



REPORT ON THE BARRIERS TO FAIR HOUSING IN HAMPTON ROADS

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TABLE OF CONTENTS

Executive Summary	2
Introduction	8
Background	8
2002 Audit Report	9
About HOME	10
Testing Methodology	11
The Role of Testing	11
Tester Selection & Training	12
Test Design & Conduct	13
Audit Results	14
Differential Treatment Based on Race	14
Reasonable Modifications & Accommodations for People with Disabilities	18
Barriers for Families with Children	20
Acceptance of Housing Choice Vouchers	21
Conclusion	23

Executive Summary

Housing is one of the most fundamental human needs, but it is far more than just shelter. Where people live influences all of the other connections in their lives and makes a difference in the quality of their lives, the 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 grows. In communities where housing opportunities are limited by discrimination, other opportunities are diminished as well. Fair housing laws are intended to promote open communities where housing choice is unimpeded by discrimination and to prohibit housing providers from limiting housing choices based upon race, color, religion, national origin, sex, the presence of children in the family, and disability (and in Virginia, elderliness.).

Housing discrimination still occurs in dramatic, obvious ways, but it more commonly occurs through untruths, incomplete information, and subtle discouragement. Individuals who are given misleading or inaccurate information about the availability of housing may never know that they have been treated unlawfully because they have no way of comparing their treatment to that of anyone else. Frequently the only way to uncover differences in treatment is through the use of testing.

Testing is a controlled investigative procedure in which individuals inquire about a housing unit and collect information about their experience. Testing is a way of gathering information about practices in the housing market that can be evaluated in no other way. It allows comparison of the treatment experienced, confirms the existence or application of various policies, and helps to determine whether or not illegal discrimination has occurred. In paired testing, two individuals are matched in every relevant respect except for the characteristic that is being tested – for example, race. Equally qualified individuals seeking the same kind of housing should receive similar treatment and be given similar information. If there is only one difference (in this case, race) that is likely to be the factor causing the differential treatment. Testing provides an objective method for observing and measuring differences in the quantity, content, and quality of information given in a housing transaction.

In 2002, HOME released a HUD-funded testing audit of Hampton Roads that revealed a high level of discrimination against African-Americans and significant non-compliance with the

accessibility requirements of new construction. African-Americans received less favorable treatment than similarly qualified whites in their search for rental housing 60% of the time. The study also evaluated whether or not multi-family housing built for first occupancy after March of 1991 met the accessibility requirements of the fair housing laws. In 2002, twenty-five of the 26 apartment complexes evaluated (96%) did not fully meet the accessibility requirements. 46% had major deficiencies, such as steps to units that should have been accessible to people with wheelchairs.

A new audit, conducted in 2007-2008, looks at a variety of ways in which housing opportunities are limited by specific factors protected by fair housing laws, including race, disability, and the presence of children. In addition, because housing affordability is such a critical issue, the audit looked at the availability of rental housing for Housing Choice Voucher holders. The audit was designed to assess the barriers experienced in seeking housing based on four different factors:

1. differential treatment based on race in the rental market;
2. willingness of housing providers to make reasonable modifications or accommodations for people with disabilities;
3. barriers faced by families with children seeking housing;
4. willingness of landlords to accept Housing Choice Vouchers.

A total of 140 tests were completed: 50 paired tests assessed differences in treatment based on race; 50 single contact tests determined the willingness of landlords to make required reasonable modifications or accommodations for people with disabilities; 20 single contact tests assessed the barriers faced by families with children; and 20 single contact tests determined the willingness of landlords to accept Housing Choice Vouchers. Tests were conducted in all of the seven jurisdictions making up the Hampton Roads region – Virginia Beach, Chesapeake, Norfolk, Portsmouth, Suffolk, Hampton, and Newport News.

Differential treatment based on race

Housing discrimination based on race is the most persistent form of discrimination. The race rental portion of the audit focused on comparing 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 area. Tests were conducted in each of the 7 jurisdictions of Hampton Roads – Virginia Beach, Chesapeake,

Norfolk, Portsmouth, Suffolk, Hampton and Newport News. Census data (from the 2000 census, the most current available, as well as updated census data from sources such as ffiec.com) was used to identify census tracts and/or block groups that were 60% or more white, areas where housing opportunities for blacks have been historically restricted. Local apartment guides, newspapers, internet classified advertising, and yard signs were used to identify apartments and rental housing within those census tracts. Most of the test sites were apartment complexes, however, some single family homes and units in smaller buildings were also included.

The matched-pair tests were conducted between October of 2007 and August of 2008. One black and one white tester visited each test site, generally within an hour of each other, seeking the same type of unit within the same time period. Paired testers were similarly qualified with respect to income, employment, credit, and family composition.

Of the 50 tests completed in the seven localities that make up the Hampton Roads region, **66% (33) favored the white testers.** Three tests (6%) showed treatment that favored the black tester. Similar treatment of the black and white testers was observed in 14, or 28% of the tests. These are distressing results. While the 2002 audit report only looked at professionally managed apartment complexes, this study also included single family homes and units in smaller buildings (such as houses converted to apartments). Some of the smaller sites were represented by property management or real estate companies; some were offered by their owners. All income levels were included in the audit: rents ranged from a low of \$575/month to a high of \$2,800/month. At least 36 of the sites are professionally managed or represented by real estate agents.

Reasonable modifications for people with disabilities

Modifications are physical changes to existing housing that enable a person with a disability to have the same full enjoyment of the premises, including associated common use areas and amenities, as persons without disabilities. Housing providers are required to permit reasonable modifications. For most housing, the cost of the modification falls on the resident; for housing that receives federal financial assistance, the cost must be borne by the housing provider. Only modifications that would interfere with a subsequent tenant may be required to be removed or restored.

Eighty percent (20 of 25) housing providers contacted were willing to install or to have the tenant install grab bars in an existing bathroom. Only one landlord (4%) rejected the request outright, although 4 housing providers (16%) discouraged the prospective tenant who required the modification.

Reasonable accommodations for people with disabilities

Accommodations are changes to rules, policies, procedures and practices or changes in the way services are provided. Housing providers are required to grant reasonable accommodations in order to enable a person with a disability the same opportunity as people without disabilities to use and enjoy a dwelling and its associated common areas and amenities. Accommodations must be requested and be related to the disability. Most accommodations involve no or minimal costs, but where there are some costs, they are generally absorbed by the housing provider. A “reasonable” accommodation is one that does not create an *undue* financial or administrative burden for the housing provider and does not create a fundamental alteration of the basic operation or services provided.

In testing for reasonable accommodations, HOME chose the example that has been overwhelmingly the subject of fair housing training for the industry: whether or not a housing provider would allow someone with a disability to have a service animal, such as a seeing eye dog, in the unit. A service animal is not a pet, and someone with a disability may not be charged extra for the animal. Nineteen housing providers (76%) rejected, discouraged or imposed fees for the accommodation request for a service animal. Seven (28%) rejected the service animal outright; 9 (36%) imposed fees (deposit and/or additional rent); and 3 (12%) imposed other discouragement. Six (24%) landlords were willing to permit the service animal with no fees or fees waived (one very reluctantly “I guess we’d have to”).

Families with children

Families with children are protected from outright discrimination as well as from unreasonably restrictive occupancy standards that limit families’ housing choices. The minimum generally accepted occupancy guideline for rental units is 2 persons per bedroom. Fifteen percent of

housing providers discouraged the families with children; 17 of the 20 housing providers were willing to accept the families with children at a 2 person per bedroom standard.

Acceptance of Housing Choice Vouchers

Housing Choice Vouchers – formerly known as Section 8 vouchers – provide an individual subsidy to qualified low income individuals and families that can be used on the open housing market. While project-based subsidized housing is generally located in areas of poverty and minority concentrations, vouchers enable families to seek housing in a broader range of neighborhoods, including low poverty neighborhoods with improved educational and employment opportunities. As the number of available public and subsidized housing units declines, vouchers are increasingly important in supporting the transition to private market housing.

Voucher holders were rejected or discouraged in 85% of the tests conducted (17 of 20). Only 3 of the housing providers said they would accept the vouchers; 15 rejected the voucher holder outright; 2 discouraged the tester.

INTRODUCTION

Background:

Housing is one of the most fundamental human needs, but is far more than just shelter. Where people live influences all of the other connections in their lives and makes a difference in the quality of their lives, the 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 grows. In communities where housing opportunities are limited by discrimination, other opportunities are diminished as well. Fair housing laws are intended to promote open communities where housing choice is unimpeded by discrimination and prohibit housing providers from limiting housing choices based upon race, color, religion, national origin, sex, the presence of children in the family, and disability (and in Virginia, elderliness).

Hampton Roads, like the rest of Virginia, has a long history of residential segregation and disinvestment in black neighborhoods. In the early 20th century, Norfolk and Portsmouth enacted ordinances establishing separate black and white neighborhoods. When these ordinances were held unconstitutional in 1917, discriminatory real estate practices and racially restrictive covenants were used to enforce neighborhood segregation.¹ Although racially restrictive covenants have not been enforceable since 1948, they still show up in deeds. The effects of the state's long history of intentional residential segregation are still widely visible.

There are seven major cities in the Hampton Roads region – Virginia Beach, Norfolk, Portsmouth, Chesapeake, Suffolk, Hampton, and Newport News, as well as some smaller independent communities and very rural areas, that together make up the Norfolk Metropolitan Statistical Area (MSA). Minorities are concentrated in the seven cities (91.4% of the minority population of the MSA), and that concentration is increasing. Between 1990 and 2000 the number of African-Americans in the seven cities increased by 19.3%, while the white population decreased by 4.6%. “In largely poor minority neighborhoods...in addition to racial segregation, low income areas experienced continued economic segregation as upwardly mobile blacks left.”² Today, 84% of the public housing units in the seven cities are located in census tracts with

¹ Massey and Denton, *American Apartheid*, p. 42, Harvard University Press, 1993)

² Fair Housing Analysis, Hampton Roads, Virginia, Mullin & Lonergan Associates, Inc., December 2003.

minority concentrations, and 93% are in census tracts where more than half the households are low income. According to the Fair Housing Analysis, 20% of the census tracts in the seven cities have concentrated minority populations. In three of the cities, more than 30% of the census tracts have concentrated minority populations.³

2002 audit report

In 2002, HOME released a HUD-funded testing audit of Hampton Roads that revealed a high level of discrimination against African-Americans and significant non-compliance with the accessibility requirements of new construction. African-Americans received less favorable treatment than whites in their search for rental housing 60% of the time.⁴ Treatment of African-Americans included being told apartments were not available when whites were offered them; being quoted higher prices than whites; and being told that the office was closed or showing up for an appointment to find no one there, while whites had no difficulty speaking with an agent. Particularly disturbing was that all of the audited complexes were professionally managed (and thus presumably better trained than owner/landlords), which means that the audit probably understated the actual level of discrimination. Given the clear demonstration that African-Americans are not treated equally in the rental market, there have been remarkably few complaints to the state Fair Housing Office: from 2002 through 2007, the Virginia Fair Housing Office has not received more than 30 complaints of racial discrimination per year from the entire Tidewater region, which includes the seven cities of the Hampton Roads area.⁵ There are likely to be many reasons for the low number of complaints. One, however, is the difficulty people have in identifying discrimination without the ability to compare the treatment of someone else.

The same 2002 study that measured the extent of unequal treatment of African-Americans evaluated whether or not multi-family housing built for first occupancy after March of 1991 met the accessibility requirements of the fair housing laws. It did not. Twenty-five of the 26 apartment complexes evaluated (96%) did not fully meet the accessibility requirements; 46% had major deficiencies, such as steps to units that should have been accessible to people with

³ *Fair Housing Analysis*, op. cit.

⁴ Report on the Barriers Faced by African-Americans and People with Disabilities in the Hampton Roads Rental Market op. cit.

⁵ Housing Snapshot, HOME, www.phonehome.org, source: Virginia Fair Housing Office 2008.

wheelchairs. In 2003, the Fair Housing Analysis⁶ prepared for the seven cities of Hampton Roads found there was a need for adaptive modifications and accessibility improvements for people with disabilities. According to the 2001 housing needs assessment published by Virginia's two housing agencies⁷, disabled people "lack adequate access to affordable accessible housing and to assistance in making needed home modifications." The studies clearly show that people with disabilities do not have access to the housing to which they are entitled

About HOME

Housing Opportunities Made Equal of Virginia, Inc. (HOME) has been successfully formulating and carrying out programs to prevent and eliminate discriminatory housing practices for over 37 years. HOME is one of the pre-eminent fair housing organizations in the country, with a long history of successful – and nationally significant – fair housing enforcement actions, as well as a long-standing record of working with local governments to affirmatively further fair housing and promote equal access to housing for their residents. HOME has conducted analyses of impediments, including testing, for the cities of Richmond, Roanoke, Danville, and Petersburg, and for Chesterfield County, Virginia. HOME's original Analysis of the Impediments to Fair Housing for the City of Richmond was one of several hundred prepared by communities around the country, and was identified as one of the best in an evaluation performed for the U.S. Department of Housing and Urban Development. HOME is a HUD-approved comprehensive housing counseling agency.

HOME has been providing fair housing education and enforcement and housing counseling services in Virginia since 1971. HOME's mission is to "ensure equal access to housing for all people," using a holistic approach to overcoming the barriers that limit housing choice. HOME's Center for Housing Advocacy works to protect existing housing choices through fair housing education and enforcement; HOME's Center for Housing Leadership seeks to expand housing choices through the creation of systemic change so that everyone has access to neighborhoods with good schools and good jobs; and the Center for Housing Education provides people with the skills and knowledge they need to take advantage of new housing opportunities.

⁶ Fair Housing Analysis, op. cit.

⁷ Analysis of Housing Needs in the Commonwealth, Virginia Department of Housing and Community Development and the Virginia Housing Development Authority, 2001. www.vhda.com/comm/vhdastudy.asp

HOME has been recognized as one of the foremost fair housing and housing counseling organizations in the country, received the Best Housing Organization Award at the 2006 Governor's Housing Conference from Virginia Governor Tim Kaine, and was awarded HUD's Best Practices Award as one of the best community development programs in the United States for 1999 and 2000. In 1998 HOME was formally recognized by Virginia's two housing agencies, the Virginia Department of Housing and Community Development and the Virginia Housing Development Agency for its "comprehensive programs and powerful advocacy which have helped to ensure Virginians equal access to housing for almost three decades".

TESTING METHODOLOGY

The Role of Testing

Housing discrimination can still occur in dramatic, obvious ways, but it more commonly occurs in untruths, incomplete information, and subtle discouragement. Individuals who are given misleading or inaccurate information about the availability of rental units may never know that they have been treated unlawfully because they have no way of comparing their treatment to anyone else's. Frequently the only way to uncover differences in treatment is through the use of testing. Testing is a controlled investigative procedure in which individuals inquire about a housing unit and collect information about their experience.

Testing is a way of gathering information about practices in the housing market by using people posing as home seekers with similar needs and qualifications. It allows comparison of the treatment experienced, confirms the existence or application of various policies, and helps to determine whether or not illegal discrimination has occurred. Testing provides an objective method for observing and measuring differences in the quantity, content, and quality of information given in a housing transaction

Single contact testing, in person or by telephone, is effective in assessing whether or not a housing provider has policies or practices that discriminate against characteristics that are easily communicated – such as whether or not the potential applicant has children, uses a Housing Choice Voucher, or needs a disability-related modification or accommodation. The single

contact structure was used in the tests for modification and accommodation requests, families with children, and Housing Choice Vouchers.

For the race-based testing, in person site visits were made by pairs of testers – one black and one white. In paired testing, two individuals are matched in every relevant respect except for the characteristic that is being tested – in this instance race. Equally qualified individuals should receive similar treatment and information and the information and behavior revealed in the tests can then be compared.

Tester Selection & Training

HOME maintains a diverse tester pool recruited primarily through personal referrals. Potential testers are identified through referrals from HOME's staff, Board members, the Local Advisory Committee of the Tidewater Branch Office, outreach activities, and existing members of HOME's testing pool, as well as local contacts, service and advocacy groups, local fair housing or human rights offices.

Testers receive extensive training on fair housing and testing protocol. Each training session includes 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 programs incorporate a variety of instructional techniques including lecture and discussion, role-plays, and hands-on exercises that involve a practice test. The training stresses the importance of objectivity during a test and emphasizes 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. Testers certify that they have no felony convictions nor been the subject of convictions or other disciplinary actions involving dishonesty. Testers chosen for a specific test have no known current or former interest in, relationship to, or conflict with the test subject or transaction. Between April of 2007 and July of 2008 HOME conducted five basic tester training sessions in Hampton Roads and two in Richmond, and two tester trainings for accessibility compliance testing. Tester training is designed and conducted by HOME's fair housing staff, under the leadership of Susan Scovill, Director of Fair Housing Education and Enforcement. Ms. Scovill, a licensed attorney and former Fair Housing Administrator for the Commonwealth of Virginia, has overseen HOME's

fair housing education and enforcement activities since 1995. She is licensed as a fair housing instructor by the Virginia Real Estate and Fair Housing Boards, and has been recognized in two federal courts as an expert witness in providing fair housing education.

While testers are considered volunteers, they are reimbursed for any mileage and generally 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 & Conduct

This testing audit looked at a variety of ways in which housing opportunities are limited by specific factors protected by fair housing laws, including race, disability, and the presence of children. In addition, because housing affordability is such a critical issue, the audit looked at the availability of rental housing for Housing Choice Voucher holders. The audit was designed to assess the barriers experienced in seeking housing based on four different factors:

1. differential treatment based on race in the rental market;
2. willingness of housing providers to make reasonable modifications or accommodations for people with disabilities;
3. barriers faced by families with children seeking housing;
4. willingness of landlords to accept Housing Choice Vouchers.

A total of 140 tests related to the issues listed above were completed between March 2007 and August 2008: 50 paired tests assessed differences in treatment based on race; 50 single contact tests determined the willingness of landlords to make required reasonable modifications or accommodations for people with disabilities; 20 single contact tests assessed the barriers faced by families with children; and 20 single contact tests determined the willingness of landlords to accept Housing Choice Vouchers. Tests were conducted in all of the seven jurisdictions making up the Hampton Roads region – Virginia Beach, Chesapeake, Norfolk, Portsmouth, Suffolk, Hampton, and Newport News.

The test design for each factor varied slightly and specific details are provided in each section described below. Test sites were identified through advertising, including newspaper and internet classifieds apartment guides, and yard signs. Tester profiles were constructed so that testers were qualified for the housing they sought. Each tester provided a written report of the

testing experience to the HOME staff conducting the audit who reviewed and analyzed the results.

HAMPTON ROADS AUDIT RESULTS

Differential Treatment in the Rental Market Based on Race:

HOME's methodology for conducting the race rental portion of the audit focused on comparing 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 area. Tests were conducted in each of the 7 jurisdictions of Hampton Roads. Census data (from the 2000 census, the most current available, as well as updated census data from sources such as www.ffiec.com) was used to identify census tracts and/or block groups that were 60% or more white, areas where housing opportunities for blacks have been historically restricted. Local apartment guides, newspapers, and internet classified advertising, and yard signs were used to identify apartments and rental housing within those census tracts. Most of the test sites were apartment complexes, however, some single family homes and units in smaller buildings were also included.

The matched-pair tests were conducted between October of 2007 and August of 2008. One black and one white tester visited each test site, generally within an hour of each other, seeking the same type of unit within the same time period. The test assignments prepared by the test coordinator included information about the test site, instructions for conducting the test, and the 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, and had similar income, credit, and 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). Testers were generally salaried and always 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. 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.

Testers each recorded the details of their experience on written report forms, which were collected along with any other materials obtained during the test. HOME staff reviewed each paired test, comparing each testers 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 may encourage or discourage potential renters and are relevant to the results of the tests.

Fifty (50) paired tests were completed.

Results:

Of the 50 tests completed in the seven localities that make up the Hampton Roads region, 66% (33) favored the white testers. Three tests (6%) showed treatment that favored the black tester. Similar treatment of the black and white testers was observed in 14, or 28% of the tests. Tests in which the white tester was given favorable treatment were documented in all of the Hampton Roads localities.

Differences that favored the white testers included lower rental and security deposit amounts than those offered to the black testers; offers to waive fees for the white tester but not for the black tester; black tester asked for ID in order to view unit while white tester shown unit without showing ID; white testers told about more units and/or sooner availability of units; offers to show units to white testers, but not black testers; differing requirements for waiting lists; and follow up calls to white testers but not black testers.

Some examples of differences in treatment included:

- Testers visited the property on the same afternoon. The black tester was told the rents were between \$1049 and \$1104; the white tester was told to ignore the prices in the brochure as the agent could offer specials reducing the rents to \$969-999.
- The black tester was told that one unit would be available that month; the white tester was told by the same agent on the same day that several one and two bedroom units were currently available. The black tester asked to see the unit but was told it could

not be shown; the white tester was given the keys to view the unit after the agent checked her ID.

- Both testers asked about a one bedroom unit for the end of November. The black tester was told nothing was available until next month; the white tester was told there are two vacant units.
- Both testers talked to the same agent within an hour of each other about a one bedroom apartment. The black tester was told one unit would be available with \$132 application fee and one month's rent (\$929) security deposit; the white tester was told a few one bedrooms would be available that month and the following month with a \$32 application fee and security deposit of \$250.
- Both testers asked the same agent for information on a one bedroom apartment. The black tester was told one unit would be available; the white tester was told two units would be available. Both testers were told the unit was unavailable to show until after cleaning, but the agent offered to show the white tester a two bedroom unit while the black tester was told to come back the following day. The agent offered an application to the white tester but not to the black tester. The white tester received follow up correspondence from the agent while the black tester did not.
- Both testers were told that no one bedroom apartments were currently available. The black tester was told she would have to complete and submit an application with the fee in order to be placed on the waiting list; the same agent took the white tester's contact information and put her on the waiting list.
- Both testers asked about one bedroom apartments for the end of January. The black tester was told one unit would be available for \$679 and a security deposit of \$99; the white tester was told that two different one bedroom units would be available for rent, one for \$649 and one with a den for \$679 and that they were running a special waiving the security deposit.
- Both testers talked with the same agent about a one bedroom unit. The agent told the black tester they had nothing available and to just try back in a couple of months; the same agent told the white tester to call back in January (2 weeks later) to see if they had received any notices.
- The testers saw the same agent on the same day. The black tester was told nothing was available and told the apartment she was shown was already rented. The white tester was shown the same unit and told it was available along with several other units. The black tester was told they had a waiting list, but that people rarely move.
- Both testers saw the same agent on the same day. The landlord told the white tester that the apartment was immediately available for \$800. Thirty minutes later he told the black tester that the \$800 apartment was gone, but he had one for \$900. He told the black tester "we are very selective about who we let in", asked her about her

profession, her income, her credit, told her only the person who signs the lease is allowed to stay in the unit, told her “we are really meticulous” and asked her if she is a clean person, asked whether she can afford the apartment, and told her there is no need for her to take an application until she decides on the place. The white tester was asked no questions about her income, cleanliness, ability to afford the apartment, and was told that he does not check credit and that he does not have applications. He told the white tester he could tell she was “his kind of person”, asked if she wanted the unit and got her contact information.

- The testers spoke to the same agent within a half hour of each other. The black tester was told that one 1 bedroom unit would be available; the white tester was told they had plenty of one bedrooms available.
- The testers were given similar information about the availability of a single family house, and both were given applications; however, the white tester was told that if any of the information on the application was “too personal”, she should mention it and they would “work something out.”

These are distressing results and illustrate the persistence and intractability of discrimination based upon race. They also document the difficulty that individual homeseekers would have in identifying discrimination when it occurred. It is only by comparing the treatment of the white and the black tester that it is possible to see the differences in housing availability, pricing, and encouragement or discouragement.

While the 2002 audit report only looked at professionally managed apartment complexes, this study included single family homes and units in smaller buildings (such as houses converted to apartments). Forty-one of the test subjects were multi-family apartment complexes; four were smaller multi-family units or townhouses, and five were single family homes. Some of the smaller sites were represented by property management or real estate companies; some were offered by their owners. At least thirty-six of the sites are professionally managed or represented by real estate agents. Test results for these properties mirror the overall results.

In addition, differential treatment based on race affects all income levels. Rents at the various test sites ranged from a low of \$575/month to a high of \$2,800/month.

Tests sites were located in predominantly white areas. Ninety-four percent (47) of sites were in census tracts that were 60% or more white (2000 census data). Of the 3 sites that were in areas

more than 30% black, one was in a block group that was more than 60% white (e.g., census tract = 44% black, but block group was 13% black), the other two were in gentrifying urban neighborhoods.

Willingness of housing providers to make reasonable modifications and accommodations for people with disabilities

“Reasonable modifications” are physical changes to existing housing that enable a person with a disability to have the same full use and enjoyment of the dwelling, and its associated common areas and amenities as persons without disabilities. *Housing providers are required to permit reasonable modifications if requested by the person with a disability.* In most cases, the cost of the modification falls on the resident; for housing that receives federal financial assistance, the housing provider pays the cost. Only modifications that would interfere with a subsequent tenant can be required to be removed or restored.⁸

“Reasonable accommodations” are changes to rules, policies, procedures and practices or changes in the way services are provided. Housing providers are required to grant reasonable accommodations in order to enable a person with a disability the same opportunity as people without disabilities to use and enjoy a dwelling and its associated common areas and amenities. Accommodations must be requested and be related to the disability. Most accommodations involve no or minimal costs, but where there are some costs, they are generally absorbed by the housing provider. A “reasonable” accommodation is one that does not create an *undue* financial or administrative burden for the housing provider and does not create a fundamental alteration of the basic operation or services provided. Service, therapeutic, support and companion animals that provide assistance to people with disabilities are a common request for accommodation. Many rental properties prohibit pets or permit them only with an additional deposit and/or rent; however, these animals are not “pets” and both “no pet” policies and associated fees must be waived for service animals as a reasonable accommodation.⁹

The modification and accommodation tests were single contact telephone tests made by one tester who called the rental listing, inquired about the housing, and introduced the need for either a modification to the unit (installation of grab bars in the bathroom) or an accommodation (a service animal) because of the disability of the tester or someone living with the tester. Test

⁸ See HUD/DOJ Joint Memorandum on Reasonable Modifications for People with Disabilities, March 5, 2008, http://www.hud.gov/utilities/intercept.cfm?offices/fheo/disabilities/reasonable_modifications_mar08.pdf

⁹ See HUD/DOJ Joint Memorandum on Reasonable Accommodations for People with Disabilities, May 17, 2004, <http://www.hud.gov/utilities/intercept.cfm?offices/fheo/library/huddojstatement.pdf>

subjects were identified through print and online advertising and apartment guides and included apartment complexes and rental houses in all seven Hampton Roads jurisdictions. Subjects for the service animal accommodation tests were selected from ads that either stated “no pets” or were silent about pets. Tester profiles ensured that the tester was otherwise qualified for the housing. Testers recorded the details of their experience on a written report form, which was collected and reviewed by HOME staff.

Fifty telephone tests were completed; 25 for the accommodation request and 25 for the modification request.

Results: Modification

One landlord (4%) rejected the modification request outright, and four housing providers (16%) discouraged the prospective tenant who required the modification. Discouragement included stating that the tester really needed an apartment for the disabled, describing how complicated and difficult the grab bar installation would be, and stating firmly that the grab bars would have to be both professionally installed and professionally removed at the end of the tenancy (untrue, according to the law). Eighty percent (20 of 25) housing providers contacted were willing to install or to have the tenant install grab bars in an existing bathroom.

Results: Accommodation

Nineteen housing providers (76%) rejected, discouraged or imposed fees for the accommodation request for a service animal. Seven (28%) rejected the service animal outright; 9 (36%) imposed fees (deposit and/or additional rent); and 3 (12%) discouraged the tester with the service animal in other ways. Six (24%) landlords were willing to permit the service animal with no fees or fees waived (one very reluctantly “I guess we’d have to”).

Housing providers had a wide range of issues with the service animal accommodation that reflect a significant lack of understanding of this requirement. Additional deposits required in order to allow the animal ranged from \$200 to \$400; additional monthly rent ranged from \$10 to \$75 per month. Those who rejected the request gave a variety of reasons:

- No, because a service animal will exceed our 40 pound weight limit and cannot be allowed

- No service animal, possibly if a long-term lease, but not if only one year
- Will not allow even with a doctor’s note and training of the animal – “if I do it for you, I have to do it for everyone”
- “As far as I’m concerned that’s still a pet...unless I’m forced to I won’t allow pets”

One provider stated that they did not allow pets but would approve the service animal IF it was for medical reasons and the tenant could prove that the animal is “certified” as a service animal. Not all disabilities are “medical” and certification programs do not exist for all types of assistive animals. The housing provider is entitled only to ask for documentation to verify the disability, if the disability is not obvious, and for information to document that the requested accommodation is disability-related.

Barriers faced by families with children

Families with children are protected from outright discrimination as well as from unreasonably restrictive occupancy standards that limit families’ housing choices. The generally accepted minimum occupancy guideline for rental units is 2 persons per bedroom.¹⁰

The familial status tests were single contact telephone tests made by one tester who called the rental unit, inquired about the housing, and introduced their family composition during the conversation with the housing provider. Family composition included a husband and wife, together with their children. Testers calling about 2 bedroom units had four person families (2 children); testers calling about 3 bedroom units had six person families (4 children); testers calling about 4 bedroom units had 8 person families (6 children). Tester profiles were constructed so that the tester was otherwise qualified for the housing. Testers recorded the details of their experience on a written report form, which was collected and reviewed by HOME staff. Test sites were selected using print and internet advertising and apartment guides. Tests were conducted in all seven localities in the Hampton Roads region.

Twenty single contact telephone tests were completed.

¹⁰ See HUD Guidance Memorandum on occupancy standards and familial status, Keating Memorandum, <http://www.hud.gov/offices/fheo/library/occupancystds.pdf>, Dec. 22, 1998.

Results: Families with Children:

15% of housing providers discouraged the families with children; 17 of the 20 housing providers were willing to accept the families with children at a 2 person per bedroom standard. No provider rejected families with children outright (e.g., we don't allow children), however, three of them discouraged the tester in various ways. One stated that they had no first floor units available and encouraged the tester to look at another complex with larger units; one stated that the apartment was not suitable for young children because they'd have no place to play; and one explained that because the yard was not fenced and the house is only a year old it would not be the best place for so many children. These limitations prevent families from having full access to available housing, and usurp the right of the parents to determine what is suitable for their family.

Willingness of landlords to accept Housing Choice Vouchers

While source of income is not a protected class under fair housing law and participation by landlords in the voucher program is voluntary, Housing Choice Vouchers – formerly known as Section 8 vouchers – provide an individual subsidy to qualified low income families that can be used on the open housing market. While project-based subsidized housing is generally located in areas of poverty and minority concentrations, vouchers enable families to seek housing in a broader range of neighborhoods, including low poverty neighborhoods with improved educational and employment opportunities. As the number of available public and subsidized housing units declines, vouchers are intended to support the transition to private market housing.

These tests were single contact telephone tests made by one tester to determine whether or not housing providers would accept tenants using Housing Choice Vouchers. Test sites were selected from listings that did not indicate that Section 8 or Housing Choice Vouchers were accepted. Test profiles were constructed so that testers qualified for the housing on criteria other than income and would be able to afford the housing using the voucher.

Twenty single contact telephone tests were completed.

Results:

Housing Choice Voucher (HCV) holders were rejected or discouraged in 85% of the tests conducted (17 of 20). Only three of the housing providers said they would accept the vouchers; fifteen rejected the voucher holder outright; two discouraged the tester. One provider stated that they would accept the voucher if the tenant met other rental requirements; the complex would factor in the value of the voucher to meet income requirements, but that they do not officially participate in the HCV program and would only accept it for unrenovated apartments. Another stated that they would accept the voucher, but the tenant would still have to have income of four times the rent, an impossibility as a voucher holder could not make that much money and qualify for the voucher.

CONCLUSION

This audit confirms the continuing existence of discriminatory housing practices in the Hampton Roads region, based on a variety of factors and particularly with respect to race and disability.

Fair housing laws have been in place for 40 years; the amendments protecting families with children and people with disabilities have been in place for 20 years.

Training and education programs have been frequently offered in the Hampton Roads area by the Virginia Fair Housing Office, professional housing industry associations, local governments, HOME, and others. Licensing requirements of the Virginia Real Board mandate continuing education in fair housing; the Virginia Fair Housing Board administers a voluntary fair housing certification program. Educational programs on meeting the accessibility requirements have been offered on a regular basis for architects, builders, and developers.

In 2002 there was extensive media coverage of the results of HOME's race and disability audits. It is difficult to believe that housing providers are not aware that it is against the law to discriminate on the basis of race – which has been illegal for 140 years; and it has been against the law to discriminate against families with children and people with disabilities for twenty years.

Education is obviously not enough. Public awareness is obviously insufficient.

The federal and Virginia fair housing laws provide the framework for eliminating housing discrimination. What is needed is aggressive and effective enforcement of the laws that clearly demonstrates that housing discrimination is impermissible in the Commonwealth of Virginia; that those housing providers who engage in discriminatory practices will be held to account; and that the cost of violating fair housing laws is high enough to serve as a deterrent to those who deliberately or negligently fail to comply.