

**REPORT ON THE BARRIERS
FACED BY AFRICAN-AMERICANS AND PEOPLE WITH
DISABILITIES
IN
THE HAMPTON ROADS RENTAL MARKET:
HAMPTON, NEWPORT NEWS, VIRGINIA BEACH, NORFOLK,
PORTSMOUTH, CHESAPEAKE, WILLIAMSBURG AND SUFFOLK**

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REPORT
ON THE BARRIERS FACED BY AFRICAN –AMERICANS AND PEOPLE WITH DISABILITIES IN
VIRGINIA’S RENTAL MARKET

EXECUTIVE SUMMARY

Housing is not simply shelter. Where people live makes a difference in the quality of their lives, the kinds of services that are available to them, what kind of schools their children attend and the opportunities they will have, the kinds of jobs that will be available, and whether or not their housing investment will grow. To evaluate the access to rental housing of two groups of Virginia’s housing consumers, African-Americans and people with disabilities, HOME conducted a series of fair housing audits in the Tidewater area, and in Roanoke, Lynchburg, Charlottesville and Fredericksburg¹. This report sets forth the results of those audits in Tidewater. HOME is a private, non-profit fair housing and housing counseling providing a variety of services throughout central Virginia. The audits were conducted from October 1999 through June of 2001.

The race audits were designed to gather comparative information about how similarly qualified paired individuals, whose only significant difference was whether they were white or black, were treated in their respective attempts to seek housing in the rental market. The accessibility audits evaluated whether or not multifamily housing which has come on line in Virginia since 1991 meets the federal and state requirements for accessibility.

SUMMARY OF RESULTS

The results were discouraging in the extreme. In the Hampton Roads (Tidewater) area, African-Americans could expect to receive less favorable treatment than whites in their search for housing 60% of the time.

For people with disabilities who need accessible housing, the problem is also great. In 1988 the Federal Fair Housing Act was amended to require, among other things, that residential buildings consisting of four or more dwelling units constructed for first occupancy after March 1991 be

physically accessible to people with disabilities. Virginia enacted nearly identical accessibility provisions in its 1991 revision of the Virginia Fair Housing Law, and incorporated many of the specific accessibility standards into the Uniform Statewide Building Code.

Nonetheless, in Hampton Roads, 25 of 26 apartment complexes built for first occupancy after March 1991 (96%) did not fully meet the accessibility requirements. 46% had major deficiencies, such as steps leading up to units that should have been accessible to people using wheelchairs.

These results are consistent with the results of national housing discrimination audits conducted by the U.S. Department of Housing and Urban Development in 1977 and 1989, which showed that African-Americans seeking housing experienced less favorable treatment than their white counterparts in over 50% of the tests conducted. Studies conducted in 1997 by the Equal Rights Center in Washington, D.C. indicated that African-Americans could expect to encounter less favorable treatment than whites in their search for rental housing in northern Virginia 56% of the time.

In addition, the Equal Rights Center's determination of accessibility showed that five out of five northern Virginia complexes that should have been accessible were not.

The results of HOME's studies should be grounds for serious concern. The need for affordable housing in Virginia has been well documented. However, little attention has been paid to the problems of those Virginians who are subject to unfair and illegal treatment in their search for housing. Access to affordable housing is limited by illegal denial of housing. HOME's studies clearly indicate that housing discrimination is still a serious issue for African-Americans in Virginia today; and that little progress has been made in opening up housing to people with disabilities.

PRELIMINARY RECOMMENDATIONS:

¹ This work was funded in part by a Fair Housing Initiatives Program grant received from the U.S. Department of Housing and Urban Development
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- ✓ The Virginia Housing Study Commission should ensure that the issue of illegal housing discrimination in the Commonwealth is a focus of debate, and initiate open discussion in the Commonwealth about how best to identify and counteract illegal barriers to housing choice.
- ✓ The Virginia Real Estate Board, which oversees the state's fair housing enforcement functions, should review the audit results and develop a plan to improve compliance with the fair housing laws.
- ✓ The General Assembly should allocate funds for a more comprehensive look at rental practices in the state, including other segments of the rental market. While HOME focused on the issue of discrimination against African-Americans in its paired tests, it is likely that Virginia's increasing Hispanic and Asian populations, for example, also encounter illegal treatment.
- ✓ Additional outreach and education efforts should be made to both housing providers and housing consumers to ensure that they are aware of the rights, remedies and obligations provided under the fair housing laws.
- ✓ Fair housing enforcement throughout the state should be strengthened. Progress on meeting the goals of the 1998 JLARC report should be evaluated. Funding for the Virginia Fair Housing Office should be increased to provide them with the resources necessary for additional outreach and to conduct testing where needed as part of their investigations of discrimination complaints.

ABOUT HOME

HOUSING OPPORTUNITIES MADE EQUAL, INC. (HOME) is a private, non-profit fair housing organization formed in 1971, whose mission is to ensure equal opportunity in housing for all persons through counseling, education and advocacy. Throughout its 30 year history, HOME has sought to ensure equal housing opportunities for all persons throughout the Commonwealth of Virginia through education and outreach activities, comprehensive housing counseling services, and fair housing enforcement activities, including testing. HOME works to achieve its mission by encouraging housing providers and providers of housing-related services to become more aware of and to voluntarily comply with the law and to offer their properties and services on a non-discriminatory basis. HOME assists consumers through rental and homeownership counseling activities and administers a variety of programs of financial assistance in a number of different jurisdictions for first-time homebuyers, as well as for tenants and homeowners who are in danger of eviction or foreclosure. HOME provides free information, assistance, and counseling services to consumers on rental, landlord-tenant, homeownership, and fair housing issues; provides technical assistance to housing and housing-related service providers and to cooperating attorneys; assists local governments in evaluating fair housing issues and in developing policies and procedures to eliminate barriers to equal opportunities in housing; and investigates allegations of housing-related discrimination against all covered protected classes and all covered areas of housing and housing-related services (including rental, sales, lending, appraisals, and homeowners insurance). HOME has conducted thousands of tests and has demonstrated its ability to make objective assessments of differential treatment.

In 1998, the Virginia Department of Housing & Community Development and the Virginia Housing Development Authority recognized HOME's "comprehensive programs and powerful advocacy [which] have helped ensure Virginians equal access to housing for almost 3 decades." In 1999 and in 2000, HOME's fair housing program received a national best practices award from the U.S. Department of Housing and Urban Development, as representing one of the best community development programs in the country.

RACE-BASED AUDIT

METHODOLOGY

HOME's methodology compared the experiences of African-American homeseekers looking for rental housing in predominately white areas with the experiences of similarly qualified white homeseekers looking for rental housing in the same areas. 1990 census data (the most current available) was used to identify census tracts that were 75% or more white, areas where housing opportunities for blacks have historically been restricted. Local apartment guides, telephone directories, and newspapers were used to identify apartment complexes within those census tracts. Seventy-five (75) test sites were identified in Hampton Roads. Local testers were recruited and trained.

Test profiles were developed and the paired tests were conducted over a ten-month period, from October of 1999 through June of 2000. One black and one white tester visited each test site on the same day, generally within one-half to two hours of each other, seeking the same type of unit for occupancy within the same time period. Testers each recorded the details of their experience on written report forms, which were collected and reviewed by HOME staff. Testers were not told what issue they were testing for, test partners were not identified, nor were testers informed about the results of any test. Testers were paid a small stipend per completed test to provide some compensation for the time and effort of conducting and reporting on the test. Payment was unrelated to the outcome of any test.

SITE SELECTION:

To begin the project, HOME staff gathered demographic information on the Hampton Roads area, primarily through 1990 census data and with the assistance of local governmental, service, and advocacy organizations, to identify the racial composition of the various neighborhoods. The testing focused on those census tracts or neighborhoods that were predominantly white; that is, having a racial composition of 75% Caucasian or higher according to the 1990 census.

The audit testing focused on black and white testers looking for housing in white neighborhoods where access to housing has historically been restricted for blacks. Because of the long history of

residential segregation and disinvestment in black neighborhoods, white neighborhoods frequently represent a higher income mix and greater opportunities for residents. Access to those neighborhoods as a matter of choice can make substantial differences in the quality of schools available, in the types of job contacts and employment opportunities available to residents, and the ability to accumulate wealth. However, the effects of the state's history of residential segregation, which has been both legally sanctioned and otherwise ensured in a variety of ways over the past century, are still being felt².

Apartment complexes within the identified census tracts were located through local apartment guides, telephone directories and local newspapers.

One hundred seventy-seven (177) apartment complexes were identified in appropriate census tracts throughout the Hampton Roads area. Seventy-five tests were planned for the audit. In order to determine the distribution of tests across the region, the ratio of 75 tests to 177 total sites meeting the criteria ($75/177 =$ approximately 43%) was applied to all but two jurisdictions. (Suffolk, a largely rural area, had only one apartment complex, and Hampton only had two which fit the criteria. All three were selected as test sites.) Once the number of tests per locality was determined, specific sites were selected by simply choosing every other site on the list for that locality until the desired number of sites was reached .

All tests were of theoretically professionally managed apartment complexes that were assumed to have some knowledge of the requirements of the fair housing laws. No tests were conducted of small, private landlords, single-family houses, or trailer parks.

TESTER SELECTION AND TRAINING:

HOME recruits testers primarily through personal referrals. Potential testers in the subject localities were identified through referrals from HOME's staff, Board members, and existing members of HOME's testing pool, as well as local contacts, service and advocacy groups, local fair housing or

² Between 1911 and 1913 a number of Virginia cities, including Roanoke, Norfolk and Portsmouth, enacted ordinances establishing separate black and white neighborhoods. When these ordinances were held to be unconstitutional in 1917, discriminatory real estate practices, racially restrictive covenants, and violence were used to enforce neighborhood segregation. [p. 42, Massey and Denton, American Apartheid, Harvard University Press, 1993].

human rights offices, and others. HOME conducted two eight hour tester training sessions in Norfolk, for a total of 38 local testers, in October of 1999. Each training session included information on the rights, obligations, and coverage of fair housing laws, the role of testers as objective gatherers of information in uncovering discriminatory housing practices, test procedures, and reporting requirements. The training program incorporated a variety of instructional techniques including lecture and discussion, role-plays, and hands-on exercises that involved a practice test. The training stressed the importance of objectivity during a test and emphasized that being a test subject does not mean that a housing provider has violated the law, and there should be no preconceived notions about the test subject. Before being permitted to serve as testers, volunteers must certify that they have no felony convictions nor been the subject of convictions or other disciplinary actions involving dishonesty.

HOME also requires that testers chosen for a specific test must have no current or former interest in, relationship to, or conflict with the test subject or transaction. While testers are considered volunteers, they are paid a small stipend per completed test to compensate them for the time and effort of conducting and reporting on the test. Payment is unrelated to the outcome of the test and testers are not told the results of the tests in which they participate.

TEST DESIGN AND CONDUCT:

In Hampton Roads, HOME completed seventy matched pair tests over a nine-month period, from October of 1999 through June of 2000. Of the seventy, one (1) test was in Hampton, thirteen (13) in Newport News, thirty-four (34) in Virginia Beach, eleven (11) in Norfolk, five (5) in Chesapeake, five (5) in Portsmouth and one (1) in Suffolk.

Each tester was provided a separate written assignment form for each test. The test assignments prepared by the test coordinator included information about the test site, instructions for conducting the test, and the profiles or identities for each tester to adopt in conducting the test. Profiles were constructed so that paired testers were seeking the same size unit during similar time frames, had similar incomes and occupations, and had the same family composition. Profiles were adjusted to fit

the unique characteristics of the test subject (e.g., price range of the housing) or location in which the test was to be conducted (e.g., available employment opportunities). Each tester was typically moving to the area because of a job transfer, or a local person residing in a different part of town employed with a local business. Testers were generally salaried with an income sufficient to qualify them for the requested unit. The African-American tester was always slightly better qualified than the white tester in terms of income and credit history (although they were seldom asked during the transactions). Both testers in a pair were instructed to ask for similar types of units (i.e., apartment, townhouse, number of bedrooms), rent ranges, and availability dates.

Generally testers were instructed to do a walk-in site visit without making an appointment, unless an advertisement stated an appointment was necessary at a particular test site, with the paired testers instructed to do their site visits the same day, usually a half an hour apart.

The testers completed written telephone contact report forms documenting all telephone conversations with the test subjects, including preliminary calls or follow up calls. The African-American tester generally made the first visit to the test site, with the white tester arriving at the test site shortly thereafter.

With each assignment the tester was given blank test report forms on which to write a detailed account of everything that took place during the test. After completing the on-site visit, the testers were instructed to find a quiet, relatively private place to write up the test report. The test report is comprised of several pages of questions requiring short answers and a narrative section in which the tester describes in detail the testing experience in its chronological entirety, and includes any materials given to the tester by the test site.

TEST REVIEW AND ANALYSIS:

HOME staff collected each set of test assignment and report forms, along with any other materials obtained during the test, from the testers as the tests were completed. Each test was reviewed, the tester answered any clarifying questions, and the test was considered completed. For each paired test, HOME staff compared each tester's experience on a variety of factors, including ease of access; length of contact; level of service; amount of information provided; nature of information provided;

number and type of units indicated as available; application fee, deposit, and rental amount information; stated qualifying standards; and any comments or descriptions of the complex, residents, or neighborhood.

Comments can be made to either encourage or discourage potential renters and so may be relevant to the results of the tests. In fact, comments were made on several of the tests. White testers were encouraged with comments such as one indicating that the white tester would be a perfect tenant; while black testers were discouraged with comments such as one stating that the desired neighborhood was very expensive.

RESULTS OF RACE-BASED AUDITS:

Overall, forty-two of the 70 tests conducted in the Hampton Roads MSA, or 60%, showed differential treatment favoring the white tester. The rate of differential treatment favoring the white tester in each jurisdiction was as follows: Hampton 100% (only one test site), Newport News 54%, Virginia Beach 62%, Norfolk 64%, Portsmouth 80% and Suffolk 100% (only one test site).

Some examples of differences in treatment included:

- ❖ The black tester waited 20 minutes to meet with an agent; the white tester waited 2 minutes. The white tester was asked if she preferred the 1st or 2nd floor, the black tester was not asked which floor she preferred. Lease length was not discussed with the black tester; the white tester was told leases could be 11-12 months, 8-10 months or 6-7 months. The white tester was given a map with locations of available units marked on it, offered an apartment, and asked to put \$200 down to hold the apartment. The black tester was not offered an apartment.
- ❖ Both testers asked for a 2 bedroom apartment, and were told that a 2 bedroom unit could not be rented to one person according to VHDA³ guidelines. The black tester then asked about a 1 bedroom apartment and was told by the agent that there were only 3 on the premises and she had not received any notices. The black tester was then referred to a different apartment complex. The white tester was offered a one bedroom apartment, and encouraged to put down a \$200 deposit immediately. The agent gave the white tester information on income requirements and an application, floor plans, landlord and employment reference forms, and a list of tenant criteria.

³ Virginia Housing Development Authority
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- ❖ The black tester waited 10 minutes to speak to the agent; the white tester waited 2-3 minutes. The agent told the black tester that income had to be 3 times the amount of rent, and that the rent was \$575 at one segment of the apartment complex. The white tester was told about units renting for \$470, \$480, \$500 & \$515 at a different segment of the apartment complex. The agent offered an application to the white tester but not to the black tester.
- ❖ The testers both asked for 2 bedroom apartments for May 1. The black tester was told no 2 bedroom apartments were available and that availability would be “no time soon”. The white tester was told 2 bedroom apartments might be available in June, and that they had a 1 bedroom apartment available. The black tester was not shown an apartment while the white tester was shown the “guest apartment”. The agent suggested the black tester check out a different apartment complex.
- ❖ Both testers were looking for apartment around May 1. The black tester was told nothing was available. The white tester was told they might have something soon and was asked when she needed to move. Even though the black tester asked about a waiting list, indicated interest in the apartment and said it was too bad they did not have any units available, she was never told they might have an apartment soon. The white tester was asked for her phone number so they could call her when an apartment was available and the agent said she believed several people would be moving soon. The white tester was given a brochure with floor plans; the black tester was not.
- ❖ Both testers called on Friday to make an appointment for Saturday. The black tester was told they were closed on weekends. The white tester was told to come in before noon on Saturday. Both testers were told that nothing was currently available, but the white tester was able to visit the site, see the model, and obtain a brochure with floor plans, tenant rules and an application. The white tester received follow-up contact.

The examples of tests results outlined above illustrate some of the difficulties African-Americans are likely to encounter in searching for an apartment in one of Virginia’s largest housing markets. The results are particularly distressing since the test sites that were chosen were expected to have a much better understanding of the law than small private landlords, single-family houses, or trailer parks. Larger apartment complexes are more likely to belong to professional associations, to have fair housing policies, training programs, and staff members who have received fair housing training. Given that the experience of discrimination is as high as it is in professionally run complexes, and that the majority of rental housing in the state is provided by small, private landlords, it is likely that the results substantially understate the difficulties for African-Americans in finding rental housing in Virginia as a whole.

The one Hampton Roads locality in which the black tester did not receive less favorable treatment was Chesapeake, in which two of the 5 completed tests (40%) showed similar treatment of the testers and three (60%) showed differential treatment favoring the African-American testers. It is unclear what accounts for these anomalous results in Chesapeake. It may be that housing providers in that locality understand, support, and comply with fair housing laws. Two of the three Chesapeake test sites where black testers received more favorable treatment, although located in census tracts that are 75-100% white⁴, are located very close to census tracts that are 25-50% and 50-75% African-American. In each case the black tester's income was somewhat less than the median income for the census tract, but the tester was qualified and willing to pay the site's rent which was above the median rent for the census tract.

⁴ According to both the 1990 census and recently available 2000 census data.
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ACCESSIBILITY AUDIT

BACKGROUND:

CHANGES IN STATE & FEDERAL LAW PROTECT PEOPLE WITH DISABILITIES:

In 1988 the federal Fair Housing Act was significantly amended, adding disability as a protected class and requiring, among other things, that residential buildings consisting of four or more dwelling units constructed for first occupancy after March of 1991 be physically accessible to people with disabilities. The intent of the accessibility design and construction provisions is to ensure that persons with mobility impairments are able to live in and fully enjoy such units in the same way as people without disabilities. All units of covered buildings with elevators, and ground floor units of non-elevator buildings, must meet the requirements, which apply to common use areas and amenities as well as individual units. Covered buildings include multi-family housing for rent or for sale and would include, for instance, both apartments and condominiums.

The law does not require that multi-family housing be fully accessible or that it include all the design features that a person with a mobility impairment might need. Fair housing laws require that seven modest requirements be incorporated into the design of new buildings. The Virginia Fair Housing Office summarizes the seven features as:

1. a building entrance that is wide enough for a wheelchair, accessible via a route without steps;
2. accessible public and common-use areas;
3. doors that allow passage by a person in a wheelchair;
4. an accessible route into and through the dwelling unit;
5. light switches, thermostats and other environmental controls in accessible locations;
6. reinforcements in bathroom walls for later installation of grab bars; and
7. kitchens and bathrooms that allow a wheelchair to maneuver about the space.⁵

Failure to include these features is regarded as unlawful discrimination. The fair housing regulations issued by the U.S. Department of Housing and Urban Development in January of 1989 specifically

⁵ VFHO publication “What ‘Fair Housing’ Means for People with Disabilities”, referencing 42 U.S.C. § 3604(f)(3)(c), p. 23, 1999.

state that “the Fair Housing Act makes it unlawful to design and construct certain multifamily dwellings for first occupancy after March 13, 1991, in a manner that makes them inaccessible to persons with handicaps. All premises within such dwelling also are specifically required to contain several features of adaptable design so that the dwelling is readily accessible to and usable by persons with handicaps.”⁶ A builder has some design flexibility in including these features and may look to the American National Standards Institute (ANSI) or the Uniform Federal Accessibility Standard (UFAS) as acceptable standards of accessible design. Virginia enacted nearly identical accessibility provisions in its 1991 major revision of the Virginia Fair Housing Law,⁷ and incorporated many of the specific accessibility standards into the Uniform Statewide Building Code.

The laws also require that people with disabilities be permitted to make reasonable modifications and accommodations to both single family and multi-family housing of any age, to enable them to use and enjoy the housing. All of the requirements, enacted into law over a decade ago, are intended to expand the range of housing opportunities for people with disabilities, so that their housing options more nearly approximate those available to people without disabilities. The requirements cover common areas and amenities as well as individual units for the simple reason that access to common areas and amenities is a fundamental aspect of apartment living. A person would not be able to fully use and enjoy the dwelling if, although able to live in the unit, he or she was unable to freely move around the complex, retrieve mail from mailboxes, dispose of trash, do laundry, or use facilities like a pool in the same way as other residents. People with disabilities pay the same rent as people without disabilities, and are entitled to the same range of amenities.

Although it has been over ten years since these requirements went into effect, housing that complies with the accessibility requirements of state and federal fair housing laws remains in short supply. In discussions with local governments and disability organizations, it became apparent that their experience has been that many new multi-family complexes built in Virginia after March of 1991 violate the provisions of the federal and state fair housing laws. This is particularly important, since disability advocates in various localities identified the lack of accessible housing as a primary issue.

⁶ Implementation of the Fair Housing Amendments Act of 1988, Final Rule, 54 Federal Register 3289-3290, 24 CFR Part 14, Background, January 23, 1989

⁷ Virginia Fair Housing Law, Virginia Code §36-96.3.B
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In addition, the state's consolidated plan has acknowledged that there was a mismatch between the number of accessible units and the number of people who needed them.

Persons with disabilities thus encounter particular hardships in seeking housing - finding affordable, accessible housing in their own communities may be an impossible task. Because of the extremely limited number of accessible units, people with disabilities may be required to move out of their communities, away from support structures, services, families, and caretakers.

HOME therefore determined to conduct an audit of covered multifamily apartments that came on line after March 1991, to see whether or not the need for accessible housing was being addressed in Virginia, as required by law, with new construction.

ABOUT THE ACCESSIBILITY AUDIT:

HOME's accessibility audits are not a complete assessment of all housing problems experienced by people with disabilities in the rental market, and did not, in particular, address issues of affordability. However, they are a snapshot of the degree of difficulty a person with a disability would encounter in a search for accessible housing. They are a comprehensive look at the availability of accessible housing and the degree of compliance with the law by builder and developers of multi-family housing in the region.

Multi-family development is a major commercial enterprise and the professionals involved, whether architects, developers, or builders, should be expected to be knowledgeable about all relevant construction requirements. The accessibility requirements have been in effect for more than ten years; HUD issued regulations clarifying the requirements in 1989 and provided detailed guidance on compliance in 1991 and in 1994.⁸ HUD and the state and various industry associations have conducted training on multiple occasions and accessibility requirements are incorporated into the

⁸ See Implementation of the Fair Housing Amendments Act of 1988, Final Rule, 54 Federal Register 3289-3290, 24 CFR Part 14, Section 100.205, January 23, 1989; Final Fair Housing Accessibility Guidelines, 56 Federal Register 9472-9515, 24 CFR Chapter 1, Subchapter A, Appendix II and III, March 6, 1991, reprinted with corrections June 24, 1991; and Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 Federal Register 33362-33368, 24 CFR Chapter 1, Subchapter A, Appendix IV, June 28, 1994.
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Uniform Statewide Building Code. There is no rational basis for a multi-family complex to be constructed with design characteristics that are not in compliance with the accessibility requirements.

METHODOLOGY

To conduct the accessibility audit HOME identified multi-family housing of four or more units constructed for first occupancy after March of 1991, and used testers to conduct site visits to the properties and assess the level of compliance with the seven accessibility requirements identified by the state and federal fair housing laws and regulations. Local apartment guides, telephone directories, and newspapers were used to identify apartment complexes that appeared to be relatively new and dates of construction were verified. Twenty-six (26) test sites were identified in Hampton Roads. Local testers were recruited and trained.

SITE SELECTION:

Properties audited were identified based upon the following criteria: the property is multi-family residential housing of four or more units and was constructed for first occupancy after March of 1991. This definition is consistent with the definition of “covered multi-family housing” in state and federal fair housing law and regulations, which establish design and construction guidelines for multifamily housing built for first occupancy after March 13, 1991. The Virginia Fair Housing Law, like the federal law, defines “covered multi-family dwellings” as “buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.”⁹ Local apartments guides were used to identify multi-family complexes. Apartments that appeared to be built after March of 1991 were contacted to determine the date of construction. If the date provided by the site was after March of 1991, this information was verified by confirming the date of construction and the size of the complex through the local tax assessor’s office. Once the dates and numbers of dwelling units were confirmed to fall within HUD’s guidelines, the sites were added to the list of properties to be investigated. Twenty-six tests were conducted in the Hampton Roads region.

TESTER SELECTION AND TRAINING:

Potential local testers were identified through referrals from HOME’s staff, Board members, and existing members of HOME’s testing pool, as well as local contacts, service and advocacy groups. HOME conducted 8 hours of rental and accessibility tester training over the course of two consecutive evenings in Hampton in November 2000. The eight hour training session included information on the rights, obligations, and coverage of fair housing laws, with a specific focus on the accessibility requirements of the law, the role of testers in uncovering discriminatory housing practices, test procedures, and reporting requirements. The training program incorporated a variety of instructional techniques including lecture and discussion, role-plays, and hands-on exercises that involved a practice test. The training stressed the importance of objectivity during a test and emphasized that being a test subject does not mean that a housing provider has violated the law, and there should be no preconceived notions about the test subject.

The training also included a detailed discussion of what makes a complex accessible and the seven features required to be incorporated into building design and construction, including the specific measurements necessary for the dwelling, public and common use spaces, and facilities such as accessible entrances and routes, usable doors, light switches, electrical outlets, thermostats, usable kitchens and bathrooms.

HOME requires that volunteers certify that they have no felony convictions nor been the subject of convictions or other disciplinary actions involving dishonesty before they can serve as testers. Testers chosen for a specific test must have no current or former interest in, relationship to, or conflict with the test subject or transaction. While testers are considered volunteers, they are paid a small stipend per completed test to compensate them for the time and effort of conducting and reporting on the test. Payment is unrelated to the outcome of the test.

TEST DESIGN AND CONDUCT:

HOME conducted twenty-six individual tests in Hampton Roads over a three month period, from December of 2000 through February of 2001. One test was conducted in Yorktown; one test in Portsmouth; two tests in Williamsburg; two tests in Hampton; two tests in Newport News; ten tests in Virginia Beach; four tests in Norfolk; and four tests in Chesapeake.

Each tester was provided with a separate written assignment form for each test. The test assignment prepared by the test coordinator included information about the test site, instructions for conducting the test, and the profiles or identities for each tester to adopt in conducting the test. While the general profiles for each tester were similar, profiles were modified to fit the unique characteristics of the housing provider (e.g., price range of the housing) or location in which the test was to be conducted (e.g., available employment opportunities). Each tester was looking for housing for a spouse or family member (depending on the age of the tester) who was a wheelchair user. The tester represented that he or she was employed with a local business as a salaried employee with an income sufficient to be qualified for the requested unit.

⁹ Virginia Code §36-96.3.B
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Testers were instructed to ask about a one or two bedroom accessible apartment and to make a series of observations and necessary measurements. Testers were instructed to determine or estimate the number of buildings in the complex, to find out how many accessible units were in the complex, whether there was any current construction on site, whether some buildings were older than other buildings, and note the general terrain of the complex. Testers were also instructed to find out how many stories the buildings were and whether any buildings had elevators. Testers were instructed to observe parking, accessible routes and entrances, including to the rental office, model, common areas and rental units. Testers were instructed to measure and observe the interior of rental offices and/or models and the interior of rental units for outlets, switches, environmental controls, doorways, corridors, bathroom floor space and kitchen floor space. Testers were asked to observe whether there were grab bars in bathrooms and whether or not the walls in bathrooms were reinforced by either tapping down the wall or asking the rental agent. They were also instructed to observe facilities such as mailboxes, laundry rooms, trash/recycling facilities, tennis courts, volleyball courts, and swimming pools.

Generally testers were instructed to make a site visit without calling ahead to make an appointment unless the apartment guide stated otherwise, to ensure that the tester would be able to make observations and get measurements without being discouraged over the telephone. In many instances, the tester was unable to measure an accessible unit because no accessible units were available. In these cases, the tester was instructed to measure the model, if there was one, and to observe the public and common use areas and facilities.

With each assignment the tester was given blank test report forms to write a detailed account of everything that took place during the test and record their measurements and observations. After completing the on-site visit, the tester completed the test report form, which is comprised of several pages of questions requiring short answers, measurements, and a narrative section in which the tester describes in detail the testing experience in its chronological entirety.

TEST REVIEW AND ANALYSIS:

HOME staff collected each set of test assignment and report forms from the testers as the tests were completed, along with any other materials obtained during the test. Each test was reviewed, the tester

answered any questions needed for clarification, and the test was considered completed. For each test, HOME staff compared each tester's experience, observations, and measurements against the set of accessibility requirements and noted any comments or descriptions of the complex, residents, or neighborhood. All deficiencies were counted as lack of compliance. In a few instances where compliance wasn't clear, judgment was used to determine whether or not the design characteristic was usable by a person in a wheel chair. (e.g., ease of maneuverability around obstacles, or obviously steep ramps).

Distinctions were made between major deficiencies and technical deficiencies that do not quite meet the guidelines in evaluating the test reports. The absence or limitation of accessible units and deficiencies that would significantly interfere with a person's ability to visit or live in a property were considered to be major deficiencies. For instance, if a person in a wheelchair would be unable to get into an office, model, or unit (any unit in an elevator building, ground floor unit in non-elevator buildings) it was considered a major deficiency. It was also considered a major deficiency if a complex had a laundry facility or fitness center that could not be used by a person in a wheelchair, if a person in a wheelchair would be unable to get into or maneuver in a bathroom or kitchen, or if a main corridor in a unit was not wide enough to manipulate a wheelchair readily. Numerous technical deficiencies at a complex would be considered, in accumulation, to be major deficiencies. In addition, if a complex had no accessible units to show the tester so that no assessment of the unit could be made, but the outside was not accessible, the site was considered to have a major deficiency.

Technical deficiencies included elements of non-compliance that probably would not prevent a wheelchair user from renting or using an apartment, but do not meet guidelines and would make use of the unit and its amenities unnecessarily difficult. Examples include mailboxes without curb cut access, parking spaces that are not the shortest distance possible to an entrance, or light switches that were too high to be easily reached.

Some sites that technically meet requirements still show a lack of awareness and narrow vision in their design and construction that unnecessarily limit their accessibility and thus their use by people with mobility impairments. For example, exterior mailboxes may be accessible because there are curb cuts allowing a person in a wheelchair to approach the mailboxes, but columns or posts placed too close together may make maneuvering difficult. In many cases, accessible design costs no more

than inaccessible design, and merely requires the architect to have thought the plans through with the needs of someone in a wheelchair in mind.

RESULTS

Despite the years of discussion, clarification, and training, the audit results clearly demonstrate a nearly complete failure to comply with the guidelines.

Only one complex (a senior housing complex) in Hampton Roads was found to be in compliance with all the requirements. Preliminary review of the remaining 25 sites in Hampton Roads appears to indicate that all were in violation of the requirements to some degree. Twelve out of 26 (46%) had major deficiencies, including a complex that advertises itself as accessible. In short, 96% of the apartments tested in the Hampton Roads metropolitan area did not meet guidelines and were out of compliance with state and federal fair housing laws. In Hampton, Newport News, Yorktown, Williamsburg, Norfolk, Chesapeake and Portsmouth this was true for 100% of the test sites. In Virginia Beach, 90% of the sites did not meet the accessibility guidelines.

Interior deficiencies (problems within the apartment unit itself) included: corridors that were 34” wide instead of 36” wide, preventing a wheelchair user from maneuvering within the unit; interior doors that did not have a 32” clearance, which prevented passage between rooms and restricted use of some facilities such as bathrooms, storage rooms and laundry facilities; environmental controls that were as much as 60” from floor instead of 48”, which would prevent a wheelchair user from being able to control his or her own heat or air conditioning; bathrooms that were not accessible because the walls were not reinforced (so no grab bars could be installed to allow someone in a wheelchair to lift themselves to use the facilities); there was a lack of maneuvering space; the bathrooms had doorways that were less than 32” or the door opened inward instead of outward so could not be closed if a wheelchair user was inside.

These deficiencies create major obstacles for people with mobility impairments. In addition, although some of the complexes were entirely built after March of 1991, testers were told that there were only a certain number of accessible units - which meant that all of their ground floor units were not

accessible units as required by the fair housing laws. One tester was told that the one-bedroom units on the first floor were not accessible but the three bedroom units were accessible. This would be of no use to someone who only wanted – or could only pay for – a smaller unit.

Exterior deficiencies, including public and common use areas, included: buildings in the complex with parking spaces too far away from a curb cut or too narrow for maneuverability, ramps that were too steep, mailboxes and trash dumpsters on curbs without curb cuts, and steps to the entrance of an apartment, inaccessible swimming pools and volleyball courts, playgrounds and gazebos that were not accessible because of no sidewalks or the use of flagstones, or the only entrance to the laundry and fitness center after office hours had steps. These deficiencies are as important as those within the units, because access to all of these facilities and amenities - the ability to get from car to apartment, do the laundry, or use the pool - is essential to the full enjoyment and use of the residence.

TEST RESULTS

Accessibility Test Number:	Year Apt. Built	Accessible	Doesn't meet guidelines	Major deficiencies
A-001	2000		X	
A-002	1985 & 6/1/00		X	
A-003	1992 & 1994		X	X
A-004	1991		X	X
A-005	1993		X	
A-006	1990 & 1997		X	X
A-007	Phase I - 94 Phase II - 96		X	
A-008	1993		X	X
A-009	1994		X	
A-010	1991		X	X
A-011	1997		X	X
A-012	1998		X	X
A-013	1998		X	X
A-014	1993	X		
A-015	2000		X	
A-016	1997		X	
A-017	9/24/91		X	X
A-018	1994		X	
A-019	1986-1994		X	X
A-020	1995		X	X
A-021	1/10/96		X	X
A-022	4/30/98		X	
A-023	2/14/92- 3/26/98		X	
A-024	1999		X	
A-025	1993		X	
A-026	1994		X	
RESULTS	# of Tests: 26	1 (4%)	25 (96%)	12 (46%)

HAMPTON ROADS ACCESSIBILITY RESULTS BY JURISDICTION

JURISDICTION	NUMBER OF TESTS CONDUCTED	PERCENT OF SITES THAT DID NOT MEET GUIDELINES	NUMBER OF SITES THAT DID NOT MEET GUIDELINES	NUMBER OF TESTS THAT MET GUIDELINES
Hampton	2	100%	2	0
Newport News	2	100%	2	0
Williamsburg	2	100%	2	0
Yorktown	1	100%	1	0
Norfolk	4	100%	4	0
Virginia Beach	10	90%	9	1
Chesapeake	4	100%	4	0
Portsmouth	1	100%	1	0

EXAMPLES OF NON-COMPLIANT DESIGN FEATURES

- #1 An accessible apartment was not available so the unit was not assessed. However, the laundry room and the fitness center were not accessible after business hours because of steps. During the day, the entrance through the office was open, but when the office closed the alternate entrance had steps – so that anyone who used a wheelchair and worked during the day could not ever do their laundry. (Built 1992 & 1994)
- #2 The tester did not see a unit because the agent acknowledged immediately that they were not accessible. The tester observed that the parking and routes to units were not accessible; the mailboxes were on curbs and had steps; the model had steps; the tester was referred to another, older apartment complex owned by same company. (Built 1993)
- #3 Approximately 10 buildings did not have curb cuts or ramps; the entrances to these buildings had steps. The mailboxes and trash dumpsters were on curbs without curb cuts. The corridor to the kitchen was 34" instead of 36". (Built 1991)
- #4 An accessible unit was not available. The tester was told they had very few and there would not be openings any time soon. The tester did see a first floor model. The bath floor was 30"x36" instead of 30"x48" and the agent was apologetic when she realized there was no way a wheelchair could maneuver in the bathroom. She referred the tester to another apartment complex. The complex had ramps at most buildings, including the office/model, but they appeared to the tester to be sloped more than 1:12, as required. Only 1 set of mailboxes had a curb cut; the trash receptacles were not accessible because of curbs without curb cuts; the thermostat was 60" from the floor; the bath walls were not reinforced; all of the doors were not 32" wide. (Built in 1997, this complex advertises itself as accessible)

- #5 Two of eight buildings did not have curb cuts; mailboxes were not accessible because of curbs without curb cuts; dumpsters had high openings (5'6"); the pool was not accessible because of curbs without curb cuts; the thermostat was 60" from the floor; the bath floor space was observed as "tiny". (Built 1998)
- #6 The model was not accessible: there was a 4" threshold at the primary entry door (which should not be higher than ¾"); the thermostat was 58" from the floor; the trash dumpster or compactor had steps and tall gates; some mailboxes were on curbs without curb cuts; the storage door is 30" wide; the bath door is 22" wide; (a resident in a wheelchair would be unable to use the bathroom - all usable doors should be 32" wide); recreational amenities had no curb cut access and/or sidewalks. (Built 1986-1994)
- #7 No on-site rental office or model. There was a curb cut and ramp in front of one unit and a reserved space across from it. The other units were not accessible because the primary entrance had 4-6" thresholds (17 out of 18 units, built 1996)