% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- No Loan Applications
- Federal and State Owned Land



Data Source: FFIEC HMDA, 2004–2011, USGS, New Mexico State Land Office

## COMMUNITY REINVESTMENT ACT DATA

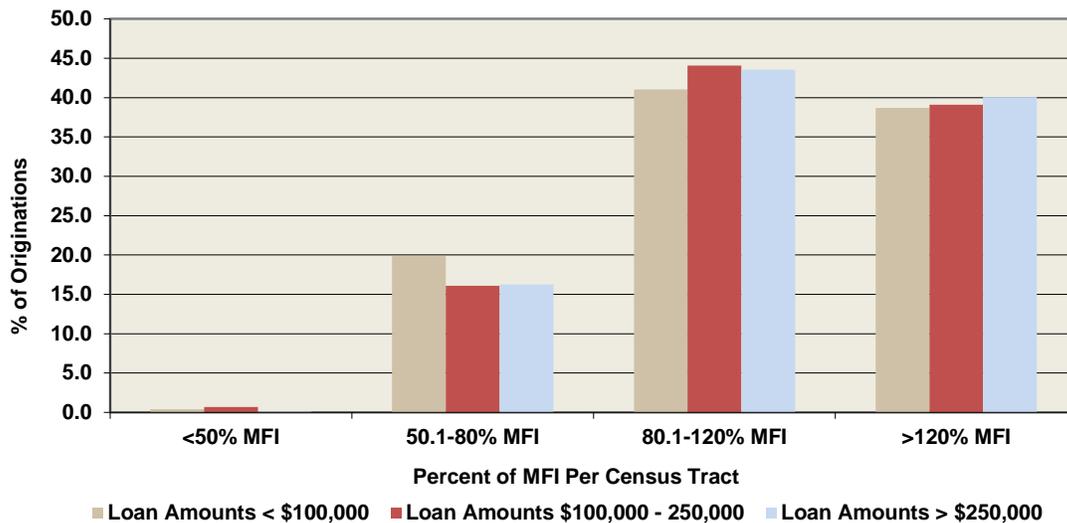
Access to home mortgage and improvement loans is important for housing consumers. Still, investment patterns within an area also play a role for influencing housing choices, as viable economic activities contribute to an area's desirability. Measure of such investment can be evaluated through use of Community Reinvestment Act (CRA) data. As noted previously, the CRA was enacted in 1977 and is intended to encourage lending institutions to meet the credit needs of the communities in which they operate, including low- and moderate-income areas. Along with the HMDA data presented previously, the FFIEC also releases data mandated by the CRA.

Examination of CRA data revealed that between 2000 and 2011, 34,733 small business loans were extended to businesses in tracts that make up the County. Of these, 14,333 loans went to businesses with annual revenues of less than \$1 million. The large majority of all loans, 32,797 were valued under \$100,000.

Small business loans were also analyzed to determine the location of funding in relation to median family income (MFI) levels. Diagram V.5 presents the distribution of small business loans by value and by percent of MFI by Census tract. As shown, almost no loans went to areas with 50.0 percent or less of the MFI and few went to tracts with 50.1 to 80.0 percent of MFI, despite the fact that these loans were designed to aid low- and moderate-income areas. The highest value loans, those for more than \$250,000, were also mostly distributed in tracts with 80.1 percent or more of MFI.

Diagram V.5  
Small Business Loans Originated by Percent of MFI

Doña Ana County  
2004–2010 CRA Data

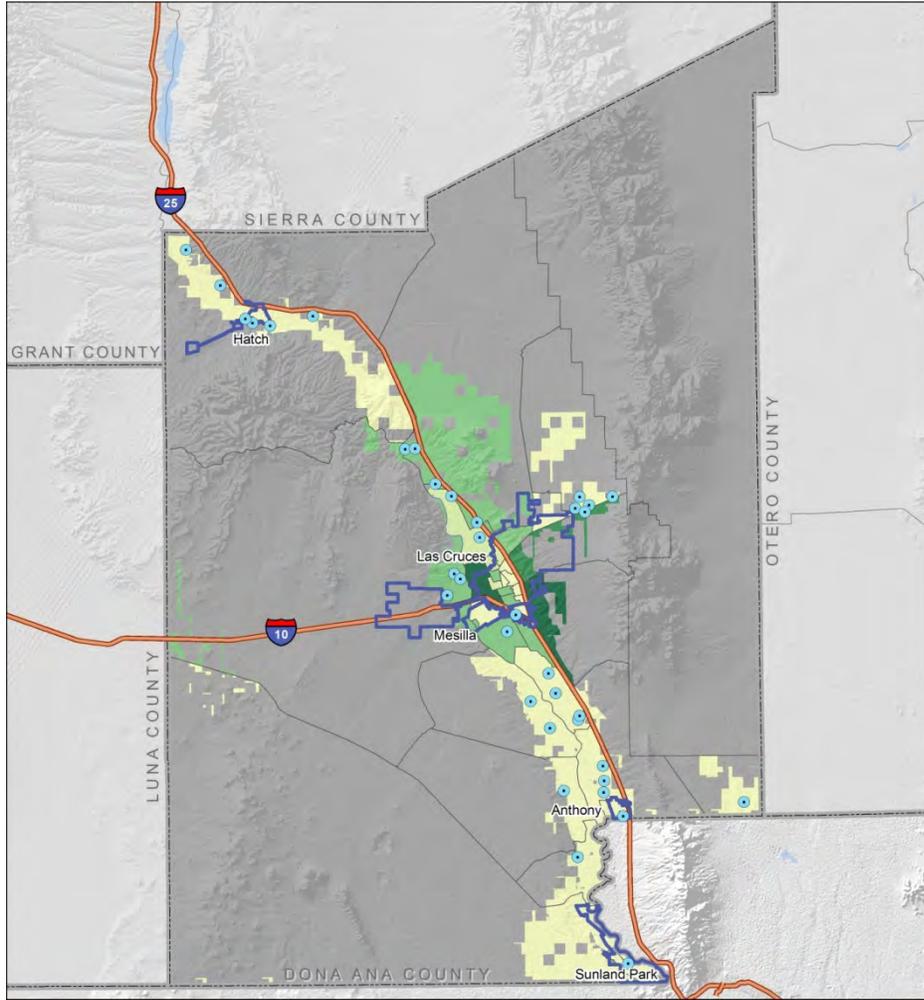


Maps presenting the spatial distribution of the number of loans, as well as the volume of the lending activities, all by Census tract appear in Maps V.5 and V.5, on the following pages. As shown therein, the concentration of loans and total loan volume has been concentrated in just a few areas over the last 12 years.

Map V.5 shows the frequency of small business loans by tract in the County. For the most part, the highest numbers of these loans were distributed in and around Las Cruces, as well as in two large tracts north and west of the city. Most of the rural areas received the smallest numbers of loans.

### Map V.5 Number of Small Business Loans

Doña Ana County  
2000–2010 CRA Data



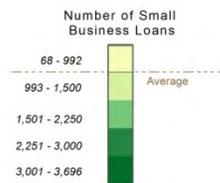
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BUILDING A SUSTAINABLE FUTURE | CONSTRUYENDO UN FUTURO SOSTENIBLE



#### Number of Small Business Loans Invested from 2000–2011

2000–2011 Average Number of Small Business Loans Per Tract in Doña Ana County = 992

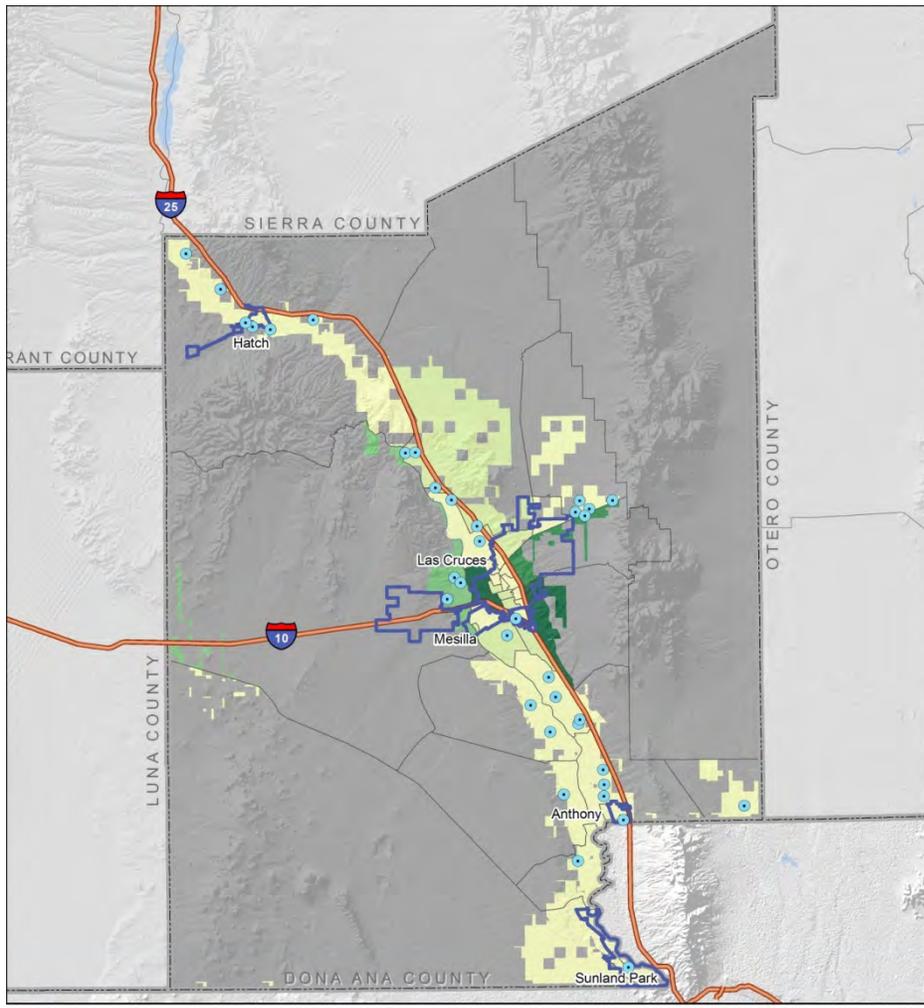
- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: FFIEC CRA, 2004-2011, USGS, New Mexico State Land Office

Map V.6 shows the cumulative average values of small business loans for each tract in the County. Many of the same tracts received significant lending attention, suggesting that the loans with the highest value also occurred in the tracts that received the most loans. This may represent a severe imbalance in lending activity.

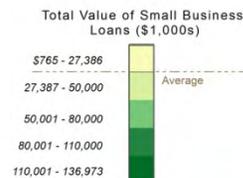
**Map V.8**  
**Amount of Small Business Loan Dollars**  
 Doña Ana County  
 2000–2010 CRA Data



**Amount of Small Business Loan Dollars Invested from 2000–2011**  
 2000–2011 Average Total Value of Small Business Loans Per Tract in Doña Ana County = \$27,386

- Colonias
- City, Town, and Village Boundaries
- Major Roads
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land

Data Source: FFIEC CRA, 2004-2011, USGS, New Mexico State Land Office



## B. Fair Housing Complaints

Housing discrimination complaint data were requested from the two agencies that process complaints in Doña Ana County: HUD and the New Mexico Human Rights Bureau (HRB).

These requests were made via a formal process as required in the Freedom of Information Act (FOIA) on March 7, 2013. However, only HUD provided complaint data, analyzed in the following section.

### U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HUD maintains records of housing complaints that represent alleged violations of federal housing law, as described previously in Section III. Over the March 2004 through August 2012 period, HUD reported only 69 complaints filed in the County, as shown in Table V.11. The total number of complaints ranged from a low of 1 in 2009 and 2010 to a high of 24 in 2007, excluding 2012 as a partial year. There was a fair housing entity active in 2007 and 2008, which explains why there were more complaints at that time than at any other time during this period.

Table V.11 also presents complaint data by basis, or the protected class status of the person allegedly aggrieved in the complaint. Complainants may cite more than one basis, so the number of basis cited can exceed the total number of complaints. As shown, 79 basis were cited in relation to the 69 complaints filed. Familial status was the most commonly cited basis, with 27 complaints with this basis, followed by disability, with 26.

Table V.11  
Fair Housing Complaints by Basis  
Doña Ana County  
2004-2012 HUD Data

Basis	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Familial Status			1	17	7			1	1	27
Disability	2	6	4	3	3	1	1	4	2	26
Sex	1	1	1	2	2				1	8
Religion					6				1	7
National Origin		1		2	2			1		6
Race				3	1			1		5
<b>Total Basis</b>	<b>3</b>	<b>8</b>	<b>6</b>	<b>27</b>	<b>21</b>	<b>1</b>	<b>1</b>	<b>7</b>	<b>5</b>	<b>79</b>
Total Complaints	3	8	6	24	16	1	1	5	5	69

HUD records the issue, or alleged discriminatory action related to each complaint. These are presented in Table V.12. In the same way that bases are reported, more than one issue may be associated with each complaint, and 131 issues were cited. Discrimination in terms, conditions, or privileges relating was cited 37 times; discriminatory advertising in rentals cited 26 times; discriminatory terms in rental 21 times; and failure to make reasonable accommodation 21 times. The most commonly cited issues in this complaint dataset related predominantly to rental transactions, suggesting that alleged discrimination was more common in the rental market.

**Table V.12**  
**Fair Housing Complaints by Issue**

Doña Ana County  
 2004-2012 HUD Data

<b>Issue</b>	<b>Total</b>
Discriminatory terms, conditions, privileges, or services and facilities	37
Discriminatory advertisement - rental	26
Discrimination in term, conditions or privileges relating to rental	21
Failure to make reasonable accommodation	16
Discriminatory refusal to rent and negotiate for rental	8
Discriminatory refusal to rent	7
Discriminatory acts under Section 818 (coercion, etc.)	4
Failure to permit reasonable modification	3
Steering	2
Discriminatory refusal to sell and negotiate for sale	1
Discriminatory refusal to negotiate for rental	1
Discriminatory advertising, statements and notices	1
False denial or representation of availability - rental	1
Discriminatory financing (includes real estate transactions)	1
Otherwise deny or make housing available	1
Non-compliance with design and construction requirements (handicap)	1
<b>Total Issues</b>	<b>131</b>
<b>Total Complaints</b>	<b>69</b>

### **C. Fair Housing Survey – Private Sector Results**

Additional evaluation of fair housing within Doña Ana County was conducted via an online survey of stakeholders conducted in May and June of 2013. The purpose of the survey, a relatively qualitative component of the Regional AI, was to gather insight into the knowledge, experiences, opinions, and feelings of stakeholders and interested citizens regarding fair housing. Results and comments related to the questions in the private sector are presented in the following narrative, and additional survey results are discussed in **Sections VI** and **VII**.

The Doña Ana County 2013 Fair Housing Survey was completed by 113 respondents. Individuals solicited for participation included representatives of housing groups, minority organizations, disability resource groups, real estate and property management associations, banking entities, and other groups involved in the fair housing arena. Most questions in the survey required simple “yes,” “no,” or “don’t know” responses, although many questions allowed the respondent to offer written comments. When many respondents reported that they were aware of questionable practices or barriers, or when multiple narrative responses indicated similar issues, findings suggested likely impediments to fair housing choice. Numerical tallies of results and summaries of some comment-driven questions are presented in this section.

#### **FAIR HOUSING IN THE PRIVATE SECTOR**

In order to address perceptions of fair housing in Doña Ana County’s private housing sector, survey respondents were asked to identify their awareness of possible housing discrimination issues in a number of areas within the private housing sector, including the:

- Rental housing market,
- Real estate industry,

- Mortgage and home lending industry,
- Housing construction or accessible housing design fields,
- Home insurance industry,
- Home appraisal industry, and
- Any other housing services.

If respondents indicated that they were aware of possible discriminatory issues in any of these areas, they were asked to further describe issues in a narrative fashion. Tallies for each question are presented in Table V.13.

**Table V.13**  
**Barriers to Fair Housing in the Private Sector**  
 Doña Ana County  
 2013 Fair Housing Survey

Question	Yes	No	Don't Know	Missing	Total
<b>Are you aware of any questionable practices or barriers to fair housing choice in:</b>					
The rental housing market?	9	38	31	35	113
The real estate industry?	6	28	44	35	113
The mortgage and home lending industry?	10	27	40	36	113
The housing construction or accessible housing design fields?	3	28	46	36	113
The home insurance industry?	2	31	45	35	113
The home appraisal industry?	6	25	45	37	113
Any other housing services?	5	31	40	37	113

### ***Rental Housing***

Regarding barriers to fair housing choice in the rental housing market, only 9 respondents noted awareness of fair housing issues in this area; however, 35 respondents did not answer this question. Some respondents—31—did not know about rental housing barriers, and 38 respondents reported that they were not aware of such barriers.

### ***Real Estate Industry***

Only 6 respondents reported awareness of barriers to fair housing choice in the real estate industry, although the majority did not know or did not respond. Narrative comments included mentions of steering to particular neighborhoods.

### ***Mortgage and Home Lending Industry***

Regarding barriers to fair housing choice in the lending or mortgage industries, 10 respondents noted awareness of fair housing issues. Comments suggested that Hispanic applicants were more frequently denied or received lower-quality loans than did white applicants.

### ***Housing Construction or Accessible Housing Design Fields***

Barriers to fair housing choice in the housing construction or accessible housing design fields were also addressed in the survey. When asked if they were aware of fair housing issues in these areas, only 3 respondents said yes.

### ***Home Insurance Industry***

Only 2 respondents noted barriers to fair housing choice in the home insurance industry, although many of those who took the survey did not respond or said that they did not know. Some comments suggested that it is difficult to insure homes in neighborhoods with older housing stock, abandoned properties, or low-income residents.

### ***Home Appraisal Industry***

The home appraisal industry was also investigated as part of the survey. When asked, 6 respondents noted that they were aware of barriers to fair housing choice in the home appraisal industry. Some respondents commented that appraisers make assumptions about properties based on neighborhood quality, and that they may consider some areas as a detriment to property values.

### ***Any Other Housing Services***

Respondents were also asked to discuss their awareness of barriers to fair housing in any other area of the private housing sector. Only 5 respondents noted awareness of other issues, but many did not know or did not respond. Mentioned in the comments was uneven treatment in the rental and for-sale markets based on the poverty or Hispanic makeup of neighborhoods.

## **D. Summary**

Evaluation of the private housing sector included review of home mortgage loan application information, mortgage lending practices, fair housing complaint data, and results from the private sector section of the 2013 Fair Housing Survey.

HMDA data were used to analyze differences in home mortgage application denial rates in the County by race, ethnicity, sex, income, and Census tract. Evaluation of home purchase loan applications from 2004 through 2010 showed that there were 15,704 owner occupied loan originations and 4,137 denials, for an eight-year average loan denial rate in excess of 20 percent. Denial rates were highest in 2011, at 28.5 percent. These HMDA data also showed that Hispanic applicants experienced far higher rates of loan denials than did Non-Hispanic applicants, 28.0 percent versus 13.2 percent.

Analysis of originated loans with high annual percentage rates showed that American Indian and Hispanic populations were also disproportionately issued these types of lower-quality loan products. Hispanic borrowers experienced a more than twice that of non-Hispanic applicants, for example. With high proportions of low quality, high-annual percentage rate loans being issued to these particular groups, the burden of foreclosure may fall more heavily upon them.

Analysis of data from the CRA, which is intended to encourage investment in low- and moderate-income areas, showed that business loans did not tend to be directed toward the areas with highest poverty concentrations in Doña Ana County as commonly as they were toward more higher-income areas.

Fair housing complaint data were analyzed from HUD. HUD data showed that 69 fair housing-related complaints were filed in the County from 2004 through 2012. The number of complaints filed with this agency varied by year, ranging from a low of 1 to a high of 27. The protected classes most impacted by

discrimination, based on the 69 complaints where cause was found, were familial status and disability, and the most common complaint issues related to discrimination in terms, conditions or privileges relating. While housing complaint data were requested from the HRB, no data were received.

Results from the private sector portion of the 2013 Fair Housing Survey, conducted in May and June of 2013 as part of the Regional AI process, showed that some respondents saw possible issues of housing discrimination in the County's private housing sector, particularly with discrimination in the rental markets and discriminatory lending practices toward Hispanics.

## VI. Barriers to Housing Choice in the Public Sector

While the previous section presented a review of the status of fair housing in the private sector, this section will focus specifically on fair housing in the public sector. HUD recommends that the Regional AI investigate a number of housing factors within the public sector, zoning and land use policies, past public infrastructure development and the placement of public housing.

### A. Public Infrastructure

Community features, including public services and facilities, are essential parts of good neighborhoods, leading to a more desirable community and more demand for housing in these areas. The following narrative addresses the location of public transit as it relates to where people live and work, as well as evaluating the location of assisted and public housing and public policies and practices in connection to fair housing choice.

#### **PUBLIC TRANSIT**

Only parts of the City of Las Cruces are served with public transportation access, as shown in Map VI.1. This map also shows the 2011 poverty rates presented previously; unfortunately, the transit lines in the City of Las Cruces were not as available in the highest-poverty tracts. Virtually no public transit service was available in colonias or in any other cities.

#### **PUBLIC AND ASSISTED HOUSING**

Public or assisted housing can exist in several forms, including low-income housing projects, housing voucher programs, and supportive housing. However, it may be of concern where such housing is located, particularly if such housing is continually located in specific areas, thereby potentially concentrating such residents in certain areas. To explore this particular concept, multi-family assisted housing unit and Low Income Housing Tax Credit (LIHTC) affordable unit data were downloaded from HUD. In addition, all voucher-funded assistance addresses were provided by the Mesilla Valley Public Housing Authority (MVPHA).

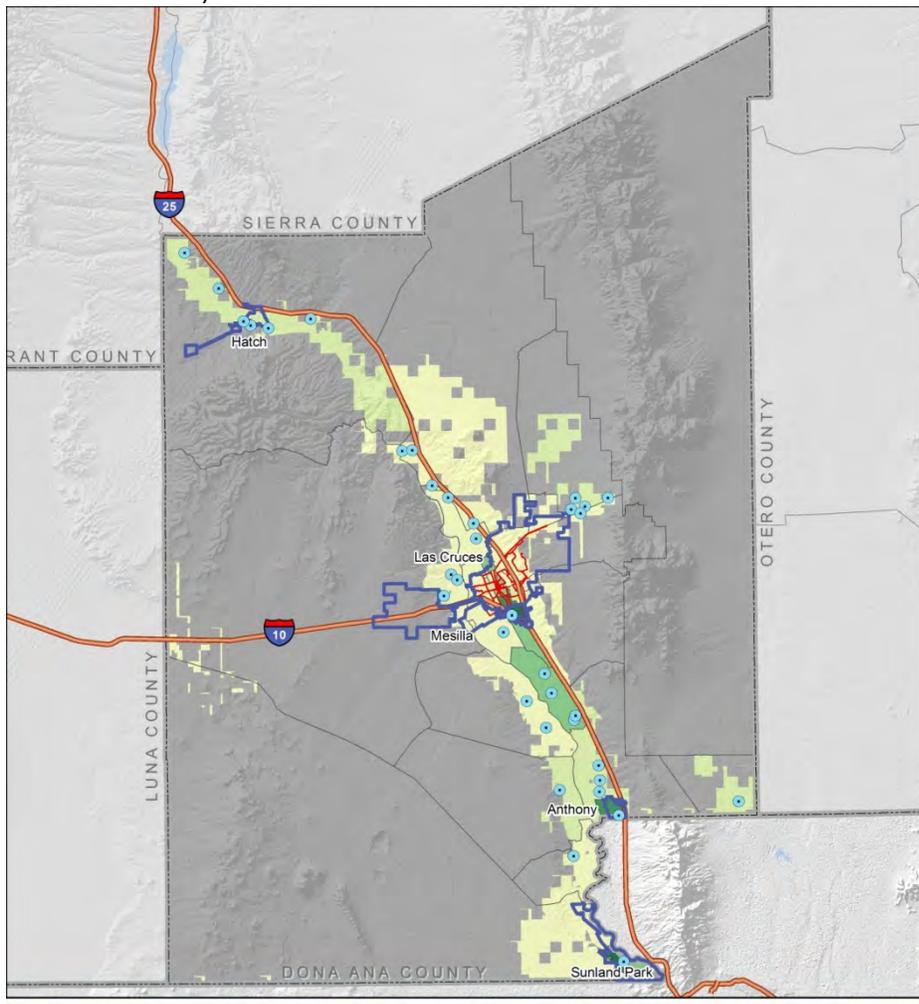
The Housing Authority of the City of Las Cruces (HACLCL) and Mesilla Valley Public Housing Authority distribute rental assistance through the federal Housing Choice Voucher (HCV) program. No data were available on the geographic distribution of HCVs. However, some evaluation can be done regarding HACLCL policies: in 2011, the HACLCL recently their occupancy requirements to a “two heartbeats per bedroom” policy. While this change was allowed by HUD and was made to increase the supply of available units, it may discourage households of some familial statuses from accepting vouchers and finding housing. At the time of the 2011–2015 Analysis of Impediments to Fair Housing Choice for the City of Las Cruces, the HACLCL was considering implementing an exception in the standard to allow nontraditional families and families with single heads of household.<sup>43</sup> Changes may need to be made to this policy in order to ensure equal access to all protected classes.

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<sup>43</sup> (City of Las Cruces Community Development Department 2011) *City of Las Cruces 2011–2015 Consolidated Plan and 2011 Action Plan*

# Map VI.1 Public Transit Routes and Poverty Rates

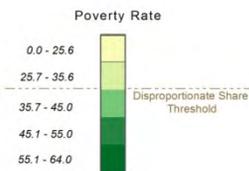
Doña Ana County  
2013 Doña Ana County Data



## Public Transit Routes and Poverty Rates

2007–2011 Average Poverty Rate Among All Census Tracts in Doña Ana County = 25.6%  
Disproportionate Share Threshold = 35.6% (A disproportionate share exists when the share of a population in a given area is at least 10 percentage points greater than the study area average.)

- Colonias
- Public Transit Routes
- Major Roads
- Federal and State Owned Land
- Census Tract Boundaries
- County Boundaries
- City, Town, and Village Boundaries

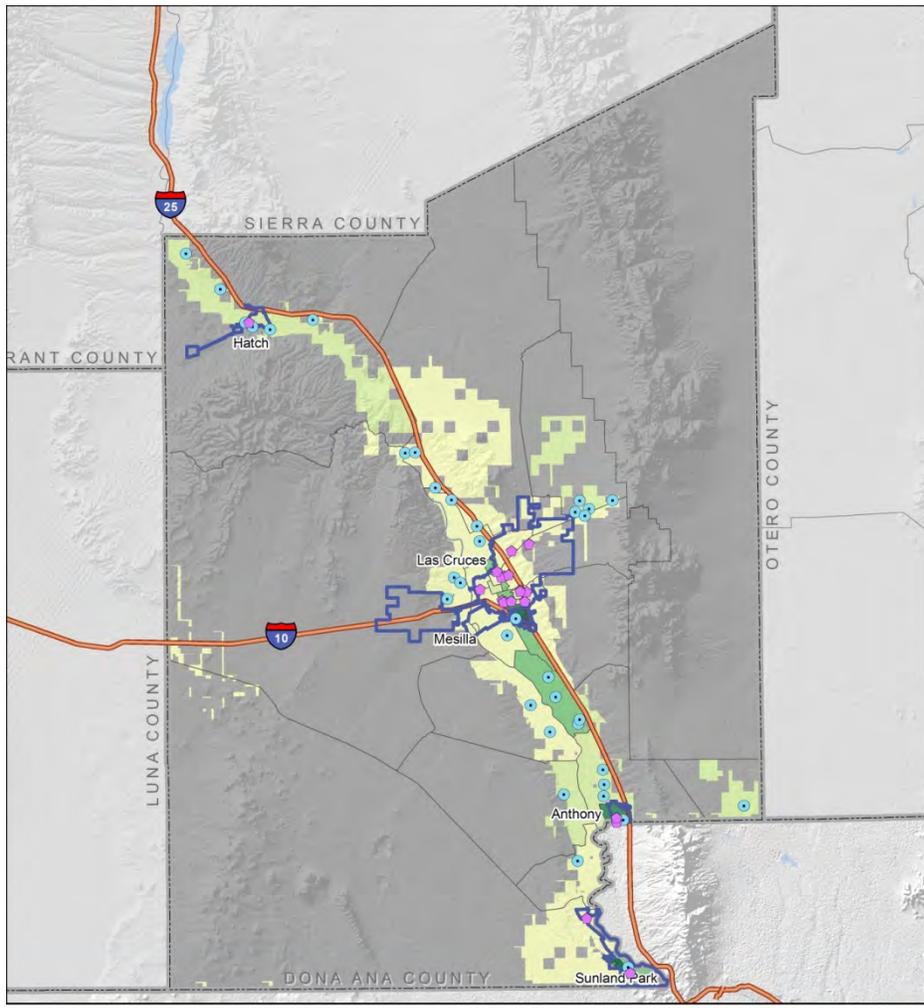


Data Source: Doña Ana County, 2007–2011 ACS, USGS, New Mexico State Land Office

Map IV.2 shows multi-family housing properties funded by HUD rental assistance and their relation to areas of poverty. As shown, these units were concentrated in Las Cruces, with some located in smaller communities like Sunland Park and none in the colonias or the highest-poverty tracts, although several properties were located in relatively low-poverty tracts in the County.

### Map VI.2 Multi-Family HUD-Assisted Rental Units

Doña Ana County  
2013 HUD Data

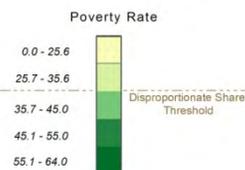


#### 2013 Multifamily Assisted Housing and 2011 Poverty

2007–2011 Average Poverty Rate Among All Census Tracts in Doña Ana County = 25.6%

Disproportionate Share Threshold = 35.6%

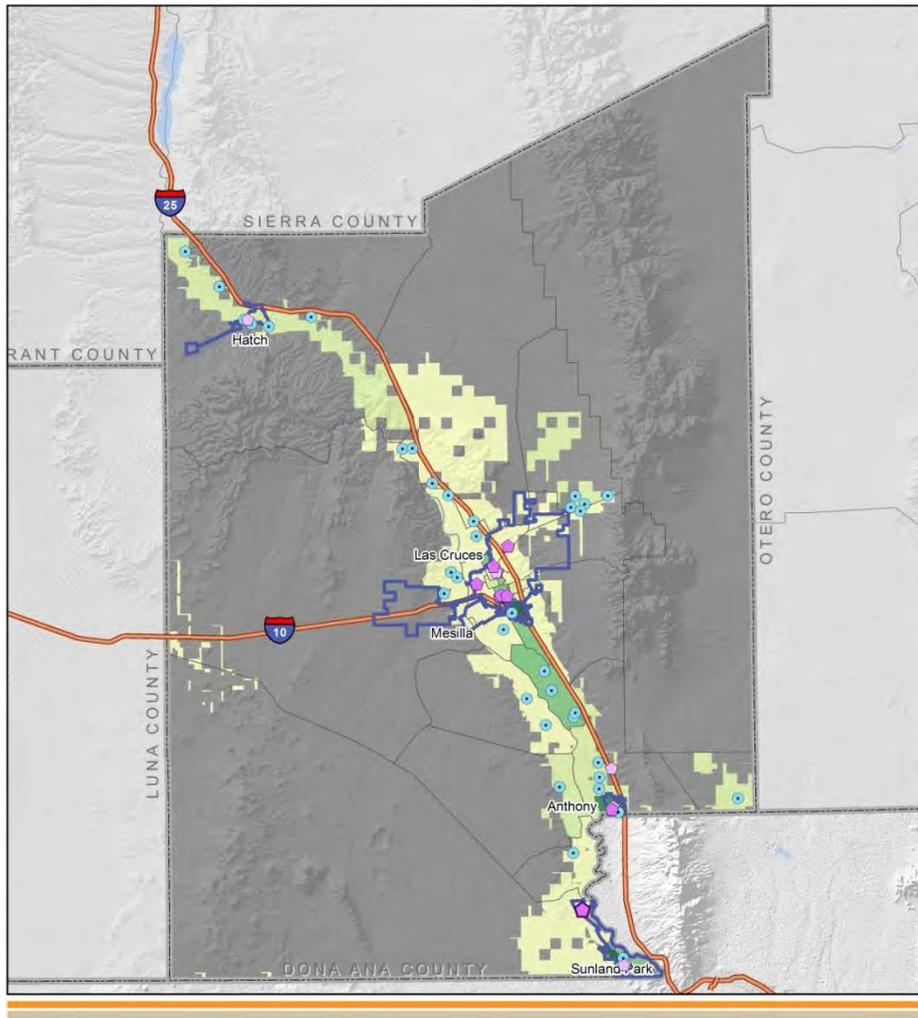
- Colonias
- HUD Assisted Multifamily Housing
- Major Roads
- City, Town, and Village Boundaries
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: HUD 2013, 2007–2011 ACS, USGS, New Mexico State Land Office

As shown in Map VI.3, below, affordable housing units funded with Low Income Housing Tax Credit (LIHTC) resources were distributed similarly in the County, largely along the main transit corridor. While some of these properties were located in low-poverty tracts, such as in Las Cruces, likely offering more opportunities to residents, these housing products seem well distributed throughout the county.

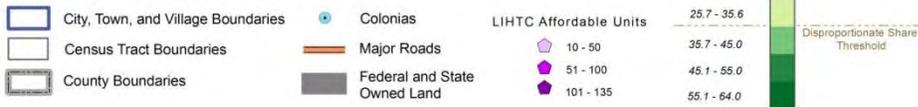
**Map VI.3**  
**LIHTC Affordable Units**  
 Doña Ana County  
 2013 HUD Data



**2013 LIHTC Affordable Units and 2011 Poverty**

2007–2011 Average Poverty Rate Among All Census Tracts in Doña Ana County = 25.6%

Disproportionate Share Threshold = 35.6%

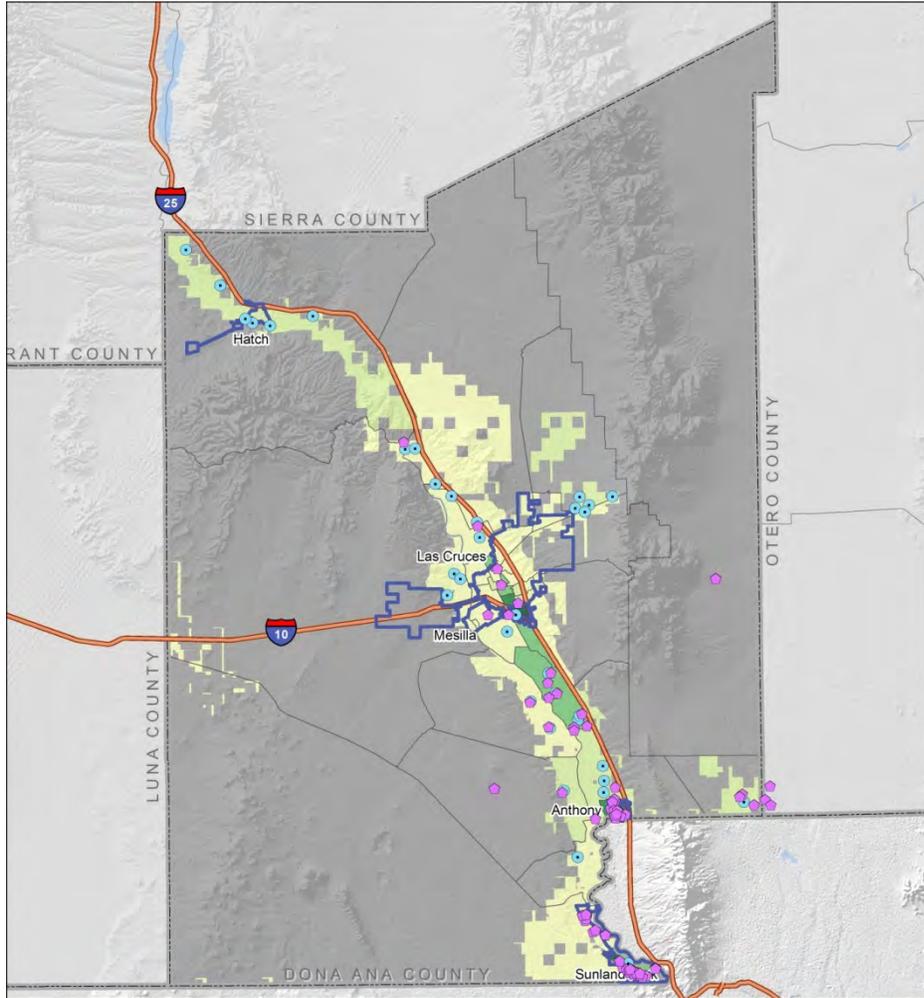


Data Source: HUD 2013, 2007–2011 ACS, USGS, New Mexico State Land Office

The Mesilla Valley Public Housing Authority provided data on the Housing Choice Vouchers that the agency administers. As shown in Map VI.4, these properties were more heavily concentrated in or near colonias and lower income areas throughout the County.

### Map VI.4 Voucher-Funded Assistance

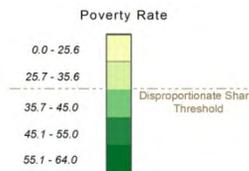
Doña Ana County  
2013 MVPHA Data



#### 2013 Voucher-Funded Assistance and 2011 Poverty

2007–2011 Average Poverty Rate Among All Census Tracts in Doña Ana County = 25.6%  
Disproportionate Share Threshold = 35.6%

- Colonias
- MVPHA Voucher-Assisted Housing
- Major Roads
- City, Town, and Village Boundaries
- Census Tract Boundaries
- County Boundaries
- Federal and State Owned Land



Data Source: MVPHA 2013, 2007-2011 ACS, USGS, New Mexico State Land Office

## **EMPLOYMENT CENTERS**

A community's equity and housing access include considerations of workplaces and access to jobs. Data on employers of more than 100 employees were evaluated to measure the distribution of employment opportunities across the County; these were compared to poverty rates and transit access.

Map VI.5, on the following page, shows these poverty rates and transit lines in combination with the largest employers in the County. As shown, employers with up to 6,980 employees were located in Las Cruces and east of the city in the White Sands area, and several smaller employers of 500 employees or more were seen in Sunland Park. However, only workplaces in parts of Las Cruces were served with public transit.

## **B. Land Use Planning Interviews**

For the County's cities and public organizations, public sector policies were evaluated through the Land Use Planning Interviews, which were conducted over the phone in April and May of 2013 with planning, community development, building, and other staff. This method allowed the collection of thorough answers to key questions about public sector policies, and evaluated the extent to which local jurisdictions practice policies of affirmatively furthering fair housing (AFFH).

Policies relating to housing development, special needs housing, and fair housing were addressed for each area in order to evaluate the public sector environment for a variety of housing types, including affordable housing, mixed-use housing, senior housing, and group homes. Local planning and community development staff provided details on many elements of their jurisdictions' policies. Interview questions related to zoning ordinances, planning policies, and land use practices such as:

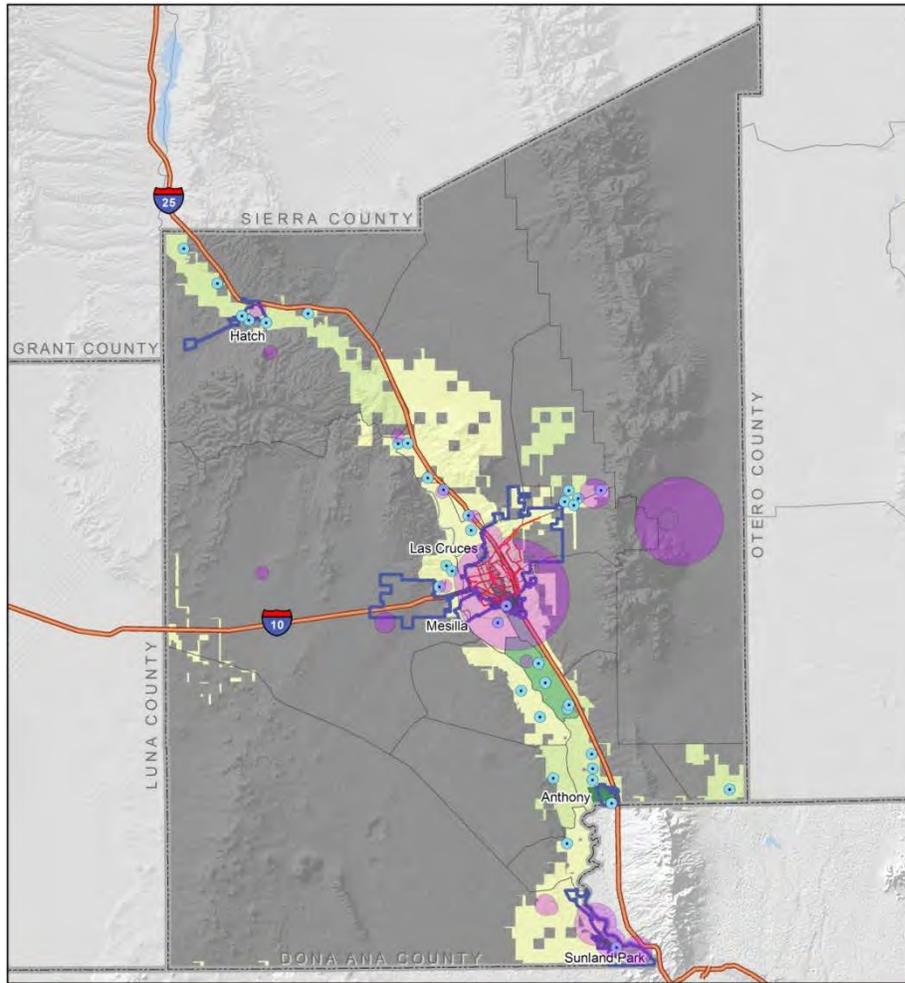
- Definitions of "dwelling unit" and "family";
- Occupancy standards;
- Definitions of "disability";
- Development standards for housing for persons with disabilities;
- Programs or practices relating to the development of affordable, mixed-use, accessible, or senior housing; and
- Policies relating to group homes or other special needs housing.

## **DEFINITIONS**

Fair housing laws seek to protect classes of persons with certain attributes from discrimination, including individuals with disabilities, seniors, and families with children. In order to support these protected classes, it is helpful to have accurate definitions of these classes and to consider the potential effects of zoning and land use policies when it concerns them. Some definitions of "dwelling" or "residential unit" can hinder the provision of housing for disabled or other special needs persons, and can inadvertently discriminate against boarding or care facilities.

# Map VI.5 Public Transit Routes, Poverty Rates, and Employees

Doña Ana County  
2013 Doña Ana County Data



## Public Transit Routes and Poverty Rates

2007–2011 Average Poverty Rate Among All Census Tracts in Doña Ana County = 25.6%



Data Source: Doña Ana County, 2007–2011 ACS, Mesilla Valley Economic Development Alliance, USGS, New Mexico State Land Office

## Dwelling Unit Definitions

Most jurisdictions surveyed have definitions for “dwelling unit.” Some of these definitions were not restrictive to any particular groups, and noted “housekeeping unit” or “person” for the occupants. Some of these definitions are flexible for housing units of many types, including mobile homes and accessory dwellings, but others exclude structures some households may choose to inhabit. In two jurisdictions, the Village of Hatch and the City of Sunland Park, the definition of “dwelling unit” may present barriers or impediments to housing choice for nontraditional households, by defining dwelling units for “families” only. These definitions may exclude some housing that may be required for persons of special needs, such as group homes, because only one family is permitted in a dwelling unit. In addition, they may exclude nontraditional families that do not fall under the jurisdiction’s definition of “family.”

## Family Definitions

All of the jurisdictions interviewed define “family” in their ordinances, and two of these definitions exclude households of non-related persons or more than a set number of residents.

While some of the “family” definitions do not restrict family and dwelling unit inhabitants by their characteristics and merely define a household, the following definition is an example found in one community in the County that may not be in the spirit of AFFH. This definition restricts household size based on related/unrelated persons and numerical restriction on number of persons:

Person(s) related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Some noted definitions do not allow for families of any size made up of related or unrelated persons, and so prevent a large nontraditional family or group of unrelated persons from living together. In addition, some definitions exempted group homes or boarding houses; if these homes are not defined and allowed elsewhere in the code, special needs persons and other potential group home residents may experience disparate impact or intentional discrimination.

## AFFORDABLE HOUSING DEVELOPMENT

Only the City of Las Cruces reported having practices that encourage the development of affordable housing units, such as developing an affordable housing strategy. As part of that plan, the City offers fee waivers to developers of affordable units, saving developers up to \$3,800 per affordable unit in permitting and development impact fees.<sup>44</sup> The City also uses federal HOME funds to support tax credit housing, and allocates funds to specific projects in a competitive process each year.

However, several respondents noted potential barriers to affordable housing, including lack of buildable land and neighborhood resistance, or NIMBYism. While neighborhood response is not a public sector control, cities that allow this resistance to sway their decisions about development applications may be in violation of the Fair Housing Act.<sup>45</sup> In Las Cruces, this resistance was reported to be more related to multi-family housing, but also any affordable housing. A potential barrier in Sunland Park was a restriction on mobile homes: they must be newer than 1986, and the City expected to pass a more restrictive policy in spring of 2013 which would require mobile homes to be no more than 10 years old.

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<sup>44</sup> (Affordable Housing Ad Hoc Committee 2009) *Las Cruces Affordable Housing Strategies*

<sup>45</sup> (DO) and HUD 1999) Group Homes, Local Land Use, and the Fair Housing Act

While this policy is meant to improve housing conditions (older mobile homes may not be as sturdy and could pose fire hazards), it may also reduce the availability of low-cost housing for some groups.

## **MIXED-USE HOUSING DEVELOPMENT**

Any building, set of buildings, or neighborhood used for more than one purpose is considered mixed-use, as are housing units included in such a property or development. All jurisdictions interviewed allow mixed-use development housing; however, some barriers may exist. In Sunland Park, most residential lots fall in multiple, overlapping zoning districts, and the allowed uses in these often conflict. City staff reported that residents have resisted attempts to clarify these zoning issues, because they like being able to conform to the codes of whichever zone suits their needs.

## **SPECIAL NEEDS HOUSING**

### **Accessible Housing Policies**

Formal standards for accessible housing—including definitions, requirements for a portion of large developments, or bonuses or incentives—often improve the supply of such housing and better serve the needs of disabled persons.

Only the City of Las Cruces replied that the codes define “disability,” with this definition matching that used by HUD. No persons said that their communities have specific standards for the construction of accessible multi-family housing other than building codes, and none said that there was a policy in place for persons with disabilities to request an exception if necessary for accessible housing. Most common responses related to a standard variance application process, rather than any administrative process which may make such an application simple, efficient, and cost-effective for disabled persons and allow them to make necessary changes easily.

### **Senior Housing Policies**

The senior population often requires specialized housing and a variety of housing opportunities. Seniors can be disabled or on limited incomes, and policies based on minimum age limits often help provide housing to those over certain age limits. Multi-family senior housing projects have different requirements and needs than do standard multi-family developments such as market-rate apartments, and as such, cities may need to address these types in their codes.

No cities reported having special standards for the development of senior housing, though two respondents said that housing for senior citizens is distinguished from other multi-family residential uses and is subject to more lenient requirements for considerations such as parking.

### **Group Housing Policies**

Housing for other special needs populations can include group homes or care facilities for homeless persons, those afflicted by substance abuse, HIV/AIDS survivors, youth in crisis, and victims of domestic violence. These groups often require group or temporary housing in dedicated homes, often in residential areas. Federal fair housing law ensures that disabled persons and many other potential group home residents be allowed housing by right; this means group homes must be allowed in most residential areas. Also important for fair housing choice is the availability and location of housing for

persons with special needs. According to HUD and the U.S. Department of Justice (DOJ), the Fair Housing Act states that local jurisdictions cannot impose density restrictions on group homes: it is unlawful for a city to disallow group homes to be located within a particular distance of each other.<sup>46</sup>

The State of New Mexico requires that group homes that meet certain criteria be allowed in residential zones; thus, any jurisdiction with a more restrictive policy may be violating state law. This provision comes from Chapter 3 of the New Mexico Statutes. Regarding residential facilities for the mentally ill, Chapter 3 Municipalities, Article 21 Zoning Regulations, Section 1 Zoning; authority of county or municipality. allows the following:

3-21-1. Zoning; authority of county or municipality.

C. All state-licensed or state-operated community residences for the mentally ill or developmentally disabled serving ten or fewer persons may be considered a residential use of property for purposes of zoning and may be permitted use in all districts in which residential uses are permitted generally, including particularly residential zones for single-family dwellings.<sup>47</sup>

Thus, New Mexico law allows for many group homes of ten persons or fewer in residential zones across the State, regardless of local zoning. However, not all jurisdictions said that they had regulations for such housing, and only one respondent said that group homes were allowed by right, as state law requires. Other respondents said that group homes were not permitted in single-family residential areas except by special use permit, possibly excluding group homes from many zones.

## **FAIR HOUSING POLICIES AND PRACTICES**

At the local level, establishing a clear fair housing policy or ordinance can further ensure their commitment to AFFH; without a stated policy or code, fair housing issues may not be considered in other agency decisions, possibly impeding fair housing choice. A fair housing ordinance can simply define protected classes and discrimination, reinforce fair housing laws, and address rights and responsibilities in order to accomplish these goals.

Only the City of Las Cruces, an entitlement community that receives HUD funding and must certify its commitment to AFFH, had adopted a fair housing policy, and only this city had fair housing-related practices. These included training all new employees about fair housing requirements, displaying fair housing posters, requiring sub-grantees to display fair housing posters, performing outreach on the City website, and forwarding complaints to HUD.

However, some staff who provided information on public sector policies lacked knowledge of their jurisdictions' fair housing plans, ordinances, resolutions, or practices. In many cities, public sector recognition of responsibilities under the Fair Housing Act, and checking for compliance with state and federal standards for land use, could increase the fairness of housing access.

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<sup>46</sup> (DOJ and HUD 1999) Group Homes, Local Land Use, and the Fair Housing Act

<sup>47</sup> (New Mexico Statutes 2007)

## C. Fair Housing Survey – Public Sector Results

As mentioned previously, further evaluation of the status of fair housing within Doña Ana County was conducted via the 2013 Fair Housing Survey, which was completed online by 113 stakeholders and citizens. Those solicited for participation included a wide variety of individuals from the fair housing arena. Most questions in the survey required “yes,” “no,” or “don’t know” responses, and many allowed the respondent to offer written comments. The numerical tallies of results are presented in this section, along with summaries of some comment-heavy questions.

### FAIR HOUSING IN THE PUBLIC SECTOR

Public sector effects on housing can be complex and varied. The questions in this section of the survey asked respondents to think about possible barriers to fair housing choice within very specific areas of the public sector, as follows:

- Land use policies,
- Zoning laws,
- Occupancy standards or health and safety codes,
- Property tax policies,
- Permitting processes,
- Housing construction standards,
- Neighborhood or community development policies,
- Access to government services, and
- Any other public administrative actions or regulations.

If respondents indicated affirmatively that they were aware of possible discriminatory issues in any of these areas, they were asked to further describe issues in a narrative fashion. Tallies for each question are presented in Table VI.1 and complete sets of narrative comments are included in **Volume III** for each area. Narrative responses and practices noted by high numbers of respondents suggest that the issues raised are potential impediments to fair housing choice in parts of the County.

Table VI.1  
Barriers to Fair Housing in the Private Sector

Doña Ana County  
2013 Fair Housing Survey

Question	Yes	No	Don't Know	Missing	Total
<b>Are you aware of any questionable practices or barriers to fair housing choice in:</b>					
Land use policies?	7	25	40	41	113
Zoning laws?	7	24	42	40	113
Occupancy standards or health and safety codes?	14	20	39	40	113
Property tax policies?	5	21	47	40	113
Permitting process?	5	23	43	42	113
Housing construction standards?	6	20	45	42	113
Neighborhood or community development policies?	6	21	46	40	113
Limited access to government services, such as employment services?	17	22	33	41	113
Public administrative actions or regulations?	3	19	49	42	113

## **Land Use Policies**

When asked, just 7 respondents noted that they were aware of barriers to fair housing choice related to land use policies. As indicated previously, respondents were also asked to discuss questionable practices or barriers specifically in narrative format. None of the narrative comments received in relation to this question explicitly pointed to barriers to fair housing choice based on protected class protections; however, existence of policies that exclude multi-family housing was commonly cited.

## **Zoning Laws**

Zoning laws were also investigated as part of the survey. Again, just 7 respondents noted awareness of barriers to fair housing choice due to zoning laws. Narrative comments received in relation to this question also pointed to restriction of multi-family housing.

## **Occupancy Standards or Health and Safety Codes**

In the County, 14 persons noted awareness of fair housing issues caused by occupancy standards or health and safety codes, and while no comments received were related to fair housing law violations, several respondents replied that codes are not enforced, particularly in the colonias and other low-income areas.

## **Property Assessment and Tax Policies**

When asked about barriers to fair housing choice in property tax policies, 5 respondents were aware of such issues. No comments were strictly related to fair housing access impediments, although some respondents did reply that tax incentives would be helpful in providing accessible housing for persons with disabilities and for home improvement programs.

## **Permitting Processes**

The survey also addressed perceptions of the local permitting process. Only 5 respondents noted limited access to these services as a problem in the County.

## **Housing Construction Standards**

Barriers to fair housing choice in housing construction standards were also addressed in the survey. Fair housing concerns in this area were reported by 6 respondents. No comments received cited impediments for particular protected groups, although some respondents reported lack of enforcement and lack of knowledge on the part of building departments and permit officials.

## **Neighborhood or Community Development Policies**

Only 6 respondents noted awareness of barriers to fair housing choice in neighborhood or community development policies. Most of the comments received addressed policies limiting low-income housing, and several reported that their communities did not focus development efforts in areas that needed attention.

## **Limited Access to Government Services**

The survey was also used to examine awareness of situations wherein groups faced limited access to government services, including public transportation and employment services. Relatively more respondents, 17, noted limited access to these services as a problem in the County. Almost all of these comments noted lack of public transit, particularly affecting those in need of government services, including disabled persons.

## **Any Other Public Administrative Actions or Regulations**

Respondents were also asked to discuss their awareness of barriers to fair housing in any other public administrative actions or regulations. When asked, just 3 respondents noted awareness of other issues, and comments included the needs for rehabilitation.

## **D. Summary**

The status of fair housing influences within the Doña Ana County's public sector was evaluated through review of selected public services, local policies and practices; and the public sector section of the 2013 Fair Housing Survey.

Review of public services showed minimal public transit access to higher-poverty and rural parts of the County. Evaluation of the distribution of HUD-assisted rental properties and other affordable housing in the County demonstrated that these assisted housing options were not widely distributed, and tended to be concentrated in areas other than those with the highest poverty rates.

The 2013 Land Use Planning Interviews, conducted over the phone with planners from the County's jurisdictions, showed that many of these jurisdictions have in place some basic housing definitions such as "dwelling unit" and "family," but a few were somewhat restrictive and may not be in the spirit of AFFH. No communities define "disability" or housing for seniors in local codes, and only one community had policies affirming state law that provides for group homes in all residential areas. Most communities lack fair housing ordinances or practices. Further consideration of Fair Housing Act provisions for local municipalities may make for more equitable housing policies in Doña Ana County communities, and a more complete, consistent, and uniform approach could greatly benefit the County.

Results from the public sector section of the 2013 Fair Housing Survey revealed that few respondents in the County believe there are problematic practices or policies within the public sector. Of those that did, some noted land use policies and zoning laws that particularly impact protected class populations by limiting access to government services, and some respondents suggested that public transit services are lacking. Nevertheless, the underlying issues pertain to the lack of knowledge of fair housing and the needs to affirmatively further fair housing.



## VII. Public Involvement

This section discusses analysis of fair housing in Doña Ana County as gathered from various public involvement efforts conducted as part of the Regional AI process. Public involvement feedback is a valuable source of qualitative data about impediments, but, as with any data source, citizen comments alone do not necessarily indicate the existence of countywide impediments to fair housing choice. However, survey and forum comments that support findings from other parts of the analysis can more solidly identify impediments to fair housing choice.

### A. Fair Housing Survey

As discussed in previous sections, a 2013 Fair Housing Survey comprised a large portion of the public involvement efforts associated with the development of the 2013 Regional AI. While data from the survey regarding policies and practices within the private and public sectors have already been discussed, the remaining survey findings are presented in the following narrative.

The purpose of the 2013 Fair Housing Survey, a relatively qualitative component of the Regional AI, was to gather insight into knowledge, experiences, opinions, and feelings of stakeholders and interested citizens regarding fair housing as well as to gauge the ability of informed and interested parties to understand and affirmatively further fair housing. Many organizations throughout the County were solicited to participate.

Across Doña Ana County, 113 respondents completed the survey, which was conducted entirely online. Individuals solicited for participation included representatives of housing groups, minority organizations, disability resource groups, real estate and property management associations, banking entities, fair housing advocates, and other groups involved in the fair housing arena. Other survey results are also discussed in **Sections V** and **VI**. Narrative responses and practices noted by high numbers of respondents suggest that the issues raised are impediments to fair housing choice.

Respondents of the 2013 Fair Housing Survey were asked to identify their primary role within the housing industry. As shown in Table VII.1, of the 113 responses from the County, 40 respondents identified themselves as homeowners, 21 as renters, 15 as local government representatives, and 10 as advocates.

**Table VII.1**  
**Primary Role of 2013 Fair Housing Survey Respondents**

Doña Ana County  
 2013 Fair Housing Survey

<b>Primary Role</b>	<b>Total</b>
Homeowner	40
Renter/Tenant	21
Local Government	15
Advocate/Service Provider	10
Other Role	8
Construction/Development	5
Service Provider	5
Missing	4
Appraisal	2
Property Management	2
Real Estate	1
Banking/Finance	0
Insurance	0
Law/Legal Services	0
<b>Total</b>	<b>113</b>

The next question asked respondents about their familiarity with fair housing laws. Results of this question are presented in Table VII.2. As shown, 50 respondents indicated that they were not familiar, 32 indicated that they were somewhat familiar, and 7 indicated very familiar. It would appear that additional outreach and education may be appreciated by citizens in Doña Ana County.

**Table VII.2**  
**Familiarity with Fair Housing Law**

Doña Ana County  
 2013 Fair Housing Survey

<b>Familiarity</b>	<b>Total</b>
Not Familiar	50
Somewhat Familiar	32
Very Familiar	7
Missing	24
<b>Total</b>	<b>113</b>

Table VII.3 shows the responses to a number of questions regarding federal, state, and local fair housing laws. First, respondents were asked to indicate their perceptions of the usefulness of fair housing laws in their communities. As shown, 57 respondents indicated that fair housing laws are useful, and only 4 respondents believed that fair housing laws are not useful.

Respondents were also asked if fair housing laws are difficult to understand or follow. As shown, 25 respondents said that fair housing laws are difficult to understand or follow with 16 indicating that the laws were not difficult to understand. This indicates that additional education and outreach about fair housing law may be useful.

The third question of this section inquired if fair housing laws should be changed; 11 respondents indicated affirmatively, and written responses suggested the following:

- Adding sexual orientation as a protected class;
- Adding protections for other groups, such source of income.

When asked if fair housing laws are adequately enforced, 14 respondents replied that they are but 58 said that they are not. This indicates that more testing and enforcement efforts appear to be warranted and desired.

**Table VII.3**  
**Perceptions about Fair Housing Law**

Doña Ana County  
2013 Fair Housing Survey

Question	Yes	No	Don't Know	Missing	Total
Do you think fair housing laws are useful?	57	4	26	26	113
Are fair housing laws difficult to understand or follow?	25	16	47	25	113
Do you think fair housing laws should be changed?	11	15	58	29	113
Do you think fair housing laws are adequately enforced?	14	58	11	30	113

The next section in the survey related to fair housing activities, including outreach and education and testing and enforcement. As shown in Table VII.4, on the following page, when asked if there was a training process available to learn about fair housing laws, only 14 respondents indicated affirmatively, and only 8 respondents noted that they had participated in fair housing training. Respondents were also asked about their awareness of fair housing testing; only 4 respondents were aware of such activity compared to 58 who were not and another 21 who did not know.

Questions in this section also invited respondents to gauge the current levels of fair housing testing and education in their communities. Nearly half of all respondents who answered the question, 45 persons, suggested that there is too little fair housing outreach and education activity in the Region, and 33 respondents said that outreach and education activities are sufficient, with only 1 indicating that there is too much. In terms of fair housing testing, 21 of the respondents who answered indicated that there is too little testing; however, many respondents, 58 did not appear to understand fair housing testing activities because they said they did not know. These findings indicate that the respondents would like to be exposed to more educational opportunities and that additional testing and enforcement is desirable.

**Table VII.4**  
**Fair Housing Activities**

Doña Ana County  
2013 Fair Housing Survey

Question	Yes	No	Don't Know	Missing	Total	
Is there a training process available to learn about fair housing laws?	14	58	11	30	113	
Have you participated in fair housing training?	8	26	9	70	113	
Are you aware of any fair housing testing?	4	58	21	30	113	
Testing and Education	Too Little	Right Amount	Too Much	Don't Know	Missing	Total
Is there sufficient outreach and education?	33	2	1	46	31	113
Is there sufficient testing?	21	2	1	58	31	113

As part of the process of measuring understanding of fair housing law through the survey instrument, respondents were asked to list their awareness of classes of persons protected by fair housing laws on federal, state, and local levels. Race and disability were offered as examples of protected classes in the question narrative, encouraging respondents to list other protected classes. Results of this question are presented in Table VII.5. Some respondents were able to correctly identify several of the protected

classes, including gender, religion, familial status, and sexual orientation. However, many respondents indicated some confusion as to protected classes, such as when several listed age for fair housing protection.

**Table VII.2**  
**Identified Protected Classes**

Doña Ana County  
2013 Fair Housing Survey

Protected Class	Total
Gender	27
Religion	25
Age	22
Family Status	15
National Origin	13
Sexual Orientation	13
Color	11
Other	11
Income	10
Disability	4
Ethnicity	2
Military	1
Race	1
<b>Total</b>	<b>157</b>

Respondents were also asked to indicate their awareness of where to refer persons who wish to file a fair housing complaint. Of the 78 who provided a response to this question, several suggested HUD, but most indicated that they did not know where to turn. These results indicated that Doña Ana County will benefit from having a local fair housing entity to whom people can turn or, at least, a well defined set of procedures to follow.

Table VII.76 presents tallied responses to survey questions related to the status of fair housing in the County. First, respondents were asked if they were aware of a fair housing plan in their communities. Very few indicated affirmatively, but another 28 said that they were not aware of such a plan. These findings suggest that citizens of the County are not aware of this study, yet; and, that the Analysis of Impediments conducted by the City of Las Cruces is now well known.

Respondents were also asked to offer information regarding any specific geographic areas within the County that might have increased fair housing issues. While a number of respondents elected not to answer the question or indicated that they did not know, 9 respondents reported that certain geographic areas of the County had fair housing issues.

**Table VII.6**  
**Local Fair Housing**

Doña Ana County  
2013 Fair Housing Survey

Question	Yes	No	Don't Know	Missing	Total
Are you aware of any city or county fair housing ordinance, regulation, or plan?	8	28	30	47	113
Are there any specific geographic areas that have fair housing problems?	9	12	47	45	113

Any one of the responses presented in the previous pages on their own may not necessarily be considered an impediment to fair housing choice, but the high number of “don’t know” or missing

responses may be due to a lack of fair housing knowledge. This is more likely an indicator indicate that fair housing outreach and education efforts are insufficient, which could represent a persistent impediment to fair housing choice.

## **B. Fair Housing Forums Targeted Focus Groups**

To ensure consideration of feedback from key groups in the housing industry, the County held two targeted focus groups during the week of June 24 of 2013. One focus group addressed land use and zoning issues, as well as the concept of inclusionary zoning, while the other focus group was tailored to public housing providers and stakeholders.

## **C. Fair Housing Forums**

Public involvement opportunities were also provided at the Fair Housing Forums, and comments were collected from the attendees. Guests at the forums included housing advocates, representatives of local service agencies, real estate agents, property owners, and others. In general, several commentators from units of local government seemed to lack sufficient knowledge of the duty to affirmatively further fair housing. Furthermore, discussions and comments at the forums focused on several issues, largely relating to the rental markets. In particular, the following issues were mentioned:

- Discriminatory and predatory lending based on ethnicity,
- Ethnic disparities in concentrated communities,
- Transportation to jobs from impoverished neighborhoods,
- Lack of education for homebuyers and renters, and
- Discriminatory activities in the rental markets.

## **D. Focus Groups**

Comments were collected from the attendees at the focus groups. While each of the focus groups began with a discussion and a review of the locations of housing, the key issues that received the most discussion pertained to affordable housing production and methods the County could take to facilitate enhancing production. Few believed that rehabilitation was the best route to enhancing affordable housing production.

## **E. Summary**

Public involvement opportunities were an intrinsic part of the development of this FHEA and Regional AI. Activities included the 2013 Fair Housing Survey to evaluate current fair housing efforts, two targeted focus groups to address particular key issues in the housing market, and the two fair housing forums wherein citizens were offered the chance to comment on initial findings of the Regional AI and offer feedback on prospective impediments.

Results of the 2013 Fair Housing Survey showed that the majority of respondents felt that fair housing laws are useful, whereas many respondents were not familiar with fair housing law. Of the respondents who answered the question, many noted the need for increased fair housing education and outreach activities, as well as increased fair housing testing and enforcement activities.

The public forums held in June of 2013 allowed citizens and agencies to voice concerns about barriers to fair housing choice. Comments received at these forums focused on discriminatory activities in the rental markets and discriminatory and predatory lending practices directed toward Hispanics.

## VIII. Summary of Findings

### A. Socio-Economic Context

Analysis of demographic, economic, and housing data provides information about the level and results of past locational choices. As observed, several areas in the County represent equity concerns. These areas contain high rates of poverty, disproportionate concentrations of Hispanic persons, notable occurrences of ECAPs, and lack of connections to employment opportunities. Thus, the spatial distribution of areas lacking opportunity correlates with these areas.

### B. Fair Housing Environment

A review of the fair housing profile in Doña Ana County revealed that two organizations provide fair housing services on state or local levels: HUD and the New Mexico Human Rights Bureau. However, no local nonprofit agencies or public agencies receive federal fair housing program grant funds to provide outreach and education, complaint intake, and testing and enforcement activities for providers and consumers of housing.

### C. Fair Housing Law, Study, and Case Review

A review of laws, studies, cases, and related materials relevant to fair housing in Doña Ana County demonstrated the complexity of the fair housing landscape. Fair housing law in the State of New Mexico, the New Mexico Human Rights Act, offers protections beyond the scope of the federal Fair Housing Act to protect persons based on sexual orientation, gender identity, spousal affiliation, and serious medical condition. No housing discrimination cases were filed with HUD or local complaint agencies in Doña Ana County over the past five years.

### D. Barriers to Housing Choice in the Private Sector

Evaluation of the private housing sector included review of home mortgage loan application information, mortgage lending practices, fair housing complaint data, and results from the private sector section of the 2013 Fair Housing Survey.

HMDA data were used to analyze differences in home mortgage application denial rates in the County by race, ethnicity, sex, income, and Census tract. Evaluation of home purchase loan applications from 2004 through 2010 showed that there were 15,704 owner occupied loan originations and 4,137 denials, for an eight-year average loan denial rate in excess of 20 percent. Denial rates were highest in 2011, at 28.5 percent. These HMDA data also showed that Hispanic applicants experienced far higher rates of loan denials than did Non-Hispanic applicants, 28.0 percent versus 13.2 percent.

Analysis of originated loans with high annual percentage rates showed that American Indian and Hispanic populations were also disproportionately issued these types of lower-quality loan products. Hispanic borrowers experienced a more than twice that of non-Hispanic applicants, for example. With high proportions of low quality, high-annual percentage rate loans being issued to these particular groups, the burden of foreclosure may fall more heavily upon them.

Analysis of data from the CRA, which is intended to encourage investment in low- and moderate-income areas, showed that business loans did not tend to be directed toward the areas with highest poverty concentrations in Doña Ana County as commonly as they were toward more higher-income areas.

Fair housing complaint data were analyzed from HUD. HUD data showed that 69 fair housing-related complaints were filed in the County from 2004 through 2012. The number of complaints filed with this agency varied by year, ranging from a low of 1 to a high of 27. The protected classes most impacted by discrimination, based on the 69 complaints where cause was found, were familial status and disability. The most common complaint issues related to discrimination in terms, conditions or privileges relating to rental. While housing complaint data were requested from the HRB, no data were received.

Results from the private sector portion of the 2013 Fair Housing Survey, conducted in May and June of 2013 as part of the Regional AI process, showed that some respondents saw possible issues of housing discrimination in the County's private housing sector.

## **E. Barriers to Housing Choice in the Public Sector**

The status of fair housing influences within the Doña Ana County's public sector was evaluated through review of selected public services, local policies and practices; and the public sector section of the 2013 Fair Housing Survey.

Review of public services showed minimal public transit access to higher-poverty and rural parts of the County. Evaluation of the distribution of HUD-assisted rental properties and other affordable housing in the County demonstrated that these assisted housing options were not widely distributed, and tended to be concentrated in areas other than those with the highest poverty rates.

The 2013 Land Use Planning Interviews, conducted over the phone with planners from the County's jurisdictions, showed that many of these jurisdictions have in place some basic housing definitions such as "dwelling unit" and "family," but a few were somewhat restrictive and may not be in the spirit of AFFH. No communities define "disability" or housing for seniors in local codes, and only one community had policies affirming state law that provides for group homes in all residential areas. Most communities lack fair housing ordinances or practices. Further consideration of Fair Housing Act provisions for local municipalities may make for more equitable housing policies in Doña Ana County communities, and a more complete, consistent, and uniform approach could greatly benefit the County.

Results from the public sector section of the 2013 Fair Housing Survey revealed that few respondents in the County believe there are problematic practices or policies within the public sector. Of those that did, some noted land use policies and zoning laws that particularly impact protected class populations by limiting access to government services, and some respondents suggested that public transit services are lacking.

## **F. Public Involvement**

Public involvement opportunities were an intrinsic part of the development of this FHEA and Regional AI. Activities included the 2013 Fair Housing Survey to evaluate current fair housing efforts, two targeted focus groups to address particular key issues in the housing market, and the three fair housing forums

wherein citizens were offered the chance to comment on initial findings of the Regional AI and offer feedback on prospective impediments.

Results of the 2013 Fair Housing Survey showed that the majority of respondents felt that fair housing laws are useful, whereas many respondents were not familiar with fair housing law. Of the respondents who answered the question, many noted the need for increased fair housing education and outreach activities, as well as increased fair housing testing and enforcement activities.

The public forums held in June of 2013 allowed citizens and agencies to voice concerns about barriers to fair housing choice. Comments received at these forums focused on discriminatory activities in the rental markets and discriminatory and predatory lending practices directed toward Hispanics.



# IX. Impediments, Suggested Actions, and FHEA Findings

Provisions to affirmatively further fair housing are long-standing components of the U.S. Department of Housing and Urban Development's (HUD's) housing and community development programs. In exchange for receiving federal funds from HUD, Doña Ana County certifies that they are affirmatively furthering fair housing (AFFH). The requirements of such certification comprise the following elements:

- Conduct an Analysis of Impediments to Fair Housing Choice,
- Take actions to remedy impediments if impediments are identified, and
- Maintain records of the analysis and actions taken.

This report, which represents the first element in the certification process noted above, has resulted in the finding of several impediments to fair housing choice. HUD defines impediments to fair housing choice, reprinted here from the Fair Housing Planning Guide, page 2–8, as:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices [and]
- Any actions, omissions, or decisions which have [this] effect.<sup>48</sup>

While several issues within the housing market were uncovered in the process of conducting this Regional AI, only issues that qualify as impediments to fair housing choice were included based on the definition printed above.

The identified impediments in both the private and public sectors are listed, accompanied by specific actions that Doña Ana County may consider in an attempt to remedy these issues.

## A. Impediments to Fair Housing Choice and Suggested Actions

### IMPEDIMENTS, SUGGESTED ACTIONS, AND MEASURABLE OBJECTIVES

#### Private Sector

1. *Impediment:* Discriminatory terms, conditions, privileges, or facilities relating to rentals.

The inclusion of discriminatory terms, conditions, privileges, or facilities relating to rental as an impediment to fair housing choice within the Region was predominantly supported by fair housing complaint data and was shown to mostly affect the classes of familial status, race, and disability.

Suggestion: Additional training for landlords and property managers. Conduct additional complaint based testing related to unlawful discrimination.

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<sup>48</sup> (HUD FHEO 1996, 2–8) *Fair Housing Planning Guide*, Vol. 1

2. *Impediment:* Failure to make reasonable accommodations or modifications.

Failure to make reasonable accommodation or modification, which was found to most commonly affect persons with both physical and mental disabilities, was supported by findings from analysis of fair housing complaint data as well as from input from the fair housing forum and fair housing surveys.

Suggestion: Additional training for landlords and property managers. Conduct additional complaint based and audit testing related to reluctance to make reasonable accommodation or modification.

3. *Impediment:* Preferences stated in advertisements for rental housing.

Evidence of statement of preferences in advertisements for rental housing as an impediment to fair housing choice within the Region was found in review of fair housing complaint data.

Suggestion: Additional training for landlords and property managers. Research possible violations in print and on-line media. Conduct mitigation if found.

4. *Impediment:* Steering activities in home sales markets.

In the Region, steering activities in the home purchase markets were found to be an impediment to fair housing choice based on findings from the review of past fair housing studies, and cases and results of the fair housing survey. Classes found to be commonly affected included national origin and race.

Suggestion: Additional training for real estate agents, brokers, and others involved in real estate transactions.

5. *Impediment:* Denial of home purchase loans.

Denials of home purchase loans were supported as an impediment to fair housing choice in the Region through examination of Home Mortgage Disclosure Act data as well as results of the fair housing survey. Denial was found to be predominantly based on race, national origin, and gender.

Suggestion: Utilize resources for first-time and lower-income homebuyers that belong to race, ethnic, and gender protected classes so that they can improve their credit rating, recognize questionable lending practices, and gain access to the fair housing system.

6. *Impediment:* Predatory lending in the home purchase market.

Many sources, including past fair housing studies and cases, Home Mortgage Disclosure Act data, and results of the fair housing survey identified predatory lending in the lending market as an impediment to fair housing choice within the Region. The classes of race and national origin were most frequently linked to this impediment.

Suggestion: Utilize resources for first-time and lower-income homebuyers that belong to race, ethnic, and gender protected classes so that they can improve their credit rating, recognize questionable lending practices and the attributes of predatory style loans, and gain access to the fair housing system.

7. *Impediment:* Lack of Understanding of Fair Housing and Fair Housing Laws.

Responses to the 2013 Fair Housing Survey, and comments received at the Fair Housing Forums, noted the lack of adequate outreach and education.

Suggestion: Work to enhance opportunities for fair housing education and trainings.

8. *Impediment:* Lack of adequate fair housing infrastructure.

Responses to the 2013 Fair Housing Survey, and comments received at the Fair Housing Forums, noted the lack of a local fair housing entity that might aid with both outreach and education, as well as testing and enforcement.

Suggestion: Work to establish a local Doña Ana County fair housing entity that would conduct outreach, education, testing and enforcement activities. Such action may be initiated with a Task Force lead by the Housing Assistance Council, or another partner of such stature.

## Public Sector

1. *Impediment:* Lack of County fair housing policies, ordinances or practices.

Results of the Fair Housing Survey, as well as comments at the Fair Housing Forums indicate that the County may lack or not have sufficient policies or practices that adequately address the duty to affirmatively further fair housing.

Suggestion: Draft a policy or ordinance that promote consistent, current, and transparent policies and practices that affirmatively further fair housing.

2. *Impediment:* Ineffective fair housing outreach and education efforts.

Doña Ana County lacks a fair housing advocacy base and needs a housing outreach and education component. This was supported by input received in the fair housing survey as well as in the fair housing forums.

Suggestion: Conduct more outreach and educational activities in a uniform, methodical, and consistent fashion. This should be done in consort with other local sponsors and handled through an intermediary agency.

3. *Impediment:* Land use planning decisions and operational practices resulting in unequal access to government services such as transportation.

Unequal access to government services, such as transportation, due to land use and planning decisions as well as past operational practices was documented in a review of Census Bureau data and the fair housing survey.

Suggestion: Enhance the reach and access of the public transportation system so that persons belonging to protected classes have improved access to the transportation service. This means better connecting their places of residence with prospective employment training and employment opportunities.

4. *Impediment:* Lack of inclusionary land development policies.

The fair housing survey revealed instances of policies that may restrict housing development, such as limiting lot size, dwelling type, and related locational issues. Therefore housing choice for certain groups, including families and persons with disabilities, is constrained. This is sometimes considered a “not in my backyard” mentality, or NIMBYism.

Suggestion: Consider a modification to the zoning and development codes that might better promote a more diverse building stock.

## **B. Fair Housing and Equity Assessment Findings**

Equity and access to opportunity are critical underpinnings of the Sustainable Communities Regional Planning Grant (SCRPG) program. Grantees are creating a more inclusive conversation on regional issues, with a particular emphasis on engaging those who have traditionally been marginalized from the community planning process. This has provided new insight into the disparate burdens and benefits experienced by different groups across a region. One way to address these disparities is the Fair Housing and Equity Assessment (FHEA), which SCRPG program participants are required to complete.<sup>49</sup>

### **INTEGRATION AND SEGREGATION**

This FHEA evaluation quantified indexes of segregation. These indexes indicated that the County does not have significant levels of segregation.

### **RACIALLY AND ETHNICALLY CONCENTRATED AREAS OF POVERTY**

There were no areas in Doña Ana County that could be defined as Racially Concentrated Areas of Poverty (RCAP). On the other hand, there were 8 Census tracts that were made up of at least 40 percent poverty and 50 percent Hispanic and were Ethnically Concentrated Areas of Poverty (ECAP) throughout Doña Ana County. These areas tended to be located within the main travel corridors, south of the City of Las Cruces. While these areas have received moderate levels of public investment, it has been insufficient to change the status of the neighborhood.

### **AREAS OF OPPORTUNITY**

Areas of opportunity were quantitatively defined by a set of five relationships constructed of education, economics, housing, transportation, and public health. Within these categories, variables that were chosen include a school proficiency index, the percent of persons enrolled in school, high school

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<sup>49</sup> (HUD 2012) Regional Fair Housing and Equity Assessment

graduation rates, job access, labor market indexes, the percent employed, the share of housing that is occupied, the lack of cost burdens, overcrowding, predatory loans, a transit index, travel times to work, the share of people walking to work, and an environmental index. All data was based upon Census tract-level information.

The County had a number of these areas and it is important that the ECAP areas and the linkages to the Opportunity areas be strengthened.

### **A CALL FOR PUBLIC AND PRIVATE INVESTMENT**

While specifying what particular efforts should be implemented throughout the County is beyond the scope of this part of the Doña Ana County Regional AI, key actions have been identified for consideration by policy makers. Substantive economic development, public infrastructure, and affordable housing investments will result in gains that will reduce disparities in burdens and benefits enjoyed by living in the County.

Areas that have received private sector investment in the past have typically not been in areas of lower income residents, as demonstrated by the Community Reinvestment Act data evaluation. Areas that contain ECAP areas are in need of both public and private investment.

Such investment can be removal of “other vacant” dwellings not available to the marketplace, rehab of existing structures, redevelopment of existing vacant buildings, redevelopment of underutilized housing, or replacement of old and dilapidated infrastructure. Expansion of the public transportation system is a key objective. Greater access to areas of opportunity would be a key in the process of creating opportunity to those currently not able to access these areas of the County. Additionally, future investments in public and assisted housing, particularly for the production of affordable housing, should consider the spatial distribution of existing residents and whether the proposed affordable housing projects are overconcentrating racial and ethnic minorities.

Lastly, the County should consider monitoring the Community Reinvestment Act data so that business loans in the county might be equitably distributed. Impediment: Inequitable investment of Community Reinvestment Act resources. Encouraging specific lenders to move investment opportunities to areas of the region that tend to have lacked sufficient levels of investment in the past. This would be designed to enhance opportunities and expand economic development in areas that are typically underserved by such activities.

### **C. A Summary of Opportunities**

Doña Ana County has several opportunities to enhance fair housing choice and decrease disparities in social and economic well being of its citizens. This includes taking specific actions to overcome past locational choices that led to segregation, including discriminatory actions in both the rental and homeownership markets. The County also has specific opportunities in guiding public infrastructure investments to improve access to areas of opportunity as well as reducing the concentration of poverty in specific areas of the County



## X. Glossary

**Accessible housing:** Housing designed to allow easier access for physically disabled or vision impaired persons.

**ACS:** American Community Survey

**AFFH:** Affirmatively furthering fair housing [choice]

**AI:** Analysis of Impediments to Fair Housing Choice

**AMI:** Area median income

**BEA:** Bureau of Economic Analysis

**BLS:** Bureau of Labor Statistics

**CDBG:** Community Development Block Grant

**Census tract:** Census tract boundaries are updated with each decennial census. They are drawn based on population size and ideally represent approximately the same number of persons for each tract.

**Colonia:** Community within 150 miles of the U.S.–Mexico border that lacks adequate sewage systems and decent, safe, and sanitary housing.

**Consolidated Plan:** Consolidated Plan for Housing and Community Development

**Cost burden:** Occurs when a household has gross housing costs that range from 30.1 to 50 percent of gross household income.

**CPD:** HUD Office of Community Planning and Development

**CRA:** Community Reinvestment Act

**Disability:** A lasting physical, mental, or emotional condition that makes it difficult for a person to conduct daily activities of living or impedes him or her from being able to go outside the home alone or to work.

**Disproportionate share:** Exists when the percentage of a population is 10 percentage points or more above the study area average.

**DOJ:** U.S. Department of Justice

**ESG:** Emergency Shelter Grants program

**FHCS:** Fair Housing Contact Service

**FHEA:** Fair Housing and Equity Assessment, required of SCRPG recipients

**Fannie Mae:** Federal National Mortgage Association (FNMA), a government–sponsored enterprise that purchases mortgages from lenders and repackages them as mortgage–backed securities for investors.

**Family:** A family is a group of two people or more related by birth, marriage, or adoption and residing together.

**FFIEC:** Federal Financial Institutions Examination Council

**FHAP:** Fair Housing Assistance Program

**FHEO:** Fair Housing and Equal Opportunity

**FHIP:** Fair Housing Initiative Program

**Floor area ratio:** The ratio of the total floor area of a building to the land on which it is situated, or the limit imposed on such a ratio.

**Freddie Mac:** Federal Home Loan Mortgage Corporation (FHLMC), a government–sponsored enterprise that purchases mortgages from lenders and repackages them as mortgage–backed securities for investors.

**GAO:** U.S. General Accounting Office

**Gross housing costs:** For homeowners, gross housing costs include property taxes, insurance, energy payments, water and sewer service, and refuse collection. If the homeowner has a mortgage, the

determination also includes principal and interest payments on the mortgage loan. For renters, this figure represents monthly rent and electricity or natural gas energy charges.

**HAL:** High annual percentage rate (APR) loan, defined as more than three percentage points higher than comparable treasury rates for home purchase loans, or five percentage points higher for refinance loans.<sup>50</sup>

**HMDA:** Home Mortgage Disclosure Act

**HOME:** HOME Investment Partnerships

**HOPWA:** Housing Opportunities for Persons with HIV/AIDS

**Household:** A household consists of all the people who occupy a housing unit. A house, an apartment or other group of rooms, or a single room, is regarded as a housing unit when it is occupied or intended for occupancy as separate living quarters; that is, when the occupants do not live with any other persons in the structure and there is direct access from the outside or through a common hall.

**Housing problems:** Overcrowding, incomplete plumbing or kitchen facilities, or cost burdens

**HUD:** U.S. Department of Housing and Urban Development

**HRB:** New Mexico Human Rights Bureau

**Incomplete kitchen facilities:** A housing unit is classified as lacking complete kitchen facilities when any of the following are not present: a sink with piped hot and cold water, a range or cook top and oven, and a refrigerator.

**Incomplete plumbing facilities:** A housing unit is classified as lacking complete plumbing facilities when any of the following are not present: piped hot and cold water, a flush toilet, and a bathtub or shower.

**Labor force:** The total number of persons working or looking for work

**MFI:** Median family income

**Mixed-use development:** The use of a building, set of buildings, or neighborhood for more than one purpose.

**MSA:** Metropolitan Statistical Area

**NIMBYism:** “Not in my backyard” mentality among community members, often in protest of affordable or multi-family housing.

**OSHC:** HUD’s Office of Sustainable Housing and Communities

**Other vacant units:** Housing units that are not for sale or rent

**Overcrowding:** Overcrowding occurs when a housing unit has more than one to 1.5 persons per room.

**Poverty:** The Census Bureau uses a set of money income thresholds that vary by family size and composition to determine who is in poverty. If a family’s total income is less than the family’s threshold, then that family and every individual in it is considered in poverty. The official poverty thresholds do not vary geographically, but they are updated for inflation using Consumer Price Index (CPI-U). The official poverty definition uses money income before taxes and does not include capital gains or noncash benefits (such as public housing, Medicaid, and food stamps).

**Predatory loans:** As defined by the Predatory Lending Consumer Protection Act of 2002 as well as the Home Owner Equity Protection Act (HOEPA), loans are considered predatory based on:

- If they are HOEPA loans;<sup>51</sup>
- Lien status, such as whether secured by a first lien, a subordinate lien, not secured by a lien, or not applicable (purchased loans); and
- Presence of HALs. For full definition, see **HAL**.

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<sup>50</sup> (Board of Governors of the Federal Reserve System 2002)

<sup>51</sup> Loans are subject to the HOEPA if they impose rates or fees above a certain threshold set by the Federal Reserve Board. (FFIEC n.d.) HMDA Glossary: H

**Protected Class:** Group of people protected from discrimination and harassment. New Mexico residents are protected from housing discrimination based on race, sex, religion, familial status, disability, national origin, color, sexual orientation, gender identity, spousal affiliation, and serious medical condition.

**Public housing:** Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities.

**Regional AI:** Regional Analysis of Impediments to Fair Housing Choice

**RDA:** Redevelopment agency

**SCI:** Sustainable Communities Initiative (see **OSHC**). The SCI consists of two grant programs: Sustainable Communities Regional Planning Grants and Community Challenge Planning Grants.

**SCRPG:** Sustainable Communities Regional Planning Grant Program (see **SCI**)

**Severe cost burden:** Occurs when gross housing costs represent 50.1 percent or more of gross household income.

**Severe overcrowding:** Occurs when a housing unit has more than 1.5 persons per room.

**Steering:** Actions of real estate agents or landlords to discourage a prospective buyer or tenant from seeing or selecting properties in certain areas due to their racial or ethnic composition.

**Tenure:** The status by which a housing unit is held. A housing unit is “owned” if the owner or co-owner lives in the unit, even if it is mortgaged or not fully paid for. A cooperative or condominium unit is “owned” only if the owner or co-owner lives in it. All other occupied units are classified as “rented,” including units rented for cash rent and those occupied without payment of cash rent.



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