

Fair Housing Rental Testing Audit Report
Indianapolis Metropolitan Area
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Fair Housing Center of Central Indiana
615 N. Alabama Street, Suite 426
Indianapolis, IN 46204
Phone: 317-644-0673

www.fhcci.org

info@fhcci.org



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EXECUTIVE SUMMARY

Where someone lives impacts the quality of their lives. Having a safe place you call home impacts whether or not your housing investment will flourish, the opportunities you will have, and employment that will be available. Where you live determines if your local supermarket will carry fresh fruits and vegetables, the schools your children will attend and your access to businesses and transportation options. Your home is more than a roof over your head.

The Fair Housing Center of Central Indiana (FHCCI) conducted this “Fair Housing Rental Testing Audit” to measure the nature and extent of race, national origin, disability and familial status discrimination in the Indianapolis, Indiana metropolitan area. The FHCCI used testing to gather information about how African Americans, Hispanics/Latinos, Asians, persons with disabilities and families with children are being treated in the rental housing market. The audit measured the extent of housing discrimination and shows how those who unlawfully discriminate did so.

The FHCCI conducted a total of 52 fair housing tests for the audit. Over half of the tests showed evidence of discrimination in violation of fair housing laws. In areas that are predominantly white, otherwise qualified African Americans encountered discrimination 82% of the time, and otherwise qualified Hispanics/Latinos encountered discrimination 70% of the time.

The audit uncovered a disturbingly common occurrence of persons of color being told incomplete or untrue information by housing providers. Frequently, white testers, despite being slightly *less* qualified than corresponding African American or Hispanic/Latino testers, were told of lower deposits, fees and rent. Testers of color were often told of availability dates for apartments days, weeks and occasionally months after the date quoted to a corresponding white tester. African Americans and Hispanics/Latinos were also more likely to be told of criminal and credit history requirements than white testers and less likely to be told of specials and discounts.

Families with children experienced discrimination in 20% of their housing searches. For those with disabilities, the audit demonstrated barriers to accessibility in 73% of the complexes tested, including steps into buildings or common-use areas, lack of accessible routes and inadequate accessible parking. If a person needed an animal to help in coping or dealing with a disability, s/he encountered discrimination, such as unlawful fees or deposits, in 25% of the tests.

The results of the FHCCI’s testing should be grounds for serious concern. The foreclosure crisis has greatly affected the number of housing units available. The need for affordable, accessible and safe housing in Indianapolis is frequently mentioned as a concern in government reports about housing impediments. However, little attention has been paid to the problems of those Hoosiers who are subject to unfair and unlawful treatment in their housing searches. This audit shows that access to adequate housing of the person’s choice is limited by housing discrimination and clearly indicates that housing discrimination is a serious issue for persons of color, those with disabilities and families with children.

BACKGROUND ON THE FAIR HOUSING CENTER OF CENTRAL INDIANA

The Fair Housing Center of Central Indiana (FHCCI) is a private, nonprofit fair housing organization whose mission is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education and outreach. The FHCCI was incorporated in August 2011 through a fair housing grant awarded to the National Fair Housing Alliance¹ from the U.S. Department of Housing and Urban Development (HUD). This testing audit project was funded through that HUD grant. The FHCCI is the only nonprofit fair housing agency in Indiana and resources are limited. Consequently, it could only focus on certain protected classes for this audit and was limited by resources in the number of tests able to be completed and the geographic area of testing.

The FHCCI seeks to ensure equal housing opportunities through education and outreach efforts and fair housing enforcement activities, including testing programs. It works to achieve its mission by eradicating housing discrimination through community education; encouraging public involvement on fair housing issues; assisting persons who are believed to be victims of housing discrimination in understanding and enforcing their rights; supporting individuals and organizations seeking equal opportunity in housing; providing technical assistance to housing providers and government officials on fair housing requirements; and by investigating allegations of housing discrimination against all covered protected classes and all covered areas of housing and housing-related services (including rental, sales, lending, appraisals, loan servicing and homeowners insurance).

FAIR HOUSING LAWS

On April 11, 1968, President Lyndon Johnson signed the Fair Housing Act into law protecting persons from housing discrimination based on race, color, national origin and religion. In 1974, the Act was amended to include gender (sex) as an additional protected group. President Ronald Reagan then signed the Fair Housing Amendments Act of 1988, which greatly expanded the enforcement powers of HUD and the U.S. Department Justice, and expanded protections to families with children and people with disabilities. Every April is celebrated as Fair Housing Month to honor the passing of the original law. Indiana's Fair Housing Law is considered "substantially equivalent" to the federal Fair Housing Act. Indianapolis/Marion County under a local ordinance provides additional protections from housing discrimination due to age, ancestry, sexual orientation, gender identity and military service veteran status but it is *not* a substantially equivalent law.

Today, it is unlawful under federal or state law to discriminate on the basis of race, color, religion, national origin, gender, disability, ancestry, or familial status in rental housing, real estate sales, lending, insurance, and any financial or other services related to housing. Congress intended that unlawful housing discrimination not impact a person's choice of

¹ <http://www.nationalfairhousing.org/>

housing. The federal Fair Housing Act was passed with two goals: (1) To eliminate housing discrimination, and (2) To promote residential integration in neighborhoods across America.

Some examples of unlawful housing discrimination would include:

- Advertisements, signs or flyers which state “no children,” “no minorities,” “whites not allowed,” or “Hispanics Need Not Apply.”
- Limiting the number of children in a complex or confining them to a specific location or floor.
- Not allowing a person with a disability to install a ramp at their cost at the housing entrance to increase accessibility.
- Being propositioned for sex in exchange for rent, deposits, repairs or being the subject of inappropriate sexual comments.
- Charging additional rent or deposits because someone needs an animal to assist them with their disability.
- A neighbor spray painting a derogatory racial reference on the home of a neighbor.
- Requiring Muslims to pay for criminal background checks but not requiring that of persons of other religions, races or nationalities.
- Refusing to rent to a person using a wheelchair for fear a unit might be damaged or requiring additional insurance coverage not required of other residents.
- Steering minority homeowners to sections of the city where other minorities live or telling white home seekers to stay out of some areas.
- Lack of accessibility in a newly constructed multi-family building.
- Retaliating against someone for enforcing their fair housing rights.
- Charging different interest rates or imposing more strict mortgage qualification standards because of someone’s color, gender, disability or other protected factor.
- Providing inferior homeowner’s insurance coverage because a house is located in a neighborhood of color.
- Failing to maintain a foreclosed home because it is in a Latino neighborhood.

Fair housing laws apply to the vast majority of housing situations although there are some specific exemptions. The most significant exemptions include those for smaller housing providers: (1) Owners of 3 single family homes or less or (2) Owners of 4 units or less multi-family housing properties. Both these exemptions require certain conditions to qualify. However, even in those situations some fair housing regulations still apply such as for advertisements, retaliation and forms of intimidation or harassment. Other laws may also apply outside of fair housing. There is also a limited exemption for housing for older persons. In that type of housing, housing providers may limit the access by families with children if they meet certain conditions. Other less commonly used exemptions also exist. See the FHCCI’s Education page at www.fhcci.org for more information on the specific regulations of fair housing laws.

According to the most recent report by the U.S. Department of Housing & Urban Development (HUD),² in FY 2010, HUD and its 102 substantially equivalent state and local government partners received 10,154 complaints alleging housing discrimination. Of this total, 48% alleged disability, 34% race, 15% familial status, 12% national origin, 11% gender, 7% some form of retaliation due to fair housing, 3% religion and 2% color. This total only includes filed administrative complaints with the identified government agencies. It does not include private litigation or when people who felt they were discriminated against did not move forward with formal complaint filing.

Because Indiana's Fair Housing Law is considered a substantially equivalent fair housing law, the Indiana Civil Rights Commission (ICRC), a state agency, subcontracts with HUD to enforce fair housing laws. According to the state's most recent Analysis of Impediments to Fair Housing Choice:

"As of December 31, 2009, the ICRC database contained 967 records of housing discrimination complaints filed since 2005. Almost one third (313) of these complaints were filed in 2009. The most common reason for discrimination identified in ICRC records was race or color; 38 percent of the filed cases were filed based on racial discrimination. The second most common reason for discrimination was handicap/disability (34 percent of cases), followed by familial status (11 percent) and national origin/ancestry (9 percent)."³

In 2012, despite being a new nonprofit agency and still relatively unknown, the FHCCI received or recorded 146 allegations of housing discrimination. Most of these allegations involved housing providers in the Indianapolis metro area.

The National Fair Housing Alliance stated in its yearly fair housing report that private fair housing organizations nationwide (nonprofit agencies like the FHCCI) received 17,701 fair housing allegations in 2011.⁴ This may seem like a large number but most feel it is only a fraction of the incidents of housing discrimination. One report estimated that 4 million incidents of housing discrimination occur annually.⁵ Overwhelmingly, most people do not report housing discrimination. A HUD study, "How Much Do We Know?,"⁶ found that 83% of people who felt they had experienced housing discrimination did not report it. People do this for a variety of reasons which may include insufficient knowledge of fair housing laws, lack of knowledge of where to report the discrimination, fear of retaliation, an embarrassment or unwillingness to disclose what occurred (occurs very frequently in sexual harassment cases), unwillingness to

² *Live Free: HUD Annual Report on Fair Housing FY 2010.*

<http://portal.hud.gov/hudportal/documents/huddoc?id=ANNUALREPORT2010.PDF>

³ *State of Indiana Analysis of Impediments to Fair Housing Choice 2010-2014 Annual Report*, Section II, Page 2. http://www.in.gov/ocra/files/Indiana_AI_2010-2014.pdf

⁴ *Fair Housing in a Changing Nation, 2012 Fair Housing Trends Report*, National Fair Housing Alliance, April 30, 2012. <http://www.nationalfairhousing.org/>

⁵ *2004 Fair Housing Trends Report*, National Fair Housing Alliance, April 7, 2004.

⁶ *How Much Do We Know? Public Awareness of the Nation's Fair Housing Laws*, The Urban Institute, April, 2002, Page 25. <http://www.huduser.org/portal/publications/fairhsg/hmwk.html>

interact further with persons who discriminated against them and other reasons which are personal to the victim.

Having a safe place to call home is a fundamental building block for attaining a high quality of life. Today, the goals of fair housing laws are more important than ever but there is still much work to be done. Unfortunately, the FHCCI's rental testing audit leaves little doubt that we have not achieved equal housing opportunity for Hoosiers.

IMPORTANCE OF TESTING

Blatant incidents of housing discrimination do still occur. It is unlawful for a landlord, leasing agent or apartment manager to make direct racially discriminatory statements or to outright refuse to rent to African Americans, Hispanics, people with children or persons in other protected classes. In nearby Cincinnati, Ohio, a housing provider posted a "whites only" sign in 2011 at the complex pool after a young biracial girl swam in the pool while visiting her white father who lived in housing owned by the provider. The white landlord claimed that "she only posted the sign to prevent the chemicals in the girl's hair products from rendering the pool 'cloudy.'"⁷ This housing provider was not only ill informed; the Ohio Civil Rights Commission ruled housing discrimination had occurred. This is not a limited case.

Fortunately, such blatant examples are becoming increasingly more rare. Unfortunately, that does not mean that discrimination is not occurring. It is much more common for housing discrimination to occur based on different rental terms and discrimination such as offering the person of color (or other protected group) fewer units, higher deposits or fees, less favorable rent terms, 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 anyone else's. Frequently, the only way to uncover differences in treatment is through the use of testing.

The courts have repeatedly endorsed testing and recognized the important role that testers play in gathering evidence of discrimination in areas where such evidence is particularly hard to come by. In *Havens Realty Corp. v. Coleman* (455 U.S. 363 (1982)), the U.S. Supreme Court upheld the use of testers in housing discrimination cases as an important and legitimate means of enforcing fair housing laws. In *Richards v. Howard* (712 F.2d 319, 321 (7th Cir. 1983)), the court noted the evidence provided by testers both benefited unbiased landlords by quickly dispelling false claims of discrimination and by serving as a major resource in society's continuing struggle to eliminate the subtle but deadly poison of racial discrimination.

⁷ *Landlord Defends Hanging 'White Only' Sign at Duplex Pool*, *TIME*, December 17, 2011, <http://newsfeed.time.com/2011/12/17/landlord-defends-hanging-white-only-sign-at-duplex-pool/>

The types of differential treatment documented in this report confirm that discriminatory practices in housing can be quite subtle, making it difficult for home seekers to recognize and report suspicious rental practices or policies.

TESTING METHODOLOGY

Testing is an enforcement tool used by virtually every private, nonprofit fair housing agency as well as the U.S. Department of Justice. 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 acquired 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 unlawful 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. It is just as important to know that someone is *not* discriminating as it is to learn that they are.

Selection and Training of Testers

The FHCCI maintains a diverse tester pool. Testers are dependable, conscientious people, 18 years and older, who assist the FHCCI in eliminating housing discrimination by gathering information about housing practices. They are of various racial and ethnic groups, men and women, over a broad range of ages with and without disabilities. Testers take on various roles and profiles. They do not try to trap the housing provider or cause them to discriminate. They perform a task similar to a restaurant critic. They observe and record their experiences. Testers are sometimes also referred to as “secret shoppers” or “auditors.” The tester’s job is to gather information, much like anyone on a housing search, and to record their observations on how a housing provider treats prospective housing tenants, mortgage applicants or home buyers.

Testers chosen for a specific test have no known current or former interest in, relationship to, or conflict with the test subject or transaction. Before being approved as testers at the FHCCI, testers must complete a criminal background check that certifies that they have no felony convictions involving perjury, fraud, or any similar crimes of misrepresentation or dishonesty. Testers are generally paid a small stipend per completed test to compensate them for the time and effort of conducting and reporting on the test and are reimbursed for any mileage or related expenses. Payment is unrelated to the outcome of the test.

Before becoming a tester, testers also receive training on fair housing and testing protocol. Testers receive separate trainings for rental, accessibility, sales, lending and insurance testing. 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 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 that there should be no preconceived opinions about the test subject.

Testers are not told the results of the tests in which they participate except when made public record as part of reports, litigation or enforcement actions. Potential testers are identified through referrals from outreach activities, the FHCCI's Board members and existing members of the FHCCI's testing pool, as well as local contacts, service and advocacy groups.

Test Design

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. This could involve the effect of the potential applicant using a Housing Choice (Section 8) Voucher, if the property has any overly restrictive occupancy standards impacting families with children or if the applicant needs a disability related modification or accommodation. Single contact testing is also commonly used in design and construction accessibility testing.

In paired testing, two individuals are matched in every relevant aspect except for the characteristic that is being tested. For example, in a race test a matched pair test would be conducted with a person of color and a white tester making contact with and visiting the same property within a short time period of each other. The testers would have similar characteristics for income, family size and other relevant factors. The matching of testers is important because it removes any financial or business justifications for rejecting the protected group tester. 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 any differential treatment.

The FHCCI conducted tests at advertised housing units to measure how housing providers responded to inquiries about renting a unit. Tester profiles were constructed so that testers were qualified for the housing they sought. The testers were trained to carefully listen and later objectively record the details of their experiences on standardized reporting forms. The FHCCI designed its tester forms to ensure that each tester reports his or her experience in sufficient detail so a Test Coordinator can identify any differences in treatment, to determine whether the testers remained "similarly situated" during the test and to analyze the results.

This audit was conducted from March-September, 2012 and focused on the rental market. Identifying information on the properties tested has been removed from this report or modified so as to not identify but not to change the test results reported on.

Site Selection

Apartment guides, flyers and internet postings were used to identify apartment complexes for testing. For this audit, a property was only tested once. For tests focusing on race and national

origin, the FHCCI gathered demographic information on the Indianapolis metro area, primarily through 2010 census data, 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 2010 census. Properties were then randomly selected in these areas although there was an emphasis on larger sized properties.

Tests involving familial status or disability-accommodation were randomly selected across the Indianapolis metro area. Tests for design and construction accessibility were randomly selected from properties identified in advertisements as being built in 2000 or later.

Test Review and Analysis

The FHCCI staff collected 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 and the tester answered any clarifying questions. For each *paired* test, the FHCCI staff compared each tester's experience in 8 main categories:

- 1. Difference in rental amount**

Did agents quote different rental amounts to the testers? The testers were making on-site visits within a short time of each other, asking about the same number of bedrooms, similar price ranges and similar move in dates so differences in rental amounts should not occur or be significant (if on a daily pro rated basis for example).

- 2. Difference in information regarding the availability of units**

Given the testers were viewing units within a short time period of each other, the units available should be the same or similar. If units were not available, what were testers told of future availability and was it consistent between the testers in paired tests?

- 3. Difference in security deposit amount**

Did agents offer different security deposit amounts to the testers? Given testers were seeking units with the same number of bedrooms, same family size in the same time period and with similar incomes, security deposits should not fluctuate. Were testers consistently told that deposits were based on credit, a set fee, etc.? Were testers offered any discounts in the deposit, how the deposit was calculated or if a portion was applied to first month's rent?

- 4. Difference in move-in specials offered**

Were move in specials or free/discounted rent offered? Did this vary by tester?

- 5. Difference in treatment during the on-site appointment**

Did agents arrive for appointments on time? How much time did an agent spend with a tester? If amenities were shown, were they shown to both testers? Did agents make positive and encouraging statements or negative ones? If brochures, price sheets, business cards and flyers were offered, were they offered to both testers?

- 6. Difference in access to the rental application**

Were rental applications offered to both testers and what price was given if the tester wanted to apply? Was information on the application process the same for both testers?

7. Difference in treatment before or after on-site visit

Did agents call or email a tester before or after the test? Did the agent make any follow up phone calls, send thank you notes, etc.? If so, was it done for both testers?

8. Steering

The term “steering” refers to the unlawful practice of rental or real estate agents only showing certain groups properties located in specific neighborhoods, buildings, or floors. Were testers referred to other housing properties, did a protected class impact where in a complex units were shown? Were testers steered to certain buildings or floors (happens most often in familial status tests where those with children may only be offered first floor units)?

Single contact tests were reviewed against applicable fair housing laws for any violations. How the FHCCI evaluated any differential treatment in disability-accommodation and accessibility tests will be explained in those sections.

DETAILS OF RACE BASED AUDIT TESTS

The FHCCI conducted 11 on-site paired rental tests in areas identified as 75% or more Caucasian. A black tester was matched with a white tester for each test. A breakout by zip code of the test sites is as follows:

<u>Zip Code</u>	<u>Number of Tests Conducted</u>	<u>Zip Code</u>	<u>Number of Tests Conducted</u>
46214	2	46217	1
46220	1	46221	1
46227	1	46234	1
46237	1	46239	1
46241	1	46280	1

Overall, 9 of the 11 tests, or 82%, showed differential treatment favoring the white tester. Only 1 test showed equal treatment of both testers with a 2nd test showing inconsistencies for both testers. *In not a single test did the person of color receive more favorable treatment.*

The differential treatment observed fell into seven of the eight categories previously defined. In cases where multiple forms of discrimination occurred in the same test, all types of discrimination were recorded. The test results found:

- 82% involved difference in information regarding the availability of units
- 45% involved differences in treatment during the on-site appointment
- 27% involved differences in security deposit amounts
- 18% involved differences in rental amounts
- 18% involved steering
- 9% involved differences in access to rental applications
- 9% involved differences in treatment before or after the on-site visit
- 0% involved differences in move-in specials offered

Some highlights from the tests which showed differential treatment are below:

- Test 1: Both testers told nothing was available when they viewed but black tester told unit not available until mid month while white tester told it would be available a week before then and possibly even earlier.
- Test 2: The black tester was told 1 unit was available while white tester was told of 4 units. The white tester was also given a personalized quote sheet while black tester only given an oral quote.
- Test 4: Black tester viewed a model in early June and told by agent nothing was available until possibly the end of July or end of August. White tester who viewed the unit within a few hours of the black tester was told a unit would be available in early July (time period sought by both testers). The black tester was also told the deposit was based on credit while the white tester was told it was a set fee.
- Test 6: Both testers visited property within a few hours of each other. The black tester was given information on 1 unit but told it would not be available for 3 days. White tester was told about 2 units with 1 available now (which was unit black tester told not available for 3 days). Black tester told that security deposit would depend on credit while white tester told of a set rate.
- Test 7: When the black tester arrived for his appointment, he was given a key and a map with a circled apartment on it by the agent and told to go look at the unit alone. After the tester's return to the office, the agent asked for the tester's email address which he said he did not want to provide. The agent told the black tester that she could not give a price quote without an email address so the tester was unable to obtain one. When the white tester arrived, he was driven to the unit with the agent in a golf cart. Upon their return to the office, the white tester was not asked for an email address and was given price quotes for 3 available units.
- Test 8: The black tester was told the application fee per person was \$5 more than the white tester was told. The black tester also told that employment would need to be verified for *both* her and her husband while white tester told only her *or* her husband's employment would be verified. Despite both testers asking for options for the same move in date, the black tester told of 1 unit available while white tester told of 2 units available. The black tester was also given a quote sheet with a Spanish translation. The white tester's price sheet did not include a Spanish translation. Both testers saw the same agent.
- Test 9: Both testers sought same move in date, same unit size and price range, and had appointments within a short time period of each other. The white tester was told when setting up the appointment on the phone about 2 units and then told about an additional 3 units available on-site. The black tester was told of 1 unit on the phone and 1 unit on-site. Of the 5 units the white tester was told about, all were between \$720-750 which was under the tester's \$800 budget. The black tester also had an \$800 budget but was told only of a \$925 unit, well above the tester's budget. The white tester was told that 4 units were currently available for rental but the black tester who was only told of 1 unit was told it was not available for 6 weeks. The white tester was told the deposit was \$99 to one month's rent while the black tester was told the deposit was \$150 to two months'

rent. Finally, the black tester only learned the agent's name at the end of the appointment from a business card provided.

- Test 10: The agent asked the white tester his price range and told him there were 2 floor plans within that price range and explained the features and square footage of both. The agent did not ask the black tester his price range and only informed him of 1 unit that was coming available. When the white tester told the agent he planned to keep looking around, the agent said there was some low income housing nearby and the tester would be able to notice the "differences" of it. Both testers saw the same agent within a couple hours of each other.
- Test 11: Both testers gave the same price range with immediate move in availability and saw same agent. The black tester was told that only 1 unit was available for \$1,050 which was well over the tester's budget. The white tester was told of 2 units including the \$1,050 unit and a unit for \$910 (within both testers' sought price range) if the tester was willing to wait three weeks. The white tester was also told they could sign a 12 month lease and should they plan to buy a home, they could sign up for a shorter lease in the interim time. The black tester was only told of a 14 month lease option.

The examples of the test results outlined above illustrate some of the difficulties African Americans are likely to encounter in searching for an apartment in the Indianapolis metro area rental market. The results are particularly distressing since the sites tested were larger properties that are expected to have a much better understanding of fair housing laws than private landlords of single-family houses, smaller properties or mobile home parks. Larger multi-family complexes tend to belong to professional associations, have fair housing policies in place and conduct staff training on fair housing more often than smaller housing providers. Consequently, incidents of discrimination may be even higher than reported in this audit. It's also important to consider that the majority of home seekers will typically make contact with several properties in their housing search. Thus, the odds of being discriminated against as an African American would increase.

Another issue that arose that the FHCCI wishes to make note of is the impact of race for housing voucher (Section 8) recipients. Under current federal and Indiana state fair housing laws, receipt of public assistance or source of income on its own is not protected from housing discrimination. However, a concern to the FHCCI is the impact race may play on Section 8 acceptance. During the time of this audit, the FHCCI received an allegation of discrimination from an Indianapolis African American resident. The resident reported that her complex was no longer going to accept Section 8. The FHCCI decided to see if race played a role in treatment. A test was conducted with a black Section 8 recipient and a white Section 8 recipient seeking information at the complex in question. After receiving the information on the rent terms, both testers disclosed their receipt of a Section 8 voucher. Although both testers were ultimately denied after they disclosed their receipt of Section 8, discrimination still occurred. When the black tester called to set up an appointment, she was told there was a first month's rent special of \$99. However, on-site the tester was told it was only based on credit. The white tester was told not only of the \$99 first month special, but also that the signing of a long term lease would result in a \$50 per month decrease in rent. There was also a difference in treatment of the

testers at the on-site appointment before and after disclosure of their Section 8 voucher. This test is not part of this audit since it is an allegation based test. It raises; however, an area of concern for future testing.

DETAILS OF NATIONAL ORIGIN BASED AUDIT TESTS

The FHCCI conducted 10 on-site paired rental tests with Hispanic/Latino testers and 2 on-site paired rental tests with Asian testers in areas identified as 75% or more Caucasian. A Hispanic/Latino or Asian tester was matched with a white tester for each test. A breakout by zip code of the test sites is as follows:

<u>Zip Code</u>	<u>Number of Tests Conducted</u>	<u>Zip Code</u>	<u>Number of Tests Conducted</u>
46032	2	46107	1
46217	1	46220	1
46227	1	46229	1
46237	1	46240	2
46250	1	46254	1

Overall, 7 of the 12 tests, or 58%, showed differential treatment favoring the white tester. Three tests showed equal treatment of both testers. In addition, in 1 test, an Asian tester received more favorable treatment than the white tester and a Hispanic test had inconsistencies occurring in information given to both testers. Neither Asian test showed evidence of discrimination. *If we remove the Asian based tests from the total, Hispanics/Latinos encountered discrimination 70% of the time.*

The differential treatment observed fell into six of the eight categories. In cases where multiple forms of discrimination occurred in the same test, all types of discrimination were recorded. The test results found:

- 50% involved difference in information regarding the availability of units
- 33% involved differences in treatment during the on-site appointment
- 25% involved differences in move-in specials offered
- 17% involved differences in treatment before or after the on-site visit
- 8% involved differences in access to rental applications
- 8% involved differences in rental amounts
- 0% involved differences in security deposit amounts
- 0% involved steering

Some highlights from the tests which showed differential treatment are below:

- Test 1: When setting up her appointment, the Hispanic tester was told that a unit was available but when the tester arrived on-site, only ten minutes later, was told that a unit would not be available for two months. The white tester was told of 2 units, including 1 that was available in two weeks. The white tester was told of more expensive units but was also told of a \$500 rent reduction special for those units while the Hispanic tester

was not. When setting up her appointment, the white tester was asked for her email address and was emailed information including photos of the units and the process for applying online before her appointment while the Hispanic tester was never asked for her email address. Both testers interacted with the same agent on the phone and in-person.

- Test 2: The white tester was told about 3 units while the Hispanic tester was only told of 1 unit. The agent emailed the white tester photos and other information about the earliest unit that was coming available, while the Hispanic tester did not receive any emails even though she left her email address. The Hispanic tester was told leases ranged from two to twelve months while the white tester was told leases ranged from two to eighteen months with reduced rent specials for eighteen month leases. The Hispanic tester was not told of this special.
- Test 5: When the Hispanic tester called to inquire about a one bedroom unit, the agent told her that nothing was available for two months. The tester then asked if there was a waiting list and how to be added. The agent told the tester there were two people ahead of her, that the tester would need to come to the office, pay an application fee and have her credit run. When the white tester called to inquire about a one bedroom unit and reached the same agent, the tester was also told nothing was available for two months and although there were two units coming available there were two people on the waiting list. However, the agent offered to put the tester on the waiting list and indicated that if the tester was "flexible, something might open up." Further, the agent told the white tester that there was a unit temporarily available to view until it was occupied, which the agent did not tell the Hispanic tester about.
- Test 8: Both testers saw the same agent, and were seeking same type of unit with same price range and availability date. The white tester was told of 2 units and the Hispanic tester of 1. For the unit both testers were told of, the white tester was quoted \$10 less per month for a 12 month lease than the Hispanic tester. The white tester was also told of an additional unit that was \$20 per month cheaper. The white tester was told of a refundable \$200 deposit with approved credit while the Hispanic tester was told the deposit ranged from \$200-one month's rent.
- Test 9: The Hispanic tester was told 2 units were available two weeks after her desired move in date and 1 unit available two weeks prior to her move in date. The white tester gave the same move in date and was told of 2 units available within the two weeks before the desired move in date.
- Test 10: When the Hispanic tester arrived for her appointment, the office was closed. Agent arrived 10 minutes later. The Hispanic tester was told of 2 available units on the phone, but when she arrived on-site she was told of only 1. The white tester was told of 2 available units, was given price quotes for both available units, and the agent showed the tester where in the complex the 2 units were located in addition to giving him a tour of the model. The Hispanic tester was shown only the model unit. The agent who met the Hispanic tester never introduced himself to her; she only learned his name from his business card.
- Test 11: The Hispanic tester was told of 1 available one bedroom unit and the agent gave the Hispanic tester a quote sheet for the unit. The tester asked the agent for a

brochure and was told they didn't have brochures. The white tester saw the same agent and was given quote sheets for 2 available one bedroom units, a brochure, business card, and complex flyer. The agent also asked the white tester if he might be interested in a two bedroom unit because they had several available and were less expensive than the one bedroom units due to a pricing special. The Hispanic tester was not offered this or told of this special.

Although these differential treatment numbers are slightly lower than those for the race tests, the numbers are still extremely troubling. The FHCCI testing also showed that the stronger a Hispanic tester's accent, the more likely they would be discriminated against. This is an area in which more testing is needed.

DETAILS OF FAMILIAL STATUS BASED AUDIT TESTS

The FHCCI conducted 10 tests. A tester posing with a child or children was matched with a tester without children. A breakout by zip code of the test sites is as follows:

<u>Zip Code</u>	<u>Number of Tests Conducted</u>	<u>Zip Code</u>	<u>Number of Tests Conducted</u>
46033	1	46060	1
46220	1	46224	1
46227	1	46234	1
46240	1	46256	1
46260	2		

Overall, 2 of the 10 tests, or 20%, showed differential treatment favoring the family without children.

The differential treatment observed fell into three of the eight categories. In cases where multiple forms of discrimination occurred in the same test, all types of discrimination were recorded. The test results found:

- 10% involved difference in information regarding the availability of units
- 10% involved differences in rental amounts
- 10% involved differences in treatment during the on-site appointment
- 0% involved differences in move-in specials offered
- 0% involved differences in treatment before or after the on-site visit
- 0% involved differences in access to rental applications
- 0% involved differences in security deposit amounts
- 0% involved steering

Some highlights from the tests which showed differential treatment are below:

- Test 3: Both testers given information on available floor plans within their sought range but tester without children was offered more information on an additional floor plan.
- Test 7: Tester with child told of 1 unit available. The family without children was told of 2 units; 1 unit being \$10/month cheaper and the other being \$30/month cheaper.

Even though the levels of discriminatory treatment in the familial status tests is substantially lower than that found in the race and national origin tests, it's important to note that blatant discrimination against families with children still occurs. During the time of this audit, the FHCCI received contact from a father with children in northern Indiana who was upset that his local newspaper was publishing advertisements for apartments for rent stating: "Adults preferred," "No children," and "Must be 40 and over." All these advertisements were for separate apartment complexes. Testing by the FHCCI on the ads found discriminatory treatment, including outright denial.⁸ These tests are not counted as part of this audit since they are allegation based tests. They highlight, however, the blatant forms of housing discrimination that still occur against families with children. There were also other allegations like this received by the FHCCI.

DETAILS OF DISABILITY ACCESSIBILITY BASED AUDIT TESTS

In 1988, the federal Fair Housing Act was significantly amended, adding disability (handicap) 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 13, 1991 be accessible to people with physical disabilities or mobility impairments.⁹ Older multi-family housing stock is *not* required to be accessible or made accessible except in very limited circumstances.

Fair Housing Law

Accessibility requirements apply whether a unit is for rent or for sale; both apartments and condominiums. The intent of the accessibility (design and construction) regulations is to ensure that persons with mobility impairments or other physical disabilities are able to live in and fully enjoy housing units in the same way as people without disabilities. Accessible properties also ensure that guests with disabilities can visit their friends and family or seek information about housing availability.

If the covered multi-family building has an elevator, all units on the floors served by the elevator must meet the accessibility requirements. Those buildings without an elevator must have a ground floor with units that are accessible (the ground floor may not necessarily mean the first floor of a building). A property's common use areas and amenities must be accessible as well. The requirements cover common areas and amenities because such access is a fundamental aspect of apartment or condominium living. A person would not be able to fully use and enjoy

⁸ None of these properties met the requirements as housing for older persons.

⁹ See Implementation of the Fair Housing Amendments Act of 1988, Federal Register, Vol. 56, No. 44, March 6, 1991.

the dwelling if, although able to live in the unit, s/he was unable to freely move around the property, retrieve mail from mailboxes, dispose of trash, do laundry or use the gym, visit the club house for association or community meetings, enjoy watching their children at play areas, or use facilities like a pool or walking path in the same way as other residents. People with disabilities pay the same rent or association fees as people without disabilities, and are entitled to the same range of amenities.

Fair housing laws require that seven modest requirements be incorporated into the design of new multi-family buildings to ensure basic accessibility:

1. Accessible Entrance on an Accessible Route: A building entrance that is wide enough for a wheelchair and accessible via a route without steps and with reasonable slopes. The route (for example sidewalks) must have a minimum clearance of 36". Any parking must include accessible parking. Curb ramps and any slopes must be within reasonable levels and allow a wheelchair user to transition safely.
2. Accessible Public and Common Use Areas: Leasing offices, club houses, play areas, trash facilities, mailboxes, etc. must be accessible and on accessible routes and include accessible parking.
3. Usable Doors: Doors with 32" of clearance that allow passage by a person in a wheelchair or with mobility impairments, door swings easily without the need for excessive force and any entry door handles do not require twisting of the wrist.
4. Accessible Routes Into and Through the Dwelling Unit: 36" clearance for hallways with thresholds or slopes within acceptable ranges.
5. Accessible Light Switches, Electrical Outlets, and Environment Controls: Between 15" and 48" for adequate reach.
6. Reinforced Walls in Bathroom(s): Reinforced walls so a resident may add grab bars if needed.
7. Usable Kitchens and Bathrooms: Kitchens and bathrooms that allow a wheelchair user to maneuver about the space, have sufficient reach and close any doors.

Failure to include these features is a form of unlawful discrimination. A builder has some design flexibility in including these features and may look to HUD determined safe harbors as acceptable standards of accessible design. Other laws may also apply.

Is there a problem? Although it has been over twenty years since these accessibility requirements went into effect, housing that fully complies with the accessibility requirements of state and federal fair housing laws and is affordable remains inadequate to meet demands. The State of Indiana Analysis of Impediments to Fair Housing Choice (AI) noted that ". . .many stakeholders commented on the lack of affordable, accessible housing for persons with disabilities as being a major barrier to housing choice in the State."¹⁰ The State identified "Increase accessible housing" as part of its action plan in response to the AI. The Indianapolis

¹⁰ *State of Indiana Analysis of Impediments to Fair Housing Choice 2010-2014*, Section III, Page 2. http://www.in.gov/ocra/files/Indiana_AI_2010-2014.pdf

AI identified a related impediment to fair housing choice noting that “A person with disabilities and with a low income may not be able to afford the necessary improvements to a housing unit to make it accessible.”¹¹ If the housing came already accessible, this would certainly help address this problem.

There have been relatively few national studies to determine levels of inaccessibility. One of the few reports was funded by HUD in which a series of fair housing tests were conducted in the Chicago area. HUD noted in its report “Discrimination Against People with Disabilities: Barriers at Every Step”¹² the following on accessibility:

- Thirty-six percent of rental homes and apartments that were advertised in the City of Chicago and surrounding Cook County were in buildings that were inaccessible for wheelchair users even to visit. In other words, at best, a person who uses a wheelchair is limited to only about two-thirds of the Chicago area rental housing market from the outset.
- Almost one in six rental housing providers who indicated that they had units available for the wheelchair user refused to allow for reasonable unit modification.

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 limited number of accessible units, people with disabilities may be required to move out of their communities and away from support structures, services, families, and caretakers just to have accessible housing. Inaccessible properties are also limiting their future marketability.

Fair housing laws also require that people with disabilities be permitted to make reasonable modifications and/or accommodations (more later in this report) to both single family and multi-family housing of any age, to enable them to use and enjoy the housing. These requirements were also put in place in 1988 and are intended to expand the range of housing opportunities for people with disabilities, so that their housing options are as equal to them as those available to people without disabilities.

Methodology

The FHCCI’s audit is a review of the degree of difficulty a person with a disability would encounter in a search for accessible housing and did not consider other factors typical of a housing search. This was a fairly cursory look at the availability of accessible housing and the degree of compliance with the law by builders and developers of those multi-family housing units tested. Factors like affordability, access to public transportation, etc. would certainly also affect housing options but were not part of the testing analysis.

¹¹ *Indianapolis Analysis of Impediments to Fair Housing Choice 2010-2014*, Page 85.

¹² *Discrimination Against People with Disabilities: Barriers at Every Step*, HUD, May, 2005.
http://www.huduser.org/Publications/pdf/DDS_Barriers.pdf

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 including accessibility needs. HUD, fair housing and disability organizations, and various industry professional associations have conducted trainings on multiple occasions on accessibility requirements over the past twenty plus years. There is no rational basis for a multi-family complex to be constructed with significant design characteristics that are not in compliance with the accessibility requirements.

Test Design

The FHCCI used testers to conduct site visits to the properties and assess the level of compliance. With each assignment, the tester was given standardized test report forms to document the interaction with the agent, to complete a detailed account of everything that took place during the test and to record their measurements and observations. Testers were instructed to observe and measure as much as possible the items which primarily impacted the 7 design requirements.

In some 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. In other situations, it was impossible to conduct a complete measurement of a specific item of concern and not be detected as a tester. In such instances, the tester noted areas based on their training believed to be out of compliance and that measurements could not be taken at that time. Consequently, items measured or evaluated were typically the most easy-to-measure features. It is very likely that an expert conducting an evaluation with no concerns of detection would find additional areas of violation than a tester could. Consequently, the FHCCI's measured level of noncompliance in this audit is probably much lower than it is in reality.

Site Selection

Although the accessibility requirements went into affect in March, 1991, the FHCCI specifically targeted for this audit newer multi-family properties which advertised as being constructed in 2000 or later. Local apartment guides, flyers, and internet postings were used to identify properties. Each property had at least 100 units and some over 400 units. Properties were selected across the Indianapolis metro area.

Test Review and Analysis

Like with the other audit tests, the FHCCI staff collected 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 and the tester answered any clarifying questions. For each test, FHCCI staff compared each tester's experience, observations, and measurements against the set of accessibility requirements. 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 wheelchair or with other physical disabilities (e.g., ease of maneuverability around obstacles, the presence of protruding objects troublesome to someone who was blind or obviously steep ramps that were visually apparent).

It's important to note that 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 their use by people with physical disabilities. For example, exterior mailboxes may be accessible because there are curb cuts allowing a person in a wheelchair to approach the mailboxes, but planters placed too close together or vehicles being able to restrict sidewalk access may make maneuvering difficult. In many cases, accessible design costs no more than inaccessible design, and merely requires the architect, developer and property management to have thought the plans through with the needs of someone with a disability in mind.

Results

Despite the years of discussion, clarification, and training, the audit results clearly demonstrate that full accessibility is not being achieved. Only 3 of the 11 tested complexes were found to be in compliance with all the requirements. The remaining 8 sites appear to all be in violation of the accessibility requirements to some degree. A breakout by zip code of the test sites is as follows:

<u>Zip Code</u>	<u>Number of Tests Conducted</u>	<u>Zip Code</u>	<u>Number of Tests Conducted</u>
46032	2	46062	1
46077	1	46202	1
46217	1	46225	1
46239	1	46268	3

Some highlights from the tests that indicated violations follow:

Test 1:

- Steps into the leasing office and step into some units.
- Sidewalks leading up to the leasing office had tree planters which restricted sidewalk clearance to less than 36".
- Some environmental controls above 48".
- Insufficient clearance in kitchen for full maneuvering.
- Curb cuts did not consistently connect to accessible parking and routes. Some curb cuts did not appear to have sufficient turning area.

Test 2:

- Bedroom doorway clearance was 28”.
- Garage parking available but no accessible garages visible.
- No accessible parking at leasing office.
- Vehicles are able to protrude onto sidewalk decreasing clearance below 36”.
- A walking path to a common area was gravel.
- Some environmental controls above 48”.
- Some thresholds out of compliance.
- Agent stated that the current unit design would be difficult for a wheelchair user.

Test 3:

- Some electrical controls above 48”.
- Kitchen did not have sufficient turning radius for a wheelchair user.
- Some entry thresholds out of compliance.
- Only accessible parking was at the leasing office.
- A ramp at a popular common area appeared out of compliance.

Test 5:

- Some curb ramps appeared to have excessive slope.
- Vehicles are able to protrude onto sidewalk decreasing clearance below 36”.

Test 6:

- A limited number of garages are provided but no accessible garages.
- Some curb ramps appeared to have excessive slope.

Test 7:

- Sidewalks were less than 36” and vehicles could protrude onto sidewalk limiting clearance further.
- Door knobs on some entry doors.
- A limited number of garages are provided but no accessible garages.
- Access aisle not of sufficient width on some accessible parking spots.

Test 9:

- Some environmental controls and electrical controls out of compliance.
- Some thresholds out of compliance.
- Entry doors have door knobs.
- Resident accessible parking spots did not have access aisles.
- Curb cuts for accessible parking did not provide sufficient sidewalk clearance and access could be blocked by vehicles.
- Curb ramps were too steep or did not have sufficient turning radius.
- Some accessible routes were on too steep a slope without access to all amenities.
- Garage parking provided but no accessible garages visible.

Test 10:

- Number of accessible parking spots appears inadequate for covered dwelling units. Several accessible parking spots did not have adequate access aisles.
- Garage parking provided but no accessible garages visible.
- Some curb ramps appeared to have excessive slope.
- Door knobs on some entry doors.

The most common violation from the audit revolves around parking and access to it. Insufficient access aisles do not allow someone using a wheelchair the sufficient room to load and unload from the vehicle. Out of compliance slopes on sidewalks or curb ramps affect mobility safety, especially during winter months. The Fair Housing Act requires a bare minimum in the number of accessible parking spots (2% of covered dwelling units). Although fair housing laws allow the minimum parking spots to be spread through a complex, we wish to note that if a complex has multiple buildings, the most inclusive and welcoming to those with disabilities is to assign at least one accessible parking spot per building. Even if the accessible parking spots are not currently desired by residents, they could be desired by the guests of residents.

Less common violations found in the audit, but more troubling ones, include insufficient clearance in interior doors, lack of sufficient turning radius in kitchens and step(s) into leasing offices or dwelling units. One must remember that for a wheelchair user, a 4 inch step is the same significant barrier as a flight of 10 steps. Either does not allow the person using a wheelchair to access the dwelling or common area independently.

DETAILS OF DISABILITY REASONABLE ACCOMMODATION AUDIT TESTS

“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. 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.

Fair Housing Law

In addition to requests related to accessible parking, a reasonable accommodation request to keep an animal that provides assistance to a person with a disability is a common accommodation request. Numerous and increasing numbers of studies have shown the positive effects of animals in the health and well being of people’s lives. These animals are often referred to as service, assistive, therapeutic, emotional support or companion animals.

Housing is the place you go to relax, to feel safe and have privacy. It is different than the time a person spends in a place of employment or an area of public accommodation (such as a restaurant, business, etc). Courts have upheld in fair housing cases that when a person with a disability can show the need of an animal in coping and dealing with their disability, the animal is an “auxiliary aid”¹³ similar to the need of a wheelchair. Because of it being your home, fair housing laws view animals needed for disabilities differently than the Americans with Disabilities Act which covers areas of public accommodation. Recent HUD guidance notes this distinction:

“The DOJ’s new rules limit the definition of “service animal” in the ADA to include only dogs. The new rules also define “service animal” to exclude emotional support animals. This definition, however, does not apply to the FHAct or Section 504. Disabled individuals may request a reasonable accommodation for assistance animals in addition to dogs, including emotional support animals.”¹⁴

Many rental properties prohibit pets or permit them only with an additional deposit and/or rent. This is lawful. However, animals needed for a disability are not “pets.” Any “no pet” policies or associated fees must be waived for these animals as a reasonable accommodation for a person with a disability. A housing provider still has the right to conduct inspections and charge for any damage above reasonable wear and tear provided such inspections and charges are performed of all residents regardless of disability or the presence of a needed animal. The person with a disability must also follow any city ordinances related to the maintenance and care of the animal, including following leash laws, maintaining control of the animal and cleaning up after the animal. If this does not occur, a housing provider would be within their rights to issue lease violations as long as similar violations are enforced when necessary against tenants or residents without disabilities.

Test Review and Analysis

The FHCCI had testers with disabilities or family members of those with disabilities contact housing providers to determine any policies or restrictions for approval of animals as a reasonable accommodation. For disability accommodation tests, the FHCCI broke any forms of differential treatment into 6 categories:

1. Information requested for verification of disability or need of the accommodation is excessive

Under fair housing laws, a housing provider has a right to: (1) request verification of a person’s disability if it is not obvious and (2) documentation of the need of the accommodation. Any additional medical information, excessive verification requirements or the seeking of detailed information on the specifics of the disability could be viewed as discriminatory.

¹³ HUD v. Purkett, FH-FL ¶ 19,372 (HUDALJ July 31, 1990). First ruling on the issue of charging pet deposits for service animals. Other rulings have since occurred across assistive animal types.

¹⁴ *New ADA Regulations and Assistance Animals as Reasonable Accommodations under the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973*, HUD, February 17, 2011. <http://www.fhcci.org/wp-content/uploads/2011/12/HUD-Service-Animal-Guidance-2-17-2011.pdf>

2. Charging of additional rent

Persons who meet the definition of disability and can show the need of an animal for their disability, cannot be charged additional rent or “pet” rent just for their need of the animal.

3. Charging of increased deposit

Much like rent, persons who meet the definition of disability and have need of an animal cannot be charged an additional “pet” deposit, whether refundable or not, just for their need of the animal.

4. Additional insurance or other requirements

Those persons with disabilities who need an accommodation cannot be required to obtain additional insurance coverage not required of those residents who do not need an accommodation.

5. Restrictions on size or weight of animal

A person’s disability may necessitate a certain size of animal to assist with their disability. A housing provider may not restrict the size or weight of the animal if the person with the disability can show the need of the animal.

6. Restrictions on breed or type of animal

Unless there is a state law or county/city ordinance banning a breed or type of animal, a housing provider cannot restrict the breed or type of service animal for the person with the disability provided need can be shown.

Results

The FHCCI conducted 8 single contact rental tests. Each tester identified as having a disability or having a family member with a disability and need of a companion or service dog. A breakout by zip code of the test sites is as follows:

<u>Zip Code</u>	<u>Number of Tests Conducted</u>	<u>Zip Code</u>	<u>Number of Tests Conducted</u>
46143	1	46203	1
46205	1	46220	2
46250	1	46260	1
46268	1		

Overall, 2 of the 8 tests, or 25%, showed differential treatment against the person with the disability and their need of a reasonable accommodation.

The differential treatment observed fell into three of the six categories. In cases where multiple forms of discrimination occurred in the same test, all types of discrimination were recorded. The

test results found:

- 25% involved charging of additional rent
- 25% involved charging of increased deposit
- 13% involved restrictions on size or weight of animal
- 0% involved information requested for verification of disability or need of the accommodation is excessive
- 0% involved additional insurance or other requirements
- 0% involved restrictions on breed or type of animal

Some highlights from the tests which showed differential treatment are below:

- Test 1: Despite tester repeatedly referring to her animal as a service animal and stating she was a person with a disability, the agent continued to call the animal a “pet.” Agent also stated tester would need to pay a \$300 pet deposit (of which \$150 was refundable) for her service animal, as well as a \$20 per month pet fee.
- Test 4: Tester identified himself as a person with a disability with the need of a service dog. The tester was initially told after making contact that the agent needed to speak to a manager about the animal. Tester followed up with the agent later who stated she had talked with her manager and there would be an additional pet fee/deposit of \$300 and a \$20 monthly pet fee for his service animal.

During the time of this audit, the FHCCI also recorded 2 allegations involving breed restrictions related to German Shepherds. The FHCCI tested these properties and both testers were denied despite the testers identifying as having disabilities and having a need for the animal which happened to be a German Shepherd. Despite German Shepherds being one of the most commonly trained breeds of service animals, both agents stated they were a restricted breed and not allowed, even if needed for a disability. These tests are not counted as part of this audit since they are allegation based tests but show that a higher discrimination rate could be in place than found within this audit.

AUDIT RECOMMENDATIONS

Based on the findings of this audit, the Fair Housing Center of Central Indiana makes the following recommendations to increase equal opportunity and decrease housing discrimination. The FHCCI is available to assist as needed.

Recommendation 1: Continue Collaboration by Government, Industry and Grassroots Organizations to Address Housing Discrimination and Expand where not Occurring

The Indianapolis metro area is covered under three Community Development Block Grant (CDBG) jurisdictions that have an obligation to affirmatively further fair housing. These

jurisdictions are:

- State of Indiana
- Indianapolis/Marion County
- Hamilton County

The Analyses of Impediments to Fair Housing Choice (AI) for each of these jurisdictions provide useful ways to identify impediments to fair housing choice as well as action steps to address those impediments. Government agencies must ensure that the issue of unlawful housing discrimination is a focus of open discussion about how best to identify and counteract unlawful barriers to housing choice. Community groups, social service organizations and state and local government officials should incorporate fair housing goals into their education and outreach efforts so that barriers to fair housing can be addressed. The FHCCI is available to assist as appropriate in the dialogue and in addressing fair housing impediments.

Suggested Action Steps:

- Publicize any fair housing work going on in the community by state/local agencies or private groups, e.g. distribute flyers, post on website, put out press releases, etc.
- Put the fair housing complaint process on state/city websites.
- Publicize the name of the assigned city fair housing officer, how to get in touch with him/her, and what the city can do to help with discrimination complaints.
- On an annual basis, review government grantees' affordable housing provider's plans to ensure they are affirmatively marketing openings and suggest changes to ensure that the housing providers attract those least likely to apply.
- Develop written materials to give developers, contractors, and builders of government funded housing projects on accessibility and adaptability requirements.
- Develop a procedure which must be followed by city officials for inspecting and monitoring new construction and substantial rehabilitation for compliance with accessibility requirements. Promote accessibility features even when not mandated for long term livability.

Recommendation 2: Fund and Conduct Additional Testing to Uncover Incidents of Housing Discrimination

The FHCCI funding and resources for this audit limited the number of tests, the protected classes tested and the geographic area of testing. However, the testing results provide a strong measure of what is occurring in the Indianapolis metro rental housing market. It is clear that additional testing needs to be performed. In particular, due to identified levels in this audit, the FHCCI encourages additional race and national origin testing in the Indy metro market and expansion into areas of sales, lending and insurance to determine any levels of discrimination. Much work also remains in testing related to protections for people with disabilities. The FHCCI was not able to test reasonable modifications and non-animal forms of reasonable accommodations. Further, given levels of noncompliance uncovered, additional accessibility testing needs to also occur.

The Analyses of Impediments to Fair Housing Choice (AI) for both the State of Indiana and Hamilton County identified the need for additional testing as a way to address identified impediments. Such efforts should be funded. The General Assembly should also allocate funds for a more comprehensive look at rental practices in the state, including other segments of the housing/lending industry. Although this audit focused on the Indianapolis metro area, fair housing testing throughout the state should be conducted. Some housing providers even conduct self testing to identify problems and correct behavior so fair housing complaints are not filed.

Expansion of testing is also encouraged into areas either not currently protected or with limitations on protection under fair housing, such as receipt of public assistance, sexual orientation and gender identity, to identify any impediments to equal housing opportunity.

Suggested Action Steps:

- Fund and support fair housing rental testing programs by qualified government and nonprofit agencies across protected groups with emphasis on disability, race, color and national origin due to already identified levels of discrimination, both locally and statewide. Any testing project should focus on both public and private housing.
- Fund a testing project to determine any levels of discrimination in the sales, lending and insurance markets both locally and statewide.
- Fund testing projects to determine any levels of discrimination in areas not protected currently, or not protected at equal levels to other protected groups, such as due to sexual orientation, gender identity, source of income, age, criminal history, etc.
- Advertise the results of testing projects to increase public awareness and to seek ways to improve equal opportunities. Reports should be in accessible formats and with ease of access.
- When unlawful discrimination is uncovered, support enforcement efforts to eliminate the identified discrimination.

Recommendation 3: Increase Education & Outreach Efforts on Fair Housing Laws

All area AIs identified the need for more fair housing education or awareness as an impediment to fair housing choice. There is a general lack of knowledge statewide on fair housing laws, the need to affirmatively further fair housing and the rights and responsibilities associated under these laws. State and city government fair housing offices should work collaboratively with the FHCCI and other organizations to promote fair housing and engage in joint fair housing education campaigns.

Trainings should be focused on overviews of fair housing laws, as well as topic specific areas. Trainings and materials should be offered in languages other than English as well. In 2012, the FHCCI conducted over 40 fair housing presentations and distributed over 50,000 fair housing publications. We feel that this is a small fraction of the fair housing education needs but our funding sources restricted all the training opportunities desired. It is clear that education is key to reaching those who want to understand their responsibilities and comply with fair housing

laws. 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 fair housing laws. The media should also work with public and private organizations working to address fair housing to educate advertisers to prevent advertisements that convey, sometimes in a subtle way, an unlawful preference for certain groups.

Suggested Action Steps:

- Conduct topic specific fair housing trainings varying by topic and length to encourage attendance and assist in specialized areas of interest. Topics could include: advertising; domestic violence and fair housing rights; sexual harassment; common forms of discrimination against families with children; disability specific topics such as reasonable accommodations/modifications and accessibility; LGBT areas of protection; use of people-first language; and common forms of race and national origin discrimination.
- Convene workshops in Indiana's major metropolitan areas to strongly encourage metrowide solutions to housing discrimination and to address segregation.
- Conduct topic specific trainings in rural areas to specifically address the needs of those populations.
- Provide technical assistance training hours to applicable government grant recipients on their fair housing planning activities and ensure knowledge of their obligation to affirmatively further fair housing.
- In any rehab containing government funds of existing multi-family properties or buildings being converted to multi-family properties, ensure distribution of materials to encourage the addition of accessible features when these features are not otherwise mandated to promote accessibility. Materials should also promote the positive long term impact of such features on the community.
- Where not already occurring, conduct a public education campaign on fair housing laws including print and radio PSAs, website page, fair housing publications, advertisements at bus stops, etc.
- Distribute fair housing publications in multiple languages, and accessible to those with visual impairments, in print form and available online. These materials should also include information on how to file a fair housing complaint.

Recommendation 4: Provide Adequate Funding to Fight Housing Discrimination

Lack of adequate funding impacts the ability of state and local organizations to effectively address housing discrimination. Before the formation of the Fair Housing Center of Central Indiana, Indianapolis was the last major city in the Midwest *without* a private, nonprofit fair housing agency at work. The FHCCI is currently the only nonprofit fair housing organization in all of Indiana. A look at our neighboring states shows how unique this is. Ohio currently has 7 nonprofit fair housing groups, Michigan has 5 and Illinois has 4. Like Indiana, Kentucky only has 1 fair housing group but that group has been active since 1997 and, until recent funding cuts, an additional fair housing nonprofit was also active.

What typically sets private, nonprofit fair housing organizations apart from state and local governments is that they work at the grassroots level, evaluate and counsel inquiries, and conduct testing and other forms of enforcement activities. According to HUD:

“Studies have shown that funding FHIP [nonprofit] agencies increase the number and quality of fair housing complaints that are investigated. A study of FHIP-referred complaints to HUD and FHAP agencies [areas with substantially equivalent laws] found that 90 percent of FHIP generated inquiries that are referred to HUD are converted to complaints. The study also found that for cases closed between FY 2003 and FY 2005 where a FHIP funded organization was a complainant, 63 percent were conciliated and settled and for cases where a FHIP-funded organization represented a complainant, 36 percent of the cases were conciliated and settled. FHIP-referred cases also had a higher cause finding rate, and FHIP-referred cases ending in a cause finding took less time to complete. These findings are likely a result of FHIPs evaluating inquiries and developing complaints, and providing crucial testing evidence to support complaints.”¹⁵

Federal and state governments should continue funding fair housing organizations to strengthen fair housing enforcement and, where not occurring, budget accordingly. Recipients of Community Development Block Grants and other federal funding have a duty to affirmatively further fair housing and should financially support the work of the local fair housing organization as part of those efforts.

Fair housing organizations like the FHCCI have fair housing as their focus and mission in everything they do. They work at the ground level and are often able to identify upcoming issues. As HUD noted above, they are uniquely positioned to assist government agencies and provide significant benefits to these agencies as part of that work. Collaborative partnerships are necessary for advancing fair housing and equal housing opportunities in the most efficient and effective manner.

Suggested Action Steps:

- Provide funding for existing local fair housing and human rights agencies through a program similar to the Federal Fair Housing Assistance Program (FHAP) and the Fair Housing Initiatives Program (FHIP), with funding to come from both State and Federal sources.
- If such a program cannot occur, initiate contracts or fund grants to fair housing organizations for fair housing training opportunities and testing programs to advance fair housing.

¹⁵ Notice of Funding Availability (NOFA) for HUD's Fiscal Year (FY) 2013, Page 4.