

# Where You Live Matters

## 2015 Fair Housing Trends Report





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## ABOUT THE NATIONAL FAIR HOUSING ALLIANCE

Founded in 1988 and headquartered in Washington, DC, the National Fair Housing Alliance (NFHA) is a consortium of more than 220 private, nonprofit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. Through comprehensive education, advocacy and enforcement programs, NFHA protects and promotes equal access to apartments, houses, mortgage loans and insurance policies for all residents of the nation. NFHA recognizes the importance of home as a component of the American dream and envisions a country free of housing discrimination where inclusive, integrated and barrier-free neighborhoods are the norm.

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# EXECUTIVE SUMMARY

Where you live determines whether or not you have access to a high-performing school, fresh foods, reliable transportation, good job, quality health care, and recreation in a green space. It often determines even how long you will live. Yet for decades, many neighborhoods, especially urban neighborhoods of color, have been starved of investments in these and other community assets.

In this report, we highlight the relationship between housing choice and the various racial and ethnic disparities that exist today.

- Section I: the benefits that diverse and inclusive communities provide to society.
- Section II: overview of the data on the known complaints of housing discrimination in 2014 and the process for handling these complaints.
- Section III: notable cases challenging various policies and practices that affect people’s access to housing of their choice and the benefits that go along with it.
- Section IV: pressing policy issues that affect housing choice and opportunity in America.
- Section V: recommendations for how to address these fundamental policy issues.

In 1968, the federal Fair Housing Act was passed to promote diverse and inclusive communities and to prohibit housing discrimination based on race, color, national origin, religion and, subsequently, sex, familial status, and disability. This was the first major step by the government to curtail daily acts of housing discrimination and to address entrenched residential segregation and its harmful effects on individuals and communities, but the law was weak in that it left enforcement to private individuals and the federal courts. In 1988, Congress amended the Fair Housing Act and provided essential legal tools for effective enforcement to both the U.S. Department of Justice (DOJ) and the U.S. Department of Housing and Urban Development (HUD). The amended law is the bedrock of strengthening housing choice.

Our nation has made great progress since the passage of and amendments to the Fair Housing Act, yet too many neighborhoods in the United States remain segregated by race and ethnicity. The persistence of housing discrimination perpetuates educational, employment, health, wealth and safety disparities

between people living in White neighborhoods and people living in communities of color. In 2013, White families on average had seven times the wealth of African American families and six times the wealth of Latino families.<sup>1</sup> Housing discrimination also marginalizes people with disabilities and families with children of all races.

The startling incidence of housing discrimination begs immediate remedy. It is estimated that each year more than four million acts of discrimination occur in the rental market alone,<sup>2</sup> but Americans report only a small fraction of these acts in the form of complaints to private, nonprofit fair housing groups, and federal and local government agencies. In 2014, the American public reported 27,528 complaints of housing discrimination from around the country, a slight increase over the level in 2013. Discrimination on the basis of disability represented 51.8 percent of all complaints, while discrimination on the basis of race represented 22 percent of all complaints. Disability-based discrimination is easier to detect because it is typically blatant and as such is reported at higher levels than other types of discrimination, which occur more subtly and are less often recognized.

Private, nonprofit fair housing organizations continue to receive the majority of complaints of housing discrimination, more than double the number received by HUD and Fair Housing Assistance Program (FHAP) agencies (local and state civil or human rights agencies) combined. However, private fair housing organizations, HUD and FHAP agencies all lack the resources necessary to effectively counteract discrimination in housing markets. In fact, the number of full-time HUD staff dedicated to addressing housing discrimination is at an all-time low.

Access to mortgage credit is at an historic low, especially for people of color. In 2001, African Americans, who represent about 13 percent of the population, received 5 percent of conventional loans. By 2012, it had dropped to 2 percent. Latino borrowers, 17 percent of the US population, represented 8 percent of conventional borrowers in 2001 and only 4.5 percent in 2012.<sup>3</sup> This, along with other trends in the housing market, has had a deleterious effect on the ability of families of color to rebound from the shock of the foreclosure crisis.

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1 Urban Institute, "Nine Charts about Wealth Inequality in America," available at <http://datatools.urban.org/Features/wealth-inequality-charts/>.

2 "The State of Fair Housing: FY2006 Annual Report on Fair Housing," U.S. Department of Housing and Urban Development.

3 Benson, Clea, Dive in Minority Lending Puts Pressure on Fannie-Freddie, BloombergBusiness, July 14, 2014. Available at: <http://www.bloomberg.com/news/articles/2014-07-14/dive-in-minority-lending-puts-pressure-on-fannie-freddie>.

A key component of creating vibrant, inclusive communities is the requirement that the use of all federal funds is aligned with the goals of the Fair Housing Act. HUD's forthcoming "Affirmatively Furthering Fair Housing" (AFFH) regulation is designed to ensure that localities promote inclusive communities while developing plans to expend Community Development Block Grant (CDBG) and other federal housing funds. HUD's AFFH rule comes at an opportune moment to help address major achievement gaps in the population at large and, in particular, for people of color, families with children and people with disabilities. However, the rule will only be effective if it is implemented properly and compliance with the rule is monitored.

Housing discrimination remains a significant problem in the United States, and we must take strategic steps to empower every neighborhood to be a welcoming and supportive environment for all. The nation's economic success depends on the opportunities available to every person.

NOTE: NFHA staff members typically use the terms "African American," "Latino," and "Asian American." However, this report references many resource materials in which the authors use alternate terms, such as "Black," "Hispanic," or "Asian." In those instances, we have retained the terms utilized by the author(s) of the original document; therefore, there is inconstant usage of various terms in this report. We intend no disrespect to any person.



# SECTION 1: Why Where You Live Matters

The Fair Housing Act both prohibits discrimination in housing based on race, color, religion, sex, familial status, national origin, and disability status, and makes it the policy of the United States to promote residential integration.<sup>4</sup> This year, HUD plans to release a long-overdue regulation to clearly define the provision in the Fair Housing Act which requires that federal housing and community development programs promote diverse and inclusive communities in which everyone has a chance to succeed. This requirement under the Fair Housing Act is meant to expand access to opportunity for all in our society and to ensure that all federal programs used to build and sustain communities are run in a manner that tackles the entrenched residential segregation that has limited housing choice in the United States for so long.

This rule, known as the “Affirmatively Furthering Fair Housing” (AFFH) rule, cannot come too soon. Within just a few decades, the United States will be a country in which no racial or ethnic group constitutes a majority of the population. Evidence of our increasing diversity can be found in the new children born each year: in 2011, more babies of color were born in the U.S. than White babies, a trend that will continue.<sup>5</sup> In a world that is increasingly interconnected and with an economy that is increasingly global, this racial and ethnic diversity can be a source of strength and prosperity for our country. But that will only be true if we ensure that everyone in the U.S. has a fair shot at the opportunity to succeed. The Fair Housing Act and the new AFFH regulation can be instrumental in achieving that goal.

Access to opportunity is closely tied to place of residence and the characteristics of the neighborhoods in which various groups live. When you sign an apartment lease or buy a home, you are making a decision about much more than the roof over your head. Bundled together with where people live are a host of other opportunity factors that have a profound impact on how people live. These include the schools children attend; the quality of the air, water and overall physical environment; access to jobs, reliable transportation, healthy food, parks and other recreational facilities; exposure to violence and its impact on cognitive development and long-term health; and the opportunity to build wealth through homeownership or other means.

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4 42 U.S.C. §§ 3601 - 3619

5 Frey, William, *Diversity Explosion: How New Racial Demographics are Remaking America*, Brookings Institution Press, 2014.

Significant racial and ethnic differences in access to opportunity have dire implications for our collective future prosperity. These differences are the legacy of residential segregation, particularly segregation based on race and national origin, but also on other characteristics such as familial status and disability. Entrenched residential segregation is the result of policies and practices carried out by federal,<sup>6</sup> state and local governments, corporations and individuals over many decades. The Fair Housing Act was an important statement of our country's desire to dismantle segregation and create more diverse and inclusive communities, with all the benefits those bring. The Fair Housing Act is also an important tool for carrying out that change. We have made notable progress toward creating more communities in which everyone can succeed, but we still have a long way to go.

For decades, White households have constituted the majority of households in the U.S. According to research from the Urban Institute, thirty years ago the average White person in an American metropolitan area lived in a neighborhood where 88 percent of the households were White, 5 percent were Black, 5 percent were Latino, and 1 percent was Asian. Today, the average White person's neighborhood is considerably more diverse: 77 percent White, 7 percent Black, 10 percent Latino, and 4 percent Asian.<sup>7</sup>

Of course, these are averages, and the specifics vary considerably from city to city. For example, 68 percent of the population of the Detroit, Michigan, metropolitan area is White, but the average White person lives in a neighborhood that is 85 percent White. In Philadelphia, Pennsylvania, where 67 percent of the metropolitan area population is White, the average White person lives in a neighborhood that is 81 percent White. Still, in 41 of the 100 largest metropolitan areas today, in the average White person's neighborhood, at least 25 percent of the population is non-White. This is up from only 7 metropolitan areas in 1980. Most of this change is the result of overall increases in the non-White population in those 41 metro areas, particularly the Latino population.<sup>8</sup>

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6 The National Housing Act of 1934 created the Federal Housing Administration, which subsequently endorsed the use of redlining in its Underwriting Handbook using maps developed by the Home Owners' Loan Corporation (HOLC). These maps assessed the risk of lending in certain areas based on their racial and ethnic composition. Redlining was banned by the Fair Housing Act in 1968, but its devastating effects remain. Decades of lending disinvestment in neighborhoods left a legacy of racially and ethnically concentrated areas of poverty that underscore the racial and ethnic wealth gap to this day.

7 Turner, Margery Austin and Zachary McDade, "Neighborhood Diversity: Immigration Brings Big Changes to Urban Neighborhoods," Urban Institute MetroTrends blog, available at <http://www.metrotrends.org/commentary/neighborhood-diversity.cfm>.

8 Ibid.

This progress is worth celebrating, but it has not been sufficient to overcome past disparities and eliminate the differences in access to opportunity available to various racial and ethnic groups. These differences can be seen in the statistics on income, wealth and homeownership, school performance and educational attainment, employment, exposure to environmental hazards, access to healthy food, and life expectancy, among other factors.

## EDUCATION

While some gains have been made in neighborhood diversity, racial and ethnic segregation remains. In fact, our nation’s school systems have become more segregated, and children of color—particularly Black children—are more likely than others to attend schools with higher percentages of low-income students. In 1991, 34 percent of Black students attended schools where more than 90 percent of the students were children of color. By 2011, that had increased to 39 percent. In 1991, the typical Black student attended a school where 35 percent of the students were White. By 2011, the number of White students had fallen to 28 percent. In 1988, the typical Black student attended a school in which 43 percent of the children were low-income, a figure that increased to a startling 59 percent by 2006.<sup>9</sup>

Social science research also shows that children of color are more likely to attend low-performing schools than White children, and that poor children are the most likely to attend these schools. One way to assess this trend is by looking at proficiency rankings, based on math and reading test scores, for the schools closest to where households with children live. The median overall proficiency ranking for the schools closest to White households with children is in the 65th percentile. The median proficiency rankings for the schools closest to Black and Latino households of color are much lower, in the 24th and 34th percentiles, respectively. Poor households with children live closest to schools with lower proficiency rankings, and children in poor households of color have access to lower-performing schools than their poor White counterparts. The median school proficiency ranking for the schools closest to poor White households was in the 47th percentile, while for the schools closest to poor Black and Latino households the median rankings were in the 17th and 27th percentile, respectively.<sup>10</sup>

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9 Rothstein, Richard, “The Racial Achievement Gap, Segregated Schools and Segregated Neighborhoods – A Constitutional Insult.” Economic Policy Institute, November 12, 2014.

10 Ellen, Ingrid Gould and Keren Mertens Horn, “Do Federally Assisted Households Have Access to High Performing Public Schools?” Poverty & Race Research Action Council, November 2012.

It is not surprising, then, to see substantial differences between the high school graduation rates and post-secondary educational attainment levels of children of color and other children. About 64 percent of Black students and 66 percent of Latino students graduate from high school, compared to 82 percent of White students and 92 percent of Asian/Pacific Islander students. Of U.S. workers between 25 and 64 years of age, 14 percent of foreign-born Latino workers and 26 percent of U.S.-born Latino workers have an associate's degree or higher level of post-secondary education. Only 27 percent of Black workers have this level of education. That compares to 44 percent of White workers, 59 percent of foreign-born Asian workers, and 68 percent of U.S.-born Asian workers. These racial and ethnic gaps in educational attainment have serious consequences for national prosperity; by 2018, 45 percent of all jobs in the U.S. will require at least an associate's degree.<sup>11</sup>

## EMPLOYMENT

Racial and ethnic disparities in education spill over into the workforce, with many workers of color experiencing higher levels of unemployment than White workers. As of March 2015, the U.S. Department of Labor Bureau of Labor Statistics reported that the unemployment rate was 10.1 percent for Black workers, 6.8 percent for Latino workers, 4.7 percent for White workers, and 3.2 percent for Asian workers.<sup>12</sup> This difference in unemployment rates is not a new phenomenon. The Economic Policy Institute has analyzed unemployment rates going back to 1973 and has shown that while the overall unemployment rate has fluctuated over the years, the disparities by race and ethnicity have remained constant.<sup>13</sup> Given the geospatial relationship between racially or ethnically concentrated areas of poverty and school performance, it is no surprise that these disparities persist in unemployment rates, as students of color have less access to the educational opportunities that lead to stable employment.

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11 PolicyLink, "America's Tomorrow: Equity is the Superior Growth Model," available at [www.policylink.org](http://www.policylink.org).

12 Bureau of Labor Statistics, "Table A-2: Employment status of the civilian population by race, sex, and age" (through March, 2015), available at <http://www.bls.gov/news.release/empst.t02.htm>, and "Table A-3: Employment status of the Latino or Latino population by sex and age" (through March, 2015), available at <http://www.bls.gov/news.release/empst.t03.htm>.

13 See <http://www.stateofworkingamerica.org/charts/unemployment-by-race-and-ethnicity>.

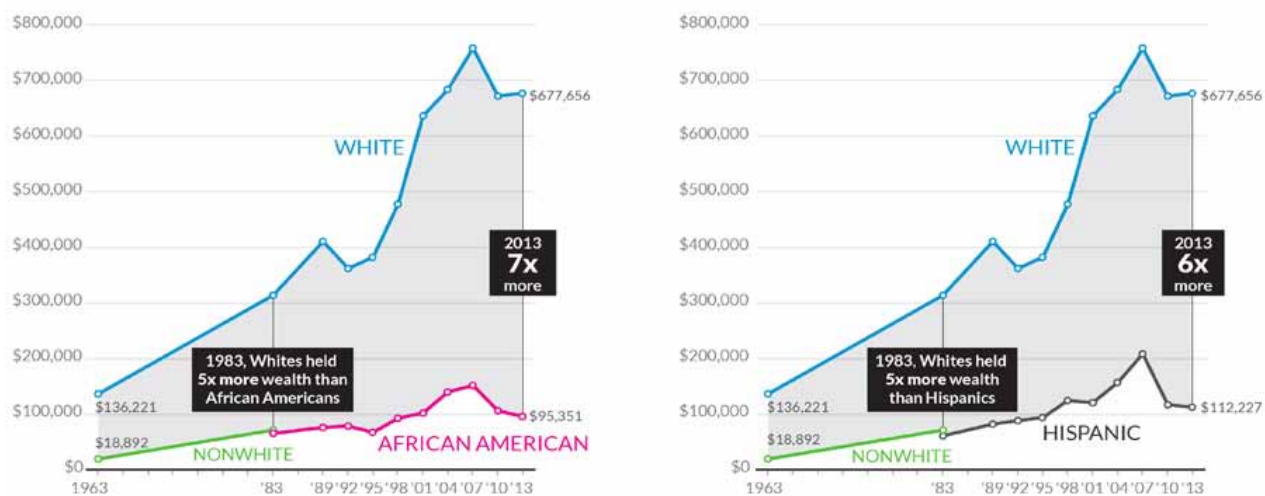
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## WEALTH

One long-term effect of residential segregation and its attendant gaps in educational and employment achievement is the difficulty faced by people of color in building generational wealth through homeownership and other means. Wealth is defined as the difference between a family’s assets and its debts, and represents the resources available to that family to purchase a home, send a child to college, start or expand a small business, cover medical expenses, fund retirement, or pass along resources to the next generation.

The gap in wealth held by White families and families of color in the U.S. is large, long-standing, and increasing, as the chart below from the Urban Institute illustrates. The Urban Institute’s analysis found that, “In 1963, the average wealth of White families was \$117,000 higher than the average wealth of non[W]hite families. By 2013, the average wealth of White families was over \$500,000 higher than the average wealth of African American families (\$95,000) and of Latino families (\$112,000). Put another way, White families on average had seven times the wealth of African American families and six times the wealth of Latino families in 2013.”<sup>14</sup>

**Figure 1. Average Family Wealth by Race/Ethnicity: 1963-2013**



Sources: Urban Institute calculations from Survey of Financial Characteristics of Consumers 1962 (December 31), Survey of Changes in Family Finances 1963, and Survey of Consumer Finances 1983-2013.

Notes: 2013 dollars. No comparable data are available between 1963 and 1983. African American/Hispanic distinction within nonwhite population available only in 1983 and later.

URBAN INSTITUTE

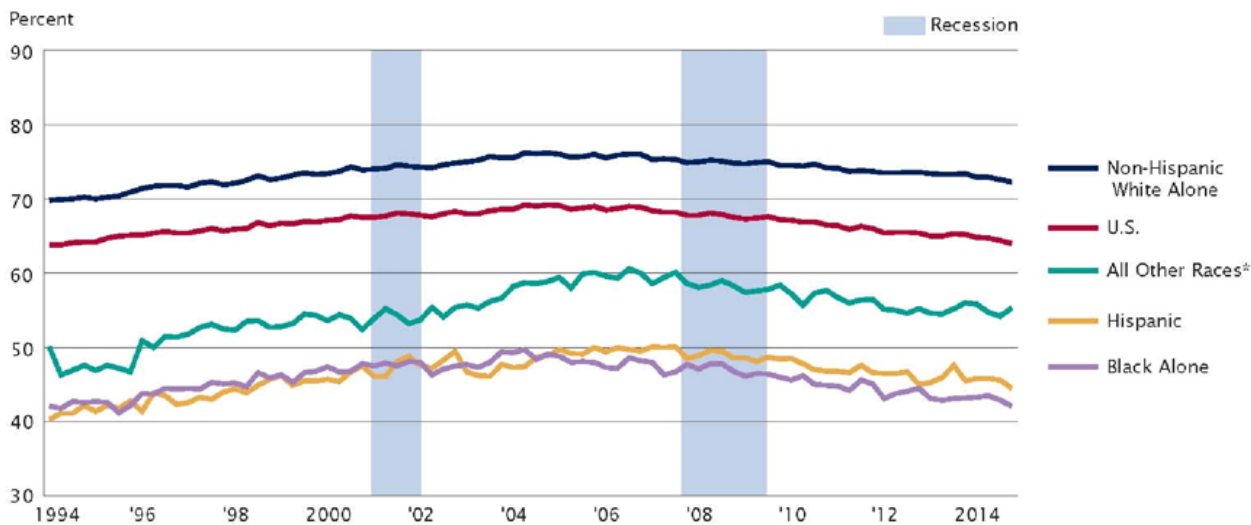
14 Urban Institute, “Nine Charts about Wealth Inequality in America,” available at <http://datatools.urban.org/Features/wealth-inequality-charts>.

When one analyzes median wealth by race and ethnicity—what might be considered a snapshot of the “typical” family—wealth levels are somewhat lower, but the racial and ethnic disparities are very similar. As the U.S. approaches the point at which people of color constitute the majority of the population, this sizeable wealth gap will be a drag on our economy, as more and more people lack the resources to access higher education and other markers of opportunity, to pass assets to their children, and to stimulate economic growth through spending and investment.

## HOMEOWNERSHIP

The racial/ethnic wealth gap is perhaps most apparent in comparative homeownership levels among people of different racial and ethnic backgrounds. Homeownership has long been an important vehicle for building wealth in this country, one that Black and Latino families, in particular, have relied upon. Just as with overall wealth, there is a large and long-standing racial/ethnic gap in the homeownership rate in the U.S., as illustrated by the chart below from the U.S. Census Bureau.

**Figure 2. Quarterly Homeownership Rates by Race and Ethnicity: 1994-2014**



\*Includes Asian, Native Hawaiian or Other Pacific Islander, or American Indian or Alaska Native, and two or more races.  
 Source: U.S. Census Bureau, Current Population Survey/Housing Vacancy Survey, Series H-111  
 National Bureau of Economic Research, Inc., Cambridge, MA 02138 <www.nber.org>

## HEALTH AND WELL-BEING

Numerous factors contribute to a person’s health, well-being and life expectancy, including many that are directly related to where that person lives. Two of these are exposure to environmental hazards and access to grocery stores that sell healthy food.

### Environmental Hazards

People may be exposed to environmental hazards from many sources, including lead and asbestos in buildings, air pollution from busy roads and highways, mold and trash in decaying apartment units and abandoned real estate owned properties, incinerators, landfills, and pollutants released by manufacturing plants. In rural areas, residents may also be exposed to pesticides sprayed on nearby fields, fracking chemicals, or coal dust from nearby coal mines. One potential source of environmental hazards is the commercial facilities that are licensed to dispose of hazardous waste. People who live in close proximity to such facilities may have a greater risk of exposure to the toxic waste they process.

According to research prepared for the United Church of Christ Justice and Witness Ministries, more than 9 million people in the United States - approximately 3.3 percent of the total population - live in what are termed “host communities” for hazardous waste facilities. These are communities located within 3 kilometers (approximately 1.8 miles) of a hazardous waste disposal facility. Of these 9 million people, 5.1 million - more than half - are people of color. Nationally, 56 percent of the residents of host communities within 3 kilometers of a hazardous waste facility are people of color, while they constitute only 30 percent of the population of non-host communities. The percentage of African Americans in host communities is 1.7 times greater than that of non-host communities. The percentage of Latinos is 2.3 times greater, and the percentage of Asian/Pacific Islanders is 1.8 times greater in host communities than in non-host communities.<sup>15</sup>

The figures are even greater in host communities with more than one hazardous waste facility, where 69 percent of the population is people of color, compared to 51 percent in non-host communities.<sup>16</sup> In other words, using this measure,

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15 Bullard, Robert D., Paul Mohai, Robin Saha, and Beverly Wright, “Toxic Wastes and Race at Twenty: 1987-2007,” A Report Prepared for the United Church of Christ Justice and Witness Ministries, March 2007.

16 Ibid.

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people of color are significantly more likely to be exposed to environmental hazards based on where they live.

### Access to Healthy Food

Residents of many communities of color are concerned about the lack of nearby grocery stores that sell healthy food, including high-quality fruits and vegetables and other nutrient-rich foods. Instead, too often they are forced to rely on convenience stores and fast food restaurants that largely offer cheap, high-fat, high-sodium and high-sugar foods. The lack of access to healthy foods in “food deserts” makes it difficult for people to maintain healthy diets based on the consumption of fruits, vegetables and whole grains. This, in turn, contributes to obesity, diabetes, heart disease and other diet-related chronic diseases. In their 2010 report, “The Grocery Gap: Who Has Access to Healthy Food and Why It Matters,” PolicyLink and the Food Trust reviewed 132 studies of food access conducted over a 20 year period. Some of their key findings include:

- Nationwide, predominantly Black zip codes have about half the number of chain supermarkets (a proxy for stores that sell fruits, vegetables and other healthy foods) compared to predominantly White zip codes, and predominantly Latino zip codes have only a third as many.
- One multi-state study found four times as many supermarkets in predominantly White neighborhoods as in predominantly Black neighborhoods.
- Another multi-state study found that 8 percent of African Americans live in a census tract with a supermarket compared to 31 percent of Whites.
- A study of Atlanta found that affluent White neighborhoods in that city have better grocery stores than affluent Black neighborhoods, suggesting that income alone does not explain these differences.
- A study of grocery store access in low income neighborhoods in Los Angeles found that 3 in 10 food stores in a low-income, African American community lacked fruits and vegetables, while nearly all of the stores in a comparison low-income, White neighborhood sold fresh produce.<sup>17</sup>

These and many other studies indicate that where a person lives has an impact on his or her access to the fresh, healthy food necessary to good health, and that communities of color too often lack such access and suffer negative consequences.

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17 Truehaft, Sarah and Allison Karpyn, “The Grocery Gap: Who Has Access to Healthy Food and Why It Matters,” PolicyLink, 2010.

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## Life Expectancy

According to a recent study by the Social Science Research Council,

“In the United States, race and ethnicity are among the most important determinants of health... Nationally, Asian Americans live the longest (87.1 years), followed by Latinos (83.3 years), Whites (78.9 years), Native Americans (76.9 years), and African Americans (75.4 years). The life expectancy gap between Asian Americans and African Americans in the United States is an astonishing 11.7 years.”<sup>18</sup>

Other research demonstrates the spatial component of these differences; that is, how life expectancy varies by neighborhood. The Robert Wood Johnson Foundation Commission to Build a Healthy America notes, “Across America, babies born just a few miles apart have dramatic differences in life expectancy. To improve health we need to improve people’s opportunities to make healthy choices—in the places where they live, learn, work, and play.”<sup>19</sup> The Commission mapped life expectancy data for communities in a number of cities and found significant variations in how long people can expect to live based on where they live. For example, in New Orleans, the Commission found that residents of the Lakeview neighborhood (93 percent White) can expect to live approximately 80 years, just a bit longer than the national average of 79 years. In contrast, residents of the Treme neighborhood (87 percent Black) can only expect to live 54.5 years, lower than the life expectancy in Cambodia, Gabon or Guinea.<sup>20</sup>

## **THE BENEFITS OF DIVERSITY**

The benefits of diverse, inclusive communities extend to everyone. Researchers have found that the economic performance of geographic regions with high rates of poverty and high levels of segregation is worse than that of places that

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18 Burd-Sharps, Sarah and Kristin Lewis, “Geographies of Opportunity: Ranking Well-Being by Congressional District,” Social Science Research Council, April, 2015, available at <http://ssrc-static.s3.amazonaws.com/wp-content/uploads/2015/04/Geographies-of-Opportunity-Final.pdf>.

19 RWJF Commission to Build a Healthy America City Maps website, <http://www.rwjf.org/en/library/features/Commission/resources/city-maps.html>.

20 Mahoney, Gillian, “Wrong Zip Code Can Mean Shorter Life Expectancy,” ABC News via Good Morning America, July 20, 2013, available at <http://abcnews.go.com/Health/map-reveals-life-expectancy-vary-widely-zip-code/story?id=19711680>.

are less segregated.<sup>21</sup> They attribute this poor economic performance to the spatial mismatch between where jobs and workers are located, and the isolation experienced by people in segregated communities who lack good access to jobs. This mismatch interferes with the necessary synergy between high- and low-skilled workers, both of whom are needed for maximum productivity. They also point to the new ideas and innovations that occur when people who are not alike interact with one another, as well as the high costs for a community as a whole when some people within it lack access to opportunity and the community must devote more of its resources to addressing poverty and its consequences.

These findings have been echoed in other research,<sup>22</sup> and they occur on a more micro level as well. Businesses benefit from fostering inclusion, as having a racially diverse workforce is associated with increased sales revenue, more customers, greater market share, and greater profits.<sup>23</sup> And students—of all racial backgrounds—benefit from attending schools that are racially diverse.

“White students in diverse learning environments are exposed to complex classroom discussions and they also develop better critical thinking and problem-solving skills than their counterparts in racially homogeneous schools... [they] are also more likely to understand issues of social justice and exhibit lower levels of racial prejudice.”<sup>24</sup>

The benefits of integration are reflected in higher test scores as well, as research has found that “students from all racial and class backgrounds who attended integrated schools performed better in math at each grade level.”<sup>25</sup> Furthermore, students whose classmates are diverse report that they have a better understanding

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21 Badger, Emily, “Why Segregation is Bad for Everyone,” The Atlantic CityLab, May 3, 2013, citing research by Huiping Li, Harrison Campbell and Steven Fernandez, “Residential Segregation, Spatial Mismatch and Economic Growth across US Metropolitan Areas,” published in *Urban Studies*, October 2013 vol. 50 no. 13 2642-2660.

22 See, for example, Eberts, Erickcek and Kleinhenz (2006), “Dashboard Indicators for the NorthEast Ohio Economy,” 2006, available at [www.clevelandfed.org/Research/Workpaper/2006/wp06-05.pdf](http://www.clevelandfed.org/Research/Workpaper/2006/wp06-05.pdf), which analyzed 118 metropolitan areas in the U.S. and found that regions with a higher degree of racial inclusion have higher economic growth. Also Austrian, Lendel and Yamoah (2007), “An Update of the Regional Growth Model for Large and Mid-Sized U.S. Metropolitan Areas: Northeast Ohio Dashboard Indicators,” available at [urban.csuohio.edu/publications/center/center\\_for\\_economic\\_development/dashboard\\_report\\_final\\_0807.pdf](http://urban.csuohio.edu/publications/center/center_for_economic_development/dashboard_report_final_0807.pdf) and Austrian, Lendel and Yamoah (2008), “Regional Dashboard of Economic Indicators 2008: Comparative Performance of Midwest and Northeast Ohio Metropolitan Areas,” available at [engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article+1130&context=urban\\_facpub](http://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article+1130&context=urban_facpub).

23 Herring, Cedric, “Does Diversity Pay?: Race, Gender and the Business Case for Diversity.” *American Sociological Review* 74.2 (2009):208-24. Jstor.

24 Tegeler, Philip, “Diverse Classrooms Also Benefit White Students,” *HuffPost Education*, April 23, 2015, citing research by Dr. Genevieve Siegel-Hawley for the National Coalition on School Diversity, “How Non-Minority Students Also Benefit from Racially Diverse Schools.”

25 Ibid.

of different points of view and feel better prepared to work in a diverse workplace.<sup>26</sup> Given the changing demographics of the United States, that is the kind of workplace in which most current students are likely to find themselves.

## **BARRIERS TO CREATING DIVERSE, INCLUSIVE COMMUNITIES**

The incentives for creating communities that are diverse and inclusive are considerable, and one might expect that government—at the local, state and federal levels—is doing everything it can to accomplish that goal. That is the purpose of the Affirmatively Furthering Fair Housing provisions of the Fair Housing Act. Unfortunately, that is not always the case.

Government policies played a major role in creating our current segregated living patterns. In too many cases, government policies continue to perpetuate those patterns or are failing to help overcome them.

In recent years, HUD has stepped up its efforts to achieve the goals of the Fair Housing Act’s AFFH provision by taking action when it finds that jurisdictions (municipalities, counties, states and Public Housing Authorities) that receive HUD funding are not fulfilling their fair housing obligations. HUD’s actions provide an illustration of the kinds of policies that may be obstacles to overcoming segregation and its ill effects on society. Some of these policies include:

- Locating subsidized housing only in poor communities of color;
- Adopting exclusionary zoning policies that make it impossible to develop affordable housing within the jurisdiction;
- Using local powers for issuing permits and approving projects to prevent new affordable housing developments from being built;
- Failing to adopt strategies or take actions to overcome the effects of public actions that aggravate the shortage of affordable housing;
- Requiring local approval for Low Income Housing Tax Credit projects, effectively giving hostile jurisdictions veto power over new developments; and,
- Making plans to reduce the number of public housing units and Housing Choice Vouchers within the jurisdiction.

These and other similar policies and practices work to limit the opportunities for people of color, families with children and people with disabilities to live outside communities of concentrated poverty. Such policies, along with the failure to invest

<sup>26</sup> Ibid.

in poor communities so that they may access opportunity—in the form of good schools, good transportation, access to healthy food, healthy environments and the like—perpetuate the kinds of racial and other disparities that keep individuals from reaching their full potential and our country from flourishing.

HUD’s new AFFH regulation will be an important tool for uncovering policies that perpetuate segregation, identifying communities that have been starved for investment, and helping jurisdictions move toward making resources available for every family and individual to meet their full potential. But HUD’s new AFFH rule will also help engender understanding among diverse sets of people to reinforce the fundamental right of every individual to access housing of their choice, which is too often limited by individual acts of discrimination.

It is estimated that each year over four million acts of discrimination occur in the rental market alone,<sup>27</sup> but Americans report only a small fraction of these in the form of complaints to private nonprofit fair housing groups, and federal and local government agencies. Information about these complaints is of tremendous value and often can reveal a pattern or trend that cities and states must pay close attention to and possibly address proactively in their housing and community development programs. For example, through directly providing local nonprofit fair housing organizations with resources to address complaints of steering of people of color to neighborhoods with lower performing schools in real estate transactions, or changing local zoning ordinances to allow group homes for people with disabilities near efficient lines of transportation and grocery stores, local governments have an opportunity to fortify housing choice and decrease the likelihood that discrimination will occur at all. The section that follows provides an overview of the overall reported incidence of housing discrimination in the United States and explains the processes in which they are resolved.

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27 “The State of Fair Housing: FY2006 Annual Report on Fair Housing,” U.S. Department of Housing and Urban Development.

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## **SECTION 2: The Overall Picture: Housing Discrimination Reported in 2014**

Each year, the National Fair Housing Alliance compiles housing discrimination complaint data reported by its membership of private, nonprofit fair housing and advocacy organizations, HUD, DOJ, and state and local government civil rights agencies.<sup>28</sup> Private and public civil rights entities investigate instances of alleged housing discrimination and together comprise the nation’s system for addressing discrimination in the housing market. The data in this report represents the number of complaints filed in 2014, which is significantly less than the actual incidence of discrimination each year. Many cities, rural areas, and even entire states do not have access to the services of a private or public fair housing organization as funding of fair housing enforcement programs is grossly insufficient to address housing discrimination through the United States.

Every complaint handled by a private, nonprofit fair housing organization, HUD, FHAP or DOJ has the potential to provide access to many housing units that were once unavailable to large groups of people. An individual complaint against one multi-family apartment complex may result in a systemic investigation of a large management company. If discrimination is verified, then the remedies can include changes in policies to make all units managed by that company available without discrimination. Complaint data may expose policies that perpetuate racially or ethnically concentrated neighborhoods where economic mobility is limited.

Housing discrimination can occur against anyone and in any area of housing, taking on many forms, including both intentional acts and policies or procedures that have a discriminatory impact. Data in this report consist of information about the kinds of reported discriminatory acts that occurred in 2014, including the protected class basis of a complaint (i.e. race, color, national origin, disability, familial status, sex, religion, and bases protected under state or local laws) and the housing transaction in which an incident occurred (rental housing, real estate sales, mortgage lending, homeowners insurance, advertisements, zoning and land use ordinances, and harassment in any type of housing).

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28 Private fair housing organizations and local government civil rights organizations provide data for this Trends Report on a voluntary basis.

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This year’s Trends Report includes data provided by 91 nonprofit fair housing or legal aid organizations. Most of these organizations are funded by HUD to receive and investigate housing discrimination complaints. The report also includes data from 88 local or state civil and human rights government agencies (there are seven fewer FHAP agencies now than in 2013). These agencies participate in HUD’s Fair Housing Assistance Program (FHAP), which provides annual funding on a noncompetitive basis to agencies that enforce a local or state law that provides the same substantive rights, procedures, remedies and judicial review provisions as the federal Fair Housing Act. In those jurisdictions, HUD in most circumstances refers complaints of housing discrimination it has received to the state or local FHAP agency for investigation.

Nonprofit fair housing organizations, HUD, FHAP agencies and DOJ reported a total of 27,528 complaints of housing discrimination in 2014. This number reflects a slight increase in reported complaints compared to the previous year, but is still 1,000 less than the number reported in 2012.

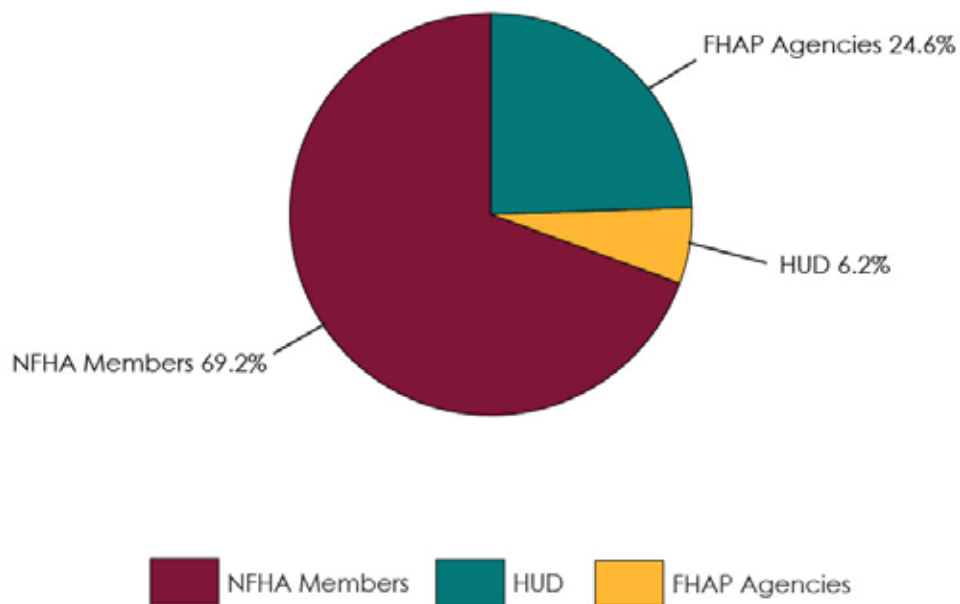
**Table 1. Housing Discrimination Complaints: 2004-2014**

<b>Year</b>	<b>NFHA Members</b>	<b>HUD</b>	<b>FHAP Agencies</b>	<b>DOJ</b>	<b>Total</b>
2004	18,094	2,817	6,370	38	27,319
2005	16,789	2,227	7,034	42	26,092
2006	17,347	2,830	7,498	31	27,706
2007	16,834	2,449	7,705	35	27,023
2008	20,173	2,123	8,429	33	30,758
2009	19,924	2,091	8,153	45	30,213
2010	18,665	1,943	8,214	30	28,852
2011	17,701	1,799	7,551	41	27,092
2012	19,680	1,817	6,986	36	28,519
2013	18,932	1,881	6,496	43	27,352
2014	19,026	1,710	6,758	34	27,528

For the third year in a row, private, nonprofit fair housing groups investigated 69 percent of the national total of reported complaints. These groups have consistently handled the overwhelming majority of housing discrimination complaints, more than twice as many as all government agencies combined each year. These

organizations have established themselves in the public eye as a trusted local place to go to report a problem when seeking housing, a home loan or homeowners insurance. Local fair housing groups also play a critical role in training the public and local housing providers about their rights and responsibilities under fair housing laws.

**Figure 3. Housing Discrimination Complaints in 2014 by Reporting Agency**

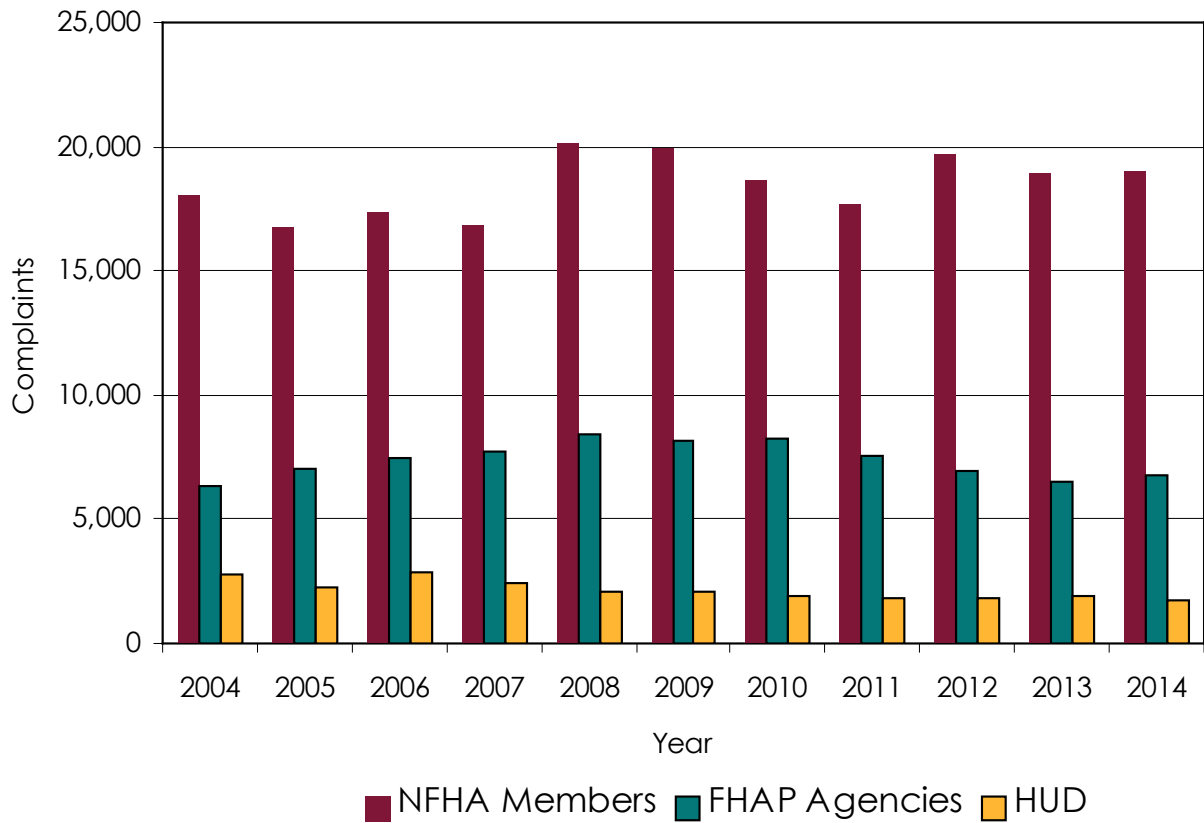


### **NATIONAL DATA ON REPORTED HOUSING DISCRIMINATION**

Housing discrimination complaints in 2014 slightly increased over reported levels in 2013, but the number was still nearly 1,000 complaints less than in 2012. This increase is largely represented by a rise in complaints reported by private, nonprofit fair housing groups and FHAP agencies and also an overall increase of complaints based on discrimination against people with disabilities.

NFHA member data are collected on a calendar year basis, whereas HUD, FHAP, and DOJ collect and report fair housing complaint data by fiscal year.

**Figure 4. Housing Discrimination Complaints: 2004-2014**



Private, nonprofit fair housing groups reported a slight increase in complaints with 19,026 in 2014 compared to 18,932 in 2013. This increase is driven largely by an 8.9 percent increase in complaints of rental discrimination against people with disabilities, with 9,406 complaints in 2014 compared to 8,573 disability complaints in rentals in 2013. This increase is also due to an 18.3 percent increase in complaints based on source of income discrimination, with 645 complaints in 2014 compared to 527 in 2013. Source of income discrimination is not protected under the federal Fair Housing Act; however, it is protected by several state and local fair housing laws.

Discrimination on the basis of disability is much easier to detect than other types of discrimination. When a person with a disability seeks a reasonable accommodation or reasonable modification from a housing provider, a denial is obvious. When a housing provider refuses to communicate with persons who are deaf or hard of hearing through a relay service or ASL interpreter, the discrimination



is obvious. When a building covered under the Fair Housing Act is inaccessible to a person with a mobility disability, the inaccessibility is readily apparent. It is, therefore, much easier to identify and report complaints of discrimination based on disability. Discrimination based on other protected characteristics is typically subtle, concealed by a pre-textual excuse, or undetectable because there is no basis for comparison (as when someone is quoted a rent rate \$100 higher per month than another applicant).

HUD received 9.1 percent fewer complaints in 2014 with 1,710 complaints compared to 1,881 in 2013. The largest decline was in rental complaints. HUD reported a 26.1 percent decrease in complaints of real estate sales complaints in 2013, from 119 to 88 in 2014. This may be due to the decrease in number of persons of color involved in real estate transactions due to the results of the foreclosure crisis. HUD also filed 33 Secretary-initiated complaints, four less than in 2013, but still significantly higher than in 2011 and 2010, when it filed four and ten respectively.

FHAP agencies, however, reported a 4 percent increase in complaints compared to last year with 6,758 complaints in 2014, reversing a recent declining trend from the 8,214 complaints in 2010, 7,551 in 2011, 6,986 in 2012 and 6,496 in 2013. The increase between 2013 and 2014 is driven by an increase in rental complaints. In the same year, FHAPs reported small decreases in lending, real estate, and insurance complaints.

Since HUD refers most of the complaints it receives to FHAP agencies, the variances from year to year may be based mostly on the locations of various complainants and the number of cases referred to FHAPs by HUD.

DOJ filed 34 cases in 2014, nine less than in 2013. In 2014 DOJ received over 1,100 written complaints from individuals, a decrease from the 1,200 complaints in 2013. However, DOJ's authority to investigate Fair Housing Act complaints is largely limited to pattern-or-practice cases, systemic cases referred by fair housing organizations, or cases referred by HUD. DOJ's standard response to complaints is to refer individuals to HUD or nonprofit fair housing organizations that can investigate the matters.

## NATIONAL DATA BY BASIS OF DISCRIMINATION

For the last several years, housing discrimination against people with disabilities has made up the majority of national complaints, and 2014 was no different. In 2014, disability-based housing discrimination made up 51.8 percent of all complaints with 14,272 instances reported, an increase from the 13,542 complaints from the previous year in which they made up 49.5 percent.

**Table 2. Discrimination by Protected Class**

Basis	NFHA Members	HUD	FHAP Agencies	DOJ	Total
Race	19.2% (3,659)	22.2% (379)	29.5% (1,995)	29.0% (10)	22.0% (6,044)
Disability	50.7% (9,643)	59.0% (1,009)	53.2% (3,596)	50.0% (22)	51.8% (14,272)
Familial Status	10.3% (1,963)	10.9% (186)	12.8% (863)	18.0% (10)	11.0% (3,023)
Sex	4.8% (910)	8.5% (146)	10.8% (731)	6.0% (2)	6.5% (1,789)
National Origin	6.3% (1,196)	26.0% (444)	18.9% (1,280)	12.0% (4)	10.6% (2,925)
Color	1.2% (225)	2.2% (37)	1.6% (110)	0.0% (0)	1.4% (372)
Religion	0.8% (148)	1.0% (16)	3.0% (205)	3.0% (1)	1.3% (370)
Other*	6.7% (1,282)	8.8% (150)	7.5% (707)	0.0% (0)	7.8% (2,141)

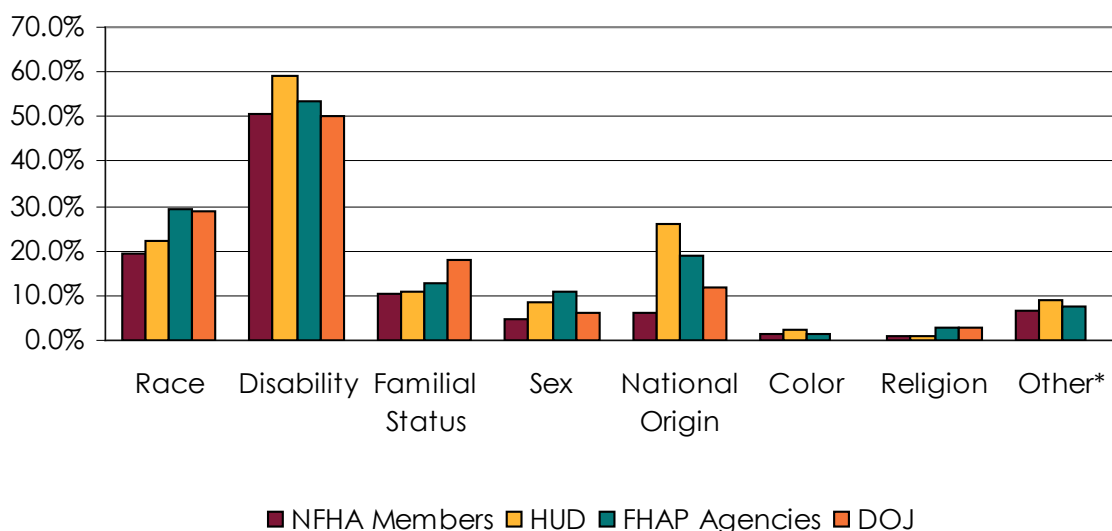
Totals for these data may exceed 100 percent as individual complaints reported by HUD, DOJ and FHAPs may involve multiple protected classes.

**NFHA Other\*** includes: sexual orientation, gender identity, source of income, marital status, age, criminal background, ancestry (including alienage), military status, domestic violence, student status, physical appearance, lawful occupation, place of residence, family responsibility, and arbitrary (in CA rentals only).

**HUD and FHAP Other\*** are complaints of retaliation, which is prohibited under the federal Fair Housing Act.

Racial discrimination was the second most reported basis, with 6,044 complaints in 2014 and 6,012 in 2013. Racial discrimination also made up 22 percent of all complaints in 2014 and 2013. Following racial discrimination was discrimination against families with children (familial status), with 3,023 complaints and an 11 percent share. National origin discrimination was the fourth highest, with 2,925 complaints and a 10.5 percent share. Sex discrimination was reported in 1,789 complaints, and made up a 6.5 percent share. Discrimination based on color was reported in 372 complaints and made up a 1.4 percent share. Discrimination based on religion, with 370 complaints, made up a 1.3 percent share. Fewer complaints based on familial status, national origin, sex, color, and religion were reported and represented a smaller share of total complaints in 2014 than in 2013.

**Figure 5. Discrimination by Protected Class**



The majority of complaints in the last several years have been based on one or more of the classes protected under the federal Fair Housing Act. However, NFHA also collects data on classes protected by state or local laws. In the last two years, data reported by NFHA members on source of income discrimination, for example, exceeded the number of complaints based on religion and color combined, with 527 complaints in 2013 and 645 in 2014. NFHA members reported a total of 1,282 complaints based on discrimination against groups not protected by the federal Fair Housing Act. These complaints include:

- 645 based on source of income;
- 205 based on age;
- 201 based on sexual orientation;
- 80 based on marital status;
- 70 based on gender identity;
- 45 based on arbitrary discrimination in rentals under California law;
- 15 based on military or veteran status;
- 10 based on domestic violence survivor status;
- 9 based on ancestry;
- 2 based on student status;
- 2 based on citizenship status;
- 1 based on lawful occupation; and
- 1 based on criminal background.

HUD, DOJ and FHAPs only report data on complaints based on discrimination against federally protected groups, but the incidence of discrimination that is not prohibited under federal law is likely much greater than private and public agencies can quantify.

## **DISCRIMINATION BY TRANSACTION REPORTED BY PRIVATE FAIR HOUSING ORGANIZATIONS**

The Fair Housing Act protects against discrimination in the provision of rental housing, real estate sales, mortgage lending, homeowners insurance, and other housing related transactions.<sup>29</sup> Housing providers have become increasingly more sophisticated since the enactment of the Fair Housing Act in 1968 and the 1988 Amendments, making statements such as “No Kids Allowed” less frequently and opting instead to steer families to different neighborhoods or lie about housing availability. Consequently, a fair housing organization must rely on testing complaints of discrimination by comparing how members of a protected group are treated compared to other similarly-qualified individuals who do not share the same characteristic, such as having children. Testing is critical to corroborating a claim of discrimination because it objectively assesses the behavior of housing, lending, and insurance providers to determine whether or not consumers are being treated differently based on a protected characteristic.

NFHA members provide data each year on the type of housing transaction involved in the complaints of housing discrimination they received.

### Rental Market—Private Groups Reported 17,105 Complaints

Among the kinds of housing available in the United States, discrimination consistently appears most often in the rental market. The foreclosure crisis has pushed previous homeowners to the rental market, and each year the share of rental discrimination has increased. Rental market discrimination made up 87 percent in 2012 with 17,117 complaints, 88.2 percent in 2013 with 16,695, and 89.9 percent in 2014 with 17,105 complaints reported by private fair housing organizations.

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29 42 U.S.C. §§ 3601 et seq.

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### Real Estate Sales—Private Groups Reported 329 Complaints

In 2014, private fair housing groups reported 329 complaints of discrimination in real estate sales. Reported real estate sales discrimination has fluctuated in the past several years, with 441 complaints in 2010, a decrease to 302 complaints in 2011, an increase to 381 in 2012 followed by another increase to 472 complaints reported last year.

### Mortgage Lending—Private Groups Reported 1,034 Complaints

In 2014, private groups saw a decrease in allegations of lending discrimination with 1,034 complaints, compared to the 1,078 received in 2013, 1,101 in 2012, and 1,243 in 2011. Lending discrimination is very difficult to detect and individuals rarely know when they may have experienced it. HUD's lending complaints have fluctuated but have generally increased slightly over the same period. However, FHAP agencies received 128 lending discrimination complaints in 2014, nearly half of the 244 complaints they received in 2011. This consistent downward trend observed by private fair housing organizations and FHAP agencies reflects the broader market barriers to mortgage lending that have been erected in the aftermath of the foreclosure crisis. Mortgage lenders continue to restrict access to mortgage products.

### Homeowners Insurance—Private Groups Reported 46 Complaints

Discrimination complaints in homeowners insurance have fluctuated in the last several years, with 46 complaints from nonprofit fair housing groups in 2014, compared to 53 in 2013, 22 in 2012, and 24 in 2011. FHAP agencies reported one complaint in 2014, six in 2013, and three in 2012. HUD reported three insurance complaints in 2014, one in 2013, and two in 2012. FHAPs and HUD reported no insurance complaints in 2011.

### Harassment—Private Groups Reported 379 Complaints

The Fair Housing Act explicitly prohibits coercion, intimidation, threats, or interference in the provision and equal enjoyment of all housing. Foul and abusive behavior toward tenants, residents, visitors, and prospective occupants, because of their membership in any of the federally protected classes, constitutes discriminatory harassment under the law.

Private fair housing groups reported a decrease in complaints of harassment with 379 in 2014, compared to 453 in 2013 and 851 in 2012. Harassment in housing is likely to be unreported as it is often committed against individuals with high housing insecurity, including poor women of color and people with disabilities. It has been well documented that landlords with keys to homes have been known to abuse the economic insecurities of poor women by demanding sexual favors in exchange for performing basic, but necessary, maintenance.<sup>30</sup> Poor individuals, especially in public housing, rarely report this kind of behavior for fear of eviction as retribution.

### Other Housing and Housing-Related Transactions—Private Groups Report 133 Complaints

The Fair Housing Act protects against all housing and housing-related transactions, and private fair housing organizations investigate complaints of discrimination in these areas. In 2014, private groups reported:

- 41 complaints of discriminatory land use or zoning ordinances, down from 47 in 2013 and 66 in 2012;
- 26 complaints of discrimination committed by homeowner or condominium associations, down from 28 in 2013 and 46 in 2012;
- 39 complaints of discriminatory advertisements, down from 92 in 2013 and 44 in 2012;
- 10 complaints of discrimination in homeless shelters, mostly from people with disabilities, up from 7 in 2013 and 3 in 2012; and
- 15 complaints of discrimination by cooperative housing boards, an increase from no complaints in 2013.

Disability discrimination was the most commonly cited basis in other transactions, with 59 complaints, followed by familial status with 27; race with 17; national origin with 8; sex with 4; color with 4; age with 4; religion with 3; sexual orientation with 3; source of income with 3; and domestic violence with 1.

HUD, FHAPs, and DOJ do not furnish these data.

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30 See, e.g., *Shellhammer v. Lewallen*, 1 Fair Hous.-Fair Lending Rep. 15,472 (W.D. Ohio 1983), *aff'd*, 770 F.2d 167 (6th Cir. 1985); *United States v. Koch*, 352 F. Supp. 2d 970, 981-983 (D. Neb. 2004); *United States v. Nieman, et al.*, (N.D. Iowa 2010).

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## **FAIR HOUSING COMPLAINTS REPORTED BY HUD AND LOCAL GOVERNMENT CIVIL RIGHTS AGENCIES**

The Department of Housing and Urban Development has the primary authority to enforce the Fair Housing Act through its Office of Fair Housing and Equal Opportunity (FHEO). Through FHEO, HUD conducts investigations and enforcement actions to address discrimination and provides educational materials for housing providers and the public. It also administers the Fair Housing Initiatives Program (FHIP) and the Fair Housing Assistance Program (FHAP). FHEO also issues guidance and regulations to implement the various protections and processes of the Fair Housing Act and monitors HUD housing and community development programs for compliance with the Fair Housing Act and other civil rights laws.

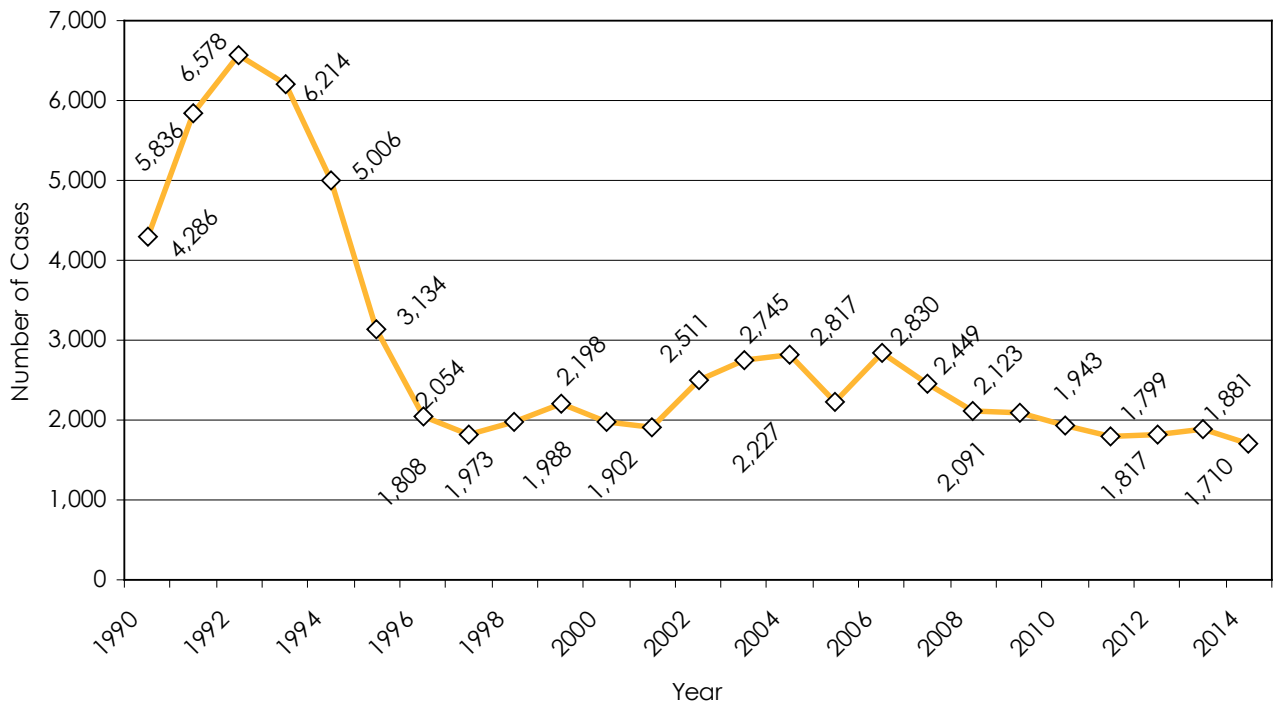
In addition to the Fair Housing Act, FHEO enforces other civil rights laws that impact housing, including Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Title IX of the Education Amendments Act of 1972, the Architectural Barriers Act of 1968, and implementing housing provisions under the Violence Against Women Act.

HUD is authorized to conduct legal proceedings outside of the federal district court system through its administrative law process. FHEO HUD can accept and investigate complaints of housing discrimination from anyone in the United States and from private, nonprofit fair housing groups that have the consent of individuals to file an administrative HUD complaint on their behalf. Where it finds probable cause to believe housing discrimination occurred, HUD can issue a “charge” of discrimination. Complainants have the option to have their complaint heard by a HUD Administrative Law Judge (ALJ) or to elect to have the case litigated in federal court. If a complainant elects to have the complaint heard by a HUD ALJ, the ALJ can reach a decision and award reasonable compensatory damages, attorneys’ fees, and affirmative relief, as well as assess a civil penalty. If a complainant elects to have the case heard in federal court, DOJ will file a case on behalf of the aggrieved person or organization.

## HUD's Administrative Complaints

HUD investigated 1,710 housing discrimination complaints in 2014, 171 fewer than in 2013, which is the lowest amount since HUD received additional authority to proceed with enforcement actions in the 1988 Fair Housing Amendments Act.<sup>31</sup> The downward trend in administrative complaints largely stems from HUD's increased reliance on local and state civil rights agencies funded through the FHAP program. HUD's staffing resources have also decreased as Congress has pared back domestic discretionary spending, under which HUD falls, in all federal programs to reduce the federal deficit under the Budget Control Act of 2011.<sup>32</sup>

**Figure 6. HUD Administrative Complaints: 1990-2014**



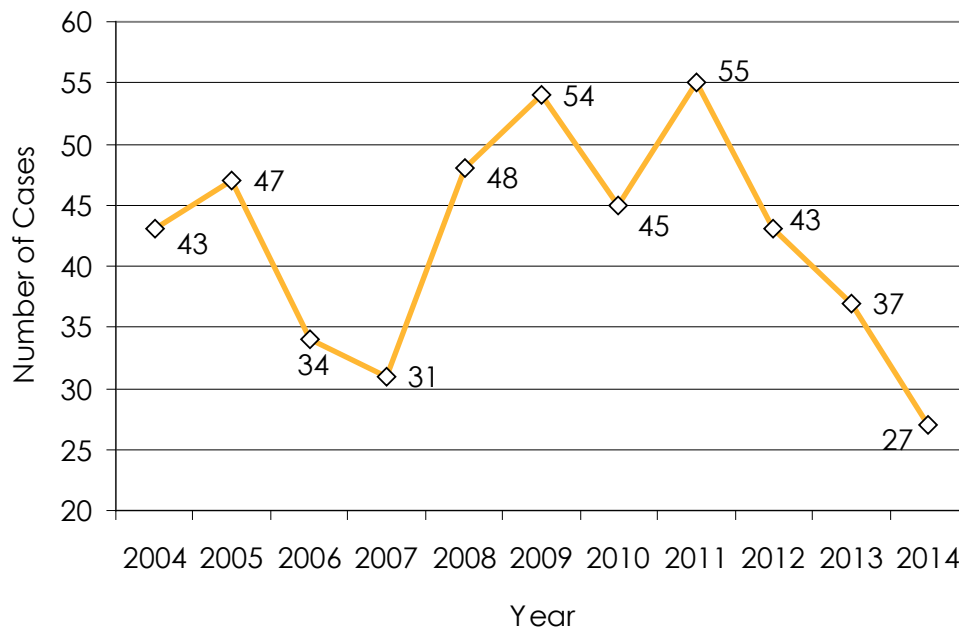
Many HUD cases are resolved through conciliation or are closed for administrative reasons. In limited cases, HUD's investigation may result in a "charge" of discrimination where there is reasonable cause to believe a violation of the Fair Housing Act has occurred. HUD issued 27 charges in 2014, 10 less than in 2013 and 16 less than in 2012. Charged cases in 2014 represent only 1.6 percent of all HUD administrative complaints. For the third year in a row, charged cases represent less than two percent of HUD complaints.

31 Pub. L. No. 100-430, Sept. 13, 1988, 102 Stat. 1619 (1988).

32 Pub. L. No. 112-25, Aug. 2, 2011, 125 Stat. 240 (2011).



**Figure 7. HUD Case Charges: 2004-2014**



According to HUD, if a complaint of alleged discrimination originates from a state or area served by a local government agency that participates in the FHAP program, HUD will refer the complaint to the local participating FHAP agency. In 2014, HUD reported data from 88 FHAP agencies it referred complaints to. Like HUD, these agencies investigate complaints and may issue a “cause” determination of probable discrimination. FHAP agencies reported 421 cause determinations in 2014, a significant increase from the 359 they reported in 2013, but still a decrease from 551 cause determinations in 2012.

HUD’s Fair Housing Act regulations require that HUD and FHAPs complete their investigations within 100 days from the initial receipt of a complaint, with exceptions for more complex cases involving real estate, mortgage or insurance discrimination.

Each year HUD and FHAP agencies have a significant number of “aged” cases for which the process has exceeded the 100 day benchmark, many of them involving delays of several years. The large number of aged cases is largely due to the historic decrease in the amount of staff resources at HUD FHEO and because of insufficient staffing at FHAP agencies. In 2014, HUD had 1,419 complaints awaiting investigation, 209 more than in 2013 and 66 more than the previous high in 2007. FHAP agencies had 3,062 cases waiting to be investigated in 2014, a significant improvement over the 3,420 aged cases in 2013. Both complainants and respondents deserve a more timely resolution of complaints.

**Table 3. HUD and FHAP Agency Case Closures in 2014**

<b>Type of Closure</b>	<b>HUD</b>	<b>FHAP</b>	<b>Total by Type</b>
Administrative Closure	274	644	918
No Cause	554	3,546	4,100
Conciliation/Settlement	506	1,439	1,945
Withdrawn after Resolution	161	961	1,122
ALJ Consent Order Entered After Issuance of Charge	7	-	7
Election to Go to Court	16	-	16
DOJ Dismissal	5	-	5
DOJ Settlement	3	-	3
FHAP Judicial Consent Order	-	119	119
FHAP Judicial Dismissal	-	58	58
Litigation – Discrimination Found	-	9	9
Litigation – No Discrimination Found	-	3	3
Administrative Hearing Ended – Discrimination Found	-	13	13
Administrative Hearing Ended – No Discrimination Found	-	8	8
<b>Total Closures</b>	<b>1,526</b>	<b>6,800</b>	<b>8,326</b>

HUD and FHAP agencies close cases either through no cause determinations, where discrimination was not corroborated on a procedural administrative basis, or through conciliation or settlement. In 2014, HUD and FHAP agencies administratively closed or made no cause determinations in 5,018 cases, 216 more than in 2013. This increase was primarily driven by an increase in both administrative closures and no cause determinations reported by FHAP agencies.

If HUD issues a charge of discrimination, and the complainant chooses to have the case heard by a HUD Administrative Law Judge, the ALJ may reach a decision in the case through a consent order. In 2014, parties in seven cases entered into an ALJ consent order, two less than in 2013 and ten less than in 2012. Through a similar process at FHAP agencies, 119 parties to a case entered into a FHAP

judicial consent order, 30 more than in 2013, and 15 less than in 2012. There are several procedural reasons for an administrative closure at HUD and FHAPs. In 2014, HUD and FHAP agencies closed 918 cases for administrative reasons compared to 869 cases in 2013. The chart below contains a breakdown of reasons for administrative closures at HUD and FHAPs.

**Table 4. HUD and FHAP Agency Administrative Case Closures in 2014**

<b>Reason for Administrative Closure</b>	<b>HUD</b>	<b>FHAP Agencies</b>	<b>Total by Type</b>
Untimely Filed	6	6	12
Dismissed for Lack of Jurisdiction	38	78	116
Unable to Locate Complainant	14	51	65
Complainant Failed to Cooperate	108	284	392
Unable to Identify Respondent	5	1	6
Complaint Withdrawn by Complainant Without Resolution	102	213	315
Unable to Locate Respondent	1	3	4
Closed Because Trial Had Begun	-	8	8
<b>Total Administrative Closures</b>	<b>274</b>	<b>644</b>	<b>918</b>

The Fair Housing Act authorizes the HUD Secretary to initiate complaints when the agency has sufficient evidence to believe that a violation of the Act has occurred or is about to occur. The HUD Secretary may also initiate a complaint when there is evidence that additional victims of discrimination have been harmed beyond the individual complainant in a case, or if HUD seeks to obtain broader relief in the housing market.<sup>33</sup>

In 2014, HUD reported 33 Secretary-initiated complaints, four less than in 2013 but still more than twice the 16 complaints in 2012. A sizeable number of these complaints involved discrimination on the basis of disability and familial status, and several involved discrimination against multiple protected classes.

HUD’s Secretary-initiated complaints most commonly alleged discriminatory advertisements, statements or notices from housing providers, refusal to rent, discriminatory terms and conditions in housing transactions, and failures to make a reasonable accommodation.

33 Annual Report on Fair Housing, Fiscal Year 2011, U.S. Department of Housing and Urban Development.

**Table 5. HUD Secretary-Initiated Complaints by Protected Class in 2014**

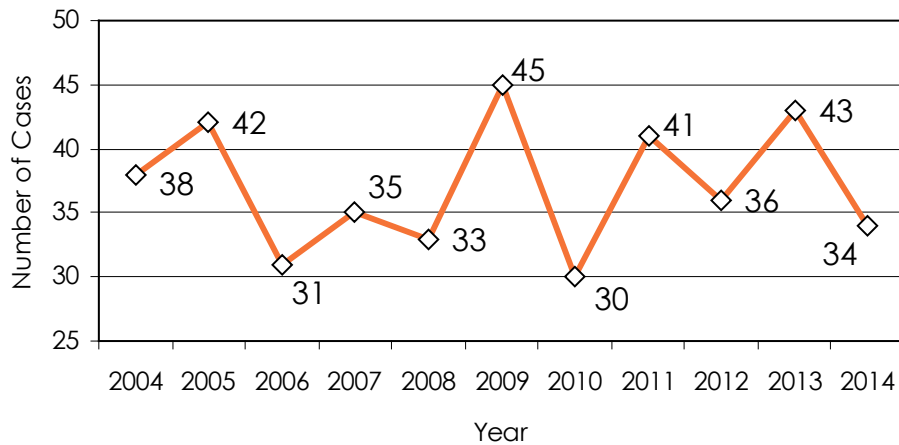
<b>Bases</b>	<b>Cases</b>
Disability	9
Familial Status	6
Familial Status + Sex	7
National Origin	2
National Origin + Sex + Retaliation Claim	1
Race	1
Race + Disability + Familial Status	1
Race + National Origin	4
Race + National Origin + Sex	1
Sex	1
<b>Total Cases</b>	<b>33</b>

**CASES REPORTED BY THE DEPARTMENT OF JUSTICE**

The Department of Justice plays a critical role in enforcing the Fair Housing Act but is limited in the enforcement actions it can take. Through its Housing and Civil Enforcement Section, the DOJ may file complaints, referred by HUD, when a complainant elects to file in federal court. DOJ may also prosecute cases involving instances in which an individual or entity has engaged in a “pattern or practice” of discrimination in the housing market, or has discriminated against a group of people to a degree that is of significant importance to the general public. Pattern or practice cases include enforcement actions taken against individuals, companies that discriminate frequently enough to establish a policy of discrimination, or in cases in which the act of discrimination has a profound impact on the housing market.

In 2014, DOJ filed 34 cases in federal court, 9 less than in 2013. Twenty-five of these involved pattern or practice claims. Among the 25 pattern or practice cases in 2014, 5 involved fair lending claims, 10 involved rental discrimination, 7 alleged design and construction violations of the accessibility provisions of the Fair Housing Act; and 1 alleged discriminatory land use and zoning by a local government.

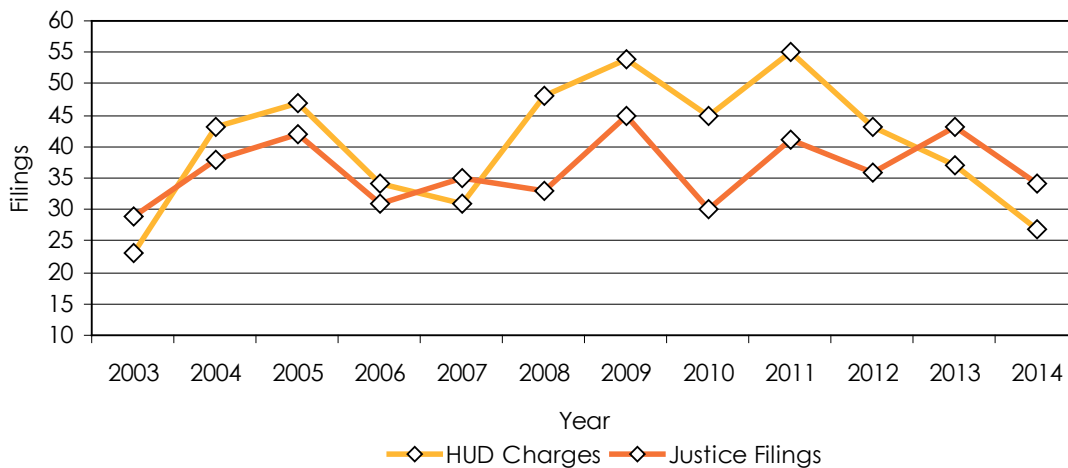
**Figure 8. Cases Filed by the Department of Justice in 2014**



In the same year, HUD achieved consent decrees, or favorable judgments, in 41 cases, 3 more than in 2013.

As has been previously noted, DOJ’s enforcement abilities under the Fair Housing Act are largely limited, partially by HUD’s issuance of charges from the complaints it has received. DOJ’s annual case filings frequently follow trends in HUD’s issuance of charges, reflecting the downward trend in HUD election cases.

**Figure 9. HUD Charges and DOJ Case Filings: 2004-2014**



## **SECTION 3: Highlights of Private and Public Fair Housing Enforcement Actions**

Each year, private, nonprofit fair housing and other organizations, HUD, and DOJ investigate and file cases of housing discrimination in the federal court and HUD administrative complaint systems. These cases often vary in the types of housing discrimination they challenge. In 2014, several notable cases highlight the persistence and variability of housing discrimination in this nation. The representative cases highlighted in this section involve discrimination in the allocation of federal disaster relief funding, racial discrimination by landlords in predominantly White neighborhoods, policies that limit the use of apartment complexes for children, mortgage redlining in neighborhoods of color, widespread discrimination against victims of domestic violence, differential treatment by landlords of people using federal and state income assistance, and lending discrimination against women on maternity leave.

### **New Jersey Hurricane Sandy Disaster Recovery Complaint Settled: Fair Share Housing Center et al. v. New Jersey**

In 2012, Hurricane Sandy struck New Jersey and New York, causing billions of dollars in damage and the displacement of residents throughout the region. The Latino Action Network, New Jersey NAACP, and Fair Share Housing Center filed a HUD complaint against New Jersey, alleging that the State had engaged in discriminatory housing practices with respect to the provision of services in its use of disaster relief funds. The complaint alleged that the administration of \$2.8 billion in HUD disaster recovery funding disproportionately prioritized homeowners over renters, who were more likely to be people of color, and failed to account for language barriers that prevented millions of Sandy victims from participating in recovery programs.

In May 2014, the parties entered into a HUD conciliation agreement which aimed to increase resources available to lower-income renters who were hit hardest by hurricane Sandy and had not returned. Specifically, the State agreed to provide \$240 million in direct assistance for lower-income housing. Among other measures, the State of New Jersey agreed to review the applications of persons who were denied disaster housing funds, provide equal access to non-English speakers (including building bilingual websites for all programs), and provide additional funds to persons with special needs who were impacted by Sandy. The

settlement helped ensure rebuilding efforts that promote integration, rather than perpetuate patterns of segregation in the region.<sup>34</sup>

**Race Discrimination Case Settlement Provides Tenants with Opportunity for Mobility: *Fair Housing Justice Center v. Kara Realty LLC (E.D.N.Y)***

In February 2014, the owners and managers of 16 apartment buildings with over 900 rental units in the Midwood section of Brooklyn agreed to pay a total of \$212,000 in damages and attorney’s fees as part of a settlement agreement resolving a race discrimination lawsuit filed by the Fair Housing Justice Center and four African American testers. The lawsuit alleged that, in the course of a testing-based investigation, the companies and their agents repeatedly lied to African Americans who inquired about apartments and told them that no apartments were available, while White applicants were shown and encouraged to rent apartments. In addition to the monetary relief, the defendants will advise tenants who now live in five of their buildings, located in predominantly African American neighborhoods, that they may receive priority consideration for apartments located in the predominantly White Midwood area. This relief affords tenants affected by the alleged discriminatory practices the opportunity to live in more integrated housing.<sup>35</sup>

**Family Settled Claim in Challenge to Apartment Complexes’ “No Playing” Rule: *Dumas v. Sunview Properties (S.D. Cal.)***

In February 2014, a federal judge ruled that Mr. Dumas had stated a claim of discriminatory intent on the basis of familial status when he filed a lawsuit against the owner of his apartment complex who maintained rules that prohibited playing with balls, bicycles, roller blades and other toys on the property and required that all kids must be supervised by an adult. Mr. Dumas asserted that on numerous occasions the apartment manager told his son and the children he was playing with that they were not permitted to play outside. Mr. Dumas ultimately settled his claims against Sunview Properties for \$35,750 in damages and attorneys fees.<sup>36</sup>

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34 For more information on the case settlement in Fair Share Housing Center et al. v. New Jersey, please see <http://fairsharehousing.org/blog/entry/settlement-reached-in-sandy-civil-rights-case/>.

35 For more information about Fair Housing Justice Center v. Kara Realty LLC, please see <http://www.fairhousingjustice.org/2014/03/05/opening-acts-newsletter-march-5-2014/>.

36 For more information about Dumas v. Sunview Properties, please see <http://law.justia.com/cases/federal/district-courts/california/casdce/3:2013cv01425/417134/13/>.

**Bank Settled “Redlining” Suit Alleging It Refused to Make Prime Mortgage Loans in Minority Neighborhoods: *City of Providence v. Santander Bank (D.R.I.)***

In May 2014, the City of Providence filed a lending discrimination lawsuit against Santander Bank, alleging the bank engaged in a pattern or practice of illegal redlining by refusing to make prime mortgage loans available in neighborhoods of color in Providence, Rhode Island. The suit alleged that since 2009, Santander’s mortgage applications and originations in communities of color declined by 60% while increasing in White communities. In November 2014, Santander agreed to provide \$1.3 million in grants to three Providence nonprofit organizations, including Rhode Island Local Initiatives Support Corporation, AS220, and the Providence Community Library. Following the settlement, the bank stated it would provide at least \$24 million in home loans for low- and moderate-income city residents over the next three years.<sup>37</sup>

**Victim of Domestic Violence Settled Housing Discrimination Claim: *HUD Conciliation Agreement between Complainant and New England Family Housing Management Organization, et al.***

In July 2014, a victim of domestic violence entered into conciliation agreements with the owners and managers of a New Hampshire rental property, resolving claims that they discriminated on the basis of sex when they refused to rent to her because she was a victim of domestic violence. The complaint alleged that the owners and managers of an apartment complex refused to renew the lease of the woman because of police visits in response to domestic violence reports. The respondents participated in fair housing training and revised their policies and leases to comply with the Violence Against Women Act.<sup>38</sup>

**Real Estate Companies Settled Allegations They Discriminated Against Tenants Using Subsidies From the HIV/AIDS Services Administration: *Chacon v. LeFrak Organization, Inc. (S.D.N.Y.)***

In August 2014, two New York real estate companies agreed to pay \$262,500 as part of a settlement resolving claims that they discriminated against a housing

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37 For more information on *City of Providence v. Santander Bank*, please see <https://www.providenceri.com/mayor/providence-mayor-angel-taveras-announces-lawsuit>.

38 For more information on this case, please see [http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2014/HUDNo\\_14-089](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2014/HUDNo_14-089).

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applicant who had AIDS, on the basis of disability and source of income. The Fair Housing Justice Center and Lorelei Chacon, who has AIDS, filed a lawsuit against the LeFrak Organization and Estate NY Real Estate Services LLC. An investigation revealed that the defendants operated a dual and discriminatory rental system in which prospective renters with government subsidies were subjected to different and more onerous procedures for obtaining apartments; and applicants who used rental subsidies from the HIV/AIDS Services Administration were unable to rent apartments operated by LeFrak. Under the terms of the settlement, the defendants adopted an equal housing opportunity policy and distributed it to all their employees who were also required to participate in fair housing training. The defendants also may no longer require applicants who receive public assistance to follow a different application process from other applicants and will not use a special waiting list for recipients of public assistance.<sup>39</sup>

**Discriminatory Ordinance Pressuring Landlords to Evict Domestic Violence Victim Repealed: *Briggs, et al. v. Norristown, Pennsylvania* (E.D. Pa.)**

In September 2014, the ACLU of Pennsylvania and Lakisha Briggs settled a lawsuit alleging that Norristown, Pennsylvania, discriminated against women by enacting an ordinance and a revised ordinance holding landlords responsible for the behavior of their tenants and urging them to evict tenants cited for disorderly conduct, or risk losing their rental licenses. The lawsuit alleged that the ordinances had a disparate impact on women who are victims of domestic violence, and that it violated the federal Violence Against Women Act that protects a woman’s housing rights. Under the agreement, Norristown paid \$495,000 in compensation and attorneys’ fees to Ms. Briggs. It also repealed its ordinance and promised not to pass another law that would punish residents and landlords as a result of requests for emergency assistance. Under a separate conciliation agreement with HUD, Norristown agreed to publish a notice of repeal of the ordinance in the local newspaper, conduct fair housing training for city officials, distribute a fair housing rights brochure that specifically encourages tenants to call the police when they need help and work with a local domestic violence advocacy group.<sup>40</sup>

39 Complaint available at <http://www.fairhousingjustice.org/wp-content/uploads/2013/12/LeFrak-Complaint-4-25-2013.pdf>.

40 For more information on *Briggs v. Norristown*, please see [http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2014/HUDNo\\_14-124](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2014/HUDNo_14-124).

**Families Denied Loans While on Maternity Leave Settled Discrimination Complaint: Conciliation Agreement between HUD and Wells Fargo Bank, et al.**

In October 2014, Wells Fargo Home Mortgage agreed to pay \$5 million as part of a settlement resolving claims that it discriminated against pregnant borrowers and women on maternity leave. Under the terms of a conciliation agreement, Wells Fargo paid \$160,000 to six families from across the country—including Arizona, California, Nevada, Nebraska, and Texas—who filed complaints with the agency. The complaints included allegations that Wells Fargo discriminated by making loans unavailable based on sex and familial status, by forcing women applicants to sacrifice their maternity leave and return to work prior to closing on their loan, and by making discriminatory statements to and against women who were pregnant or who had recently given birth. Under the agreement, Wells Fargo also deposited \$3.5 million into a compensation fund to pay monetary claims filed by other individuals. In addition, Wells Fargo established new underwriting guidelines that comply with the Fair Housing Act and agreed to provide its employees with fair housing training.<sup>41</sup>

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41 For more information on the settlement between HUD and Wells Fargo, please see [http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2014/HUDNo\\_14-124](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2014/HUDNo_14-124).

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## **SECTION 4: Policies Affecting Housing Opportunity in America**

Protecting the ability of every American to access housing of their choice and the resulting life opportunities is the long, but necessary, path laid out by the Fair Housing Act. While our nation has made great progress in achieving the goals of the Act, several key policy developments and deficiencies must be acted upon to continue this progress. Key rights provided by the Fair Housing Act and sustained in fair housing jurisprudence are under attack, and access to homeownership for people of color is at a 20-year low. At the same time, HUD’s proposed AFFH rule has great potential to meet unmet housing needs in jurisdictions around the country. Of critical importance is the state of our nation’s fair housing enforcement infrastructure, where federal funding has declined. This section lays out these policy areas most in need of attention.

### **Protecting Housing Fairness: The Disparate Impact Doctrine at Stake**

The Fair Housing Act aims to eliminate acts of housing discrimination and makes it the policy of the United States to promote residential integration. To achieve these goals, it is not enough to address intentional discrimination. We must also eliminate unjustified housing policies and practices that have a negative impact on people protected under the Act. Congress, with the passage of the Act in 1968 and the Fair Housing Amendments Act in 1988, intended to protect Americans from all forms of housing discrimination, including actions that have the effect of disproportionately denying housing based on a protected basis.<sup>42</sup>

For nearly as long as the Act has been in place, Americans have been able to challenge the outcomes of discriminatory housing policies or practices using what is known as the disparate impact doctrine. These policies are often not intentionally discriminatory, although some may be a method of achieving a discriminatory outcome while concealing a discriminatory intent. The disparate impact doctrine allows individuals to challenge facially neutral policies that have a discriminatory outcome. Housing providers have the opportunity to choose policies that apply

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42 Brief of Current and Former Members of Congress as Amici Curiae in Support of Affirmance, *Texas Dept. of Hous. and Comm. Affairs, et al. v. The Inclusive Comm. Project, Inc.*, Dec. 23, 2014.

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fairly to everyone. If a neutral policy has a discriminatory outcome, the policy must be changed to a less discriminatory alternative that also meets the legitimate business needs of the housing provider.

The disparate impact doctrine allows Americans to challenge unfair systems and it has been used to confront discriminatory policies such as:

- “Zero-tolerance” against violence provisions in rental leases that result in the eviction of survivors of domestic violence, most of whom are women, if an act of violence is committed by their abuser on the premises;
- “One-child-per-bedroom” policies that force families with children to unnecessarily pay more for multi-bedroom apartments or force them to look elsewhere; and,
- Residency restrictions by public housing authorities (PHA) in predominantly White communities that require applicants for public housing programs to be a resident in the PHA’s service area, keeping potential African American, Latino, and Asian American families from moving to those communities.

The disparate impact doctrine has been widely accepted by 11 federal circuit courts as a legitimate means to challenge discrimination, and HUD has issued regulations laying out the standards under which disparate impact claims can be brought.<sup>43</sup> However, in January 2015, the Supreme Court heard arguments in a case challenging the viability of disparate impact claims under the Fair Housing Act in *Texas Dept. of Hous. and Comm. Affairs, et al. v. The Inclusive Comm. Project, Inc.* The Court is set to issue its decision by June 2015, in which it will determine whether or not Americans have the opportunity to challenge discriminatory housing practices and if housing providers should choose fair policies.

## **Aligning Federal Programs with Fair Housing Goals**

In addition to prohibiting discrimination in housing, the Fair Housing Act also promotes the creation of diverse, inclusive communities with equal access to community resources such as good schools, transportation and jobs, and healthy environments, among others. To accomplish this goal, the Fair Housing Act explicitly requires that federal housing and community development programs affirmatively advance fair housing and expand opportunity, or “affirmatively further fair housing” (AFFH), regardless of race, color, religion, national origin, family status, disability, and gender.

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43 78 Fed. Reg. 11460-11482 (Feb. 15, 2013).

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HUD’s current AFFH regulations instruct its grantees—cities, counties, states, public housing authorities (PHAs) and community redevelopment agencies—to: identify existing barriers to housing choice in a document called an Analysis of Impediments (AI), take steps to overcome the identified barriers, and document those activities. Little other guidance has been provided to jurisdictions on how to advance the purpose of the Fair Housing Act through their implementation of federal programs, and HUD does not routinely review the AIs or compliance measures of its grantees.

In 2010, the Government Accountability Office (GAO) studied HUD’s process for monitoring fair housing compliance. The GAO found significant deficiencies in the majority of AIs it reviewed and attributed those deficiencies to insufficient guidance and oversight from HUD. The GAO recommended that HUD issue regulations requiring grantees to update their AIs periodically, using a specific format, and establish a process for reviewing them.<sup>44</sup>

In response to GAO’s report, HUD issued proposed regulations in 2013 to assist its grantees in meeting their fair housing obligations.<sup>45</sup> HUD’s proposed rule provides a better structure and process for ensuring that jurisdictions and PHAs are meeting their fair housing obligations through a new planning process known as an Assessment of Fair Housing (AFH). HUD’s proposed process will provide its grantees and the public with demographic data on their jurisdictions, information concerning the available housing stock, and a variety of other community characteristics. This also includes a mapping tool to enable users to see how various patterns play out geographically across their communities.<sup>46</sup>

In addition to the data tools HUD plans to provide, jurisdictions conducting an AFH will have the benefit of a template to guide their analyses, helping them focus on patterns that determine access to opportunity. These include patterns of segregation and concentrated poverty, access to community assets such as quality transportation and schools, exposure to environmental and other health hazards, and groups that have disproportionate housing needs.<sup>47</sup> Upon completing an

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44 GAO-10-905, “Housing and Community Grants: HUD Needs to Enhance its Requirements and Oversight of Jurisdictions’ Fair Housing Plans”, U.S. Government Accountability Office, September, 2010.

45 78 Fed. Reg. 43710; Docket No. FR-5173-P-01.

46 79 Fed. Reg. 57949; Docket No. FR. 5173-N-02.

47 The proposed rule defines “disproportionate housing needs” as follows: “Disproportionate housing needs exists when the percentage of extremely low-income, low-income, moderate-income, and middle-income families in a category of housing need who are members of a protected class is at least 10 percent higher than the percentage of persons in the category as a whole. For this purpose, categories of housing need are cost burden and severe cost burden, overcrowding (especially for large families).” (See 78 FR 43730).

analysis, jurisdictions are asked to set priorities among the barriers to fair housing they have identified and establish one or more goals to address those barriers. Jurisdictions must also consult with local residents and incorporate community input. This ensures that the community has a voice in the fair housing planning process, and that each jurisdiction's AFH reflects local conditions, concerns and capacity.

HUD's proposed rule will help better align federal housing and community development investments with their intended outcomes, providing jurisdictions with the tools necessary to grow opportunity in their communities. By synchronizing the AFFH process with the Consolidated Planning process, which lays out its plans for spending Community Development Block Grant (CDBG) and other federal funding for a five-year period, HUD's forthcoming regulation will help chart out a path to better life outcomes in every community.

## **Federal Investment in Addressing Housing Discrimination is Lacking**

The Fair Housing Act was passed in 1968 to prohibit housing discrimination and historic residential segregation, protecting against discrimination based on race, color, religion, national origin, sex, familial status and disability. However, the Fair Housing Act as originally passed in 1968 failed to provide an effective system for enforcement. HUD was largely powerless to resolve complaints, and victims often opted to go through expensive state or federal litigation or not complain about discrimination at all. Congress recognized these significant gaps<sup>48</sup> in the late 1980s and passed the Fair Housing Initiatives Program in 1967 to support private fair housing enforcement efforts. It also passed the Fair Housing Amendments Act in 1988, which provided additional protections and authorized HUD to investigate and conduct enforcement actions when appropriate.

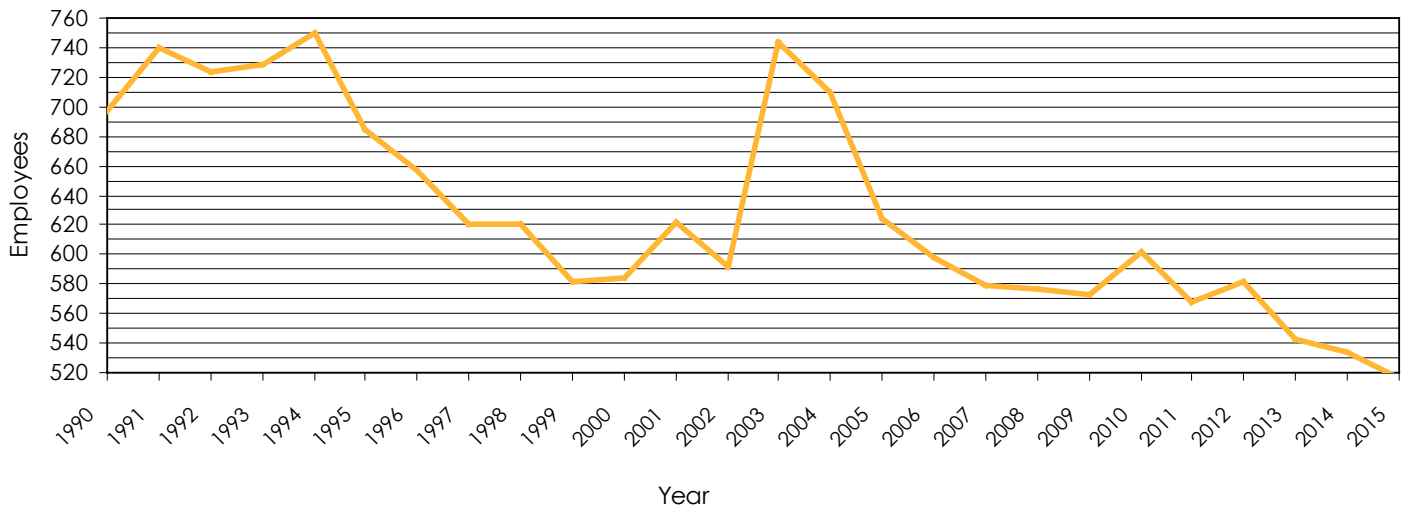
### Understaffing at HUD's FHEO Remains an Important Concern

HUD's Office of Fair Housing and Equal Opportunity (FHEO) is responsible for enforcing the Fair Housing Act and many other laws as outlined in Section II. HUD has the authority to investigate and take enforcement actions and to refer housing discrimination complaints to the Department of Justice. FHEO employees also develop regulations to implement the Fair Housing Act. These critical services

48 H.R. Rept., No. 711, 100th Cong., 2d Sess. at 12, 16, reprinted in 1988 U.S. Code Cong. & Adm. News 2174, 2177.

give all victims of housing discrimination access to justice and promote the goals of the Fair Housing Act. Unfortunately, HUD's resources for FHEO staff to carry out the Fair Housing Act have declined consistently and are at the lowest level since the 1988 Amendments were enacted.

**Figure 10. HUD FHEO Full-Time Staff: 1990-2015**



HUD's Office of FHEO has historically been understaffed, making it difficult to enforce the Fair Housing Act. This has increased the number of aged cases, delaying justice for victims of discrimination and resolution for respondents. Congress' failure to address understaffing at FHEO also threatens the success of HUD's AFFH regulation, which is set for release in 2015.

In 2008, the bipartisan National Commission on Fair Housing and Equal Opportunity, led by former HUD Secretaries Jack Kemp and Henry Cisneros, recommended at least 750 full time equivalent (FTE) employees to effectively administer the Fair Housing Act, just for the caseload of complaints at the time. Congress in FY2015 provided funding for only 516 FTE FHEO employees, the lowest amount since HUD received additional enforcement authority in the 1988 Amendments. With the release of the new AFFH rule, FHEO's responsibilities will expand significantly, making the number of employees currently in FHEO entirely inadequate to fulfill the Department's fair housing responsibilities.

## Fair Housing Initiatives Program Funding is Insufficient

The Fair Housing Initiatives Program (FHIP)<sup>49</sup> is a competitive grant program composed of three primary grant categories: Education and Outreach Initiative (EOI) to support education of the general public about their fair housing rights and train housing providers to understand their fair housing responsibilities; Private Enforcement Initiative (PEI) to support fair housing groups' testing, complaint intake, investigation and conciliation efforts; and the Fair Housing Organizations Initiative (FHOI) which is intended to build the capacity and efficacy of private fair housing groups and funds the creation of new organizations.

Together with HUD's fair housing authority, FHIP funding is necessary to ensure Americans have their choice of housing, free from discrimination. As Raphael Bostic, former Assistant Secretary for Policy Development and Research at HUD, said in a study of FHIP in 2011, "FHIP funding is a critical component of the U.S. civil rights enforcement infrastructure."<sup>50</sup> The federal government relies on FHIP-funded fair housing organizations to strategically enforce the Fair Housing Act. According to HUD, 71 percent of the cases in which a FHIP organization is a complainant result in conciliation or a cause finding versus 37 percent of non-FHIP referred cases,<sup>51</sup> making it a highly successful federal investment in addressing housing discrimination.

The demand by fair housing organizations for FHIP grants far outweighs the available funds: in FY2009, for example, when \$27.5 million in funding was available, eligible and qualified organizations applied for a total of \$75.4 million. Fortunately, Congress increased FHIP to \$42.5 in FY2010 and has kept it above \$40 million since then. But these levels still provide a much smaller amount of funding than is necessary to effectively monitor local housing markets or address the overall incidence of housing discrimination.

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49 FHIP is authorized under Section 561 of the Housing and Community Development Act of 1987, Pub. L. No. 100-242, 101 Stat. 1942 (codified as amended at 42 U.S.C. § 3616 (2006)).

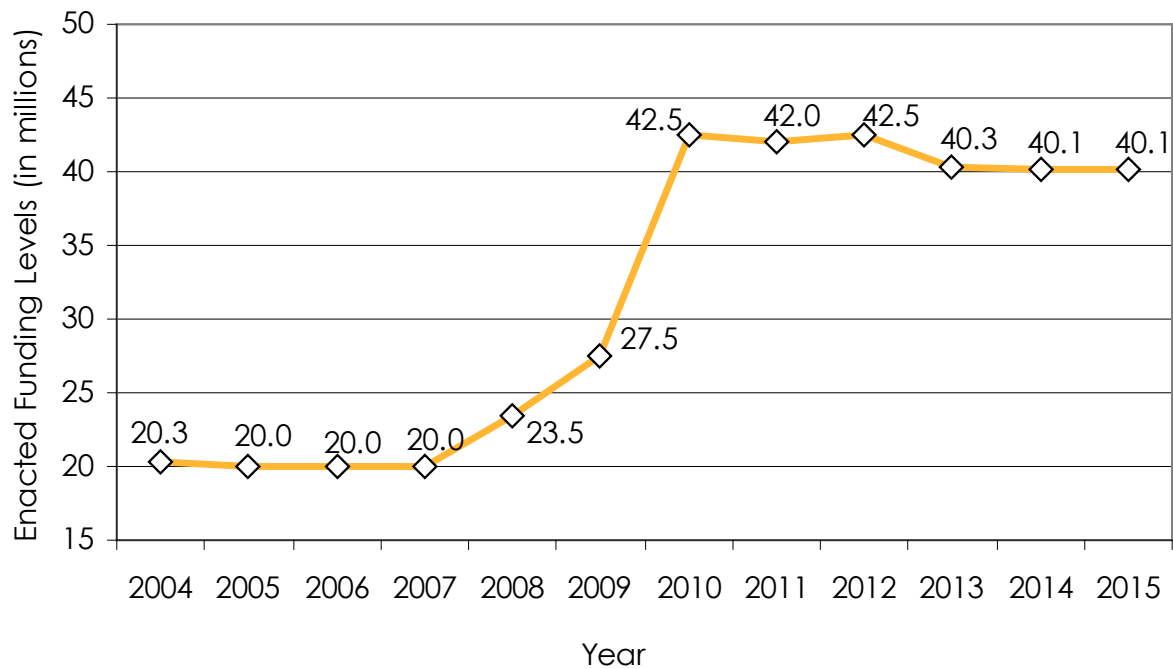
50 Study of the Fair Housing Initiatives Program, U.S. Department of HUD, May 2011.

51 Ibid.

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**Figure 11. Fair Housing Initiatives Program (FHIP) Funding: FY 2004-2015**



In FY2014, HUD awarded FHIP grants to more than 100 private fair housing and other qualified nonprofit organizations in 40 states and the District of Columbia. Unfortunately, current funding levels are nowhere near the level necessary to better address housing discrimination in areas that have a FHIP organization, or to create and sustain new private fair housing organizations in cities and states where they do not exist.

### The Impact of Restricted Credit Access

Access to credit has been severely restricted since the financial crisis, particularly for borrowers of color and in neighborhoods of color. Home purchase loan originations have decreased by more than 40 percent from 2001 levels<sup>52</sup>, with even greater declines in African American and Latino communities (see Table 8). The drop in lending to borrowers of color is a disturbing trend. Not only is it slowing the current economic recovery, but if this lending pattern continues, it will have even greater implications in the future, as these households represent the future of the housing market. Seven of ten new households formed between 2013 and 2023 will be households of color.<sup>53</sup> If these households are unable to

52 Parrott, Jim; Zandi, Mark, "Opening the Credit Box", Moody's Analytics and Urban Institute, September 30, 2013. Available at: <https://www.economy.com/mark-zandi/documents/2013-09-29-Opening-the-Credit-Box.pdf>.

53 The State of the Nation's Housing 2013, Joint Center for Housing Studies of Harvard University, 2013.

get mortgages and purchase homes, the housing market will be hobbled.

This is a bit of history repeating itself. In the aftermath of the Great Depression, two government-sponsored entities created to stabilize the mortgage market, the Home Owners Loan Corporation and the Federal Housing Administration (FHA), established policies to redline communities of color. Now, in the aftermath of the Great Recession, two of the major government-sponsored enterprises (GSEs) created to provide liquidity to the mortgage market—Fannie Mae and Freddie Mac—are failing to serve Latino and African American communities, despite representing almost all of the conventional mortgage financing in today’s market. And the timing couldn’t be worse. Home prices and interest rates have been at all-time lows recently, which should provide a great opportunity for new borrowers, including borrowers of color, to enter the market.<sup>54</sup> Instead, borrowers of color have been largely locked out of the opportunity to buy homes and build wealth through homeownership. This helps to fuel this country’s ever growing racial and ethnic income and wealth disparities.

### Reasons for Market Constriction

Researchers at the Urban Institute estimate that if loan levels were where they should be, approximately 1.2 million additional loans would be originated annually.<sup>55</sup> The drop in loan originations has been keenly felt by African American and Latino communities. In 2001, African Americans, who represent about 13 percent of the population, received 5 percent of conventional loans. By 2012, it had dropped to 2 percent. Latino borrowers, 17 percent of the US population, represented 8 percent of conventional borrowers in 2001 and only 4.5 percent in 2012.<sup>56</sup>

A major reason for this decline has been the higher lending standards being used by lenders who are concerned that, if they make loans that go bad, the lenders will be forced to buy those loans back from the investors who purchased them, a costly mistake. Many of the lenders that made subprime and other unsustainable loans during the boom years later were forced to buy those loans back at great expense. To avoid a repeat of that problem, some lenders are being overly cautious about the credit standards they are using now — tightening the so-called

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54 According to 2013 HMDA data, 74.7 percent of all 1st-lien owner-occupied loans purchased by Fannie Mae and Freddie Mac were to made to White borrowers. Conversely, less only 2 percent, 5.5 percent, and 8.6 percent of all GSE-purchase loans were made to African American, Latino, and Asian borrowers respectively.

55 Goodman, Zhu and George, “Where Have All the Loans Gone? The Impact of Credit Availability on Mortgage Volume”, Urban Institute, March, 2014. Available at: <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413052-Where-Have-All-the-Loans-Gone-The-Impact-of-Credit-Availability-on-Mortgage-Volume.PDF>.

56 Benson, 2014.

“credit box” — in an attempt to reduce their risk of liability for loans that may go into default. Thus, instead of lending to the full credit box allowed by the GSEs and FHA, lenders are raising the floor on credit scores and lowering the ceiling on loan-to-value ratios.

This dynamic is leading many lenders to over-rely on credit scores and Loan-to-Value (LTV) ratios in their lending decisions. These two factors have strong correlations with race and ethnicity. The average credit score for home purchase loans being originated today is much higher than it was in 2001, a period prior to when very loose loan underwriting practices took effect. The average credit score for loans purchased by Fannie Mae and Freddie Mac had increased to 766 by June, 2013, 50 points higher than the average score in 2001.<sup>57</sup> This is disturbing, considering that the average credit score for U.S. consumers is roughly 700.<sup>58</sup> It used to be that a borrower with a credit score of 620 was considered a prime borrower, but in today’s market almost no one with a credit score of 620 or below is receiving a mortgage. The steep increase in the average credit score is deeply troubling, especially when one considers that a borrower with a credit score of 700 today is a much less risky borrower than a borrower with the same credit score pre-crisis.<sup>59</sup> This increase is even more disturbing when one considers the impact on borrowers of color.

On average, African Americans and Latinos have lower credit scores than do White consumers. There are multiple reasons for this, many of them linked to historical and current discriminatory patterns in the housing and financial marketplace as well as the use of credit scoring models that were developed more than a decade ago. The predominant credit scoring systems used by the GSEs, FHA and financial institutions in mortgage loan underwriting and pricing have a discriminatory and disparate impact on people and communities of color, primarily because the systems were not built utilizing data that appropriately accounts for the way consumers of color access credit.<sup>60</sup> Moreover, these credit scoring systems are designed to disadvantage consumers who use non-traditional credit, a factor that

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57 Parrott and Zandi, 2013.

58 Ibid.

59 Borrowers with solid credit scores have either maintained or obtained them through the particularly difficult period of the Great Recession that saw record unemployment levels, foreclosure rates, job closings and under-employment levels. Moreover, changes in the mortgage market due to the passage of the Dodd Frank Consumer Protection and Wall Street Reform Act have placed restrictions on abusive, predatory and unsustainable mortgages which were abundant in the period leading up to the crisis. Many of the loan features that helped spur the financial crisis have been eliminated by the Qualified Mortgage and Qualified Residential Mortgage requirements put into place to comply with the Dodd Frank Act.

60 Rice, Lisa; Swesnik, Deidre, Discriminatory Effects of Credit Scoring on Communities of Color, Suffolk University Law Review, December, 2013. Available at: <http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=yg7AvRgwh%2f4%3d&tabid=3917&mid=5418>.

disproportionately harms borrowers of color.<sup>61</sup> Indeed, researchers estimate that if the lending industry had been using more appropriate and up-to-date credit scoring models, an additional four million home loans would have been originated between 2009 and 2013, and lending to African Americans and Latinos would have increased by roughly 33 percent over the period — all without loosening credit standards.<sup>62</sup>

Just as the average credit score for mortgage loans has increased significantly, the average LTV ratio of purchase loans has decreased since the crisis, meaning that borrowers must make larger down payments in order to qualify for a mortgage. This is happening despite the lack of any overwhelming evidence that high LTV (low down payment) loans pose an unacceptable level of risk. Fannie Mae and Freddie Mac have increased the fees they charge to purchase loans with higher LTVs.<sup>63</sup> The requirement to make higher down payments to obtain a mortgage has a disproportionate negative impact on borrowers of color who have less wealth than White borrowers. In fact, the Mortgage Bankers Association’s analysis of Census Bureau data reveals that Latino and African American borrowers rely more heavily on high LTV lending, in part due to the lack of inter-generational wealth that these borrowers possess. When lenders restrict high LTV lending, it can be crippling for communities of color. But data reveals that restricting high LTV lending does not yield significant gains in loan quality.<sup>64</sup> Indeed, it might be far better for borrowers to place a lower down payment but have larger reserves, than to deplete their cash reserves by making larger down payments.

### How Credit Restriction Harms Communities of Color

Communities that cannot access credit are essentially communities without investment, without opportunity, and without hope. Without affordable, sustainable loans, housing cannot be built, businesses cannot be developed, trade is stifled,

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61 Ibid.

62 Carr, James; “Outdated Credit Scoring Models Shut Minorities Out Of Housing Market”, Forbes, April 9, 2015. Available at: <http://www.forbes.com/sites/janetnovack/2015/04/09/outdated-credit-scoring-models-shut-minorities-out-of-housing-market/>.

63 See Loan Level Pricing Adjustment Matrices for both Fannie Mae and Freddie Mac at: <https://www.fanniemae.com/content/pricing/llpa-matrix.pdf> and <http://www.freddiemac.com/singlefamily/pdf/ex19.pdf>.

64 In 2012, A coalition, working on mortgage issues, comprised of over 20 organizations including the National Association of Realtors®, National Fair Housing Alliance, National Housing Conference, and the Mortgage Bankers Association issued a deck entitled “Impact of QRM” in response to the regulatory agencies’ proposed Qualified Mortgage Rule. Analysis of data from the Federal Housing Finance Agency revealed that removing the proposed requirement of higher down payments for QRM loans would significantly increase lending levels, particularly for communities of color, and would result in 90 day delinquency rates well below 2%.

housing prices stagnate or decline, employment opportunities are crippled, people cannot access important amenities and services like quality foods and healthcare and inhabitants cannot build or develop wealth. In short, when communities cannot obtain affordable, sustainable loans, local economies cannot grow; they wither and community residents become disempowered.

Unfortunately, communities of color have not been able to share fully in the recovery from the Great Recession because they have not had access to capital. While it does not make sense to leave millions of people out of the economic expansion our country is experiencing, that is precisely what is happening.

The share of mortgage loans to African Americans dropped precipitously from 6 percent in 2001 and 8 percent in 2005 to 4.8 percent in 2012, representing a 55 percent decrease in purchase origination loans from 2001 to 2012. Likewise, the share of loans to Latinos dropped from 8.85 percent in 2001 and 13.3 percent in 2005 to 8.6 percent in 2012, an overall decrease of 45 percent. In 2001, Latino borrowers received 430,043 purchase loans. In 2012, that number dropped to 236,507. In 2001, African-Americans received 292,944 purchase loans. That number dropped to 131,470 in 2012. Comparatively, in 2001, 3,311,645 purchase loans were made to Whites. That number decreased by 41 percent to 1,953,021 in 2012. In 2001, 184,541 purchase loans were made to Asian borrowers. In 2012, that number decreased to 131,470.

**Table 6. Purchase Origination Volume by Race and Ethnicity**

	<b>White</b>	<b>Latino</b>	<b>African</b>	<b>Asian</b>	<b>Other</b>	<b>Total</b>
2001	3,311,645	430,043	292,944	184,541	637,907	4,857,080
2005	4,670,848	986,206	592,559	380,647	773,942	7,404,202
2012	1,953,021	236,507	131,470	156,662	263,942	2,741,602
Difference, '01-'12	-1,358,624	-193,536	-161,474	-27,879	-373,965	-2,115,478
% Change, '01-'12	-41%	-45%	-55.1%	-15.1%	-58.6%	-43.6%

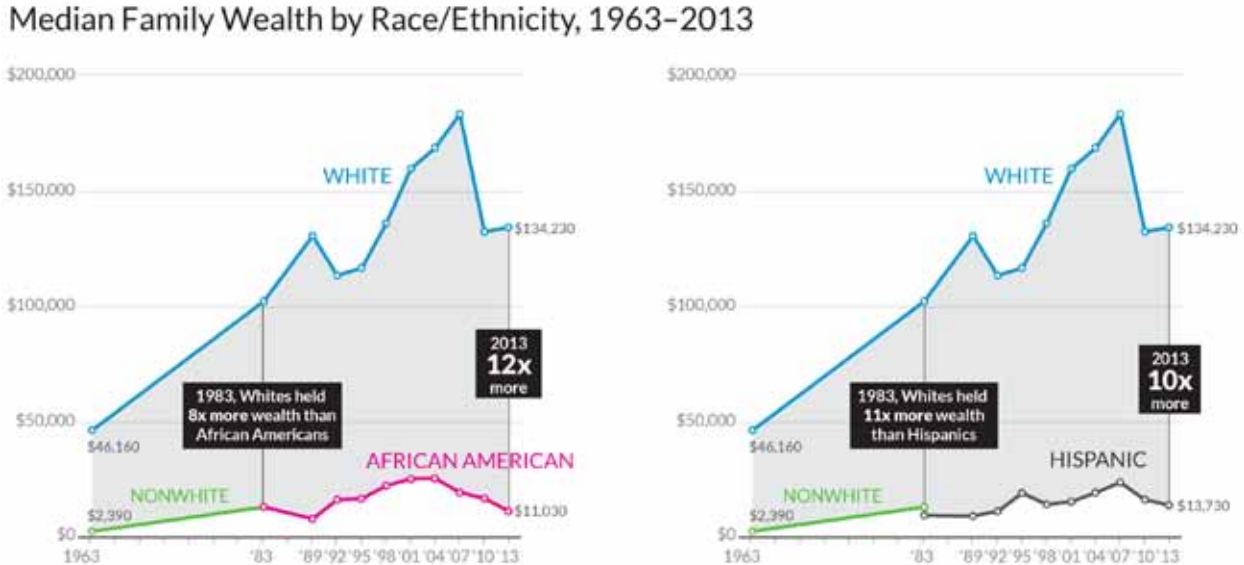
Source: HMDA and Urban Institute calculations.<sup>65</sup> Table modified from the original published by the Urban Institute.

Note: Includes all purchase loans, not limited to first liens. Volume measured by loan count.

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 65 Table borrowed from Urban Institute report entitled: "Where Have All the Loans Gone? The Impact of Credit Availability on Mortgage Volume", by Laurie Goodman, Jun Zhu and Taz George and published by the Urban Institute, March, 2014. Available at: <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413052-Where-Have-All-the-Loans-Gone-The-Impact-of-Credit-Availability-on-Mortgage-Volume.PDF>.  
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One of the most harmful effects of the lack of credit access is the continued wealth disparity between Whites and persons of color. Research shows that “minority”-owned businesses pay higher interest rates, receive smaller loans and experience higher rejection rates than do White-owned businesses.<sup>66</sup> As the chart below from the Urban Institute depicts, African American median wealth, worth roughly \$11,000, is at about the same level that it was in 1983. Latino median wealth, at \$13,700, is at about the same level that it was in 1993. Comparatively, the median wealth of Whites has increased by roughly \$32,000 since 1983. White median wealth is 12 times greater than African American wealth and 10 times greater than Latino wealth.<sup>67</sup>

**FIGURE 12: Median Family Wealth by Race/Ethnicity: 1963-2013**



Sources: Urban Institute calculations from Survey of Financial Characteristics of Consumers 1962 (December 31), Survey of Changes in Family Finances 1963, and Survey of Consumer Finances 1983-2013.

The decline in wealth for African Americans and Latinos is largely attributable to the decline in homeownership levels and housing values these communities have experienced since the Great Recession. Indeed, many communities of color have morphed from neighborhoods with high levels of homeownership into rental and investor neighborhoods. According to the U.S. Census Bureau, the 2014 homeownership rates for African Americans, Latinos and Whites were 42.1

66 Bates, Timothy; Robb, Alicia, “Minority-Owned Businesses Come Up Short in Access to Capital: It’s Time to Change the Equation for MBEs”, *Forbes*, July, 13, 2012. Available at: [http://www.forbes.com/sites/kauffman/2012/07/30/minority-owned-businesses-come-up-short-in-access-to-capital-its-time-to-change-the-equation-for-mbes/#\\_ftn1](http://www.forbes.com/sites/kauffman/2012/07/30/minority-owned-businesses-come-up-short-in-access-to-capital-its-time-to-change-the-equation-for-mbes/#_ftn1).

67 McKernan, Signe-Mary; Ratcliffe, Caroline; Steuerle, C. Eugene; Kalish, Emma; Quakenbush, Caleb, “Nine Charts about Wealth Inequality in America”, Urban Institute, February, 2015. Available at: <http://datatools.urban.org/Features/wealth-inequality-charts/>.

percent, 44.5 percent and 72.3 percent respectively.<sup>68</sup> Homeownership rates for Latinos and African Americans are lower than 1998 levels.<sup>69</sup>

In addition to the decrease in homeownership rates for African Americans and Latinos, homeowners in these communities have not seen their housing values recover since the drastic depreciation of home values brought on by the crisis. According to the National Urban League and Zillow, home values in Latino communities have declined by an average of 46 percent, while those in African American communities have declined by 32 percent.<sup>70</sup> This compares to a drop of 24 percent for White and 20 percent for Asian communities, respectively. This translates to a significant loss of household wealth.

The severe decline in housing value has led to another major barrier to lending in communities of color—the inability to secure qualified comparables to use in appraisals to establish the value of the home that is being purchased. When a borrower is borrowing money to buy a home, the lender wants to be assured that the home can be sold for enough money to pay back the loan if the borrower should default. Appraisers determine a home’s value by looking at other similar homes in the neighborhood. They assess the value of the home being purchased based on the current fair market value of other homes that are just like it or substantially similar. If the appraiser finds a sufficient number of comparables (usually three) to support the house’s value, then the lender has confidence that the home represents adequate collateral for the mortgage. However, if the appraiser cannot demonstrate that the property has sufficient value to support the loan, the loan will be denied due to a “lack of collateral.”

Lack of collateral has become a serious issue for communities of color, which were hardest hit by the foreclosure crisis. An analysis of HMDA data, performed by NFHA, reveals that insufficient collateral accounted for 13 percent of the Denial 1 codes and 15 percent of the Denial 2 codes for all U.S. purchase loan applications made in communities of color in 2013.<sup>71</sup>

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68 Callis, Robert; Kresin, Melissa, “Residential Vacancies and Homeownership in the Fourth Quarter 2014”, U.S. Census Bureau News, January 29, 2015.

69 See more discussion about homeownership levels in this report under the section on Affirmatively Furthering Fair Housing.

70 Olsen, Skylar; Curnutte, Katie; Gudell, Svenja; Lightfeldt, Alan; Hopkins, Cory; Humphries, Stan; Salama, Camille; Tuman, Diane, “A House Divided: How Race Colors the Path to Homeownership”, Zillow and the National Urban League, January, 2014. Available at: <http://www.zillow.com/research/minority-mortgage-access-6127/>.

71 NFHA conducted the HMDA analysis using Lending Patterns® data assessing loan applications reported by all lenders who submitted 2013 HMDA data. Loans were restricted to all conforming and jumbo loan purchase applications submitted by all borrowers for owner-occupied 1-4 family dwelling units. All such loan applications made on qualified housing units in census tracts ≥ 60% “minority” were included in the analysis. The top two listed Denial 1 Codes for this category of loan applications were debt-to-income ratio (21%) and credit history (16%). However, the largest percentage (24%) of the Denial 1 Code data was missing or unreported by lenders submitting the information.

Lenders also cite concerns about the increased cost of servicing poorly-performing loans as a reason for further constricting credit scores. Lenders are reluctant to lend to people with lower credit scores because they are concerned about the cost of servicing loans that are in default. Lenders strongly link credit score to loan performance. But this concern increases the over-reliance on credit scores, a mistake that preceded the crisis. Instead, financial institutions must focus on other risk assessment criteria to better gauge loan performance. There are many factors that affect loan performance: loan type, loan features, appraisal accuracy, residual income, quality of underwriting documentation, servicer quality and more. Placing such a heavy reliance on a borrower's credit score will not only unnecessarily restrict credit access, it will stifle the ability of the market to create new tools and technologies to better gauge all of the components that affect loan performance. Credit score is not the panacea and by placing all of our eggs in a "credit score" basket, we limit our ability to innovate and develop important resources that will expand credit access, lead to healthier markets and strengthen our economy.

The constricted credit market has made it very difficult for many borrowers to get mortgages, and the lower levels of lending in communities of color contribute to the decreasing homeownership levels in these neighborhoods. They have also helped to make cash kings in the home purchase market. Loan origination barriers coupled with the extended time it takes to close on a mortgage loan have increased the lure of cash buyers. In contrast, borrowers who need to obtain financing to purchase a home are less attractive to sellers. Home sellers, particularly banks looking to offload foreclosed homes, will choose a cash offer over a financed offer even if the cash purchaser is offering less money overall. According to CoreLogic, cash buyers, who tend to be investors as opposed to owner-occupants, make up a significant portion of the market and while the percentage of cash buyers has declined somewhat over the past few years, the share of those purchasing with cash is still uncharacteristically high.<sup>72</sup>

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72 According to CoreLogic, in November 2014, cash sales made up 36.1% of total home purchases, a figure down from the November 2013 share of 38.8%. Cash sales peaked in the market in January 2011 when they made up 46.4% of the market. While 10 percentage points lower than the January 2011 peak, 36.1% is still unusually high. Cash sales typically represented 25% of the market prior to the crisis. See CoreLogic Insights Blog: Cash Transactions Made Up 36 Percent of All Home Sales in November 2014, available at: <http://www.corelogic.com/blog/authors/molly-boesel/2015/02/cash-transactions-made-up-36-percent-of-all-home-sales-in-november-2014.aspx#.VTV2CSFVhBc>.

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Communities of color have experienced an inordinate amount of wealth erosion due to the financial crisis<sup>73</sup> and as a result of centuries of discriminatory practices. There has never been a time in American history when communities of color have been fully served by the financial mainstream or had full access to the financial markets. Given the changing demographics of the country and of future homebuyers in particular, it is critical to change this dynamic. Below are some policy prescriptions that will help our country move in the right direction.

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73 53 Percent of Black Wealth Wiped Out: Foreclosure Crisis Erodes Communities of Color, NewsOne, January, 2015. Available at: <http://newpittsburghcourieronline.com/2015/01/27/53-percent-of-Black-wealth-wiped-out-foreclosure-crisis-erodes-communities-of-color/>.

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## **SECTION 5: What to Do About Housing Discrimination: Policy Recommendations**

As Section IV suggests, there are a number of challenges to opening up housing opportunity and closing the racial and ethnic wealth gaps. HUD and the federal financial regulators—which oversee various segments of the housing finance system—have an important role to play in addressing these concerns through effective use of their supervisory and enforcement authority. Congress also has a key role to play. It must ensure that HUD has the resources it needs to address housing discrimination and better ensure that taxpayer dollars are being used to address the most pressing housing and community development needs in an equitable manner.

### **How to Align the Goals of Housing and Community Development Programs with the Goals of the Fair Housing Act**

To establish an effective process for affirmatively furthering fair housing, HUD must move quickly to issue a strong final AFFH rule that balances the need to reinvest in disinvested communities and promote housing mobility to areas with existing quality community assets.

Additionally, HUD must:

- Set high standards by releasing a strong regulation and by instituting a rigorous initial implementation phase;
- Provide the needed technical assistance to jurisdictions to help them comply with the AFFH regulation;
- Provide effective training on the new regulation for the staff that will be responsible for the implementation of the rule;
- Ensure that HUD carries out the AFFH principles in all of its programs, not just those explicitly covered by the new rule; and,
- Reach out to other federal agencies with housing and urban development programs, especially the Treasury Department with its Low Income Housing Tax Credit program, to ensure that they are addressing their obligation to administer those programs in a manner that promotes diverse and inclusive communities and to do so in coordination with HUD.

## **How to Reinvest in HUD's Office of Fair Housing and Equal Opportunity**

In 2008, the bipartisan National Commission on Fair Housing and Equal Opportunity recommended at least 750 FTE HUD FHEO employees to effectively administer the Fair Housing Act just for the caseload of complaints at the time. The commission recommended funding FHIP at a minimum of \$52 million.

- Congress must fund HUD with the necessary resources to provide no fewer than 750 FTE employees for the Office of Fair Housing and Equal Opportunity;
- Congress must fund FHIP at the bipartisan Commission's recommended level of \$52 million; and,
- FHIP funding should be flexible to address emerging discriminatory trends in local housing markets without set-asides for specific projects.

## **How to Increase Credit Access and Positively Affect Communities**

- The GSEs and FHA must accept the use of credit scoring mechanisms like VantageScore that include alternative credit data and better assess the risk of borrowers of color.
  - Lenders must underwrite to the full investor credit box. The fear of buy-back risk is not well-founded, particularly when the overwhelming majority of actions brought by investors concerned loans that were originated prior to the bust. Increased regulatory oversight, the elimination of abusive and predatory loan features as well as enhanced due diligence exercised by lenders have helped to create a safe lending environment with very low delinquency and default rates. Moreover, recent clarifications that the Federal Housing Finance Agency has made regarding Reps and Warranties liability should put lenders at greater ease and make them more comfortable to lend to the full scope of the GSEs and FHA's credit boxes.
  - Fair lending enforcement efforts should be increased. Not only should financial institutions partner with fair housing organizations to support fair lending compliance, but federal agencies should use revenues generated from fines and settlements to support programs that affirmatively further fair housing and fair lending opportunities in under-served markets.
  - The financial industry must expand the development of creative lending programs that increase access to credit in under-served areas and for under-served borrowers. This includes partnering with Community Development
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Financial Institutions (CDFIs) and nonprofit organizations that can often more easily deliver financial goods and services in these communities. It does not mean that financial institutions should solely rely on these partnerships to meet the credit needs of under-served borrowers and communities.

- Develop tools and resources to better gauge all of the components that affect loan performance and stop the over-reliance on credit scores.
- Fannie Mae and Freddie Mac must evaluate their market penetration levels in communities of color to ensure that they are adequately providing credit liquidity in these markets.
- Require high-quality housing counseling for first-time home buyers and borrowers who have recovered from a foreclosure, short sale or other credit blemish. The financial industry must be more serious about using its revenues to fund quality counseling programs. Moreover, federal agencies should use a portion of fines recouped in enforcement actions to help fund counseling programs.

## **SECTION 6: Conclusion**

Nearly 50 years ago, the passage of the Fair Housing Act acknowledged the need to address housing discrimination and residential segregation, giving new hope that the country would become a nation of diverse, inclusive communities where everyone has a chance at success. Today, that hope remains alive and our nation is presented with several decisions that will determine the strategies to achieve fair housing in America. Many of the outcomes foreseen by the passage of the Fair Housing Act are yet to be realized, and there must be willingness among the private housing sector and all branches of the federal government to reach those goals.

The data and highlights in this report present the extent to which housing discrimination and residential segregation affect us all, preventing our nation from living up to its core values of freedom and equitable opportunity. We are moving toward a society in which people of color will make up the majority of the population. How well these populations thrive will determine whether this country will remain competitive and a world leader. It is critical that we increase the level of home ownership in these populations and in communities of color. They will not only accumulate wealth to invest in future generations, but will become part of the base of taxpayers who subsidize public health, farm, social security, and other key federal programs, among many others that have sustained overall economic performance on the global level.

Policies that create or undermine housing choice and opportunities for homeownership are at the center of how our nation moves forward. Every act of housing discrimination and every discriminatory policy have a toxic ripple effect on the trajectory of every life that is affected by them, just as every action taken to address housing barriers has the potential to make housing and its related opportunities available at an exponential level. Lawmakers and the judiciary must make the right decisions to ensure we promote at the strongest level housing choice and opportunity.

Today, cities and states must choose fairness and inclusion when implementing housing and community development programs; Americans must utilize the tools available to challenge fundamentally unfair policies that have a disparate and unfair negative impact on entire classes of people; Congress must ensure that federal, state and private agencies have the resources necessary to help

their constituents reach justice when they experience discrimination; and federal financial regulators must address the highly constricted and discriminatory mortgage market.

Access to jobs, good schools, transportation, and personal health determines the success of every individual. And it begins at home.







# WHEN WE EMBRACE DIVERSITY, WE BUILD **STRONGER COMMUNITIES.**

Studies show that diversity helps broaden children's social networks by creating opportunities for interaction across racial and ethnic lines. And that in turn contributes to greater tolerance, fair-mindedness and openness. Housing discrimination deters the creation of diverse communities. The federal Fair Housing Act prohibits discrimination because of race, color, religion, national origin, sex, familial status or disability. To file a discrimination complaint or to learn more about fair housing and diverse communities, contact HUD or your local fair housing center.

Visit [hud.gov/fairhousing](https://www.hud.gov/fairhousing) or call  
the HUD Hotline **1-800-669-9777** (English/Español)

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