

Can We Find a Language for Fairness in Regional Planning?

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INTRODUCTION

Metropolitan Portland is often cited as a model for regional planning and growth management. In the 1990s, both academics and the popular press “discovered” the Portland region, connecting our quality of life—vibrant urban places, natural beauty, and healthy economy—with our unique forms of regional cooperation and land use planning. Metropolitan Portland became the avatar of an emerging New Regionalism, a movement characterized not only by its spatial nature, but also by an interest in holistic solutions integrating a variety of issue areas.

One central tenant of this movement is the ability of regional policies to address growing inequities and inefficiencies associated with gaps in regional governance and metropolitan authority in an era of ever increasing inter and intra metropolitan competition. Home to Metro, the nation’s only elected regional government, the Portland region is lauded for protecting the environment through preservation of farmland and open space and for promoting the economy through facilitating the development of vibrant urban centers. However, how does the region define and act on issues of social and economic equity?

Most readers will almost certainly raise a larger question: “What is equity?” We have for more than 25 years talked about the environment as a region, developing a technical language and understanding of things like watersheds that transcend jurisdictional boundaries. For the last ten years we have also paid increasing attention to the regional nature of the economy—for example, developing an understanding of industrial clusters and how they function on a metropolitan scale. While we vigorously debate the details of our environmental and economic policies, such technical language and understandings give those debates form and meaning. Do we even know what we’re asking for with respect to equity in regional planning? Policies should be fair for what or whom? Fairness should be achieved by what means? And fair according to what evaluative standards?

A second, larger question is, “Does this really matter?” A great temptation lingers to respond like the late Supreme Court Justice Potter Stewart, who declared, “I know it when I see it.” However, to dismiss equity or fairness as beyond definition is shortsighted, as it is a current and recurring theme in our politics. Most recently,

proponents of Measure 37, the property compensation initiative approved by voters, won the day by framing a vote for the measure as a vote for fairness to individuals evaluated strictly through market criteria. Measure 37 leaves communities with a complex choice in deciding between immediate monetary costs in paying compensation to maintain regulations or suffering long-run costs and the degradation of quality of life if regulations are waived.

In answering our questions about equity and in this region, we ask readers to draw back from the immediacy of the Measure 37 contest and to focus on a historical policy debate from Metro’s recent past. The Regional Affordable Housing Strategy (RAHS), adopted by Metro in 2000, offers illustrations of conflicting concepts about equity or fairness in the region. While housing affordability is an area of policy where the region’s growth management policies are sometimes criticized, with some distance from immediate policy debates, we hope the RAHS example will allow readers to separate their baseline principles from immediate interests and reflect with some objectivity on concepts of equity and fairness.

We pair this retrospective exercise with a look at related policy outcomes through an advanced selection of maps from the Coalition for a Livable Future’s forthcoming Regional Equity Atlas. (More information on the Atlas is available on-line at <http://www.clfuture.org/EquityAtlas.htm>.) We will ask you to ponder the outcomes presented in these maps from the conflicting perspectives on equity. Where are the conflicts and common ground among the interests of individual households, localities, and the region? Are we creative enough to envision in the future policy solutions to housing affordability problems that identify mutual benefits to all these stakeholders?

We won’t be so bold as to suggest that we can offer a definitive answer to any of the questions. However, in the limited space available, our hope is to engage readers in thinking about the basis for conflicting notions of equity and in considering whether a common language for fairness, one where we still debate the details but at least agree on what it is we’re debating over, is achievable.

EQUITY AND ITS COMPONENTS

If you ask academics to explain their concepts of equity, you'll get very different approaches based on specific disciplines. A legal scholar might discuss the notion of equity law, foundational principles of fairness in our jurisprudence, while anthropologists or sociologists might approach the question as a matter of trust and reciprocity, searching for the elements required to construct a socially sustainable society. Academic planners and public policy analysts, whose work intersects our discussion, are likely to have a different starting point, and that is with the late political philosopher John Rawls.

Perhaps most famously Rawls described a hypothetical veil of ignorance that asks us to judge fairness in society by the production of results we would choose without knowledge of our initial advantages in life. In *Difference Principle* (1971), he argues for a compensatory notion that inequitable distribution should only be permitted to the extent that it improves the lot of the least advantaged individuals (Rawls, 1999). In this section we discuss Rawls and his critics in order to break down the broad and perhaps on its face unknowable notion of equity into several elements important to our discussion. Further, we identify three approaches to equity that we expect to see in action in the discussion surrounding RAHS.

Rawls' ideas, both redistributive and individualistic, have inspired volumes of comment and criticism. This conversation raises several important questions that have been given only limited consideration in terms of their implications for New Regionalism. Is equity for people, places, or something else? In other words, if you set out to devise an equitable planning or policy approach to an issue, where should you target the primary benefits? Further, what are the steps to implementing such policies? How do economic or political implementation strategies influence the focus of benefits intended by what or whom you choose to target? Last, what sort of criteria do we use to evaluate these policies? And as this is not a discrete sequence, how do the values statements implied by the policies feed back into the targeting and implementation questions?

Policy Targets

Debates over Rawls turn in part on the wisdom of policies targeting people or place. For example, some argue that you can have equitable distribution as described by Rawls only at a cost to economic efficiency. This had long been the basis

for questions for example about place-based programs that have typically served as the vehicles in anti-poverty efforts. However, if such policies are to be attempted, some might argue for focusing on individuals, as the imprecise tailoring of benefits to place might diminish the aid flowing to those in need (Winnick, 1966).

Others argue that place is imperative to policy as existing inequities are shaped by political power imbalances that are spatial in nature. This assumption leads Harvey (1973), for one, to question the underlying economic basis for those inequities, arguing that rather than separating questions of productive efficiency and distributional equity, as Rawls and many other critics do, in the long run it is most efficient to explore them together.

Susan Fainstein and Ann Markusen (1993) articulate another approach to this people/place debate, targeting people "in place." They identify economic benefits accruing in urban agglomerations and note the presence of socially and economically isolated populations in both urban and rural locales. They argue that aiding these people "in place" would promote democratic access to the economy, enhancing its vitality over the long run.

Planning efforts have focused on Rawls' principles, such as the 1975 Cleveland Policy Planning Report, co-authored by the late Portland Planning Director Ernie Bonner. In this landmark report, Bonner and his Cleveland colleagues, citing Rawls, coin the phrase "equity planning," and move beyond purely physical and technocratic approaches to planning. They specifically charged themselves with "advocating for those with limited choices" and worked within the system to expand opportunities for those in need—for example, redirecting regional transportation funding towards transit-dependent central city populations (Krumholz and Forester, 1990; *Planning in Portland*, 2004). Davidoff (1982) finds a shortcoming in the Cleveland/Rawlsian approach to equity in the absence of full-scale, place-based, political mobilization that would give politically weak populations their own voice to contest inequities. Others have pointed to the vague and abstract nature of Rawls' principles, and question the relevance of his work to the spatially-defined responsibilities of jurisdictions (Marlin, 1995; Mier and McGary, 1993).

Implementation Strategies

The New Regionalism movement often focuses on equity and fairness of policy outcomes. In contrast with the often dominant public choice rationale, where individual jurisdictions are positioned as competitors in order to improve efficiency in the provision of government services, New Regionalism characteristically addresses concerns arising from the current context of intra-metropolitan competition. The examples below share that characteristic, implementing legislative and legal strategies to increase equity in outcomes for individual jurisdictions and households.

Myron Orfield (1997, 2002) captures the imagination of planners inspired by the New Regionalism. His influential texts document a correlation between declining central city property values and concentrations of negative socioeconomic indicators. He presents this as the rationale for regional tax base sharing between central cities and suburbs, supported by legislative coalitions, pitting central cities and inner suburbs against outer suburbs—essentially the experience surrounding the Minneapolis-St. Paul regional revenue sharing plan in place since the 1970s. However, with limited replication of the Minneapolis-St. Paul model elsewhere, others suggest focusing on regional equity through issue-based coalitions that cut across jurisdictions instead of placing them in conflict (Rusk, 1999; Pastor et al 2000).

Fair share housing has also captured attention in planning and policy circles, applied perhaps most comprehensively in the New Jersey Supreme Court's Mt. Laurel decisions. The court found that all jurisdictions in a region bear some responsibility for providing the opportunity for construction of housing options that are affordable at a range of income levels. The debates that followed were often heavy with not just racial but economic class overtones, as the opportunity for improved mobility of individual households was pitted against the fiscal responsibilities of individual jurisdictions. In three major decisions from 1975-1986, the state courts invalidated zoning that excluded low income housing. Court-imposed builders' remedies frequently allowed developers direct access to the courts when localities turned down affordable housing proposals. The judicial branch eventually endorsed a legislative solution creating bureaucratic and quasi-market mechanisms allowing affluent communities to buy out of their legal obligation with payments to low income communities (Kirp et al, 1997).

Evaluation Criteria

Talen (1998) neatly summarizes definitions of equity discussed in many contexts and applies them to planning. First, individual equality would distribute benefits to everyone equally regardless of need or position in society. A second category of compensatory equity would factor indicators of need into the distribution of benefits. Third, distribution by demand for services could provide an economic rationale based on use or political rationale driven by advocacy. Fourth, market-based criteria could provide cost of services or taxes paid as a rationale for distribution.

Elements of this typology raise concerns. Talen (1998) points out that demand for services by privileged individuals may lead to highly inequitable results. Further, with compensatory equity as a goal, someone must identify and weigh variables of deprivation and consider the scale at which they should be addressed. Lastly, this typology is largely silent on time. For example, market-based criteria may lead to very different judgments of policies over the short or long run depending on the economic perspective employed. Over how long a period may we make such judgments? Advocates of reparations for slavery have raised a significant claim for redress of past grievances, while the sustainable development literature argues that current resource policies must acknowledge a responsibility to future generations. These concerns suggest two additional dimensions to a typology drawn from a reading of Lucy and Talen: process equity and temporal equity.

Three Approaches to Equity

Our reading of this material suggests at least three general positions towards regional equity:

- ❑ Targeting places, focused on the responsibilities of individual jurisdictions, evaluating fairness largely on market performance of those jurisdictions;
- ❑ Targeting people, focused on outcomes for individual households, evaluating fairness largely through compensatory notions and market participation for those households;

- Targeting people in place, focused on outcomes for individual households with respect to geography, evaluating fairness largely through compensatory notions and market and political participation for those households.

These interpretations are not meant to be definitive but merely suggestive of the sort of interpretative lenses that readers may wish to construct for themselves as they proceed to reflect on the meaning of equity.

METRO'S REGIONAL AFFORDABLE HOUSING STRATEGY

Metro's Regional Affordable Housing Strategy (RAHS), adopted by the Metro Council in 2000, is interesting as a unique attempt first to legislate and then to negotiate over equity issues among stakeholders and institutions of governance involved in Portland's regional planning system. This effort recognized housing affordability as a challenge that was regional in scale. Some also saw an opportunity for the region to connect concerns with the environment and economy to equity. The fairness of the distribution of affordable housing and concentrated poverty among the region's localities was central to the discussion for others.

The Regional Framework Plan (RFP) was adopted in 1997 to implement the 2040 Growth Concept, a vision of a compact region growing up through increased density in designated centers, rather than growing out through expansions of the urban growth boundary. The RFP was a legislative document, legally binding Metro and its constituent local governments to implementation of the vision they endorsed in the 2040 Growth Concept.

As initially adopted by the Metro Council, the RFP included a housing policy establishing affordable housing goals for localities. These goals were devised on fair share principles that would distribute target numbers of moderately priced units around the region. In the forefront of this effort was the Coalition for a Livable Future (CLF), a group of environmental, land use, and community development organizations. CLF drew much of its inspiration from Myron Orfield's *Metropolitics* (1997) as well as from Oregon's land use planning program goals.

Oregon's Goal 10 lends support to such an approach. It provides that housing in all jurisdictions should be available at a range of prices and rent levels. However, historically that has meant supplying a range of housing forms rather than ensuring functional affordability for a range of households. Goal 10 was interpreted to ban exclusionary large lot zoning, leading eventually to the state Metropolitan Housing

Rule that opened Portland suburbs to a wave of multi-family housing construction. However, despite a substantial increase in the suburban share of multi-family housing construction in the 1980s and 1990s, housing affordable to low income households remained concentrated in the central city of Portland.

Under an RFP affordable housing policy, proposed by then-Metro Councilor Ed Washington with inspiration from the Coalition for a Livable Future, all local governments would have shared responsibility for meeting housing production goals for units affordable to a range of income levels. Jurisdictions failing to meet the goals were to require that new development projects include a share of units affordable to moderate and low income households. With opposition from some members of the Metro Council at the time, including homebuilder Don Morissette, a parliamentary maneuver was required to get the matter out of a Metro committee and before the Council, which approved the measure with a narrow one-vote majority.

Suburban governments, led by then Gresham Mayor Gussie McRoberts, were joined by development groups in litigating the proposed RFP affordable housing policy. They raised a host of objections, which essentially turned on interpretation of whether a procedural requirement mandated in Metro's home rule charter was met in this instance. The Metropolitan Policy Advisory Committee, primarily consisting of local government stakeholders, is required to advise and consult with the Metro Council on legislative matters. Instead of litigating, the parties settled the dispute through mediation, which resulted in the creation of an Affordable Housing Technical Advisory Committee (HTAC), appointed by the council and charged with developing a consensus on some policy recommendations that eventually became the RAHS.

The HTAC, chaired by current Multnomah County Commission Chair Dianne Linn, included local elected officials, staff from local governments and local public housing authorities, representatives of community development corporations, and bankers and the development industry, including both non-profit and for-profit housing providers. Some of the parties to the suburban lawsuit, including real estate and home builder trade associations, were not given seats on the committee but followed its work closely.

The RAHS document, developed by HTAC over almost two years of work, detailed the shortage of affordable housing in the region. The authors identified a 20-year shortfall of more than 90,000 units affordable to households at or below 50 percent of the regional household median income. The massive need and asso-

ciated costs—estimated to total \$6 billion, less than a third of which could be met through state and federal funds—cast a long shadow over the discussion.

In an effort to fill the gap, the committee documented a range of regulatory, land use, and funding approaches. However, two options that had long been seen as key potential sources were put out of reach, at least for the time being, when the realtor and homebuilder trade associations successfully pursued a “legislative bypass” to the HTAC process. They won from the state legislature in Salem prohibitions on adoption of inclusionary zoning, which mandates that developers include moderately priced units in new projects and pay a tax on real estate property transfers.

These private sector groups argued that they would simply have to pass the costs of these provisions on to the public. Some local government representatives echoed the position in response to other options considered in RAHS. Small jurisdictions in particular were disturbed by the potential fiscal impact of proposals that they waive various fees or systems development charges to increase affordable housing production. Further, the application of a voluntary fair share methodology distributing projected new affordable units, while successfully documenting the outsized burden borne by the City of Portland, led to results that were challenging for smaller places to envision implementing.

In the end, RHAS offered a rich documentation of the need for more affordable housing in the region and provided a policy toolbox that localities were free to peruse. Beyond that, however, it also started a new dialogue between Metro and the localities. Although it has waxed and waned in the intervening years, that discussion continues to this day.

DOCUMENTING HOUSING POLICY OUTCOMES

Continuing dialogue can only be enriched by a more informed discussion of a key contextual element that was only implicit in the RAHS—equity. Building in part upon the foundation contained in the RAHS as well as the process to develop it, the Coalition for a Livable Future has launched the Regional Equity Atlas Project. The project seeks to advance equity as a key component of the greater Portland area’s smart growth agenda. Using maps, the project will analyze regional development patterns by illustrating changes in access to opportunities including housing, transportation, jobs, education, food, and parks and greenspaces. The information generated by this project will provide a framework for understanding the notion of equity as it relates to long-range planning, and, ultimately, for shaping future planning decisions.

The first and second maps identify the change between 1990 and 2000 in the number of cost burdened renters and home owner households respectively. Results may be influenced by a number of factors, including “new home” construction. “New home” households spend more than a third of their income on housing. The third map indicates rates of poverty and changes from 1990 to 2000. Trends may be influenced by factors like the number of non-poor households moving into an area (i.e., gentrification).

Large numbers of cost burdened renter households remain concentrated in Portland—in fact within the city’s downtown. Some concentration of high increase from 1990-2000 in cost burdened renter households per acre is also apparent on the city’s eastside. However, it is also largely a suburban phenomenon, with high concentrations around the region’s Westside, stretching from Hillsboro to Wilsonville, in east Multnomah County communities including Gresham, areas near Happy Valley in Clackamas, and in parts of Clark County, Washington as well.

The highest concentrations in the change in cost burdened homeowners per acre from 1990-2000 are found in the city’s eastside, Westside suburban areas around Hillsboro, Tigard and Sherwood, Canby in Clackamas, and in parts of Clark County Washington.

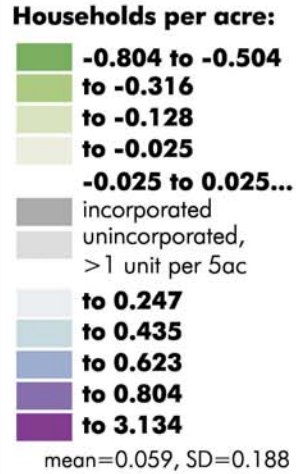
While the City of Portland’s eastside largely contains areas of above average poverty, 1990-2000 poverty rates decreased. At the same time, while eastern Multnomah County contains large swaths of areas of above average poverty, major areas in Gresham, Wood Village, and Fairview saw increased rates. Western suburbs have smaller pockets of above average poverty rate areas where rates were on the rise, including parts of Cornelius, Forest Grove, Hillsboro and Beaverton. Much of the Westside, which has below average rates, also experienced an increase in poverty over the decade. Across the Columbia River, Clark County, Washington experienced a similar pattern with areas of above average and increasing rates juxtaposed with areas of below average but also increasing rates.

CONCLUSIONS

The RAHS and the Equity Atlas provide a good accounting of the scale of the region’s affordable housing problem and raise associated issues like the concentration of and movement patterns of poverty.

Recall the three approaches to equity identified earlier, targeting people, places, and people in place. In these, terms we anticipate conflicts over the RAHS

**Change 1990-00:
Cost-burdened
Renter
Households***
**Portland-Vancouver
PMSA**

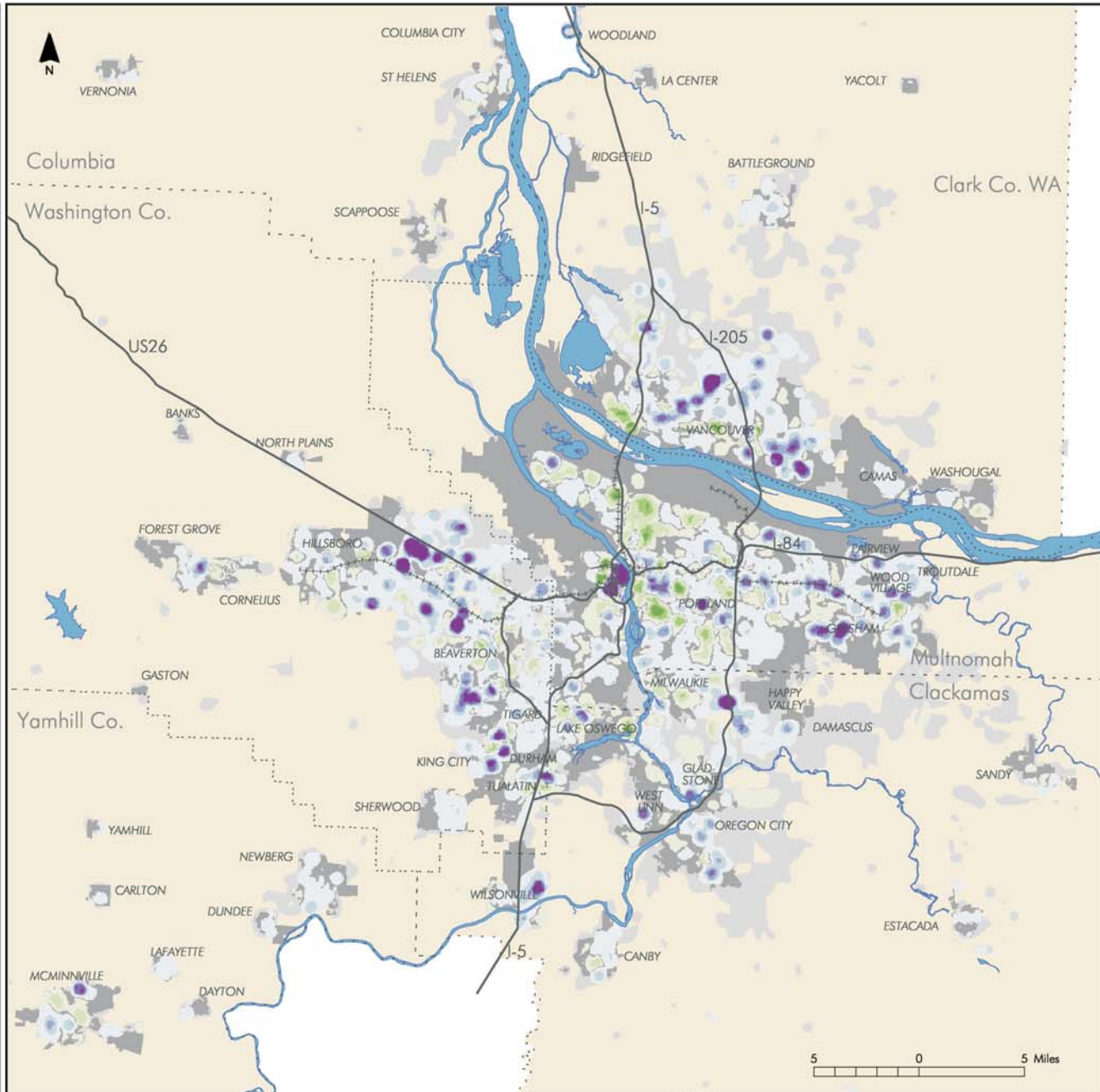


**Unincorporated,
<1 unit per 5ac...
Change total (%):**

Clackamas=175 (29%)
Columbia=120 (82%)
Clark=40 (10%)
Multnomah=60 (76%)
Washington=20 (6%)
Yamhill= -20 (-10%)

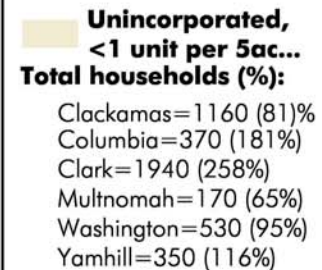
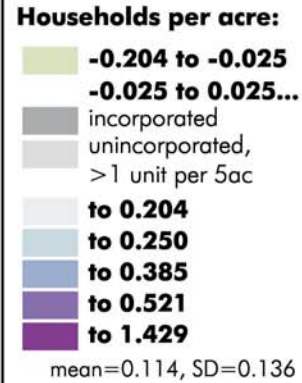
*Renters spending 30% or more of household income on rent & utilities. Variable based on U.S. Census Bureau STF3 1990, H51, SF3 2000, H71. Density is avg. of 8 1-acre cell search radius on rasterized blockgroup data reapportioned by block-level renter-hh. Other: Oregon Geospatial, ESRI 2002, Metro DRC 2003.

Population Research Center
Portland State University, 2004



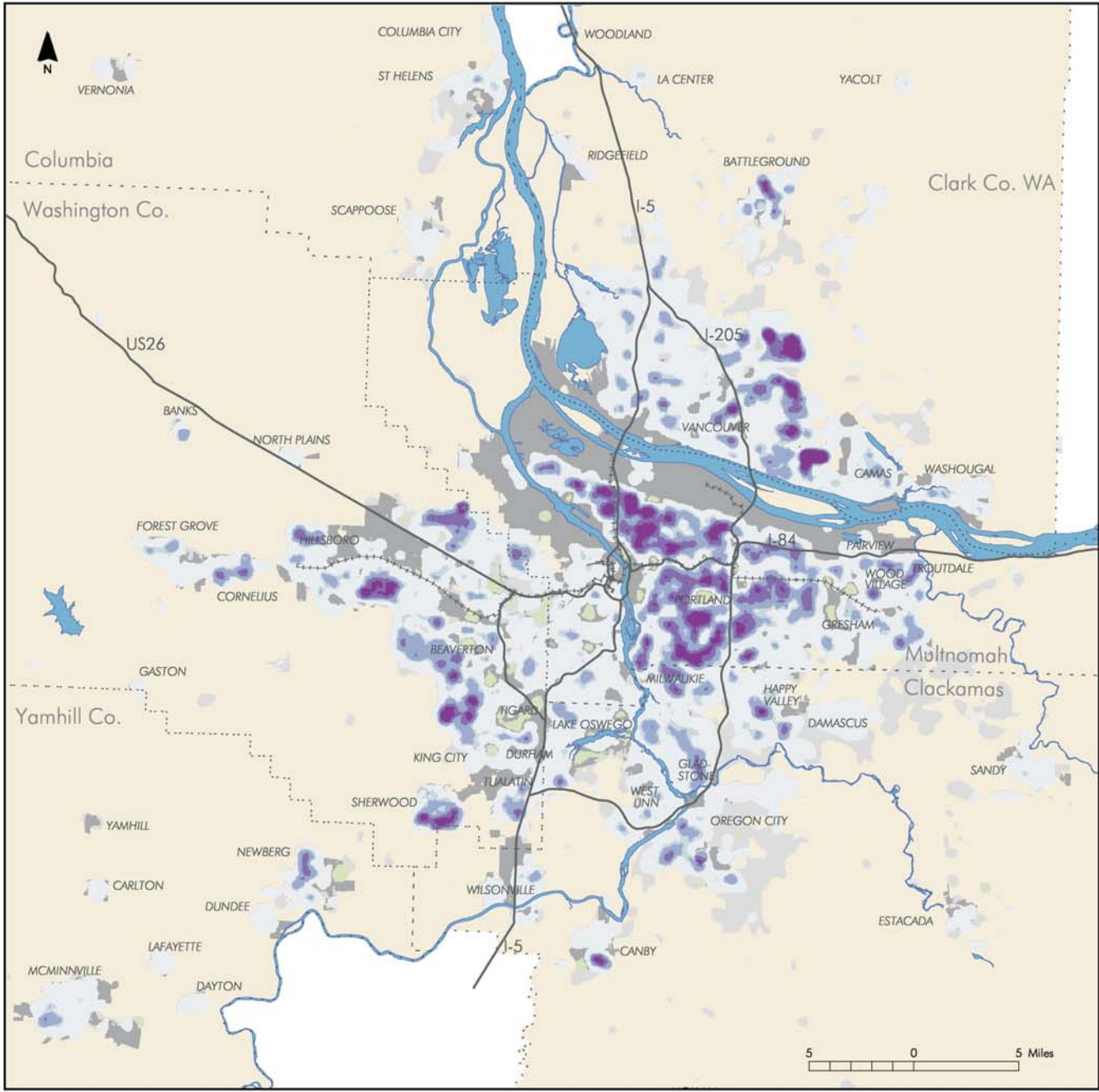
Change 1990-00: Cost-burdened Mortgaged Households*

Portland-Vancouver PMSA








*Owners spending 30% or more of household income on mortgage & related costs. Variable based on U.S. Census Bureau STF3 1990 H58 & SF3 2000 H94. Density is avg. of 8 1-acre cell search radius on rasterized blockgroup data reapporioned by block-level owner-hh. Other: ESRI 2002, Metro DRC RLIS 2003, Oregon Geospatial.

Population Research Center
Portland State University, 2004



1990-2000: Poverty & Change Portland-Vancouver PMSA

By selection criteria* (totals 1990, 2000):

-  below avg. & decrease
(9600, 6100)
-  below avg. & increase
(21600, 51900)
-  above avg. & decrease
(58600, 40400)
-  above avg. & increase
(44800, 69000)
-  not applicable

1990 avg.=8.4%,
2000 avg.=8.2%

Darkness indicates density
distribution of poverty in 2000

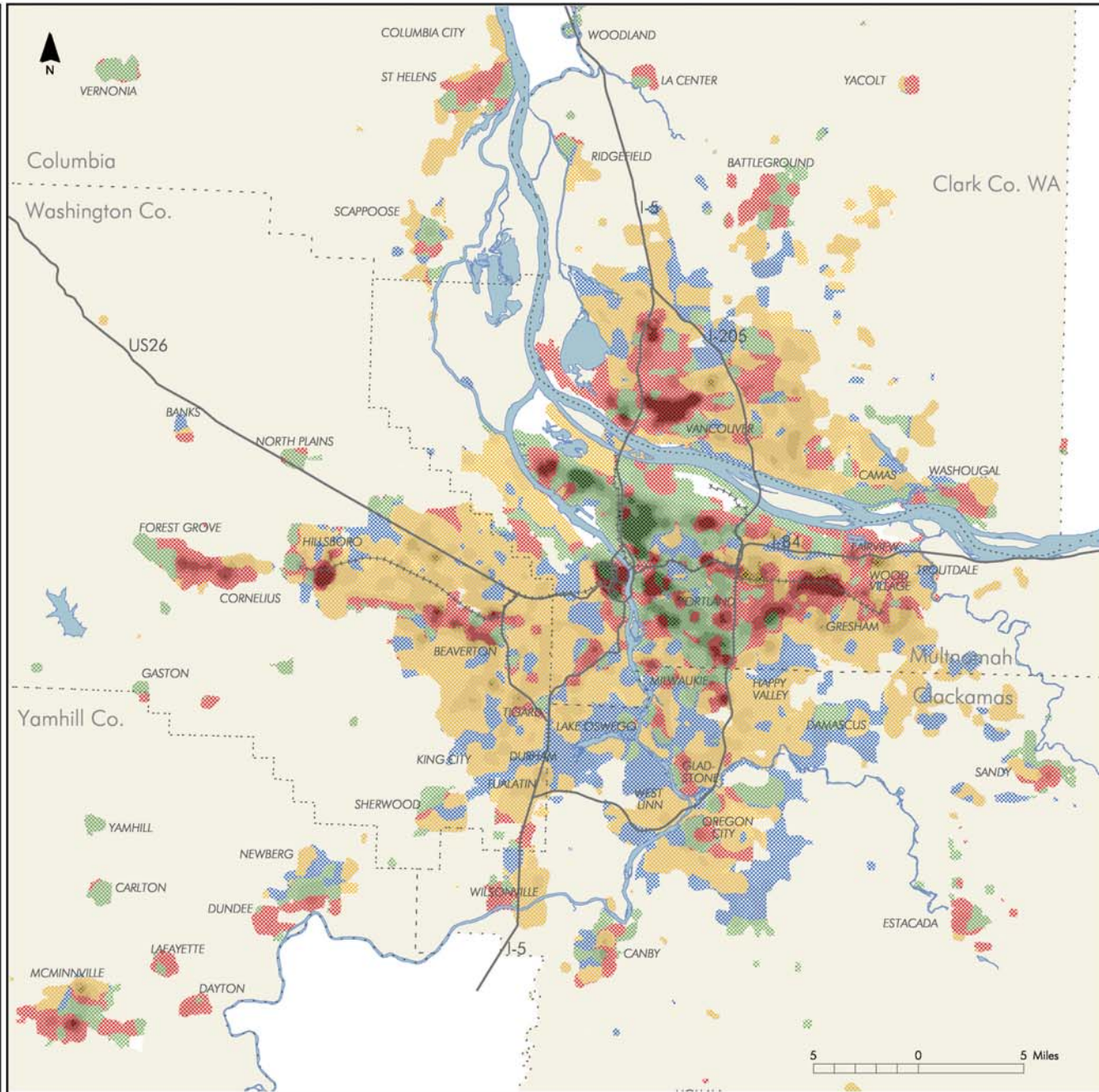
Unincorporated, <1 unit per 5ac...

Change, total (%):

- Clackamas= -230 (-5.3%)
- Columbia=80 (6.5%)
- Clark= -90 (-3.5%)
- Multnomah=70 (14.8%)
- Washington= -870 (-37.1%)
- Yamhill= -510 (-27.6%)

*Percent poverty 1990 above or below avg., increase or decrease 1990-00 persons in poverty per acre. Variable based on U.S. Census Bureau STF3 1990 P117 & SF3 2000 P87. Density is average of 8 1-acre cell search radius on rasterized blockgroup data reapportioned by block-level population. Other: ESRI 2002, Metro DRC RLIS 2003, Oregon Geospatial.

Population Research Center
Portland State University, 2004



between those targeting equity or fairness for people across the region and those targeting equity for places within the region. Further, the HTAC was unable to identify implementation strategies that could meet the scale of the need identified in RAHS. This problem was exacerbated by the legislative bypass that limited some policy options that were viewed by many as having great potential. Advocates for places evaluate the fairness of policy proposals essentially on market criteria or the bottom-line performance of their municipalities. They argued that, absent new resources, they could not proceed. Advocates for people evaluate policy fairness in compensatory terms focused on individual households. They had no answer absent new resources or mandates from higher levels of governments that jurisdictions readjust their fiscal priorities to address the problem.

The RAHS discussion excludes advocacy targeting equity for people in place. The region's taste for consensus-style politics and relatively small and dispersed minority populations perhaps provided less of a basis for such an approach. However, it is interesting to note that since the release of the RAHS groups like Affordable Housing Now!, The Community Alliance for Tenants, the Washington County Affordable Housing Advocates and Vision Action Network, advocates have won dedicated funding commitments for affordable housing from the City of Portland and Washington County governments. While these moves fall well short of addressing the problem identified in RAHS, this community-based advocacy involving targeting equity for people in specific communities may play a larger role as the region's population continues to diversify, as was the case with the rapid growth in the Latino population of the region's suburbs through the 1990s.

So if there is no one definition of equity at play in the region, how can we build common understanding across these fundamentally different concepts of what is fair? As promised, we offer no easy answers or quick fixes but invite readers to speculate. What then does equity mean to you? This question is important in the area of housing in particular, as Metro anticipates reconvening a stakeholder group, like HTAC, sometime in 2005. To that end, we pose two ideas that Metro and others may wish to consider.

The RAHS documented costs of producing affordable housing. However, we don't have good information on benefits that might accrue to the region or individual jurisdictions from equitably distributed affordable housing; for example, in terms of lower transportation costs, in stimulating development of urban centers, and in lower rates of negative socioeconomic outcomes associated with concentrated poverty.

Additionally, while it runs against the conceptual grain of regional government, exploring approaches that focus on outcomes for individual households with respect to geography should be considered. Targeting people in place, evaluating fairness through compensatory notions as well as market and political participation for those households, may actually strengthen rather than undermine our regional planning by providing an additional basis of political support for regional policies.

So how has Metropolitan Portland defined and acted on issues of social and economic equity? While our objective was not to offer a definitive answer to that or any question, we hope to have engaged your thinking about the basis for what we see, at least from the example of the RAHS discussion, as the region's conflicted notions of equity. We clearly lack a common language for fairness, one where we may disagree on details, but at least agree on what we are.

In initiating the Regional Equity Atlas, the Coalition for a Livable Future has engaged in a long-term process that challenged its own members to define equity. When the Atlas is released later this year, we hope that it can be the catalyst for a similar discussion, advancing an understanding that we see as an important to the future prospects of the Portland region.

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