



NFHA NATIONAL
FAIR HOUSING
ALLIANCE

2021



Fair Housing Trends Report

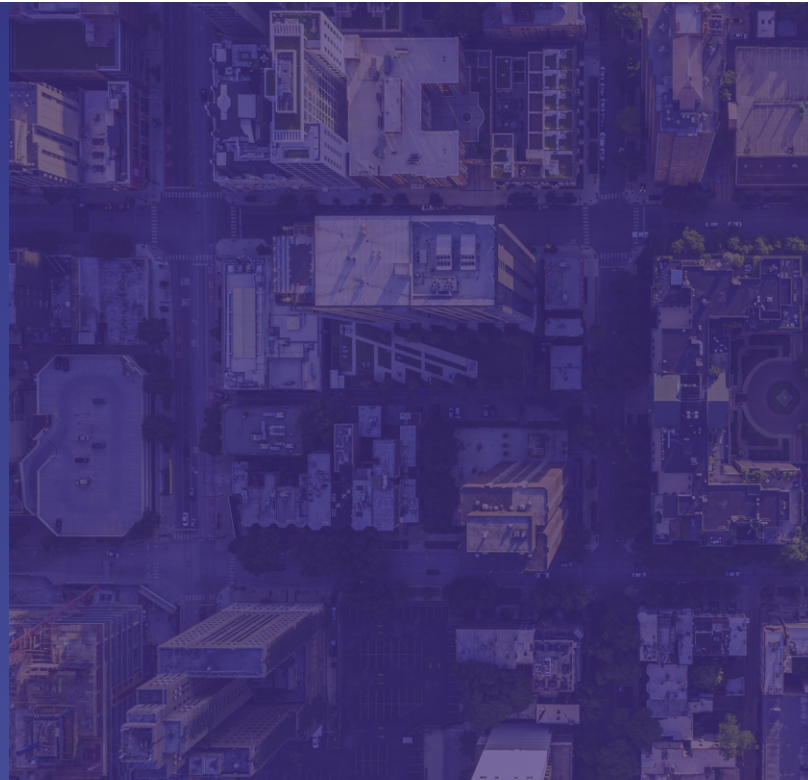


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About the National Fair Housing Alliance

Founded in 1988 and headquartered in Washington, DC, the National Fair Housing Alliance (NFHA) is the only national organization dedicated solely to ending discrimination in housing. NFHA is the voice of fair housing and works to eliminate housing discrimination and to ensure equal housing opportunity for all people through leadership, education and outreach, membership services, public policy initiatives, community development initiatives, advocacy, and enforcement.

NFHA is a consortium of nonprofit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. NFHA recognizes the importance of home as a component of the American Dream and aids in the creation of diverse, barrier-free communities throughout the nation.

The Authors

The following staff persons of the National Fair Housing Alliance authored this report:

Lindsay Augustine	Senior Associate Director of Enforcement and Investigations
Cathy Cloud	Chief Operating Officer
Sherrill Frost-Brown	Vice President of Member Services and Community Development
Madeline McBride	Project Coordinator
Samuel Tope-Ojo	NFHA Law Clerk
Morgan Williams	General Counsel
Maureen Yap	Senior Counsel

The following persons provided additional valuable assistance:

Carolyn Bayer	Consultant to NFHA
Alison Gentry	Communications Assistant
Nicole Turner Ridley	Vice President of Programs
Izzy Woodruff	Director of Communications

The 2021 Fair Housing Trends Report was prepared by and reflects the views of the NFHA staff and not necessarily those of its Board of Directors, Advisory Council, or funders.

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Executive Summary

The National Fair Housing Alliance (NFHA) has produced a report since the mid-1990s about the fair housing trends of the prior year. Over the years, the seven to 10 page report turned into a 100+ page treatise on myriad fair housing issues and trends. In 2021, NFHA has determined it will release information in a new format going forward. Each year, we will release a basic report on housing discrimination complaint data and significant cases from the prior year. Then, periodically throughout the year, NFHA plans to issue single-issue white papers or reports on other topics, with recommendations for addressing the concerns identified in those reports. This will allow us to release the complaint data in a more timely manner and to address issues as they arise, rather than reporting on them sometimes after the fact.

There is significant information of note in this downsized report. The number of fair housing complaints, 28,712, in 2020 remained consistent with prior years, despite the fact that many households remained stationary, especially in the early months of the COVID-19 pandemic. The pandemic did not appear to mitigate discrimination. In fact, harassment of the Asian American and Pacific Islander community at or near their homes increased, as did sexual harassment against tenants who were unable to pay their rent due to job loss or underemployment. Other highlights of this year's trends report include:

- In 2020, 1,071 complaints of harassment were reported, a significant increase from the 761 complaints reported in 2019 and the highest number of harassment complaints reported since NFHA began collecting detailed harassment data in 2012.
- A groundbreaking case was filed against Redfin alleging that the company's minimum home price policy discriminates against sellers and buyers of homes in communities of color in many metropolitan areas—in effect redlining.
- The Office of Fair Housing and Equal Opportunity at HUD had only three Secretary-initiated complaints pending in FY20, reflecting a significant reduction in Secretary-initiated complaints during the Trump administration.
- There has been a precipitous decline in referrals by federal banking regulators to the Department of Justice of potential fair lending pattern and practice violations.
- Private fair housing organizations continue to process almost three times the number of complaints (73.45 percent) processed by state, local, and federal government agencies combined. This reinforces the need for increased funding of the Fair Housing Initiatives Program, which provides the majority of funding for these important organizations doing fair housing work at the grassroots level.
- Complaints alleging discrimination because of disability continue to account for the largest number of complaints, at 54.56 percent. Discrimination based on disability is usually obvious, making it easier to detect and more practical to file a complaint.
- Race-based complaints constituted 16.79 percent of complaints, and familial status discrimination accounted for 7.93 percent of complaints.

This report contains two sections. In section I, we outline in detail the fair housing complaint data for 2020, providing information by type of agency, protected class, and type of transaction. Detailed information is also provided about government complaint data, including information about charged or caused cases, case conciliations and closures, aged cases, and more. This section also highlights the important work of the Department of Justice and features some of its cases that were settled in FY2020.

In Section II, we provide a sample of important legal victories in many housing discrimination cases in 2020. These cases involved racial steering between apartment complexes, source of income discrimination, disability discrimination in mortgage lending, challenges to municipal nuisance ordinances that were used to discriminate against people of color, a challenge to residency preferences, discrimination in residential appraisals, and discrimination against a same-sex couple, among others.

NFHA's 2020 Fair Housing Trends Report contains additional information about the year 2020, especially as it relates to the fair housing implications of the COVID-19 pandemic, including: the disparate impact of COVID-19 on people and communities of color; harassment against the AAPI community; increased sexual harassment of tenants; and the looming eviction and foreclosure crisis that will adversely affect people of color, who were disproportionately affected by COVID-19 and job loss. That report is available with all of NFHA's trends reports at <https://nationalfairhousing.org/reports-research/>.

The 2020 trends report also provided significant details about the multitude of anti-fair housing measures undertaken during the Trump administration, including in 2020. NFHA is grateful to the Biden-Harris administration and HUD Secretary Marcia Fudge for prioritizing fair housing, racial justice, and equity and has committed to work with the administration to promote fairness and equity to the greatest extent of its abilities. It will take coordinated and concerted efforts to reverse the adverse actions of the prior administration. We expect these joint efforts will produce positive results for people and communities throughout the nation, which NFHA will detail in future reports.

Note on the language in this report: As a civil rights organization, we are aware that there is not universal agreement on the appropriate race or ethnicity label for the diverse populations in the United States or even on whether or not particular labels should be capitalized. We intend in all cases to be inclusive, rather than exclusive, and in no case to diminish the significance of the viewpoint of any person or to injure a person or group through our terminology. For purposes of this report, we have utilized the following language (except in cases where a resource, reference, case, or quotation may use alternate terminology): Black, Latino, Asian American, and White. In prior publications, we have utilized the term "African American," but there are some who argue that this term is exclusive, and we intend to be as inclusive as possible. We are also aware that many persons prefer the term "Hispanic" or "Latinx." We intend in this report to include those who prefer "Hispanic" or "Latinx" in the term "Latino" and intend no disrespect. We refer to "neighborhoods of color" or specify the predominant race(s) of a neighborhood, rather than utilizing the term "minority." We also use the term "disability," rather than "handicap" (the term used in the Fair Housing Act).

Section I: Fair Housing Trends Data for 2020

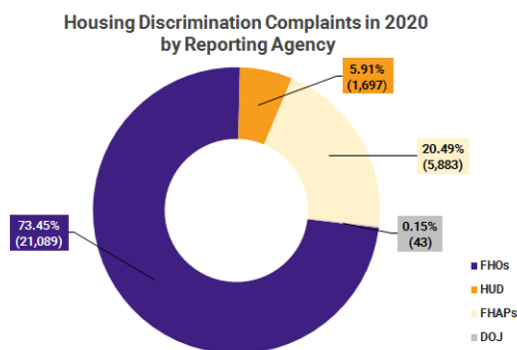
Overview of Housing Discrimination Complaints Reported in 2020

In 2020, the COVID-19 health pandemic and national protests against systemic racism exposed the nation's housing inequities that resulted from decades of discriminatory housing policies. Black, Latino, and Native American populations were hardest hit as the rates of hospitalizations and deaths due to COVID infection were highest in these communities. Asian Americans and Pacific Islanders experienced a nine percent increase in harassment and discrimination at or near their homes. Housing discrimination harassment complaints based on sex and disability also increased by 40 percent in 2020. The 1968 federal Fair Housing Act was enacted to eradicate housing discrimination and housing segregation. However, 53 years later, millions of families and individuals continue to experience unlawful acts of housing discrimination, most of which go unreported.

As it does each year, NFHA collects data from both private nonprofit fair housing organizations and government agencies throughout the country that receive and address fair housing complaints from the public. The data provide a snapshot of the number and types of housing discrimination complaints reported for the year. NFHA receives housing discrimination complaint data from state and local Fair Housing Assistance Program (FHAP) agencies, the U.S. Department of Housing and Urban Development (HUD), and the U.S. Department of Justice (DOJ). Together with private, nonprofit fair housing organizations, these agencies make up the national infrastructure to address housing discrimination in the United States.¹

There were **28,712 fair housing complaints** received by private, non-profit fair housing organizations, HUD, FHAP agencies, and the DOJ in 2020, a negligible decrease from 2019 complaint numbers. The 2020 complaint data continue to show that private fair housing organizations process the majority of housing discrimination complaints reported throughout the country. Eighty-four (84) private, non-profit fair housing organizations (FHOs) processed 73.45 percent of complaints, as compared to 5.91 percent by HUD, 20.49 percent by FHAP agencies, and 0.15 percent by DOJ.

Housing Discrimination Complaints in 2020 by Reporting Agency



¹ Private fair housing agencies report their data based on the calendar year, while DOJ and HUD data are reported based on the federal fiscal year (October-September).

Housing discrimination comes in many forms and occurs in different types of housing transactions, such as rental, real estate sales, mortgage lending, and housing-related insurance. It also includes discriminatory advertising, discrimination by homeowners or condominium associations, discriminatory zoning policies, harassment based on race, sex, religion, disability, national origin, and more. For purposes of this report, data are collected and reported primarily on the seven federally protected classes: race, color, religion, national origin, sex, disability, and familial status. However, this report also includes additional data on classes of persons protected under state and local laws, including sexual orientation, source of income, marital status, and several other categories.

There were 28,712 reported complaints of housing discrimination in the U.S. in 2020, compared to 28,880 in 2019. Of the 2020 complaints, 21,089 (73.45 percent) were processed by fair housing organizations (FHOs), as compared to 1,697 complaints processed by HUD, 5,883 processed by FHAP agencies, and 43 cases processed by DOJ. The data are included in the table below, along with data from previous years. FHOs continue to address approximately three times as many complaints as the government agencies combined.

Fair Housing Complaint Data by Agency, 2010-2020

Year	NFHA Members	HUD	FHAPs	DOJ	TOTAL
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
2015	19,645	1,274	6,972	46	27,937
2016	19,740	1,371	7,030	40	28,181
2017	20,595	1,311	6,896	41	28,825
2018	23,407	1,784	5,987	24	31,202
2019	21,117	1,771	5,953	39	28,880
2020	21,089	1,697	5,883	43	28,712

The data collected for this report represent only a small portion of the estimated four million incidents of housing discrimination that occur each year. Housing discrimination often goes undetected and unreported because it is difficult to identify or document. It is common for victims of discrimination to feel that nothing can or will be done about the discrimination they experience, and to fear retaliation by their housing provider, landlord, or even neighbors.

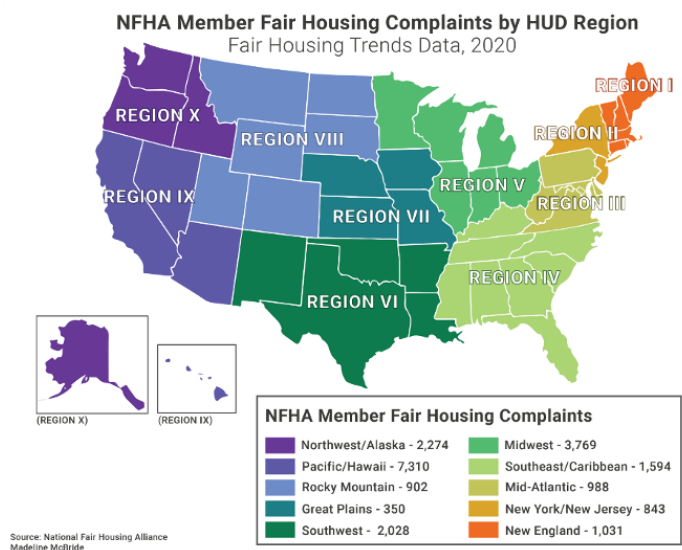
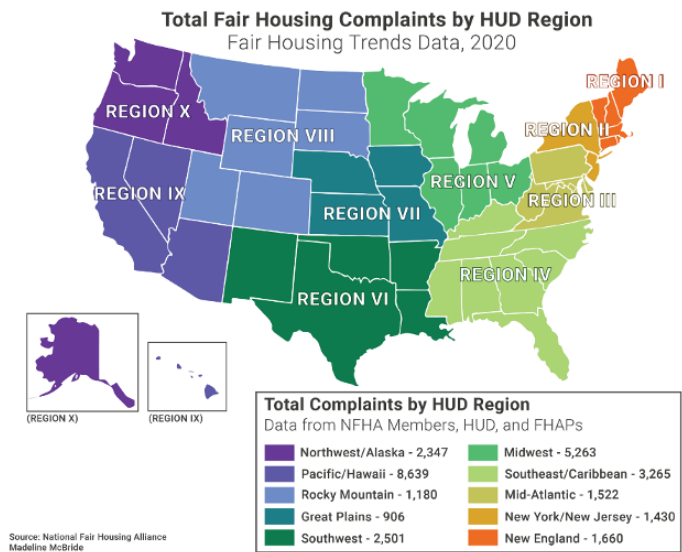
This report includes submissions from 84 NFHA operating member organizations, all of which are private nonprofit fair housing organizations or fair housing programs of legal aid agencies.² It also includes data from the 10 regional HUD offices and close to 80 state and local government agencies that participate in the FHAP program at HUD, from which they

² https://www.hud.gov/program_offices/fair_housing_equal_opp/partners/FHAP.

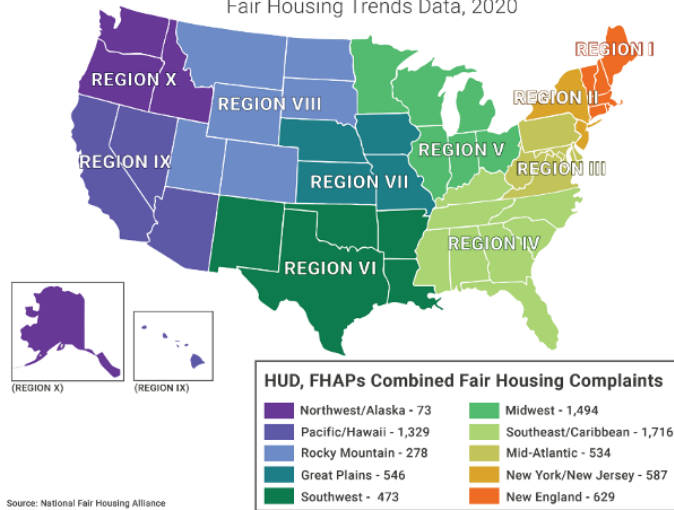


receive annual funding to support fair housing administrative and enforcement activities. FHAP agencies conduct complaint investigation; conciliation; administrative and/or judicial enforcement; training; implementation of data and information systems; and education and outreach.

The maps below break out the data by the ten HUD regions. The first map depicts the data for all agencies combined. The second map depicts the data just for NFHA members, and the third map depicts the data for HUD and FHAP agencies combined. It should be noted that there are many states that do not have a local or governmental fair housing enforcement agency and that large parts of many other states lack a fair housing enforcement agency as well. This can make it difficult for consumers to understand their fair housing rights and to know where and how to file a housing discrimination complaint.



HUD, FHAPs Fair Housing Complaints by HUD Region
Fair Housing Trends Data, 2020



1. **National Data by Basis of Discrimination**

This section details the national data by protected class, or basis of discrimination. As in prior reports, complaints by persons with disabilities account for the majority of complaints filed with FHOs, HUD, and FHAP agencies. There were 15,664 complaints of discrimination against a person with a disability, or 54.56 percent of all cases. Discrimination against persons with disabilities is easy to detect, as it most often occurs as an overt denial of a request for a reasonable accommodation or modification to the housing unit. The second most reported type of housing discrimination was on the basis on race, with 4,821 or 16.79 percent of all complaints. Familial status was the third most frequent basis for discrimination, with 2,276 complaints or 7.93 percent of all complaints of housing discrimination. The fourth most frequent basis of discrimination was sex, with 2,094 complaints or 7.29 percent of all complaints. The fifth most frequent basis was national origin, with 1,636 reported complaints or 5.70 percent of all complaints. Color was the basis of discrimination for 811 complaints or 2.82 percent of all complaints, and religion was the basis of 333 complaints, or 1.16 percent of all complaints nationwide.

The table below depicts the frequency of discrimination complaints by basis of discrimination, by type of reporting agency.

Fair Housing Complaint Data by Basis and Agency in 2020

Basis	NFHA Members	HUD	FHAPs	DOJ
Race	13.37%	26.8%	26.2%	11.6%
Disability	52.31%	60.2%	61.1%	37.2%
Familial Status	7.14%	10.4%	10.0%	4.7%
Sex	5.83%	13.7%	10.6%	20.9%
National Origin	4.55%	8.1%	9.1%	4.7%
Color	2.63%	2.1%	3.7%	0.0%
Religion	0.82%	1.5%	2.2%	7.0%
Other	13.34%	9.3%	13.0%	18.6%

Note: Some reported complaints included more than one basis of discrimination.

While fair housing organizations primarily receive complaints of discrimination based on federally protected classes, they also receive complaints of discrimination based on protections provided only by state and/or local fair housing laws. In 2020, 3,744 complaints (13.04 percent of all complaints) involved a basis of discrimination in the “other” protected class category.

The “other” category of complaints reported by fair housing organizations included the following:

- Source of Income (1,363 complaints)
- Age/Student Status (148 complaints)
- Sexual Orientation (207 complaints)
- Gender Identity/Expression (128 complaints)
- Marital Status (82 complaints)
- Criminal Background (66 complaints)
- Victims of Domestic Violence (85 complaints)
- Arbitrary (in California Rentals Only) (38 complaints)
- Military/Veterans Status (84 complaints)
- Retaliation (22 complaints)
- Immigration Status/ Citizenship (8 complaints)

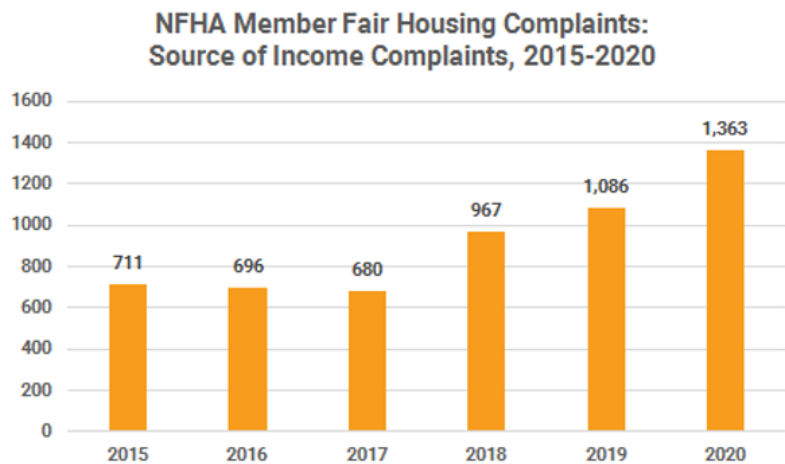
In 2020, there was an uptick in the “other” category of complaints regarding source of income, sexual orientation, domestic violence, military status, and retaliation. Source of income complaints saw an increase of 277 cases from 2019 to 2020, and the number of source of income complaints has been steadily increasing since 2017.

The North Texas Fair Housing Center conducted testing in 2020 to determine compliance with a City of Dallas ordinance that protects veterans with housing choice vouchers from discrimination. The organization tested 35 rental properties



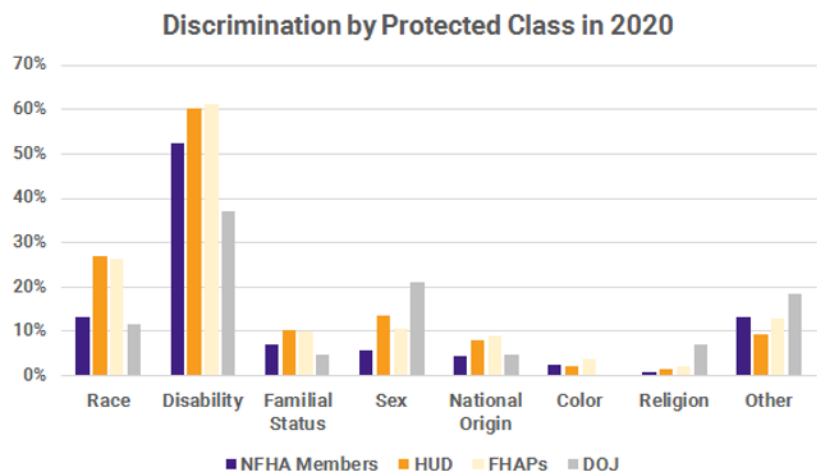
and documented evidence of discrimination at 32. The housing center filed 32 discrimination cases with the Fair Housing Office of the City of Dallas.

NFHA Member Fair Housing Source of Income Complaints, 2015-2020



The “other” protected class category for HUD and FHAP agencies includes retaliation claims only, and for DOJ, it includes military status only, which together comprised 930 complaints in 2020.

Discrimination by Protected Class by Agency in 2020



2. *National Housing Discrimination Complaint Data by Transaction Type*

The data in this section are based on complaints received that occurred in rental, real estate sales, mortgage lending, and homeowners insurance transactions, as well as harassment complaints based on protected class. Complaint numbers are for private fair housing centers, HUD, FHAP agencies, and the DOJ.

Discrimination Complaints by Transaction Type in 2020

	Rental	Sales	Lending	Insurance	Harassment	Advertising	HOA/Condo	Other	Total
NFHA Members	15,795	208	108	19	1,071	327	122	3,439	21,089
HUD	1,144	121	59	0	0	0	0	373	1,697
FHAPs	3,904	418	70	1	0	0	0	1,490	5,883
DOJ	17	0	1	0	0	0	0	25	43
Total	20,860	747	238	20	1,071	327	122	5,327	28,712
Percent of Total	72.65%	2.60%	0.83%	0.07%	3.73%	1.14%	0.42%	18.55%	100.00%

Rental Market – 20,860 Complaints

As in prior years, rental-related housing discrimination complaints reported in 2020 were the most numerous. This is due primarily to the fact that rental transactions are the most frequent type of housing transaction, and the simplicity of the transaction can make it easier to identify or suspect discrimination. In 2020, there were 20,860 rental complaints reported across all agencies, and 15,795 of these were processed by private fair housing organizations. The number of rental-related complaints reported in 2020 decreased by 3,326 complaints compared to 2019 numbers.³ RentCafe reported that there were ten percent fewer rental transactions in 2020, largely due to the COVID-19 pandemic. This likely accounts for the unusual and significant drop in rental discrimination complaints. Rental-related complaints in 2020 accounted for 72.65 percent of all transaction types reported, compared to 83.75 in 2019, 83.39 percent in 2018, and 82.05 percent in 2017.

Real Estate Sales – 747 Complaints

Real estate sales complaints comprised 2.60 percent of all housing discrimination cases reported in 2020, with 747 complaints total. This number represents a slight decrease from 2019 when 779 sales complaints were reported.

Mortgage Lending – 238 Complaints

In 2020, there were 238 complaints of lending discrimination, a slight increase from the previous year. Private fair housing organizations reported 108 out of the 238 total lending complaints, which is an increase of 38 cases from the 70 complaints that these groups reported in 2019. Across all agencies, in 2019 there were 234 lending complaints, and in 2018 there were 330 complaints.

Homeowners Insurance Transactions – 20 Complaints

Discrimination in the provision of homeowners insurance is very difficult to identify because it is rarely overt. In 2020, 20 complaints of homeowners insurance-related discrimination were reported (21 in 2019), representing less than 1 percent of all cases.

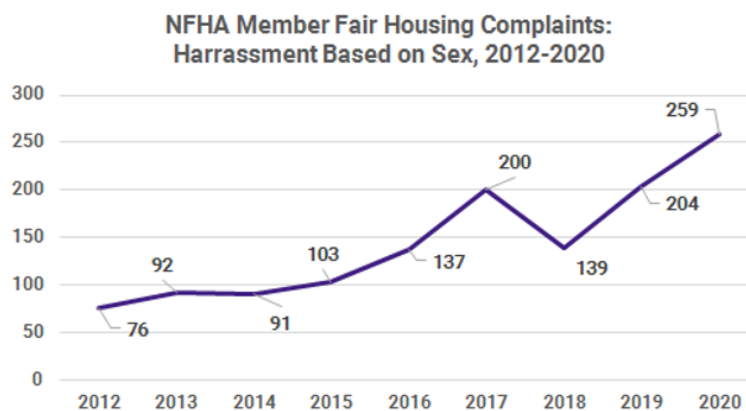
³ See <https://www.rentcafe.com/blog/rental-market/market-snapshots/year-end-report-2020/>.

Harassment –1,071 Complaints

Complaints of harassment, although easily recognizable, often go unreported. Women, single-parent heads of households, persons with disabilities, immigrants, persons with housing assistance, individuals with modest means, and others are vulnerable to harassment in housing. Harassment based on protected class may take the form of coercion, intimidation, threats, or interference; this is illegal under the Fair Housing Act, both in the provision of housing and in a housing setting.

In 2020, 1,071 complaints of harassment were reported, a significant increase from the 761 complaints reported in 2019 and the highest number of harassment complaints reported since NFHA began collecting detailed harassment data in 2012. In 2020, there were 312 harassment complaints on the basis of disability, 259 harassment complaints based on sex, and 192 harassment complaints based on race. The 259 harassment complaints based on sex reported in 2020 also surpassed the highest number of harassment complaints based on sex reported, which was previously reached in 2019. This may be due to the fact that NFHA reported last year a 13 percent increase in sexual harassment complaints from persons who became under- or unemployed due to COVID and whose landlords were seeking sexual favors in exchange for rent.

NFHA Member Fair Housing Harassment Based on Sex Complaints, 2012-2020



Other Housing-Related Transactions – 5,327 complaints

In 2020, 5,327 complaints fell into the “other transaction” category. This is a significant increase from 2019 (2,622), although the explanation for the increase is not clear. NFHA will monitor this in future years to determine if there is a trend and seek additional data from providers to ascertain the reason. Other housing-related transactions included 327 complaints of discriminatory advertising by housing providers and 122 complaints of discrimination by homeowners or condominium associations.



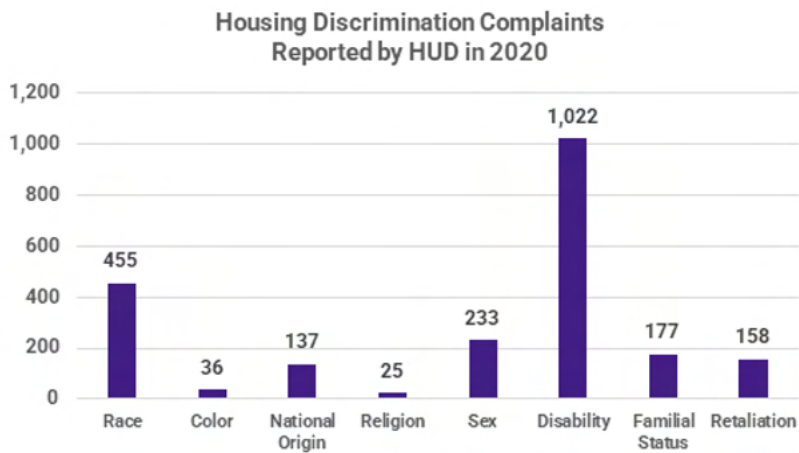
Complaint Data Reported by HUD and FHAP Agencies

HUD’s Office of Fair Housing and Equal Opportunity (FHEO) is responsible for enforcement of the requirements of the Fair Housing Act. FHEO enforces the Fair Housing Act and other civil rights laws, including Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation 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, and the Architectural Barriers Act of 1968. HUD has the authority to investigate and conciliate housing discrimination complaints filed under the Fair Housing Act. It can also initiate investigations and file complaints on behalf of the Secretary of HUD, as authorized under Section 810 of the Fair Housing Act. In addition to enforcement activities, HUD publishes and distributes educational materials that provide information on how to report unlawful discrimination; administers and manages the FHAP and the Fair Housing Initiatives Programs (FHIP); establishes fair housing and civil rights regulations and policies for HUD programs; publishes guidance on complying with the requirements of fair housing and various civil rights laws; and monitors and reviews HUD programs and activities for compliance with federal nondiscrimination requirements and the requirement to affirmatively further fair housing.

HUD Administrative Complaints

HUD received 1,697 discrimination complaints in 2020, a decrease of 74 complaints from 2019. From 2019 to 2020, there was an increase in housing discrimination complaints based on both race and familial status, with 25 more complaints based on race reported in 2020 and 22 more complaints based on familial status than reported in 2020. There was also an uptick in complaints based on retaliation, with 158 complaints reported in 2020, an increase of 32 complaints. The chart below details the HUD complaint information by protected class.

Housing Discrimination Complaints Reported by HUD in 2020



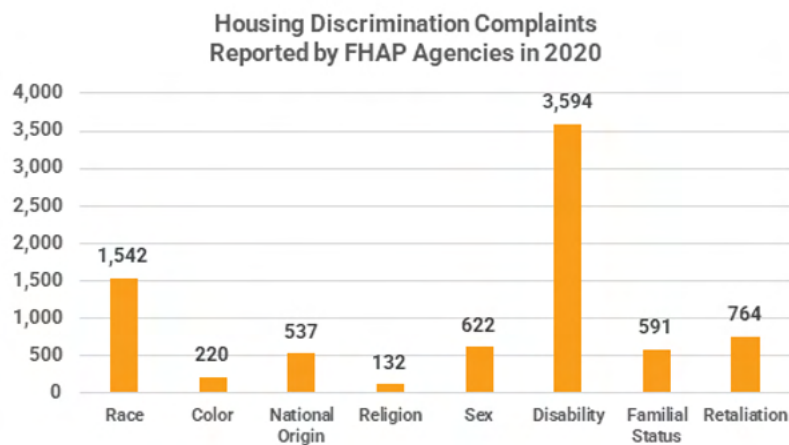
Note: Some reported complaints included more than one basis of discrimination.



FHAP Complaints

FHAP agencies received 5,883 discrimination complaints in 2020, a decrease of 70 complaints from 2019. The chart below details the FHAP complaint information by protected class.

Housing Discrimination Complaints Reported by FHAP Agencies in 2020



Note: Some reported complaints included more than one basis of discrimination.

Secretary-Initiated Complaints

The Fair Housing Act allows HUD to initiate complaints when (1) the Department obtains sufficient evidence to believe that a Fair Housing Act violation has occurred or is about to occur or (2) when it has received an individual complaint but believes there may be additional victims of discrimination or wants to obtain relief in the public interest. In 2020, only three Secretary-Initiated complaints were open or completed. In 2019, there were five Secretary-Initiated Complaints open or completed, down from eight in 2018, 11 in 2017, 16 in 2016, and 33 in 2015. There was a clear and significant decline in Secretary-initiated cases during the Trump Administration.

Charged Cases

In 2020, HUD charged 36 cases, compared to 37 cases in 2019, 28 charges in 2018, and 19 charges in 2017. A “charge” is issued when HUD determines there is reasonable cause to believe discrimination has occurred. HUD cases are resolved more often through conciliation or are closed for administrative reasons. Administrative reasons include untimely filing, jurisdiction issues, withdrawal by the complainant without resolution, or inability to locate the respondent.

Year	HUD Charged Cases
2010	36
2011	55
2012	43
2013	37
2014	27
2015	28
2016	37
2017	19
2018	28
2019	37
2020	36

FHAP agencies also play an important role in the charging and closure of cases. HUD refers complaints that originate in cities or states with a FHAP agency to that agency. A FHAP agency may issue a “cause” determination if it determines probable discrimination has occurred. In 2020, there were 453 cause determinations at FHAP agencies, a decrease from 468 in 2019.

The table below shows the types of HUD and FHAP case completions in 2020. There were 7,706 completions, 1,828 by HUD and 5,878 by FHAP agencies. There were 16 fewer cases charged or caused by HUD and FHAP agencies in 2020 than in 2019. HUD conciliated or settled 33 more cases than in 2019, while FHAP agencies conciliated or settled 110 fewer cases. For cases receiving a “no cause” determination, 170 more cases were “no caused” by HUD or FHAP agencies in 2020 than in 2019.

Case Completion Type	HUD	FHAPs	Total
Administrative Closure	254	515	769
Charged or FHAP Caused	36	453	489
Conciliation/ Settlement	645	1,125	1,770
DOJ Closure	6	0	6
No Cause	744	3,391	4,135
Withdrawn after Resolution	143	394	537
Total	1,828	5,878	7,706

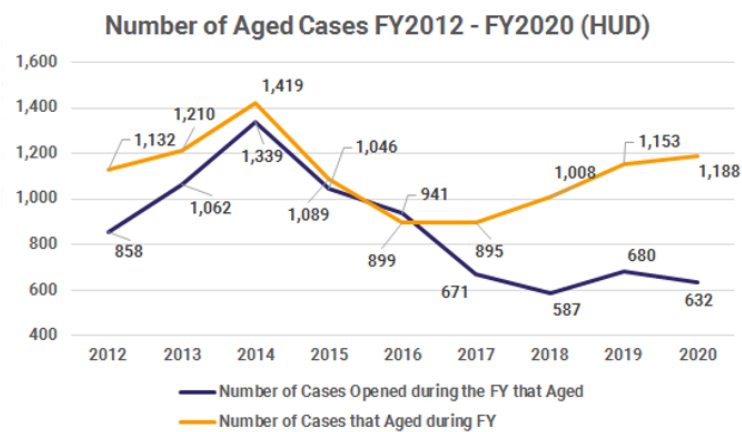
Aged Cases

With the exception of complex investigations (for example, mortgage lending or insurance discrimination cases) or systemic cases, HUD regulations under the Fair Housing Act require that HUD and FHAP agencies complete their investigations of fair housing complaints within 100 days of the initial receipt of a complaint. If a case exceeds the 100-day statutory mark, it is considered an “aged” case. Aged cases at HUD and FHAP agencies often remain stalled for several years. The failure to complete a timely and thorough investigation leaves complainants and respondents in limbo and is an injustice to all parties involved in resolving the complaints.



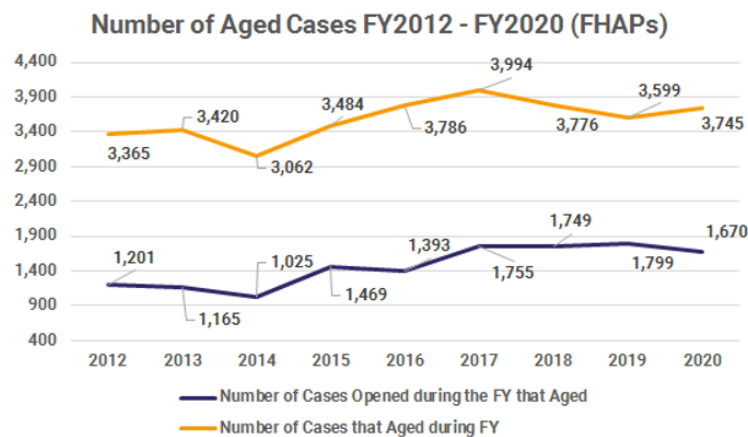
HUD had 632 new aged cases during FY2020, a 7 percent decline from the 680 new aged cases during FY2019. The chart below shows cases that were opened and passed the 100-day mark during the fiscal year. HUD also had 1,188 ongoing cases that continued to age during FY2019. This number is a 3 percent increase over FY2019 when HUD had 1,153 ongoing cases that continued to age.

Number of Aged HUD Cases from FY2012-FY2020



FHAP agencies had 1,670 cases that were opened and aged during FY2020, representing a 7 percent decrease from the 1,799 cases reported during FY2019. FHAP agencies also had 3,745 ongoing cases that continued to age during FY2020, a decrease of 146 cases compared to the 3,599 ongoing cases that continued to age during FY2019.

Number of Aged FHAP Agency Cases from FY2012-FY2020



Complaint Data Reported by DOJ and DOJ Cases

The Housing and Civil Enforcement Section of the Department of Justice (DOJ or Department) is responsible for enforcing the Fair Housing Act, the Equal Credit Opportunity Act (ECOA), the Servicemembers Civil Relief Act, and Title II of the Civil Rights Act of 1964, which prohibits discrimination in public accommodations. The 1968 Fair Housing Act gave DOJ the authority to prosecute cases involving a “pattern or practice” of housing discrimination, as well as cases involving acts of discrimination that raise “an issue of general public importance.” The 1988 Fair Housing Amendments Act (FHAA) increased the Department’s authority, and the Department can bring cases in which a housing discrimination complaint is charged by HUD, and one of the parties “elects” to go to federal court. The FHAA also empowered DOJ to initiate civil lawsuits in response to matters that involve fair housing violations by any state or local zoning or land-use laws referred by HUD. In 1992, the DOJ exercised its authority to establish fair housing testing programs. The DOJ also subsequently established a fair lending program designed to challenge discriminatory mortgage and other lending practices and to educate lenders about their obligations under the Fair Housing Act and the ECOA.

With respect to lending discrimination, the DOJ has authority to enforce both the ECOA and the FHA on its own initiative or upon referral from another agency. The ECOA prohibits creditors from discriminating against credit applicants on the basis of race, color, national origin, religion, sex, marital status, age, source of income, or because an applicant has exercised in good faith any right under the Consumer Credit Protection Act. The Fair Housing Act prohibits discrimination in residential real estate-related transactions because of race, color, religion, sex, national origin, familial status, or disability. In cases involving discrimination in mortgage or home improvement loans, the DOJ may file suit under both ECOA and the Fair Housing Act.

Concerning Trends for Fair Lending Referrals to DOJ

Under ECOA, the federal banking regulators are required to refer matters to the DOJ when they have reason to believe a lender has engaged in a pattern or practice of discrimination. The federal banking regulators are the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the Federal Reserve Board, the National Credit Union Administration, and the Office of the Comptroller of the Currency. Each of the federal banking agencies has the authority to examine the regulated financial institutions within its jurisdiction for compliance with fair lending laws. That is, unlike the DOJ, the federal banking regulators can routinely access the internal data, policies, and procedures of financial institutions based on their supervisory authority. Therefore, it is critically important that the federal banking regulators use the full scope of their authority to identify fair lending discrimination, provide timely referrals to the DOJ, and ensure an efficient and effective process to remedy and mitigate harm.

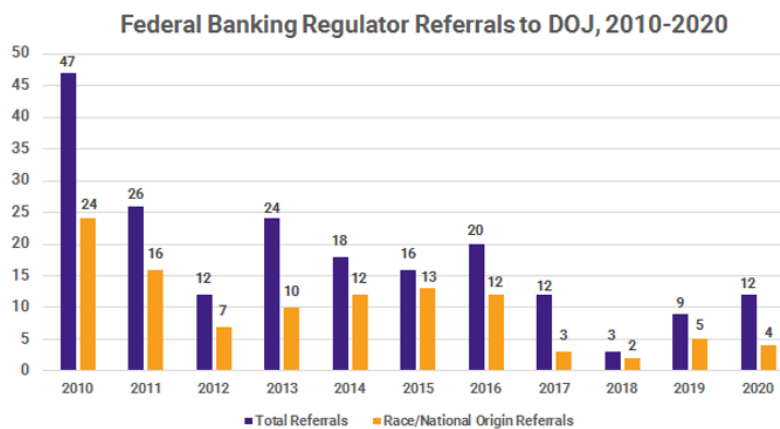
Despite the regulators’ broad authority, recent data show a concerning decline in fair lending referrals to the DOJ.⁴ In 2010, the federal banking regulators referred 47 matters to the DOJ based on a belief that the lender had engaged in a pattern or practice of discrimination. By 2020, that number had plummeted to just 12 matters. Similarly, the number of

⁴ See DOJ, The Attorney General’s 2019 Annual Report to Congress Pursuant to the Equal Credit Opportunity Act Amendments of 1976, July 2020, <https://www.justice.gov/crt/page/file/1296731/download>; CFPB, *Fair Lending Report of the Bureau of Consumer Financial Protection*, April 2021, https://files.consumerfinance.gov/f/documents/cfpb_2020-fair-lending-report_2021-04.pdf.

referrals based on race or national origin discrimination decreased from 24 matters in 2010 to just four matters in 2020. This trend is particularly disturbing because redlining, which represents the highest risk of systemic harm, is based on race or national origin discrimination. From 2010 to 2020, the DOJ engaged in only 10 public enforcement actions related to redlining. Even more concerning, only two of those actions were based on referrals originally initiated by the federal banking agencies. For the remaining eight actions, the DOJ initiated the case itself or the matter was initially identified by a local fair housing organization. These trends raise the concern that the federal banking regulators are not using the full scope of their supervisory authority to efficiently and effectively identify a potential pattern or practice of lending discrimination, which can result in a drain on the resources of local fair housing groups and the DOJ as well as cause far-reaching consumer harm.

Given this concerning trend, the House Financial Services Committee and the Senate Banking Committee should ask the General Accounting Office (GAO) to review federal oversight and enforcement of fair lending laws, focusing on: (1) efforts to strengthen law enforcement procedures; and (2) challenges bank regulators face in their efforts to detect discrimination and ensure compliance. The GAO last conducted this type of review 25 years ago (in 1996), which resulted in significant policy changes and renewed efforts for robust fair lending supervision and enforcement.⁵ The time is right to conduct a new review of the federal banking regulators' fair lending approaches and methodologies.

Federal Banking Regulator Referrals to DOJ, 2010-2020

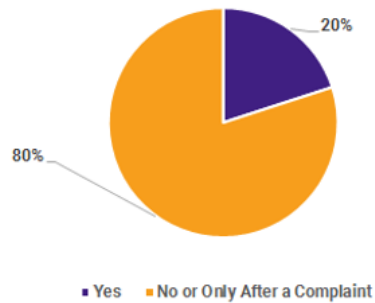


⁵ The U.S. Government Accountability Office, Fair Lending: Federal Oversight and Enforcement Improved but Some Challenges Remain, GGD-96-145, August 13, 1996, <https://www.gao.gov/products/ggd-96-145>.



DOJ Redlining Cases Based on Referrals, 2010-2020

DOJ Redlining Cases Based on Referrals, 2010-2020



Overview of FY2020 DOJ Cases

DOJ's Housing and Civil Enforcement Section filed 43 cases during FY2020, an increase from the 39 cases filed the previous year and the highest number of cases filed in the past five years. Of these, 30 were "pattern or practice" cases, consisting of seventeen rental cases; one case alleging mortgage lending discrimination; one case challenging discrimination by local governments in the land use and zoning process; three cases brought under the Religious Land Use and Institutionalized Persons Act; and eight cases alleging violations of the Service Members Relief Act. Of the remaining cases, DOJ reported 12 HUD election cases and one HUD enforcement action, as well as four amicus or intervention cases. There may be overlap of some of these cases.

Sexual Harassment Initiative

DOJ established a new Sexual Harassment in Housing Initiative in 2018. The Department continued to open sexual harassment investigations challenging alleged sexual harassment in housing, with eight sexual harassment lawsuits filed in FY2020, the highest number since the Initiative's launch. In FY2020, DOJ also settled two pattern or practice sexual harassment cases, resulting in a total of \$330,000 in damages to 31 former tenants between the two cases.

DOJ Case Highlights

DOJ obtained 26 settlements in FY2020, resulting in a total of \$6,000,000 in monetary relief. Those settlements include the following:

The Department settled two sexual harassment cases, *United States v. Cao* (D. Kan.) and *United States v. Klosterman* (S.D. Ohio). In *Cao*, the Department alleged that the defendant sexually harassed female tenants at rental properties that he owned from at least 2009 to 2014. In *Cao*, the consent order provides a total of \$155,000 in monetary damages for 11 former tenants who were subjected to the sexual harassment as well as a \$5,000 civil penalty. In *Klosterman*, the Department alleged that defendants who owned and managed rental properties in Cincinnati, Ohio, violated the Fair Housing Act by engaging in a pattern or practice of sexual harassment against female tenants and coercing, intimidating, threatening, or interfering with tenants in the exercise of their fair housing rights. The consent order in *Klosterman* provides a total of

\$175,000 in damages to 20 former tenants and a \$2,500 civil penalty.

The Department filed and settled a case alleging fair lending violations. In *United States v. Bank of America (E.D.N.Y.)*, the Department alleged that Bank of America discriminated on the basis of disability through the implementation of a policy that prohibited the issuance of mortgage loans to adults who had legal guardians or conservators. The consent order requires the bank to maintain new policies that permit loans to adults with guardians or conservators, to ensure that employees are trained on the new policies, and to pay \$4,000 for each loan application that was denied as a result of the bank's prior unlawful policy. This payment is anticipated to total approximately \$300,000.

The Department filed and settled *United States v. Heritage Senior Living, LLC (E.D. Pa.)*, alleging that the owners and operators of a senior living facility engaged in unlawful discrimination by creating and implementing a series of discriminatory tenant occupancy and eligibility policies that excluded persons with disabilities. The consent order requires defendants to pay between \$250,000 and \$325,000 into a settlement fund to compensate residents and prospective residents who were harmed by these policies and a \$55,000 civil penalty in addition to implementing new policies and appointing a Fair Housing Act compliance officer at their senior living facilities.

The Department settled 17 cases alleging disability discrimination in a variety of contexts. In *United States v. Housing Authority of the City of Bridgeport, d/b/a Park City Communities (D. Conn.)*, the United States alleged that the Housing Authority of the City of Bridgeport engaged in disability discrimination by systematically mishandling and failing to fulfill requests for reasonable accommodations and by failing to meet its community's needs for accessible units. The consent order requires the Housing Authority to pay \$1,500,000 to persons harmed by its discriminatory practices and a \$25,000 civil penalty. In another lawsuit, *United States v. Dunnwood Acres Apartments (E.D.Mo.)*, the United States alleged that defendants discriminated on the basis of disability by refusing to grant a reasonable accommodation and allow a family to transfer to a unit with fewer stairs to accommodate their daughter's mobility impairment. The consent order requires the defendants to pay \$44,000 in monetary damages to the complainants.

The Department filed and settled various cases challenging the inaccessible design and construction of residential properties. For example, in *United States v. Epcon Communities (S.D. Ohio)*, a case involving accessibility violations at 32 condominium properties in Ohio, the consent order required defendants to pay up to \$2,200,000 to correct inaccessible features at the properties, establish a \$300,000 settlement fund to pay damages to people who suffered harm, pay \$40,000 in damages to the fair housing group that filed the HUD complaint that initiated the case, and pay a civil penalty of \$51,303. In another case, *United States v. Atlantic Development Group, LLC and Peter Fine (S.D.N.Y.)*, the consent order required defendants to make extensive retrofits to 71 apartment buildings containing over 6,000 units, establish a \$600,000 compensation fund for aggrieved persons, and pay a \$30,000 civil penalty.

More detailed information about cases filed/settled by DOJ is available at <http://www.justice.gov/crt/about/hce/caselist.php>.

Section II: Case Highlights 2020

The cases featured in this section represent only a handful of the complaints filed in 2020 and highlight the issues and challenges that millions of consumers face each day as they attempt to gain access to housing opportunities. The sample cases reveal the types of impediments consumers face in the housing market, and they illustrate the variety and extent of housing discrimination and how it affects many segments of our society.

Please see also several cases brought by the Department of Justice featured at the end of Section I.

Racial Steering between Apartment Complexes

*Voluntary Compliance Agreement between HUD and Decatur Housing Authority*⁶

HUD reached a voluntary compliance agreement with the Decatur Housing Authority (DHA) in Decatur, Alabama, resolving claims that the housing authority discriminated against Black applicants for DHA senior housing by repeatedly skipping over Black applicants on the waiting list for desirable properties and steering them to less desirable units in racially and ethnically concentrated properties. DHA has agreed to create a \$200,000 fund to compensate individuals harmed by its policies; update its admission and occupancy policies; and appoint a compliance agreement administrator. The housing authority will appoint a compliance agreement administrator to ensure that the compliance agreement is followed and will require its employees to participate in fair housing training.

Source of Income Discrimination

*National Fair Housing Alliance v. Evolve LLC*⁷

In a consent order filed in May 2020, Evolve, LLC, which owns and manages multifamily housing in Washington, DC, agreed to settle a lawsuit filed by the National Fair Housing Alliance. NFHA alleged in its complaint that Evolve's policy of refusing to accept housing choice vouchers perpetuated racial discrimination and unlawfully discriminated on the basis of race, national origin, sex, and familial status. Under the terms of the consent order, Evolve agreed to adopt an affirmative non-discrimination policy under which it will not unlawfully discriminate on any basis prohibited by DC law, including discrimination on the basis of source of income. Evolve agreed to state on all advertising materials that it accepts housing choice vouchers and to give preference to qualified voucher holders who apply for housing.

⁶ See https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_095.

⁷ See <https://nationalfairhousing.org/2020/07/02/national-fair-housing-alliance-settles-housing-discrimination-case-with-evolve-llc/>.

Disability Discrimination in Lending

*United States v. Bank of America N.A.*⁸

In July 2020, Bank of America N.A. and the Justice Department agreed to a settlement resolving claims that Bank of America engaged in a pattern or practice of discrimination on the basis of disability by maintaining a policy of denying mortgage and home equity loans to adults with disabilities who were under legal guardianships or conservatorships. Under the terms of the DOJ settlement, Bank of America agreed to pay \$4,000 per loan to eligible loan applicants affected by its alleged discriminatory policies. The Justice Department estimated that the payments would total approximately \$300,000. The parties noted in the settlement agreement that Bank of America had implemented new underwriting guidelines for mortgage loans in 2016 and for home equity loans in 2017.

Nuisance Ordinances Challenged

*HOPE Fair Housing Center v. City of Peoria*⁹

In September 2020, HOPE Fair Housing Center and the City of Peoria, Illinois, agreed to a settlement of a lawsuit in which HOPE alleged that the city discriminated against African American residents by selectively enforcing its nuisance ordinance in predominantly African American neighborhoods and buildings with predominantly African American tenants. Under the terms of the settlement, Peoria agreed to amend the nuisance ordinance and police department policies to protect tenant rights and to ensure that the ordinance is enforced in a non-discriminatory manner. The city also agreed to pay HOPE a total of \$25,000 to use in part for the development of educational and outreach materials to educate tenants about their rights, to support HOPE's collaboration with Prairie State Legal Services and other local service providers, and to create a \$15,000 fund to assist tenants who have been displaced.

*Voluntary Conciliation Agreement between HUD and the City of Hemet, California*¹⁰

HUD reached a voluntary compliance agreement with the City of Hemet, California, in December 2020, resolving claims that the city's rental registration, crime-free rental housing, and abatement of chronic nuisance programs were enacted for discriminatory reasons and targeted people of color. Under these programs, Hemet imposed penalties on landlords if five or more calls were made to law enforcement and required landlords to evict tenants convicted of certain crimes. Hemet has agreed to repeal the ordinances that established the programs. It will establish a \$200,000 fund to improve housing for low- and moderate-income households.

⁸ See <https://www.justice.gov/crt/case/united-states-v-bank-america-na-edny>.

⁹ See <https://hopefair.org/peoria-housing-center-settle-lawsuit-august-27th-2020/>.

¹⁰ See https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_207.

Senior Housing and Restrictive Policies Imposed on Families with Children

*HUD v. City of Arlington*¹¹

In September 2020, HUD charged the City of Arlington, Texas, with familial status discrimination. According to HUD, Arlington violated the Fair Housing Act by limiting construction of affordable housing, for which it receives federal Low Income Housing Tax Credits, to senior housing and by blocking construction of affordable housing that would have been occupied by families with children.

*HUD v. Tralee Prairie View, LLC*¹²

In September 2020, HUD issued a charge of familial status discrimination against the owner and management of Prairie View Apartments in Cheyenne, Wyoming. According to the charge, the respondents violated the Fair Housing Act by imposing overly restrictive rules on families with children, including limiting the areas in which children can play and imposing a 9 p.m. curfew on unattended children under the age of 12.

Redlining Real Estate Sales Services

*National Fair Housing Alliance v. Redfin Corporation*¹³

In October 2020, the National Fair Housing Alliance and nine local fair housing organizations sued Redfin, a national real estate firm based in Seattle, Washington, alleging that Redfin engages in policies and practices that have a discriminatory impact and redlining effect in violation of the Fair Housing Act in at least ten metropolitan areas. The plaintiffs charged that Redfin discriminates against communities of color by setting minimum home listing prices in housing markets under which it will not offer any real estate brokerage services to buyers or sellers. According to the plaintiffs, buyers and sellers of homes in non-White areas are far less likely to be offered Redfin's services and discounts than buyers and sellers of homes in White areas. The plaintiffs have asked the court to order declaratory and injunctive relief, and award actual and punitive damages.

¹¹ See https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_168#.

¹² See https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_161.

¹³ See <https://nationalfairhousing.org/redfin-investigation/>.

Residency Preferences Challenge

*Fair Housing Justice Center v. Town of Eastchester*¹⁴

In a June 2021 settlement with the Fair Housing Justice Center (FHJC), the Town of Eastchester, New York, agreed to stop using residency preferences in determining eligibility for housing choice vouchers, other housing subsidies, and other benefits set out for thirty years in its zoning code. It will also amend its zoning code to eliminate residency preferences in senior housing. The town will pay damages totaling \$635,000. FHJC sued Eastchester for discrimination on the basis of race and national origin, after conducting testing of the town's housing choice voucher program. FHJC challenged the provisions of the town's housing program and zoning code that give preference to current residents in awarding housing benefits. The vast majority of current residents are White, and non-resident applicants, who were more likely to be Black or Latino, had to wait 10 to 15 years for housing vouchers. The settlement was reached after the district court in September 2020 denied in full a motion for summary judgment filed by Eastchester.

Group Homes Ordinance Challenged

*Hansen Foundation, Inc. v. City of Atlantic City*¹⁵

In December 2020, a federal district judge granted summary judgment for Hansen House, LLC, the owner of a single family house that operates as a group home for persons with disabilities. The court found that an Atlantic City, New Jersey, ordinance that prohibited the location of a community residence within 660 feet of another community residence was facially discriminatory. Hansen House purchased the house in a residential district of Atlantic City for use as a residence for women recovering from substance abuse and alcoholism. It sued the city in New Jersey state court, alleging violations of the Fair Housing Act, the Americans with Disabilities Act, the Rehabilitation Act, the Due Process Clause, the New Jersey Law Against Discrimination, and the New Jersey Civil Rights Act. Atlantic City removed the case to federal court. The parties filed cross motions for summary judgment.

Hansen House argued that the zoning provision restricting a community residence from locating within 660 feet of other community residences was facially discriminatory in violation of the Fair Housing Act, the Americans with Disabilities Act, and the Rehabilitation Act. District Court Judge Noel Hillman held that the ordinance was facially discriminatory and entered a permanent injunction enjoining the city from enforcing this provision.

¹⁴ See <https://www.fairhousingjustice.org/newsletters/opening-acts-june-1-2021/>.

¹⁵ See *Hansen Found., Inc. v. City of Atl. City*, 501 F. Supp. 3d 327, 331 (D.N.J. 2020).

Discrimination in State Services

*Drayton v. McIntosh County*¹⁶

In November 2020, the State of Georgia and other defendants settled a lawsuit filed by 54 property owners and residents of Sapelo Island, Georgia, and two community organizations. The individual plaintiffs, who are African American descendants of Gullah-Geechee slaves, alleged that the State of Georgia and McIntosh County, Georgia, engaged in a policy designed to “driv[e] the last intact Gullah-Geechee community from Sapelo Island and into history books.” According to the plaintiffs, the state defendants’ actions included denying basic municipal services, limiting residents’ access to their lands, and dramatically increasing taxes. The Commissioner of the Georgia Department of Natural Resources will meet annually with residents and will, among other things, implement improvements to the water system. The state defendants have also agreed to remediate ferry and dock facilities to make the island more accessible to persons with disabilities. The state defendants have paid the plaintiffs a total of \$750,000 as part of the settlement.

Discrimination in Appraisals

*Conciliation Agreement between Complainant and JPMorgan Chase Bank, N.A.*¹⁷

In March 2021, HUD approved a conciliation agreement between an African American woman and JPMorgan Chase Bank resolving allegations that JPMorgan Chase discriminated on the basis of race in violation of the Fair Housing Act by appraising her home at an amount lower than its actual value because of her race. JPMorgan Chase will pay the woman \$50,000. JPMorgan Chase home lending advisors and client care specialists will participate in training on fair lending issues related to appraisals.

Discrimination against Same-Sex Couple

*Walsh v. Friendship Village of South County*¹⁸

Friendship Village Sunset Hills, a senior housing community in St. Louis County, Missouri, has agreed to settle a discrimination lawsuit filed by Mary Walsh and Beverly Nance alleging discrimination because they are a same-sex couple. Walsh and Nance are a married couple whose application for a unit at Friendship Village was denied although they were financially and otherwise qualified for residency in the community. Walsh and Nance alleged that Friendship Village rejected them pursuant to a policy that allowed only couples whose marriages consisted of “one man and one woman, as marriage is understood in the Bible.” The terms of the settlement have not been disclosed.

¹⁶ See <https://www.relmanlaw.com/cases-sapelo>.

¹⁷ See https://www.hud.gov/press/press_releases_media_advisories/hud_no_21_037.

¹⁸ See <https://www.nclrights.org/our-work/cases/walsh-v-friendship-village-of-south-county/>.