

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,)

)

Plaintiff,)

CIVIL ACTION NO.

)

v.)

)

COMMUNITY STATE BANK)

)

Defendant.)

)

COMPLAINT

The United States of America alleges:

1. This action is brought by the United States to enforce the provisions of the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f.

2. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345, 42 U.S.C. § 3614, and 15 U.S.C. § 1691e(h). Venue is appropriate pursuant to 28 U.S.C. § 1391.

3. Defendant Community State Bank (“Community”) is a bank chartered by the Michigan Office of Financial and Insurance Regulation headquartered in St. Charles, Michigan. Community offers the traditional services of a financial depository and lending institution, including the receipt of monetary deposits and the financing of residential housing and commercial loans. As of September 30, 2012, Community had assets of approximately \$201

million. Community is subject to the regulatory authority of the Federal Deposit Insurance Corporation (“FDIC”).

4. Community is subject to the federal laws governing fair lending, including the Fair Housing Act, its implementing fair housing regulations issued by the Department of Housing and Urban Development, 24 C.F.R. § 100.1 et seq., the Equal Credit Opportunity Act, and its implementing Regulation B of the Consumer Financial Protection Bureau, 12 C.F.R. § 1002.1 et seq. (and the predecessor implementing Regulation B issued by the Board of Governors of the Federal Reserve System). The Fair Housing Act and the Equal Credit Opportunity Act prohibit financial institutions from discriminating on the basis of, inter alia, race in their mortgage lending practices.

5. In May 2010, the FDIC commenced a periodic examination of Community’s compliance with consumer-protection laws and for performance under the Community Reinvestment Act (“CRA”), 12 U.S.C. §§ 2901-2906. The examination included an evaluation of Community’s compliance with anti-discrimination laws based on data for its 2006-2009 lending activities. Based on the information gathered in its examination, the FDIC concluded that there was reason to believe that Community engaged in a pattern or practice of discriminatory racial redlining harming African-Americans in violation of the Equal Credit Opportunity Act and the Fair Housing Act.

6. Based on its May 2010 examination, the FDIC assigned Community a “Substantial Noncompliance” rating under the CRA, the lowest possible CRA rating, and one that the FDIC assigns to less than one half of one percent (0.5%) of banks it examines.

7. Pursuant to 15 U.S.C. § 1691e(g), the FDIC referred its discrimination findings to the Attorney General for appropriate enforcement action on August 25, 2011, following its

determination as described in Paragraph 5. Community subsequently entered into agreements with the Department of Justice that suspended “[t]he running of statutes of limitations for any cause of action or related claim or remedy, arising from the issues referred by the FDIC in its letter dated August 25, 2011, that could have been brought against Community State Bank by the United States Attorney General under the ECOA and Regulation B and/or the FHA and HUD’s Fair Housing Regulations” from November 16, 2011 through January 18, 2013.

8. Community operates eight full-service branches in Saginaw, Genesee, and Shiawassee Counties, Michigan. These branches serve two metropolitan areas: the Saginaw-Saginaw Township North metropolitan statistical area (“Saginaw MSA”), which is defined as Saginaw County, Michigan, and the Flint metropolitan statistical area (“Flint MSA”), which is defined as Genesee County, Michigan. Community also serves adjacent non-metropolitan areas of Shiawassee and Tuscola Counties, Michigan. See Map attached as Exhibit A.

9. Community is one of the five largest banks in the Saginaw MSA, measured by deposits at FDIC-insured bank branches located in the county, but it has never had an office in the City of Saginaw, which is home to more than one quarter of the county’s population. At the time of the 2010 Census, more than 60% of the Saginaw MSA’s African-American population lived in the City of Saginaw, and nearly 50% of the population of the City of Saginaw was African-American.

10. The Saginaw metropolitan area has long had highly segregated residential housing patterns, especially for African-Americans. Based on a measure called the dissimilarity index,¹ Saginaw was the tenth most highly segregated of the nation's 318 metropolitan areas for African-Americans based on data from the 2000 Census.

11. In operating and expanding the scope of its business over time, Community has acted to meet the credit needs for residential real estate-related loans in the predominantly white census tracts of the Saginaw MSA and the Flint MSA, and has avoided serving the similar credit needs of census tracts with substantial African-American populations.

12. As part of the requirements of the CRA, Community specifies the communities where it focuses on providing credit. These communities are referred to as the bank's "assessment area." Although the CRA does not require banks to decline loans from outside its assessment area, Community's policies and practices, through at least July 2011, discouraged generating applications from outside its assessment area.

13. Until July 2011, Community's Loan Criteria Pamphlet, which Mich. Comp. Laws § 445.1602(9)-(10) requires Community to provide to individuals inquiring about a loan, openly discouraged applicants from outside its assessment area. The Pamphlet contained a map of Community's assessment area under the heading "loan area" and stated that "our lending area will generally be confined to" the boundaries of the assessment area.

¹ Residential segregation can be measured by several indices; the most-widely used measure is called the dissimilarity index. Dissimilarity, which ranges from 0 (complete integration) to 1 (complete segregation), measures the percentage of a group's population that would have to change residences for each neighborhood to have the same percent of that group as the metropolitan area overall.

14. Community's Loan Policy and Procedures document, which guided its employees' lending practices, stated that loans outside the assessment area "are considered undesirable and will normally be declined."

15. The FDIC has promulgated regulations, 12 C.F.R. § 345.11 et seq., to implement the CRA and provide guidance to banks subject to its regulatory authority in defining an assessment area. The regulations direct FDIC-regulated banks that an assessment area should ordinarily consist of one or more metropolitan areas or contiguous political subdivisions, unless that area would be extremely large, of unusual configuration, or divided by significant geographic barriers. 12 C.F.R. § 345.41(c)-(d). The regulations further provide that if a bank's assessment area does not include entire political jurisdictions, its assessment area must consist only of "whole geographies" and may not reflect illegal discrimination. Id. § 345.41(e).

16. Between no later than September 1997 and October 2003, Community's assessment area covering the Saginaw MSA ("Saginaw assessment area") bisected the City of Saginaw to exclude most or all of each of the City of Saginaw's nine census tracts with majority-African-American populations notwithstanding the FDIC's CRA regulation that requires the use of "whole geographies." See Map attached as Exhibit B.

17. In October 2003, Community revised the Saginaw assessment area to expand coverage into eastern Saginaw County after it opened a new branch in Birch Run. Although Community expanded the Saginaw assessment area to include all of Birch Run, Frankenmuth, and Taymouth Townships, it added only the two census tracts in Bridgeport Township with African-American populations under 10% and did not add the township's two census tracts with 22% and 36% African-American populations.

18. At the same time that Community expanded the Saginaw assessment area to reflect opening a Birch Run branch, Community removed from the Saginaw assessment area previously included portions of the City of Saginaw and the unincorporated townships immediately north and west of the city. This removal occurred even though Community continued to operate a branch in Thomas Township/Shields just to the west of Saginaw Township along a major east-west highway (M-46) providing easy access from Saginaw. Community set the boundary of the revised Saginaw assessment area less than one mile from the Thomas Township branch, while it set the boundary at least five miles away from every other Community branch. See Map attached as Exhibit C.

19. The net effect of Community's October 2003 changes to the Saginaw assessment area was to reduce its African-American population by 89%, when the overall population of the Saginaw assessment area was reduced by only 45%. African-Americans made up less than 1.1% of the population in the Saginaw assessment area after Community's October 2003 revisions, compared to constituting more than 20% of the MSA's population.

20. The October 2003 changes to the Saginaw assessment area removed both previously included census tracts with an African-American population of more than 20%, and four of five previously included census tracts with an African-American population of between 10% and 20%. All five of the census tracts added to the Saginaw assessment area in October 2003 had an African-American population of under 10%, and three had an African-American population of under 1%.

21. Community retained the October 2003 boundaries of the Saginaw assessment area, and publicized those boundaries as the extent of its lending area, until the FDIC raised concerns about their potentially discriminatory nature in June 2010.

22. Community's October 2003 revision to its assessment area upon opening the Birch Run branch also expanded its assessment area into the Flint MSA ("Flint assessment area"). Community further expanded the Flint assessment area when it acquired Montrose State Bank, including branches in Montrose and Flushing, in 2007.

23. In May 2010, Community expanded the Flint assessment area to include the entire portion of previously bisected census tracts after the FDIC raised concerns about splitting geographies. The expanded Flint assessment area did not include the whole of Mount Morris and Genesee Townships, but excluded those townships' census tracts that are closest to the City of Flint, and entirely excluded the City of Flint. See Map attached as Exhibit D. Three of the ten excluded Mount Morris and Genesee Township census tracts have majority African-American populations, and these ten tracts have a combined 29.6% African-American population. None of the five census tracts included from Mount Morris and Genesee Townships have majority African-American populations, and these five tracts have a combined 11.6% African-American population.

24. In July 2011, Community further expanded the Flint assessment area after the FDIC raised concerns about the Flint assessment area splitting townships and wholly excluding the City of Flint. The new Flint assessment area includes all of Mount Morris and Genesee Townships, but continued to exclude all of the City of Flint.

25. Pursuant to 12 C.F.R. § 345.41(g), the FDIC rejected the Flint assessment area designated by Community because the FDIC "determine[d] that the assessment area[] do[es] not comply with the requirements" of its CRA regulations.

26. Community's customer solicitation efforts also reflect the failure to serve predominantly African-American areas on an equal basis with predominantly white areas. For

example, Community's newspaper advertising from 2006 to 2011 concentrated on newspapers serving the outlying communities in the Saginaw and Flint MSAs with overwhelmingly white populations, while placing few or no advertisements in newspapers focused on readers in the City of Saginaw.

27. The policies and practices of Community, described herein, have served majority-white communities to a significantly greater extent than communities with substantial African-American populations, as further demonstrated by Community's actual residential lending activity over time.

28. Community was required to collect, maintain, and report data with respect to certain loan terms and borrower information for residential loans, including the race and property location of each home loan borrower, pursuant to the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. § 2803.

29. During the four-year period 2006-2009, Community generated 568 single-family (1-4 units) and manufactured home residential loan applications from the four counties, Saginaw, Genesee, Shiawassee, and Tuscola, that are wholly or partially included in Community's CRA assessment area ("four-county area").

30. During the four-year period 2006-2009, Community generated only one single-family or manufactured home residential loan application from a majority-African-American census tract in the four-county area. See Map attached as Exhibit E. That one application represents 0.2% of its application volume over the four years. In three of those four years, Community generated no applications from majority-African-American census tracts.

31. During the four-year period 2006-2009, Community generated no single family or manufactured home residential loan applications from African-American individuals in the four-county area.

32. Statistical analyses of Community's residential real estate loan applications for each year 2006-2009 show that Community served the residential real estate-related credit needs of the residents of majority-white census tracts of the four-county area to a significantly greater extent than it served the residential real estate-related credit needs of the residents of majority-African American census tracts.

33. During the four-year period 2006-2009, comparable lenders in the four-county area generated between 3.0% and 7.5% of their single family or manufactured home residential real estate loan applications each year from majority-African-American census tracts. These results show a statistically significant² failure by Community in each year 2006-2009 to provide loan services and draw applications from majority-African-American tracts.

34. Similarly, statistically significant results are obtained by comparing Community to comparable lenders for lending occurring in the CRA assessment area Community designated for itself in July 2011 and for lending occurring in the Saginaw MSA.

35. These statistical disparities result from Community failure to provide services in the majority-African-American census tracts of the Saginaw MSA and the Flint MSA, including substantial portions of the City of Saginaw.

36. The totality of Community's policies and practices described herein constitutes the redlining of areas of the Saginaw MSA and the Flint MSA with substantial African-American

² Statistical significance is a measure of probability that an observed outcome would not have occurred by chance. As used in this Complaint, an outcome is statistically significant if the probability that it could have occurred by chance is less than 5%.

populations for Community's home lending business. Community's policies and practices are intended to deny and discourage, or have the effect of denying or discouraging, an equal opportunity to the residents of the neighborhoods of the Saginaw MSA and Flint MSA with substantial African-American populations, on account of the racial composition of those neighborhoods, to obtain residential real estate-related loans. These policies and practices are not justified by business necessity or legitimate business considerations.

37. Community's actions as alleged herein constitute:

a. Discrimination on the basis of race in making available, or in the terms or conditions of, residential real estate-related transactions, in violation of the Fair Housing Act, 42 U.S.C. § 3605(a);

b. The making unavailable or denial of dwellings to persons because of race in violation of the Fair Housing Act, 42 U.S.C. § 3604(a);

c. Discrimination on the basis of race in the terms, conditions, or privileges of the provision of services or facilities in connection with the sale or rental of dwellings, in violation of the Fair Housing Act, 42 U.S.C. § 3604(b); and

d. Discrimination against applicants with respect to credit transactions, on the basis of race, in violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1).

38. Community's policies and practices as alleged herein constitute:

a. A pattern or practice of resistance to the full enjoyment of rights secured by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.; and

b. A denial of rights granted by the Fair Housing Act to a group of persons that raises an issue of general public importance.

39. Persons who have been victims of Community's discriminatory policies and practices are aggrieved persons as defined in the Fair Housing Act, 42 U.S.C. § 3602(i), and aggrieved applicants as defined in the Equal Credit Opportunity Act, 15 U.S.C. § 1691e, and have suffered injury and damages as a result of Community's conduct.

40. Community's discriminatory policies and practices have been intentional and willful, and implemented with reckless disregard for the rights of African-American borrowers.

WHEREFORE, the United States prays that the Court enter an ORDER that:

(1) Declares that the policies and practices of Defendant constitutes a violation of the Fair Housing Act and the Equal Credit Opportunity Act;

(2) Enjoins Defendant, its agents, employees, and successors, and all other persons in active concert or participation with Defendant, from:

(a) Discriminating on account of race in any aspect of its lending business practices;

(b) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Defendant's unlawful conduct to the position they would have been in but for the discriminatory conduct; and

(c) Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any such discriminatory conduct in the future; to eliminate, to the extent practicable, the effects of Defendant's unlawful practices; and to implement policies and procedures to ensure that all segments of Defendant's market areas are served without regard to prohibited characteristics;

(3) Awards monetary damages to all the victims of Defendant's discriminatory policies and practices for the injuries caused by Defendant, pursuant to 42 U.S.C.

§ 3614(d)(1)(B) and 15 U.S.C. § 1691e(h); and


(4) Assesses a civil penalty against Defendant in an amount authorized by 42 U.S.C. § 3614(d)(1)(C), in order to vindicate the public interest.

The United States further prays for such additional relief as the interests of justice may require.


Dated: January 15, 2013


Respectfully submitted,


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Eastern District of Michigan



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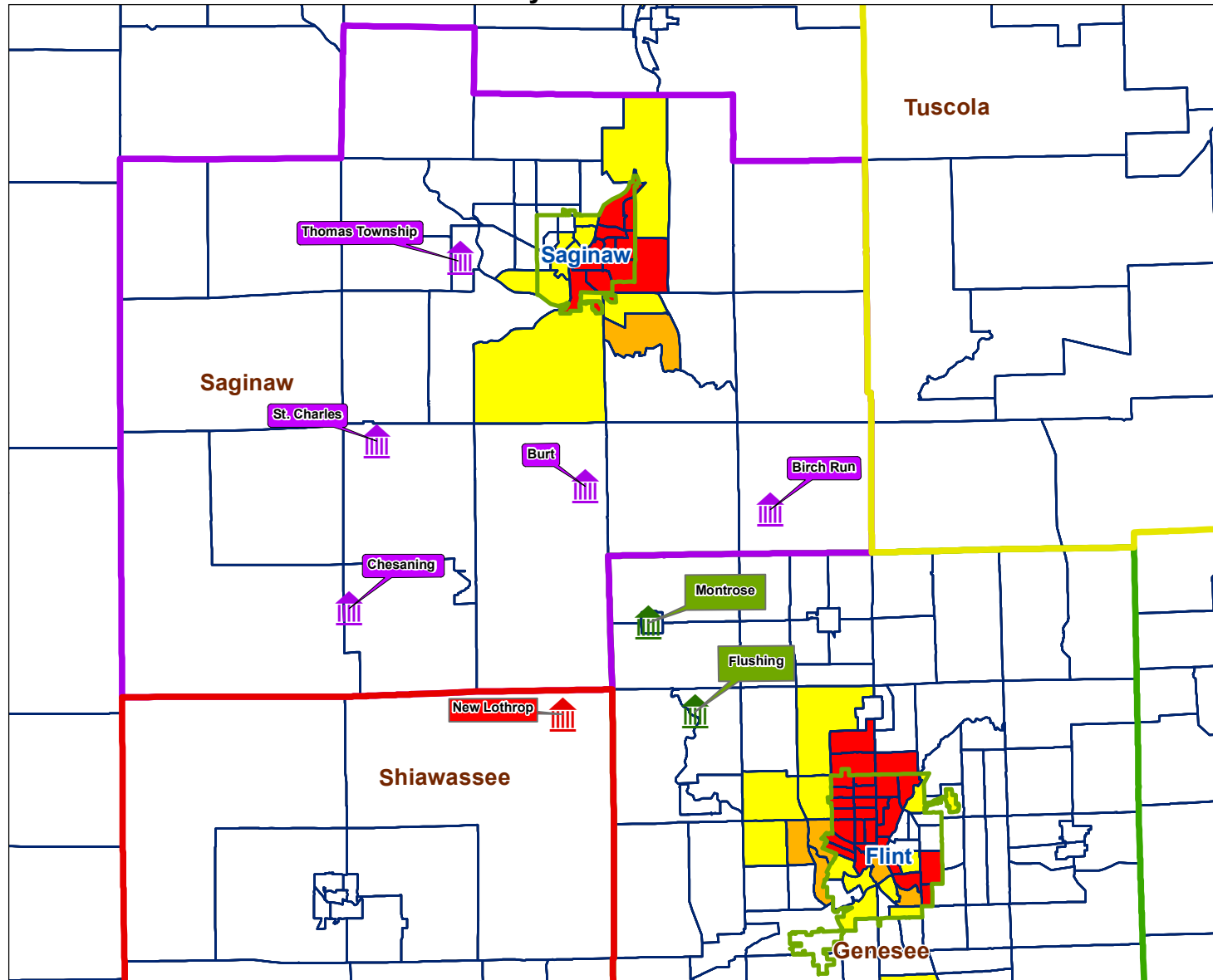

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

INDEX OF EXHIBITS

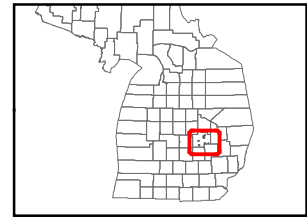
<u>Exhibit</u>	<u>Description</u>
A	Community State Bank Branch Locations
B	Community State Bank Pre-October 2003 Saginaw Assessment Area
C	Community State Bank October 2003 - June 2010 Saginaw Assessment Area
D	Community State Bank June 2010 - June 2011 Assessment Area
E	Community State Bank 2006-2009 Applications

Exhibit A: Community State Bank Branch Locations



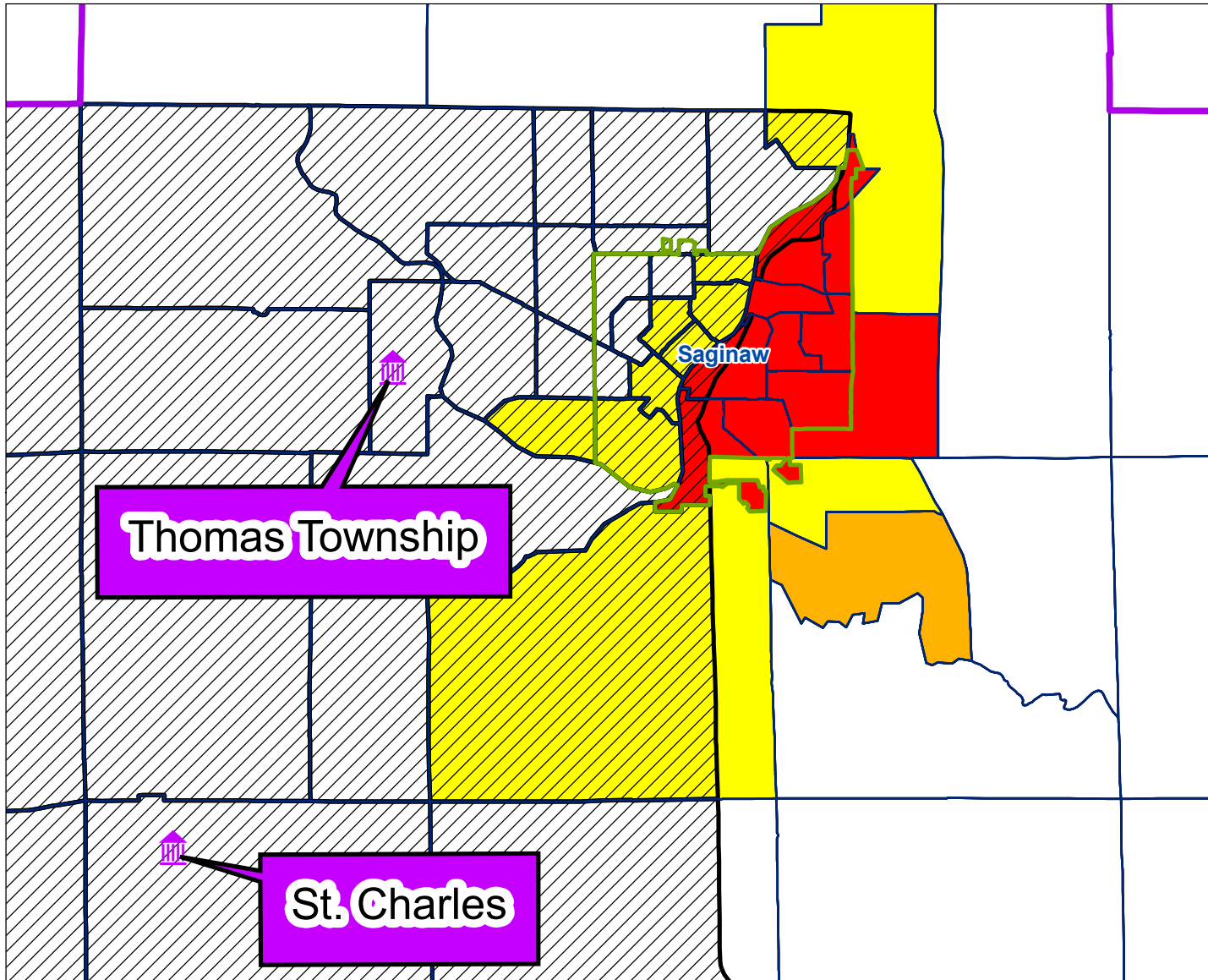
Legend

- Shiawassee County Branch
 - Genesee County Branch
 - Saginaw County Branch
 - City of Saginaw
 - City of Flint
 - Genesee County
 - Saginaw County
 - Shiawassee County
 - Tuscola County
 - Michigan 2000 Tracts
- 2000 Black Population by Tract**
- <=10%
 - >10% and <=30%
 - >30% and <=50%
 - >50%












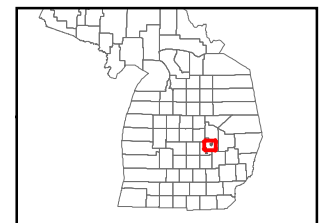
Prepared by:
U.S. Department of Justice
Civil Rights Division
Washington, D.C. 20530

Exhibit B: Community State Bank Pre-October 2003 Saginaw Assessment Area



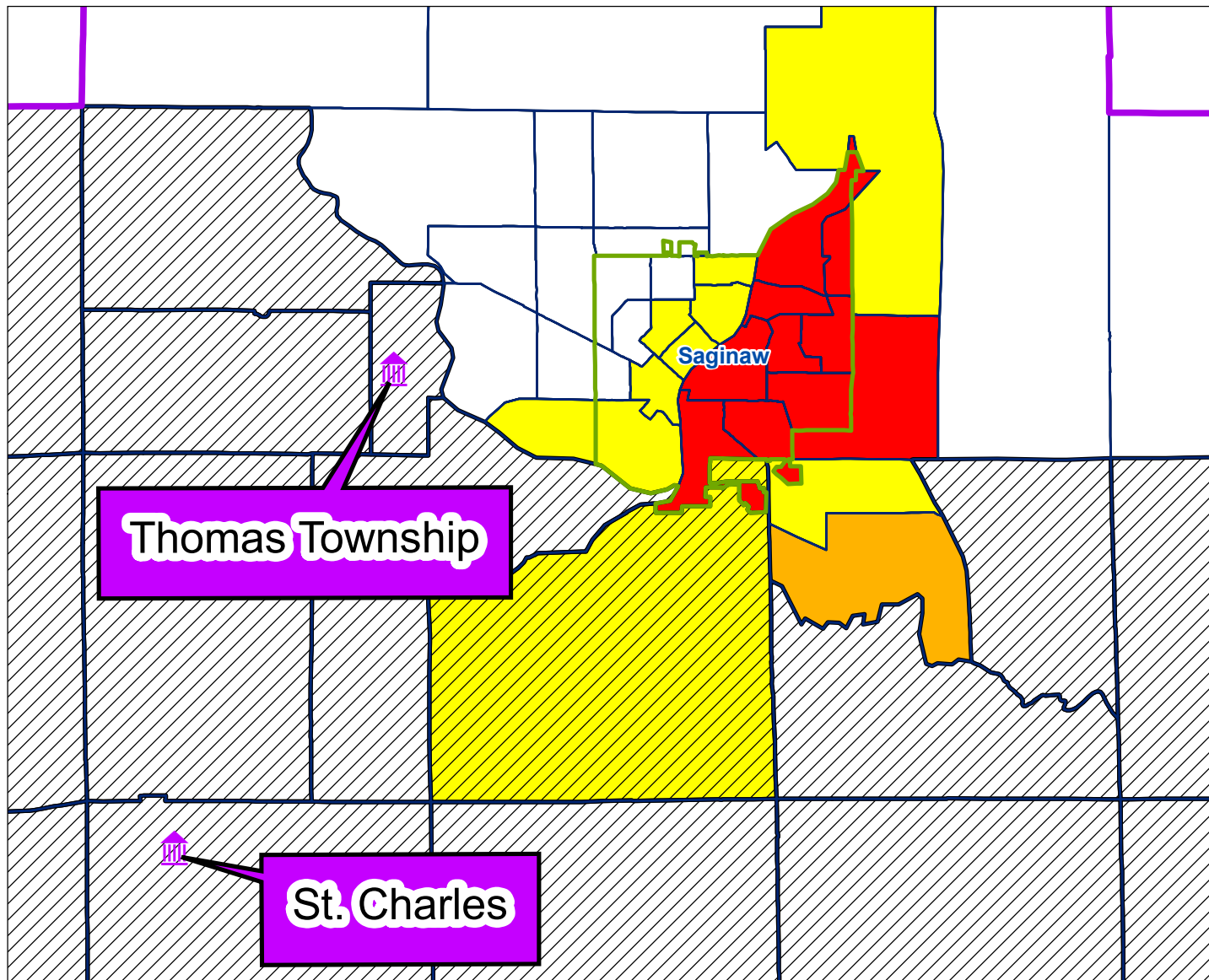
Legend

-  Saginaw County Branch
-  City of Saginaw
-  Saginaw County
-  Michigan 2000 Tracts
-  Pre-October 2003 CRA Assessment Area
- 2000 Black Population by Tract**
-  <=10%
-  >10% and <=30%
-  >30% and <=50%
-  >50%



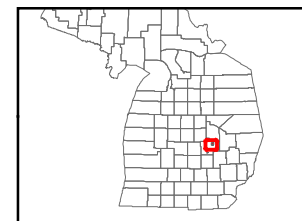
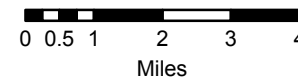
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Exhibit C: Community State Bank October 2003 - June 2010 Saginaw Assessment Area



Legend

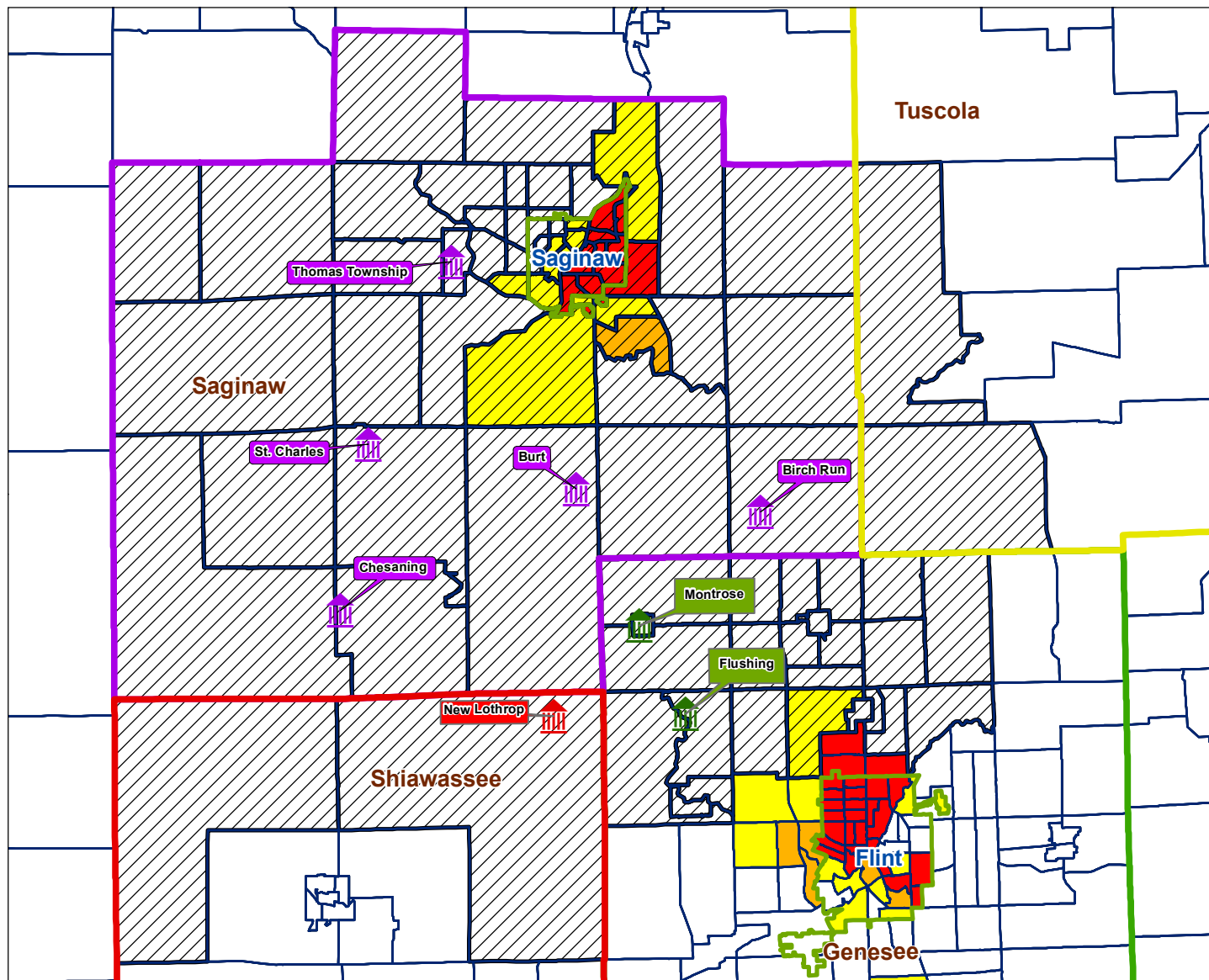
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- Saginaw County
- Michigan 2000 Tracts
- October 2003 - June 2010 CRA Assessment Area
- 2000 Black Population by Tract**
 - <=10%
 - >10% and <=30%
 - >30% and <=50%
 - >50%



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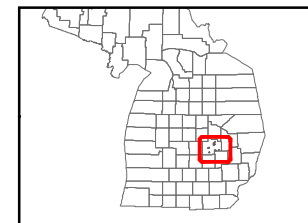
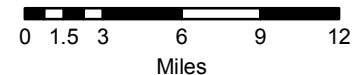


Exhibit D: Community State Bank June 2010 - June 2011 Assessment Area



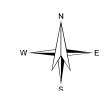
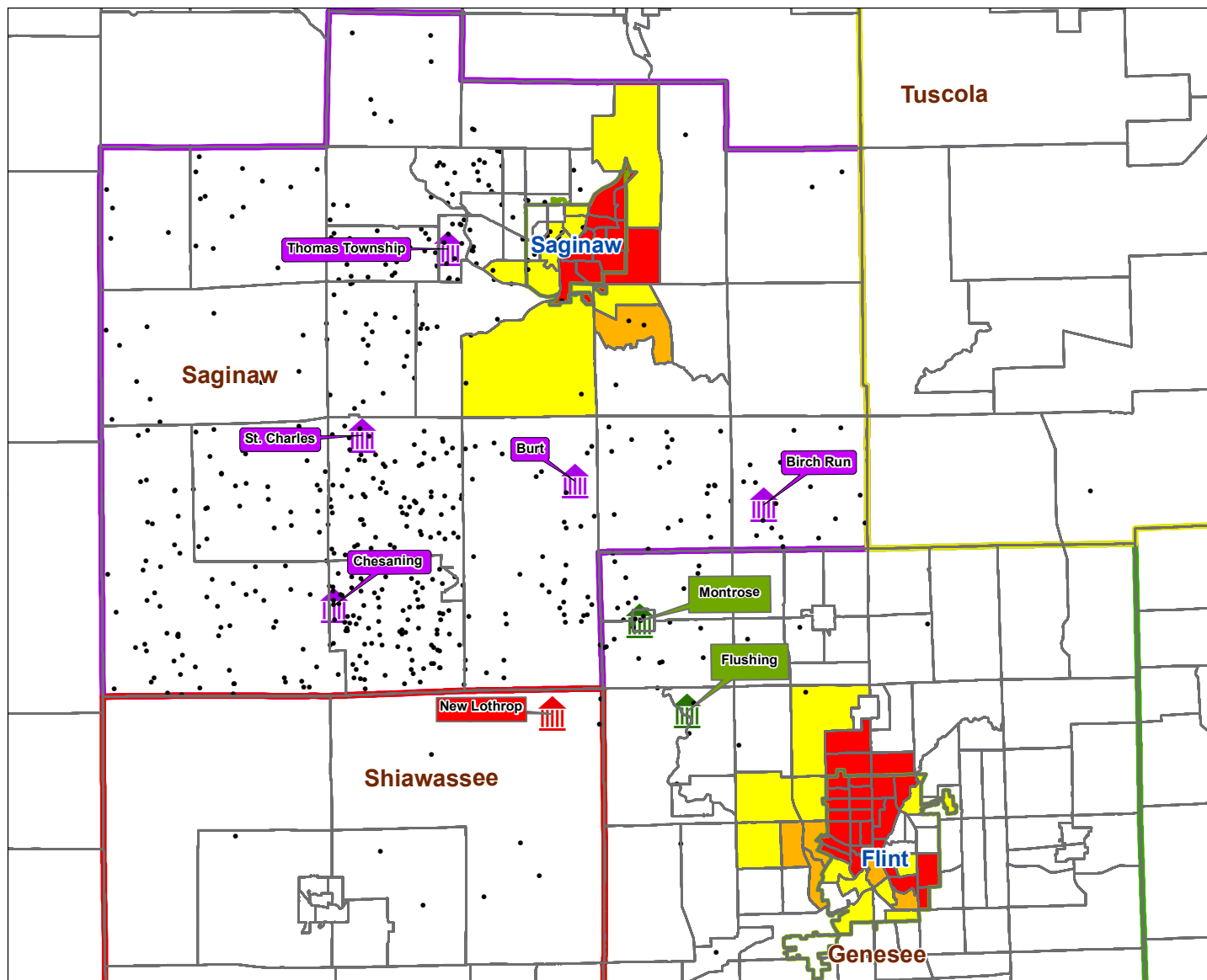
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- Shiawassee County Branch
 - Genesee County Branch
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 - City of Saginaw
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 - Saginaw County
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- 2000 Black Population by Tract**
- <=10%
 - >10% and <=30%
 - >30% and <=50%
 - >50%



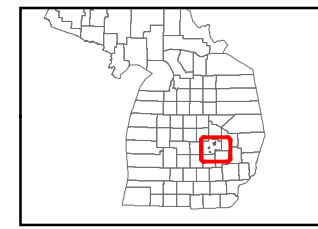
Prepared by:
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Exhibit E: Community State Bank 2006 - 2009 Applications



Legend

- 2006 - 2009 Applications
- Shiawassee County Branch
- Genesee County Branch
- Saginaw County Branch
- City of Saginaw
- City of Flint
- Genesee County
- Saginaw County
- Shiawassee County
- Tuscola County
- Michigan 2000 Tracts
- 2000 Black Population by Tract**
- <=10%
- >10% and <=30%
- >30% and <=50%
- >50%



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