



# 2023

## FAIR HOUSING TRENDS REPORT

Advancing a Blueprint for Equity

**NFHA**

**55<sup>TH</sup>**   
ANNIVERSARY OF THE FAIR HOUSING ACT



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## About the National Fair Housing Alliance

Founded in 1988 and headquartered in Washington, D.C., 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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## Executive Summary

Just days before the Kerner Commission released its seminal report and less than two months before his assassination 55 years ago on April 4<sup>th</sup>, Dr. Martin Luther King, Jr., gave a speech in Washington, D.C. admonishing us to have a “proper sense of priorities.”<sup>1</sup> He talked about a nation of abundant wealth amidst abject inequality for people of color and those living in urban and rural areas. This year’s Fair Housing Trends Report (Report) demonstrates Dr. King’s directive is still germane. The Report marks the highest number of housing discrimination complaints filed since the National Fair Housing Alliance (NFHA) began collecting this annual data more than 25 years ago. The rise in complaints is a direct result of the failure of national, state, and local government prioritization of fair housing and lending principles.

In his February 6<sup>th</sup> speech, Dr. King talked about how our nation had brought the world to an awe-inspiring threshold of “machines that think...instruments that peer into the unfathomable ranges of interstellar space...and gigantic buildings to kiss the skies.” Fifty-five years later, the talk of our country is artificial intelligence (AI) that can literally write a research paper; generative AI that can create images, audio, and even synthetic data; and the new and expanded use of technologies in the housing and financial services sectors.

Yet, even with these advancements, tremendous work is still needed to address the systemic barriers that prevent equal access to housing and financial services and create a fairer and more equitable society. As this report documents, while we are making tremendous strides in technological advances and the nation is becoming wealthier, underserved consumers are not gaining ground when it comes to housing, lending, and wealth equity. Injustice in these areas is ballooning—a sign that our priorities are still not properly aligned.

NFHA has produced the Fair Housing Trends Report annually since the mid-1990s. The data compiled in this report covers fair housing complaints filed in 2022. This year’s report critically underscores the need for federal, state, and local governments to prioritize increasing funds to support the agencies that process and investigate fair housing complaints and work to dismantle barriers and systems that impede people’s ability to access fair housing and credit opportunities and live in well-resourced, resilient, thriving communities with high-quality amenities like well-performing schools; clean air, land, and water; fresh foods; quality healthcare; affordable, safe credit; high-speed internet; and other services.

To compile this report, and previous reports, 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 The U.S. Department of Housing and Urban Development (HUD), state and local Fair Housing Assistance Program (FHAP) agencies, and the U.S. Department of Justice (DOJ). Together with private, nonprofit fair housing organizations (FHOs), these agencies make up the national infrastructure to address housing discrimination in the United States.

This report highlights the ongoing financial and societal impact of the COVID-19 pandemic, coupled with high demand and record shortages in housing for rent and for sale. These factors

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<sup>1</sup> Dr. Martin Luther King, Jr., “A Proper Sense of Priorities,” Washington, D.C., February 6, 1968. Available at [https://www.aavw.org/special\\_features/speeches\\_speech\\_king04.html](https://www.aavw.org/special_features/speeches_speech_king04.html).

have increased racial and ethnic disparities in the housing market, manifesting in complaints by those most disadvantaged by the system. Yet despite the dire need for fair housing services, fair housing groups faced existential threats impacting their ability to provide important services. During the 2022 reporting period, two nonprofit fair housing organizations were shuttered, one in Texas and another in Ohio, further limiting much-needed investigation, enforcement, and education resources for residents in those areas.

Overall complaints were 5.74 percent higher in 2022 than in 2021, and the data revealed an increase in complaints based on source of income and domestic violence specifically. In fact, the 33,007 fair housing complaints received in 2022 by private non-profit fair housing organizations, HUD, FHAP agencies and the DOJ, represent **the highest number of complaints** ever reported in a single year. There were 31,216 complaints filed in 2021.

Even with this record-setting number of complaints, it is still important to note that most incidents of housing discrimination go undetected or unreported because they are difficult to identify or document. For example, housing providers may lie about the availability of housing units or the monthly rent for apartments, steering Blacks, Latinos, Asian Americans, Pacific Islanders, and Native Americans to rent or buy homes only in neighborhoods of color. Lenders may charge a higher interest rate for a mortgage loan than an applicant deserves. Appraisers may undervalue an appraisal because of the race of the homeowner. A tenant screening selection system may indicate that a potential tenant is ineligible based on hidden discriminatory factors. These are not necessarily blatant or overt acts of discrimination, which makes detection impossible in some cases. 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, because they believe nothing will be done to rectify the situation. Other consumers may fear retaliation or eviction by their landlords and thus put up with discriminatory practices to keep a roof over their heads. Data collected in this report reflects a snapshot of the millions of incidents of illegal housing discrimination that occur each year.

The increase in complaints shows that housing discrimination is still affecting many people and communities. We are not in a post-racial society. Despite the Supreme Court's 6-3 ruling against affirmative action plans at Harvard and University of North Carolina, stubbornly high levels of housing discrimination show the conservative justices missed the mark in regarding persistent discrimination as a historical relic. Housing discrimination and segregation are deeply connected to school segregation and under-performance for students, and more needs to be done to affirmatively redress racial wealth inequities and other disparities that continue to plague our nation's neighborhoods and institutions.

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.

Key highlights in this report include the following:

- 2022 saw the largest number of fair housing complaints ever filed. 33,007 complaints were filed in 2022, 5.74 percent higher than the 31,216 complaints filed in 2021 and 5.78% percent higher than the 31,202 complaints filed in 2018.

- Private, non-profit fair housing organizations provide the largest support for people alleging housing discrimination. These groups processed 73.94 percent of complaints filed in 2022 compared to 5.80 percent processed by HUD, 20.15 percent by FHAP agencies, and 0.11 percent by DOJ.
- Discrimination based on disability accounted for the majority (53.26 percent) of complaints filed with FHOs, HUD, and FHAP agencies.
- In 2022, there were 2,490 complaints based on sex, the highest number recorded since 2005 when NFHA began collecting data specifically on sex complaints.
- In 2022, there was an uptick in all the “other” category of complaints, regarding source of income, marital status, age, and domestic violence with significant increases in complaints regarding source of income and domestic violence. On March 16, 2022, President Biden signed the landmark act that reauthorized and strengthened the Violence Against Women Act (VAWA). VAWA includes protections for survivors of domestic violence who are applying for or residing in covered housing programs.





This Report contains four sections. In Section I, we outline in detail the fair housing complaint data for 2022, 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 FY2022. In Section II, we provide a sample of important outcomes for several housing/lending discrimination cases. 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. In Section III, the report delves into some of the recommendations needed to bring real comprehensive change to address the troubling increase in complaints. Finally, in a new Section IV, we've added a discussion guide so that advocates of the fair housing movement are fully versed and equipped to use this report when talking with congressional leaders; regulators; national, state, and local policymakers; and others. The discussion guide for advocates contains a link to a data visualization tool that can be used to analyze and view the data collected for this report. This is the first time NFHA developed a data visualization tool to help people better understand the Fair Housing Trends Report data.

## WHAT'S NEW?

For the first time in our 26 years of producing reports about fair housing trends in the U.S., we created a Fair Housing Trend data visualization tool to help stakeholders better understand the information generated for the 2023 Fair Housing Trends Report. To use this new and exciting tool, visit [bit.ly/FHTrendsData](https://bit.ly/FHTrendsData).

NFHA's theme for 2023 and this year's Fair Housing Trends Report is "Advancing a Blueprint for Equity." While we have come a long way since the Fair Housing Act was passed 55 years ago, this report, the troubling increase in complaints, and the concerning landscape for justice — as evidenced by recent Supreme Court decisions — reminds us that the work of breathing life into the Fair Housing Act's guarantees requires vigilance, fortitude, and persistence on a national scale. In his now famous "A Proper Sense of Priorities" speech, Dr. King advised that we must tackle difficult issues, like wide-spread inequality, not because it is expedient, popular, or a safe bet, but because it is the right thing to do.

Working together, we can generate solutions to move our nation boldly forward and advance a blueprint for equity.

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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 2022

## Overview of Housing Discrimination Complaints Reported in 2022

This year marks the 55<sup>th</sup> Anniversary of the Fair Housing Act, enacted by the Congress on April 11, 1968. The law has been amended several times over the years and now prohibits housing discrimination based on race, color, religion, national origin, sex, families with children, and people with disabilities. Notwithstanding the passage of the federal law banning housing discrimination, and dozens of state and local ordinances, housing discrimination persists at high levels. In fact, for the second year in a row, the record for the highest number of fair housing complaints filed with private and government agencies has been broken. In 2022, 33,007 fair housing complaints were filed which is the highest number ever reported. Continued discrimination in our housing and financial markets wrecks irreparable harm on individuals, communities, and the entire nation.

The unequal financial impact of the COVID-19 pandemic, coupled with high demand and record shortages in housing for rent and for sale, have increased racial and ethnic disparities in the housing market. These factors add to the worsening of the housing affordability crisis for many households. Moreover, the continuation of racially inequitable structures—like biased algorithms, restrictive and exclusionary zoning ordinances, an unfair appraisal system, the dual credit market,<sup>2</sup> residential segregation, and the inequitable distribution of resources—perpetuates housing and financial inequality in every community throughout this nation. The resulting housing insecurity and the lifting of foreclosure and eviction moratoriums increased the risk of homelessness for many people protected by the federal Fair Housing Act. In fact, Black, Latino, Native American, and Multi-racial groups experience homelessness at disproportionately high rates.<sup>3</sup>



<sup>2</sup> See, Access to Credit, National Fair Housing Alliance, <https://nationalfairhousing.org/issue/access-to-credit/>.

<sup>3</sup> See, 2022 Annual Homeless Assessment Report, Department of Housing and Urban Development, December 2022. Available at <https://www.huduser.gov/portal/datasets/ahar/2022-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html>.

Each year, NFHA collects data from both private nonprofit fair housing organizations (FHOs) 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. That complaint data comes from FHOs, the U.S. Department of Housing and Urban Development (HUD), state and local Fair Housing Assistance Program (FHAP) agencies, and the U.S. Department of Justice (DOJ). Together these agencies make up the national infrastructure to address housing discrimination in the United States.<sup>4</sup>

There were **33,007 fair housing complaints** received by private non-profit fair housing organizations, HUD, FHAP agencies, and the DOJ in 2022, an increase of 5.74 percent compared to the 31,216 complaints received in 2021. This represents the highest number of fair housing complaints recorded since NFHA began releasing its Fair Housing Trends Reports. Previously, the highest number of complaints was reported in 2021 during the height of the COVID pandemic. The 2022 complaint data shows that private fair housing organizations continued to process the majority of housing discrimination complaints reported throughout the country. Eighty-six (86) private non-profit fair housing organizations (FHOs) processed 73.94 percent of complaints, compared to 5.80 percent by HUD, 20.15 percent by FHAP agencies, and 0.11 percent by DOJ.

From 2021 to 2022, private non-profit fair housing organizations as well as FHAP agencies saw an increase in complaints received, while HUD saw a decrease. FHOs reported a 7.63 percent increase in complaints reported, and FHAP agencies reported a 3.59 percent increase in complaints compared to the previous year. HUD reported a 9.30 percent decrease. DOJ complaints remained the same, with 36 reported in 2021 and 36 reported in 2022.

Housing discrimination takes many forms and occurs in different types of housing transactions, including rental, real estate sales, mortgage lending, 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 algorithmic bias; discriminatory advertising; discrimination by homeowners or condominium associations; discriminatory zoning policies; harassment based on race, sex, religion, or national origin; and more. For the 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 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 discourage many from reporting.

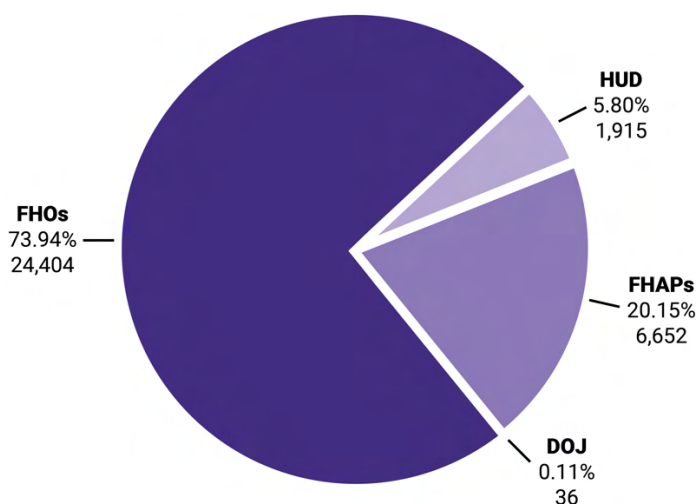
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<sup>4</sup> Private fair housing agencies report their data based on the calendar year, while HUD, FHAP, and DOJ data are reported based on the federal fiscal year (October-September).

## Housing Discrimination Complaints by Reporting Agency

This report includes submissions from 86 NFHA member organizations, a 7.5 percent increase from the number reported last year, and a demographic which is solely made up of private nonprofit fair housing organizations or fair housing programs of legal aid agencies. The increase in NFHA member organization submissions underscores the critically important role private nonprofit fair housing organizations play in the fair housing movement. The report also includes data from the 10 regional HUD offices and 77<sup>5</sup> state and local government agencies<sup>6</sup> that participate in the FHAP program at HUD, from which they receive 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 activities. 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.

### Housing Discrimination Complaints in 2022 by Reporting Agency



Fair housing complaint data by agency is included in the table below, along with data from the last 10 years. FHOs continue to address more than 2.5 times as many complaints as the government agencies combined.

<sup>5</sup> In last year's 2022 Fair Housing Trends Report, it was noted that 76 FHAP agencies reported data on the number of complaints filed during the 2021 calendar year.

<sup>6</sup> See, FHEO State of Fair Housing Annual Report to Congress FY 2021, <https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO%20Annual%20Report%20FY%202021.pdf>.

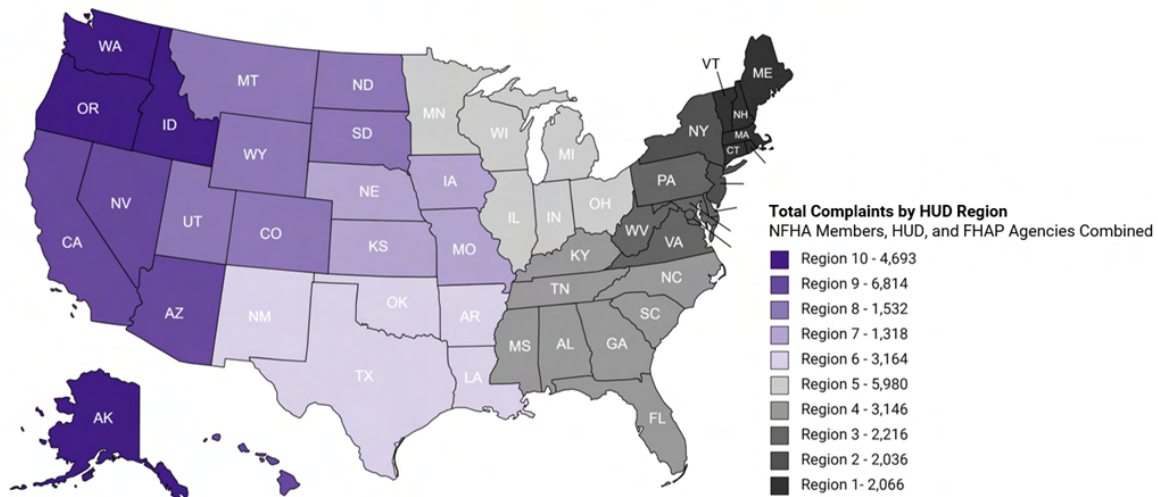


**Table: Complaint Data by Agency, 2012-2022**

Year	NFHA Members	HUD	FHAPs	DOJ	Total
2012	19,680	1,817	6,986	36	<b>28,519</b>
2013	18,932	1,881	6,496	43	<b>27,352</b>
2014	19,026	1,710	6,758	34	<b>27,528</b>
2015	19,645	1,274	6,972	46	<b>27,937</b>
2016	19,740	1,371	7,030	40	<b>28,181</b>
2017	20,595	1,311	6,896	41	<b>28,825</b>
2018	23,407	1,784	5,987	24	<b>31,202</b>
2019	21,117	1,771	5,953	39	<b>28,880</b>
2020	21,089	1,697	5,883	43	<b>28,712</b>
2021	22,674	2,093	6,413	36	<b>31,216</b>
2022	24,404	1,915	6,652	36	<b>33,007</b>

## Housing Discrimination Complaints by HUD Region

HUD Region 9 (California, Nevada, and Arizona) processed the largest number of complaint. HUD Region 5 (Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio) processed the next highest number of complaints. And HUD Region 10 processed the third highest number of complaints. HUD Regions 7, 8, and 2 processed far fewer complaints. The number of complaints handled by each region does not necessarily equate to the number of people living in the region. For example, according to the U.S. Census, Region 10, which processed 4,693 complaints has about the same population (14,698,539) as the population in Region 7 (14,283,547) which processed the least number of complaints - 1,318.



## 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 17,580 complaints of discrimination against a person with a disability, (53.26 percent of all complaints). 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 reasonable accommodation or modification to the housing unit. The second most reported type of housing discrimination was based on race, with 5,819 complaints (17.63 percent of all complaints). Sex (including complaints based on sexual orientation or gender identity) was the third most frequent basis of discrimination, with 2,490 complaints (7.54 percent of all complaints.) The fourth most frequent basis of discrimination was familial status, with 2,147 complaints (6.50 percent of all complaints). The fifth most frequent basis was national origin, with 1,635 reported complaints (4.95 percent of all complaints). Color was the basis of discrimination for 609 complaints (1.85 percent of all complaints), and religion was the basis of 353 complaints (1.07 percent of all complaints nationwide).

Complaints based on sex have increased in recent years. In 2022, there were 2,490 complaints based on sex, which is the highest number recorded since 2005 when NFHA began collecting data specifically on sex complaints. On March 16, 2022, President Biden signed the landmark act that reauthorized and strengthened the Violence Against Women Act (VAWA). The VAWA protects individuals who are survivors of domestic violence, dating violence, sexual assault and stalking, regardless of sex, sexual orientation, or gender identity. VAWA includes protections for survivors who are applying for or residing in covered housing programs.<sup>7</sup>

<sup>7</sup> See, <https://www.hud.gov/vawa>.



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

## Complaint Data by Basis and Agency in 2022

	Race	Disability	Familial Status	Sex	National Origin	Color	Religion	Other	Total
<b>NFHA Members</b>	3,344	12,464	1,400	1,373	864	251	170	4,538	<b>24,404</b>
<b>HUD</b>	518	1,185	157	275	150	57	13	145	<b>1,915</b>
<b>FHAPs</b>	1,952	3,914	589	839	620	301	170	930	<b>6,652</b>
<b>DOJ</b>	5	17	1	3	1	0	0	9	<b>36</b>
<b>Total</b>	<b>5,819</b>	<b>17,580</b>	<b>2,147</b>	<b>2,490</b>	<b>1,635</b>	<b>609</b>	<b>353</b>	<b>5,622</b>	<b>33,007</b>
<b>Percent of Total</b>	17.63%	53.26%	6.50%	7.54%	4.95%	1.85%	1.07%	17.03%	

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 2022, 5,622 complaints (17.03 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 4,538 complaints, including the following primary categories:

- Source of Income (2,395 complaints)
- Age/Student Status (308 complaints)
- Sexual Orientation (240 complaints)
- Gender Identity/Expression (110 complaints)
- Marital Status (280 complaints)
- Criminal Background (352 complaints)
- Victims of Domestic Violence (289 complaints)
- Military Status (34 complaints)
- Retaliation (250 complaints)
- Immigration Status/ Citizenship (82 complaints)

In 2022, there was an uptick in the “other” category of complaints, with significant increases in complaints regarding source of income and domestic violence. Source of income complaints saw an increase of 682 cases from 2021 to 2022 (an increase of 39.8 percent) and have been steadily increasing since NFHA started documenting these complaints in 2017. The chart below shows this concerning trend. Of the 2,395 complaints reported in 2022 regarding source of income, 71.23 percent originated from FHOs with state and/or local source of income protections. According to the Poverty & Race Research Action Council (PRRAC), 17 states, 21 counties and 85 cities prohibit discrimination based on source of income.<sup>8</sup> Source of income discrimination disproportionately affects renters based on race, disability, and gender—classes protected by the federal Fair Housing Act. Adding source of income protection at the federal level is critically important as there are some states that have banned protections against source of income discrimination. In August 2021, HUD’s Acting Assistant Secretary for the Office of Fair Housing and Equal Opportunity (FHEO) issued a memo clarifying FHEO’s approval for investigations covered by the Fair Housing Initiatives Program (FHIP)<sup>9</sup> grant, including testing investigations to expose discriminatory effects of source of income policies.<sup>10</sup> This clarification may explain the increased complaints from fair housing centers addressing this important issue. However, it is important to note that there has been a trending uptick in the number of complaints alleging source of income discrimination since at least 2017. Moreover, source of income discrimination, which includes the use of Housing Choice Vouchers, may be a camouflage for race and National Origin based discrimination since Blacks and Latinos use Vouchers at a higher rate than their White counterparts. It may also camouflage familial status and disability discrimination. In January 2023, NFHA and the Legal Defense Fund released a report detailing an extensive fair housing testing audit of housing providers in the Memphis, TN metro area. This testing audit aimed to assess attitudes and identify policies and practices that impede the ability of Housing Choice Voucher Program recipients (also known as “Section 8” recipients) to secure safe and affordable housing. This report, titled “The Bad Housing Blues: Discrimination in the Housing Choice Voucher Program in Memphis, TN” can be accessed in full on NFHA’s website.<sup>11</sup>

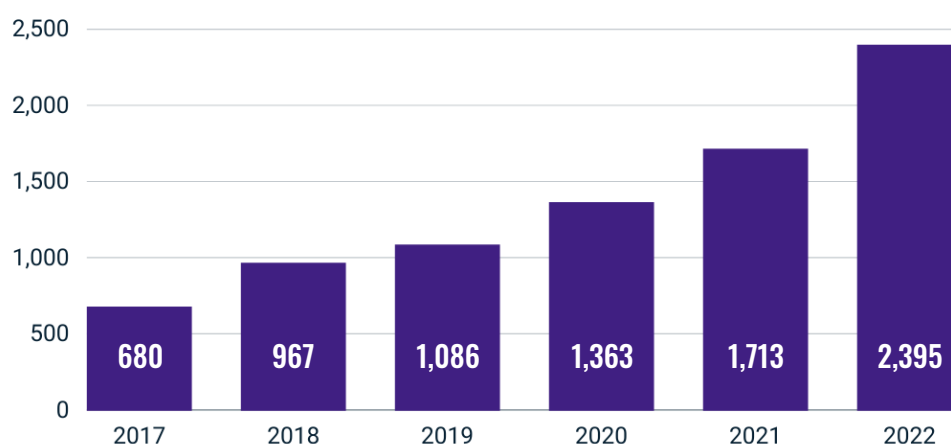
<sup>8</sup> See, Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination, <http://www.prrac.org/pdf/AppendixB.pdf>.

<sup>9</sup> See, Fair Housing Initiatives Program (FHIP) | HUD.gov / U.S. Department of Housing and Urban Development (HUD), [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_op/partners/FHIP](https://www.hud.gov/program_offices/fair_housing_equal_op/partners/FHIP).

<sup>10</sup> See, HUD Memorandum, Testing that Qualifies as an Eligible Activity under the Private Enforcement Initiative of the Fair Housing Initiatives Program, <https://www.hud.gov/sites/dfiles/FHEO/documents/FHIP%20Testing%20and%20Enforcement%20Activities%20AAS%20Memo%20Final%2C%208.2.2021.pdf>.

<sup>11</sup> See, “The Bad Housing Blues: Discrimination in the Housing Choice Voucher Program in Memphis, TN”, <https://nationalfairhousing.org/wp-content/uploads/2023/01/LDF-NFHA-HCV-Memphis-2-web.pdf>.

### Source of Income Complaints Reported by Fair Housing Organizations, 2017-2022



Another very concerning increase in the “other” category of complaints is the increase in domestic violence complaints. After doubling in size from 2020 to 2021, domestic violence complaints continued to rise in 2022, with an increase from 172 complaints in 2021 to 289 in 2022. The Violence Against Women Act (VAWA) was reauthorized and strengthened in 2022 and provided additional protection for survivors of domestic violence. As noted in previous Trends Reports, the

COVID-19 pandemic saw an increase in these complaints that resulted from stay-at-home orders and increased housing insecurity many experienced.

### 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.

## Complaints by Transaction Type in 2022

	Rental	Sales	Lending	Insurance	Harassment	Advertising	HOA/Condo	Other	Total
<b>NFHA Members</b>	21,887	303	183	27	915	205	227	657	<b>24,404</b>
<b>HUD</b>	1,172	116	98	1	0	0	0	528	<b>1,915</b>
<b>FHAPs</b>	4,256	498	79	3	0	0	0	1,816	<b>6,652</b>
<b>DOJ</b>	21	0	5	0	0	1	0	9	<b>36</b>
<b>Total</b>	<b>27,336</b>	<b>917</b>	<b>365</b>	<b>31</b>	<b>915</b>	<b>206</b>	<b>227</b>	<b>3,010</b>	<b>33,007</b>
<b>Percent of Total</b>	82.82%	2.78%	1.11%	0.09%	2.77%	0.62%	0.69%	9.12%	

### **Rental Market – 27,336 Complaints**

As in prior years, rental-related housing discrimination complaints in 2022 were the most numerous of any complaint transaction type. 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 2022, there were 27,336 complaints of discrimination in the rental market reported across all agencies, and 21,887 of these were processed by private fair housing organizations. The number of rental-related complaints reported in 2022 increased by 1,835. In the previous year, 25,501 rental-related complaints were received. Rental-related complaints in 2022 accounted for 82.82 percent of all transaction types reported, compared to 81.69 percent in 2021, 72.65 percent in 2020, and 83.75 percent in 2019. Fair Housing organizations report increased calls from renters facing evictions as COVID moratoriums were lifted throughout the country. These calls are routinely reviewed for fair housing violations. When fair housing violations are revealed in the eviction process, the Fair Housing Act provides remedies for harmed tenants.

### **Real Estate Sales – 917 Complaints**

Real estate sales complaints compromised 2.78 percent of all housing discrimination cases reported in 2022, with 917 total complaints. This number represents a decrease of 491 complaints from 2021 when 1,408 sales complaints were reported. This decrease may be a function of the broader slowdown of the real estate sales market resulting from limited housing supply and a dramatic increase in mortgage interest rates. New and existing home sales declined in 2022, with monthly decreases ranging from 2 percent to 39 percent over the course of the year, and sales volume declined as well.<sup>12</sup>

<sup>12</sup> See, <https://www.corelogic.com/intelligence/new-homes-sales-steadily-dropped-in-2022/>.



### ***Mortgage Lending – 365 Complaints***

In 2022, there were 365 complaints of lending discrimination, a decrease from 2021 but a marked increase from previous years. Private fair housing organizations reported 50.14 percent of these complaints. Across all agencies in 2021, there were 395 lending complaints, in 2020 there were 238 complaints, and in 2019 there were 234 complaints.

### ***Homeowners Insurance Transactions – 31 Complaints***

Discrimination in the provision of homeowners insurance is difficult to identify because it is rarely overt. In 2022, 31 complaints of homeowners insurance-related discrimination were reported, representing less than one percent of all cases. This is a decrease from the 36 homeowners' insurance complaints reported in 2021.

### ***Harassment – 915 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 against protected classes 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 2022, 915 complaints of harassment were reported, an increase from the 886 complaints reported in 2021. In 2022, there were 285 harassment complaints on the basis of disability, 183 harassment complaints based on sex, and 147 harassment complaints based on race. The number of harassment complaints based on sex increased by 22.82 percent from 2021 to 2022, with a jump from 149 in 2021 to 183 in 2022.

### ***Other Housing-Related Transactions – 3,443 Complaints***

In 2022, 3,443 complaints fell into “other transaction” categories. Other housing-related transactions included 206 complaints of discriminatory advertising by housing providers and 227 complaints of discrimination by homeowners or condominium associations.

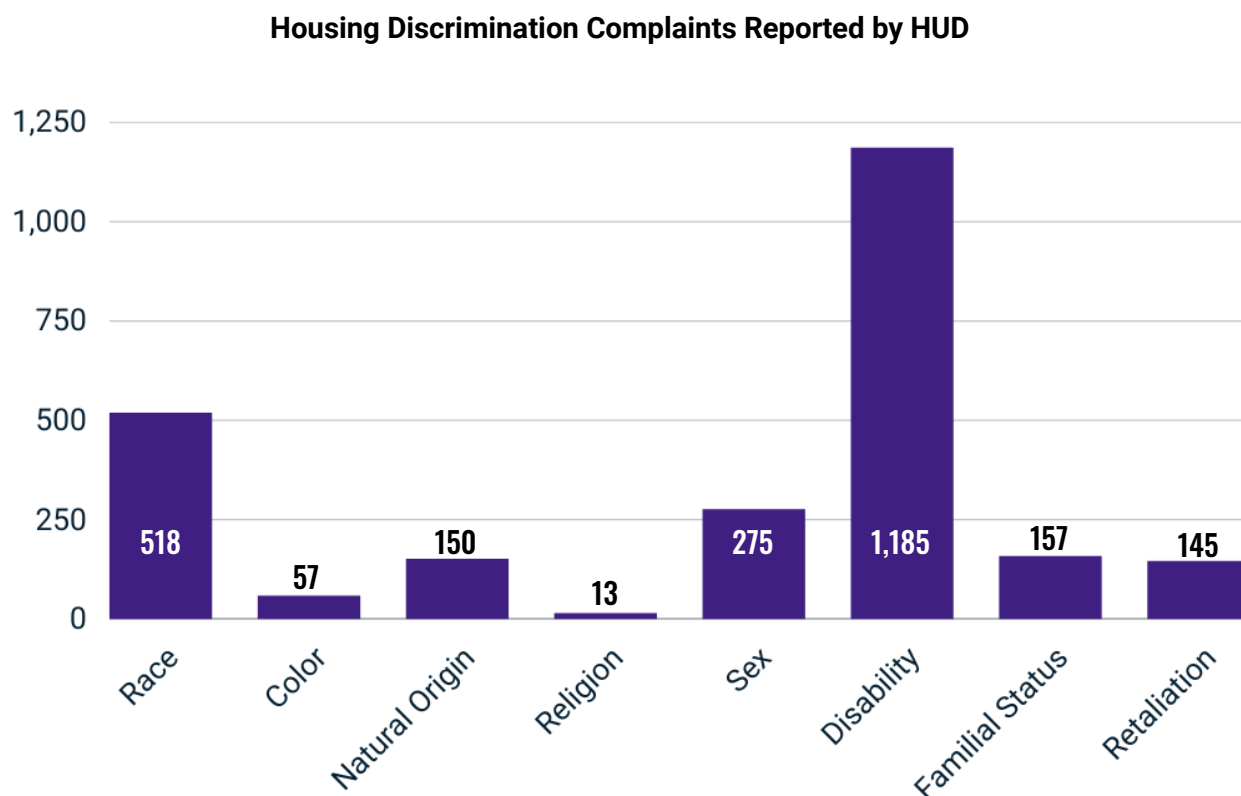
## **Complaint Data Reported by HUD and FHAP Agencies**

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 1,915 discrimination complaints in 2022, a slight decrease of 178 complaints from 2021. While HUD's 2022 complaint figure is slightly lower than the previous year's number of 2,093, it is still the second highest number of complaints that HUD has reported since 2010. The chart below details the HUD complaint information by protected class.

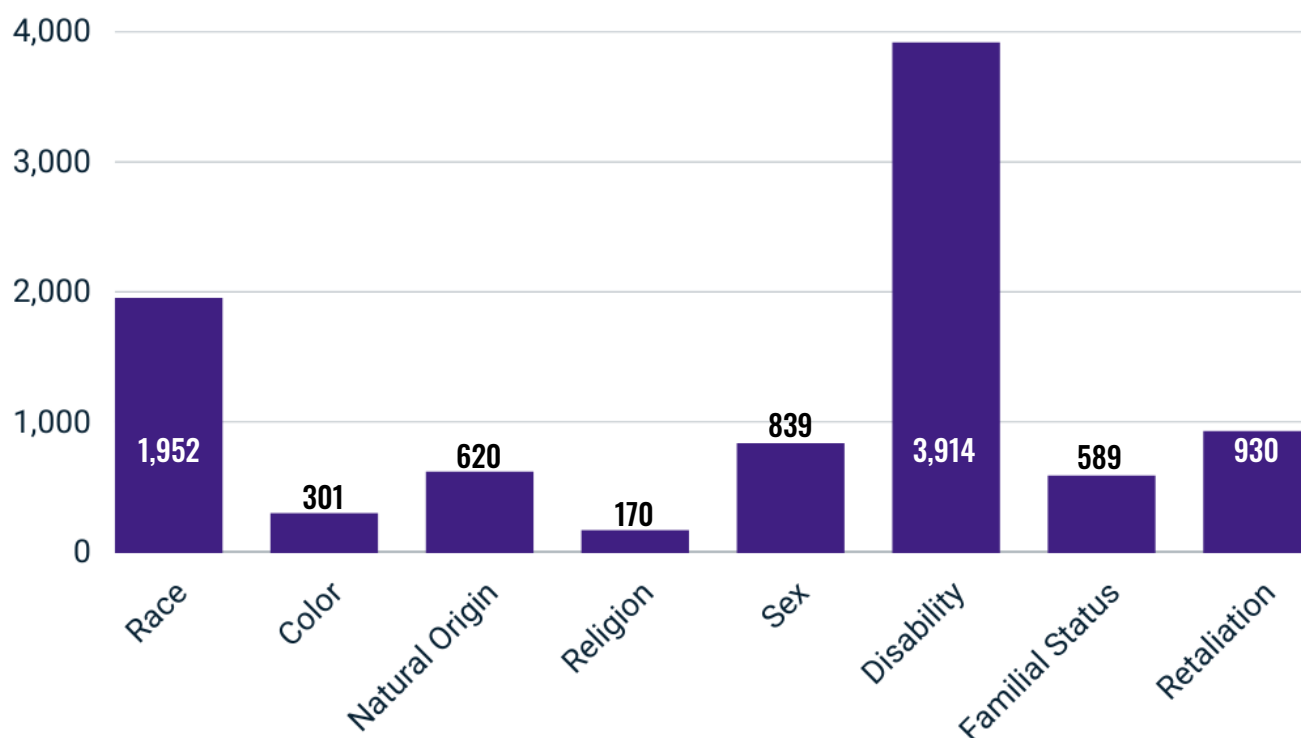


*Note: Some reported complaints included more than one basis of discrimination.*

### **FHAP Complaints**

FHAP agencies received 6,652 discrimination complaints in 2022, an increase of 239 complaints from 2021. From 2021 to 2022, there was an increase in housing discrimination complaints based on race, disability, sex, and religion. From 2021 to 2022, complaints based on disability increased by 6.7 percent, complaints by sex increased by 10.1 percent, and complaints based on religion increased by 12.9 percent. On March 16, 2022, President Biden signed the Violence Against Women Act (VAWA) Reauthorization Act of 2022. This reauthorization of VAWA further strengthened the landmark federal law and outlined significant steps to prevent and respond to gender-based violence in housing. The chart below details the FHAP complaint information by protected class.

### Housing Discrimination Complaints Reported by FHAP Agencies



*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 2022, two new Secretary-initiated complaints were opened, one Secretary-initiated complaint was closed, and three Secretary-initiated complaints were conciliated or settled. The two new Secretary-initiated complaints included allegations based on disability, sex, and familial status claims. The closed Secretary-initiated complaint included allegations based on sex and retaliation claims. The three conciliated or settled Secretary-initiated complaints were each based on sex claims.

### Charged Cases

In 2022, HUD charged 21 cases, compared to 36 cases in 2021, 36 cases in 2020, and 37 cases in 2019. 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 2011 to 2022.

### HUD Charged Cases by Year

Year	HUD Charged Cases
2011	55
2012	43
2013	37
2014	27
2015	28
2016	37
2017	19
2018	28
2019	37
2020	36
2021	36
2022	21

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 2022, there were 471 cause determinations at FHAP agencies, an increase of 14.9 percent from the 401 charged cases in 2021.

The table below shows the types of HUD and FHAP case completions in 2022. There were 7,636 completions; 1,750 by HUD and 5,886 by FHAP agencies. There were 15 fewer cases charged or caused by HUD in 2022 than in 2021, while FHAP agencies reported 70 more cases charged or caused in 2022 compared to 2021. HUD conciliated or settled 100 fewer cases than in 2021, while FHAP agencies conciliated or settled 18 more cases than in 2021. For cases receiving a “no



cause” determination, 27 more cases were “no caused” by HUD or FHAP agencies in 2022 than in 2021.

### 2022 HUD and FHAP Case Completion Types

Case Completion Type	HUD	FHAPs	Total
Administrative Closure	249	614	863
Charged or FHAP Caused	21	471	492
Conciliation / Settlement	556	1,058	1,614
DOJ Closure	14	0	14
No Cause	736	3,357	4,093
Withdrawn after Resolution	174	386	560
<b>Total</b>	<b>1,750</b>	<b>5,886</b>	<b>7,636</b>

### Aged Cases

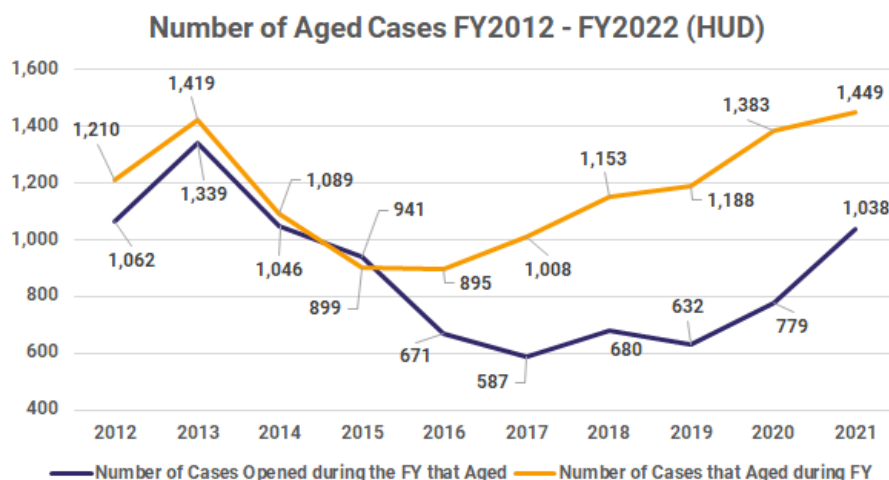
HUD regulations under the Fair Housing Act require that HUD and FHAP agencies complete their investigations of fair housing complaints within 100 days of the initial receipt of a complaint, with the exception of complex investigations (for example, appraisal bias, mortgage lending, or insurance discrimination cases) or systemic cases. 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 1,038 new aged cases during FY2022, a 25.0 percent increase from the 779 new aged cases during FY2021. The chart below shows cases that were opened and passed the 100-day mark during the fiscal year. HUD also had 1,449 ongoing cases that continued to age during FY2021. This number is a 4.6 percent increase over FY2021 when HUD had 1,383 ongoing cases that continued to age. HUD has experienced a decline in full-time staff for more than a decade, particularly in the FHEO division. In 2010 FHEO had 622 staff, compared to 548 in 2022, a reduction of 74 staff or 12 percent as noted in its budget.<sup>13</sup> Increased resources are necessary for HUD to be fully staffed so the agency can cure its portfolio of aged cases. The decline in full-time equivalents was aggravated by the pandemic and added to the ageing of complaints.

<sup>13</sup> See, [https://www.hud.gov/sites/dfiles/CFO/documents/2024\\_CJ\\_S\\_E\\_-\\_FHEO.pdf](https://www.hud.gov/sites/dfiles/CFO/documents/2024_CJ_S_E_-_FHEO.pdf).

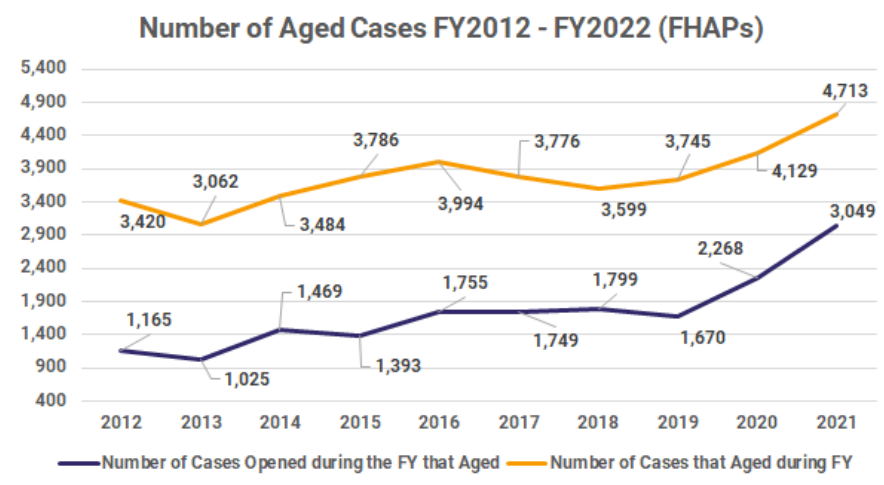
Additionally, the department saw an increase in complex investigations such as appraisal bias complaints.

**Graphic: Number of Aged Cases FY2012-FY2022 (HUD)**



FHAP agencies had 3,049 cases that were opened and aged during FY2022, representing a 25.6 percent increase from the 2,268 cases reported during FY2021. FHAP agencies also had 4,713 ongoing cases that continued to age during FY2022, an increase of 584 cases compared to the 4,129 ongoing cases that continued to age during FY2021. An increased caseload and more complex investigations (appraisal, insurance, and redlining) may be fueling the higher number of cases that exceed the 100-day benchmark for processing. This means that FHAP agencies need adequate resources to enable them to investigate cases in a timely manner. During 2022, at least one FHAP agency voluntarily ended its partnership with HUD. With increasing cases, HUD is challenged to increase recruitment and approval of FHAP partners which have substantial equivalent laws and procedures.

**Graphic: Number of Aged Cases FY2012-FY2022 (FHAPs)**



## Complaint Data Reported by DOJ and DOJ Cases

The Housing and Civil Enforcement Section of the Department of Justice (DOJ) 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 DOJ’s authority, and it 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 FY2022 DOJ Cases**

DOJ’s Housing and Civil Enforcement Section filed 36 cases during FY2022, an equal number to the 36 cases filed in the previous year. Sixteen of these cases were “pattern or practice” cases. The 36 cases reported in 2022 included 21 cases alleging rental discrimination, five cases alleging mortgage lending discrimination, one case alleging algorithmic discrimination, one case challenging discrimination by local governments in the land use and zoning process, and five cases alleging violations of the Service Members Relief Act.

DOJ reported 16 HUD election cases as well as six amicus or intervention cases in FY2022. The six reported amicus or intervention cases represent the largest number of such cases filed by the DOJ in a fiscal year since at least 2005, the earliest year for which we have data. These six amicus or intervention cases were related to issues related to persons with disabilities, discrimination in appraisals, refusing to rent to persons with limited English proficiency, and in relation to using the Religious Land Use and Institutionalized Persons Act (RLUIPA).

### **Combatting Redlining Initiative**

DOJ established its 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 and conditions and seeks to eradicate redlining and hold lenders accountable

when they deny people of color equal access to lending opportunities. In FY2022, the Department filed and settled three redlining cases, two of which are detailed below.<sup>14</sup>

In FY2022, DOJ announced a multi-agency effort that resulted in the filing and settlement of *CFPB and U.S. v. Trident Mortgage Company* (E.D. Pa.), alleging a pattern and practice of redlining discrimination in the Philadelphia metropolitan area by Trident Mortgage Company, owned by Berkshire Hathaway Inc. The Consumer Financial Protection Bureau (CFPB) referred the matter to the DOJ, and the two agencies jointly investigated, filed, and settled the matter. The consent order requires Trident Mortgage to invest \$18.4 million in a loan subsidy fund for residents of neighborhoods of color in the Philadelphia metropolitan area; \$750,000 for the development of community partnerships to provide services that increase access to residential mortgage credit; \$875,000 for education and outreach; and \$375,000 for consumer financial education. This represents DOJ's first redlining resolution with a non-bank lender.

In late FY2022, DOJ filed and settled *United States v. Lakeland Bank* (D.N.J.) alleging violations of the Fair Housing Act and the Equal Credit Opportunity Act on the basis of race, color, and national origin. The complaint alleged that from at least 2015 to 2021, Lakeland Bank failed to provide mortgage lending services to Black and Hispanic neighborhoods in the Newark, NJ metropolitan area. The complaint also alleged that all of Lakeland Bank's branches were located in majority-White neighborhoods and that its loan officers did not serve the credit needs of Black and Hispanic neighborhoods in and around Newark. The consent order requires Lakeland Bank to invest \$12 million in a loan subsidy fund for residents of Black and Hispanic neighborhoods in the Newark area; \$750,000 for advertising, outreach, and consumer education; and \$400,000 for the development of community partnerships to provide services that increase access to residential mortgage credit. Under the settlement, Lakeland Bank will also open two new branches in neighborhoods of color, including at least one in the city of Newark, and will ensure that at least four mortgage loan officers are dedicated to serving all neighborhoods in and around Newark.

## ***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 three sexual harassment lawsuits filed in FY2022. In FY2022, DOJ also settled six sexual harassment cases. Since the launch of the Initiative, DOJ has filed a total of 28 lawsuits challenging alleged sexual harassment in housing and has settled 20 sexual harassment cases and obtained one favorable jury verdict, resulting in a total of \$9,880,450 in damages for nearly 300 victims, as well as substantial injunctive relief aimed at preventing future harassment.

## ***DOJ Case Highlights***

DOJ obtained 36 settlements and judgments in FY2022, resulting in a total of \$58 million in monetary relief. Those settlements include the following:

The Department filed and settled *United States v. Meta Platforms, Inc., f/k/a Facebook, Inc.* (S.D.N.Y.), DOJ's first case challenging algorithmic discrimination under the Fair Housing Act. This case resulted from a Secretary-initiated complaint referred by HUD and built on the progress

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<sup>14</sup> *United States v. Trustmark National Bank* (W.D. Tenn.) was filed and settled in early FY2022 and was detailed in NFHA's 2022 Fair Housing Trends Report.



achieved by NFHA and fair housing partners' 2019 settlement with Facebook.<sup>15</sup> The complaint alleged that Meta's housing advertising system discriminated against Facebook users based on their race, color, religion, sex, disability, familial status, and national origin. Under the settlement, Meta will no longer provide any ad targeting options for housing advertisers that directly describe or relate to Fair Housing Act protected characteristics. The settlement also requires Meta to pay a civil penalty of \$115,054, the maximum penalty available under the FHA at the time of the settlement.

The Department settled six sexual harassment cases in FY2022. For example, DOJ settled *United States v. Centanni* (D.N.J.), a case involving alleged harassment spanning 15 years by a landlord who received more than \$100,000 a month in payments from the Housing Choice Voucher Program. The settlement requires the payment of \$4.5 million in monetary damages and civil penalties, representing the largest monetary settlement the Department has ever obtained in a case alleging sexual harassment in housing. DOJ identified 57 aggrieved persons to be compensated from this settlement.

The Department settled several cases alleging discrimination related to race or national origin. In *United States v. Crimson Management, LLC* (N.D. Ga.), the case alleged that defendants engaged in a pattern or practice of discrimination in violation of the Fair Housing Act when they steered Black housing applicants who were elderly or who had a disability away from a predominantly White housing complex for elderly persons and persons with disabilities and steered them towards a predominantly Black general occupancy complex. The consent order requires defendants to pay \$83,000 in damages to three former tenants and pay a \$4,500 civil penalty. DOJ also settled *United States v. Advocate Law Groups of Florida, P.A.* (M.D. Fla.) in FY2022, a complaint that alleged that defendants targeted Hispanic homeowners on the basis of national origin for predatory mortgage loan modification and foreclosure rescue service schemes. The consent order requires defendants to pay \$95,000 to three plaintiff-intervenors and required a \$4,500,000 judgement that was suspended based on sworn financial statements showing inability to pay.

The Department settled 12 cases alleging disability discrimination in a variety of contexts. In *United States v. City of Springfield* (C.D. Ill.), DOJ obtained a federal jury verdict of \$293,000 in damages against the City of Springfield for attempting to close down a small group home for three persons with developmental disabilities. The jury determined that the City should pay \$162,000 in compensatory damages to the residents of the home and their guardians, and \$131,000 in compensatory damages to the state-licensed provider of community residential services at the home. Another settled case, *United States v. Bacchus* (E.D. Pa.), alleged that the defendant discriminated on the basis of disability and familial status by refusing to allow a man who was recovering from addiction to alcohol to move his pregnant girlfriend and her child into his unit. The consent order requires the defendants to pay \$75,000 to the complainant and his child and take actions towards preventing future unlawful discrimination. The Department also settled various cases on behalf of individuals with disabilities whose requests for reasonable accommodation to live with assistance animals were wrongfully denied.

In FY2022, the Department filed and settled six cases challenging the inaccessible design and construction of residential properties. For example, in *United States v. The Pendergraph*

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<sup>15</sup> See, *Fair Housing Groups Settle Lawsuit with Facebook: Transforms Facebook's Ad Platform Impacting Millions of Users* at <https://nationalfairhousing.org/national-fair-housing-alliance-settles-lawsuit-with-facebook-transforms-facebooks-ad-platform-impacting-millions-of-users/>.

*Companies, LLC* (E.D.N.C.), the consent order requires the defendants to make extensive retrofits to remove accessibility barriers in housing units and common areas at the six subject properties in the complaint, as well as at 40 additional properties; requires that the defendants pay all costs related to the retrofits; requires that defendants pay \$275,000 into a settlement fund to compensate individuals harmed by the inaccessible housing; and, requires defendants to pay a civil penalty of \$25,000 to the United States.

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 2022

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 homeownership 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.

### Appraisal Bias

#### ***Austin v. Miller***<sup>16</sup>

*Fair Housing Advocates of Northern California and a Black couple settled an appraisal bias case against an appraiser.*

Tenisha Tate-Austin and Paul Austin own a home in Marin County, California. When they decided to refinance their mortgage in 2020, Janette Miller appraised their house at \$995,000 although it had been appraised at \$1,450,000 a year earlier. Tate-Austin and Austin then asked the appraisal management company to provide a second appraisal by a different appraiser. Before the next appraisal inspection, the Austins 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.

The Tate-Austins and Fair Housing Advocates of Northern California sued Miller and AMC Links, the appraisal management company, alleging race discrimination.

Under the terms of the settlement agreement, the appraiser will pay an undisclosed monetary amount. In addition, the appraiser agreed not to discriminate in the future, as well as watch the ABC documentary “Our America: Lowballed”<sup>17</sup> (which features the Austins’ story), attend a training session regarding the history of segregation and real estate-related discrimination in Marin County provided by Fair Housing Advocates of Northern California, and continue to abide by the Bureau of Real Estate Appraisers’ continuing education requirements.

Federal policymakers have recently prioritized addressing appraisal bias, including important work being done by the Interagency Task Force on Property Appraisal and Valuation Equity (PAVE).<sup>18</sup> However, structural reforms to the appraisal industry are needed. As outlined in NFHA’s

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<sup>16</sup> *Tate-Austin v. Miller*, No. 21-cv-09319-MMC (N.D. Cal. 2023).

<sup>17</sup> “Our America: Lowballed” is an Emmy-award winning documentary executive produced by ABC News Reporter, Julian Glover. It documents allegations of appraisal bias experienced by Tenisha Tate-Austin and Paul Austin, Carlette Duffy, Ronald and Dominique Curtis, and other consumers of color. The documentary can be accessed via [OurAmericaABC.com/lowballed](https://OurAmericaABC.com/lowballed).

<sup>18</sup> See, <https://pave.hud.gov/>.

groundbreaking report,<sup>19</sup> reforms are needed to address the industry's governance structure, barriers to entry into the profession, inadequate and inaccurate training programs, and industry practices that manifest bias. reforms are needed to address the industry's governance structure, barriers to entry into the profession, inadequate and inaccurate training programs, and industry practices that manifest bias. According to updated research from the Brookings Institution,<sup>20</sup> appraisal bias continues to cost homeowners in Black neighborhoods \$162 billion in lost wealth and it contributes to persistent racial wealth and homeownership gaps.

## Crime-Free Rental Ordinances

### *United States v. City of Hesperia*<sup>21</sup>

The Justice Department reached an agreement with the City of Hesperia, California, and the San Bernardino, California, Sheriff's Department. DOJ had alleged that the city and the Sheriff's Department engaged in a pattern and practice of race and national origin discrimination in the adoption and enforcement of a "crime free" rental housing program.

According to the Justice Department, the ordinance at issue required all rental property owners to evict tenants if the Sheriff's Department informed them that the tenants had engaged in any alleged criminal activity on or near their property, even if the allegations had not resulted in arrest or conviction. In its complaint, DOJ alleged that Black renters were more than 400 percent more likely and Latino renters were 29 percent more likely to be evicted than white renters. Ninety-six percent of the people who were evicted lived in majority non-White census blocks.

Hesperia has repealed the ordinance. In addition, under the terms of the consent order Hesperia and the Sheriff's Department will deposit a total of \$670,000 into a fund to compensate people who were harmed. They will also implement non-discriminatory policies. Sheriff's Department employees, city employees, and elected and appointed officials will participate in fair housing training. The Sheriff's Department will appoint a civil rights coordinator and will partner with a minimum of five community-based organizations that are involved in fair housing or in advocating for Black and Latino residents and communities. The defendants will pay \$100,000 in civil penalties.

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<sup>19</sup> In January 2022, NFHA and co-authors Steve Dane and Peter Christensen released a groundbreaking report extensively documenting systemic challenges in the appraisal industry. The report served as a foundation for the federal government's PAVE Action Plan. The report, "Identifying Bias and Barriers, Promoting Equity: An Analysis of the USPAP Standards and Appraiser Qualifications Criteria" can be accessed on NFHA's website, here – <https://nationalfairhousing.org/issue/issue-appraisal-bias/>. The PAVE Action Plan can be accessed here – [Pave.hud.gov/actionplan](https://pave.hud.gov/actionplan).

<sup>20</sup> See, Johnathan Rothwell and Andre Perry, How racial bias in appraisals affects the devaluation of homes in majority Black neighborhoods, Brookings Institution (December 5, 2022), available at <https://www.brookings.edu/articles/how-racial-bias-in-appraisals-affects-the-devaluation-of-homes-in-majority-black-neighborhoods/>.

<sup>21</sup> *United States v. City of Hesperia*, No. 5:19-cv-02298, 2022 U.S. Dist. LEXIS 231945 (C.D. Cal. Dec. 22, 2022) (consent order entered).



## Design and Construction

### ***CNY Fair Housing v. Clover Group Inc***<sup>22</sup>

A group of developers, owners, investors, and operators of 50 senior housing developments in six states have agreed to settle a lawsuit filed by twelve fair housing organizations and three individual plaintiffs.

The plaintiffs alleged that Clover Construction Management Inc. and related entities engaged in “widespread and flagrant violations of the Fair Housing Act’s accessibility requirements at thirty-eight of the Clover Defendants’ properties in Ohio, New York, Indiana, and Pennsylvania. . . .”

Under the terms of the settlement, the defendants will provide retrofits to public and common use areas at the defendants’ properties at an estimated cost of \$3 million. They will also create a \$3.375 million fund to pay for modifications of individual units at the request of any resident or applicant at the 50 properties. The Clover Group defendants will pay a total of \$750,000 to the plaintiff fair housing organizations, and employees of the defendants will receive fair housing training.

## Disability Discrimination in Assisted Living

### ***Southwest Fair Housing Council v. WG Scottsdale LLC***<sup>23</sup>

After a jury returned a verdict for the Southwest Fair Housing Council (SFHC) in a disability discrimination case against the operator of Sierra Pointe, a residential complex in Scottsdale, Arizona, the court entered an injunction imposing several requirements on the defendant.

SFHC sued WG Scottsdale, the operator of Sierra Pointe, after it conducted testing at Sierra Pointe to determine whether deaf persons had equal access to the complex. SFHC alleged that WG Scottsdale had violated the reasonable accommodation requirements of the Fair Housing Act, the Americans with Disabilities Act, and state law by refusing to provide ASL interpreters for deaf persons. According to SFHC, a tester told a Sierra Pointe representative that she was interested in the facility on behalf of her deaf grandfather whom she described as able to read lips, use sign language, and read and write. In response to a question by the tester as to how Sierra Pointe staff would communicate with her grandfather regarding financial and legal matters, the Sierra Pointe representative said that Sierra Pointe would use a white board and/or written notes. Staff said that the family would have to make arrangements for an ASL interpreter if it wished to have one.

Following trial, the district court enjoined WG Scottsdale and its officers, agents, and employees from discriminating on the basis of hearing impairments or any other disability. She ordered WG Scottsdale to furnish all appropriate auxiliary aids and services, including qualified sign language interpreters, to persons who are deaf or hearing-impaired; and to have agreements in place with sign language interpreter services to provide timely services when necessary. WG Scottsdale must develop a plan to ensure that its staff complies with the requirement that it ensure timely

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<sup>22</sup> *CNY Fair Housing v. Clover Group Inc.*, No. 5:22-cv-278 (N.D.N.Y. August 3, 2022) (settlement agreement signed).

<sup>23</sup> *Southwest Fair Housing Council v. WG Scottsdale LLC*, No CV-19-00180-TUC-RM, 2022 U.S. Dist. LEXIS 140702 (D. Ariz. Aug. 8, 2022) (order denying motions for judgment as a matter of law and for a new trial); Aug. 31, 2022 (order granting motion for injunctive relief).

access to sign language interpreters when necessary. The plan will include training and enforcement measures.

## Discriminatory Advertising

### ***United States v. Meta Platforms, Inc.*<sup>24</sup>**

The Justice Department obtained a settlement of a Fair Housing Act lawsuit against Meta Platforms, Inc., which was formerly known as Facebook, Inc, alleging discriminatory advertising.

The government filed a complaint concurrently with the proposed settlement agreement in which it alleged that Meta discriminated in violation of the Fair Housing Act in several aspects of the advertising delivery system it provides to advertisers. According to the complaint, Meta encouraged advertisers to include or exclude Facebook users who received certain ads based on protected characteristics. The Department also alleged that Meta designed and provided an algorithm for “lookalike targeting,” which would enable advertisers to target audience members based on Fair Housing Act-protected characteristics and also used an algorithm to determine who would actually receive particular advertisements based on protected characteristics. The Justice Department’s complaint alleged both disparate impact and disparate treatment discrimination.

Under the terms of the settlement, Meta will stop using a system for advertising housing that discriminates on the basis of race, color, religion, sex, disability, familial status, or national origin. It will no longer use the “lookalike targeting” algorithm, which it now calls the “Special Ad Audience” tool. According to DOJ, Meta must also develop a new system for housing ads to address disparities for race, ethnicity and sex between advertisers’ targeted audiences and the group of Facebook users to whom Facebook’s personalization algorithms actually deliver the ads.” A third-party reviewer will verify whether the new system meets compliance standards. Meta will also pay a \$115,054 civil penalty.

## Discriminatory Rules

### ***Department of Fair Employment and Housing v. Vasona Mgt.*<sup>25</sup>**

After an investigation by Project Sentinel, Inc., a San Francisco Bay Area fair housing organization, the California Civil Rights Department (CRD) and the owners and property management company of multiple apartment complexes agreed to a consent decree resolving a lawsuit alleging that Vasona Management, Inc. discriminated against families with children by adopting overly restrictive rules. Vasona Management Co. owns more than 30 apartment complexes and manages 48 apartment complexes.

The lawsuit alleged that the defendants violated fair housing laws by prohibiting any outdoor play activities and requiring parents to supervise children under the age of 14 in all common areas. Tenants who violated these rules faced the threat of eviction.

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<sup>24</sup> *United States v. Meta Platforms, Inc.*, No. 1:22-cv-05187 (S.D.N.Y. June 21, 2022) (complaint and settlement filed).

<sup>25</sup> *Department of Fair Employment and Hous. v. Vasona Property Management, Inc.*, No. RG20078727, (Alameda Cnty. Superior Ct. 2023).

Under the consent decree resolving the case, Vasona Management Co. will pay \$3 million to aggrieved families and will implement corrective measures over five years, including submitting any rules about the supervision of children in common areas or resident's outdoor activities for CRD's review and approval; distributing brochures to tenants about their rights; creating and maintaining policies to prevent discrimination, including ways for tenants to report discrimination; train for four hours annually anyone involved in the managing or renting of property; and provide an annual report to CRD regarding its compliance with the decree. Owner defendants are also prohibited from engaging in future discrimination.

## Group Homes for People with Disabilities

### ***SoCal Recovery LLC v. City of Costa Mesa***<sup>26</sup>

A Ninth Circuit panel reversed an order of summary judgment entered for the defendants in a disability discrimination case filed by operators of sober living homes against a California municipality.

SoCal Recovery LLC is a for-profit corporation that operates sober living residences in Costa Mesa, California. In 2014, Costa Mesa amended its zoning code. Under the amended code, sober living homes for recovering substance abusers in residential areas could not be located less than 650 feet from other sober living residences. The ordinance included a provision for requests for reasonable accommodations from the spacing requirement. The ordinance applied to sober living homes that were located less than 650 feet from other residences even if they were already operating when the ordinance came into effect. SoCal Recovery requested a reasonable accommodation for its facilities that did not meet the spacing requirement, but its request was denied.

SoCal Recovery and a second sober house operator then sued the city, alleging that the ordinance and the city's enforcement practices discriminated against them because of disability in violation of the Fair Housing Act, the Americans with Disabilities Act, and California law. The district court judge, ruling in chambers, entered summary judgment for the city because he found that the plaintiffs had not "produced evidence regarding handicap or disability." He concluded that the "[p]laintiffs have produced no evidence that the individuals at issue have a physical or mental impairment that substantially limits one or more major life activities."

A Ninth Circuit panel reversed that decision. The panel ruled that the district court had applied the wrong legal standard when it required the plaintiffs to present evidence of the disabilities of individual residents. The appeals court held that the appellants and "other sober living home operators can satisfy the 'actual disability' prong [of a disability discrimination case] on a collective basis by demonstrating that they serve or intend to serve individuals with actual disabilities" and "need not provide individualized evidence of the 'actual disability' of their residents." The plaintiffs could also state a claim by showing that the city "perceived their 'clients as being disabled and discriminated against them on that basis.'" The court concluded that the plaintiffs had established triable issues of fact under both the "actually disabled" and "regarded as disabled" provisions of the law.

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<sup>26</sup> *SoCal Recovery LLC v. City of Costa Mesa*, 56 F.4th 802 (9th Cir. Jan. 3, 2023).

## Reasonable Accommodation

### ***Voluntary Compliance Agreement between HUD Office of Fair Housing and Equal Opportunity and the Housing Authority of the City of Atlanta, Georgia***<sup>27</sup>

The Housing Authority of the City of Atlanta has agreed to a conciliation agreement resolving claims that it failed to comply with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act by “inadequately monitoring its recipient housing providers” who did not adequately respond to requests for reasonable accommodations and kept insufficient records of such requests. HUD made its findings following a review of policies, procedures, and practices related to reasonable accommodations and reasonable modifications at 60 properties between January 1, 2018, and September 30, 2020.

Under the terms of the agreement, the housing authority will appoint a compliance administrator and will make extensive changes to its monitoring and oversight practices and procedures. It will create a \$2 million dollar fund to compensate people whose reasonable accommodation requests were unreasonably delayed or denied.

## Redlining

### ***Consumer Financial Protection Bureau v. Trident Mortgage Company LP***<sup>28</sup>

The Trident Mortgage Company will invest a minimum of \$18.4 million in a loan subsidy fund that will be used to increase credit extended in minority neighborhoods of Philadelphia under the terms of a consent order resolving a lending discrimination lawsuit filed by the Consumer Financial Protection Bureau (CFPB) and the Justice Department.<sup>29</sup>

In a complaint filed concurrently with the agreed upon consent order, CFPB alleged that between at least 2015 and 2019, “Trident engaged in a pattern or practice of unlawful discrimination against applicants and prospective applicants, on the basis of race, color, or national origin, including by illegally redlining majority-minority neighborhoods in the Philadelphia, Camden, New Jersey, and Wilmington, Delaware metropolitan areas.” Trident has also agreed, without admitting liability, to pay a \$4,000,000 civil penalty. It will retain independent credit needs assessment consultants to assess the needs of majority-minority areas in the Philadelphia area.

### ***United States v. City National Bank***<sup>30</sup>

In the Justice Department’s largest redlining monetary settlement to date, City National Bank agreed to pay over \$31 million to individuals and communities.

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<sup>27</sup> Voluntary Compliance Agreement between HUD Office of Fair Housing and Equal Opportunity and the Housing Authority of the City of Atlanta, Georgia, HUD No. 04-21-R001-4 (HUD Nov. 22, 2022) (compliance agreement announced).

<sup>28</sup> *Consumer Financial Protection Bureau v. Trident Mortgage Company LP*, No. 2:22-cv-02936 (E.D. Penn. July 27, 2022) (complaint and consent order filed).

<sup>29</sup> *Consumer Financial Protection Bureau v. Trident Mortgage Company LP*, No. 2:22-cv-02936 (E.D. Penn. July 27, 2022) (complaint and consent order filed).

<sup>30</sup> *United States v. City National Bank*, No. 2:23-cv-00204 (C.D. Cal. Jan. 12, 2023) (complaint and proposed consent order filed).



In a complaint filed concurrently with a proposed consent order, DOJ alleged that City National Bank engaged in a pattern or practice of unlawful redlining by not providing home loans and other mortgage services in majority Black and Hispanic neighborhoods in Los Angeles County, California. According to the complaint, during the time period at issue, only three of City National Bank's 37 branches were located in majority Black and Hispanic neighborhoods although more than 50 percent of the census tracts in Los Angeles County are majority Black and Hispanic. The Justice Department also charged that City National Bank failed to provide adequate resources to serve the mortgage lending needs of residents in majority Black and Hispanic neighborhoods.

To settle the claims, City National Bank has agreed to invest a minimum of \$29,500,000 in a loan subsidy fund to increase credit for home mortgage loans, home improvement loans, and home refinance loans in majority Black and Hispanic neighborhoods. It will also spend a minimum of \$500,000 on advertising and outreach in the lending area defined in the agreement; \$500,000 on outreach and education; and \$750,000 for the development of community partnerships. It has agreed to open one new branch in a majority Black and Hispanic neighborhood and ensure that at least four mortgage loan officers are dedicated to majority Black and Hispanic neighborhoods. It will also establish a fair lending oversight committee to monitor its compliance with the consent order.

## Source of Income

### ***District of Columbia v. Daro Realty***<sup>31</sup>

Three real estate companies that owned and operated nearly 1,000 apartments in twelve buildings in Washington, DC, and five individual defendants will pay a total of \$10 million in civil penalties to resolve claims that they discriminated against persons using housing vouchers and other forms of housing assistance in violation of District of Columbia law.

The District of Columbia sued Daro Realty, Daro Management Services, and Infinity Real Estate in DC Superior Court, alleging that they "perpetuated a scheme that limited affordable housing opportunities based on applicants' source of income and removed affordable housing from the market . . ." in violation of the District of Columbia Human Rights Act and the District of Columbia Consumer Protection Procedures Act.

District of Columbia Attorney General Karl Racine announced that the parties had agreed to a settlement. In addition to paying civil penalties, the principals of Daro Management agreed to divest their ownership in the company. Daro Realty will retain an independent management company to manage the properties. Daro Management President Carissa Barry will surrender her DC real estate license. The defendants will comply with DC law in any real estate leasing activities in which they are involved.

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<sup>31</sup> District of Columbia v. Daro Realty, LLC, No. 2020 CA 001015 B (D.C. Superior Court Oct. 20, 2022) (consent order announced).

# Section III: Recommendations

While the Biden-Harris Administration has prioritized equity through a number of executive orders, advanced significant legislative achievements securing critical funding to preserve housing for renters and homeowners, such as the Emergency Rental Assistance Program and Homeowner Assistance Fund, and introduced a Housing Supply Action Plan<sup>32</sup> with incentives for land use and zoning reform, our nation continues to grapple with a fair and affordable housing crisis for which there is no comprehensive national plan. Historical and ongoing housing discrimination and residential segregation are the underbelly of this crisis, and solutions to the nation’s housing woes are needed to facilitate fair housing and address the millions of incidents of housing discrimination that produce invidious impacts for people of color, women, families with children, LGBTQ+ persons, people with disabilities, and others. As a nation, we have yet to fully enforce our fair housing and lending laws, and we continue to underfund critically needed local fair housing enforcement despite private, non-profit FHOs serving as first-responders to thousands of individuals and families denied equitable housing opportunities.

To provide relief for victims of housing discrimination, a comprehensive housing plan must advance with effective enforcement of fair housing and lending as one of its primary pillars. The following recommendations detail steps that can be taken to address housing discrimination and enable the advancement of housing justice. They can serve as the blueprint for making every neighborhood a place of opportunity filled with the resources and amenities for all people to thrive.

## 1. Congress Must Prioritize Funding for Local Fair Housing Enforcement

The 118<sup>th</sup> Congress must prioritize local fair housing enforcement funding. As stated earlier in the report, private, non-profit FHOs processed the majority of all housing discrimination complaints at 71.48 percent. Since NFHA reported the 2022 data, these agencies shined the light on systemic appraisal bias by initiating precedent-setting cases that garnered national media attention<sup>33</sup> to the reality that inaccurate home valuations place a

family’s most important financial asset in jeopardy while risking the safety and soundness of the national housing finance system. Despite their value, private, non-profit FHOs are subject to the whims of the appropriations process and have yet to receive sustainable funding for their critical work. In order to place private, non-profit FHOs on a path to build necessary infrastructure for their continuity and growth and ensure victims of housing discrimination can be made whole, Congress must appropriate \$75.7 million to support the Fair Housing Initiative Program.

HUD Fair Housing Program Account Funding (in millions)				
Program	FY22 Enacted	FY23 Enacted	Biden FY24 Budget	NFHA FY24 Request
FHIP	\$56M	\$56M	\$58.5M	\$75.7M
FHAP	\$25M	\$26M	\$27.5M	\$36.3M
FHEO	\$88M	\$97M	\$107.2M	\$153M

<sup>32</sup> See, President Biden Announces New Actions to Ease the Burden of Housing Costs, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/16/president-biden-announces-new-actions-to-ease-the-burden-of-housing-costs/>.

<sup>33</sup> See, e.g., Julian Glover and Mark Nichols, Our America: Lowballed, ABC (Dec. 2022), <https://abc7.com/feature/our-america-lowball-home-appraisal-racial-bias-discrimination/12325606/>.

Additionally, this year, FHAP agencies reported a 3.59 percent uptick in complaints compared to 2022, which demonstrates the critical role these local and state government civil or human rights agencies play in managing the cases filed through HUD's administrative compliant process. In order for FHAPs to keep up with increased complaints and retain staff to address new and innovative technological developments that are saturating the housing system, they need increased resources to tackle algorithmic bias complaints, appraisal bias, and redlining. They also require adequate funding to mitigate a growing backlog of complaints and provide much-needed training for their employees. Congress must appropriate \$36.3 million to support the Fair Housing Assistance Program.

HUD's FHEO staffing is grossly under-resourced, causing it to lack the critical ability to conduct its important function. The division needs 1,125 full-time employees and the ability to provide training resources for staff. Increased support is needed to enable FHEO to effectively provide oversight of HUD's programs for compliance with the Fair Housing Act's affirmatively furthering fair housing requirement, provide technical assistance to HUD grantees, timely investigate claims of housing discrimination, and draft policies to fulfill the Fair Housing Act. Congress must appropriate \$153 million to FHEO.

## 2. Prohibit Source of Income (SOI) Discrimination

The Housing Choice Voucher program is one of the nation's most important housing programs, and it has the greatest potential to offer real choice for low-income families and individuals who simply cannot make enough income to afford market rate rental housing and alleviate racially concentrated poverty and segregation. Unfortunately, while 57 percent of all voucher holders are protected by a state or local source of income discrimination prohibition,<sup>34</sup> voucher discrimination continues to be a leading challenge in the program's administration. The most recent fair housing complaint data show that Fair Housing Organizations filed 2,395 source of income discrimination complaints, up 564 complaints or 5.64 percent from the prior year. In order to combat SOI discrimination, the following actions are needed:

- Congress must amend the Fair Housing Act to include SOI as a protected class as many states preempt SOI nondiscrimination protections, and only 16 states and the District of Columbia have existing SOI local protections.<sup>35</sup> Only 24 percent of households in need of federal rental assistance receive the support they need.<sup>36</sup> Absent an initiative to provide for universal vouchers, the HCV Program and other rental assistance programs should be expanded to better meet existing need.
- Administratively, HUD should provide guidance to Public Housing Authorities (PHAs) and landlords of federally assisted properties laying out in clear terms that voucher discrimination may be a violation of the Fair Housing Act under the disparate impact doctrine. Doing so would send a clear and important message to the rental industry that voucher discrimination is not to be tolerated.

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<sup>34</sup> Brian Knudsen, "Expanded protections for families with Housing Choice Vouchers," Sep. 29, 2022, Poverty & Race Research Action Council, available at <https://prrac.org/pdf/soi-voucher-data-brief.pdf>.

<sup>35</sup> *Ibid.*

<sup>36</sup> Center on Budget and Policy Priorities, "76% of Low-Income Renters Needing Federal Assistance Don't Receive it," available at <https://www.cbpp.org/research/housing/three-out-of-four-low-income-at-risk-renters-do-not-receive-federal-rental-assistance>.

- HUD must also require PHAs to collect, and report known instances of voucher discrimination and refer voucher holders to HUD's Administrative complaint process if they choose to exercise their rights.
- PHAs must expand the use of HUD's Small Area Fair Market Rents (SAFMRs) to increase access to well-resourced areas for voucher holders.
- The Administration should commission a study on the impact of voucher discrimination on families and children, and the lost opportunity cost associated with it to better build support for source of income protections under the Fair Housing Act and more voucher and program administration funding.
- Further, the Low Income Housing Tax Credit (LIHTC) statute explicitly prohibits voucher discrimination in tax credit properties, yet there is no oversight or enforcement infrastructure at the Department of the Treasury to implement this important provision. Congress must properly fund the Treasury Department and ensure it is effectively supervising fair housing and lending protections in the programs it oversees.
- HUD must begin to use its Secretary-Initiated Complaint Authority to pursue disparate impact claims against rental companies that refuse voucher holders and pursue strong remedial settlement terms. This is a tremendous failure by every Administration since the creation of the program. At the same time, this presents a tremendous opportunity for the Biden-Harris Administration to move the needle on reducing voucher discrimination.
- The Government Sponsored Enterprises (GSEs) play a critical role in financing multi-family housing. GSEs could do more to ensure that they meet the greatest needs of the nation's lowest-income renters including voucher holders, by banning SOI discrimination by recipients of GSE financing.

### **3. Embed Fair Housing Principles in Recent Legislative Victories of the Biden-Harris Administration**

While unprecedented funding has been allocated through the American Rescue Plan, Bipartisan Infrastructure Law (BIL), and Inflation Reduction Act (IRA), and other legislative victories, this critical funding and its guidance fail to outline the responsibility of all federal agencies to administer housing and community development funds in a manner that fulfills the promises of the Fair Housing Act. Thus, the administration must take the following actions in order to ensure it does not exacerbate existing rental and homeownership disparities:

- Embed fair housing principals in all housing and community development related programs.
- Reconstitute and expand the President's Fair Housing Council outlined in Presidential Executive Order 12892<sup>37</sup> to affirmatively further fair housing, and remedy the impacts of residential segregation, housing inequality, and structural racism in all federal programs.
- Re-establish or adopt Memorandums of Understanding and/or other types of agreements to coordinate government-wide efforts to affirmatively further fair housing and advance fair housing principles.
- Prohibit lending institutions, housing providers, and other entities that operate in the housing space from accessing federal programs, subsidies, tax breaks, or other government assistance if they have been found in violation of the Fair Housing Act or Equal Credit Opportunity Act within the last five years.

<sup>37</sup> Ex. Ord. No. 12892, Jan. 17, 1994, 59 F.R. 2939.

- Require meaningful fair housing impact analyses in every effort to fill the nation's affordable housing shortage. Reporting requirements are a critical step, but are not sufficient to change the location, types and cost of housing units available to households in the US.

## 4. Utilize Equity-Based Programs to Advance Fair Housing

Centuries of race-based laws and policies, including Jim Crow statutes, repatriation policies, racially restrictive covenants, and the Home Owners Loan Corporation Act—which systemized redlining, the association between race and risk in our financial markets, created structural barriers that served to deliberately lock Black, Latino, API, and Native Americans out of mainstream housing and credit opportunities, and created the foundation for the U.S. biased appraisal market—created unfair systems that harm millions of people each year. Those structural barriers include residential segregation, the unbalanced distribution of resources, restrictive zoning ordinances, biased algorithmic-based systems, and the dual credit market in which mainstream financial services providers are concentrated in predominately White neighborhoods while high-cost and non-traditional financial services providers are hyper-concentrated in communities of color.<sup>38</sup> Unfair policies also resulted in the structural racial wealth gap and the inability of people of color to pass on wealth to future generations. White households have 5 and 8 times the wealth of their Latino and Black counterparts, respectively. One analysis found that if White wealth were to be held stagnant, fixed where it is today, it would take Latino households 84 years and Black households 228 years to reach parity.<sup>39</sup>

To overcome these barriers and strengthen the economy,<sup>40</sup> governments, philanthropy, and private businesses such as banks and quasi-private entities such as the Government Sponsored Enterprises must utilize the Equal Credit Opportunity Act's (ECOA) Special Purpose Credit Programs (SPCPs)<sup>41</sup> and target downpayment assistance programs to first-generation homebuyers as outlined below.

- SPCPs provide a framework for creating credit products and services with intentionality and a deliberate resolve to serve borrowers of color and other protected classes. ECOA

<sup>38</sup> Cheryl Young and Felipe Chacon, *50 Years After the Fair Housing Act - Inequality Lingers*, Trulia (April 19, 2018). Available at <https://www.trulia.com/research/50-years-fair-housing/>; Alexandra Lee, *Where You Live Matters: Access to Key Amenities is Worse in Communities of Color*, Zillow (June 23, 2021). Available at <https://www.zillow.com/research/nfha-where-you-live-matters-29661/>; and *Separate and Unequal: The Legacy of Racial Discrimination in Housing*, Testimony of Lisa Rice President and CEO, National Fair Housing Alliance Before the Senate Committee on Banking, Housing, and Urban Affairs Tuesday, April 13, 2021, Available at [https://nationalfairhousing.org/wp-content/uploads/2022/07/Separate-and-Unequal\\_The-Legacy-of-Racial-Discrimination-in-Housing\\_Testimony-of-Lisa-Rice.pdf](https://nationalfairhousing.org/wp-content/uploads/2022/07/Separate-and-Unequal_The-Legacy-of-Racial-Discrimination-in-Housing_Testimony-of-Lisa-Rice.pdf).

<sup>39</sup> Chuck Collins, Dedrick Asante-Muhammad, Josh Hoxie, and Emanuel Nieves, *The Ever-Growing Gap: Failing to Address the Status Quo Will Drive the Racial Wealth Divide for Centuries to Come*, Institute for Policy Studies (August 8, 2016). Available at <https://ips-dc.org/report-ever-growing-gap/>.

<sup>40</sup> Nick Noel, Duwain Pinder, Shelley Stewart, and Jason Wright, *The Economic Impact of Closing the Racial Wealth Gap*, McKinsey & Company (Aug. 13, 2020), <https://www.mckinsey.com/industries/public-and-socialsector/ourinsights/the-economic-impact-of-closing-the-racial-wealth-gap>; Dana M. Peterson and Catherin L. Mann, *Closing The Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.*, Citi Global Perspectives & Solutions (Sept. 20, 2020), <https://www.citivelocity.com/citigps/closing-the-racial-inequality-gaps/>; Jeff Cox, *Morgan Stanley Says Housing Discrimination Has Taken a Huge Toll on The Economy*, CNBC (Nov. 13, 2020), <https://www.cnbc.com/2020/11/13/morgan-stanley-says-housing-discrimination-has-taken-a-huge-toll-on-theeconomy.html>.

<sup>41</sup> 15 U.S.C. § 1691 et seq.



allows nonprofit and for-profit entities to use this tool if they determine a tailored program would “benefit a class of people who would otherwise be denied credit or would receive it on less favorable terms.”<sup>42</sup> For a greater discussion on how to create equity-based SPCPs, see *Disrupting Financial Services’ Structural Barriers to Credit Access Via a First Generation Homebuyer Special Purpose Credit Program*.<sup>43</sup> Moreover, NFHA has supported research to explore how SPCPs can be structured to advance racial equity and promote our nations’ fair housing laws.<sup>44</sup> These programs, designed properly, can fulfill and advance the purposes of a bevy of civil rights statutes and policies including the Civil Rights Act of 1866, the Fair Housing Act of 1968, the Equal Credit Opportunity Act of 1974, the Community Reinvestment Act of 1977, and several equity-based Presidential Executive Orders. SPCPs can be designed to remove criteria that can unduly restrict access to credit for borrowers who can well afford and have the ability to pay their debts. They can also be designed to favor criteria, such as the use of rental housing payment information, to appropriately expand credit access to underserved groups.

- First-generation downpayment assistance can help creditworthy consumers of color overcome the greatest barrier in their journey to homeownership—a lack of down payment. Targeting downpayment assistance using a first-generation lens is a proven strategy that can create 5 million new homebuyers—70 percent of which will be people of color—significantly closing the racial wealth and homeownership gaps.<sup>45</sup> Many Black, Latino, API, and Native American consumers have sufficient income to pay a monthly mortgage obligation; in fact, many of them are currently paying rental housing payments equal to or exceeding what they might pay on a mortgage. But these consumers disproportionately lack intergenerational wealth and sufficient down payments. Consumers who are the first in their generation of would-be homeowners face significant challenges because their families lack the wealth that homeownership can provide. These consumers also cannot readily rely on guidance, networks, and assistance from family to navigate the homeownership process. For-profit entities, like banks and credit unions, can adopt First-generation programs. Nonprofit organizations, like Community Development Financial Institutions (CDFIs), can implement them as well. Finally, philanthropic organizations and the GSEs that fund downpayment assistance can mandate that the programs are targeted to first-generation homebuyers or provide capital to CDFIs to purchase first-generation mortgage loans on the secondary market to increase liquidity for these programs.

<sup>42</sup> Susan M. Bernard and Patrice Alexander Ficklin, *Expanding Access to Credit to Underserved Communities*, Consumer Financial Protection Bureau (July 31, 2020). Available at <https://www.consumerfinance.gov/about-us/blog/expanding-access-credit-underserved-communities/>.

<sup>43</sup> Lisa Rice, *Disrupting Financial Services’ Structural Barriers to Credit Access Via a First Generation Homebuyer Special Purpose Credit Program*, Federal Reserve Bank of Minneapolis, *Racism and the Economy focus on the Financial Services* (2021), available at <https://www.minneapolisfed.org/-/media/assets/events/2021/racism-and-the-economy-focus-on-financial-services/rice-proposal.pdf>.

<sup>44</sup> Steve Hayes, *Special Purpose Credit Programs: How a Powerful Tool for Addressing Lending Disparities Fits Within the Antidiscrimination Law Ecosystem*, National Fair Housing Alliance and Relman Colfax, PLLC (November, 2020). Available at [https://nationalfairhousing.org/wpcontent/uploads/2020/11/NFHA\\_Relman\\_SPCP\\_Article.pdf](https://nationalfairhousing.org/wpcontent/uploads/2020/11/NFHA_Relman_SPCP_Article.pdf).

<sup>45</sup> Nikitra Bailey, Tucker Bartlett, Mike Calhoun, Keith Corbett, Debby Goldberg, Deborah Momsen-Hudson, Lisa Rice, and Eric Stein, *First Generation: Criteria for a Targeted Down Payment Assistance Program*, Center for Responsible Lending and National Fair Housing Alliance (May 21, 2021). Available at <https://nationalfairhousing.org/wp-content/uploads/2021/06/crl-nfha-first-generation-jun21.pdf>.

## 5. HUD Must Strengthen Fair Housing Enforcement and Complaint Administration

HUD's authority to pursue Secretary-initiated fair housing complaints is an important means for the federal government to bring systemic enforcement to promote open and inclusive housing markets. Unfortunately, as illustrated by the FY 2022 data in this report, HUD only used this authority to open two new complaints, close one complaint, and settle three complaints. This constitutes a modest number of complaints that were pursued and processed, representing a shortfall in the use of this authority. Furthermore, none of the recent Secretary-initiated cases that were opened or closed dealt with discrimination based on race or national origin, instead they focused on disability, sex, and familial status claims. It is important that HUD continue to dedicate resources to pursuing active enforcement across the full range of protected classes. Given our country's deep legacy of discrimination against Black and immigrant households, HUD must focus its resources to pursue Secretary-initiated fair housing complaints to address race and national origin discrimination and take on some of the most persistent forms of discrimination that plague our housing markets across a range of areas, including rental, lending, sales, insurance, appraisals, and other areas.

In March 2023, HUD issued the *Restoring HUD's Discriminatory Effects Standard*,<sup>46</sup> rescinding the 2020 rule governing Fair Housing Act disparate impact claims and restoring the 2013 discriminatory effects rule to institute a standard that is more consistent with how the Fair Housing Act has been applied in the courts and within HUD for more than 50 years. With the reinstitution of a meaningful disparate impact standard, HUD should be active in using its secretary-initiated complaint authority to pursue disparate impact claims. The vestiges of slavery and Jim Crow laws continue to shape inequity and segregation along racial lines in communities across the country. The disparate impact standard of proving discrimination is a powerful means for ensuring equitable outcomes and HUD should use its authority to prosecute these cases using its newly reconstituted rule.

HUD is responsible for processing fair housing administrative complaints in a timely manner. The federal Fair Housing Act was amended in 1988 to include, among other things, a provision that requires HUD and associated FHAP agencies to "make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint ... unless it is impracticable to do so."<sup>47</sup> As noted above, a case is considered "aged" if exceeds the 100-day statutory mark. Unfortunately, HUD complaint data indicates that there are 1,449 pending HUD complaints that aged during FY 2022, more aged cases than any year since NFHA began documenting figures on HUD aged cases in 2012. It is likely the case that some of these aged cases result from an increased caseload, more complex cases, a decrease in staff, and insufficient funding over the years. However, the protracted processing of HUD and FHAP fair housing complaints delays relief to people who pursue their fair housing rights, complicates enforcement when the factual evidence grows old, and ultimately serves as a disincentive to people who experience discrimination from seeking relief through the administrative process.

Another important indicator of the effective operation of the HUD and FHAP administrative complaint process is the extent to which, at the close of an investigation, the agency issues a

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<sup>46</sup> See, *Final Rule on Restoring HUD's Discriminatory Effects Standard*, [https://www.hud.gov/sites/dfiles/FHEO/documents/6251-F-02\\_Discriminatory\\_Effects\\_Final\\_Rule\\_3-17-23.pdf](https://www.hud.gov/sites/dfiles/FHEO/documents/6251-F-02_Discriminatory_Effects_Final_Rule_3-17-23.pdf).

<sup>47</sup> FHA 3610 (a)(1)(B)(iv).

charge that there is reasonable cause to determine that discrimination took place. The FY 2022 data suggests that HUD charged 21 cases, 15 fewer than the prior year and the second least number of complaints charged in any year since NFHA compiled these figures starting in 2011, second only to the comparable 19 complaints charged under the Trump Administration in 2017. FHAP agencies reported an increase in the charged cases in FY 2022 over the prior year, and HUD should work in step to ensure it continues to process a meaningful number of cases that manifest charges.

## **6. HUD Must Vigorously Enforce the Affirmatively Furthering Fair Housing Mandate**

In February 2023, HUD issued a proposed Affirmatively Further Fair Housing regulation for public comment.<sup>48</sup> For the first time, the proposed rule provided for an administrative complaint procedure to enforce the AFFH requirement. Giving the public the ability to submit complaints to HUD in cases where a grantee, such as a local or state government, has failed to comply with the requirements of the AFFH rule, failed to comply with the commitments it has made under the rule, or has taken action materially inconsistent with its obligation to affirmatively further fair housing, is a critical provision that must be enforced by HUD. Currently, there is no clear mechanism by which members of the public can submit such complaints, hampering their ability to assist HUD in its AFFH oversight and enforcement responsibilities and limiting HUD's ability to do so effectively and efficiently. The final regulation should clarify the timelines and remedies available to those who file meritorious AFFH complaints. Specifically, HUD should implement final regulations that: (1) require HUD to take initial action on any complaints within 20 days; (2) mandate HUD to complete its investigation with 180 days of accepting a complaint; (3) allow complainants to amend their complaints at any time and (4) provide complainants the same remedies as those authorized under the Fair Housing Act, including injunctive relief, policy changes, money damages and attorney's fees.

## **7. The Appraisal Subcommittee Must Institute Reforms to Create Fair and Accurate Home Valuations to Root Out Appraisal Bias**

An appraisal has the power to determine the value of a consumer's most important financial asset, which can hold the key to determining whether the consumer can purchase a permanent home rather than rent, access credit on reasonable terms, and build wealth for generations to come. However, numerous news stories<sup>49</sup> as well as research by the Federal Housing Finance Agency, Fannie Mae, Freddie Mac, Drs. Junia Howell and Elizabeth Korver-Glenn, the Brookings Institution, and the National Fair Housing Alliance<sup>50</sup> have documented the serious and systemic

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<sup>48</sup> See, *Notice of Proposed Rulemaking (NPRM) entitled "Affirmatively Furthering Fair Housing"* <https://www.federalregister.gov/documents/2023/02/09/2023-00625/affirmatively-furthering-fair-housing>.

<sup>49</sup> See, e.g., Julian Glover and Mark Nichols, *Our America: Lowballed*, ABC (Dec. 2022), <https://abc7.com/feature/our-america-lowball-home-appraisal-racial-bias-discrimination/12325606/>.

<sup>50</sup> See, FHFA, *Reducing Valuation Bias by Addressing Appraiser and Property Valuation Commentary*, FHFA Insights Blog (Dec. 14, 2021), <https://www.fhfa.gov/Media/Blog/Pages/Reducing-Valuation-Bias-by-Addressing-Appraiser-and-Property-Valuation-Commentary.aspx>; Jake Williamson and Mark Palim, *Appraising the Appraisal*, Fannie Mae (Feb. 2022), <https://www.fanniemae.com/media/42541/display>; Melissa Narragon, et al., *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals*, Freddie Mac Economic and Housing Research Note (Sept. 2021), <http://www.freddiemac.com/fmac-resources/research/pdf/202109-Note-Appraisal-Gap.pdf>; Dr. Junia Howell and Dr. Elizabeth Korver-Glenn, *Appraised: The Persistent Evaluation of White Neighborhoods as More Valuable than Communities of Color*,

problem of appraisal bias for consumers and communities of color. Appraisal bias exacerbates the large and growing Black-White racial wealth gap by causing Black families to get lower returns from home equity than White families.<sup>51</sup> Moreover, appraisal discrimination violates the Fair Housing Act and other federal, state, and local civil rights laws.<sup>52</sup> In order to create fair and accurate home valuations, the Appraisal Subcommittee (ASC) should take the following actions:

- **Governance.** Work with The Appraisal Foundation (TAF) to set public goals and timelines to convert TAF’s governance to a fairer and more democratic and transparent structure that serves the public interest.
- **Appraiser Qualification Criteria.** Work with TAF to set public goals and timelines to:
  - Eliminate unnecessary and discriminatory barriers to entry to the appraisal profession;
  - Adopt robust, accurate, highly effective fair housing training requirements as soon as possible; and
  - Ensure comprehensive, practical, and accurate fair housing training is provided to appraisers as soon as possible.
- **Appraisal Standards.** Work with TAF to set public goals and timelines to:
  - Adopt clear nondiscrimination requirements as soon as possible; and
  - Thoroughly review USPAP for fair housing risk and amend the standards to limit that risk.
- **Coordination.** Coordinate with the other PAVE Task Force agencies to ensure a consistent whole-of-government approach to addressing appraisal bias.

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Eruka (Nov. 2, 2022), <https://www.eruka.org/appraised>; Andre M. Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, The Brookings Institution Metropolitan Policy Program (Nov. 2018), [https://www.brookings.edu/wp-content/uploads/2018/11/2018.11\\_Brookings-Metro\\_Devaluation-Assets-Black-Neighborhoods\\_final.pdf](https://www.brookings.edu/wp-content/uploads/2018/11/2018.11_Brookings-Metro_Devaluation-Assets-Black-Neighborhoods_final.pdf); National Fair Housing Alliance, Dane Law LLC, Christensen Law Firm, *Identifying Bias and Barriers, Promoting Equity: An Analysis of the USPAP Standards and Appraiser Qualification Criteria*, (Jan. 2022) (“NFHA Consortium Report”), <https://nationalfairhousing.org/groundbreaking-report-identifies-bias-and-systemic-barriers-in-real-estate-appraisals/>.

<sup>51</sup> See, Tom Shapiro et al., LDF Thurgood Marshall Inst. & Inst. on Assets and Soc. Pol’y at Brandeis Univ. *The Black-White Racial Wealth Gap* 2-3 (2019), <https://tminstituteldf.org/wp-content/uploads/2019/11/FINAL-RWG-Brief-v1.pdf>.

<sup>52</sup> See, 42 U.S.C. §§ 3604, 3605.

## Section IV: Advancing a Blueprint for Equity – A Discussion Guide for Advocates

Fifty-five years ago, on February 29, 1968, the National Advisory Commission on Civil Disorders, also known as the Kerner Commission, issued a seminal report noting that our nation was “moving toward two societies, one black, one white—separate and unequal.” Just weeks later, on April 4, 1968, Dr. Martin Luther King, Jr., a champion of justice who had been outspoken on the nation’s economic and racial inequalities, was assassinated in Memphis, Tennessee. Just seven days later, the Fair Housing Act became law.

We have come a long way since that tumultuous time 55 years ago. Yet, we also know that housing discrimination persists across the nation. This year, NFHA is commemorating these pivotal moments in the fair housing movement by advancing a blueprint for equity. This means fair housing advocates and organizational leaders on the frontlines together, strategizing and developing solutions to advance fair housing in America. We hope that you will use this discussion guide to prompt discussions with your local and state policymakers, journalists and newsmakers.

Please use the [data visualization map](#)<sup>53</sup> on NFHA’s website to fill in the below information. Feel free to customize the data based on your own agency’s complaint information if you have it available. Also feel free to copy and paste maps or graphs from the data visualization tool to enhance your presentation.

Total number of fair housing complaints in my state for 2022 \_\_\_\_\_

Based on Race \_\_\_\_\_

Based on Color \_\_\_\_\_

Based on National Origin \_\_\_\_\_

Based on Religion \_\_\_\_\_

Based on Sex \_\_\_\_\_

Based on Disability \_\_\_\_\_

Based on Familial Status \_\_\_\_\_

Other \_\_\_\_\_

Who are the top policymakers who need to hear this message? In my state? In my city/town? \_\_\_\_\_

What resources or capacity would make a difference in the fight for fair housing in your area?

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<sup>53</sup> The data visualization tool can be accessed via the following link - [bit.ly/FHTrendsData](https://bit.ly/FHTrendsData).



## TALKING POINTS FOR THE 2023 TRENDS REPORT

- There were **33,007 fair housing complaints** received by private non-profit fair housing organizations, HUD, FHAP agencies, and the DOJ in 2022, a 5.74 percent increase over the previous year. The data also revealed an increase in complaints based on source of income and domestic violence specifically.
- The 33,007 fair housing complaints received in 2022 represent **the highest number of complaints** ever reported. Disability complaints continue to be the highest basis for complaints as 53.26 percent of all housing complaints filed in 2022 were based on disability status. Race is the second largest basis for complaints.
- Private nonprofit fair housing organizations processed 73.94 percent of complaints, compared to 5.80 percent by HUD, 20.15 percent by FHAP agencies, and 0.11 percent by DOJ making increased funding for private fair housing groups profoundly important.
- The increase in complaints is likely due to the growing housing supply and affordability crisis, ending of eviction moratoriums, and continuing fallout from the COVID pandemic.
- The increase in complaints is a clear sign that more funding is needed to adequately support people who face discrimination and promote fair housing in the U.S. Congress must increase financial support for the Fair Housing Initiatives Program, Fair Housing Assistance Program, and HUD's Office of Fair Housing and Equal Opportunity.
- Homeownership remains one of the most important drivers of wealth creation, yet it remains elusive for many socially and economically disadvantaged families. Consumers of color do not have equitable access to mortgage loans, homeownership opportunities, homeowners' or rental insurance.
- Research shows that eliminating inequality in housing, credit and other areas would create new jobs, increase the Gross Domestic Product by trillions of dollars and strengthen our economy.
- Where you live matters. Your address determines almost everything about you because place and race are inextricably linked to opportunity.
- By defending and protecting the right to access to fair and affordable housing, we are putting communities of color on the path to homeownership and the American dream.
- It is up to lawmakers and government leaders at every level to appreciate these alarming trends and develop policies and programs that expand housing opportunities for underserved groups. This is vital if we want a productive society.

**NFHA**



**[nationalfairhousing.org](http://nationalfairhousing.org)**