

Discrimination Against Latino Families in Marin and Sonoma Counties

An Audit Report By

FAIR HOUSING OF MARIN

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FOREWORD

Discrimination in rental housing on the basis of national origin and familial status is illegal under state and federal law. The purpose of this audit was to assess the extent to which Latino families with children experience discrimination or differential treatment in the initial stages of home seeking process.

Those responsible for this report hope the results and recommendations contained herein will heighten awareness and encourage a cooperative effort by all segments of the communities in Marin and Sonoma Counties to eliminate differential treatment of persons by virtue of their national origin and familial status.

Denise Bashline, Testing Coordinator at Fair Housing of Marin, coordinated the tests for this audit; Assistant Director Craig Schechter analyzed the tests.

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AUDIT REPORT

I. INTRODUCTION

This report presents results of an audit for national origin/familial status discrimination against Latino families with children inquiring about rental housing opportunities in Marin and Sonoma Counties in California. The audit took place between November 2015 and January 2016.

A. FAIR HOUSING OF MARIN

Fair Housing of Marin (FHOM) is a private nonprofit agency dedicated to assisting individuals experiencing housing discrimination and educating the community, including tenants, managers, property owners, and residents, as to their rights and responsibilities under federal and state fair housing laws.

B. LEGAL BACKGROUND

1. Federal Fair Housing Laws

Housing discrimination based on race, color, religion, gender, national origin, disability, or familial status (the presence of children in the household) is illegal under Title VIII of the Civil Rights Act of 1968, as amended in 1988, commonly known as the Fair Housing Act (FHA).

The FHA as enacted by Congress in 1968 prohibited discrimination based on race, color, religion or national origin in the sale, rental or financing of housing. In 1974, Congress expanded the FHA to prohibit discrimination based on gender. In 1988, Congress passed the Fair Housing Amendments Act (FHAA), which added families with children and persons with mental and physical disabilities to the categories of people protected from housing discrimination.

The FHAA specifically states that because of race, color, religion, sex, national origin,

disability or familial status, it is illegal to:

- Refuse to sell or rent after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling;
- Discriminate in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities;
- Make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates discrimination, preference, or limitation; or
- Represent that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available.

2. California Fair Housing Laws

The two primary state fair housing laws are the Fair Employment and Housing Act (FEHA) and the Unruh Civil Rights Act. These laws incorporate the same protected classes of persons as federal law, and also prohibit discrimination based on marital status, sexual orientation, source of income, ancestry, and arbitrary factors such as age or occupation.

C. AUDIT BACKGROUND

Real estate transactions, including rentals, purchases, and obtaining mortgage loans and homeowner's property insurance, are often conducted in whole or part over the telephone. Over the past 20 years, FHOM has conducted multiple audits in several Bay Area counties designed to measure the extent of discrimination in rental housing against members of protected classes. Historically, the results of these audits suggest that unlawful discrimination at the initial application stage continues to be pervasive.

1. Previous National Origin/Familial Status Audits Conducted by FHOM

Over the course of the last decade, FHOM has conducted several audits investigating both discrimination against Latino home seekers and home seekers with children. In 2005, FHOM conducted a "Latino Voice Identification" in Marin, Sonoma, and Napa counties. That study revealed that Latinos experienced less favorable treatment in 55%

of the tests conducted in Marin and in 80% of tests conducted in Sonoma. In 2012, FHOM conducted a “Latino Voice Identification” telephone audit in the City of Richmond, California. This audit revealed that Latino testers received less favorable treatment in the rental housing market 35% of the time. In 2013, FHOM conducted a similar “Latino Voice Identification” telephone audit in Solano County. This audit revealed that Latino testers received less favorable treatment in the rental housing market 50% of the time.

In 2011, FHOM also conducted an audit investigation of familial status discrimination (i.e., discrimination against families with children) in Marin and Sonoma Counties. This audit revealed that families with children received less favorable treatment 31% of the time.

In the 2015-16 audit, FHOM sought to expand the scope of its audit methodology to compare how Latino families with children were treated in the rental market, due to concerns that housing providers held and acted on stereotypical views about Latino families, for example, that Latinos are more likely than Non-Latino families to have multiple children, and that they are therefore less desirable tenants.

II. AUDIT GOALS AND METHODOLOGY

A. WHAT IS A FAIR HOUSING AUDIT?

A fair housing audit is a way to assess compliance or non-compliance with federal and state fair housing laws. It is a controlled measurement of the difference in quality, quantity, and content of information and services accorded to paired customers (testers) by housing providers. An audit differs from a complaint-based test in that it gives a broad overview of housing provider behavior in a given market during a certain time period. Public governmental bodies and private agencies throughout the country routinely conduct audits as an educational and enforcement tool.

B. AUDIT GOALS

1. Identify instances of differential treatment at available rental sites, including duplexes and larger multi-family complexes, thus indicating the extent to which Latino families with children face difficulty in securing rental housing in Marin and Sonoma Counties due to national origin and/or familial status discrimination.

2. Conduct on-site tests where phone results indicate potential discrimination, and to conduct additional investigations at sites where results suggest that further investigation could yield stronger evidence of discrimination.
3. Bring minor violations to the attention of housing providers, in order to increase awareness of the potential consequences of engaging in discriminatory practices and prevent future transgressions.
4. File enforcement proposals in cases with strong evidence of differential treatment.
5. Increase awareness by housing providers of the difficulties persons with hearing impairments experience in securing rental housing.
6. Make Latino home seekers with children aware of discriminatory practices they may experience and the services provided by FHOM to secure housing rights.
7. Offer training to housing providers on fair housing laws and practices in order to forestall future discrimination.

C. GEOGRAPHIC SCOPE OF AUDIT

The audit included properties in the Marin County cities of Corte Madera, Fairfax, Larkspur, Mill Valley, Novato, San Anselmo, San Rafael, Sausalito, and Tiburon and Sonoma County cities of Cloverdale, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, and Sonoma. These locations represent both the most densely populated cities in both counties as well as more suburban communities with lower population densities.

D. AUDIT METHODOLOGY

1. Sampling Techniques

The audit coordinator selected appropriate properties to test within the target geographic areas from advertisements posted online.

2. Matched Pair Testing

- a. Telephone and site tests involved pairs consisting of one Latino (“protected”) tester, and one Non-Latino (“control”) tester, where each tester’s profile included a spouse and a child, or two testers of the same national origin where the protected tester’s profile

was of a married person with a child, whereas the control tester's profile was of a married person without a child. Each tester was matched to his or her counterpart as closely as possible in age and gender.

b. The audit coordinator assigned profiles to each tester, with roughly equivalent rental credentials and family compositions (i.e., a spouse and a young child). Both profiles for each test pair were designed to satisfy typical rental eligibility requirements and to avoid any indication of difference in other protected class characteristics. The audit coordinator instructed testers to express identical housing needs. For example, each member of a pair might have been instructed to ask about the same advertised unit in the apartment complex.

3. Tester Training and Selection

a. All testers received fair housing tester training, and specialized training in audit procedures.

b. FHOM staff recorded each tester's voice and submitted the recordings to a panel of people of varying genders and ethnicities to identify each tester's ethnicity by voice. Only testers who were consistently identified as "Latino," "Hispanic," or by reference to a particular nationality (such as Mexican or Guatemalan) were selected as Latino testers for this audit. Only testers who are consistently identified by the panelists as White and Non-Latino were selected as control testers for this audit.

4. Testing Procedure

a. The Audit Coordinator called a phone number corresponding to a subject housing advertisement during regular business hours. The purpose of the "advance call" was to determine whether the advertised unit was still available, and for site tests, to confirm the location of the advertised unit and to determine whether the listing agent keeps regular office hours whereby he or she is likely to schedule appointments to show the advertised unit.

b. Each tester called an assigned telephone phone number during a designated time frame.

c. The first tester of a pair called and left a message if he or she did not reach an agent directly. If the tester did not successfully connect with an agent, he or she called a second time, either later that day or the next day. The second tester of a pair called after

the first tester had spoken with an agent or left two messages.

d. The audit coordinator instructed each tester to ask about several details of the available rental during each call or site visit in order to elicit similar information from the housing provider so that multiple points of comparison would exist between the two tests in each pair. Information requested by testers included the following:

- Amount of rent and security deposit;
- Amount of application or credit check fee;
- General lease terms; and
- Availability of other units.

e. For each call, testers completed a Tester Report Form documenting the information received regarding unit availability, rental terms and conditions, application process and qualifications. Both testers wrote and submitted a narrative description of each telephone or in-person contact. Both testers also submitted written descriptions of any subsequent contact from the housing provider by phone or email.

f. FHOM staff debriefed testers upon completion of each test and reviewed their written reports.

5. Test Analysis

a. FHOM staff compared the two tester reports for each test to assess whether the testers received the same treatment and information from the housing provider. Staff compared information in the following areas:

- i. Unit availability;
- ii. Rental terms and conditions (including amenities and special offers);
- iii. Screening and follow-up;
- iv. Information about applicant qualifications, eligibility, or rental criteria; and
- v. Comments, encouragement, and general treatment.

b. Where tests revealed evidence of discriminatory statements or differential treatment disfavoring Latinos or other protected classes, they were classified as meriting further investigations.

III. RESULTS

Between September 2015 and March 2016, FHOM conducted **49 paired tests** in Marin and Sonoma Counties. The tests fell into two groups: 1) those without significant differences or resulting in inconclusive outcomes and 2) those meriting further testing.

Tests merit further testing if differential treatment was found during the initial test. “Differential treatment” means there were demonstrable discrepancies regarding the amount, quality, or substance of the information received by the testers, to the disadvantage of the protected tester, such as:

- Refusing to rent or negotiate;
- Making a false representation about availability;
- Offering different terms, conditions, privileges or services;
- Making discriminatory statements; or
- Screening

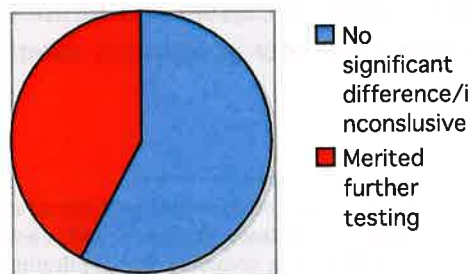
Other forms of differential treatment include discrepancies in the information received by each tester. The discrepancies favored the control tester, but not to the clear detriment of the protected tester, such as:

- Offering information that varies in quality;
- Encouraging a caller to apply; and
- Following up with a caller after his or her initial inquiry.

For purposes of this report, “no differential treatment” means each paired tester received identical or almost identical information. “Inconclusive outcome” includes those tests where the discrepancies did not favor the control tester, or tests where mitigating factors might explain certain differences.

A. Test Outcomes

25 tests (51%) resulted in no significant differences in treatment or an inconclusive outcome. In 24 out of 49 tests (or 49%), there were at least some discrepancies or disadvantages in treatment for the Latino tester and/or the tester with a child, therefore meriting further testing.



B. Types Of Discrimination Or Differential Treatment

The following is a description of types of discrimination encountered by testers during the audit, as well as a chart indicating the frequency of the types of differential treatment by test.

1. Comments, Encouragement, and General Treatment

The manner in which an owner or manager communicates regarding units for rents is often an important indication of their interest – or lack thereof – in a potential tenant. Discouraging or disparaging remarks directed at an applicant from a protected class may be evidence of an attempt to discourage that applicant from pursuing a housing opportunity.¹ Discriminatory statements are illegal under both federal and state fair housing laws. General treatment may also include encouraging only one tester by providing additional information on the application process.

2. Rental Terms and Conditions

Differences in rental terms offered to callers may indicate a housing provider's desire to discourage – or encourage – certain types of prospective tenants. The terms and conditions of a rental unit may have a significant impact on an applicant's interest in pursuing a unit and financial ability to procure a rental unit. Rental terms and conditions include the amount of rent or deposits, the type of deposits (i.e., security deposits or holding deposits), and minimum income requirements. Minimum income requirements can be a way to discourage applicants, as a minimum income standard acts as an inflexible threshold question for an applicant: a caller who does not meet an income standard will be immediately discouraged from applying.

3. Availability

The number of current and future units offered to an applicant may indicate whether a housing provider is seriously interested in making housing opportunities available.

¹ In some instances, tests revealed evidence of discriminatory statements on bases that were not the focus of this audit investigation. For instance, during one test, a housing provider made a comment that applications from married couples would be treated more favorably than applications from un-married couples; during another test, the agent made comments indicating source of income discrimination. FHOM considers these tests as meriting further testing, because marital status and source of income are protected classes under California law.

4. Information About Applicant Eligibility, Qualifications, or Rental Criteria

Differences in the amount and/or type of information a housing provider gives to callers about who will qualify for tenancy may indicate a housing provider's desire to discourage or encourage specific types of prospective tenants. Selective provision of information about minimum income requirements, minimum credit scores, documentation of income, and the application process may indicate that a housing provider employs different standards for evaluating prospective tenants based on their membership in a protected class; or that they might give more information to certain prospective tenants to help them qualify (and possibly more quickly) for tenancy over others.

5. Screening & Follow-Up

The decision to accept a potential applicant's call or to follow up with a potential applicant after his or her initial inquiry may indicate whether a housing provider is excluding people in protected classes from their tenant selection process or arbitrarily restricting an applicant's choice of available units and information received based on their membership in a protected class.

Types of Differential Treatment, By Test

Test #	Comments, Encouragement, & General Treatment	Different Terms & Conditions	False Representation About Availability	Quality of Information	Follow-Up
108751					<input checked="" type="checkbox"/>
108752	<input checked="" type="checkbox"/>				
108800				<input checked="" type="checkbox"/>	
108802				<input checked="" type="checkbox"/>	
108811		<input checked="" type="checkbox"/>			
108812					<input checked="" type="checkbox"/>
108816			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
108817	<input checked="" type="checkbox"/>				
108818	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
108819					<input checked="" type="checkbox"/>
108822	<input checked="" type="checkbox"/>				
108823	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
108825					<input checked="" type="checkbox"/>
108826	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
108827				<input checked="" type="checkbox"/>	

108828		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
108829	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
108830				<input checked="" type="checkbox"/>	
108834		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
108839		<input checked="" type="checkbox"/>			
108840				<input checked="" type="checkbox"/>	
108846				<input checked="" type="checkbox"/>	
108850		<input checked="" type="checkbox"/>			
108857					<input checked="" type="checkbox"/>
Total	7 (29%)	8 (33%)	3 (12.5%)	10 (42%)	5 (21%)

Tests Meriting Further Investigation:

In 24 tests, the Latino tester and/or the tester with a child were subjected to discriminatory comments, or received less favorable treatment than the Non-Latino tester and/or the tester without a child. In some instances, the housing provider told the tester with a child that the available unit was too small, or that there were no families with children in the complex. In several other instances, both tester reached the housing provider's voicemail; only the Non-Latino tester received a return call, despite calling *after* the Latino tester. In some other instances, the Non-Latino tester was told about rent discounts or waived deposits that the Latino tester was not.

Tests Without Significant Differences or Resulting in Inconclusive Outcomes:

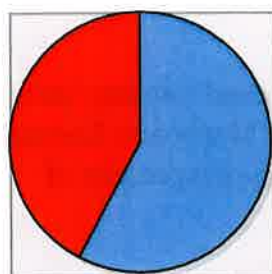
25 tests did not show evidence of differential treatment or were inconclusive. In tests with no significant difference in treatment, testers received relatively similar treatment and were given the same substantive information regarding availability, rent, security deposit, minimum income requirement, and total move-in cost. Inconclusive tests included those where the testers received slightly different information, yet the differential treatment did not clearly benefit one tester over the other. Inconclusive tests also included those where the protected tester was able to reach a housing provider, but the control tester was unable to make contact.

Test Results by City

City	Number of Tests Conducted, by City	Number of Tests Meriting Further Testing, by City
Corte Madera	1	1
Fairfax	1	1
Larkspur	2	2
Mill Valley	2	0
Novato	6	2
San Anselmo	1	0
San Rafael	10	4
Sausalito	2	1
Tiburon	1	0
Marin County	26	11
Cloverdale	1	0
Petaluma	4	3
Rohnert Park	4	3
Santa Rosa	12	7
Sebastopol	1	0
Sonoma	1	0
Sonoma County	23	13

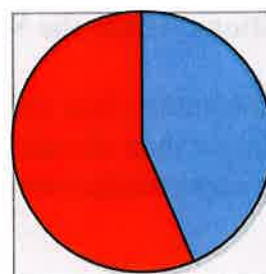
MARIN: 42% of tests merited further testing

SONOMA: 56.5% of tests merited further testing



■ No significant difference/inconclusive
■ Merited further testing

14



■ No significant difference/inconclusive
■ Merited further testing

IV. CONCLUSIONS

A. GENERAL

Out of 49 tests in Marin and Sonoma counties, 24 of the tests (49%) merit further testing because of the differential treatment favoring the Non-Latino tester and/or the tester without a child. 25 tests (51%) resulted in no differential treatment or an inconclusive outcome. **Thus, in about half the tests, there were at least some discrepancies or disadvantages in treatment for the Latino tester and/or the tester with a child.**

Of the 26 tests conducted in Marin County, 42% merit further testing. Of the 23 tests conducted in Sonoma County, 56.5% merit further testing.

B. AUDIT LIMITATIONS

1. Pre-Application Testing Underestimates the Degree of Discrimination

By virtue of its very design and purpose, this audit does not identify the full scope of discriminatory conduct. This audit sought to measure only the degree of discrimination an individual would encounter at the most preliminary stage of the housing search. Because testers did not submit applications, this audit cannot identify housing providers who dispense information freely but discriminate later in the tenant selection process. This suggests the need to perform application tests in addition to the phone and site tests conducted to date, especially in those instances where preliminary conversations suggest differential treatment. Completed application tests could yield evidence of housing providers turning down qualified applicants because of their national origin.

Even application tests would not detect the full extent of discrimination against in-place Latino tenants with children. Latino renters report differential treatment based on national origin, including differential terms and conditions such as responsiveness to maintenance requests. This audit cannot purport to examine evidence of this type of discrimination.

2. Market Conditions Affect the Scale and Scope of Testing

Marin and Sonoma counties face a chronic shortage of affordable rental housing units, particularly units larger than one and two bedrooms in size. In both Marin and Sonoma, affordable housing opportunities are concentrated in areas with high percentages of

racial minorities, including Latino families. The lack of affordable housing opportunities skews the location of testing sites to certain geographical areas. Furthermore, because the demand for housing outweighs supply, initial and particularly follow up testing is difficult because units are not likely to remain on the market for a significant period of time to allow for multiple tests.

C. RECOMMENDATIONS

- **Disseminate audit results** to Marin and Sonoma County officials, the general public, media, and advocacy groups as an important educational tool.
- **Monitor sites** where there was an indication of differential treatment. FHOM may take further action.
- **Offer Fair Housing training** seminars to the owners, managers, and agents audited in this report. The audit points out the need for continuous training in fair housing laws for all owners and managers of rental property, with an emphasis on the subtleties of differential treatment and the need to supply uniform information and treatment to all potential applicants, even over the phone. Fair Housing of Marin has conducted *Fair Housing Law and Practice* seminars throughout the North Bay for many years. Such educational endeavors should be supported by public officials and aggressively marketed to housing industry providers through housing associations and elected officials. It is important to ensure that all housing providers and their staffs receive fair housing information and training.
- **Increase media coverage.** Request that newspapers in Marin and Sonoma Counties feature articles on national origin discrimination and barriers faced by persons with Latinos with children seeking information about rental housing, and consider providing free advertisements on recognizing and avoiding housing discrimination as a public service.
- **Send notification letters to housing providers** of properties where testing showed some differential treatment.
- **Conduct additional audits.** Because discrimination is so often subtle or cloaked as helpful suggestions, it may go undetected. Comparative studies such as this one are the best way to bring such practices to light. We recommend that Marin and Sonoma County consider funding similar studies in the future.

- **Housing Industry Action.** Ask members of the housing industry, such as property management firms in the area and local rental housing associations, to take a positive stance that fair housing is good business and good *for* business. We recommend that these organizations publicly declare their support with a statement on their letterhead, outreach materials, and forms.
- **Spread the word to potential targets.** Work with other agencies serving the Latino community to inform their clients of their fair housing rights and available services.
- **Promote display of required HUD poster.** Ask that rental property owners and real estate offices check to make sure that the required HUD equal opportunity housing provider logo is posted in plain view for applicants. The poster can be downloaded from the HUD website at <http://www.hud.gov/offices/adm/hudclips/forms/files/928-1.pdf> or a copy can be obtained by calling toll free 800-347-3739.