

2017 Fair Housing Education & Rental Testing Audit Report

**To The City of Indianapolis
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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.

For this project, the FHCCI provided fair housing training to educate the public on their rights and responsibilities under the rental regulations of fair housing laws. The FHCCI completed three trainings, two of which were open-to-the-public trainings. The trainings were highly evaluated and well attended.

The FHCCI also used testing to gather information about how African Americans and persons with disabilities are being treated in the rental housing market in Indianapolis. The audit measured the extent of housing discrimination and shows how those who unlawfully discriminate did so. The FHCCI conducted 25 on-site paired rental tests in City areas (less exempted cities) identified as 70% or more Caucasian. Overall, 19 of the 25 tests, or 76%, showed differential treatment favoring the white tester. Only five tests showed equal treatment of both testers, with one test showing inconsistencies for both testers. *In not a single test did the person of color receive more favorable treatment.*

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 testers, were told of lower deposits, more favorable fees, and lower rent. Testers of color were often told of availability dates for rentals days and weeks after the date quoted to a corresponding white tester. African Americans were also less likely to be told of specials and discounts.

The FHCCI also conducted 20 single contact rental tests. Each tester identified as having a disability or having a family member with a disability and the need of a companion or service dog. Overall, 3 of the 20 tests, or 15%, showed differential treatment against the person with the disability and their need of a reasonable accommodation. Although this is a significantly lower percentage of discrimination as compared to the race tests noted previously, it is still very significant.

The results of the FHCCI's testing should be grounds for serious concern. Recent studies have shown us that affordability is a huge factor in the Indianapolis rental market. The need for affordable, accessible, and safe housing in Indianapolis is frequently mentioned as a concern. However, little attention continues to be 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 and those with disabilities in the City of Indianapolis.

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 and is the only nonprofit fair housing advocacy organization in Indiana.

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 insurance).

FAIR HOUSING LAWS

On April 11, 1968, President Lyndon Johnson signed the federal 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 the U.S. Department of Housing & Urban Development (HUD) and the U.S. Department Justice, and expanded protections to families with children and people with disabilities. 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. Every April is celebrated as Fair Housing Month to honor the passage 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.

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 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.

The National Fair Housing Alliance stated in its yearly fair housing report that there were 28,181 reported fair housing allegations in 2016.¹ 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.² Overwhelmingly, most people do not report housing discrimination. A HUD study, "How Much Do We Know?"³ 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, unwillingness to 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. The result of this project leaves little doubt that we have not achieved equal housing opportunity for Indianapolis residents.

PROJECT GOALS

As negotiated with the City of Indianapolis, the Fair Housing Center of Central Indiana (FHCCI) committed to the following for this project:

- Conduct 25 matched pair fair housing on-site rental tests to assess how race or color affects housing choice in Indianapolis.
- Conduct 20 single contact phone rental tests to assess how needed reasonable accommodations for persons with disabilities affects housing choice in Indianapolis.
- Conduct 2 open-to-the-public fair housing rental trainings of approximately 120 minutes each in Indianapolis plus 1 fair housing training only open to City employees and leadership.

The time period for completion of the project goals was November 1, 2016-May 31, 2017 with a two month period following for the final report submission.

¹ *The Case for Fair Housing, 2016 Fair Housing Trends Report*, National Fair Housing Alliance. <http://nationalfairhousing.org/2017-fair-housing-trends-report/>

² *2004 Fair Housing Trends Report*, National Fair Housing Alliance, April 7, 2004.

³ *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>

IMPORTANCE OF EDUCATION

The FHCCI provides in-person information about federal, state, and local fair housing laws through seminar, trainings, and conferences. Fair housing trainings and educational seminars conducted by the FHCCI target renters and homebuyers; people with disabilities and their service providers; local governments, housing developers, property managers, real estate agents, lenders, and other housing providers; Spanish-speakers; and attorneys and housing professionals who represent individuals in mortgage and foreclosure-related matters. The FHCCI also serves as a resource through phone and email inquiries. Our website at www.fhcci.org has an Education program page with links to 19 topic specific categories. We also seek to educate the public through reports, publications, social media, and other forms of outreach. These educational programs allows interested persons to learn their rights and responsibilities under fair housing laws. This assists in minimizing the opportunity for housing providers to unknowingly discriminate in violation of law and assists possible victims in being better able to identify potential violations.

EDUCATION ACTIVITIES COMPLETED

For this project, the FHCCI completed the following trainings:

1. April 13, 2017: Fair Housing Training for City of Indianapolis Staff. There were 9 attendees present at this 120 minute training which was held at the City/County Building. The FHCCI provided information packets including the FHCCI brochure, series of 15 fact sheets, and HUD-DOJ Guidance on Reasonable Accommodations and Reasonable Modifications. The training was conducted with use of PowerPoint presentation, video, and interactive discussion.
2. May 25, 2017: Fair Housing Rental Overview. There were 33 attendees present at this 120 minute training which was held at the Haughville Library. The FHCCI provided information packets including the FHCCI brochure, series of 15 fact sheets, and HUD-DOJ Guidance on Reasonable Accommodations and Reasonable Modifications. The workshop was rated 4.53 out of 5 in participant satisfaction. The training was conducted with use of PowerPoint presentation, video, and interactive discussion.
3. May 31, 2017: Fair Housing Rental Overview. There were 22 attendees present at this 120 minute training which was held at the 38th Street Library. The FHCCI provided information packets including the FHCCI brochure, series of 15 fact sheets, and HUD-DOJ Guidance on Reasonable Accommodations and Reasonable Modifications. The workshop was rated 4.42 out of 5 in participant satisfaction. The training was conducted with use of PowerPoint presentation, video, and interactive discussion.

Overall, the trainings were well attended with overwhelmingly positive feedback.

IMPORTANCE OF TESTING

Fortunately, blatant examples of housing discrimination are becoming 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.

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 and would be seeking a similar size unit, in a similar price range, within a similar time period. 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 testing audit was conducted from November 2016-May 2017 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, the FHCCI gathered demographic information on the City of Indianapolis, less the exempted cities, 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 70% 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 disability-accommodation were randomly selected throughout the City of Indianapolis (less the exempted cities).

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, gift cards or other promotions, 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 (For example, steering often happens 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 tests will be explained in that section.

TESTING ACTIVITIES COMPLETED – RACE TESTS

The FHCCI conducted 25 on-site paired rental tests in Indianapolis City areas (less exempted cities) identified as 70% or more Caucasian. For these tests, 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>
46202	1	46204	1
46217	3	46219	1
46220	2	46221	1
46227	1	46234	1
46237	5	46239	1
46240	5	46241	1
46250	3		

Overall, **19 of the 25 tests, or 76%, showed differential treatment** favoring the white tester. Only five tests showed equal treatment of both testers, with one test showing inconsistencies for both testers. *In not a single test did the person of color receive more favorable treatment.* Note: One test was cancelled mid-test and not counted in the analysis totals below.

The differential treatment observed fell into all 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:

- 63.15% involved difference in information regarding the availability of units
- 57.89% involved differences in treatment during the on-site appointment
- 47.36% involved differences in treatment before or after the on-site visit
- 31.57% involved differences in move-in specials offered
- 26.31% involved differences in rental amounts
- 15.78% involved differences in access to rental application
- 10.52% involved differences in security deposit amounts
- 5.26% involved steering

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

- Test 1-194: The black tester was encouraged to look at a sister property while the white tester was not. The white tester was told of a unit that was \$859 while black tester only told of units at range of \$1,100 and above (white tester also told of these units). The white tester received a follow up voicemail almost two months after their visit informing the tester of a current special and new rates, while black tester received no follow up.
- Test 2-201: The white tester received extra availability information outside of her desired budget and move date, while the black tester received no additional availability information. The white tester received information about a current special while the black tester was not told of the special. Both testers were asked and provided their email addresses but only the white tester received a follow up email.

- Test 3-208: Both testers were asked for their contact information but only the white tester received a follow up email and a phone call. In the follow up email that the white tester received was a link and log in information to submit an application. The black tester never received application information in person or electronically.
- Test 4-209: Neither tester was asked what their budget was yet the white tester received an extra and cheaper option for \$640 in comparison to the units the black tester received information on which were \$755-\$805 and \$1,070-\$1,130. Both testers received applications but only the white tester was told that the unit and price could be held for them. The black tester was not asked if they wanted to apply while the white tester was.
- Test 5-003: The black tester was told one unit was available while the white tester was told four were available despite the close proximity of their site visits. The black tester was encouraged to “act fast” while the white tester was assured that a unit would be available around her desired move in date – despite both testers having similar move in dates. The white tester was told the complex is quiet while the black tester was told that the complex strives to keep a “quiet, clean, and respectable complex.”
- Test 6-007: The black tester was told one 1 bedroom unit was available while the white tester was told two 1 bedroom units were available despite visiting the property within hours of each other. The black tester was told of a 2 bedroom unit that would be available in a few weeks while the white tester was told a 2 bedroom unit was currently available. The black tester was only asked for their name and phone number while the white tester was asked to fill out a more in-depth guest card. During the visit, the white tester was told that the complex hoped the white tester would be joining the community; the black tester was not told anything similar.
- Test 7-009: The black tester was given a flyer with leasing information on it. The white tester also received a flyer with leasing information but the leasing agent also reviewed fees and utilities in detail with the white tester. The white tester received a quote before visiting the complex while the black tester only received a quote in person. The black tester was required to show ID to tour a unit while the white tester was not asked for ID to tour a unit and was shown around the amenities. The white tester’s email was requested and received a follow up email while the black tester was never asked for an email address.
- Test 8-022: The black tester was told a unit was unavailable while the white tester was told it would be available in less than two weeks and was quoted a price for the unit. On a different unit discussed, the black tester was quoted \$1,449 while the white tester was quoted \$1,350 despite the close proximity of their site visits. The black tester received no information about utilities, security deposit, employment verification, or rental history like the white tester received. The white tester received a text message from the leasing agent the following day while the black tester received no follow up.
- Test 9-038: The black tester was told that one unit was available while the white tester was told that two units were available.
- Test 10-052: The black tester was told the security deposit was \$125 up to 1st month’s rent while the white tester was told it started at \$125 but could be more. Both testers took tours but viewed different model units. Both testers had similar dates for moving, but the black tester was told a 2 bedroom unit would probably be available at the end of

March (at the far end of the tester's desired move date) while the white tester was told specifically that a 2 bedroom unit would be available March 10th (within the tester's desired move date). Both testers received brochures but they had varying prices on them. Both testers viewed the property within close proximity of each other.

- Test 11-068: The black tester was told no 1 bedroom units were available while the white tester was told two 1 bedroom units were available when each visited on-site. The black tester called back after their visit to get additional clarification and still told of different units and prices than white tester. The black tester had to wait 15 minutes before her tour despite arriving timely for the agreed upon appointment time while the white tester experienced no wait. The white tester was asked for phone number and email address while the black tester was not. Although both testers received a follow up letter in the mail, the white tester received three follow up emails to complete a visit opinion survey while black tester did not.
- Test 12-069: The black tester was required to show ID to view a unit while the white tester was not required to show ID to view a unit. A leasing agent filled out a questionnaire with the white tester while the black tester was never asked similar questions. The white tester received a follow up email and voicemail while the black tester received no follow up despite both testers providing their phone numbers and email addresses. The black tester was not asked if they wanted to apply but encouraged to get on a waitlist instead.
- Test 13-089: The black tester was quoted an application fee of \$35 per lease holder making the total \$70 for the tester and their spouse. The white tester was quoted an application fee of \$35 plus \$10 for other adults making the total \$45 for the tester and their spouse. Both testers received the same information about floor plans but toured different units.
- Test 14-091: Both testers had similar move dates. The black tester was asked about their desired move date to which they replied within the next month yet the black tester was only told about units currently available. The black tester was told no 2 bedroom apartments were available while the white tester was told of 2 two bedroom apartments coming available at the end of the month. The black tester was told about a more expensive two bedroom townhome. The black tester was told that the application fee was \$35 per person while the white tester was told that the application fee was \$35 for the tester and \$20 for the tester's spouse making a \$15 additional cost for the black tester. The white tester was told their \$50 admin and holding fee would be waived but the reason for waiving these fees was not provided. The black tester was not provided similar information on fee waiving.
- Test 15-100: The black tester was given a paper with leasing information (application fee, admin fee, security deposit, and utilities) on it but none of the information was discussed with the black tester while it was discussed verbally with the white tester. The white tester received multiple emails with photos and floor plans both before and after visiting the complex. The white tester was told of two more units available outside of their family's desired move in date which were cheaper options than their price range. The white tester was told a unit could be held for them while the black tester was not told anything similar.

- Test 16-101: The black tester received no information about the application fee, parking fee, or reservation fee as the white tester was. Both testers were asked for ID but only the white tester was asked for a phone number. The white tester was told that the office was open until 6:00 pm that day if they wanted to apply. The black tester received an application but was never asked or encouraged to apply.
- Test 17-137: The black tester only received information about a 1 bedroom despite inquiring about the availability of a 2 bedroom. The white tester received information about both 1 and 2 bedroom units. The white tester was shown a 2 bedroom unit that included a special discounted price for the year. The white tester was told of two specials effecting the administration fee and application fee while the black tester was never told about any specials. The white tester was given exact rent amounts while the black tester was only given ranges. The black tester received no brochures or floor plans while the white tester received both. The white tester was asked for ID, while black tester was not.
- Test 18-146: The white tester was offered a special for the month of May, in person, while the black tester was only told of the special later in a follow up email. The white tester received detailed information about which models were available on various floors while the black tester told broadly that a unit was available.
- Test 19-147: The black tester was told that the application fee was on special for half off the regular rate. The white tester was told the application fee was free on special, that the tester would receive a \$500 gift card for signing a lease, that she could receive an extra cabinet in her bathroom for free, and have assistance painting a wall in her apartment for free. The black tester was not offered any additional specials. The black tester was given information about 3 units while the white tester was given information on 5 but told a total of 16 units were available. The white tester was told the security deposit was refundable and that the holding fee went towards move in fees while the black tester was told neither of these things. Testers visited the property within hours of each other.

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 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 housing 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.

TESTING ACTIVITIES COMPLETED – DISABILITY TESTS

“Reasonable accommodations” are changes to rules, policies, procedures, or practices or changes in the way services are provided for persons who meet the definition of disability under law. 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 service or 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 may be 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”⁴ 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 (ADA) 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.”⁵

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 animals needed 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

⁴ 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.

⁵ *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>

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 with profiles as 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.

- 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 due to 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 20 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>
46201	1	46202	5
46204	3	46208	2
46219	3	46222	2
46226	1	46237	1
46240	1	46260	1

Overall, 3 of the 20 tests, or 15%, showed differential treatment against the person with the disability and their need of a reasonable accommodation. One test was deemed inconclusive because of a lack of detailed information provided by the leasing agent. Although this is a significantly lower percentage of discrimination as compared to the race tests noted previously, it is still very significant.

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:

- 5% involved information requested for verification of disability or need of the accommodation is excessive
- 5% involved restrictions on size or weight of animal
- 5% involved restrictions on breed or type of animal
- 0% involved additional insurance or other requirements
- 0% involved charging of additional rent
- 0% involved charging of increased deposit

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

- Test 1-006: The tester was told that breed restrictions still apply to emotional support animals though they were not told what the restricted breeds are.
- Test 2-021: The tester was told that service animals must be under 25 pounds. The leasing agent was not sure if service animals were allowed and said they would follow up with the tester to clarify but never did.
- Test 3-072: The tester was told that they would need to provide certification from a vet stating that the animal is an emotional support animal along with a note from the tester's doctor stating that the animal is needed. FHCCI Note: The additional vet requirement is a likely violation of fair housing laws.

AUDIT RECOMMENDATIONS

Based on the findings of this audit, the Fair Housing Center of Central Indiana (FHCCI) 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 City of Indianapolis is an entitlement jurisdiction for Community Development Block Grant (CDBG) funds and has an obligation to affirmatively further fair housing. The Analysis of Impediments to Fair Housing Choice (AI) must 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. to try to deter further unlawful actions.
- Put the fair housing complaint process on the city's website along with current and previous AIs.
- 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 and the protected classes tested. However, the testing results provide a strong measure of what is occurring in the Indianapolis 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 market and expansion into areas of sales, lending, and insurance to determine 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, accessibility testing needs to also occur.

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, age, gender identity, and criminal history 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 in this report and other reports. 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.
- 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. They should be located on the City's website with the previously identified items.
- When unlawful discrimination is uncovered, support enforcement efforts to eliminate the identified discrimination.

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

There continues to be a need for more fair housing education or awareness as an impediment to fair housing choice. There is a general lack of knowledge not only in Indianapolis but 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. 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 hearing and 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 9 nonprofit fair housing groups, Michigan has 6 and Illinois has 6. 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.”⁶

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.

⁶ Notice of Funding Availability (NOFA) for HUD’s Fiscal Year (FY) 2013, Page 4.