



**2022**

# Fair Housing Trends Report



**NFHA** NATIONAL FAIR HOUSING ALLIANCE™



**Table of Contents**

Acknowledgements\_\_\_\_\_ 2

Executive Summary\_\_\_\_\_ 3

Section I: Fair Housing Trends Data for 2021:\_\_\_\_\_ 6

    Overview of Housing Discrimination Complaints Reported in 2021\_\_\_\_\_ 6

    Housing Discrimination Complaints by Reporting Agency\_\_\_\_\_ 8

    Housing Discrimination Complaints by Region\_\_\_\_\_ 9

    Housing Discrimination Complaints by Basis of Discrimination\_\_\_\_\_ 11

    Housing Discrimination Complaints by Transaction Type\_\_\_\_\_ 12

    Complaint Data Reported by HUD and FHAP Agencies\_\_\_\_\_ 15

    Complaint Data Reported by DOJ and DOJ Cases\_\_\_\_\_ 20

Section II: Case Highlights 2021\_\_\_\_\_ 24

    Redlining\_\_\_\_\_ 24

    Discrimination in Appraisals\_\_\_\_\_ 24

    Discrimination in Real Estate Owned Property Maintenance\_\_\_\_\_ 25

    Standard for Proving Disparate Impact\_\_\_\_\_ 26

    Redlining Real Estate Sales Services\_\_\_\_\_ 26

    Land Use and Zoning\_\_\_\_\_ 26

    Discrimination against People with Hearing Disabilities\_\_\_\_\_ 27

    Harassment\_\_\_\_\_ 27

    Proximate Cause\_\_\_\_\_ 27

    Discrimination in Disaster Relief Funding\_\_\_\_\_ 28

    Domestic Violence\_\_\_\_\_ 28

Section III: Recommendations \_\_\_\_\_ 29

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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 works to eliminate housing discrimination and ensure equitable housing opportunities for all people and communities through its education and outreach, member services, public policy, advocacy, housing and community development, tech equity, enforcement, and consulting and compliance programs.

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. 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.

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The *2022 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) is the only national civil rights organization whose sole mission is to eliminate housing and lending discrimination and ensure equal opportunity for all. One important way it undertakes its mission is to educate the nation about the nature and extent of housing discrimination. This 2022 Fair Housing Trends Report is the latest in a series of annual reports about fair housing trends that NFHA has produced since the mid-1990s. Housing discrimination complaint data is paired with information about important cases from the previous year. In any year, NFHA supplements this informational base with single-issue papers and reports on other topics, which also serve as vehicles for circulating recommendations and sharing best practices. Please visit [www.nationalfairhousing.org](http://www.nationalfairhousing.org) to view these additional documents.

The most important finding of this report is that the number of housing discrimination complaints increased significantly in 2021, despite the fact there were fewer agencies reporting complaint data. There were 31,216 housing complaints in 2021, an 8.7 percent increase over the number of complaints filed in 2020. At the same time, there were seven fewer agencies that reported data in 2021 than in 2020. Had all fair housing agencies been able to submit their data, undoubtedly the number of reported fair housing complaints would have been even higher.

The Trends Report data underscores the need for increased funding to support the agencies that process and investigate complaints. The Department of Housing and Urban Development's (HUD's) Office of Fair Housing and Equal Opportunity (FHEO) provides funding to support both private and public fair housing organizations; the Fair Housing Initiatives Program (FHIP) awards grants to private, nonprofit fair housing organizations, and the Fair Housing Assistance Program awards grants to state and local governmental fair housing or civil rights enforcement agencies. FHEO processes complaints in jurisdictions not served by a private or local/state enforcement agency.

Data collected in this report reflects a snapshot of the millions of incidents of illegal housing discrimination that occur each year. The overwhelming number of housing discrimination cases goes undetected and/or unreported. Many instances are difficult to identify or document. Housing providers may engage in many types of discrimination that can be undetectable, such as lying about the availability of or monthly rent for apartments, steering people of color to buy homes only in neighborhoods of color, charging a higher interest rate for a mortgage loan than an applicant deserves, undervaluing an appraisal because of the race of the homeowners, and much more. In other cases, those who experience discrimination often think it is futile to complain, even when they are convinced their civil rights have been violated. They also may fear retaliation or eviction by landlords.

To help counteract this, NFHA is committed to expanding knowledge about fair housing rights and encouraging those who suspect discrimination to take action and report it. NFHA works with HUD to implement national media campaigns to inform all people about their fair housing rights and how to file a housing discrimination complaint. Indeed, without these campaigns, many more acts of discrimination might go unsuspected or unreported.

This report contains other notable highlights, including:

- Private fair housing organizations continue to process more than 2.6 times the number of complaints (72.64 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 grass-roots level.
- The increase in fair housing complaints, processed by fewer organizations, is an unsustainable model. In addition to more funding to support private, nonprofit fair housing groups, more resources are needed to support the Fair Housing Assistance Program as well as federal agencies like HUD, the Department of Justice (DOJ), and the Consumer Financial Protection Bureau (CFPB), which help enforce anti-discrimination laws.
- Cases alleging discrimination because of disability continue to account for the largest number of complaints, at 53.68 percent. Discrimination based on disability is usually obvious, making it easier to detect and more practical to file a complaint. Discrimination based on race, which is often harder to detect, comprised the second highest number of complaints.
- DOJ established a Combating Redlining Initiative in October 2021 to build on efforts to make mortgage credit and home ownership available to all Americans on the same terms.
- DOJ obtained 34 settlements and judgements in FYI 2021, resulting in \$10 million in monetary relief, and including eight alleging sexual harassment, two involving discrimination based on race or national origin, and 11 alleging disability discrimination.
- NFHA and nine local fair housing organizations settled a ground-breaking race discrimination lawsuit in April 2022 against Redfin Corporation, an online real estate company. Redfin agreed to change its minimum housing price policy and implement changes to help counter redlining and residential segregation.

This report contains two sections. In section I, we outline in detail the fair housing complaint data for 2021, 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 DOJ and features some of its cases that were settled in FY2021.

In Section II, we provide a sample of important outcomes for several housing/lending discrimination cases in 2021 and early 2022. These cases include a \$53 million settlement with Fannie Mae by NFHA and 20 local fair housing organizations to resolve a long-standing case of alleged discrimination in the maintenance and marketing of foreclosed homes owned by Fannie Mae.

Much work is underway on the fair housing front, and we understand that this report provides only a high-level overview of the complex world of housing and lending discrimination. However, the data are instructive in reminding us that housing discrimination remains a serious problem that perpetuates racial and ethnic inequities in our communities, a problem that merits considerably more attention and remedies.

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**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 Complaint Data for 2021

### Overview of Housing Discrimination Complaints Reported in 2021

Housing discrimination is a pernicious obstacle that harms people and communities; limits access to critical opportunities like credit, insurance, and housing; perpetuates segregation; and contributes to inequities in our society like the racial homeownership and wealth gaps. This year's trends report documents that housing discrimination complaints increased in 2021 to the highest number in at least 25 years. Never has it been more important to support all efforts to educate consumers about their fair housing rights and implement effective measures to enforce fair housing laws to redress both individual cases of discrimination and eliminate policies and practices that have a discriminatory effect on large classes of people.

This troubling increase in discrimination complaints partly stems from the Trump administration's unprecedented attacks on fair housing, fair lending, and other civil rights laws and provisions. NFHA's many efforts to convince the administration not to proceed with its assault on fair housing and lending provisions went unheeded. The Trump administration took a hatchet to previously established fair housing rules designed to expand more equitable opportunities for underserved groups, and it worked vociferously to defund and displace experts at HUD, DOJ, and CFPB—all agencies with responsibility for enforcing our nation's fair housing and lending laws.

President Joe Biden has sought to correct this travesty by shoring up HUD, DOJ, and the CFPB and setting the country on the right path toward housing equity, a path charted by President Johnson when he signed the Fair Housing Act into law in 1968. Shortly after taking office in January 2021, President Biden signed an Executive Order banning discrimination based on gender identity and sexual orientation,<sup>1</sup> an Executive Order promoting racial equity,<sup>2</sup> and a memorandum redressing the federal government's history of discriminatory practices and policies.<sup>3</sup> In the Executive Order titled "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," President Biden also revoked Trump's Executive Order that prohibited, among other things, federal contractors from providing workforce diversity, and anti-

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<sup>1</sup> President Joseph R. Biden, Jr., "Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation," January 20, 2021, available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/>.

<sup>2</sup> President Joseph R. Biden, Jr., "Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," January 20, 2021, available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

<sup>3</sup> President Joseph R. Biden, Jr., "Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies," January 26, 2021, available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-redressing-our-nations-and-the-federal-governments-history-of-discriminatory-housing-practices-and-policies/>.

sexism and anti-racism training programs. All these Biden administration measures were championed by NFHA.

Each year, NFHA collects data from both private nonprofit fair housing organizations and government agencies throughout the country that receive and investigate fair housing complaints from the public. The data provides a snapshot of the number and types of housing discrimination complaints reported for the year. NFHA collects housing discrimination complaint data from HUD, state and local Fair Housing Assistance Program (FHAP) agencies, and DOJ. Together with private, nonprofit fair housing organizations, these agencies make up the national infrastructure to address housing discrimination in the United States.<sup>4</sup>

There were **31,216 fair housing complaints** received by private non-profit fair housing organizations, HUD, FHAP agencies, and the DOJ in 2021, **an 8.7 percent increase over complaints filed in 2020**. The 2021 complaint data shows that private fair housing organizations continued to process the majority of housing discrimination complaints reported throughout the country. Eighty (80) private, non-profit fair housing organizations (FHOs) processed 72.64 percent of complaints, compared to 6.70 percent by HUD, 20.54 percent by FHAP agencies, and 0.12 percent by DOJ. From 2020 to 2021, fair housing organizations, HUD, and FHAP agencies all saw an increase in complaints received. Private, non-profit fair housing organizations reported a 7.5 percent increase in complaints, even as the number of reporting fair housing organizations dropped from 84 organizations in 2020 to 80 organizations in 2021. HUD reported a 23.3 percent increase in complaints received from 2020 to 2021, and FHAP agencies reported a 9.1 percent increase in complaints received, although there were three fewer agencies reporting. It is significant that more housing discrimination complaints were processed in 2021 than in 2020, although there were seven fewer agencies reporting. This level of increased workload by fewer organizations is not sustainable without additional resources to recruit and onboard more staff, in addition to more investment in technology and training to combat illegal discrimination.

Housing discrimination takes many forms and occurs in different types of housing transactions, including rental, real estate sales, mortgage lending, and housing-related insurance and appraisal transactions. Housing discrimination also occurs when developers build units that are inaccessible to people with disabilities and when housing providers deny requests for reasonable accommodations and/or modifications so a person with a disability can use and enjoy their home. It also includes discriminatory advertising, discrimination by homeowners or condominium associations, discriminatory zoning policies, harassment based on race, sex, religion, or national origin, and more. For purposes of this report, data is 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.

The data collected for this report represents only a small portion of the millions of incidents of illegal housing discrimination that occur each year. Housing discrimination often goes

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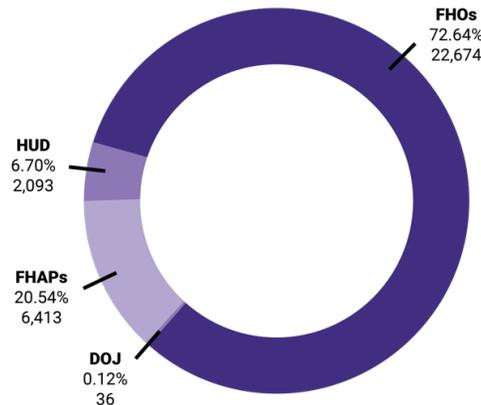
<sup>4</sup> Private fair housing agencies report their data based on the calendar year, while HUD, FHAP, and DOJ data are reported based on the federal fiscal year (October-September).

undetected and unreported because it is difficult to identify or document. It is also common for victims of discrimination to feel that nothing can or will be done about their civil rights being violated, and the fear of retaliation by their housing provider, landlord, or even neighbors discourages them from reporting.

### Housing Discrimination Complaints by Reporting Agency

This report includes submissions from 80 NFHA member organizations, all of which are private nonprofit fair housing organizations or fair housing programs of legal aid agencies. It also includes data from the 10 regional HUD offices as well as 76 state and local government agencies<sup>5</sup> that participate in the FHAP program at HUD, from which they 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, as well as education and outreach. The report also contains information gathered from DOJ, which addresses cases involving patterns or practices of discrimination or cases that are of general public importance.<sup>6</sup>

Housing Discrimination Complaints in 2021 by Reporting Agency



Fair housing complaint data by agency is included in the table below, along with data from previous years. FHOs continue to address approximately 2.5 times as many complaints as the government agencies combined.

<sup>5</sup> See <https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO-Annual-Report-FY2020.pdf>.

<sup>6</sup> See, [A Pattern or Practice of Discrimination](#), Department of Justice, January 13, 2022.

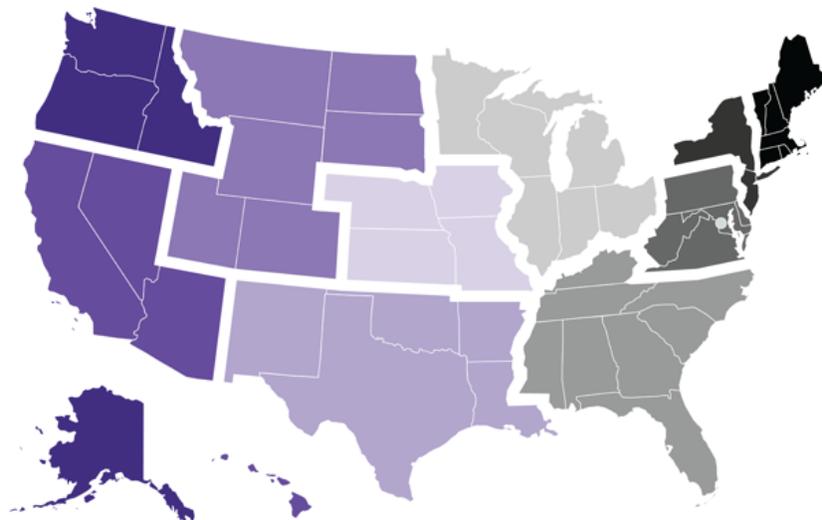
Complaint Data by Agency, 2011-2021

Year	NFHA Members	HUD	FHAPs	DOJ	Total
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
2021	22,674	2,093	6,413	36	31,216

Housing Discrimination Complaints by Region

The three maps below break out the data by the 10 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 and localities that do not have a private or governmental fair housing enforcement agency. 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.

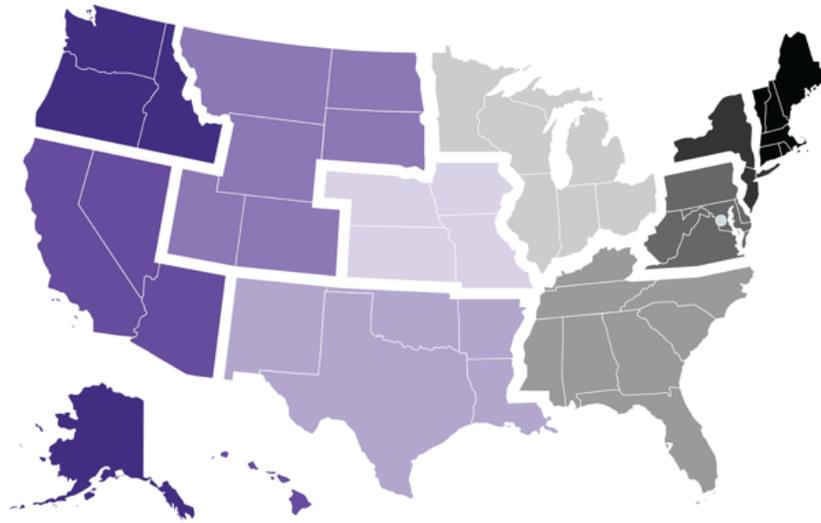
Total Fair Housing Complaints by HUD Region  
Fair Housing Trends Data, 2021



Total Complaints by HUD Region  
Data from NFHA Members, HUD, and FHAP Agencies

- Northwest/Alaska - 2,268
- Midwest - 6,441
- Pacific/Hawaii - 7,814
- Southeast/Caribbean - 3,670
- Rocky Mountain - 1,813
- Mid-Atlantic - 1,827
- Great Plains - 1,245
- New York & New Jersey - 2,204
- Southwest - 2,500
- New England - 1,575

**Total Fair Housing Complaints by HUD Region**  
Fair Housing Trends Data, 2021

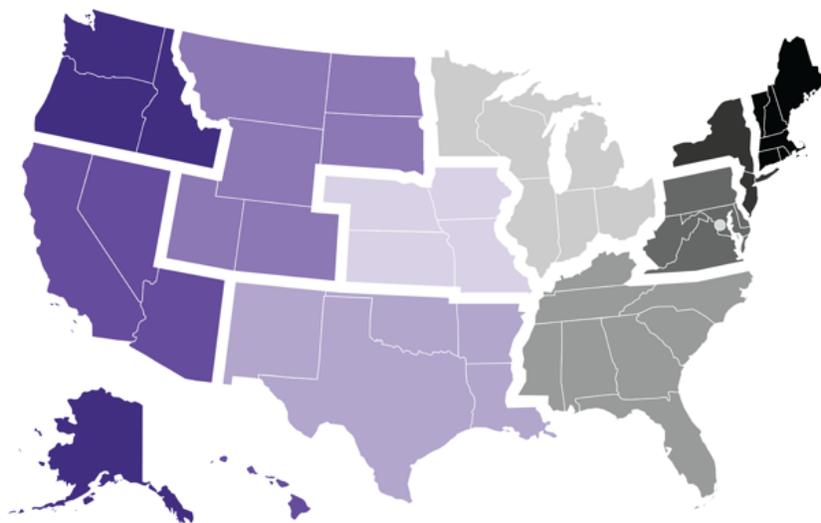


**Total Complaints by HUD Region**  
NFHA Member Fair Housing Complaints

Northwest/Alaska - 1,925	Midwest - 5,014
Pacific/Hawaii - 6,608	Southeast/Caribbean - 1,856
Rocky Mountain - 1,421	Mid-Atlantic - 1,003
Great Plains - 664	New York & New Jersey - 1,410
Southwest - 1,900	New England - 873

Source: National Fair Housing Alliance

**Total Fair Housing Complaints by HUD Region**  
Fair Housing Trends Data, 2021



**Total Complaints by HUD Region**  
HUD, FHAPs Combined Fair Housing Complaints

Northwest/Alaska - 343	Midwest - 1,427
Pacific/Hawaii - 1,206	Southeast/Caribbean - 1,814
Rocky Mountain - 392	Mid-Atlantic - 824
Great Plains - 581	New York & New Jersey - 614
Southwest - 600	New England - 702

Source: National Fair Housing Alliance

**Housing Discrimination Complaints by Basis of Discrimination**

This section details the national complaint data by protected class, or basis of discrimination. As in prior reports, complaints alleging discrimination based on disability account for the majority of complaints filed with FHOs, HUD, and FHAP agencies. There were 16,758 complaints of discrimination against a person with a disability or 53.68 percent of all cases. One reason for this is that discrimination against persons with disabilities is easier 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 based on race, with 5,922 or 18.97 percent of all complaints. This is an increase in race-based complaints, as in 2020, race-based housing discrimination complaints made up 16.79 percent of complaints received. Sex (including complaints based on sexual orientation or gender identity) was the third most frequent basis of discrimination, with 2,309 complaints or 7.40 percent of all housing discrimination complaints. The fourth most frequent basis of discrimination was familial status, with 2,261 complaints or 7.24 percent of all complaints. The fifth most frequent basis was national origin, with 1,774 reported complaints or 5.68 percent of all complaints. Color was the basis of discrimination for 734 complaints or 2.35 percent of all complaints, and religion was the basis of 382 complaints or 1.22 percent of all complaints nationwide.

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

**Complaint Data by Basis and Agency in 2021**

Basis	NFHA Members	HUD	FHAPs	DOJ
Race	14.98%	29.4%	29.7%	19.4%
Disability	52.39%	57.7%	56.9%	50.0%
Familial Status	6.48%	8.4%	9.6%	8.3%
Sex	5.39%	15.8%	11.8%	11.1%
National Origin	4.10%	9.1%	10.2%	11.1%
Color	1.64%	2.9%	4.7%	0.0%
Religion	0.85%	1.9%	2.3%	8.3%
Other	14.17%	8.9%	13.6%	11.1%

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 2021, 4,276 complaints (13.70 percent of all complaints) involved a basis of discrimination in the “other” protected class category.

Private fair housing organizations provided a breakdown of “other” protected class categories for 3,214 complaints, including the following primary categories:

- Source of Income (1,713 complaints)
- Age/Student Status (215 complaints)

- Sexual Orientation (229 complaints)
- Gender Identity/Expression (93 complaints)
- Marital Status (104 complaints)
- Criminal Background (314 complaints)
- Victims of Domestic Violence (172 complaints)
- Arbitrary (in California Rentals Only) (17 complaints)
- Military Status (32 complaints)
- Retaliation (127 complaints)
- Immigration Status/ Citizenship (37 complaints)

In 2021, there was an uptick in the “other” category of complaints regarding source of income, sexual orientation, criminal background, age, domestic violence, and retaliation. Source of income complaints saw an increase of 350 cases from 2020 to 2021. Source of Income (SOI) complaints have steadily increased since NFHA started documenting these complaints in 2017. Additionally, more states and local jurisdictions, such as California, New York City and Virginia, have added protections for SOI, including Housing Choice Voucher recipients, to fair housing laws.<sup>7</sup>

Criminal background complaints also saw a substantial increase in 2021; 314 complaints were reported, which was an increase of 248 complaints compared to the 66 complaints reported in 2020. Domestic violence complaints doubled in 2021, with an increase from 85 complaints in 2020 to 172 in 2021. Finally, retaliation complaints also increased in 2021 with a total of 127 retaliation complaints reported, compared to 22 in 2020. The ongoing effect of “shelter in place” mandates resulting from the COVID-19 pandemic is one of the reasons for the rise in domestic violence complaints. A report by the National Commission on COVID-19 and Criminal Justice noted an 8.1 percent rise in domestic violence cases.<sup>8</sup> In the past five years, a national policy on Fair Chance at Housing has emerged and laws were passed in the District of Columbia in 2017; in Colorado, Illinois, and New York in 2019; and, in New Jersey in 2021 to limit consideration of criminal records in housing. HUD also issued guidance in 2016 on this topic.<sup>9</sup>

## Housing Discrimination Complaints by Transaction Type

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

<sup>7</sup> See <https://www1.nyc.gov/site/cchr/law/source-of-income.page> and <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB6>.

<sup>8</sup> See <https://www.cnn.com/2021/03/01/us/domestic-violence-pandemic-trnd/index.html> and <https://www.globalcitizen.org/en/content/domestic-violence-covid-19-increase-us-ncccj-study/>.

<sup>9</sup> See [https://ccresourcecenter.org/wp-content/uploads/2016/04/hud\\_ogcguidappfhastandcr.pdf](https://ccresourcecenter.org/wp-content/uploads/2016/04/hud_ogcguidappfhastandcr.pdf).

Complaints by Transaction Type in 2021

	Rental	Sales	Lending	Insurance	Harassment	Advertising	HOA/Condo	Other	Total
NFHA Members	20,085	653	188	31	882	271	150	414	22,674
HUD	1,304	199	114	3	0	0	0	476	2,093
FHAPs	4,090	556	92	2	0	0	0	1,675	6,413
DOJ	22	0	1	0	4	0	0	9	36
Total	25,501	1,408	395	36	886	271	150	2,574	31,216
Percent of Total	81.69%	4.51%	1.27%	0.12%	2.84%	0.87%	0.48%	8.25%	100.00%

**Rental Market – 25,501 Complaints**

As in prior years, rental-related housing discrimination complaints in 2021 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 2021, there were 25,501 rental complaints reported across all agencies, and 20,085 of these were processed by private fair housing organizations. The number of rental-related complaints reported in 2021 increased by 4,641 complaints compared to the 20,860 rental complaints received in 2020. Rental-related complaints in 2021 accounted for 81.69 percent of all transaction types reported, compared to 72.65 percent in 2020, 83.75 percent in 2019, and 83.39 percent in 2018. This increase in complaints is the result of higher demand and lower supply of available housing along with the continuing effects of the global pandemic. While the federal government took steps to bolster the economy, additional safeguards were needed to protect renter households from unfair and discriminatory practices. Such unfair practices can include landlords demanding three to five times the monthly rent for tenants to qualify and restricting application processes to online systems. These practices typically impact those already at a disadvantage for housing opportunities.

**Real Estate Sales – 1,408 Complaints**

Real estate sales complaints compromised 4.51 percent of all housing discrimination cases reported in 2020, with 1,408 complaints total. This number represents an increase of 660 complaints from 2020 when 747 sales complaints were reported. According to the Joint Center for Housing Studies at Harvard University, the events of the past year reinforced racial and ethnic disparities in American society, with unequal access to homeownership being the most persistent.<sup>10</sup>

**Mortgage Lending – 395 Complaints**

In 2021, there were 395 complaints of lending discrimination, an increase from the previous year. Private fair housing organizations reported 188 out of the 395 total lending complaints, which is an increase of 80 cases from the 108 complaints that these groups reported in 2020. Across all agencies, in 2020 there were 238 lending complaints and in 2019 there were 234 complaints. As

<sup>10</sup> See [https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard\\_JCHS\\_State\\_Nations\\_Housing\\_2021.pdf](https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2021.pdf).

with sales transactions, a bifurcated financial system<sup>11</sup> limits credit access, especially for Black and female homebuyers.

In early 2022, NFHA issued a Redlining Toolkit to help advocates analyze and apply public data to address the problem of redlining and ensure equitable access to credit. The Redlining Toolkit can be found at <https://nationalfairhousing.org/issue/redlining>.

### **Homeowners Insurance Transactions – 36 Complaints**

Discrimination in the provision of homeowners insurance is difficult to identify because it is rarely overt. In 2021, 36 complaints of homeowners insurance-related discrimination were reported, representing less than one percent of all cases. However, this represents an increase from 20 complaints reported in 2020. Insurance discrimination is often hidden behind proprietary algorithmic models. A recent blog by the Consumer Federation of America highlighted how racial discrimination in homeowners insurance contributes to redlining.<sup>12</sup> An uneven pandemic recovery in communities of color, in addition to the effects of historic redlining that have never fully dissipated, aid in the homeowners insurance complaint increase.

### **Harassment – 886 Complaints**

Complaints of harassment, although easily recognizable, often go unreported. Women, single-parent heads of households, people of color, persons with disabilities, immigrants, persons with housing assistance, and others are very vulnerable to harassment in housing because they fear retaliation or loss of 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 2021, 886 complaints of harassment were reported, a decrease from the 1,071 complaints reported in 2020. In 2021, there were 241 harassment complaints on the basis of disability, 229 harassment complaints based on race, and 149 harassment complaints based on sex. Although the total number of harassment complaints decreased from 2020 to 2021, the number of harassment complaints based on race increased. In 2021 there were 229 harassment complaints based on race, compared to 192 in 2020.

### **Other Housing-Related Transactions – 2,995 complaints**

In 2021, 2,995 complaints fell into “other transaction” categories. Other housing-related transactions included 271 complaints of discriminatory advertising by housing providers and 150 complaints of discrimination by homeowners or condominium associations.

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<sup>11</sup> See, *Access to Credit: Not everyone has equal access to our financial markets*, for a description of the U.S. bifurcated financial system or dual credit market. Available at <https://nationalfairhousing.org/issue/access-to-credit/>

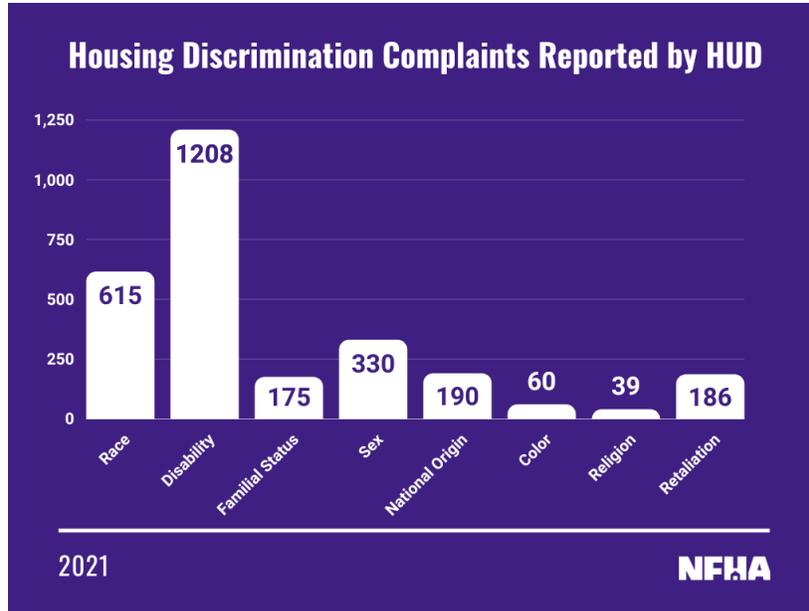
<sup>12</sup> See <https://consumerfed.org/how-racial-discrimination-in-homeowners-insurance-contributes-to-systemic-racism-and-redlining/> and <https://consumerfed.org/wp-content/uploads/2020/06/CEJs-Call-on-Insurers-and-Regulators-to-Address-Systemic-Bias-and-Inherent-Racism-in-Insurance.pdf>.

## 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***

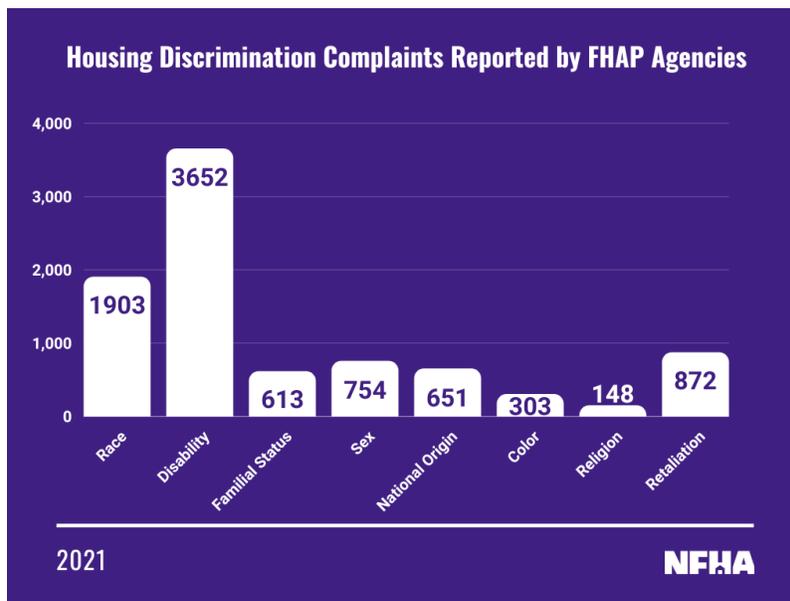
HUD received 2,093 discrimination complaints in 2021, an increase of 396 complaints from 2020 and the highest number HUD has reported since 2008. From 2020 to 2021, there was an increase in housing discrimination complaints based on race and sex. From 2020 to 2021, there was a 2.57 percent increase in complaints based on race and a 2.04 percent increase in complaints based on sex. Complaints based on disability decreased by 2.51 percent from 2020 to 2021. The chart below details the HUD complaint information by protected class.



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

**FHAP Complaints**

FHAP agencies received 6,413 discrimination complaints in 2021, an increase of 530 complaints from 2020. From 2020 to 2021, there was an increase in housing discrimination complaints based on race and a decrease in housing discrimination complaints based on disability. From 2020 to 2021, complaints based on race increased by 3.46 percent, and complaints based on disability decreased by 4.14 percent. The chart below details the FHAP complaint information by protected class.



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 2021, no new Secretary-initiated complaints were opened, and four Secretary-initiated complaints were conciliated or settled. These four conciliated or settled Secretary-initiated complaints included allegations based on disability, sex, and/or retaliation claims.

**Charged Cases**

In 2021 HUD charged 36 cases, compared to 36 cases in 2020, 37 cases in 2019, and 28 charges in 2018. 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. The chart below details the number of HUD-charged cases from 2010 to 2021.

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
2021	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 2021, there were 401 cause determinations at FHAP agencies, a decrease from 453 in 2020.

The table below shows the types of HUD and FHAP case completions in 2021. There were 7,591 completions: 1,924 by HUD and 5,667 by FHAP agencies. There were 115 fewer cases charged or

caused by HUD and FHAP agencies in 2021 than in 2020. HUD conciliated or settled 11 more cases than in 2020, while FHAP agencies conciliated or settled 85 fewer cases. For cases receiving a “no cause” determination, 69 fewer cases were “no caused” by HUD or FHAP agencies in 2021 than in 2020.

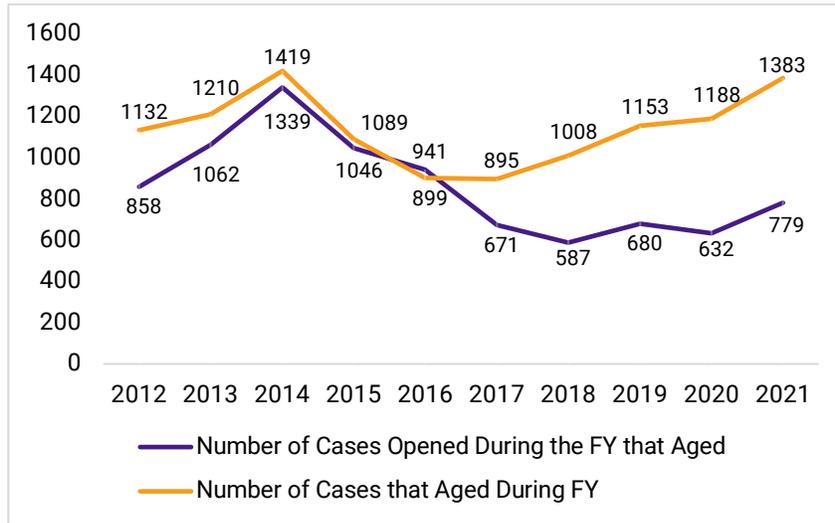
Case Completion Type	HUD	FHAPs	Total
Administrative Closure	249	580	829
Charged or FHAP Caused	36	401	437
Conciliation / Settlement	656	1,040	1,696
DOJ Closure	1	0	1
No Cause	817	3,249	4,066
Withdrawn after Resolution	165	397	562
Total	1,924	5,667	7,591

**Aged Cases**

With the exception of complex investigations (for example, appraisal bias, 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.

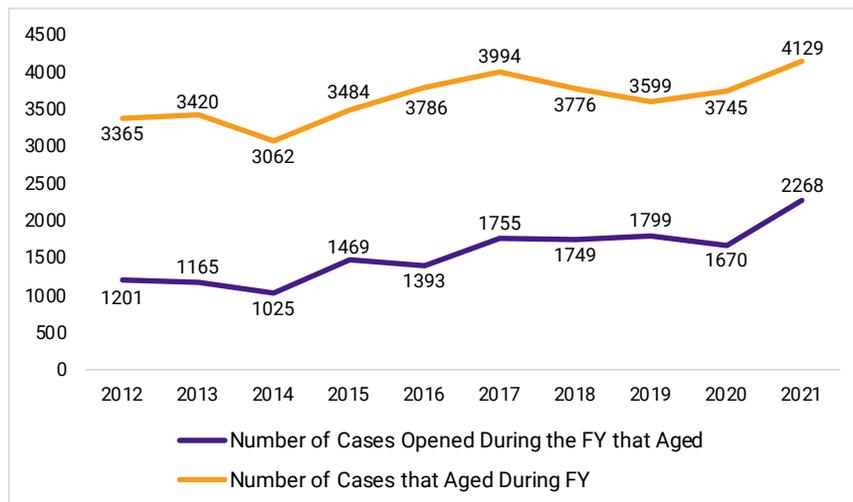
HUD had 779 new aged cases during FY2021, a 23 percent increase from the 632 new aged cases during FY2020. The chart below shows cases that were opened and passed the 100-day mark during the fiscal year. HUD also had 1,383 ongoing cases that continued to age during FY2021. This number is a 16 percent increase over FY2020 when HUD had 1,188 ongoing cases that continued to age. An important consideration is that HUD has experienced a decline in full-time staff over the decades, particularly in the FHEO division. Increased resources are necessary for HUD to be fully staffed so the agency can cure its portfolio of aged cases.

**Number of Aged Cases FY2012-FY2021 (HUD)**



FHAP agencies had 2,268 cases that were opened and aged during FY2021, representing a 36 percent increase from the 1,670 cases reported during FY2020. FHAP agencies also had 4,129 ongoing cases that continued to age during FY2021, an increase of 384 cases compared to the 3,745 ongoing cases that continued to age during FY2020. The increased caseload and increase in more complex investigations (appraisal/insurance/redlining), may be fueling the increased aged cases that exceed the 100-day benchmark for processing. This means that FHAP agencies must have adequate resources to enable them to investigate cases in a timely manner.

**Number of Aged Cases FY2012-FY2021 (FHAPs)**



## 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.

### **Overview of FY2021 DOJ Cases**

DOJ’s Housing and Civil Enforcement Section filed 36 cases during FY2021, a decrease from the 43 cases filed the previous year. Nineteen of these cases were “pattern or practice” cases. Of the 36 cases reported in 2021, 22 cases alleged rental discrimination; one case alleged mortgage lending discrimination; four cases related to harassment; two cases challenged discrimination by local governments in the land use and zoning process; three cases were brought under the Religious Land Use and Institutionalized Persons Act; and four cases alleged violations of the Service Members Relief Act. DOJ reported 18 HUD election cases as well as one amicus or intervention case. There may be overlap in some of these cases.

### **Combatting Redlining Initiative**

DOJ established a new Combatting Redlining Initiative in October 2021. The Initiative builds on DOJ’s longstanding efforts to make mortgage credit and homeownership accessible to all Americans on the same terms. The Initiative also seeks to expand the Department’s enforcement efforts to include non-depository lenders. The Department filed and settled one redlining case during Fiscal Year 2021 and a second at the start of Fiscal Year 2022, in October 2021.<sup>13</sup>

<sup>13</sup> See <https://www.justice.gov/opa/pr/justice-department-announces-new-initiative-combat-redlining>.

In Fiscal Year 2021, DOJ filed and settled *United States v. Cadence Bank, NA* (N.D. Ga.), alleging violations of the Fair Housing Act and the Equal Credit Opportunity Act. The complaint alleged that Cadence Bank engaged in unlawful redlining in the Houston, TX, area by avoiding providing credit services to predominantly Black and Hispanic neighborhoods. The complaint also alleged that Cadence Bank's branches were concentrated in majority-White neighborhoods. The consent order requires Cadence Bank to invest \$4.17 million in a loan subsidy for residents of Black and Hispanic neighborhoods in the Houston area, \$750,000 for development of community partnerships to provide services that increase access to residential mortgage credit in Black and Hispanic neighborhoods, and at least \$625,000 for advertising, outreach, consumer financial education, and credit repair initiatives. Under the settlement, Cadence Bank will also dedicate at least four mortgage loan officers to majority-Black and Hispanic neighborhoods in Houston and open a new branch in one of those neighborhoods.

In early Fiscal Year 2022, DOJ filed and settled *United States v. Trustmark National Bank* (W.D. Tenn.) alleging violations of redlining in Memphis, TN. The complaint alleged that Trustmark National Bank violated the Fair Housing Act and Equal Credit Opportunity Act by engaging in a pattern or practice of unlawful redlining by structuring its business and outreach efforts so as to avoid the credit needs of majority Black and Hispanic neighborhoods in its residential mortgage lending. The complaint alleged that Trustmark National Bank avoided providing home loans and other mortgage services and discouraged applications for credit for properties located in majority Black and Hispanic neighborhoods in the Memphis metropolitan area, and that it located and maintained nearly all of its branch locations and mortgage loan officers in majority White neighborhoods. The consent order requires Trustmark National Bank to invest \$3.85 million in a loan subsidy fund to increase credit opportunities for current and future residents of predominantly Black and Hispanic neighborhoods in Memphis. Trustmark will also invest \$400,000 to develop community partnerships to provide services that increase access to residential mortgage credit in Black and Hispanic neighborhoods. It will also invest at least \$200,000 per year for five years in advertising, outreach, consumer financial education, and credit repair initiatives in and around Memphis.

### ***Sexual Harassment Initiative***

DOJ established a Sexual Harassment in Housing Initiative in 2018. The Department continued to open sexual harassment investigations challenging alleged sexual harassment in housing, with four sexual harassment lawsuits filed in FY2021. In FY2021, DOJ also settled eight sexual harassment cases. Since the launch of the Initiative, DOJ has filed a total of 24 lawsuits challenging alleged sexual harassment in housing and has settled 19 sexual harassment cases, resulting in \$9,654,950 in damages for more than 200 victims as well as substantial injunctive relief aimed at preventing future harassment.

### ***DOJ Case Highlights***

DOJ obtained 34 settlements and judgments in FY2021, resulting in a total of \$10 million in monetary relief. Those settlements include the following:

The Department settled eight sexual harassment cases. For example, in *United States v. Pelfrey* (W.D. Okla.), the United States alleged that the owners of over 80 residential properties around Oklahoma City violated the Fair Housing Act because their agent, who owned and/or managed

these properties, engaged in a pattern or practice of sexual harassment against female tenants and prospective tenants from at least 2001 until 2017. The harassment included exchanging sexual acts for rent or partial rent, exposing himself to tenants or prospective tenants, groping tenants or prospective tenants, making unwelcome sexual comments or advances to tenants or prospective tenants, and evicting or threatening to evict tenants who refused to engage in sexual acts. The consent order included \$1.2 million in monetary damages to aggrieved persons, a \$50,000 civil penalty, and injunctive relief.

The Department settled two cases alleging discrimination related to race or national origin. In *United States v. Brisas del Mar Ltd Partnership* (S.D. Fla), a HUD election case, the United States alleged that the owners and managers of a rental property in Miami, Florida, discriminated on the basis of national origin when they rejected a man of Iranian descent for a unit because he was not Hispanic. The consent order required the defendants to pay \$21,500 in damages to the HUD complainant. In *United States v. Village Realty of Staten Island Ltd.* (E.D.N.Y.), the United States alleged that the defendant violated the Fair Housing Act because its sales and rental agent treated Black who inquired about available rental units differently from and less favorably than similarly situated White persons. The Department's testing evidence revealed that the sales and rental agent told Black testers about fewer units for rent, offered White testers the opportunity to view available rental units the same day as their walk-in visit, while informing Black testers that they could inspect units only at a later date, and offered rental discounts to White testers that were not offered to Black testers, among other discriminatory conduct. The consent order required the defendants to create a \$15,000 fund to compensate victims and pay a \$2,500 civil penalty.

The Department settled 11 cases alleging disability discrimination in a variety of contexts. In *United States v. Town of Wolcott* (D. Conn.), the United States alleged that the Town of Wolcott, CT, discriminated on the basis of disability when it denied a request for a permit to open a community residence for adults with mental health disabilities and then amended its zoning regulations to eliminate such residents in the Town. The case was settled in early Fiscal Year 2022, and as part of the consent order the Town must pay \$350,000 in monetary damages to the private plaintiffs and a \$10,000 civil penalty to the United States. In another lawsuit, *United States v. Las Vegas Jaycees* (D. Nev.), the United States alleged that the defendants, including the Las Vegas Jaycees Senior Citizens Mobile Home Community, failed to grant a reasonable accommodation to its breed restriction policy to allow a woman with PTSD to visit her mother at the mobile home community with her assistance animal. The complaint also alleged that the defendants interfered with the complainants' fair housing rights by banning the daughter and evicting the mother from the community. The consent order required the defendants to pay \$100,000 to the complainants, revise their reasonable accommodation policy, and attend fair housing training, among other injunctive provisions.

The Department filed and settled various cases challenging the inaccessible design and construction of residential properties. For example, in *United States v. Dominion Management, LLC* (N.D. Ala.), filed and settled in Fiscal Year 2021, the consent order required the defendants to create a \$400,000 settlement fund, pay a \$50,000 civil penalty, and retrofit eight multifamily senior living properties including more than 1,500 units. In *United States v. Atlantic Development Group, LLC* (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 2021

The cases featured in this section 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 systemic and individual 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. Policies such as exclusionary zoning laws exacerbated racial housing segregation patterns; redlining practices prevented otherwise eligible Black and Latino homebuyers from home ownership and led to widening homeownership gaps; and biases in technology became impediments to housing choice in a tight market.

Please see also case highlights of the Department of Justice, at the end of Section I.

### Redlining

#### ***Fair Housing Center of Central Indiana v. Old National Bank***<sup>14</sup>

In December 2021, the Fair Housing Center of Central Indiana (the Fair Housing Center) reached an agreement with Old National Bank to resolve claims of redlining. Old National Bank agreed to implement a major initiative to increase mortgage lending to Black borrowers and majority-Black neighborhoods in Marion County, Indiana. In its complaint, the Fair Housing Center alleged that Old National Bank was engaged in a pattern and practice of illegal and discriminatory residential mortgage lending.

Under the terms of the settlement, Old National Bank will originate at least \$20 million in single-family purchase loans in majority-Black neighborhoods in Marion County over three years; provide \$1.1 million in loan subsidies in majority-Black census tracts; and provide at least \$7.5 million in loans for affordable multi-family housing developments. In addition, Old National Bank will award \$1.3 million in grants to local organizations serving Black communities and donate \$350,000 to the Fair Housing Center for fair lending education opportunities and programs.

### Discrimination in Appraisals

#### ***Austin v. Miller***<sup>15</sup>

In April 2022, a California federal district court denied in part the defendants' motion to dismiss and allowed Fair Housing Advocates of Northern California (FHANC) and two individuals' claims of race discrimination in appraisals to proceed against a real estate appraisal company and an appraiser. The individual plaintiffs, Tenisha Tate-Austin and Paul Austin, a Black couple, decided to refinance their mortgage. Their mortgage broker arranged for an appraisal through an appraisal

<sup>14</sup> Fair Hous. Ctr. of Cent. Ind., *Advocacy Program*, <https://www.fhcci.org/programs/advocacy/>.

<sup>15</sup> *Tate-Austin v. Miller*, No. 21-cv-09319-MMC, 2022 U.S. Dist. LEXIS 68454, 2022 WL 1105072 (N.D. Cal. Apr. 13, 2022).

management company. When an appraiser went to the plaintiffs' home to appraise it, one of the plaintiffs was in the home and pictures of the Tate-Austin's family were on display.

The appraiser appraised the home at \$995,000, which surprised the Tate-Austins since their home had previously been appraised much higher. The couple, through their mortgage broker, asked the appraisal management company to conduct a second appraisal. Before the next appraisal inspection, the plaintiffs removed any evidence of their racial identity from their home and replaced family photos with pictures of the family of a white friend. This friend was also the only person present in the house at the time of the appraisal. The second appraiser appraised the home at \$1,482,500.

FHANC and the individual plaintiffs sued the appraisal management company and the appraiser, alleging that race was a motivating factor in the initial appraisal of the home. The defendants filed a motion to dismiss. A federal district judge denied the motion in part, allowing most of the plaintiffs' claims under federal and state fair housing laws to proceed.

## Discrimination in Real Estate Owned Property Maintenance

### ***National Fair Housing Alliance v. Fannie Mae***<sup>16</sup>

In February 2022, the National Fair Housing Alliance (NFHA) and 20 local fair housing organizations reached a \$53 million agreement with Fannie Mae, formally known as the Federal National Mortgage Association. The agreement resolves a race and national origin lawsuit filed by NFHA and the local organizations in which the plaintiffs alleged that Fannie Mae failed to maintain real estate owned properties (REOs) which it owned as a result of foreclosures in communities of color at the same level of quality as it maintained REOs in predominantly White areas. The plaintiffs filed the lawsuit following a four-year investigation of more than 2,300 Fannie Mae-owned properties in 39 metropolitan areas.

The funds will be used to address community needs, support homeownership opportunities for Black and Latino consumers, and for attorneys' fees. NFHA will provide Fannie Mae a report detailing the use of the funds. Fannie Mae will also create a toll-free number for use by any member of the public to contact it directly with concerns about REO properties, and it will provide fair housing training to its vendor network.

According to the settlement, Fannie Mae has already made several improvements to its maintenance and marketing activities, including publishing a guide for vendors that includes fair housing requirements and expectations; expanding its network of field service vendors to include companies owned by women or people of color; and enhancing third-party quality control to increase inspections in majority non-White census tracts.

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<sup>16</sup> Nat'l Fair Hous. Alliance, *NFHA Reaches Historic Settlement with Fannie Mae*, <https://nationalfairhousing.org/nfha-reaches-historic-settlement-with-fannie-mae/>.

## Standard for Proving Disparate Impact

### ***Southwest Fair Housing Council v. Maricopa Water Improvement District***<sup>17</sup>

In November 2021, a Ninth Circuit panel ruled that Southwest Fair Housing Council and two individual plaintiffs met the legal requirements for establishing a prima face case under the disparate impact method of proof. But the court affirmed summary judgment for the Maricopa Water Improvement District because it satisfied its burden of providing evidence that its policy served a legitimate business interest. The plaintiffs alleged that a deposit for water service imposed on public housing tenants that was higher than the deposits required of other customers violated the Fair Housing Act by discriminating against tenants in protected classes. The court held that the District's evidence that it implemented the higher deposits to protect itself from financial loss from unrecovered delinquencies satisfied its burden of justification.

## Redlining Real Estate Sales Services

### ***National Fair Housing Alliance v. Redfin***<sup>18</sup>

In April 2022, the National Fair Housing Alliance and nine local fair housing organizations and Redfin Corporation, an online real estate company, agreed to a settlement of a race discrimination lawsuit. The plaintiffs alleged that Redfin "redlines communities of color in this digital age by setting minimum home listing prices in each housing market on its website under which it will not offer any real estate brokerage services to buyers or sellers." They charged that Redfin's practices perpetuated separate and unequal housing markets based on race in violation of the Fair Housing Act.

Under the terms of the settlement agreement, Redfin has agreed to change its minimum housing price policy and implement changes to other practices to increase its services and help counter redlining and residential segregation. It will pay the plaintiffs a total of \$4 million.

## Land Use and Zoning

### ***Gilead Community Services v. Town of Cromwell***<sup>19</sup>

In October 2021, a federal jury awarded \$181,000 in actual damages and \$5 million in punitive damages against the Town of Cromwell, Connecticut, in a disability discrimination lawsuit filed by Gilead Community Services and Connecticut Fair Housing Center. Gilead purchased a house

<sup>17</sup> Sw. Fair Hous. Council, Inc. v. Maricopa Domestic Improvement Dist., 17 F. 4th 950 (9th Cir. 2021).

<sup>18</sup> Nat'l Fair Hous. Alliance, *National Fair Housing Alliance and Redfin Agree to Settlement Which Greatly Expands Access to Real Estate Services in Communities of Color*, <https://nationalfairhousing.org/national-fair-housing-alliance-and-redfin-agree-to-settlement-which-greatly-expands-access-to-real-estate-services-in-communities-of-color-%EF%BF%BC/>.

<sup>19</sup> Relman Colfax PLLC, *Case Profiles – Gilead Community Services v. Town of Cromwell*, <https://www.relmanlaw.com/cases-gilead>.

for use as a residence for six people with mental disabilities. However, according to the plaintiffs, town officials, including the mayor, the town manager, and the zoning enforcement officer, used the full weight of their authority to force the services provider to close the home and sell the property at a loss.

## Discrimination Against People with Hearing Disabilities

### *Southwest Fair Housing Council v. WG Scottsdale*<sup>20</sup>

In May 2022, a federal jury awarded \$1 in nominal damages and \$100,000 in punitive damages to Southwest Fair Housing Council against WG Scottsdale LLC, the operator of nursing homes in Arizona. Southwest Fair Housing Council alleged that its tester telephoned the nursing home and was told that the nursing home would not provide an American Sign Language interpreter but would instead provide a whiteboard for a prospective resident with a hearing disability to communicate with the nursing home.

## Harassment

### *Fair Housing Center of Central Indiana v. New*<sup>21</sup>

In December 2021, a federal district judge denied summary judgment to the defendants in a harassment case brought by the Fair Housing Center of Central Indiana and an individual plaintiff. Plaintiffs alleged that the defendants (the homeowners association and management company) failed to take action against a White resident who engaged in severe racial harassment for more than two years against residents of color in a community.

## Proximate Cause

### *City of Oakland v. Wells Fargo*<sup>22</sup>

In September 2021, an en banc panel of the Ninth Circuit ruled against the City of Oakland in a lending discrimination lawsuit filed against Wells Fargo. The court found that the city had not established that conduct by Wells Fargo was the proximate cause of the harms the city alleged, such as lost property tax revenues and increased municipal expenses.

<sup>20</sup> *Sw. Fair Hous. Council v. WG Scottsdale LLC*, No. CV-19-00180-TUC-RM (D. Ariz. May 17, 2022) (jury verdict).

<sup>21</sup> *Fair Hous. Ctr. of Cent. Ind., Inc. v. Vicki New*, No. 1:20-cv-01176-TWP-DLP, 2021 U.S. Dist. LEXIS 241159 (S.D. Ind. Dec. 17, 2021).

<sup>22</sup> *City of Oakland v. Wells Fargo & Co.*, 14 F.4th 1030, 1032 (U.S. 9th Cir. 2021).

## Discrimination in Disaster Relief Funding

### *Texas Housers v. State of Texas*<sup>23</sup>

In March 2022, the U.S. Department of Housing and Urban Development (HUD) issued letters of findings that the State of Texas violated Title VI of the Civil Rights Act of 1964 and Section 109 of the Housing and Community Development Act of 1987 by unlawfully discriminating based on race in its distribution of disaster relief funding. In their complaint, Texas Housers and Northeast Action Collective alleged that the State of Texas had been awarding funding to prevent and mitigate disaster to White neighborhoods and depriving that same funding to those in need who reside in historically Black and Hispanic neighborhoods. If the parties are unable to agree to a voluntary resolution, HUD may refer the complaint to the Department of Justice for resolution.

## Domestic Violence

### *Butler v. Sundo Capital, LLC*<sup>24</sup>

In September 2021, a federal district judge ruled that the Fair Housing Partnership of Pittsburgh and an individual plaintiff who alleged that an early termination clause in a lease had a disparate impact on victims of domestic violence stated claims of sex discrimination under the Fair Housing Act.

Ashley Butler and her then husband rented a house in Pittsburgh, Pennsylvania. However, Butler's husband abused her. He was removed from the house and Butler obtained a protective order against him. Butler relocated to a shelter and asked the defendants to release her from her lease after her ex-husband violated the protective order and aggressively stalked and threatened her. However, the defendants refused to release her from the lease.

Butler filed a lawsuit alleging that the failure to release from her lease violated the Fair Housing Act. The defendants filed a motion to dismiss. A federal district judge ruled that the Fair Housing Partnership and Butler stated a disparate impact claim because domestic violence victims tend to overwhelmingly be women.

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<sup>23</sup> *Texas Housers v. State of Texas*, HUD Case No. 06-21-1483-6/9.

<sup>24</sup> *Butler v. Sundo Capital, LLC*, No. 2:20-1607, 2021 U.S. Dist. LEXIS 171736 (W.D. Penn. Sept. 10, 2021).

## Section III: Recommendations

The unprecedented number of fair housing complaint filings processed by private and governmental agencies is just the tip of the iceberg and requires an adequate response to ensure people can access housing opportunities free from discrimination. Despite strong performance, qualified fair housing enforcement organizations, local and state civil or human rights agencies, and HUD itself, require additional funding and resources to better address all types of housing and lending discrimination.

Nonprofit fair housing enforcement agencies rely on funding via the Fair Housing Initiatives Program (FHIP). This funding allows groups to provide assistance to consumers, conduct case intake, undertake complaint investigations, conduct education and outreach to the public and local housing industry stakeholders to create better awareness of the Fair Housing Act's protections and requirements, and help resolve fair housing complaints. Although roughly 80 private fair housing agencies conduct over 70 percent of fair housing complaints, they only receive roughly half the level of funding of their state and local government counterparts. These groups are woefully underfunded and need additional resources to meet the demands of their communities.

Local and state civil or human rights agencies are also essential to processing many of the complaints private fair housing organizations file. Additionally, HUD refers complaints to these agencies, and they are reimbursed by HUD to process complaints if they are qualified participants in the Fair Housing Assistance Program (FHAP). However, FHAP groups need additional resources to enable them to undertake systemic and highly complex cases such as appraisal bias, redlining, and algorithmic bias complaints.

HUD's office of Fair Housing and Equal Opportunity (FHEO) needs additional staff to ensure timely investigations, cure aged cases, manage grants, write policies to implement all provisions of the Fair Housing Act, exercise their regulatory authority over the Government Sponsored Enterprises, provide technical assistance to HUD grantees, and provide effective oversight of HUD programs for their compliance with the Fair Housing Act's affirmatively furthering fair housing provision.

To meet these needs, NFHA recommends the following funding levels for key fair housing enforcement programs.

- Fund the FHIP with at least \$73.5 million for FY23;
- Fund the FHAP with at least \$35.2 million for FY23; and
- Fund HUD's FHEO with at least \$153 million for FY23 to achieve at least 1125 full-time employees and provide training resources for staff.

Additionally, funding for these priorities must be increased by no less than 3 percent each fiscal year to ensure retention of qualified and expert staff who are responsible for investigating increasingly complicated fair housing and lending complaints. Congress must work to increase program funds for these essential pillars of fair housing enforcement.

Few things are as important in life as having a home. Housing insecurity and discrimination threaten the well-being of millions of families and people in this nation, and it is imperative that the nation's fair housing enforcement infrastructure is well resourced to meet community needs.

