PRINCE WILLIAM
Human Rights

2023 FAIR HOUSING TESTING REPORT

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INTRODUCTION

Fair Housing Management Consultants ("FHMC") entered into a contract with the Northern Virginia Regional Commission on March 8, 2022 to provide testing services to Prince William County. The testing services are set forth in the Project Work Plan of the contract. Sixty (60) rental tests were conducted in accordance with that contract at apartment complexes located in various zip codes in Prince William County. Oversight of the testing project was maintained by the staff of the Human Right Commission ("Staff"). Appendix A sets forth the testing sites. However, the test sites set forth in Appendix A are not listed in the actual order in which they were tested.

THE COUNTY'S ROLE IN CHALLENGING HOUSING BIAS

The legal authority for a local government's role in challenging discriminatory housing practices was established by the United States Supreme Court's decision in *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91 (1979). This decision affirmed that a local government has standing to challenge racially discriminatory housing practices under Title VIII of the Civil Rights Act of 1968, the Fair Housing Act.

FAIR HOUSING TESTING

Tester corroboration has become an accepted investigative tool used by administrative agencies at all levels to enforce fair housing laws. In 1982, the United States Supreme Court stated that, under certain circumstances, testers have the right to sue under the federal Fair Housing Act. *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982).

Testing is a method to determine whether or not a home seeker is treated differently in his or her search for housing. A person's race, for example, would be an impermissible factor

in denying an opportunity to rent an apartment. Testers in housing discrimination cases have been defined as "individuals who, without an intent to rent or purchase a home or apartment, pose as renters or purchasers for the purpose of collecting evidence of unlawful discriminatory housing practices." *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 373 (1982). The experiences of testers are used to compare the treatment of one home seeker (protected class) to another (non-protected class). In this context, testing measures the difference in treatment afforded a home seeker as determined by the information and services provided by property management firms, rental agents, and others.

FEDERAL, STATE AND COUNTY FAIR HOUSING LAWS

The federal Fair Housing Act outlaws discrimination in renting or purchasing a home or financing a home mortgage based on race, color, religion, national origin and sex. The federal law was amended in 1988 to include familial status and handicap as protected classes.

The Virginia Fair Housing Law mirrors the federal law and contains the additional protected class of elderliness, sexual orientation, gender identity, source of funds and status as a veteran. The United States Department of Housing and Urban Development ("HUD") is authorized to review local and state fair housing laws to make a determination of whether these laws contain rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the federal law. Once a local or state enforcement agency has been certified, HUD will refer complaints of housing discrimination to the certified agency for investigation and resolution. HUD has made a determination that the Virginia Fair Housing Law is substantially equivalent to the federal law.

The Prince William County fair housing ordinance contains the additional protected classes of age and marital status. The County ordinance does not provide the same remedial relief as provided under both the federal and state Fair Housing Laws.

LEGAL PRECEDENTS ESTABLISHING HOUSING BIAS

The courts have established two ways of proving housing discrimination. Discriminatory housing practices are defined below.

* Disparate (Unequal) Treatment - Evidence of disparate treatment occurs when a housing provider treats home seekers differently, for example, on the basis of their race. Fair housing testing is designed to uncover disparate treatment. This is the most common evidence uncovered by fair housing testing.

* Adverse Impact - Evidence of adverse impact occurs when housing providers have policies, practices or procedures that, for example, disproportionately limit the ability of protected class members to obtain housing. If the effect of such a policy, practice or procedure adversely impacts members of a protected class, it would violate the fair housing laws.

DEVELOPMENT OF A COUNTY-WIDE TESTING EFFORT

A total of sixty rental tests were conducted at apartment complexes located in various zip codes in Prince William County. Thirty (30) tests were conducted at apartment complexes based on race (Black/White testers) and thirty (30) tests were conducted at apartment complexes based on national origin (Hispanic/White testers). All of the apartment complexes tested contained over 100 units. There was an aggregate of 23,680 units for all the apartment complexes tested.

A master testing schedule was developed, a tester pool was established and training was undertaken on March 17, 2032. Testing began on March 20th and concluded on March 29th, 2023. The testing results are discussed in Analysis section of this report.

Testing Site and Characteristics Assignments

As previously discussed, the purpose of testing in the Prince William County testing project was to determine how Black and Hispanic testers were treated at apartment complexes located in the County. This is done by pairing two testers who are matched as equally as possible to each other except for the material factors of race and national origin. The characteristics that relate to the rental qualification processes were matched as closely as practical for each tester. This included matching, for example, the income, employment background and prior housing history of the testers.

It is important to minimize, as much as possible, variables that are extraneous to what is being tested (differences in treatment based on race and national origin). Generally, it is necessary for testers to assume characteristics other than their own. Testers are, in fact, playing a role during the test.

The Site Visitation Assignment Form

Site Visitation Assignment Forms were developed for each of the 60 tests. This form indicates the type of housing that the tester is looking for (two-bedroom apartment and the move-in date for example). The form also indicates the tester characteristics that are required for the completion of the test, for example, income and prior housing history. Slightly superior qualifications were assigned to the protected class testers (Black and Hispanic testers) to assist in determining whether differences were the result of the tester's status as a member of a protected class. Personal characteristics, for example, the sex and marital status of the testers were also matched. Also, all testers were instructed to inquire about rent specials when visiting the rental office. A rent special, for example, could range from a waiver of the security deposit to one month's free rent.

The testers were sent to the same apartment complex on the same day, usually 1 to 2 hours apart. Generally, the testers were instructed to have the protected class tester visit the rental office first followed thereafter by their teammate. The tester teams were assigned to express interest in renting the same type of apartment and move-in date. In the race and national origin tests, both members of the tester teams posed as being married with no children and stated that they were looking for a two-bedroom apartment for April 15, 2023.

Tester Training

All testers were required to attend a training session. FHMC conducted a training session on March 17, 2023. Pretest training serves to enhance the credibility of the testing process and diminish the likelihood of deviation from controlled factors. Testers are oriented as to what is expected of them when conducting a test. Tester training included instruction in the following areas: (a) brief discussion of federal, state and local fair housing laws; (b) what testing is; (c) playing the role of a tester; (d) conducting the test and (e) the debriefing process. These, of course, were not the only components of the training, but were critical to the process of preparing the testers.

The training also provided an opportunity to thoroughly familiarize the testers with all of the testing forms. The training also emphasized the importance of timeliness in the completion of the forms in order to insure the validity of the testing process.

Debriefing Process

The testers were generally debriefed each day after completing their assigned tests by the contractor, FHMC. The debriefing interview is a mechanism to ensure that the testing experience is being reported accurately and objectively. During the debriefing interview FHMC carefully reviewed the Tester Report Form with each tester. Particular attention was given to the

narrative portion of the form. Any corrections and additions to the report form are made by the testers during the debriefing session. Each member of the tester team was debriefed separately. Debriefing each tester separately maintains the confidentiality and objectivity of the testing results.

ANALYSIS OF TEST RESULTS

Each test was analyzed individually to ascertain if there were any differences in treatment accorded, for example, to the Hispanic and White members of the tester team. The tester teams were assembled based on the protected class sought to be tested along with a visibly matched team apparent to the housing provider upon meeting each team member. Because the nature of housing discrimination is often subtle, care was given to insure that the matching tester teams looked to the provider as the same in every material way except for the protected-class status being tested, race and national origin.

Rather than categorizing one aspect of the test as showing a difference in treatment, the tests were analyzed as a whole to put the totality of treatment afforded to each tester in context. By doing so, the variables looked for would be clear and, if no variation in treatment existed, such conclusions would be equally clear.

It is important to note that, because the rental tests did not include having the testers complete a rental application or participate in the subsequent qualification process at any of the apartment complexes tested, the tests could only measure the initial contact the testers experienced in the leasing office. The tests were designed to measure differences in treatment based on the availability of a two-bedroom apartment unit requested by the testers and the corresponding treatment concerning the issue of availability received by the testers. Thus, while this aspect of testing is critical in understanding how persons are treated at the initial stage of

home seeking, it cannot tell the complete story of how individuals are processed and what their ultimate treatment will be. Notwithstanding, experience dictates that the initial contact with and treatment by a housing provider are often where most problems arise when it comes to housing bias. Thus, initial experiences in ascertaining availability remain important factors in determining if housing bias is practiced.

Review of the Test Results

A review of the rental tests in the most recent battery of testing showed that there were no differences in treatment found in either the race or national origin tests.

A review of the rental tests paints a picture of a tight housing market which is consistent with local and national trends. The tests were structured to have each tester team request a two-bedroom apartment with a move-in date of April 15, 2023 when visiting the rental office. For one third of the sixty rental tests conducted, both tester teams were told that no two-bedroom apartments were available on the April 15 move-in date requested by the testers. Specifically, twenty (20) of the sixty (60) rental tests conducted had no vacancies for the requested move-in date (April 15th). In six of these twenty tests the tester teams were told a two-bedroom apartment would be available on May 15th, after the move-in date requested. In fourteen of the twenty tests the tester teams were told that a two-bedroom apartment would be not be available until June or July.

As previously noted, the testers were instructed to inquire about rent specials when visiting the rental office. The testing results showed that all tester teams were told about rent specials for a two-bedroom apartment in six of the sixty rental tests. The rent specials included, for example, an offer by three apartment complexes that if a two-bedroom unit was rented within a time frame ranging from 48 to 72 hours, the first month's rent would be free. Other rent

specials included a reduction in the security deposit and amenity fees. In two tests both tester teams were told that a rent special was only available for a one-bedroom apartment rental. In past testing cycles, more numerous and generous types of rent specials were more common. The low number of rent specials offered to the tester teams in this testing cycle also appears to be consistent with a tight housing market.

NOTES

African Americans and Hispanics comprise approximately 45% of the Prince William population. No other minority group approaches their demographics in the County. Therefore, testing these two major minority groups allows the County to extrapolate how 45% of its population would be treated under fair housing laws. We would undoubtedly test other protected classes if we had indications or had concerns brought to our attention about issues with other protected classes.

For the same reasons testing housing complexes of over 100 units gives us two advantages. First, vacancies are more likely to be available, particularly in tight housing markets. Second, we could reasonably extrapolate that in a complex of 100 units or more, members of these two protected classes residing in these apartment complexes would be treated similarly to the testers. In this case, all complexes' aggregate number of units was 23680.

Fair housing testing has two significant objectives. First, the enforcement of fair housing laws. Second, preventing discrimination. Knowing that Prince William County tests regularly keeps landlords focused on compliance and the importance of training their employees about fair housing laws to avoid non-compliance issues.

Fair housing testing has its limitations. It only tests how a tester is treated by rental agents when seeking a particular size apartment for a specific date. Testers can not sign rental contracts or applications. The test is limited to the interactions between rental agents and testers.

The testing sites were randomly selected by zip code among the apartment complexes with more than 100 units. The consultant used a list submitted by the County's demographer. The list was updated and supplemented by an internet search of apartment complexes with over 100 units in Prince William County.

APPENDIX A

APARTMENT COMPLEXES TESTED IN PRINCE WILLAIM COUNTY

(Sites are not listed in the order that they were tested)

Apartment Complexes	Zip Code
Orchard Glen Apartments	20109
Corverstone 1	20109
Amberton Apartments	20109
Coverstone IV	20109
The Fields of Manassas	20109
TGM Ridge Apartments	20109
Arcadia Run	20109
Abberly Avera Manassas	20109
Sunnygate Village Apartments	20109
Masons Keep Apartments	20109
TGM Sudley Crossing	20109
Woodburn Apartments	20109
Assembly Manassas	20109
Marque @Heritage Hunt Apts.	20155
Sommerville Farms Town Apartments	20155
Orchard Bridge Apartments	20111
The Elms @ Signal Station Apts.	20111
Maplewood Park Apartments	20111
The Regency	20109
Somerset Point Apartments	20155
Ashton Glen Apartments	20109

Apartment Complexes	Zip Codes
Westgate Apartments	20109
Ravens Crest Apartments	20109
Soldier Ridge Apartments	20109
Barrington Apartments	20109
TGM Bull Run Apartments	20109

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