

NFHA



National Fair Housing Alliance

National Fair Housing Alliance 2003 Fair Housing Trends Report

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Introduction

The 2003 Fair Housing Trends Report is based on 2002 complaint data compiled from National Fair Housing Alliance (NFHA) member agencies nationwide, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Justice (DOJ) and 95 state and local government agencies. NFHA has collected this type of data on an annual basis since 1996. This report contains information about complaints only and does not reflect the actual incidence of housing discrimination in rental, sales, lending and insurance marketplaces.

The Department of Housing and Urban Development released in late 2002 the results of its Housing Discrimination Study conducted in the year 2000 (HDS 2000). The study documents significant levels of discrimination, despite the fact that it measures a limited number of discriminatory behaviors in a limited number of housing contexts and transactions. The study revealed that African-Americans are likely to experience discrimination in one out of every five rental transactions, while Latinos are likely to experience discrimination in one out of every four rental housing transactions. Given the number of apartments visited by home seekers during a housing search, it is possible that people of color experience discrimination every time they move. Please see Section III of this report for additional information on HDS 2000.

I. Key Findings of the 2003 Trends Report

Housing discrimination complaints do not reflect the incidence of housing discrimination in the United States. The HDS 2000 data have yet to be translated into a figure that estimates the number of instances of housing discrimination that transpire each year. However, consider this rough estimate: There are 12.055 million African-American households in the United States¹, and 17.1 percent of these households move each year². If, according to HDS 2000, discrimination occurs in 22 percent of rental transactions for African-Americans, there would be 453,509 acts of discrimination annually. There are 9.22 million Hispanic households in the nation, and 18.4 percent of these households move each year. According to HDS 2000, discrimination occurs in 26 percent of rental transactions for Hispanics. This translates into 441,085 discriminatory housing acts each year. That is almost 900,000 incidents of discrimination each year. That's just for rental transactions and assumes you only look at one apartment each time you move. It does not include rental discrimination that occurs on the telephone or discrimination in real estate sales, lending, or insurance transactions. If the average home seeker considers four or five rental housing providers during a housing search, the number of instances of housing discrimination would exceed three million annually.

Despite the high level of discrimination in this nation, just over 25,000 persons file housing discrimination complaints annually. The federal government has failed to

¹ 2000 Census, U.S. Census Bureau

² "Geographical Mobility, March 1999 to March 2000," Current Population Reports, U.S. Census Bureau, 2001

vigorously enforce the federal Fair Housing Act and to provide sufficient funding for fair housing enforcement programs. For example, the Fair Housing Initiatives Program, the primary source of funding for private fair housing organizations, has never been funded at more than \$25 million annually.

This amount reflects the total for education, enforcement, and creation of new fair housing organizations throughout the entire nation.

Complaint volumes are highest among African Americans, persons with disabilities, and families with children. The percentage of total complaints filed by African Americans dropped slightly in the last year, while the percentage of complaints filed by persons with disabilities saw a modest increase. This appears to reflect HUD's heavy concentration of fair housing resources on persons with disabilities. The percentage of complaints filed by families with children has remained level. Race complaints, along with complaints from people with disabilities and families with children, comprise 72 percent of all complaints received.

Complaint volumes involving national origin increased. Complaints involving national origin increased to 12 percent of all complaints last year, compared to 10 percent of complaints filed in 2001. At least some of this increase is related to discrimination against persons of Middle Eastern and South Asian descent, in the wake of the events of September 11, 2001.

Complaint volumes are highest in the rental market. The large majority of complaints involve rental market transactions. Discriminatory practices in other markets, such as lending, insurance and real estate sales, tend to be more subtle and are not as easily recognized by potential purchasers. However, there was a higher percentage of complaints involving real estate sales transactions. Many of these complaints were filed in response to NFHA's national media campaign designed to teach home seekers how to recognize and report discrimination in the real estate market.

Despite limited resources, private fair housing organizations processed the overwhelming majority of all reported complaints of housing discrimination. In fact, private fair housing groups in 2002 received more than twice as many complaints as all government agencies combined. Unfortunately, more organizations compete each year for the small pool of Fair Housing Initiatives Program funding, so most fair housing organizations do not have sufficient resources to provide full service to their community. In addition, HUD actually recruited a significant number of organizations to compete with current FHIP grantees for a static pool of funding. As a result, many qualified full service fair housing organizations throughout all regions of the country lost funding. In fact, in March, 2003, the Open Housing Center of New York, the only full service fair housing organization serving the City of New York, closed its doors because of insufficient funding.

II. Housing Discrimination Complaint Data

The data are comprised of more than 25,246 claims/complaints of housing discrimination made in 2002. NFHA members received 17,543 complaints in 2002 with 91 agencies reporting, compared to 16,500 complaints in 2001 with 79 member agencies reporting. The number of complaints received by HUD increased by approximately 25 percent, from 1,902 to 2,511 nationwide, while the number of complaints filed with state and local agencies increased by approximately 2 percent, from 5,041 to 5,129. The Department of Justice handled 63 complaints in 2002, compared to 64 in 2001.

Total Complaints				
Agency	Claims/Complaints	1999	2001	2002
NFHA	Complaints	15,131	16,500	17,543
FHAP	Claims and Complaints	4,971	5,041	5,129
HUD	Claims and Complaints	1,988	1,902	2,511
DOJ	Claims and Complaints	49	64	63
Totals		22,139	23,507	25,246

A. Discrimination by Protected Class

The federal Fair Housing Act prohibits discrimination on the basis of race, disability, familial status, national origin, sex, religion and color. In 2002, race complaints made up 30 percent of the total complaints received, followed by disability and familial status complaints at 27 percent and 15 percent respectively. Together, these three categories account for 72 percent of all housing discrimination complaints. The chart below provides the breakdown by type of reporting agency and protected class.

Percent of Claims by Protected Group in 2002					
	NFHA	HUD	FHAP	DOJ	ALL
Race	28%	33%	33%	29%	30%
Disability	25%	35%	29%	32%	27%
Family Status	16%	12%	14%	13%	15%
National Origin	13%	8%	11%	13%	12%
Sex	4%	9%	9%	8%	6%
Religion	1%	2%	2%	5%	1%
Color	1%	1%	2%	n/a	1%
Other	12%	n/a	n/a	n/a	8%
TOTAL	100%	100%	100%	100%	100%

B. Discrimination by Housing Market Sector

1. Rental Market Discrimination— Private Groups Report 14,483 Complaints

The majority of complaints are filed against apartment owners and managers for discriminating on the basis of race, disability, family status and national origin. The private fair housing movement reported 14,483 complaints of housing discrimination in the rental market. The discrimination may take the form of the landlord denying that units are available; refusing to make a reasonable accommodation for a person with a disability; quoting higher rents or security deposits; segregating African Americans, Hispanics, Asian Americans, or families with children in one part of a building or complex; restricting access to rental property amenities such as swimming pools or community rooms; or initiating eviction proceedings against white tenants who have visitors who are African American, Hispanic or Asian.

2. Home Sales Discrimination—Private Groups Report 995 Complaints

In 2002, real estate sales discrimination was the second largest form of discrimination reported to private fair housing groups. Sales discrimination takes many forms. Real estate agents may only show homes in predominantly minority neighborhoods to people of color or discourage white buyers from looking in integrated neighborhoods (both situations are considered steering and are violations of the Fair Housing Act). Some sellers refuse to negotiate the price of the home when offers are made by African Americans, Hispanics, or Asian-Americans but are willing to negotiate when a white buyer makes a similar or less favorable offer. Other sellers take their homes off the market or use delaying tactics in order to avoid a sale to people of color.

3. Mortgage Lending Discrimination—Private Groups Report 658 Complaints

Mortgage lending discrimination against African American and Latino borrowers may take one or several of the following forms: product steering to subprime or FHA loans; stricter qualification standards; higher interest rates, points, fees, and other terms of financing; less assistance in meeting qualification standards; inferior customer service; more costly and lengthier application process; and inaccurately low appraisals in African American, Latino and integrated neighborhoods.

4. Homeowners Insurance Discrimination—Private Groups Report 122 Complaints

Homeowners have a difficult time recognizing insurance discrimination because it happens in a variety of subtle ways. Some African American and Hispanic

persons call agents and leave messages about obtaining insurance but find that their calls are not returned. Discrimination involving “linguistic profiling” -- whereby persons are treated differently based on a racially- or ethnically-identifiable voice -- is a significant phenomenon in many types of housing transactions. Some agents promise to provide insurance quotes but never do. Insurance discrimination is often found in the underwriting policies of the company and not in the direct behavior of the agent. For example, urban homes for the most part are insured, but many homes are under-insured because underwriting guidelines will not allow replacement or guaranteed replacement cost coverage on homes built before 1950 and/or which are valued below a minimum amount such as \$60,000. Although the number of insurance discrimination complaints reported to private fair housing groups represents a small percentage of the total, they are on the rise from the previous year.

III. Housing Discrimination Study 2000

In late 2002, the Department of Housing and Urban Development released the results of the Housing Discrimination Study conducted in 2000 (HDS 2000). While the study is encouraging in that the results demonstrate a decline in the level of housing discrimination, the study is an incomplete analysis because it fails to measure appropriately the many ways in which discriminatory acts occur. The study is useful as a point of reference but inaccurate as an arbiter of the level of discrimination in the housing market. For example, new housing developments, in which we have historically seen fairly high levels of differential treatment based on race, were excluded from the study. Tests in which one of the testers did not receive return phone calls or was unable to get an appointment over the phone were excluded from the analysis. All fair housing professionals are aware that pre-screening on the telephone is a common form of discrimination in today=s market, and exclusion of these tests from the study results underestimates the incidence of discrimination, particularly against African-American and Latino home seekers.

Housing market transactions are complex, and the ways in which discrimination occurs are more subtle and difficult to detect. So, the HDS is useful in documenting the incidence of particular types of discrimination for some types of behavior in some types of housing transactions. But in order to develop the appropriate education and enforcement strategies, we must be sure to understand the broader range of discrimination and market conduct.

The Major HDS 2000 Conclusions

The HDS 2000 report concludes that there are significant levels of differential treatment by race and ethnicity in both the rental and sales markets for both Blacks and Hispanics. This verification of some significant level of discrimination is consistent with the experience of fair housing practitioners across the country. The HDS 2000 found that:

- Y In the rental markets, whites received consistently favored treatment over Blacks 22% of the time while whites received consistently favored treatment over Hispanics 26% of the time;³
- Y In the home sales markets, whites received consistently favored treatment over Blacks 17% of the time while whites received consistently favored treatment over Hispanics 20% of the time;
- Y The use of a series of statistical methodologies and modeling exploring some possible non-racial explanations for these differences found that the non-racial factors cannot explain away these patterns of differential treatment for either Blacks or Hispanics; and
- Y Racial geographic steering (based largely on comments by agents) takes place in both the sales and rental markets nationally.

Even though the incidence of discrimination may be artificially low in the HDS 2000, it is important to keep this in mind: any number above zero is unacceptable, and these numbers merit serious attention in the form of significant funding increases for fair housing education and enforcement programs, as well as re-dedication to the concept of equal housing opportunity for all people.

The National Fair Housing Alliance will have available in May, 2003, an analysis of the HDS 2000 and a discussion of the ways in which the study underestimates the incidence of housing discrimination in this nation.

IV. Recommendations

The Department of Housing and Urban Development must make a meaningful commitment to enforce the federal Fair Housing Act. The Department has strayed from its obligation to enforce the law and has instead shifted its focus to education. In fact, HUD's list of fair housing accomplishments for fiscal year 2002 fails to identify any significant enforcement-related activity. The National Fair Housing Alliance supports education of both consumers and the housing industry and has been a leader in fair housing educational efforts throughout the nation. However, strong enforcement of the law has taken a back seat to education, and we will never make significant progress

³ These measures of "consistent" favored treatment by whites are defined as the "Gross" measure of discrimination as opposed to the "Net" measure which essentially subtracts the percentage of minority favored tests from the percentage of white favored tests. The term "consistent" is used to define only those tests where the white was treated better on one or more of a pre-defined list of 14 factors while the minority was not treated better on any of the 14 factors. By implication, the same standard was used to define consistent minority favored tests. The researchers defined the "Gross" measure of consistent treatment as the "Upper Bound" or highest estimate of discrimination while the "Net" measure is defined as the "Lower Bound" or low estimate of discrimination (Executive Summary, pages v-vii).

toward the achievement of equal housing opportunity without vigorous enforcement of fair housing laws. HUD's re-commitment to enforcement efforts must incorporate the following:

A. Fair Housing Initiatives Program (FHIP) Funding

FHIP funding should be dramatically increased to address the fair housing needs of the nation. The amount allocated by Congress to the FHIP program has never exceeded \$25 million and in recent years has been as low as \$15 million. In addition, the purpose of the program has been diluted by allocating funds to more agencies that do not provide a full range of fair housing services and by concentrating on education over enforcement. HUD should re-vamp the FHIP program consistent with the original intent of Congress to provide funding for full service fair housing organizations for both enforcement and education purposes. HUD has the authority to transform the FHIP program into a non-competitive entitlement program for qualified private non-profit fair housing organizations, and it should do so *immediately*.

B. Community Development Block Grant (CDBG) Program

HUD should immediately promulgate and enforce meaningful regulations that require, without exception, all CDBG entitlement communities to address housing discrimination in all its forms.

There are 1,075 CDBG entitlement jurisdictions in the country, all of which are required to "affirmatively further fair housing." It is difficult to enforce this requirement, however, because HUD has failed to promulgate regulations for the implementation of this requirement, although the law was passed in 1974. Only a handful of these recipients of significant federal funds actually have programs to address fair housing concerns in their communities. Even fewer provide funding to private fair housing organizations serving their jurisdiction. If every CDBG recipient promoted education and offered enforcement of the federal Fair Housing Act, more than 1,000 communities would be actively working to eliminate residential segregation and open communities to members of protected groups.

C. Improved Performance by HUD's Office of Fair Housing and Equal Opportunity and Fair Housing Assistance Program (FHAP) Agencies

Case Processing

The Office of Fair Housing and Equal Opportunity (FHEO) has over recent years had a tremendous case back log. Many cases linger unresolved for years – well beyond the statutory requirement of 100 days. NFHA recognizes that resource limitations and case specifics often make the 100 day requirement unreasonable. However, FHEO needs to identify specific measures it can take to improve case processing. NFHA advocates a reasoned plan to facilitate timely case

processing without sacrificing case quality. While a number of cases have been recently closed, HUD charged only 71 cases last year (compared to 158 in the prior year, in itself a questionably low number). In eliminating its back log, cases should not be closed at the expense of victims of housing discrimination. In early 2003, a HUD Administrative Law Judge dismissed a complaint because it took HUD's Office of General Counsel nearly ten years to charge the complaint and bring it before the ALJ (*Bye v. Sparks*). The failure of HUD to process that case epitomizes the statement: "Justice delayed is justice denied."

Training

The Office of Fair Housing and Equal Opportunity (FHEO) needs to ensure that all investigators and attorneys receive comprehensive quality training on the statute and regulations, case law, evidentiary standards, investigations and conciliation. HUD is frequently unwilling to charge even the most blatant act of discrimination because the HUD personnel involved are unfamiliar with appropriate legal precedents and standards of proof. For example, the Office of General Counsel (OGC) was unwilling to charge a blatant case of familial status discrimination in which a housing provider refused to rent a four bedroom apartment to a family of eight. This family ultimately became homeless. Instead of promptly charging and resolving the case, OGC chose to identify the case as one of "disparate impact." This case was in limbo at HUD for 22 months. It was finally settled. While the policy at issue in this case has an obvious disparate impact on families with children, this case involved blatant discrimination.

Administration of the FHAP program is also important to the timely case processing goal because FHAP agencies serve as administrative surrogates for HUD in the investigation of fair housing complaints in their state or local jurisdiction. Comprehensive quality training should be required for Fair Housing Assistance Program personnel as well.

Regional HUB Offices

HUD must improve the consistency and level of performance of HUB offices throughout the United States. Under a prior administration, control of fair housing functions was "devolved" from the D.C. headquarters office to ten HUD regional offices (HUBs). Unfortunately, there is inconsistency between the HUB offices in the interpretation and application of the law, case processing standards, types and amounts of remedies and relief, and other functions such as conciliation procedures. Control of HUD's fair housing enforcement program and responsibility for quality control and review should be housed in the headquarters office to ensure that all victims of housing discrimination and all respondents are treated with consistent policies and practices under the law. If that is not possible, FHEO must implement a system designed to ensure consistency and competence in all HUB offices.

