

**Race and Source of Income Discrimination
in Rental Housing in
Marin, Sonoma, and Solano Counties**

An Audit Report By

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June 2019

FOREWORD

Discrimination in rental housing on the basis of race is illegal under state and federal law. In addition, in the state of California – as well as fifteen other states – it is unlawful to discriminate based upon source of income. However, California is one of the few states that have an exception excluding Housing Choice Vouchers (HCVs) from the source of income protections. In California, source of income has been defined by courts as lawful verifiable income *paid directly to the tenant*, which thereby excludes individuals who receive housing subsidies, as the local Public Housing Authority pays its portion directly to the housing provider.

The purpose of this audit was to assess the extent to which African American Housing Choice Voucher recipients experience discrimination or differential treatment in the initial stages of home seeking process, based on their race.

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 County, Sonoma County, and Solano County to eliminate differential treatment of persons by virtue of their race. Local Public Housing Authorities to pay close attention to the lessons learned and relevant recommendations.

The audit was carried out by Abraham Ramirez and Julia Howard-Gibbon, Investigation Coordinators at Fair Housing Advocates of Northern California, under the supervision of Executive Director Caroline Peattie.

Support for this project came from the United States Department of Housing and Urban Development. Fair Housing Advocates of Northern California is solely responsible for the contents of this report.

TABLE OF CONTENTS

FOREWORD	2
I. <u>INTRODUCTION</u>	4
A. FAIR HOUSING ADVOCATES OF NORTHERN CALIFORNIA	4
B. LEGAL BACKGROUND	4
1. Federal Fair Housing Law	4-5
2. California/Local Fair Housing Laws	5-6
C. OVERVIEW OF HOUSING CHOICE VOUCHER PROGRAM	6-7
D. AUDIT BACKGROUND	7-8
1. Previous Race Audits Conducted by FHANC in Marin/Sonoma/Solano	8
II. <u>AUDIT GOALS AND METHODOLOGY</u>	8
A. WHAT IS A FAIR HOUSING AUDIT?	8
B. AUDIT GOALS	9
C. GEOGRAPHIC SCOPE OF AUDIT	9-10
D. AUDIT METHODOLOGY	10
1. Sampling Techniques	10
2. Matched Pair Email Testing	11-12
3. Matched Pair Site/Phone Testing	12
4. Recruitment, Screening, and Training	12-13
5. Email Testing Procedure	13-14
6. Site/Phone Testing Procedure	14
7. Test Analysis	15-16
III. <u>RESULTS</u>	16
A. TEST OUTCOMES	17
1. Email Testing	17-20
2. Site/Phone Testing	20-28

B. TYPES OF DISCRIMINATION OR DIFFERENT TREATMENT BASED UPON RACE/SOURCE OF INCOME	28
1. Refusal to Rent or Negotiate for Rental	28
2. Offering Different Rental Terms and Conditions	28
3. Making False Representations About Availability	29
4. Otherwise Making Housing Unavailable	29
5. Comments, Steering and General Treatment	29
6. Quality/Quantity of Information	30
7. Screening/Follow Up	30
C. RESULTS OF FOLLOW UP INVESTIGATIONS	30
D. OTHER TYPES OF DISCRIMINATION OR DIFFERENT TREATMENT REVEALING A NEED FOR FUTURE TESTING	31
E. TYPES OF DIFFERENTIAL TREATMENT, BY TEST	32-35
IV. <u>CONCLUSIONS</u>	36
A. GENERAL	36
B. LESSONS AND FEEDBACK FOR PUBLIC HOUSING AUTHORITIES	36-38
C. AUDIT LIMITATIONS AND LESSONS	38
1. Pre-Application Testing Underestimates Discrimination	38
2. Scheduling Factors May Have Influenced the Audit Results	39
3. Difficulties Locating Eligible Properties	39
4. Three-part Email Testing	40
D. RECOMMENDATIONS	40

RACE AND SOURCE OF INCOME DISCRIMINATION IN RENTAL HOUSING

AUDIT REPORT

I. INTRODUCTION

This report presents results of an audit for race discrimination against African-American renters in Marin, Sonoma, and Solano Counties in California. The audit took place between January and March 2019.

A. FAIR HOUSING ADVOCATES OF NORTHERN CALIFORNIA

Fair Housing Advocates of Northern California (FHANC), formerly Fair Housing of Marin, 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. The mission of FHANC is to ensure equal housing opportunity and to educate the community on the value of diversity in our neighborhoods.

FHANC provides free comprehensive fair housing counseling services to individuals alleging housing discrimination in Marin County, Sonoma County (except the incorporated city of Petaluma), and the cities of Fairfield and Vallejo in Solano County. FHANC also provides other services, such as foreclosure prevention counseling and trainings to housing providers, in other neighboring counties.

B. LEGAL BACKGROUND

1. Federal Fair Housing Laws

Housing discrimination based on race, color, religion, national origin, sex/gender, 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 sex/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/gender, 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;
- Represent that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available;
- For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin; and
- A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

2. California/Local 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, immigration status, citizenship, primary language and arbitrary factors such as age or occupation.

In late 2016, Marin County passed a local fair housing ordinance that established

protections for renters based upon source of income, including renters using third-party housing subsidies such as Housing Choice Vouchers (HCVs). While California state law provides that it is unlawful to discriminate based upon one's source of income, the definition is narrow and does not include third-party housing subsidies such as HCVs, Veterans Affairs Supportive Housing (VASH), Housing Opportunities for People with Aids (HOPWA), and Shelter Care Plus vouchers. The ordinance makes it unlawful for housing providers in the unincorporated parts of Marin County to refuse to consider renters using housing subsidies, to offer different terms and conditions, such as higher security deposits, or to make discriminatory statements, such as "No Section 8."

Following the County, a number of other jurisdictions have also adopted similar policies in order to address some of the barriers to housing choice faced by individuals using these subsidies, who are often members of other protected classes. In April 2018, the town of Fairfax implemented a similar ordinance, followed by the city of Novato in September 2018, and the cities of San Anselmo and San Rafael in December 2018. During the period in which audit testing was conducted, all local ordinances in the County of Marin were in effect.

While the County of Marin and multiple cities and towns have enacted local fair housing ordinances, there was significant opposition from the landlord community. FHANC monitors Craigslist for advertisements with potentially discriminatory statements and sends notification letters, sharing its fair housing concerns. Since the enactment of these local ordinances, FHANC has made concerted efforts to focus its Craigslist monitoring on jurisdictions with recently implemented ordinances to help spread awareness. The response from housing providers varied from hostility to appreciation.

To date, Sonoma and Solano County do not have any such similar protections.

C. OVERVIEW OF HOUSING CHOICE VOUCHER PROGRAM

The Housing and Community Development Act of 1974 developed Section 8 rental housing assistance programs to assist low-income families, seniors, and people with disabilities to access safe, affordable housing. The Quality Housing and Work Responsibility Act of 1988 combined the Section 8 voucher and certificate programs under the Housing Choice Voucher Program (HCVP). The HCVP is the Department of Housing and Urban Development (HUD)'s largest rental assistance program, providing

assistance to more than 2.2 million low-income families¹. HUD funds Public Housing Authorities (PHAs) nationwide; the PHAs administer the HCV program and pay funds directly to private landlords, with the HCV recipient paying the remaining portion of contract rent, which is an amount determined based upon the household income. HCV recipients pay approximately 30% of the household income toward rent (but it may be up to 40%) and the PHA covers the balance, and in order to be eligible their income must not exceed 50% of the Area Median Income. Local payment standards based upon HUD Fair Market Rents set a cap for contract rent, which limits the pool of available housing where participants may use their HCVs.

While housing providers are not obligated to consider HCVs – that is, unless a state or local government passes a law that provides such a protection – refusal to accept HCVs is often a pretext for discrimination based upon race. There are many barriers in housing faced by HCV recipients, who often represent members of protected classes, such as people with disabilities, families with children, and racial and ethnic minorities. These barriers and concerns of disparate impact discrimination are some reasons why certain jurisdictions (including some towns and cities subject to this audit) have enacted local ordinances that establish additional source of income protections including HCV recipients.

In order for the HCV program to function as it was intended and provide safe, stable housing for low-income individuals and families in a manner that promotes racial integration, greater participation is required from a broader range of housing providers.

D. 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. For more than 20 years, FHANC has conducted multiple telephone and in-person audits in several Bay Area counties designed to measure the extent of discrimination in rental housing against members of protected classes, particularly African-Americans. While FHANC has found significant discrimination through phone testing, in-person site testing is likely to reveal further details of unintentional and intentional discriminatory practices. In addition, FHANC also has experience conducting email audit testing based upon race, using email addresses with common,

¹ U.S. Department of Housing and Urban Development, Office of Policy Development and Research, September 20, 2018. <https://www.huduser.gov/portal/sites/default/files/pdf/Landlord-Acceptance-of-Housing-Choice-Vouchers.pdf>

racially identifiable names. Historically, the results of these audits suggest that unlawful discrimination based on race continues to be pervasive.

1. Previous Race Audits Conducted by FHANC in Marin, Sonoma, and/or Solano Counties

In 2001, 2008, 2009, 2010, and 2011, FHANC conducted race audit testing in Marin, Sonoma, and/or Solano Counties. Results of this testing indicated discrimination against African-American renters whether the testing was conducted over the telephone or in person. In 2001, FHANC found that African-American testers encountered less favorable treatment than Caucasian testers 33% of the time in Marin County. In 2008, FHANC conducted a race voice ID audit in Marin County, finding a similar proportion of differential treatment disfavoring African-American renters (32%). In 2010, FHANC conducted a race voice ID audit in Sonoma County, finding that African-American testers encountered less favorable treatment than Caucasian testers in the majority of the tests conducted (68%). In 2011, FHANC found that the prevalence of this differential treatment was nearly double in Solano County, with 60% of African-American testers experiencing less favorable treatment than Caucasian testers. In 2016-2017, FHANC conducted a race audit in Marin and Sonoma Counties, indicating significant discrimination in both counties, with 68% of tests conducted in Marin County and 38% of tests conducted in Solano County indicating less favorable treatment toward African-American testers. FHANC had previously conducted race site with site testing in Marin County in 1993 and 1997; those audits showed evidence of differential treatment based on race in 33%-47% of tests.

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 applicants (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. To identify instances of differential treatment at available rental sites, including duplexes and larger multi-family complexes, thus indicating the extent to which African-American renters using HCVs face difficulty in securing rental housing in Marin, Sonoma, and Solano Counties due to race discrimination.
2. To conduct additional on-site tests where results indicate potential discrimination, and to conduct additional investigations at sites where results suggest that further investigation could yield stronger evidence of discrimination.
3. To 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. To file enforcement proposals in cases with strong evidence of differential treatment.
5. To increase awareness by housing providers of the difficulties African-American renters and HCV recipients experience in securing rental housing.
6. To make African-American home seekers, including HCV recipients, aware of discriminatory practices they may experience and the services provided by FHANC to secure housing rights.
7. To 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 email testing as well as site/phone testing, with differences in geographic scope.

The email testing portion of the audit focused on jurisdictions in Marin County with local source of income ordinances in place, including the cities and towns of Fairfax, Novato, San Anselmo, and San Rafael, as well as Unincorporated Marin.

The site/phone testing portion of the audit included properties in Marin, Sonoma, and Solano Counties. In Marin County, tested properties were located in the cities of

Fairfax, Kentfield, Mill Valley, Novato, San Anselmo, San Rafael, and Tiburon². The audit also included properties in the Sonoma County cities of Cotati, Healdsburg, Petaluma, Rohnert Park, Santa Rosa, and Sebastopol³. In addition, the audit also included properties in Benicia, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo in Solano County⁴. These locations represent both the most densely populated cities in Marin, Sonoma, and Solano Counties (e.g. Novato, San Rafael, Santa Rosa, and Vallejo), as well as more suburban communities with lower population densities.

D. AUDIT METHODOLOGY

1. Sampling Techniques

The investigations coordinators selected appropriate properties to test within the target geographic areas from advertisements posted on online sources, including Craigslist.com, Apartments.com and Zillow.com, as well as sign postings.

Investigations coordinators did not select properties where the advertisement included any statement as to whether the housing provider accepts or does not accept Housing Choice Voucher Program subsidies (also known as “Section 8”). For example, listings that advertised either “no Section 8” or “Section 8 welcome” were not selected for testing. The investigations coordinators only selected properties where the advertised rent did not exceed the maximum payment standard for the size of the unit and the geographic area, pursuant to the Housing Choice Voucher Program⁵. Shared homes were not tested, nor were vacation homes or short-term rentals.

Please note that in the state of California, the law provides that income standards used to assess eligibility for rental housing must be based on the portion of rent paid by the tenant if the tenant receives a government rental subsidy. *See* Cal. Gov. Code §12955(o).

2 The audit did not include the smaller unincorporated townships such as Nicasio, Inverness, or Bolinas in Marin County because of the smaller population and lack of available rental housing, particularly complexes with more than 2-3 units. In addition, some larger cities were not tested due to lack of eligible availabilities (for instance, advertisements included the phrase “no Section 8” or the contract rent was above the relevant payment standard).

3 The audit did not include the smaller cities and unincorporated townships such as Windsor, Monte Rio, and Guerneville in Soma County because of the smaller population size and lack of eligible properties for the reasons noted in Footnote 2.

4 The audit did not include the smaller cities and unincorporated townships of Dixon, Elmira, and Birds Landing because of the smaller population size and lack of available rental housing, particularly complexes with 2-3 units and those within the eligibility requirements for Section 8.

5 Due to difficulties locating eligible properties in Solano County, occasionally a tested property was just barely above the payment standard.

2. Matched Pair Email Testing

- a. The investigations coordinators conducted email tests at properties in Fairfax, Novato, San Rafael, and San Anselmo, cities and towns with local source of income ordinances which protect voucher holders in Marin County only. Each email test had two parts consisting of one control profile and one protected profile.
- b. The investigations coordinators created one control profile (“Control Email Profile”) and one protected profile (“Protected Email Profile”) for each test; the tests were divided in half between male and female profiles. The investigations coordinators set up email accounts with different providers (gmail, yahoo, and hotmail) for the names assigned to each profile. The Control Email Profiles had a stereotypically non-Latinx White-sounding name and the Protected Email Profile had a stereotypically African-American-sounding name. The investigations coordinators chose first names from a list of the twenty “Whitest” and “Blackest” names based on birth-certificate information for every child born in California since 1961⁶ and last names from a list of the most common surnames for “Blacks” and “Whites” based on the United States Census⁷. The investigations coordinators surveyed a number of people to test the assumption of what ethnicity or race the average person would associate with each of the names proposed. Only names that were clearly identifiable as African-American were used for the Protected Email Profiles and only names that were clearly identifiable as non-Latinx White were used for the Control Email Profiles.
- c. All profiles had roughly equivalent rental credentials, including similar incomes from employment, except the Protected Email Profiles had slightly more stable employment and rental history than their control counterparts. All profiles included participation in the Housing Choice Voucher Program (in other words, all profiles had Section 8 vouchers). Incomes for the profiles were low enough to qualify for the Housing Choice Voucher program but high enough to cover basic monthly expenses. Both profiles for each paired test were designed to avoid any indication of difference in protected class characteristics other than race. If a profile included a spouse, it was matched with another profile that also included a spouse.
- d. The emails sent to housing providers will express identical housing needs (eg:

⁶ This list can be found at <https://abcnews.go.com/2020/top-20-whitest-blackest-names/story?id=2470131> and is based on a large data set of birth-certificate information for every child born in California since 1961 and is referred to in the book “Freakonomics: A Rogue Economist Explores the Hidden Side of Everything.”

⁷ This list can be found at <https://names.mongabay.com> and is based on the 2000 U.S. Census.

looking for a one- or two-bedroom apartment) but will be worded slightly differently from each other in order to avoid detection that the email is a test.

3. Matched Pair Site/Phone Testing

- a. In-person site or phone tests involved a pair of testers consisting of one African-American tester (“Protected Tester”) and one White tester (“Control Tester”). Each tester was matched to their counterpart as closely as possible in age, gender and temperament and none of the testers had a visible or obvious disability or disabilities.
- b. The investigations coordinators assigned profiles to each tester, with roughly equivalent rental credentials, including similar incomes from employment, except the protected testers had slightly more stable employment and rental history than their control tester counterparts. All profiles included participation in the Housing Choice Voucher Program (in other words, all profiles had Section 8 vouchers). Incomes for the profiles were low enough to qualify for the Housing Choice Voucher program but high enough to cover basic monthly expenses. Both profiles for each paired test were designed to avoid any indication of difference in protected class characteristics other than race. None of the profiles included children in the household or any disabilities. If a profile included a spouse, it was matched with another profile that also included a spouse.
- c. The investigations coordinators instructed testers to express identical housing needs. For example, each member of a pair might have been instructed to ask for a one- or two-bedroom apartment at the advertised complex.

4. Recruitment, Screening, and Training of Testers

- a. All testers received fair housing tester training and training in investigations procedures. All testers also received specialized training in the Housing Choice Voucher Program so they would be able to adequately answer questions about the program if asked by the housing provider.
- b. Only testers whose physical appearances are clearly identifiable as “Black” or “African-American” were selected as Protected Testers for site tests. Only testers with voices that are clearly identifiable as “Black” or “African-American” were selected as Protected Testers for phone tests. Audio recordings of potential tester’s voices were reviewed by a panel consisting of individuals from a variety of backgrounds, including

different races and ethnicities; only testers clearly identifiable were used in phone tests.

5. Email Testing Procedure

- a. The investigations coordinators created an email address for each profile. The email address for each profile included some variation of either the first, last or full name of the name associated with the profile.
- b. The investigations coordinators also assigned a mobile phone number to each profile. The phone numbers corresponded to either a pay-as-you-go mobile phone owned by FHANC or a Google Voice number. The investigations coordinators had control over all of the mobile phones and/or Google Voice numbers. The investigations coordinators set up the phone's default outgoing voicemail greeting on each mobile phone stating only the phone number for the phone. FHANC did not record an outgoing greeting.
- c. The investigations coordinators identified listings online for available rental properties that met the investigations criteria and that provide an email address for the listing agent and/or the housing provider or an online form used to contact the listing agent and/or the housing provider.
- d. An investigations coordinator sent an email from the email address assigned to the Protected Profile to the listing agent asking to view the listed property. The initial email included the following information: the name assigned to the profile, the sender's desire to view the property or other similar units, the sender's participation in the Housing Choice Voucher Program, that the sender has good credit (for example, "I have good credit") and the mobile phone number associated with the profile. The email also included a request that the agent respond preferably by email or, if necessary, by text message.
- e. An investigations coordinator then, after an appropriate amount of time, sent an email to the housing provider from the Control Email Profile. The email included the same information as the email from the Protected Email Profile, except the wording of the email was changed just enough to avoid detection that the email is a test.
- f. The investigations coordinator regularly checked the email addresses and the mobile phones associated with each profile. If an email received no response from the listing agent, the investigations coordinator then sent a follow up email at the end of the day or the following day. If the listing agent responded with a request for additional

information, the investigations coordinator responded to the request with information based on the corresponding profile.

g. For each email test, the investigations coordinator completed an Email Test Report Form documenting information gathered from the exchange between the coordinator and the listing agent, including whether the agent indicated a refusal to accept an application from a participant in the Housing Choice Voucher Program and/or whether the listing agent failed to respond after the initial contact indicating that the sender was a participant in the Housing Choice Voucher Program.

6. Site/Phone Testing Procedure

a. The investigations coordinators identified rental property listings in the target geographic areas that fit the investigations criteria. The investigations coordinators created test assignments for one Control Tester and one Protected Tester based on the information collected from the advertisement. The test assignments included each tester's profile information as well as instructions for how to conduct the test (i.e., contact information for making appointments or date/time for "drop-in" visits).

b. The investigations coordinators briefed the testers chosen for each test via phone or email. Each tester was sent a Tester Assignment form, which included test-specific instructions. All testers reviewed their test assignment and protocols and acknowledged receipt and understanding of the test instructions. Testers discussed any questions or concerns about the test protocol or their assignments with the test coordinator.

c. For site tests, each tester visited the housing provider after either: making an appointment or dropping-in during the hours specified in the advertisement (or confirmed via phone). Testers scheduling appointments attempted to reach the housing provider via telephone unless the advertisement clearly indicated an email address instead of a phone number. The tester documented all contacts with the housing provider.

d. For site and phone tests, testers used standardized test protocols designed to gather key information to assess differential treatment. Testers introduced themselves to the housing provider, and asked about the advertised unit, or if it was not available, about any other comparable units in their price range, minimum number of bedrooms (based on the family composition of the tester's profile), and move-in date range. Testers did not agree to undergo a credit check. The Protected Tester initiated the first test of the

pair; the second tester - Control Tester - visited the property or called the housing provider within 24 hours of the first tester's visit or phone conversation, with the exception of one paired test where doing so was not feasible.

e. For each test, testers completed a Tester Report Form documenting, when applicable: the housing provider's name/title; exact address of the unit; number of bedrooms; rent amount; amount of security deposit and any other fees; the length of the lease; the date of availability; and any other information about the tester gathered by the housing provider (i.e., income, employment, and family size). Each tester wrote and submitted a narrative description of the initial contact as well as any subsequent contact from the housing provider by phone or email.

f. FHANC staff debriefed (in person or via telephone) testers upon completion of each test and reviewed their written reports. During the debriefing, testers discussed any issues or concerns regarding the test.

g. Testers documented any follow-up contact from the housing provider by completing a form to record any email or telephone calls received by the tester from the housing provider.

7. Test Analysis

a. For the email tests, FHANC staff compared the email communication for each test to assess whether the profiles received the same or different treatment from the listing agent. For the site tests, staff compared both 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. Refusal to rent or negotiate for rental;
- ii. Offering different rental terms and conditions (including amenities and special offers);
- iii. Screening and follow up;
- iv. Response (or failure to respond) to initial contact;
- v. Unit availability;
- vi. Information about applicant qualifications, eligibility, or rental criteria; and
- vii. Comments, encouragement, steering, and general treatment.

b. Tests with evidence of discriminatory statements or differential treatment disfavoring

African-Americans, or HCV recipients (depending on the geographic area and applicable laws), may form the basis of further investigations.

III. RESULTS

Between January and March 2019, FHANC conducted **124 tests**, or **62 paired tests** in Marin, Sonoma, and Solano Counties. The tests fell into several broad groups: those showing no differential treatment or inconclusive outcomes, those revealing some differential treatment, and those evincing clear differential treatment. FHANC also attempted to conduct an additional 8 email tests (or 4 email pairs) and an additional 14 site/phone tests (or 7 site/phone pairs)⁸, but the tests were deemed to have failed or were cancelled due to a variety of factors, including the advertisements being pulled prior to tester contact or the property having a policy requiring an application to be submitted prior to a showing.

“Clear differential treatment” means there was a demonstrable discrepancy in the amount, quality, or substance of the information received by the testers, to the disadvantage of the protected tester. “Clear differential treatment” refers to *statutory violations*, such as:

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

“Some differential treatment” means there was a discrepancy in the information received by each tester. The discrepancies favored the control tester, but not to the clear detriment of the protected tester. In some cases, the differences involved factors characterized as less significant than those counted in the “clear differential treatment” category. “Some differential treatment” includes *statutory violations that do not materially affect the housing transaction* and other less significant types of differential treatment, 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.

⁸ The additional 22 tests (or 11 pairs) were not included within the 124 tests (or 62 pairs) total.

In a couple of instances, paired tests were rated “clear differential treatment,” given the multiple examples of differential treatment; while each example might be judged less egregious than other tests rated “clear differential treatment,” the sum total were deemed significant enough to rise to the level of “clear differential treatment.”

For purposes of this report, “no differential treatment” means each paired tester received substantially similar information and there were no demonstrable differences.

“Inconclusive outcome” includes those tests where the testers did not receive a response but the advertisement was pulled relatively soon after the testers initiated contact (i.e. a few days).

A. Test Outcomes

FHANC conducted **120 tests**, or **60 paired tests** for the 2018-2019 Marin, Sonoma, and Solano County Race/Source of Income audit. Sixty tests, or 30 pairs, of email tests were conducted in Marin county, in addition to twenty tests (or 10 pairs), of phone/site tests; twenty tests (or 10 pairs) of phone/site tests were conducted in Sonoma County and twenty tests (or 10 pairs) of phone/site tests were conducted in Solano County.

Marin County

1. Email Testing:

Eight paired tests (27%) showed clear differential treatment favoring the White (control) tester. In addition, nineteen paired tests (63%) conducted in jurisdictions with local ordinances showed discrimination based upon source of income; fourteen of the nineteen paired tests (47%) showed clear discrimination and five of the nineteen paired tests (17%) showed some discrimination based upon source of income⁹. Please note that three paired tests revealed discrimination based upon both race and source of income. Finally, two paired tests (7%) revealed discriminatory statements in rental advertisements on the basis of familial status. Six paired tests (20%) resulted in no differential treatment or an inconclusive outcome. **Thus, in 24 out of 30 tests (80%), there was at least some discrepancy or disadvantages in treatment for the African-American tester and/or for testers using HCVs in jurisdictions with local ordinances.**

⁹ The percentages indicating source of income discrimination have been rounded up from 46.67% and 16.67%, with the total of 63% rounded down from 63.33.

A number of housing providers failed to respond to the protected and/or control tester(s)' multiple contacts, despite the advertisement continuing to run.

- Of the 60 individual email tests conducted, 16 individual tests failed to receive any response despite multiple attempts, resulting in a 73% rate of return.
- Testers with names that were clearly identifiable as African-American received a response in 21 paired tests, resulting in a 70% rate of return.
- Testers with names that were clearly identifiable as non-Latinx White received a response in 23 paired tests, resulting in a 77% rate of return.
- However, even when both testers received a response, there were significant differences in the time elapsed before they would receive a response depending upon whether it was the protected or control tester; for example, in six paired tests, the difference in response time between the protected and control testers, despite the protected tester always initiating contact first, ranged from one to four days.
- In addition, on average, protected testers contacted housing providers 2 times prior to receiving a response, while control testers contacted housing providers 1.58 times prior to receiving a response.

Results of Email Tests in Marin County Based upon Race/Source of Income

	<u>Fairfax</u>	<u>Novato</u>	<u>San Anselmo</u>	<u>San Rafael</u>	<u>TOTAL</u>
Clear Differential Treatment	4 (57%)*	6 (75%)	6 (75%)	3 (43%)	19 (63%)
Some Differential Treatment	0 (0%)	1 (13%)	2 (25%)	2 (29%)	5 (17%)
<i>Subtotal/ Some Differential Treatment</i>	4 (57%)	7 (88%)**	8 (100%)^	5 (71%) ^{10^^}	24 (80%)
No Significant Difference (by Race/SOI)	3 (43%)	1 (13%)	0 (0%)	2 (29%)	6 (20%)
Grand Total	<u>7 (100%)</u>	<u>8 (101%)¹¹</u>	<u>8 (100%)</u>	<u>7 (100%)</u>	<u>30 (100%)</u>

10 Due to rounding, the sum of some differential treatment is 71%, though it appears that it should add up to 72%.

11 Due to rounding up the percentages of some differential and no differential treatment (87.5% and 12.5%), the total sums to 101%.

**Fairfax: 1 paired test showed clear differential treatment based upon race; 1 based upon race and source of income; and 2 based upon source of income, for a total of 2 based upon race and 3 based upon source of income from 4 paired tests.*

***Novato: 5 paired tests showed clear differential treatment based upon source of income, 1 paired test showed clear differential treatment based upon both race and source of income, and 1 paired test showed some differential treatment based upon source of income.*

^San Anselmo: 4 paired tests showed clear differential treatment based upon race and 2 paired tests based upon source of income; 2 paired tests showed some differential treatment based upon source of income; and, last, in 2 paired tests showing at least some evidence of discrimination based upon race or source of income, there was also clear differential treatment based upon familial status.

^^San Rafael: 2 paired tests showed clear differential treatment based upon source of income and 1 paired test based upon both source of income and race; 2 paired tests showed some evidence of differential treatment based upon source of income.

**Results of Email Tests in Marin County:
Prevalence of Race Discrimination by City/Town**

	<u>Fairfax</u>	<u>Novato</u>	<u>San Anselmo</u>	<u>San Rafael</u>	<u>TOTAL</u>
Clear Differential Treatment	2 (29%)	1 (13%)	4 (50%)	1 (14%)	8 (27%)
Some Differential Treatment	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
<i>Subtotal/ Some Differential Treatment</i>	2 (29%)	1 (13%)	4 (50%)	1 (14%)	8 (27%)
No Significant Difference (by Race)	5 (71%)	7 (88%)	4 (50%)	6 (86%)	22 (73%)
Grand Total	7 (100%)	8 (101%)¹²	8 (100%)	7 (100%)	30 (100%)

¹² Due to rounding up the percentages of some differential and no differential treatment (87.5% and 12.5%), the total sums to 101%.

Results of Email Tests in Marin County:
Prevalence of Source of Income Discrimination by City/Town

	<u>Fairfax</u>	<u>Novato</u>	<u>San Anselmo</u>	<u>San Rafael</u>	<u>TOTAL</u>
Clear Differential Treatment	3 (43%)	<u>6 (75%)</u>	<u>2 (25%)</u>	<u>3 (43%)</u>	<u>14 (47%)</u>
Some Differential Treatment	<u>0 (0%)</u>	<u>1 (13%)</u>	<u>2 (25%)</u>	<u>2 (29%)</u>	<u>5 (17%)</u>
<i>Subtotal/ Some Differential Treatment</i>	<i>3 (43%)</i>	<i><u>7 (88%)</u></i>	<i><u>4 (50%)</u></i>	<i><u>5 (71%)</u>¹³</i>	<i><u>19 (63%)</u>¹⁴</i>
No Significant Difference (by SOI)	<u>4 (57%)</u>	<u>1 (13%)</u>	<u>4 (50%)</u>	<u>2 (29%)</u>	<u>11 (37%)</u>
Grand Total	<u>7 (100%)</u>	<u>8 (101%)</u>¹⁵	<u>8 (100%)</u>	<u>7 (100%)</u>	<u>30 (100%)</u>

2. Site/Phone Testing:

Four paired tests (40%) showed clear differential treatment favoring the White (control) tester. One paired test (10%) showed some differential treatment favoring the control tester. **Thus, in 5 out of 10 paired tests (50%), there were at least some discrepancies or disadvantages in treatment for the African-American tester.**

In addition, five paired tests (50%) conducted in jurisdictions with local ordinances showed clear discrimination on the basis of source of income, with one additional paired test (10%) showing some differential treatment on the basis of source of income. Thus, in 6 out of 10 paired tests (60%), there were at least some discrepancies or disadvantages in treatment for testers using HCVs, most often a refusal to rent and discriminatory statements. Please note that three paired tests revealed discrimination based upon both race and source of income. Finally, one paired test (A2)

13 Due to rounding up the percentages of clear and some differential treatment (42.8% and 28.5%), the subtotal (71%) does not match the sum (72%).

14 Due to rounding up the percentages of clear and some differential treatment (46.6% and 16.6%), the subtotal (63%) does not match the sum (64%).

15 Due to rounding up the percentages of some differential and no differential treatment (87.5% and 12.5%), the total sums to 101%.

that revealed clear race and source of income discrimination also indicated clear discrimination on the basis of familial status and disability. One paired test (10%) resulted in an inconclusive outcome. **Thus, in 9 out of 10 paired tests (90%), there were at least some discrepancies or disadvantages in treatment for the African-American tester and/or testers using HCVs in jurisdictions with local ordinances.**

Responses from housing providers unwilling to consider HCVs or offering inferior terms/conditions to HCV recipients (at least with regard to the protected tester) included the following:

- We don't take Section 8. It's how business has been run the past 16 years (to the protected tester), *while telling the control tester* that he hasn't rented to Section 8 before but is open to it. The agent continued, telling the control tester that **the ads used to say "No Section 8" but now that the law has changed they don't do that anymore**, but as the tester is probably aware **they don't have the best reputation**. He noted at another complex in the past, **Section 8 renters were 'riff raff' who destroyed the place and had lots of family members crashing, some who were straight out of prison.**
- It's a company decision, not my opinion... It would be a fool's errand to try to ask for an exception given the company's bureaucracy... **They sent out a memo that they don't accept vouchers and to not even discuss it...**I think bigger corporations don't want to be involved with the programs and **probably better luck with smaller landlords.**
- *Said to the protected tester:* No, the owner doesn't accept Section 8 and it is very rare that we get any requests for Section 8. I thought it was in the advertisement that we don't accept Section 8. *In contrast, the control tester was told* that the complex wasn't accepting vouchers but **the owner makes exceptions sometimes**. The owner is **more likely to accept Section 8 if the applicant's documentation looks good and especially if the unit sits on the market a few weeks.**
- The landlord is a private owner and does not participate in any programs, but try looking in Gerstle Park area, as some apartments there action Section 8. Focus search on Marin Street (in San Rafael).

- We do accept Section 8...The owner approves; it takes five days to be approved and one month for Section 8 to be approved.
- Management office accepts vouchers for other properties, but the owner of this building does not because of all of the paperwork involved¹⁶.
- *After the protected tester disclosed her HCV*, the agent responded that the tenant's **income must be at least three times the monthly rent** and then put the tester's phone call on hold, eventually explaining she **could not answer the question about Section 8 and would have to pass her on to someone else**; *the control tester* was told by a different agent that as a company, they accept vouchers, but individuals owners make decisions and this owner does not work with the program, noting they **had received an application and it would probably be approved**.

Sonoma County

One paired test (10%) showed some differential treatment favoring the White (control) tester. Nine paired tests (90%) resulted in no differential treatment or an inconclusive outcome; in eight of these ten paired tests, the housing provider stated a refusal to accept HCVs (though the advertisement did not mention the policy), and there are no local protections in Sonoma County as of the date these tests were conducted. **Of the ten paired tests conducted in Sonoma County, only two paired tests included housing providers willing to consider renting to HCV recipients.**

Responses from housing providers unwilling to consider HCVs included the following:

- We don't take Section 8. Never done it before and **don't want to have to deal with the government.**
- No Section 8 but **I don't know why.**
- *To the protected tester:* I don't know, we just don't! *To the control tester:* I'm sorry you came all the way from the East Bay. Have you ever looked on the County's website?
- Section 8 is not something you want to give up, but **I'm not sure the owner will accept it** – some owners of units in the complex do but others do not.

¹⁶ This property in question is located in a town/city without a local source of income ordinance in place (the only such example from those provided in this section).

- We don't accept vouchers, but **you can submit a regular application** if interested in applying without the voucher.
- We don't take Section 8 because we looked into it but discovered **the complex does not qualify.**
- We don't take Section 8, though I'm pretty sure we accepted it at one point in the past.

Solano County

Three paired tests (30%) showed clear differential treatment favoring the White (control) tester. One paired test (10%) showed some differential treatment favoring the control tester. One paired test revealing some race discrimination also demonstrated clear discrimination on the basis of familial status; in addition, two other paired tests revealed clear discrimination based upon discriminatory statements in the advertisements, another paired test on the basis of familial status and one paired test on the basis of source of income. Four paired tests (40%) resulted in no differential treatment or an inconclusive outcome. **Thus, in 4 out of 10 paired tests (40%), there were at least some discrepancies or disadvantages in treatment for the African-American tester;** in addition, in 6 out of 10 paired tests (60%), there was at least some evidence of discrimination on the basis of race, familial status, and/or source of income.

Responses from housing providers unwilling to consider HCVs included the following:

- No Section 8; Marina Realty does not work with Section 8 at all.
- *To the protected tester:* While we accept Section 8, we cannot take vouchers at this time because **there are a limit of 10** accepted at the property and **those spots are already filled.** *To the control tester:* **We support equal housing opportunity and have met our requirements** with 8 existing tenants who have been here many years.
- Some units accept Section 8 but this one does not.
- *To the protected tester:* No Section 8. **You should have asked over the phone.** *To the control tester:* No, no, no. They (the owners) don't want to deal with it. You should have asked over the phone – **now I ask people when they call me.**

- The units we offer for Section 8 are currently occupied and the owners decide that process.
- We don't accept Section 8...**Don't know why.**

Results of Site/Phone Tests in Marin and Sonoma Counties

	Marin County			Sonoma County
Clear Differential Treatment	SOI: 3 (30%)	Race/SOI*: 3 (30%)	Race: 1 (10%)	0 (0%)
	7 (70%)			
Some Differential Treatment	SOI: 1 (10%)	Race: 1 (10%)		Race: 1 (10%)
	2 (20%)			
Subtotal/ Some Differential Treatment	SOI: 4 (40%)	Race/SOI: 3 (30%)	Race: 2 (20%)	Race: 1 (10%)
	9 (90%)			
No Significant Difference	1 (10%)			9 (90%)**
Grand Total	10 (100%)			10 (100%)

**One paired test with clear differential treatment based upon Race and Source of Income also showed clear differential treatment based upon disability and familial status.*

***The low proportion of discrimination and high incidence of inconclusive and no significant differences in treatment in Sonoma County is likely the result of housing providers' failure to consider HCVs and a lack of local source of income ordinances providing protections for HCV recipients.*

Results of Site/Phone Tests in Solano and Total of All Counties

	Solano County			All Counties			
Clear Differential Treatment	SOI: 1 (10%)	Race: 3 (30%)	Other*: 2 (20%)	SOI: 4 (13%)	Race/ SOI: 2 (7%)	Race: 4 (13%)	Other**: 3 (10%)
	6 (60%)			13 (43%)			
Some Differential Treatment	Race: 1 (10%)			SOI: 1 (3%)		Race: 3 (10%) ¹⁷	
				3 (10%)			
Subtotal/ Some Differential Treatment	6 (60%)¹⁸			SOI: 5 (17%)	Race/ SOI: 2 (10%)	Race: 6 (20%)	Other**: 3 (10%)
				16 (53%)			
No Significant Difference	4 (40%)			14 (47%)			
Grand Total	10 (100%)			30 (100%)			

*Other = 2 on the basis of familial status

**Other = 1 on the basis of Race, Source of Income, Familial Status, and Disability and 2 on the basis of Familial Status.

Test Results by City/Town in Marin

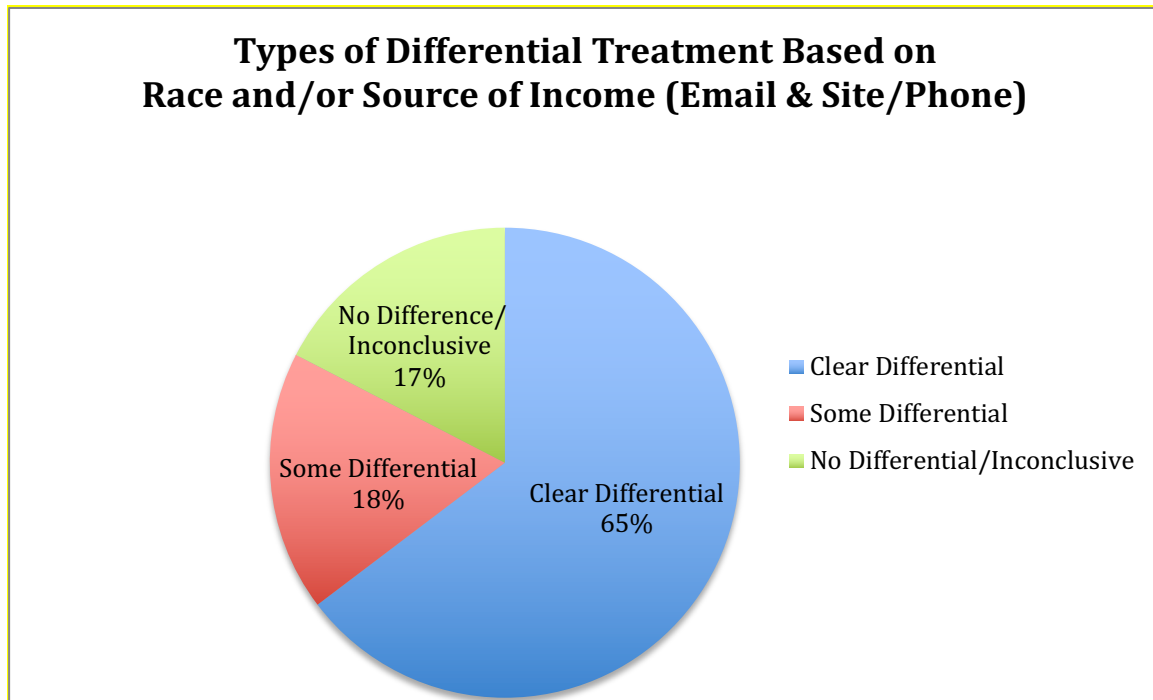
City	Percentage of Tests Conducted in City Indicating Differential Treatment on the basis of Race and/or SOI
Fairfax	6/9 paired tests, or 67% of tests
Kentfield	1/1 paired test, or 100% of tests
Mill Valley	0/1 paired test, or 0% of tests

17 While there are 4 instances of some differential treatment, they arose out of 3 paired tests.

18 While there are 7 instances of some differential treatment, they arose out of 6 paired tests, as one paired test demonstrated both clear differential treatment based upon familial status and some differential treatment based upon race. As such, the percentage of some differential treatment will remain at 60%, as it calculates the number of paired tests revealing such treatment.

Novato	9/10 paired tests, or 90% of tests
San Anselmo	8/8 paired tests, or 100% of tests
San Rafael	8/10 paired tests, or 80% of tests
Tiburon	1/1 paired test, or 100% of tests

Marin County Results¹⁹



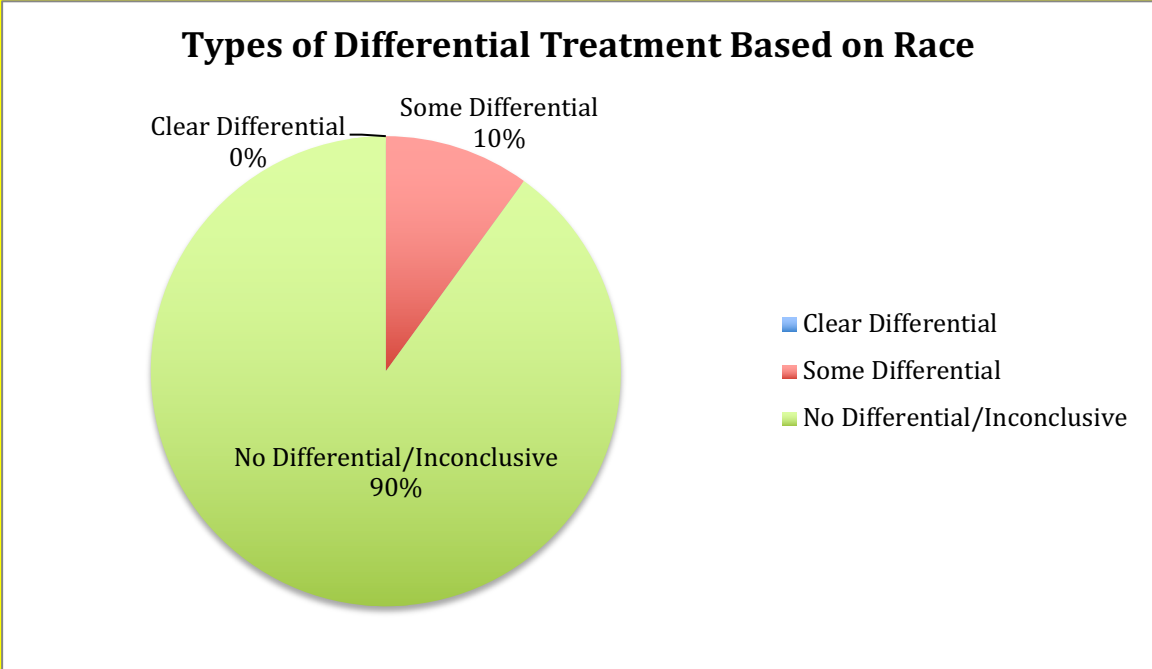
Test Results by City/Town in Sonoma

City	Percentage of Tests Conducted in City Indicating Differential Treatment on the basis of Race and/or SOI
Cotati	0/1 paired test, or 0% of tests
Healdsburg	0/1 paired test, or 0% of tests
Petaluma	0/1 paired test, or 0% of tests
Rohnert Park	0/1 paired test, or 0% of tests
Santa Rosa	1/5 paired tests, or 20% of tests
Sebastopol	0/1 paired tests, or 0% of tests

¹⁹ Due to rounding and the requirement to have 100% in the pie-chart above, please note that some differential and clear differential are equal at 17.5% each.

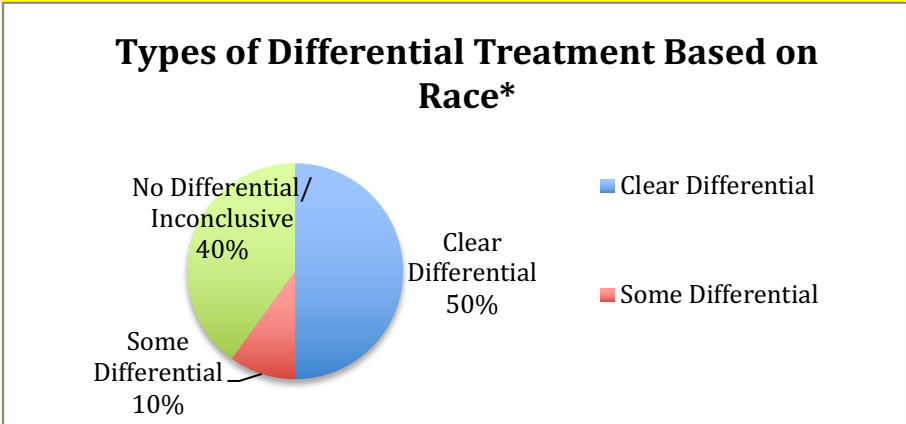
Due to testing methodology and eligibility requirements for the properties to be tested, FHANC staff had some difficulty locating properties that it could test in smaller towns in Sonoma County. Difficulties included finding advertisements that did not include the phrase, “no section 8,” to issues with the price of the unit or size of the property.

Sonoma County Results*



**As noted earlier in the discussion of the reports’ findings in the County of Sonoma, the low incidence of discrimination is likely a result of the high proportion of housing providers who refused to accept HCVs or even negotiate with FHANC’s testers whose profiles included HCVs; as a result, treatment was often similar (a refusal to accept HCVs in a jurisdiction without any local ordinances) or inconclusive results.*

Solano County Results



**In addition, one test not included in the chart above revealed a clear discriminatory statement on the basis of source of income, but not related to a HCV.*

Test Results by City in Solano

City	Percentage of Tests Conducted in City Indicating Differential Treatment
Benicia	1/2 paired tests, or 50% of tests
Fairfield	1/2 paired tests, or 50% of tests
Vacaville	2/3 paired tests, or 66% of tests
Vallejo	2/3 paired tests, or 66% of tests

B. TYPES OF DISCRIMINATION OR DIFFERENTIAL TREATMENT BASED ON RACE/SOURCE OF INCOME

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. Refusal to Rent or Negotiate for Rental

A housing provider's explicit refusal to rent or to negotiate for the rental of a dwelling to a person in a protected class, including a refusal to engage in conversation or respond to multiple attempts to communicate, wholly forecloses an individual's ability to access housing opportunities.

2. Offering Different Rental Terms and Conditions

Differences in rental terms offered may indicate a housing provider's desire to discourage – or encourage – specific 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 manner of payment of deposits, and minimum income requirements. Minimum income requirements can be particularly important, 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. It may also include a move-in special or discount off the monthly rent, which can provide both access and encouragement.

3. Making False Representations About 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. A housing provider who misrepresents the availability of a dwelling, telling a prospective renter that there are no vacancies when in fact there are, forecloses an individual's ability to access housing opportunities, as is the case with a refusal to rent or negotiate. Often, renters who are told false information about availability are unaware of the housing provider's discriminatory acts. In addition, 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.

4. Otherwise Making Housing Unavailable

A housing provider who, through either words or actions – for example, placing a caller on hold for an interminable period of time – arbitrarily restricts the availability of a housing opportunity for a member of a protected class, may be engaging in a practice of otherwise making housing unavailable.

5. Comments, Steering, 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 remarks directed at an applicant from a protected class may be evidence of an attempt to discourage that applicant from pursuing a housing opportunity. Discriminatory statements are illegal under both federal and state fair housing laws. Steering speaks to the practice of arbitrarily restricting an applicant's choice of available units, based on their membership in a protected class; for example, steering in the race context might include directing a caller to a different complex based on the housing provider's assumptions about appropriateness of an applicant's tenancy in a particular location. General treatment may also include encouraging only one tester by providing additional information on the application process.

6. Quality/Quantity of Information

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.

7. 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. In addition, a housing provider's decision not to return a potential applicant's voicemail message or follow up with a potential applicant after his or her initial inquiry speaks to the practice of arbitrarily restricting an applicant's choice of available units and information received, based on their membership in a protected class.

C. RESULTS OF FOLLOW UP INVESTIGATIONS

A number of properties tested during the present audit were tested again, following evidence of differential treatment.

In one case, the current audit revealed differential treatment favoring the White (control) tester in Fairfax (Marin), so FHANC tested again for race discrimination; however, it uncovered discrimination based upon familial status. In one paired test revealing differential treatment based upon familial status (C12019-18), the housing provider informed one of FHANC's investigators that he was thinking of not renting to families with children on upper-level units because of alleged noise concerns.

In a follow up paired test for familial status discrimination at the same property (C12019-19), the housing provider told FHANC's protected tester that the unit is "not ideal for kids" and that "families don't seem to like it because it is an upper unit," or words to that effect. In addition, the housing provider quoted the protected tester inferior

terms and conditions, including a \$20 credit check fee and inquiring about the protected tester's credit, whereas the control tester was told there was no credit check. After commenting that he was "not trying to steer," or words to that effect, he told the protected tester that the unit would not be ready for a couple weeks, though he made no mention of this delay in availability to the control tester.

In addition, FHANC continued to investigate other properties tested during the current audit or with discriminatory statements made on Craigslist in jurisdictions with local source of income ordinances. FHANC conducted 10 individual investigations (5 paired investigations) in San Rafael, San Anselmo, and Novato. The results of all investigations indicated discriminatory statements and a refusal to rent, with housing providers refusing to consider prospective renters who have Housing Choice Vouchers, otherwise known as Section 8. FHANC is continuing to monitor properties for future availabilities, conducting education and outreach activities to ensure individuals most likely to experience discrimination are informed about their rights, and is continuing to notify housing providers of potentially discriminatory activities.

D. OTHER TYPES OF DISCRIMINATION OR DIFFERENT TREATMENT REVEALING A NEED FOR FUTURE TESTING

1. Familial Status

Including the email and site/phone tests conducted, approximately eight percent of all tests conducted (or 5 out of 60 pairs) indicated differential treatment on the basis of familial status. While children were not included within the profiles of any testers, in at least five tests housing providers initiated discussion regarding the presence of children at the property, or the advertisement for the unit included a discriminatory statement on the basis of familial status. In three cases, the advertisement listed or agent quoted a preference for only 1 or 2 people (in units that were large enough to accommodate larger household size without any concern related to occupancy standards), In two other cases, a housing provider expressed a preference for families with children to live on the ground floor due to noise concerns. In response, when feasible, FHANC will conduct follow up investigations testing for familial status discrimination.

E. DIFFERENTIAL TREATMENT BY TEST & PROTECTED CLASS

Test #	Refusal to Rent/ Negotiate	Different Terms & Conditions	False Representation About Availability	Otherwise Make Housing Unavailable	Comments, Steering, & General Treatment	Quantity/ Quality of Information	Follow- Up
Email 2				V	V		
Email 3	V			V			
Email 4					V		
Email 5					R, FS		
Email 7	V			V			
Email 8		R			R	R	
Email 9	V			V			
Email 10				V	V		
Email 12	V			V			
Email 13	V			V	V		
Email 15	R			R	R	R	R
Email 16	V			V	V		
Email 17					V		
Email 18	R, V			R, V	R, V	R	R
Email 19	R			R	R	R	R
Email 22	V			V	R, V	R, V	R
Email 23	V			V	V		
Email 26	V		V	V	V		
Email 27	V			V	FS		
Email 28	V			V	V		
Email 29	V			V	V		
Email 32	R			R	R	R	R
Email 33	R, V		R, V	R, V	R, V	R	R
Email 34	V			V	V		
A1	R, V	R, V	R, V	R, V	R, V		
A2	R, V, FS			R, V	R, V, FS, D		
A3		R			R		
A4	V			V	V		
A5	R, V			R, V	R, V		
A6	V			V	V		
A7		V					
A8					R		
A17					R		
A18	FS		R	FS	FS		
A25	R			R	R	R	
A30	R			R		R	R
A34	V	V		V	V		

A35					FS		
A37					V		
A39		R	R		R		
Total*	27	6	5	29	34	9	7

***Please note some tests revealed more than one type of discrimination and on the basis of more than one protected class.** The total provides the number of paired tests with each prohibited activity noted above.

Key:

Race = R

Source of Income = V

Familial status = FS

Disability = D

Tests Indicating Clear Differential Treatment

Thirty-four paired tests (57%) showed evidence of **clear differential treatment** based on race, source of income, and/or another protected class, such as familial status or disability. Excluding the other tests, thirty-three paired tests (55%) showed evidence of clear differential treatment based upon only race and/or source of income. The chart above on pages 32-33 details the significant number of tests where housing was denied or otherwise made unavailable for African-American testers and/or testers with HCVs in jurisdictions with local protections – 26 and 28 tests, respectively – in addition to false denial of availability in five paired tests.

In one case (email test 19) in San Anselmo, for example, an email address with a clearly identifiable African-American name received no contact despite at least three attempts, while the control profile, which had a clearly identifiable non-Latinx White name, received numerous contacts from the housing provider. The agent asked many detailed questions and called the control tester over the phone, as well as emailed, while he never responded to the protected tester. While the agent expressed a lack of familiarity with the voucher program, he expressed that he was willing to work with the control tester. His lack of response to the protected tester, who had contacted him prior to the control tester, demonstrates at the very least a refusal to rent or negotiate and otherwise making housing unavailable.

In another case (email test 15) in San Anselmo, the agent never responded to the protected tester’s multiple contacts; in contrast, he responded to the control within forty-one minutes of the initial contact, offering to show the property and sending an unsolicited email with a picture of the unit in question.

In another case (email test 8) in San Anselmo, the agent attempted to contact the control tester, calling the control tester's phone before responding to the protected tester. The agent quoted inferior terms and conditions to the protected tester, failing to share as she had with the control tester that the rent for the unit in question had lowered from \$2100 to \$2000/month.

In another case (email test 32) in Fairfax, the agent never responded to the protected tester's contact; in contrast, he sent three emails to the control tester within a span of three days, offering to show the property and reaching out again (unsolicited) to confirm the property was still available.

In six cases (email tests) in jurisdictions with local ordinances for HCV recipients, housing providers or their agents responded in writing that they were not willing to accept Section 8; in addition, in at least four paired site/phone tests in similar jurisdictions, housing providers or their agents communicated a refusal to accept HCVs.

In at least five other cases (also email tests), after disclosing the profile of having a HCV, neither tester ever received a response, despite multiple contacts over a period of days-weeks with the advertisements still live. In addition, in at least two cases (also email tests), the only receive received by the tester in response to the disclosure of the HCV profile was that there was a 2.5 or 3 times minimum income requirement, sometimes noting it would need to be gross income, despite the fact that HCV recipients are not obligated to meet the income requirement for the contract rent but rather their portion of the rent.

In another case (A2) in Fairfax, the agent for the housing provider told the African-American tester that they did not accept Section 8 and her income was too low, despite the fact that her income was quoted as higher than the control tester, whom he was willing to negotiate with. In contrast, the agent told the control tester that he hasn't rented to someone on Section 8 before, but is open to it and suggested that the tester complete an application and let the owner decide. He continued, noting that the advertisements used to say "no section 8," but that the law changed so they don't do that anymore, referring to past HCV recipients as "riff raff," or words to that effect. The agent also inquired as to whether the control tester had a disability or children (noting it was good that she did not, as this was an upper level unit and he had concerns about children living on non-ground floor units).

In another case (A25) in Vacaville, the agent told the African-American tester that they were at their limit for accepting vouchers, while the same agent then told the White tester that she liked her "energy" and would be happy to recommend the tester if she met the other criteria on the rental form.

Several other tests resulted in evidence of clear differential treatment with respect to refusal to rent or negotiate and making discriminatory statements.

Tests Indicating Some Differential Treatment

Nine tests (15%) showed evidence of **some differential treatment** based on race and/or source of income; please note some tests showed evidence of both clear and some differential treatment on the basis of different protected classes during the same paid test. As the majority of the tests showing evidence of differential treatment based upon race and/or source of income showed clear discrimination, the remaining examples of some differential treatment are related to general treatment and responsiveness. A number of email tests showed evidence of some differential treatment based upon source of income due to the delays in responding to the testers' communication, particularly questions regarding how to view the unit and schedule an appointment, as well as eligibility criteria. In the tight rental market that exists in the Bay Area, delays that are a number of days long can mean the difference in whether an individual is able to access a property.

In one case, the agent's general treatment of the African-American tester was notably inferior to that toward the White tester, particularly with regard to the response to the disclosure of the HCV. When the protected tester asked if the agent accepted Section 8, the agent was visibly frustrated in her response, telling the tester she should have asked; in contrast, when the control tester inquired, the agent expressed sympathy and apologized that the tester had traveled the distance to view the property. General treatment is a consistent difference in race discrimination tests conducted, indicating a reticence to fully engage with the African-American testers or encourage them to apply.

Tests Indicating No Differential Treatment or Inconclusive Outcome

Twenty paired email, phone, and/or site tests (33%) did not show evidence of differential treatment or were inconclusive. In tests with no differential treatment, testers received similar treatment and were given the same substantive information regarding availability, rent, security deposit, and minimum income requirement. Inconclusive tests included those where the testers received slightly different information, yet the differential treatment did not clearly benefit the control tester over the protected tester. Inconclusive tests also included those where mitigating factors might explain certain differences. For instance, in one test (A15), the housing provider told the control tester more available units and with lower rental amounts, but the control tester inquired about less expensive options and the protected tester did not; in fact, the protected tester expressed a preference for a particular size bathroom.

IV. CONCLUSIONS

A. GENERAL

Of the 60 paired tests conducted in Marin, Sonoma, and Solano Counties, thirty-four of the tests (57%) showed clear differential treatment on the basis of race, source of income, and/or familial status. Removing the outlier – familial status – and focusing on the intent of the current audit, thirty-three paired tests (55%) showed evidence of clear differential treatment favoring the Caucasian tester and/or disfavoring testers using HCVs, which is often a pre-text for race discrimination. Nine tests (15%) showed some differences in treatment favoring the Caucasian tester and/or disfavoring testers using HCVs in jurisdictions with local ordinances in place. Twenty tests (33%) resulted in no differential treatment or an inconclusive outcome. **Thus, in at least 40 out of 60 tests - two thirds of all tests - there were at least some discrepancies or disadvantages in treatment for the African-American tester, HCV recipients, or families with children.**

The data is striking: Despite having local ordinances in place providing protections for HCV recipients, housing providers are freely discriminating on the basis of source of income; in addition, the housing providers are making exceptions to discriminatory policies for White HCV recipients, granting them access into areas of high opportunity and low poverty. The email testing component of the audit revealed significant evidence of discrimination, with 27% of tests showing clear differential treatment favoring the White tester and 63% of tests showing at least some level of discrimination based upon source of income. Remember that these are jurisdictions where it is unlawful to fail to consider an HCV recipient as you would any other prospective renter. Furthermore, the phone/site testing also revealed significant instances of discrimination based upon race and/or source of income, with 50% of all site/phone tests showing evidence of at least some discrimination; the number increases when you add familial status, which was not a form of discrimination we were attempting to capture.

B. LESSONS AND FEEDBACK FOR PUBLIC HOUSING AUTHORITIES

In addition to the barriers faced by HCV recipients in Marin County, where there are now protections in place, yet discrimination persists, the difficulties encountered in even locating eligible properties to test in Solano County and more remote parts of Sonoma County were astounding. Excluding advertisements that made any statement regarding Section 8 (either a refusal or willingness to accept) limited the housing stock available

to search; however, this is just one piece of the picture. **One major lesson learned from the current audit is that the payment standards rental units in Solano County are far too low given the current market.** Three FHANC staff members devoted countless hours to searching for properties online within the eligibility criteria and with availabilities in Solano, and it was incredibly difficult locating eligible properties, let alone finding a landlord who would actually consider renting to an HCV recipient. Of the properties tested in Solano County (remembering that for each property tested, FHANC staff searched through numerous ineligible listings), only 2 properties confirmed they accept HCVs, one is unknown, and 7 outright refused to consider HCVs.

One must remember that HCV recipients are often people with disabilities, families with children, and racial/ethnic minorities, and therefore are likely to experience discrimination and other barriers in housing aside from the difficulties faced navigating the voucher program. Consistent across the tri-county area was a clear message that landlords would prefer not to rent to individuals using HCVs, and this was the case for a variety of alleged reasons ranging from concern about requirements under the government program to concern about stereotypes of the recipients themselves. There must be greater outreach to a wider variety of landlords to encourage participation, and not just among smaller housing providers.

The difficulties faced by these individuals in securing housing is exponentially worse for residents in Solano County given the combination of landlord antipathy and artificially low payment standards. Finding new housing, particularly if one has specific needs in their housing, is becoming increasingly difficult, especially following the loss of available housing stock after the fires in Sonoma and Solano Counties. Given these difficulties, it is incumbent upon Public Housing Authorities (PHAs) to share data with the Department of Housing and Urban Development (HUD) and do everything in its power to help achieve higher payment standards for the various jurisdictions it serves or to consider alternatives to FMRs.

There are 6 different payment standards within Solano County, copied below, the majority of which seem to be significantly underpriced.

	Marin County	Sonoma County	Santa Rosa	Vallejo	Fairfield	Suisun City	Vacaville	Solano County (Dixon, Rio Vista, other)	Benicia
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Studio	\$1,813	\$1,504	\$1,379	\$883	\$812	unknown	\$961	\$961	\$1,081
1 BR	\$2,250	\$1,736	\$1,591	\$1,102	\$1,075	\$1,360	\$1,196	\$1,196	\$1,302
2 BR	\$2,809	\$2,264	\$2,075	\$1,412	\$1,348	\$1,675	\$1,475	\$1,475	\$1,587

In addition to working to increase the payment standards or use more appropriate standards for the market, PHAs must assess the length of the search times they are providing their participants to find new housing, as the results of this investigation indicate search times should be increased given the lack of available housing, discrimination and general refusal to participate in the program by landlords, and often disability-related needs of the HCV recipients.

The need to assess and increase voucher search time is not limited to Solano County, as it is evident that the majority of Marin and Sonoma County landlords are not inclined to participate in the voucher program. While locating properties within the payment standard was less of a hurdle in Marin County and the majority of Sonoma County, finding housing providers willing to consider an HCV recipient in any parts of the tri-County area tested was a difficulty. Accordingly, PHAs should continue outreach to different types of landlords so that it can effect necessary changes within the program that will increase greater landlord participation and should support local efforts to implement legal protections for HCV recipients.

C. AUDIT LIMITATIONS AND LESSONS

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 could encounter at the pre-application stage. Because testers did not submit applications, this audit cannot identify housing providers who dispense information and applications freely but discriminate later in the tenant selection process. This suggests the need to perform follow-up site visits and application tests in addition to the site tests conducted to date, especially in those instances where initial tests suggest differential treatment. Completed application tests could yield evidence of housing providers turning down qualified African-American applicants because of their race; in addition, it could demonstrate whether housing providers are truly willing to consider HCVs.

Even application tests would not detect the full extent of discrimination against in-place

African-American *tenants*, as opposed to *applicants*. African-American renters report discrimination based on race, for instance, in the terms, conditions, privileges or services associated with their housing (e.g. a housing provider's failure to respond to African-American tenants' repair requests, or delayed responses, while Caucasian tenants requests are responded to promptly). This audit cannot purport to examine evidence of that kind of discrimination.

2. Scheduling Factors May Have Influenced the Audit Results

The audit coordinators opted to alleviate unreasonable delays between the first and second testers' contacts by having them call at specified times. Although that solution reduced the volume of failed tests, the resultant pattern of calling may have subtly affected the test results.

In some of the tests, for example, the two testers spoke with different agents. Although the most direct comparison takes place in instances where each member of a paired test has contact with the same agent, a test remains valid under generally recognized principles of testing if testers speak with different agents representing the same housing provider.

3. Difficulties Locating Eligible Properties

As discussed, there were a number of difficulties in locating eligible properties to test given the methodology and specifics related to the HCV program. In addition, once an eligible property was located, FHANC experienced a number of difficulties that led to some paired tests being deemed *failed* or *attempted*. For example, some properties required applications to be submitted in person prior to any information being provided regarding the unit or any other available units; in addition, there were difficulties with call centers and being able to access the same agent/property.

An additional nine paired phone/site tests were cancelled after failed attempts and an additional four paired email tests were deemed failed after advertisements were pulled prior to both testers making contact or an advertisement was deemed to be fraudulent. Given the difficulties encountered in locating eligible properties, at times FHANC had to pick a property that was slightly above the payment standard.

4. Three-part Email Testing

The current audit utilized testers in matched pairs. For the purposes of additional email testing, one lesson learned is the benefit of implementing three-part email tests, utilizing a non-HCV recipient control. This additional third-part control would be helpful in assessing whether housing providers' behavior and responsiveness would be different for this type of control, which was not always captured during the present audit. It can also help confirm the availability of a unit in question and limit inconclusive outcomes.

C. RECOMMENDATIONS

- **Disseminate audit results** to Marin County, Sonoma County, and Solano County officials, the general public, media, and advocacy groups as an important educational tool.
- **Monitor sites** where there was an indication of differential treatment. FHANC 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, whether in person or over the phone. Fair Housing Advocates of Northern California 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.
- **Send notification letters to housing providers** of properties where testing showed some differential treatment.
- **Increase media coverage.** Request that newspapers in Marin County, Sonoma County, and Solano County feature articles on race and source of income discrimination and barriers faced by African-Americans even in the pre-application stage, and consider providing free advertisements on how to recognize and avoid housing discrimination, as a public service. Media coverage should also be devoted

to try to counteract housing providers' views regarding the HCV program and its recipients.

- **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 County, Sonoma County, and Solano 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.
- **Public Housing Authority action.** Assess whether payment standards are at appropriate levels for your jurisdiction, perhaps considering alternatives, particularly in Solano County. Increase search times for HCV recipients given the barriers faced and limited housing options for recipients. Improve communication with participants and landlords to have a better appreciation of the difficulties faced on both sides.
- **Spread the word to potential targets.** Work with other agencies serving the African-American community, as well as HCV recipients, 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>.

A copy can also be obtained by calling toll free 800-347-3739.