

NFHA

National Fair Housing Alliance

**UNEQUAL OPPORTUNITY—PERPETUATING
HOUSING SEGREGATION IN AMERICA**



2006 Fair Housing Trends Report

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Introduction

Even as a growing U.S. population becomes more diverse, our communities remain highly racially and ethnically segregated, and segregation continues to extract a high price in economic and societal terms. Segregation in our neighborhoods and communities weakens the overall infrastructure, results in a drain on the tax base and minimizes the capacity of local officials to provide essential services to their community. The hazards of segregation illuminate the meaningful significance of ensuring equal treatment and promoting integrated neighborhoods. Not only do integrated neighborhoods create a more diverse community and reduce the concentration of poverty in a city, they also sustain better schools, more amenities, a healthy infrastructure, a stronger tax base and a broader mix of businesses. Neighborhood integration provides everyone with the opportunity to have multi-cultural and multi-racial associations.

Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988, (42 U.S.C. § 3601 et. seq) prohibits discrimination in housing and housing related transactions based on race, color, religion, sex, national origin, disability or familial status. Its legislative history is entwined with the national experience of urban riots and civil unrest. Its passage was expedited in response to the assassination of Dr. Martin Luther King, Jr. and the release of the Kerner Commission Report that concluded that America was “moving toward two societies, one Black, one white—separate and unequal.” Congress’s purpose in enacting the Fair Housing Act to create “truly integrated and balanced living patterns.”¹

The **2006 Fair Housing Trends Report** discusses in detail the National Fair Housing Alliance’s recent multi-year real estate investigation. The investigation revealed disturbing practices by some real estate agents, which perpetuate the segregation in our communities. The illegal practices include denial of service, steering, illegal comments, and the use of schools as a proxy for the racial or ethnic composition of neighborhoods and communities.

Since 2003, the National Fair Housing Alliance (NFHA) has conducted extensive testing of real estate sales firms. In the twelve metropolitan areas investigated to date, NFHA’s testing revealed discriminatory steering practices and other illegal behaviors that are both striking and pervasive. Over the past year, NFHA has filed nine complaints against real estate companies in Atlanta, Chicago, Detroit, Mobile, AL and Westchester County, NY. Seven of these complaints involve franchisees of the national companies of Coldwell Banker, Century 21 or Re/Max; two of these complaints involve local companies. Individuals, neighborhoods, school districts and local governments harmed by these illegal steering practices can join NFHA in challenging these practices. For example, a family harmed by the steering practices of Century 21 Town & Country, located in the Detroit metropolitan area is filing a complaint with HUD.

¹ 114 Cong. Rec. 3422 (1968).

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Current federal, state and local laws, including the federal Fair Housing Act, prohibit housing discrimination. HUD's regulations implementing the federal Fair Housing Act state that:

It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development. (24 CFR Part 14, Section 100.70(a)).

One of the most blatant findings of NFHA's investigation was the use of schools as a proxy for the racial composition of neighborhoods. In many instances, real estate agents intentionally steered White families away from primarily African-American and Latino school districts. Their intention is revealed in the illegal comments they made to potential homeseekers. As with other types of steering, this serves only to damage communities from which people are steered, and to keep our country segregated.

Also in this year's report is a description of housing complaint data for 2005. Although NFHA estimates that at least 3.7 million instances of housing discrimination occur annually, fewer than one percent of these complaints are reported. Detailed in the report are the 2005 housing discrimination complaint data compiled from NFHA member agencies nationwide, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Justice (DOJ), and state and local government agencies. NFHA has collected this type of data on an annual basis since 1996.

Finally, NFHA offers its recommendations for achieving nationwide enforcement of the Fair Housing Act, as well as funding and other policies to help lead this nation toward integration.

About the National Fair Housing Alliance

Founded in 1988, the National Fair Housing Alliance is a consortium of more than 220 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. Headquartered in Washington, D.C., NFHA, through comprehensive education, advocacy and enforcement programs, challenges housing discrimination and segregation and provides equal access to apartments, homes, mortgage loans and insurance policies for all residents of the nation.

I. NFHA's Real Estate Sales Investigation Reveals Blatant Discrimination

In 2003, NFHA embarked on a multi-year, twelve-city enforcement project to test for housing discrimination in real estate and rental markets. The purpose of this project was to conduct targeted enforcement testing of housing providers who violated the Fair Housing Act during research conducted during HUD's Housing Discrimination Study 2000 (HDS 2000).

HDS 2000, released in 2002, found significant levels of housing discrimination in the United States, including an increase in the level of steering by sales providers compared to its 1989 research study.² Because HDS 2000 was conducted for research purposes only, none of the tests conducted were used for subsequent enforcement actions and the companies that violated the law were not publicly identified.

Following the study, HUD released a request for proposals to conduct follow up enforcement testing in four geographic regions of the United States. NFHA was awarded a contract to conduct testing in three of the four regions: the Northeast, South and Midwest.³ The project was funded in part by a \$649,000 contract with HUD, as well as more than \$500,000 of NFHA's own resources. In addition, NFHA is devoting significant funds to educating the public and the industry about racial steering and the enforcement actions NFHA has filed. NFHA has held news conferences to announce the filing of these complaints in Detroit, suburban Chicago, Atlanta, and Westchester County, NY.

The blatancy of the discrimination in agent behavior was astounding. In every metropolitan area tested, some agents told testers that they knew it was illegal for them to steer or make comments based on race or national origin, but the agents in question then went on deliberately to steer or make illegal comments.

As a result of the coverage of NFHA's complaint against Century 21 Town and Country in Detroit, a family has filed its own complaint against Century 21 Town and Country. Kimberly Hobson-Hollowell and her family, who are African-American, were steered during their home search in the Detroit area away from a White neighborhood and were sold a home in an area with a significantly higher African-American population. The Hollowells' experience in purchasing a home was strikingly similar to the facts revealed in NFHA's investigation, including using schools as a proxy for the racial composition of neighborhoods. Through the news coverage of NFHA's investigation and complaint filing in July 2005, the Hollowells recognized the illegal steering they experienced. The family has since filed its own complaint with HUD.

² "The Housing Discrimination Study 2000 (HDS 2000) is the third nationwide effort sponsored by HUD to measure the amount of discrimination faced by minority home seekers. The previous studies were conducted in 1977 and 1989." <http://www.huduser.org/publications/hsgfin/hds.html>

³ The contract to conduct tests in the western region was awarded to another organization.

In addition to the ability of an individual to file complaints and/or sue, the Supreme Court has ruled that steering based on race is illegal and that local jurisdictions have standing to sue. In *Gladstone, Realtors v. Village of Bellwood*, 441 U.S. 91, the Court ruled that residents of a neighborhood have standing to sue if agents are steering people away. The agents in the case had denied the residents “the social and professional benefits of living in an integrated society.” In the *City of Evanston v. Baird & Warner, Inc.* a similar ruling was made for Evanston. Baird & Warner took affirmative steps to correct and eliminate illegal practices in the company and reportedly paid more than \$400,000 in damages to the City.

A. Real Estate Sales Testing Methodology

The project involved 145 paired sales tests in three geographic regions in the United States: the Northeast, the Midwest and the South (HUD determined the regions and cities within each region). The HUD/NFHA funded tests began in early 2003 and continued through the summer of 2005. (NFHA is continuing nationwide testing.) A total of 73 sales offices were tested in twelve metropolitan areas: Atlanta, Austin, Birmingham, Chicago, Dayton, Detroit, Mobile, New York (including New York City, Long Island and Westchester County), Philadelphia, Pittsburgh, San Antonio and metropolitan Washington, DC (including northern Virginia, suburban Maryland and Baltimore).

NFHA’s investigation utilized paired testing. Paired testing is an accepted methodology that has been utilized for enforcement and research purposes for decades. Fair housing testing is a controlled method for measuring and documenting differences in the quality, quantity and content of information and services offered or given to various home seekers by housing or housing service providers.

The sales tests were structured to capture detailed information about agent and company policies and practices. All sales tests were structured on the basis of race or national origin. In each paired test investigation, there was a team of testers, one White and one either African-American or Latino. Two teams of testers contacted the same real estate sales office. In all cases, the teams were assigned similar information about housing needs, financial qualifications and employment history. In every instance, the African-American or Latino teams were slightly more qualified than the White teams. For example, the non-White team would have more money for down payment, a higher income, less debt, more tenure at their employment and a higher price range. This methodology eliminated economics as a consideration in home selection, thereby eliminating them as a defense to allegations of ethnic and racial steering.

B. Testing Results

The paired real estate tests conducted in this enforcement project show three patterns of discrimination:

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- outright denial of services to African-Americans and Latinos;
- offering significant financial incentives to Whites but not to African-Americans or Latinos; and
- steering potential purchasers on the basis of race or national origin.

Incorporated into these patterns of discrimination were two remarkable results of the tests:

- illegal comments by real estate agents based on religion and race; and
- the use of schools as a proxy for the racial or ethnic composition of a neighborhood or community.

Although each test consisted of visits by two teams of testers, an accurate depiction of the differential treatment observed in the tests required a review of the 290 individual test parts, rather than just an analysis of the 145 paired tests.⁴ For example, one test might have included a White tester who was steered away from integrated or predominantly minority communities while the African-American counterpart was refused an appointment. Another test might have included a White tester who was steered away from integrated or predominantly Latino communities while the Latino counterpart was given general information about predominantly Latino communities but not shown any homes. For analysis purposes, it was important to capture each of these events separately.

1. Denial of Service to African-Americans and Latinos

Almost 20 percent of the time, African-American and Latino testers were refused appointments or offered very limited service. This first category of discrimination was further delineated into several distinct patterns. In 17 instances, the African-American or Latino tester: (1) either left several messages for an agent and never received a return call⁵; or (2) had an appointment scheduled with an agent, but the agent never showed up for the appointment. This translates to an almost 6 percent rate of outright denial of service.⁶

In calculating the results of all tests, the White testers saw 1144 homes – an average of almost eight homes per test. African-American and Latino testers saw a total of 732 homes – an average of about five homes per test (including those in which the testers were not shown any homes).

⁴ A “visit” generally included several contacts with an agent, including phone calls, e-mails, and one or more in person visits with an agent to view homes.

⁵ Almost all housing transactions these days begin with a phone call. Many people never even have an opportunity to see an apartment or house because some housing providers identify persons by race or ethnicity and refuse to do business with the callers. The methodology used in these tests recognize “linguistic profiling” and utilizes the research of Professor John Baugh. See e.g. “Perceptual and Phonetic Experiments on American English Dialect Identification.” (with Thomas Purnell and William Idsardi). *Journal of Language and Social Psychology*, Vol. 18 No. 1, pp. 10-30 (1999).

⁶ It should be noted that several of the companies tested repeated this refusal of service with two or more teams of testers.

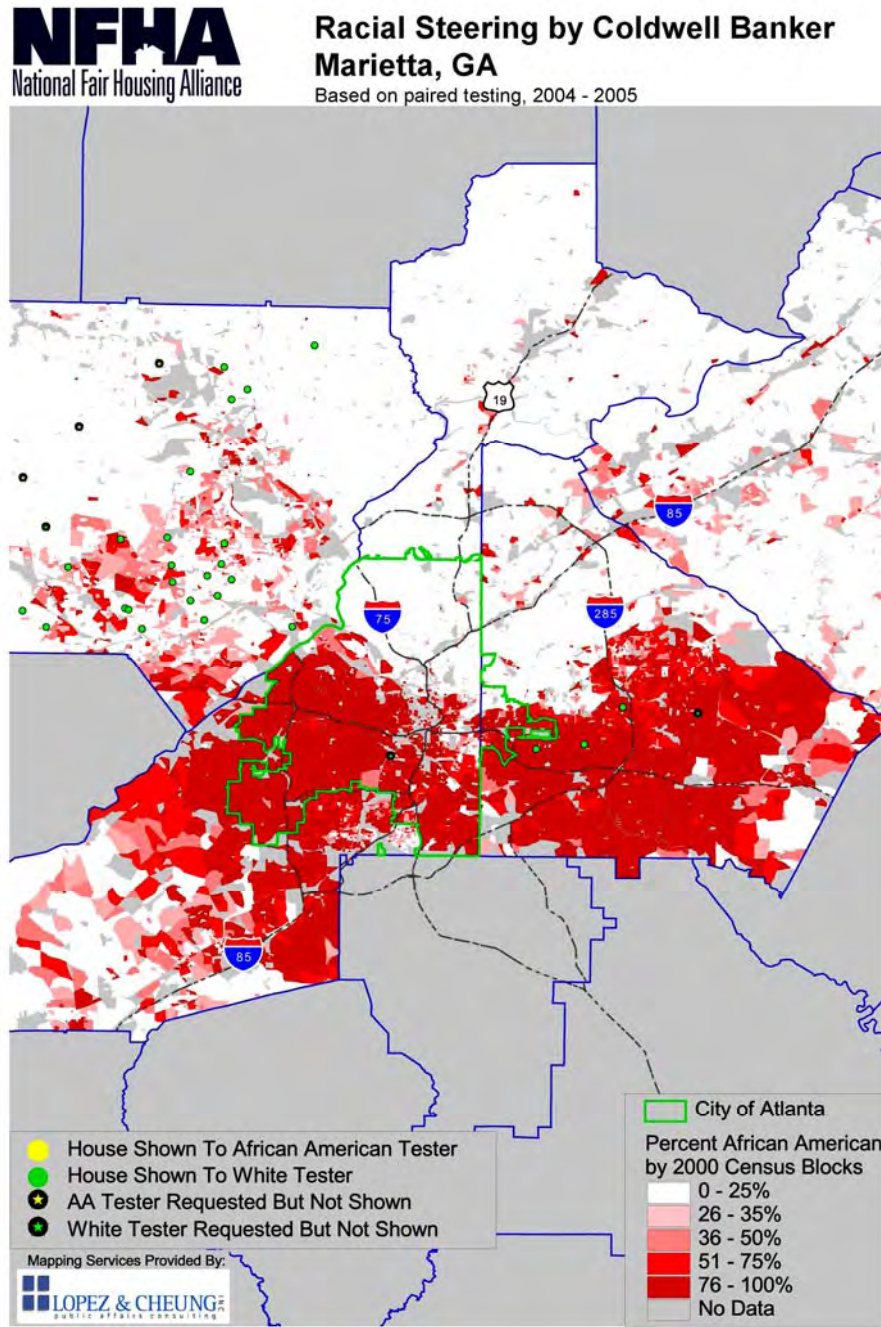
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In 34 instances, the African-American or Latino tester was offered no or limited services. Below are descriptions of some of these instances.

- ***White homeseeker shown numerous homes; African-American or Latino homeseeker shown nothing at all.*** In Marietta, Georgia, a White tester asked to see a home in Stone Mountain, Georgia, a mostly African-American community. The tester was told by the agent that she would not want to live in Stone Mountain, and the tester was shown eight homes in predominantly White communities. In contrast, an agent recommended Stone Mountain to the African-American tester as an area to consider and drove the tester around the area pointing out “for sale” signs. On a second visit, the agent told the African-American tester that she had ten homes for her to see but wanted to show them to her on the computer first. After several hours on the computer, the agent told the tester that there was not enough time to arrange appointments to look at the homes but that the agent would drive by the houses and take pictures for the African-American tester. The agent never sent the African-American tester any listings or pictures. (See Map 1.)
- ***White homeseeker shown many homes; African-American or Latino homeseeker shown home requested but offered nothing else.*** The White team was asked what else they were looking for in a home, and the agent selected 12 additional homes for the testers to view, all in White areas. The African-American test team was shown one home and was not asked about any other housing preferences, although the African-American team indicated that they were available to look at houses over a two-day period.
- ***African-American or Latino homeseeker required to provide confirmation from a lender before being shown any homes.*** There were numerous instances in which the African-American or Latino tester was required to provide a pre-approval letter or other financial information before viewing houses, while the White tester was not required to do the same. In some instances, both the White and non-White teams were requested to provide pre-qualification or pre-approval letters; however, there were no instances in which a White tester was required to provide a pre-approval letter while the African-American or Latino counterpart was not.
- ***African-American or Latino homeseeker told to do own additional searching for a home.*** In some instances, agents showed a few homes to Latino or African-American teams and then suggested that they do their own further searching. For example, a Chicago agent told a Latino tester that he was only available to meet with him for one day. After showing the tester a few homes, the agent suggested that the tester look in the paper for additional homes. In contrast, the White tester was shown 16 homes over two days, and the agent made several comments to the tester about various communities. The agent followed up and offered additional listings via e-mail to the White tester.

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Map 1 depicts results from the three paired tests conducted in Marietta, Georgia. The Whites were shown a total of 26 homes. The African-Americans were shown no homes.



2. Offering Significant Financial Incentives to Whites but not to African-Americans or Latinos

There were several instances in which the White tester was offered incentives, including contributions to closing costs and/or lower interest rates, that were not offered to the African-American or Latino tester. In addition, there were numerous instances in which the African-American or Latino tester was required to provide a pre-approval letter or other financial information before viewing houses while the White tester was not required to do the same.

For example, in one Atlanta test, the White tester was told that if he used one of the company's preferred lenders, he could: get \$2,000 toward closing costs; that the affiliated lender would beat any competitor or pay the tester \$500; and that obtaining financing with the preferred lender would also include a one year home warranty. In contrast, the African-American tester was pressed to bring a pre-qualification letter from a lender before viewing any homes and was not told about any of the company's preferred lenders or special incentives.

3. Steering on the Basis of Race and/or National Origin

The tests revealed a rate of steering of 87 percent, when testers were given an opportunity to see homes.⁷ In 209 instances, testers were steered to neighborhoods on the basis of race and/or national origin. In an unanticipated result, testers were also steered based on religion and family status. In six instances, testers were steered to neighborhoods on the basis of religion, particularly away from Jewish communities. In another instance, a tester was steered away from a condominium community because she had children.

Patterns of steering were consistent. In most cases, Whites were shown homes in primarily White neighborhoods, African-Americans were shown homes in primarily African-American neighborhoods and Latinos were shown homes in primarily Latino neighborhoods. In many cases, an analysis of census data shows the dramatic difference in the racial and ethnic composition of neighborhoods shown to Whites as opposed to the composition of neighborhoods shown to African-Americans and Latinos. (See Map 2.)

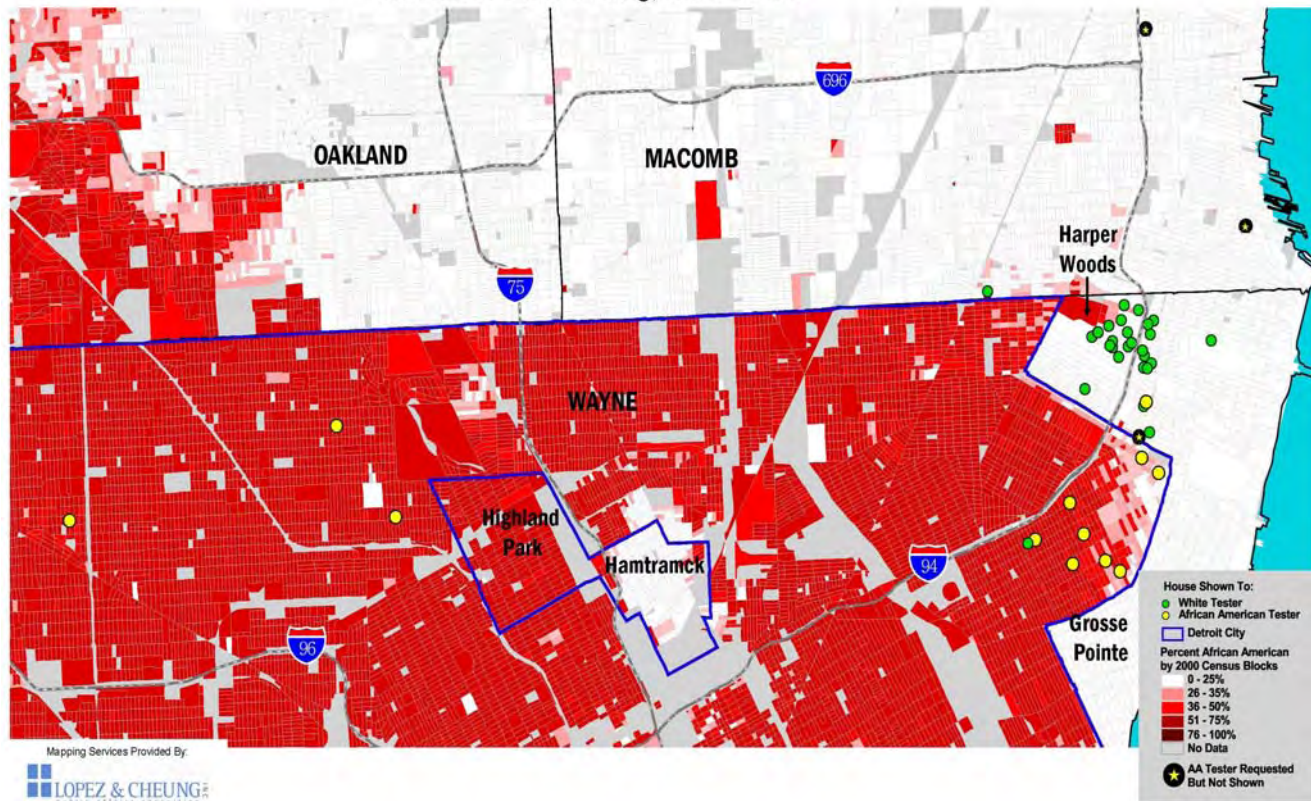
⁷ In a total of 51 instances, the African-American or Latino tester was offered no service or significantly limited service. In order to calculate an overall rate of steering in these paired sales tests, these 51 instances were removed from the total of 290 visits. The calculation for steering is then based on the remaining 239 "substantially similar" visits.

Map 2 represents homes shown to four teams of White and African-American testers in the Detroit metropolitan area. Note that in addition to illustrating the steering that occurred on the basis of race, the map also illustrates the common pattern of African-American testers' being offered fewer home selections.



Racial Steering Evidence

Based on Paired Testing, 2003 - 2005



4. Illegal comments by Real Estate Agents Based on Race and Religion

Agents throughout the nation made inappropriate and illegal comments based on race and national origin, racial composition of neighborhoods, religion, and schools. In addition to perpetuating segregation by limiting the neighborhoods in which homes were shown, in numerous instances real estate agents made blatant comments to Whites, African-Americans and Latinos steering them away from certain communities. The following are examples of these comments.

- **Illegal Comment Based on Race in Georgia:** “People down here want to keep it how it is. Once Blacks move in then property values go down – it is impossible to sell your house. A lot of White people are moving further and further south;

they don't care how far south they have to move. I want you to be able to re-sell your house."

- **Illegal Comments Based on Religion and Race in New York:** A White tester and agent drove past the agent's house. There was an American flag in the window and, next to it, a large picture of Jesus. The agent told the tester that her mother lives with her and that when her mother put the Jesus in the window, she said, "that'll show those Jews."

The same agent also said that having Jewish people in the neighborhood kept the property values up. When asked why, she said that Jews have a lot of money and that they would never sell their houses to a Black family – therefore, the value of the neighborhood would stay up. The agent went on to tell the tester about a "lovely Black client" who worked in pharmaceuticals. She said there was no way she could have sold her a house in one of the neighborhoods that the White tester was viewing.

5. Use of Schools as a Proxy for the Racial or Ethnic Composition of Neighborhoods and Communities

Instead of making blatant comments about the racial composition of neighborhoods, many real estate agents told Whites to avoid certain areas because of the schools. It is evident from the investigation that schools have become a proxy for the racial or ethnic composition of neighborhoods. A striking pattern regarding schools emerged from these sales tests. It is clear that some agents in the real estate industry are creating and perpetuating the "demand" for certain schools and school districts.

The following are three examples of agents who knowingly violated the law:

- In Mobile, Alabama, during a conversation between an agent, a builder's marketing associate, and a White tester, the agent asked the associate to talk about a particular city's schools. The associate said that the agent was trying to get her into trouble, but both agreed that they should warn the White tester about the schools in the majority African-American city.
- In New York, an agent told a White tester that she selected houses for her based on schools, even though the agent knew she wasn't supposed to do that.
- In Philadelphia, an agent told a

Real Estate Agents Knowingly Steered Homeseekers

*In Philadelphia, an agent told a White tester that a particular town had very good schools. Then the agent said, "Well actually I can't say whether schools are good or not; I can say where they are. Well actually, I probably will anyway but you can do your own research, but these are very good schools. **But you can't tell***

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White tester that a particular town had very good schools. Then the agent said, “Well actually I can’t say whether schools are good or not; I can say where they are. Well actually, I probably will anyway but you can do your own research, but these are very good schools. But you can’t tell anyone I said that.”

Generally, when White testers called about homes, the agents asked if the testers had children. In most cases, they did. When the White testers said that they had children, most agents then stated that schools were important. In several instances, the White testers indicated that their children were much younger than school age and they were not thinking about schools. The agents then told the White testers that schools would be important at a later date and something that they should consider now in buying a home. The agents then selected homes for White testers based on schools. The demographics of the schools for these homes were always overwhelmingly White.⁸ No schools recommended for the White testers were integrated or predominantly African-American or Latino.

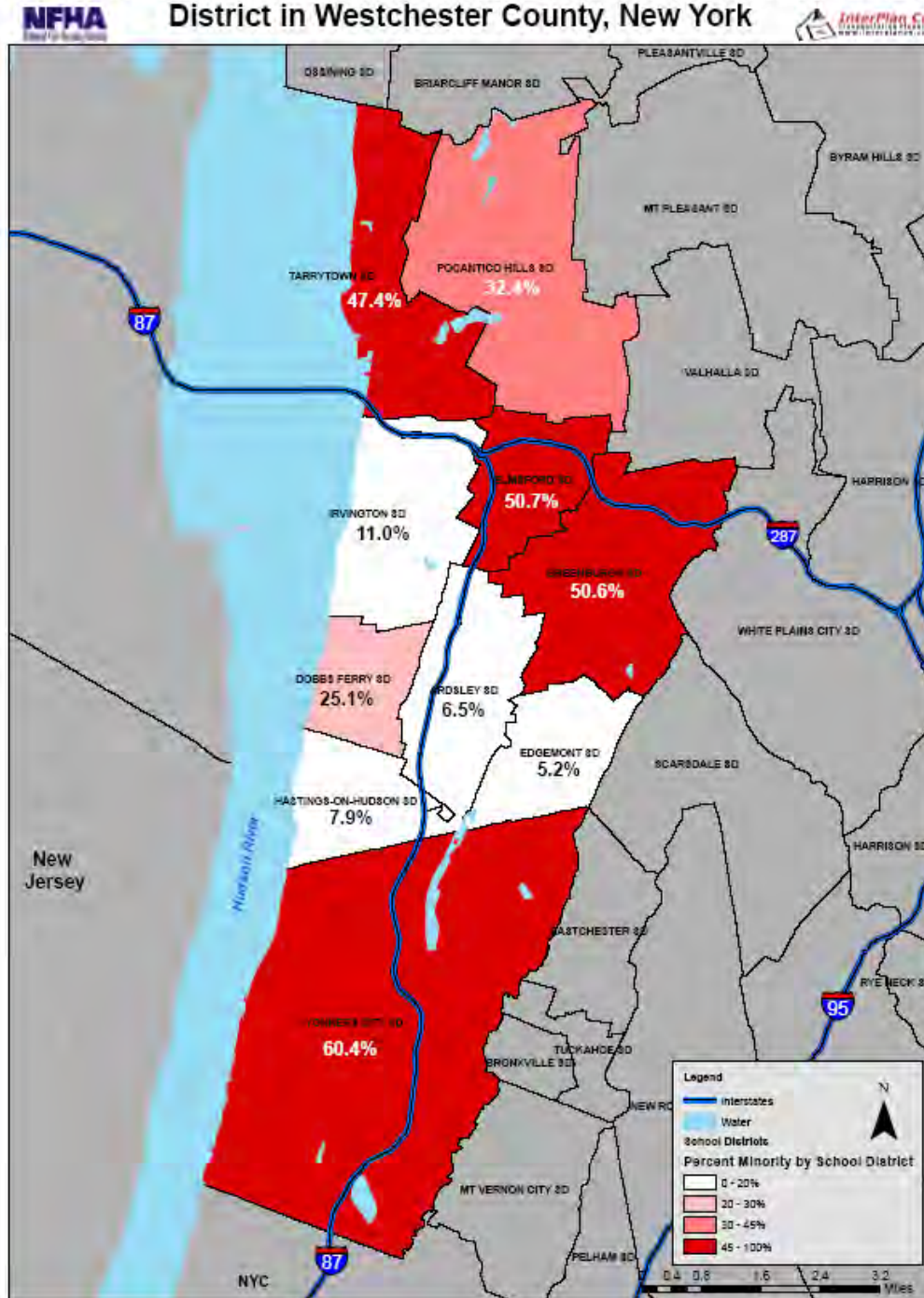
In contrast, agents frequently asked African-American or Latino teams whether they had children. In most cases, they did. Schools were rarely brought up as a factor for home selection for African-American and Latino testers. In several cases, the schools that the White testers were told to avoid were the exact schools serving the homes selected for the African-American or Latino tester. The school demographics for homes selected for people of color were predominantly populated by students of color.

Some of the most blatant steering about schools that NFHA uncovered was in Westchester County, New York. White testers were told to avoid Tarrytown, New York, schools. Agents told Whites that the schools were “bad,” but Latino homeseekers were told the schools were “good.” Some agents said Tarrytown schools have a large Spanish speaking population. (See Map 3.)

⁸ The National Council on Education Statistics Common Core Data provided the demographic data for the schools analyzed in this project.

Map 3 represents the percentage of Latino and African-American students in Westchester County, NY, school districts. Tarrytown, NY, schools boast a 98 percent high school graduation rate and 84 percent rate of continuation on to college; yet, real estate agents told White homeseekers that the Tarrytown schools were “bad” and steered them away from homes for sale in Tarrytown.

Percent Latino and African American Student Population by School District in Westchester County, New York



II. The Nexus of Housing and Education

Fifty-two years have elapsed since the ruling of *Brown v. Board of Education of Topeka, Kansas*, mandating racial integration in the classroom. However, the journey towards integration continues to be a long and arduous one.

The road toward integration has been hindered in part by federal and state policies that have sustained residential segregation. These include discriminatory mortgage insurance programs, urban renewal efforts, public housing sites concentrated in poor neighborhoods and the mass exodus of White families out of urban cores into racially homogeneous suburbs. Moreover, cities and states had considerable discretion to formulate local land-use policies which lead to a systematic exclusion of low-income and subsidized housing projects from many jurisdictions.⁹ As a result, segregated neighborhoods continue to exist throughout the country and in such areas the quality of public education is far from equal.

The demographics of housing and schools are deeply interwoven and their reciprocal relationship is important in understanding how segregation is perpetuated. Simply put, segregated neighborhoods create segregated schools because schools draw students from the surrounding geographic region. Alternatively, a school's socioeconomic and racial composition often leads to assumptions about its academic quality and signals to parents and homeowners the desirability of the surrounding neighborhood. The effect is that segregated schools reinforce segregated neighborhoods. Moreover, resistance to and fear of integration often results in White flight, further exacerbating neighborhood segregation and disparities in social, economic and racial/ ethnic representation.¹⁰

A. Segregated Communities Adversely Affect Educational Quality

Segregated schools result in fewer resources for schools populated primarily by students of color. Linda Darling-Hammond from Stanford University reports that, "Recent analyses of data prepared for school finance cases in Alabama, California, New Jersey, New York, Louisiana, and Texas have found that on every tangible measure – from qualified teachers to curriculum offerings – schools serving greater numbers of students of color had significantly fewer resources than schools serving mostly White students. ...The continuing segregation of neighborhoods and communities intersects with funding formulas and school administration practices that create substantial differences in the educational resources made available in different communities."¹¹

⁹ Allard K. Lowenstein International Human Rights Clinic, "*Racial Segregation and the Right to Housing*," Poverty and Race Research Action Council, 2005, p. 6.

¹⁰ Frankenberg, E., *The Impact of School Segregation on Residential Housing Patterns*, Harvard Civil Rights Project, 2002.

¹¹ *What Happens to a Dream Deferred? The Continuing Quest for Educational Opportunity*, Linda Darling-Hammond, Stanford University.

Studies have shown that predominantly White schools benefit from stability in teaching staff. The *Atlanta-Journal Constitution* recently reported on a study by Georgia State University whose researchers found that "...White teachers – who compose 80 percent of the state's teaching force – are much more likely to leave schools that serve higher proportions of African-American students. The study found that 32 percent of White elementary school teachers left predominantly African-American schools in 2001. This revolving door leads to less experienced teachers in the classroom at African-American schools."¹²

Further, there is strong evidence that students of all races and ethnicities who are exposed to diversity experience greater intellectual and social development. As they did in 1979 in the housing integration case of *Gladstone Realtors v. Village of Bellwood*, the United States Supreme Court in 2005 recognized the benefits of school integration in the University of Michigan Law School case, stating:

*In addition to the expert studies and reports entered into evidence at trial, numerous studies show that student body diversity promotes learning outcomes, and "better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals." ... These benefits are not theoretical but real, as major American businesses have made clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.*¹³

B. Segregated Schools Harm Housing Value and Integration

This pattern of re-segregation has exacerbated inequalities among students and school districts and left students of color in poor neighborhoods suffering from suppressed mobility. Students of color have been prevented from enjoying the full benefits of public education and economic growth because of many factors, including: decreased funding; dilapidated structures and inferior school equipment; fewer educational incentives, after-school activities and mentorship and tutoring programs; and declining graduation rates coupled with less financial aid availability and resistance to affirmative action programs in higher education.

The practice of steering by some real estate professionals perpetuates segregated schools and neighborhoods and creates demand for homes in certain school districts by creating a market for those homes among White home buyers.¹⁴ This increases the

¹² Atlanta Journal-Constitution, "African-American Schools, White Schools," June 22, 2003

¹³ *Grutter v. Bollinger*, 123 S.Ct 2325 (2003).

¹⁴ While there have been numerous studies regarding the relationship between school performance and home value, none has studied the role that real estate marketing to White home seekers may have in that matrix. See e.g. African-American, Sandra E. "Do Better Schools Matter? Parental Valuation of Elementary Education." *The Quarterly Journal of Economics*, May 1999. It is clear from David Rusk's research that the steering based upon school district and increased competition would have an impact on home values.

value of homes in certain, majority White, school districts.¹⁵ By steering Whites away from schools and entire school districts, the real estate industry limits demand for homes in those communities.

This artificial manipulation of the real estate market depresses home values in those communities. School performance is inextricably tied to the funding it receives. The funding for schools is based on property taxes, which are in turn based on property values. Steering White families away from “bad” schools becomes a tragically self-fulfilling prophecy for those schools. Deprived of valuable capital in the form of home values, those schools suffer in the funding matrix critical to school performance. In order to compensate for the reduced tax base as a result of reduced home values, cities must increase the tax rate for schools and other city services. Real estate agents use this increased tax rate as a tool to steer Whites away from these urban neighborhoods. The economic and social consequences of the illegal steering by real estate agents based upon schools are astronomical.

III. Recommendations for Achieving Nationwide Enforcement of the Federal Fair Housing Act

Given the success of NFHA’s recent real estate testing program, it seems clear that one way to abate discrimination by real estate agents and segregation of our nation’s neighborhoods is to implement a significant, nationwide testing and investigation program to provide periodic assessments of real estate agents and companies and to take appropriate policy and enforcement actions to counteract discriminatory behavior.

The federal government has failed to allocate sufficient resources to implement the measures necessary to enforce the Fair Housing Act. This failure has resulted in segregation, uneven allocation of resources, and harm to educational and future employment opportunities for students in urban communities.

NFHA proposes that the federal government invest in a ground-breaking nationwide testing program that would cover the nation’s largest metropolitan areas at a cost of no more than \$20 million. This program would allow 5,000 paired tests, for an average of fifty paired tests in the nation’s one hundred largest metropolitan statistical areas (which contain 69 percent of the nation’s population).

Subsequent enforcement and educational programs, designed to ameliorate discrimination and the harmful costs of segregation, would cost an estimated \$20-25 million. Such a program might be conducted every two to three years until real estate discrimination is negligible. The cost of such a program does not even equal one tenth

¹⁵ Greater competition for homes in White neighborhoods created by real estate steering can drive up the values in those White neighborhoods. Rusk, David, “The Segregation Tax: The Cost of Racial Segregation to African-American Homeowners,” *The Brookings Institution’s Center on Urban and Metropolitan Policy*, October 2001, p. 10.

of one percent of the federal education budget. The relatively small investment would reap enormous future economic benefits in all aspects of our society.

There is a role for funding from foundations, corporations, and other institutions as well. Many foundations, for example, make significant investments in our nation's educational systems and programs but fail to provide funding to address the reasons for the segregated communities that are the very underpinning of disparities in educational resources and achievement. It is unlikely that we will see significant improvements in educational achievement until one of the underlying causes of school disparities, i.e. segregation, is corrected.

IV. The Incidence of Housing Discrimination

NFHA estimates that at least 3.7 million instances of housing discrimination occur annually against African-Americans, Latinos, Asian Americans and Pacific Islanders, and Native Americans alone in the rental and sales markets.¹⁶ Uncounted additional violations are committed against people in all of the seven federally-protected classes. These numbers also do not include discrimination in the following areas: lending, insurance, racial and sexual harassment, planning, and zoning.

Housing discrimination complaints processed by local fair housing centers, Fair Housing Assistance Program funding recipients (e.g. state and local civil rights commissions), HUD and the U.S. Department of Justice (DOJ) do not reflect the incidence of housing discrimination in the United States.

Total Complaints					
Agency	Claims/ Complaints	2002	2003	2004	2005
NFHA	Complaints	17,543	17,022	18,094	16,789
FHAP	Claims and Complaints	5,129	5,352	6,370	7,034*
HUD	Claims and Complaints	2,511	2,745	2,817	2,227*
DOJ	Case Filings	49	29	38	42*
Totals		25,232	25,148	27,319	26,092

* HUD, FHAP and DOJ data are for Fiscal Year 2005. DOJ data represent case filings of HUD Election and Pattern or Practice cases, HUD Election and Enforcement cases, and amicus curiae filings. DOJ's jurisdiction under the Fair Housing Act is largely limited to pattern or practice cases and/or cases referred by HUD. HUD, FHAP and NFHA data represent fair housing complaints received and/or processed.

¹⁶ National Fair Housing Alliance. *2004 Fair Housing Trends Report* for the basis of this estimate, April 7, 2004, p. 4.

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In 2005, there were 26,092 complaints of housing discrimination. This represents less than one percent of the estimated annual housing discrimination violations against African-Americans and Latinos in rental and sales markets. With total violations most likely closer to four or five million annually, this percentage is even lower.

The reduction in complaints from last year does not mean that housing discrimination has decreased or that our nation has become less segregated. One significant reason for the decrease is the federal government's reduced investment in private fair housing centers that are processing complaints. For example, each agency receiving a one-year private enforcement grant received a 20 percent cut to its budget in 2004 and 2005. In addition, last year only five percent of enforcement funding could be used for education and outreach to the community. Fair housing centers simply cannot receive complaints in a vacuum; instead, they need the ability to educate the community about the Fair Housing Act in order to generate recognition of housing discrimination and filing of complaints.

In addition, over the past five years, ten fair housing organizations nationwide have closed their doors due to lack of funding. (See chart below.) Numerous other organizations have had to significantly curtail or eliminate their enforcement activities due to cutbacks including staff reduction and budget restraints.

Closed Fair Housing Organizations

Organization	Location
Arkansas Fair Housing Council	Arkadelphia, AR
The Cuyahoga Plan of Ohio, Inc.	Cleveland, OH
Housing For All	Denver, CO
Housing Opportunities Made Equal at NEWSSED Community Development Corporation	Denver, CO
Jackson County Fair Housing Center	Jackson, MS
Kansas City Fair Housing Center	Kansas City, MO
Minnesota Fair Housing Center	Minneapolis/St. Paul, MN
Open Housing Center	New York, NY
Tenant's Action Group of Philadelphia, Fair Housing Program	Philadelphia, PA
Wyoming Fair Housing, Inc.	Casper, WY

A. Discrimination by Protected Class

The following chart breaks out the percentage of claims/complaints by protected class.

	NFHA	HUD	FHAP	DOJ
Race	22%	41%	36%	23%
Disability	29%	49%	38%	49%
Family Status	16%	12%	16%	15%
National Origin	11%	9%	15%	10%
Sex	4%	10%	11%	10%
Religion	1%	2%	3%	8%
Color	1%	1%	2%	n/a
Other*	17%	4%	5%	n/a

* The “other” category for NFHA complaints represents complaints arising from categories protected at the state or local level including sexual orientation, source of income, marital status, medical condition, age, or student status. The “other” category for HUD and FHAP complaints represents complaints of retaliation. HUD FHAP and DOJ data are for Fiscal Year 2005. Totals may exceed 100 percent, due to multiple protected classes filed by one complainant.

B. Discrimination by Housing Market Sector

1. Rental Market Discrimination— Private Groups Report 12,957 Complaints¹⁷

Of the many categories of complaint data for housing discrimination, *rental* cases continue to represent the largest number of complaints. Most housing discrimination complaints are filed against apartment owners and managers for discriminating against renters on the basis of race, disability, family status and national origin. In 2005, private fair housing groups reported 12,957 complaints of housing discrimination in the rental market.

Within the rental market, discrimination operates in a variety of ways, including the following:

- denial of available rental units;
- refusal to make a reasonable accommodation for a disabled individual;
- higher rents or security deposits for minorities and individuals in other protected classes;
- segregation of African-Americans, Latinos, Asian Americans;
- segregation of families with children to certain parts of a building or complex;
- restriction of access to rental property amenities such as swimming pools or

¹⁷ Complaint data by type of allegation does not equal the total number of complaints because not all organizations provided this type of information, and some complaints fall in other categories such as harassment.

- community rooms; and
- initiation of eviction proceedings against White tenants who have visitors who are African-American, Latino or Asian American.

2. Home Sales Discrimination—Private Groups Report 760 Complaints

Through complaints and NFHA's testing and investigation program, NFHA has identified a broad range of discriminatory sales behavior. These patterns of behavior include real estate professionals who:

- deny appointments to African-Americans;
- require African-Americans, but not their White counterparts, to provide proof of financing prior to viewing homes;
- steer Whites to White neighborhoods and people of color to neighborhoods where people of color predominate;
- make discriminatory comments to Whites, including derogatory comments about African-Americans and Latinos;¹⁸
- tell Whites what school districts to avoid and, at the same time, show homes to African-Americans and Latinos in the very school districts Whites are told to avoid.¹⁹

Patterns of behavior also include a seller's refusal to negotiate the price of the home when offers are made by African-Americans, Latinos, or Asian Americans but a willingness to negotiate when a White buyer makes a similar or less favorable offer. Other sellers take their homes off the market or use delaying tactics in order to avoid a sale to people of color.

3. Mortgage Lending Discrimination— Private Groups Report 1138 Complaints

Mortgage lenders may discriminate against home buyers in several ways:

- product steering to sub-prime or FHA loans;
- stricter qualification standards;
- higher interest rates, points, fees, and other terms of financing;
- less assistance in meeting qualification standards;
- inferior customer service;
- more costly and lengthier application processes; and
- inaccurately low appraisals in African-American, Latino and integrated neighborhoods.

To the consternation of consumer advocates and policymakers at the federal and state levels, abuses in home mortgage lending have risen significantly in recent years.

¹⁸ This specific discriminatory behavior was uncovered in NFHA's sales steering investigation.

¹⁹ Ibid.

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Accordingly, so too have government enforcement actions and private party lawsuits against institutions accused of predatory lending. According to a recent report by the Government Accounting Office, “in 2002 alone, there were dozens of settlements resulting from accusations of abusive lending. In the largest of these, a major national mortgage lender agreed to pay up to \$484 million to tens of thousands of affected consumers.”²⁰

Predatory lending is the practice wherein a mortgage lending or broker takes unfair advantage of a borrower by employing fraud and deception to make loans detrimental to the borrower. Predatory loans drain wealth and strip equity from homeowners and homebuyers. The most common features of predatory loans are excessive fees and interest rates, loans made without regard to ability to repay, loan flipping, prepayment penalties unrelated to an interest rate reduction, and undisclosed balloon payments. Predatory lenders also perpetrate outright fraud through inflated property appraisals or “bait and switch” tactics that mislead borrowers about the terms of their loan. Unscrupulous lenders prey on vulnerable persons and take advantage of borrowers’ lack of financial sophistication.²¹

Predatory lenders target homeowners with equity, seniors, people of color and others by providing loans that make the borrowers worse off than they were before the new loans are made. Incentives in today’s predatory mortgage market encourage the stripping of home equity through fee-packed loans. Abusive subprime practices also trap homeowners in over-priced loans and contribute to an epidemic of foreclosures.

Currently, the Home Ownership and Equity Protection Act (HOEPA) is the only federal law specifically crafted to combat predatory lending. In addition, several states and localities have passed supplemental state laws restricting the terms or provisions of certain high-cost loans and/or strengthening licensing regulations for lenders and brokers. In some states, however, federal banking regulators have preempted state laws for the institutions they supervise, thus minimizing the benefits of consumer protection provisions in favor of industry profit and autonomy.²²

Predatory lending harms individual borrowers and destabilizes communities and neighborhoods by causing widespread foreclosures, which reduce property values. Predatory lending also damages the sub-prime market by casting suspicion on its legitimacy even when the sub-prime market, when conducted responsibly and honestly, provides valuable access to credit for some borrowers.

²⁰ United States General Accounting Office, *Consumer Protection: Federal and State Agencies Face Challenges in Combating Predatory Lending*, January 2004, p.23.

²¹ Stein, Eric, *Quantifying the Economic Cost of Predatory Lending*, Center for Responsible Lending, <http://www.responsiblelending.org/pdfs/Quant10-01.pdf>

²² Li, Wei & Ernst, Keith, *Subprime Market: State Predatory Lending Reforms*, Center for Responsible Lending, http://www.responsiblelending.org/pdfs/rr010-State_Effects-0206.pdf

4. Homeowners Insurance Discrimination—Private Groups Report 65 Complaints

Discrimination related to homeowners insurance can be difficult to identify because its implementation is rarely overt. For example, when African-Americans and Latinos call agents and leave messages requesting insurance quotes and other information, they often find that their calls are not returned. Such “linguistic profiling” – whereby a person is treated differently based on a racially- or ethnically-identifiable voice – is a significant and documented phenomenon in many types of housing transactions. The result: some insurance agents promise to provide insurance quotes but never do so, while sending quotes to Whites.

Also, insurance discrimination is often reflected in the underwriting policies of the company and not in the direct behavior of the agent. For example, urban homes for the most part are insured, but many homes are under-insured because underwriting guidelines will not allow replacement or guaranteed replacement cost coverage on homes built before 1950 and/or which are valued below a minimum dollar value. For example, before a lawsuit that changed its policies in 1990, American Family Insurance in Milwaukee, Wisconsin, had an underwriting stipulation for their best policy type (Gold Star) that homes be built after 1945 and have a value of more than \$40,000. Those two underwriting guidelines alone eliminated approximately 40 percent of the homes located in neighborhoods predominately populated by people of color within the city limits of Milwaukee.

APPENDIX 1

Political and Structural Blocks to Achieving Fair Housing

To eradicate housing segregation and create integrated communities, a broad range of partners must be at the table. The time is now for the federal government to step up its support of private fair housing organizations, which processed more than two-thirds of the nation's fair housing complaints in 2005. As it stands today, less than \$20 million in federal funds is spent annually toward private fair housing efforts through HUD's Fair Housing Initiatives Program (FHIP). This amount is simply inadequate and unrealistic. In addition, it does not show a dedication by the federal government to integrate our nation.

At the state and local levels, there are also few resources. The Community Development Block Grant (CDBG) program funded through HUD, and distributed through the states and localities, is the other source of funding upon which most fair housing groups rely. Working in conjunction with local governments, planning boards, and others seems a natural fit for fair housing, and many CDBG-funded localities take advantage of this mutually beneficial relationship. Unfortunately, fair housing groups are often shut out of this diminishing funding source.

A. Fair Housing Initiatives Program (FHIP)

The Fair Housing Initiatives Program (FHIP) is administered by HUD. Through FHIP, HUD funds fair housing organizations and other non-profit groups to provide vital services to their communities. There are approximately 100 full-service fair housing organizations nationwide. A full-service fair housing organization is one that conducts education and outreach in conjunction with enforcement. With education and outreach, community members become increasingly aware of their rights. With investigations and enforcement, community members have an outlet for their complaints and are therefore able to exercise their rights.

With limited resources come limited capacities to enforce the law and educate the community. Inadequate funding hinders non-government agencies, including private fair housing organizations that are better equipped with service provision and knowledge of community patterns and origins of discrimination. The President has proposed funding of \$19.8 million for fiscal year 2007. Once set-asides are accounted for, this number is approximately \$18 million, an amount which is insufficient to cover enforcement, education, and additional funding needed for hurricane-related fair housing activities.

NFHA estimates that at least 3.7 million instances of housing discrimination are committed annually against African-Americans and Latinos alone in the rental and sales

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markets.²³ According to the charts in Section IV of the report, in 2005 only 25,693 complaints were processed by all parties combined. All parties need more capacity to scratch the surface of these millions of complaints.

Grants for FHIP range from \$22,000 to \$275,000 (varying from 12 to 18 months) for education and enforcement programs. FHIP has until recently funded the creation of two to three new fair housing organizations per year, with grants of \$1 million each over three years. HUD has also funded a national media campaign out of this small pot of funds.

In the past two years, education and outreach initiative (EOI) grants have been funded at only 75 percent and private enforcement initiative (PEI) grants at only 80 percent of their typical size. New groups funding was brought down to one group in 2005 and no groups in 2006. No national media campaign has been funded since 2004. The following chart shows the funding levels for FHIP since 1994. (In 1992 and 1993, FHIP was a very small pilot program.)

Fiscal Year	FHIP Funding *
1994	\$ 21 million
1995	\$ 26 million
1996	\$ 17 million
1997	\$ 15 million
1998	\$ 15 million
1999	\$ 16 million
2000	\$ 18 million
2001	\$ 17 million
2002	\$ 19 million
2003	\$ 18 million
2004	\$ 18 million
2005	\$ 18 million
2006	\$ 18 million
2007 - <i>proposed</i>	\$ 18 million

**actual funding level available for general FHIP activities, excluding set-asides*

In the early 1990s, fair housing groups could receive both education and enforcement funding. But in its desire to fund more groups, the government changed the program so that groups could not receive both education and enforcement funds during the same grant cycle. With relatively flat funding for twelve years, what is now left is a diluted version of the program with many more groups involved but less capacity for substantive work.

Without both types of funding, an organization is clearly impeded in its capacity to handle both complaints and education. In FY06, FHIP allocated \$13.9 million for enforcement (PEI) and \$4.2 million for education and outreach (EOI), a total of \$18.1

²³ National Fair Housing Alliance. *2004 Fair Housing Trends Report* for the basis of this estimate, April 7, 2004, p. 4.

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million. Enforcement grants range from \$50,000 to \$275,000 for up to 59 organizations; education grants are \$100,000 for up to 42 organizations.

Until recently, FHIP was also used to create two to three new fair housing organizations annually. In FY05, the program funded one new group. In FY06, there is no funding available for new groups. Because the funding has not increased and because it has been diluted to fund many more organizations, including many with no fair housing experience, many fair housing organizations have had to close their doors or severely cut back. As listed in the report, more than ten groups have closed their fair housing programs or closed their facility entirely.

NFHA estimates that with \$50 million in funding, 100 organizations could receive both enforcement and education funding simultaneously. (See Recommendations in Appendix 2 for more information.)

B. Community Development Block Grant (CDBG) Program

The second federal funding stream vital to fair housing is the CDBG program. Fair housing centers nationwide rely on CDBG funding to assist in their education and outreach programs. Fair housing centers are also active in assisting jurisdictions in formulating and compiling their Analyses of Impediments to Fair Housing Choice, a requirement under the Comprehensive Plan.

CDBG funding is traditionally allocated to entitlement jurisdictions, cities with more than 50,000 in population and counties with more than 200,000 as well as to the small cities CDBG program, a state administered program that awards grants to smaller towns and rural communities. The CDBG program contains a regulatory requirement for cities, counties and states to affirmatively further fair housing based upon HUD's obligation under Section 808(e)(5) of the Fair Housing Act, which states that the Secretary of Housing and Urban Development shall "*administer the programs and activities relating to housing and urban development in a manner affirmatively to further [fair housing] policies.*"

To meet this obligation, CDBG entities must conduct an Analysis of Impediments to Fair Housing Choice that assesses housing opportunities and levels of segregation in the community. They must also develop and implement a Consolidated Plan in part to address and eliminate impediments to fair housing. However, the degree of dedication and commitment to this issue varies widely from one jurisdiction to another. In fact, NFHA estimates that only about 40 to 50 out of the more than 1,100 CDBG entitlement jurisdictions in the country actually have programs to address fair housing concerns in their communities. Even fewer provide funding to private fair housing organizations serving their jurisdiction. Without doubt, it has been difficult to enforce this requirement because HUD has not promulgated regulations for the implementation of this requirement, although the law was passed in 1974.

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Over the past two years, the Bush Administration has shown its lack of dedication to the program in its proposed budgets. Last year, the Administration proposed eliminating CDBG funding altogether and transferring a severely limited amount of funding to the Department of Commerce, essentially killing the funds available for fair housing. Fortunately, this proposal failed. This year, the Administration has proposed cutting CDBG by 25 percent to \$3 billion.

Fair housing groups also face intimidation at the local level when it comes to CDBG funds. For example, the City of Woodland, CA, revoked a local fair housing center's funding specifically because of its fair housing advocacy. The center had to resort to filing a housing discrimination intimidation complaint which it won in 2005. (See box for more details.)

Attempted Intimidation against a Fair Housing Center

Legal Services of Northern California (a HUD FHIP grantee) was receiving funding from the City of Woodland, CA, under the Community Development Block Grant (CDBG) program to assist victims of housing discrimination.

In October 2004 an operator of a group home and homeless shelter serving individuals with mental disabilities sought to expand its facilities. The City imposed conditions on this expansion that, in the opinion of Legal Services of Northern California (LSNC), appeared to be a violation of fair housing laws, including the Fair Housing Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973, and LSNC communicated those concerns to the City.

During a hearing on October 19, 2004, the Mayor of Woodland stated that he viewed LSNC's fair housing advocacy on behalf of the facility as a threat to the City, in violation of LSNC's contract under CDBG. The Mayor reiterated that position in a letter when he stated that, as a result of LSNC's advocacy, he intended to seek termination of LSNC's contract with the City. When the City Council of Woodland met on May 3, 2005, to determine CDBG allocations, the complainant was denied all of its funding, and LSNC's contract terminated June 30, 2005.

In August 2005, LSNC filed a fair housing discrimination complaint with

APPENDIX 2

Recommendations: Knocking Down Civil Rights and Housing Barriers

A. Increase and Restructure the Fair Housing Initiatives Program

NFHA calls on Congress to increase appropriations for the Fair Housing Initiatives Program (FHIP) to \$50 million in fiscal year 2007. In light of the new and continuing evidence of housing discrimination outlined in this report, at least \$50 million would begin to address the immediate need in a serious and organized way.²⁴

With \$50 million in funding, organizations could receive both education and enforcement funding and additional agencies could be funded. Funding could also be available for vital hurricane-related activities and the creation of new fair housing groups. NFHA proposes the following:

- \$28 million - Enforcement, i.e. \$280,000 for 100 groups
- \$14 million - Education & Outreach, i.e. \$140,000 for 100 groups
- \$ 3 million - Creation of two new fair housing groups
- \$ 5 million - Hurricane-related fair housing activities.

Increased and reliable funding would enhance assistance to victims of discrimination and the housing industry. Private fair housing groups have played a key role in many of the cases in which HUD has been willing to take enforcement action by issuing a charge.

We applaud HUD for following NFHA's suggestion of creating a three-year grant cycle for qualified full-service private nonprofit fair housing organizations in its 2005 SuperNOFA (Notice of Funding Availability). Unfortunately, because of the low level of funding, only 13 organizations were funded at that level. In 2006, only 17 additional organizations will be funded. This longer-term funding for just a few organizations severely constrains the funds available to other qualified organizations. A total of only 59 organizations will receive enforcement funding, ranging in size from \$50,000 to \$275,000.

As outlined in NFHA's proposal entitled *A Reformed Fair Housing Initiative Program: the Private Enforcement Initiative*,²⁵ FHIP should include funding to provide training to agency personnel and to implement programs to improve and enhance agency performance. The minimum grant award should be \$300,000 annually and increase to

²⁴ See "A Reformed Fair Housing Initiative Program: the Private Enforcement Initiative", NFHA 2005.

²⁵ See *A Reformed Fair Housing Initiative Program: the Private Enforcement Initiative*, NFHA 2005.

\$1 million annually depending upon the population size, number of investigations handled, demographics and other performance measures.

B. Increase Funding for Community Development Block Grants

As mentioned above, CDBG funding is the only other federal funding source available for fair housing activities. Slashing CDBG by 25 percent, as proposed by the Administration, will severely limit the already small amount used for fair housing. With the level of housing discrimination that NFHA has documented annually in its *Fair Housing Trends Report*, combined with the strong new evidence of sales discrimination leading to the continued stark segregation nationwide, NFHA asks the Administration to rescind its proposal to cut the CDBG program.

In addition, NFHA urges HUD to promulgate enforceable regulations that would require local jurisdictions to include fair housing in their comprehensive plans and their funding decisions.

C. Explicate the Critical Linkage Between Housing and Education

It is critical that national and community leaders acknowledge the impacts of school racial patterns on housing patterns and focus on the coordination of schooling and housing policies.

Policy debates at the governmental and private levels about housing must involve schooling patterns and, vice versa, discussions about education and schools must include fair housing considerations. This would prevent public housing siting decisions from re-segregating schools, improve inter-district transportation, increase funding for metropolitan-wide magnet schools or address any other variants that reinforce the connection between housing and school segregation.

Local and national housing and education groups should work towards expounding the reciprocal nature of housing and education and explore policies that would inhibit re-segregation of communities. Greater research and analysis should be conducted of areas undergoing re-segregation to determine student and community outcomes. Finally, shared resources should be used to leverage foundations and community groups involved in civil rights and integration to promote advocacy and research.

D. Fund an Annual National Media Campaign

NFHA calls on HUD to abide by its authorizing statute and fund an annual national media campaign. FHEO should target national media under FHIP to promote compliance with fair housing laws and educate consumers about their right to secure housing, homeowners insurance and mortgage loans and home repairs free from discrimination.

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The national media campaign should be multi-lingual in order to bridge the cultural and language gaps among different ethnic groups. It would provide much-needed education for the Asian American and Latino communities about their fair housing rights under the law and on how to recognize discrimination when it occurs and file a complaint with the appropriate law enforcement agency. It would empower them to take action when they have been the victim of unscrupulous behavior by a landlord, real estate agency or lending institution.

Furthermore, HUD should actively recruit and nurture multi-lingual and culturally competent staff to perform intake and outreach to their communities, thereby helping individuals identify fair housing violations and lodge official complaints.