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RURAL FAIR HOUSING COMPLAINTS AND ENFORCEMENT



Housing Assistance Council

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HAC, founded in 1971, is a nonprofit corporation that supports the development of rural low-income housing nationwide. HAC provides technical housing services, loans from a revolving fund, housing program and policy analysis, research and demonstration projects, and training and information services. HAC is an equal opportunity lender.

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EXECUTIVE SUMMARY

For more than 40 years, federal fair housing laws have helped to decrease the levels of discrimination previously found in the rental, sale, and financing of housing. Despite the long record of activism on fair housing issues in general, very little is known about rural fair housing. To better understand fair housing trends in rural communities, HAC analyzed over 91,000 fair housing complaints in HUD's TEAPOTS dataset. The analysis of TEAPOTS data includes information on the number and types of fair housing violations filed with HUD and FHAP agencies in rural counties from fiscal year (FY) 1998 to FY 2008.

Of the 91,030 fair housing complaints analyzed for this research, slightly more than 13 percent (12,261 complaints) were filed for alleged discriminatory actions in rural communities. Several trends related to rural fair housing complaints were identified through this analysis.

- Portion of housing discrimination complaints originating in rural communities. HAC's analysis of TEAPOTS data shows that approximately 13 percent of all complaints filed are based on discrimination that occurred in a rural county. The proportion of rural complaints has remained constant over the last decade.
- Processing of rural complaints. HUD offices are responsible for processing a greater proportion of rural complaints as compared to urban complaints, indicating that many rural areas may not be within FHAP jurisdictions. For example, largely rural states like Mississippi, Alabama, Wyoming, Montana, New Mexico, South Dakota, Nevada, and Alaska have not enacted substantially equivalent fair housing laws, and are therefore not participating in FHAP. As a result, HUD investigates housing discrimination complaints that arise in these states.
- Geographic concentration of rural complaints. A significant proportion of rural complaints are filed in specific HUD regions (i.e., Regions IV, V, VI, and VII). While this is consistent with larger geographic patterns, it may suggest the need for additional capacity to address these needs.
- Basis and issue of rural complaints. For the most part, rural fair housing complaints are similar to urban complaints in terms of both basis and issue. Rural disability complaints have increased over the last five years and disability has replaced race as the major basis of complaint.

In addition to analyzing fair housing violations, HAC also conducted two case studies of rural fair housing organizations. Fair housing providers from Michigan, the Dakotas, Iowa, and Arizona provided insight as to the challenges they face in addressing housing discrimination and the best enforcement strategies and tools in rural areas. While the enforcement experiences of these providers vary, there are several lessons learned that can be gleaned from their work.

- Partnering with community stakeholders and creating strong partnerships can facilitate greater outreach and improved enforcement. Several providers made the case that fair housing enforcement is an issue of trust, as complainants must feel that fair housing providers will follow through on their claims and not exacerbate the conflict. Residents must view the organization as a reliable source of support and assistance. This can be achieved by working closely with trusted partners in the community. The creative use of local realtors and law students to identify fair

housing cases or discriminatory advertisements increases the reach of the fair housing organization and improves its reputation in the community.

- Outreach and education efforts must be customized and directed to local stakeholders in order to overcome antipathy and indifference towards housing discrimination. Education efforts are difficult in rural communities, specifically because of the large geography many organizations cover. Rural providers noted that innovative outreach strategies can be used to share lessons with both victims and perpetrators of housing discrimination. Conciliation agreements can be shared with those accused of fair housing violations as an educational tool to help them understand how they can address their issues and also with victims to help them see the results of complaints.
- Effective testing requires knowledge of local culture and dynamics. Practitioners recognize the challenges of fair housing testing in rural communities; however, each of the providers interviewed used fair housing tests. Providers noted that testing can work in communities when there is a genuine knowledge of the community and an understanding of local culture. Testing must also be done in coordination with education and outreach in order to be most effective.

INTRODUCTION

Both the Fair Housing Act and the Fair Housing Amendments Act have moved the nation closer to the goal of ensuring equal housing opportunities for all. Fair housing laws have helped to decrease the levels of discrimination previously found in the rental, sale, and financing of housing (HUD 2007c). However, the 10,552 fair housing complaints filed in 2008 demonstrate that housing discrimination still exists in communities across America (NFHA 2009).ⁱ

Rural communities have traditionally been more homogenous than urban America (HAC 2002) and this has led some to assume that fair housing issues are not as prevalent. Rural areas, however, have become increasingly diverse in recent years. Considering this increased diversity, it is important to understand how issues of discrimination are affecting protected classes in these communities and the efficacy of fair housing resources. Without accurate information on rural fair housing trends and an understanding of the enforcement strategies that work in these communities, very little can be done to combat housing discrimination in rural areas. This research sheds light on fair housing in the rural context and provides best practices in rural fair housing enforcement.

Background

The U.S. Department of Housing and Urban Development (HUD) serves as the lead fair housing enforcement agency and works to investigate complaints, publish educational materials, establish policies for HUD programs, monitor and review HUD programs for fair housing compliance, and publish guidance on fair housing.ⁱⁱ HUD also oversees the Fair Housing Assistance Program (FHAP) and the Fair Housing Initiatives Program (FHIP).

FHAP agencies are certified by HUD to enforce local and state laws that are substantially equivalent to the federal Fair Housing Act. If HUD receives a complaint that falls within the jurisdiction of an FHAP agency, HUD will refer the complaint to the FHAP agency for investigation. The FHIP provides funding to fair housing organizations to support investigation, enforcement, outreach, and education activities. The U.S. Department of Justice (DOJ) pursues pattern or practice housing discrimination, housing discrimination complaints involving the legality of a state or local zoning or other land use law, and cases where HUD issues a charge of discrimination and the complainant or respondent requests a federal court hearing.

Fair Housing Network

A network of private fair housing organizations and government agencies carries out a host of fair housing activities, from educating the public, to investigating fair housing complaints, to adjudicating fair housing violations. Many of these agencies are funded by HUD's FHIP and FHAP programs to work in local communities across the country. The FHIP funds fair housing organizations and nonprofits through an annual competitive application process. In 2008, HUD awarded \$18.1 million in grant funds to 102 groups in 85 cities to carry out activities in capacity building, enforcement, testing, education, and outreach (HUD 2007b).

As stated in the National Fair Housing Alliance's testimony before the National Commission on Fair Housing and Equal Opportunity, "private fair housing organizations are the backbone of the fair housing enforcement system" (Cloud 2008). Private fair housing organizations, many of which are

Despite the accomplishments of these organizations, they are faced with challenges that hinder their ability to promote and enforce fair housing laws. Of the approximately 140 fair housing organizations, only 28 consistently received funding from 2003 to 2007. In recent years, 26 fair housing centers have shut down or are at risk of closing (Cloud 2008). Some of these organizations cover large geographical areas and even entire states.

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In addition to HUD, the U.S. Department of Agriculture (USDA) and DOJ also have some responsibilities regarding fair housing enforcement. All programs administered by USDA's Rural Housing Service (RHS) are covered by the Fair Housing Act. USDA will investigate and attempt to conciliate violations that occur within any of its programs and will refer unresolved complaints to DOJ.ⁱⁱⁱ As stated in a 1997 memorandum of understanding (MOU) between HUD and USDA, the two departments will notify each other when a complaint is made in a rural area and will coordinate in the resolution and investigation (HAC 1998).

Despite these resources, there are a number of challenges that limit knowledge of and action around fair housing issues in rural communities.

- ### *Rural Fair Housing Complaints and Enforcement*

areas, approximately one-fifth provided services to the entire state, and 37 percent applied to provide fair housing services to a mix of urban and rural communities.^v

Rural communities are unlikely to have a local human rights or fair housing commission, which can result in fewer complaints filed and a lack of fair housing compliance within the community. For several years, the State of Georgia Commission on Equal Opportunity had a field office in Savannah, Georgia, which received several housing complaints each year. However, in the early 2000s, the commission was forced to close the office due to budget constraints. Complaints in Savannah could still be filed with the commission's office in Atlanta, but the commission did not receive any complaints filed from Savannah in the entire year following the closure of that local office (Georgia Equal Opportunity Commission 2007).

Rural communities are further removed from fair housing enforcement agencies. For example, HUD enforces fair housing laws in Montana from its office in Denver, Colorado, and only one fair housing organization provides education, testing, and investigation throughout the entire state (Western Economic Services 2004). The paucity of fair housing infrastructure in rural areas limits individual access to the resources these institutions afford and reduces the amount of information that is readily available to examine needs and issues in rural areas.

- Limited fair housing knowledge. In many ways, fair housing enforcement relies on public awareness of individual rights and protections. If residents are not aware of their rights, they are unlikely to know when they have been discriminated against and are less likely to take action (HUD 2006). The limited number of fair housing agencies operating in rural areas may contribute to a lack of knowledge and understanding of fair housing rights in these communities. Evidence suggests that discrimination and limited fair housing knowledge are creating unequal housing opportunities in rural communities. A survey of fair housing issues in Montana found that many individuals, especially in rural communities, lacked basic knowledge about fair housing laws and were unaware of the procedures for filing a complaint (Western Economic Services 2004). This lack of information also has an impact on housing providers, some of whom may engage in illegal housing discrimination and not know it.
- Historical and emerging racism and discrimination. Although prejudices are found in both urban and rural settings, they are often more transparent in rural communities (Foster 2009) and can lead to overt cases of discrimination. While some rural communities have just recently begun to experience racial tension and/or segregation, other rural communities are struggling to overcome the prejudices of the past. A 1998 survey of rural whites in Mississippi provided insight into their views on race and discrimination. Responses varied among those who were surveyed, and many expressed the view that racism was “not as bad as it was back then.” However, a minister who had lived in the area for a few years attempted to explain the local culture:

I'd say it's mostly white out here and that's sort of what they call a gentlemen's agreement which means you don't sell the land to anybody who would ever even possibly have even a child that might ever sell it to somebody that's black and that

bleeds over from this part of the county into the next county cause there will be huge tracts of land, hundreds of acres sometimes a thousand acre tract where you will not see anybody black. (Shirley 2006)

- Limited housing options. While the quality of the rural housing stock has improved overall, there are several issues related to age, structure type, and condition that affect fair housing concerns. First, more than 40 percent of all rural rental units were constructed before 1960 (HAC 2002) and likely do not include accessible design features that are required today. Second, there are fewer rental opportunities in rural areas than in urban communities, and those rental developments that do exist tend to have fewer units (HAC 2002). While more than 10 percent of all urban rental units are in developments with more than 20 units, less than 2 percent of all rural rental units are in these types of structures.

As a result of the age and unit structure type of rental units in rural areas, protected classes, such as those with disabilities, may be more exposed to housing discrimination. The Montana Fair Housing survey found that much of the state's housing stock was not in compliance with fair housing design and construction standards (Western Economic Services 2004).

- Geography and culture. By definition, rural areas have small populations, often residing in a large geographic area. These characteristics have contributed greatly to the perception of rural areas as often isolated, close-knit communities with limited resources. Anecdotally, there is reason to believe that issues of size and culture also contribute to the limited usefulness of fair housing testing in rural communities. Because everyone knows everyone else in these small, close-knit communities, fair housing testers assessing issues of race, ethnicity, religion, and so on are often easily recognized as “not belonging,” making it difficult to collect accurate data and enforce laws.

Overall very little is known about fair housing in rural communities specifically. Given the challenges identified above, gaining a broader understanding of rural fair housing trends and successful enforcement strategies, will enable stakeholders to more effectively use resources in these communities.

Methodology

This study provides an assessment of rural fair housing complaints and identifies fair housing enforcement strategies that have been successful in rural communities. Using HUD data to illustrate trends in rural areas, the research highlights fair housing issues that affect rural communities. Case studies detailing fair housing enforcement agencies that work in rural communities provide a basis for identifying best practices in fair housing enforcement in these communities.

Research Questions

Given the multiple challenges to enforcing fair housing in rural communities, HAC has conducted research to better understand trends related to rural fair housing complaints and identify successful enforcement strategies. HAC's research investigates the following questions:

- What proportion of all discrimination complaints originate in rural communities??
- What are the trends among these rural housing discrimination cases (e.g., type of discrimination, location)? How do these trends compare to urban complaints?
- What are the results of the filed rural housing discrimination complaints?
- What are the impediments to fair housing enforcement in rural areas?
- What fair housing enforcement resources are available in rural communities?
- What are the effective outreach and enforcement strategies in rural areas?

Data Analysis

HAC analyzed fair housing complaint data that were collected by HUD in order to understand rural fair housing complaints and identify any trends in these actions. This analysis included all fair housing complaints filed with HUD or the FHAP agencies from 1998 to 2008. HUD tracks and collects fair housing complaint information and compliance reviews through the Title VIII Automated Paperless Office Tracking System (TEAPOTS). HAC's analysis of this dataset assesses various factors, including geography (i.e., location of the fair housing violation), basis of complaint, and issue of complaint.

The data analysis has several limitations that must be acknowledged. First, research on fair housing is typically limited to those cases that are actually filed; as noted above, there are many cases of discrimination that are not filed with any agency and are therefore not recorded. Second, these data do not include those cases filed by FHIPs or private agencies. The analysis presented includes all cases filed with HUD or the FHAP agencies that provide data to the TEAPOTS dataset.

Case Studies

The study concludes with several case studies highlighting fair housing enforcement strategies that have been successful in rural communities. Fair housing enforcement agencies operating in rural communities have had to develop and implement strategies that address the geographic, cultural, and social impediments that limit knowledge and enforcement of fair housing laws.

The case studies were selected to provide some geographic representation. They were also selected to provide some diversity as to geographic coverage; the cases include organizations that provide fair housing services to a region that includes urban and rural communities as well as case studies of statewide organizations.

FAIR HOUSING COMPLAINTS

HAC analyzed over 91,000 fair housing complaints in HUD's TEAPOTS dataset. The analysis of TEAPOTS data includes information on the number and types of fair housing violations filed with HUD and FHAP agencies in rural counties from fiscal year (FY) 1998 to FY 2008. For the purposes of this analysis, rural counties are defined as all counties outside a metropolitan area, and counties in a metropolitan area that have no urbanized population. Likewise, urban counties are those located in a metropolitan area with some urbanized population.

This analysis provides some insight into the types and prevalence of fair housing complaints in rural counties; however, it should be noted that a large number of fair housing violations in both rural and urban areas go unreported. It is estimated that filed complaints represent only a fraction of the fair housing violations that have occurred in rural areas over the past 10 years.

Protected Classes

The Fair Housing Act provides protection to six distinct classes:

- Disability. Section 802 of the Fair Housing Act defines the term “handicap” as a person with a physical or mental impairment which substantially limits one or more of such a person’s major life activities, a record of having such impairment, or being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in section 102 of the Controlled Substances Act. The Fair Housing Act protects individuals with both mental and physical impairments, which includes cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, HIV/AIDS, mental incapacity, emotional illness, drug addiction (unless currently using an illegal controlled substance), and alcoholism (Young 2006). In 2008, 44 percent of complaints filed with HUD and FHAP agencies cited disability status as a basis of discrimination. This compares to 43 percent in 2007, 40 percent in 2006, and 41 percent in 2005 (HUD 2009).
- Familial status. Under the Fair Housing Act it is unlawful to make inquiries as to how many children will be living in a home. It is also illegal to deny housing due to familial status, limit the number of children allowed in a home, or impose extra fees on families (Ender 2009). In 2008, 16 percent of complaints filed with HUD and FHAP agencies cited familial status as a basis of discrimination. This compares to 14 percent in 2007, 14 percent in 2006, and 15 percent in 2005 (HUD 2009).
- National origin. In 2008, 13 percent of complaints filed with HUD and FHAP agencies cited national origin as a basis of discrimination. This compares to 13 percent in 2007, 14 percent in 2006, and 13 percent in 2005. Of these complaints, 8 percent were filed by Hispanics in 2008 and 2007 and 9 percent were filed by Hispanics in 2006 and 2005 (HUD 2009).
- Race/color. Discrimination based on race is still prevalent. Studies conducted by HUD have found that African Americans, Hispanics, Asian Americans, and Native Americans are treated unfairly 20 percent of the time when buying or renting a home (Kendrick 2008). In

FY 2008, 35 percent of complaints filed with HUD and FHAP agencies cited race as a basis of discrimination. This compares to 37 percent in 2007, 39 percent in 2006, and 38 percent in 2005. A handful of cases (2 percent in 2008, 2 percent in 2007, 1 percent in 2006, and 2 percent in 2005) also cited color as a basis of discrimination (HUD 2009).

- Religion.^{vi} Discrimination based on religion is not as prevalent as other forms of discrimination; however, a number of complaints are filed with HUD and FHAP agencies each year. In 2008, 3 percent of complaints filed with HUD and FHAP agencies cited religion as a basis of discrimination. This compares to 3 percent in 2007, 2 percent in 2006, and 2 percent in 2005 (HUD 2009).
- Sex. Gender (or sex) discrimination occurs when a person is subjected to different or unequal treatment in any number of situations, when that treatment is based on the person's gender. Discrimination in housing includes claims for refusal to negotiate with a person seeking housing, claims for imposition of different lease/contract terms, and claims for refusal to extend a loan based on the gender of the applicant/tenant/buyer. Discrimination based on gender takes many forms, from refusal to rent to sexual harassment after the tenant has moved in.

Issues of Discrimination

The Fair Housing Act and its Amendments cover a broad range of housing-related activities that may not be conducted in a discriminatory manner. All complaints filed in the TEAPOTS dataset provide information on the issue of discrimination. Individual complaints are identified based on the following issues of discrimination:^{vii}

- Refusal to sell
- Refusal to rent
- Steering
- Discriminatory terms, conditions, privileges, services, and facilities in the rental or sale of property
- Discriminatory notices, statements, or advertisements
- False denial or representation of availability
- Failure to permit a reasonable modification
- Failure to make a reasonable accommodation
- Noncompliance with design and construction requirements
- Discriminatory financing
- Redlining
- Refusal to provide insurance
- Coercion or intimidation, threats, interference, and retaliation
- Blockbusting
- Other discriminatory acts

The majority of fair housing complaints are the result of discriminatory practices in the rental market. In 2008, HUD and FHAP received 2,697 complaints, or 26 percent of total complaints, from people who believed that they had been denied a rental because of their membership in a

protected class. Other complaints originating from the rental market were filed by persons who believe they were given discriminatory terms, conditions, privileges, services, and facilities. Persons with disabilities also filed complaints against landlords who refused to permit a reasonable modification or make a reasonable accommodation (HUD 2009).

Fair housing complaints in the rental market have increased since 2007, which may be attributed to the recent foreclosure crisis. Many homeowners have entered the rental market after losing their homes to foreclosure, while many renters have been evicted because their landlords have defaulted on their mortgages. As they seek housing, many of these households have unfortunately faced discrimination due to their race, national origin, familial status, or disability (NFHA 2009). Not only do renters face discrimination, but those pursuing homeownership are often limited by discriminatory practices as they search for a home, apply for a mortgage, or purchase homeowners insurance (NFHA 2009).

Rural Fair Housing Complaints

Of the 91,030 fair housing complaints analyzed for this research, slightly more than 13 percent (12,261 complaints) were filed for alleged discriminatory actions in rural communities. As illustrated in figure 2, the proportion of complaints filed for actions occurring in rural communities has remained steady over the last decade, comprising between 11 and 13 percent of the total complaints filed each year.

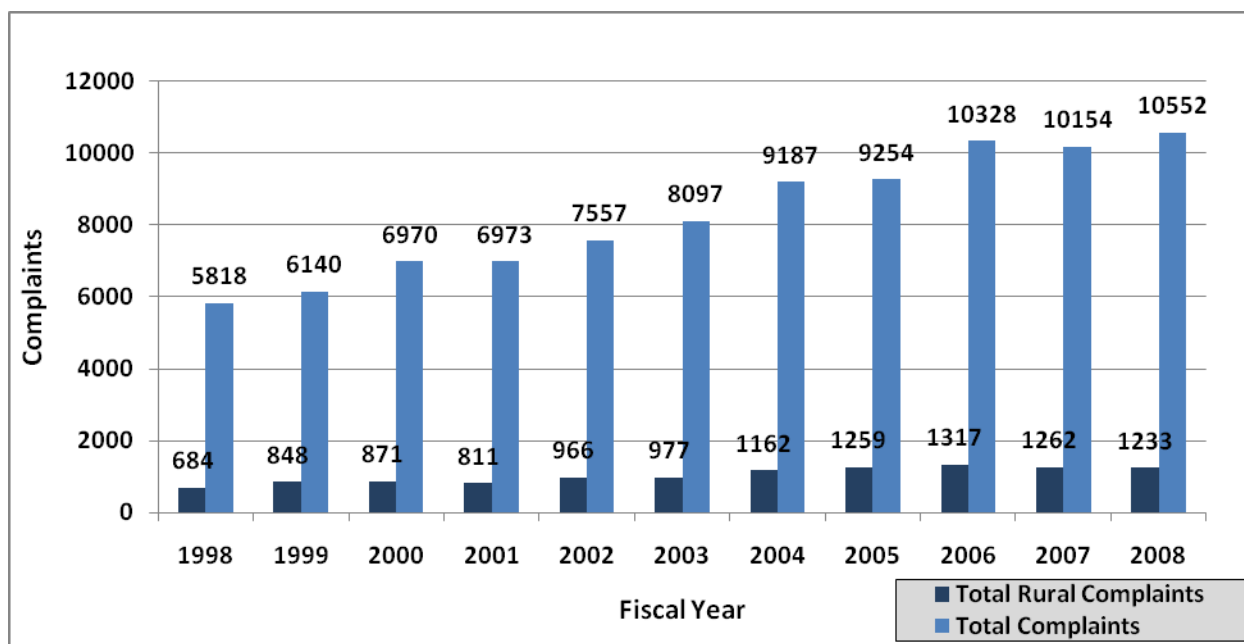


Figure 2. Number of Fair Housing Complaints, FY 1998 – FY 2008

As discussed above, individuals can file their fair housing complaints with either HUD or the local FHAP agency. Complaints can be processed by either HUD or the FHAP agency. While FHAP agencies processed almost three-quarters of all urban complaints, these agencies processed slightly

more than half of all rural complaints (54 percent) and HUD processed the other 46 percent of rural complaints.

More than two-thirds of the rural complaints filed originated in four regions, IV, V, VI, and VII (see fig. 3). These regions include states in the Southeast (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), the South and Southwest (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas), and the Midwest (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin). Not surprisingly, these states have significant rural populations. These same regions account for 54 percent of all complaints over the study period.

A map of the United States with states colored in various colors and patterns. The colors include red, purple, light blue, green, yellow, orange, pink, and teal. Some states are shaded with diagonal lines. A legend is partially visible in the bottom right corner.

 Region I
 Region II
 Region III
 Region IV
 Region V
 Region VI
 Region VII
 Region VIII
 Region IX
 Region X

[illegible]

Bases of Rural Complaints

There were a total of 15,122 rural complaints filed over the study period. In general, rural fair housing complaints reflect similar bases of complaints as complaints in urban areas. The majority of cases identified disability (37 percent) and race (29 percent) as the basis of complaint. The proportion of cases identifying familial status, religion, color, and retaliation/harassment has remained constant over the study period.

Analysis of the data shows that complaints based on race and disability comprised two-thirds of identified bases of complaints (see fig. 4). This reflects a slight shift from trends in the mid-1990s, when complaints based on race accounted for 45 percent of all rural complaints (HAC 1998).

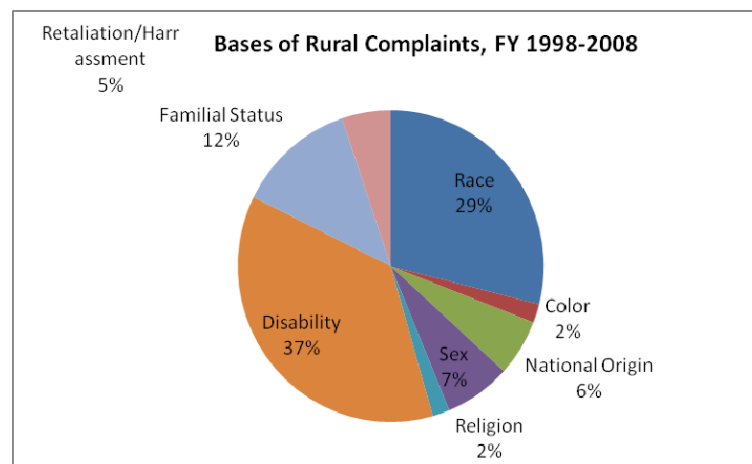


Figure 4. Bases of rural complaints, FY 1998–2008

HUD data show that this rural shift is in line with overall trends. From 2005-2008, claims or complaints on the basis of disability and race were 42 percent and 37 percent respectively, collectively comprising over three-fourths of all fair housing complaints of recent years (HUD 2009).

The National Fair Housing Alliance (2009) notes that disability complaints are continuing to rise for the following reasons:

- Many apartment owners make direct comments refusing to make reasonable accommodations for people with disabilities;
- HUD has an office devoted solely to disability issues, bringing more attention to this issue; and
- Many builders continue to design and construct apartment complexes that violate the Accessibility Guidelines despite the fact that HUD has spent millions of dollars on the Fair Housing Accessibility FIRST program to educate architects and builders.

The increase in disability as a basis of complaint has occurred gradually over time. The number of disability complaints tripled from 1998 to 2008. As shown in figure 5, disability comprised less than one-quarter of all complaints in 1998, and beginning in 2000 disability surpassed race as the

predominant basis of rural complaints. In 2008, race was the basis of complaint in one-quarter of all rural complaints filed and disability was the basis of complaint in over 40 percent of the filed cases.

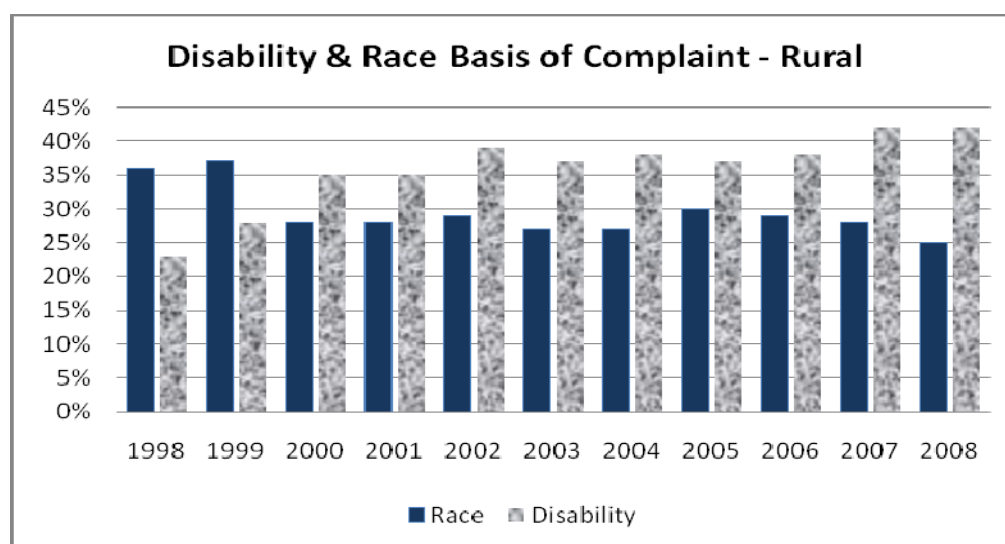


Figure 5. Disability and race as basis of complaint – rural

As the rural population is aging, the need to address issues related to disability and accessibility has increased. Currently, more than 11 million rural residents over the age of 5 years are disabled and almost one-quarter of all rural households are occupied by persons over the age of 65.

In addition to changes in the number and proportion of cases based on race and disability, there has been a marked increase in the number and proportion of rural complaints on the basis of national origin. Nationally, complaints on the basis of national origin have remained constant over the past four years at 13 percent, and two-thirds of national origin complaints are filed by individuals or groups of Latino or Hispanic heritage. These trends may be attributed to the growing diversity and demographic shifts of rural areas in recent years. From 1980 to 2000, growth in the Latino/Hispanic population contributed over 25 percent of the total nonmetropolitan population increase and over 50 percent of the nonmetropolitan minority population increase (USDA 2005). The Hispanic/Latino population continues to be the most rapidly growing segment of the population in nonmetropolitan counties.

Issues of Rural Complaints

Rural and urban complaints are almost identical in terms of the issues involved in the alleged discrimination. For both groups, discriminatory terms and conditions represented more than 40 percent of the issues identified. The practice of discriminatory terms encompasses a wide array of actions. For example, complaints were filed based on discriminatory terms when a landlord attempted to change the terms of a lease after learning that the renter's husband and children were African American and in a case in which a landlord imposed stricter rules on African-American tenants than on white tenants (HUD 2008).

Complaints are highest for this type of discriminatory behavior likely because housing providers have increased their willingness to rent to individuals in protected classes perhaps due to economic constraints, and have now turned to exercise discriminatory behavior in the treatment of such individuals as they become tenants. Further, greater utilization of technology has created a new wave of discriminatory behavior. Landlords can post available housing online and such advertisements frequently include discriminatory terms, as there are few, if any, filters that ensure the legality of housing advertisements. Figure 6 shows those issues that account for more than 5 percent of the total issues identified.

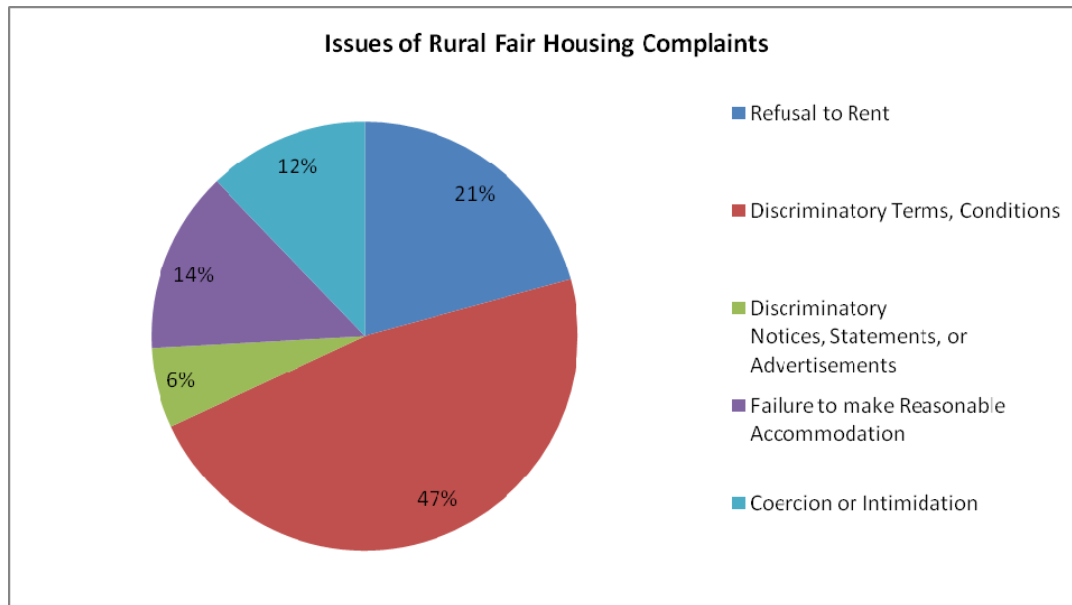


Figure 6. Issues of rural fair housing complaints

Refusal to rent was identified as an issue of complaint in one-fifth of the cases. Given the prevalence of disability complaints in rural counties, it is somewhat surprising that “failure to make reasonable accommodation” represents only 14 percent of the issues identified. It is also surprising that coercion comprises such a high proportion of issues (12 percent).

Complaint Closures

As shown in figure 7, there was a no cause determination in almost half of all rural complaint cases (45 percent). A conciliation agreement was reached in more than one-fifth of all rural cases and the initial claim was dropped in 16 percent of all complaint cases. Again, these proportions are similar to actions that occurred in urban complaints.

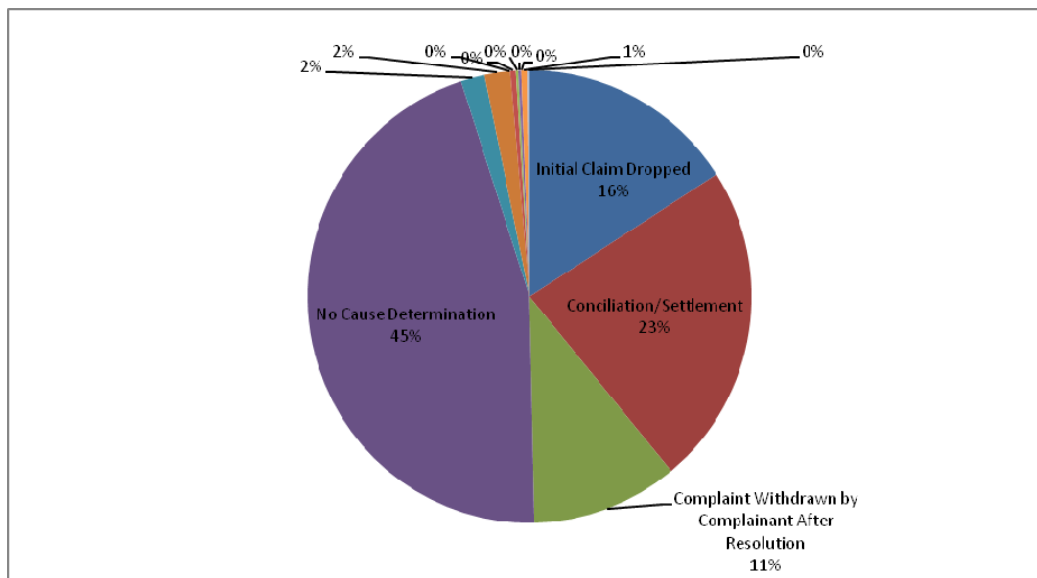


Figure 7. Rural Complaint Closures

Complaint closure descriptions that reflect less than 5 percent were removed from the analysis.

RURAL ENFORCEMENT IN PRACTICE

In brief, the fair housing complaint process includes the following steps:

- *Intake.* Any person or group that has experienced housing discrimination may file a fair housing complaint under HUD's Title VIII Fair Housing Complaint Process. The complaint may be filed with HUD or a local FHAP agency via telephone, mail, or Internet, or in person (Border Fair Housing and Economic Justice Center 2009). The intake process varies by agency but will typically involve an interview with the complainant and an examination of the alleged violation to determine whether the complaint falls within the agency's jurisdiction and whether the alleged violation(s), if true, would violate the Fair Housing Act.
- *Complaint investigation.* After the intake agency or organization determines whether the violation falls under fair housing law and whether it falls under the agency's or organization's jurisdiction, the agency or organization will either begin an investigation or refer the case to the appropriate agency. The agency conducting the investigation will examine the specific events that prompted a complaint, the policies and practices of the respondent, and any other relevant facts. The investigators may inspect the property, review relevant documents, and conduct interviews. If necessary, investigators have the right to issue subpoenas in order to gain access to documents or witnesses. The investigation may also reveal other discriminatory conduct on the part of the respondent. The information collected will allow HUD's General Council to make a reasonable cause decision if conciliation is not achieved between the parties (Jackson and Campbell 2001).
- *Conciliation.* Even if the investigation produces significant evidence that discrimination may have occurred, HUD or the FHAP agency must first attempt to conciliate the complaint. The conciliation brings the parties together in order to come to a voluntary agreement that outlines how the respondent will remedy the specific violations committed against the complainant and how the respondent will ensure that discriminatory practices will not be committed moving forward. Although the conciliation agreement will not require the respondent to admit any violation of the law or wrongdoing, it may require the respondent to pay the complainant's damages, attorney fees, and injunctive relief (Jackson and Campbell 2001). Conciliation agreements will also require the respondent to take actions in the public interest, such as changing policies and practices, attending fair housing training, or providing relief to other victims of discrimination (Kendrick 2008).

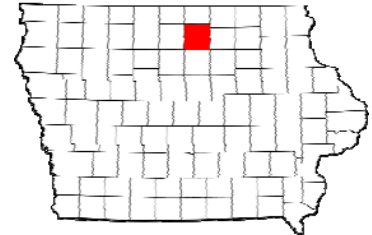
In FY 2007, HUD and FHAP agencies negotiated 3,100 conciliation agreements, or 30 percent of complaints filed, which resulted in over \$4.76 million in monetary relief. The agreements also provided complainants with housing units, accessible parking spaces, fair rental prices, fair interest rates on loans, and retrofits to make apartments accessible. The public interest was also protected, as respondents were required to change discriminatory policies and attend fair housing training (Kendrick 2008).

- *Adjudication.* If the parties are unable to conciliate, then HUD or the FHAP agency will determine if there is reasonable cause to believe that discrimination occurred. In 2007, HUD and FHAP agencies determined reasonable cause in 6 percent of the cases investigated (Kendrick 2008).

Fair housing organizations operating in rural communities utilize the framework described above to address housing discrimination complaints; however, these organizations must identify strategies to overcome the specific challenges. The case studies presented below present the challenges and resource needs of rural fair housing providers and highlight those fair housing enforcement activities that are most effective in the rural context.

Mason City Human Rights Commission

The Mason City Human Rights Commission (MCHRC) aims to remove discriminatory barriers for residents of North Iowa and to educate, communicate, and advocate for equality among a diverse population. Through education and outreach, the MCHRC seeks to inform individuals and businesses about issues relating to fair housing, fair employment, fair lending, equal opportunity in education, and the accessibility of public accommodations.



Based in Mason City, Iowa, the MCHRC enforces the Iowa Civil Rights Act and the federal Fair Housing Act throughout the rural community of Cerro Gordo County. As of the 2000 Census, there were nearly 47,000 individuals and about 12,400 families residing in the county. Racially, the county is over 96 percent white, almost 3 percent Latino, and less than 1 percent African American, Asian, Native American, or Pacific Islander. The MCHRC's service area does not include any urban areas.

Predominant Fair Housing Issues

The MCHRC receives fair housing complaints from a range of sources, including telephone, referrals, and walk-ins. The organization has also recently expanded access to its services by allowing for complaints to be submitted online. While the online presence has increased accessibility to the MCHRC's services, the site has been in operation for less than one year and the MCHRC has not yet seen significant increases in complaints or inquiries.

While the MCHRC serves only rural communities, Executive Director Lionel Foster sees a difference in the basis of complaints between rural and urban locations. According to Mr. Foster, the small minority population in Cerro Gordo County limits the number of national origin and race claims more typical of metropolitan areas. Mr. Foster also says, however, that the actual issues are substantively similar.

The MCHRC pursues matters of fair housing and unemployment, and receives a number of daily inquiries about complaints regarding both issues. In 2009, the MCHRC pursued 22 fair housing cases. Disability and familial status are the most common bases of the fair housing complaints the MCHRC receives. Disability complaints most commonly involve alleged refusals of a landlord to provide a reasonable accommodation and/or an unwillingness to allow a tenant to make a reasonable modification to the property (e.g., install a wheelchair ramp or handrail). Familial status complaints most commonly refer to a landlord's refusal to rent to families with children, or to offer different terms, conditions, or privileges because of the presence of a child.

Rural Enforcement Challenges and Strategies

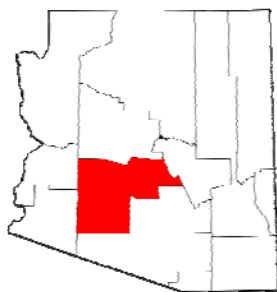
Fair housing complaints that are filed with the MCHRC are investigated to determine whether there is sufficient evidence to support the allegations. A substantial portion of the complaints processed by the commission are resolved through education, mediation, or litigation.

The MCHRC settles most of its cases through mediation, yet according to MCHRC staff, litigation is the most successful enforcement strategy in rural areas. In small, rural communities where a small number of housing providers own or manage a large proportion of the rental housing stock, bad practices can limit housing opportunities for a significant number of residents. “There have been housing providers who we have multiple cases against and it is apparent that utilizing our most forceful measures is the only way to effect change in these instances,” says Foster.

However, litigation is expensive and this creates a serious challenge for the MCHRC’s ability to pursue justice through either the court or administrative hearings. The organization is currently eligible to receive up to \$2,600 per complainant, depending on the timeliness and quality of an investigation. An additional \$500 is provided for complaints that result in a reasonable cause finding, in order to provide further assistance to FHAP agencies in litigating cause complaints. If the MCHRC is able to mediate and settle the complaint early in the process, this level of funding is adequate; however, this is rarely enough to support a full court proceeding. According to Mr. Foster, the MCHRC does “a lot of litigation, more so than the Iowa Civil Rights Commission. We are probably doing more litigation than many of our counterparts in the state and those in larger communities. We have that struggle of, when going to court, having enough money to win the case.”

Outreach and education have not been very effective enforcement strategies in Mason City, according to MCHRC leadership. Mr. Foster believes that civil rights awareness is not seen as immediately useful or necessary among residents, and thus fair housing education is not taken advantage of adequately. Mr. Foster also sees a broader “cultural aversion” to disrupting the status quo and says that rural residents are likely to “turn the other cheek” and seek other housing options if they have an issue with one housing provider.

Arizona Fair Housing Center



The Arizona Fair Housing Center (AFHC) aims to eliminate violations of federal, state, and local fair housing laws. The AFHC provides fair housing education and outreach, including workshops, presentations, seminars, counseling, and consultations. The AFHC also investigates housing discrimination complaints in all areas of housing, including rentals, sales, mortgage lending, and insurance. The AFHC works with tenants, landlords, homeowners, real estate professionals, loan officers, housing counselors, social service agencies, and community service organizations.

Based in Phoenix, Arizona, the AFHC serves the mostly rural areas of central and northern Arizona. Six Native American reservations fall within the AFHC service area, and while the AFHC does not have jurisdiction on the reservations, it does accept cases of Native American reservation residents seeking new housing in adjacent communities.

Predominant Fair Housing Issues

The AFHC receives most of its complaints via telephone or Internet from the actual victims of discrimination. The AFHC receives two to three fair housing complaints via telephone daily, and in 2009 the AFHC pursued 60 fair housing cases. After the initial intake, the AFHC follows up with each client with an in-person interview. The most frequent bases of complaints the AFHC receives are disability and national origin. Many disability complaints revolve around the lack of reasonable accommodation, while national origin complaints are typically brought by Latino residents and recent immigrants. In addition, undocumented immigrants from Central and South America represent a growing number of housing discrimination victims, according to AFHC Executive Director Ed Valenzuela. Arizona's position as a border state leads to recurring issues of illegal immigrants seeking housing. While the AFHC has not yet performed internal research, Valenzuela believes that illegal immigrants have become regular victims of housing discrimination and believes these incidents are not being addressed adequately. Valenzuela also finds that the rural and urban complaints are not substantively different; the issue, rather, is that the small, tighter-knit communities common in rural areas pose new challenges.

Rural Enforcement Challenges and Strategies

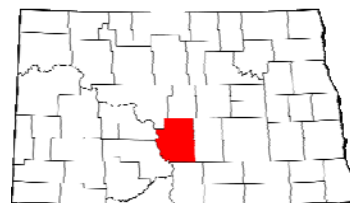
Valenzuela notes that the largest challenge to fair housing enforcement in rural areas is the lack of awareness of housing rights. The smaller, tighter-knit communities typical of rural areas at times assist in maintaining the status quo and make housing seekers more inclined to accept treatment as is. Moreover, the number of housing providers may also be very limited in these areas, again facilitating the predominance of a housing provider's personal preferences.

The AFHC's main enforcement strategy is conducting tests of housing providers and investigating complaints. Upon verifying the facts of a case, the AFHC refers the case to HUD, DOJ, the Arizona Attorney General's office, or a private attorney.

Valenzuela cites increased federal funding as the most needed resource to increase enforcement activity in rural areas. It appears to him that fair housing is low on the list of priorities in the government and states that increased funding and attention would allow the AFHC and other fair housing organizations to educate and train communities across greater distances, as well as increase enforcement activities.

Fair Housing of the Dakotas

The mission of Fair Housing of the Dakotas (FHD) is to eliminate housing discrimination and to ensure equal housing opportunities for all. Enforcement, education, and outreach are the major program areas for FHD. FHD provides assistance to individuals pursuing legal rights and a remedy related to fair housing, offers housing assistance and counseling, provides community education, promotes community involvement, and performs research in the area of housing.



FHD is headquartered Bismarck, North Dakota and serves communities in North Dakota, South Dakota, and parts of Minnesota. While FHD does engage in matters in the urban area of St. Paul, Minnesota, the majority of fair housing cases are from rural communities.

Predominant Fair Housing Issues

FHD receives most of its cases via telephone from the individual or group complainant. FHD generally receives around 2,000 fair housing telephone inquiries each year, and in 2009 the organization filed 35 fair housing cases. Each FHD staff member is trained on proper intake processes and first screens the complaint to see if the issue falls within the organization's jurisdiction. Disability is the primary base of fair housing complaints received by FHD. Common issues are lack of reasonable accommodations and the right to house service animals. FHD Executive Director Kourtney Hollingsworth does not see a substantive difference between rural and urban complaints and has a caseload of largely reasonable accommodation or modification issues.

Rural Enforcement Challenges and Strategies

Hollingsworth cites limited resources and an expansive territory as the main obstacles to fair housing enforcement in rural areas. The FHD service area spans three states and there is a considerable gap between the rural communities, which presents itself as a sizable obstacle for FHD staff. Ms. Hollingsworth also states that the lack of fair housing awareness is a strong barrier to fair housing enforcement.

FHD's primary enforcement strategy is testing, and the organization also conducts surveys and pursues litigation. Disability discrimination can generally be divided into two subgroups: refusal of reasonable accommodation or refusal to rent. FHD tests for refusal of reasonable accommodation by having the complainant file a request for accommodations in which the landlord is obligated to return a written response to the tenant, thus providing evidence for the complaint. "Refusal to rent" complaints are tested in a similar way to tests of discrimination based on race or national origin. Testers, including a "control" tester who is without disabilities, apply for housing and ask the provider questions regarding accommodations. The testers then report back to FHD on their experiences with service and treatment.

Hollingsworth believes that no strategy is more or less helpful than others in rural areas. During the implementation process, rather, what is required is a genuine and thorough understanding of the culture and demographics of an area in order to best utilize the strategies available. In addition, Ms. Hollingsworth states that stronger partnerships at the local or regional levels are needed to help increase fair housing enforcement activity in rural areas.

Fair Housing Center of West Michigan

The mission of the Fair Housing Center of West Michigan (FHCWM) is to eliminate practices of housing discrimination and promote diverse, open communities through education and advocacy. To meet this goal, the FHCWM provides education and outreach to housing professionals and consumers, as well as enforcement activities.



The FHCWM is headquartered in Grand Rapids, Michigan, located in Kent County. Grand Rapids is the second largest city in Michigan and is moderately urban. As of the 2000 Census, there were nearly 575,000 residents and about 213,000 households in the county. Racially, the county is about 83 percent white, nearly 9 percent African American, 7 percent Latino, nearly 2 percent Asian, and less than 1 percent Native American or Pacific Islander. The center also serves the 10 counties surrounding Kent County, which are all rural communities.

Predominant Fair Housing Issues

The FHCWM receives most of its complaints via telephone; nearly one-third of the calls come from local housing professionals who have witnessed or seen discriminatory action and advertisements. Interns from nearby Cooley Law School also look for discriminatory advertisements on behalf of the center. The FHCWM receives about 150 complaints out of nearly 2,000 telephone inquiries each year. In 2009, the FHCWM filed 301 fair housing cases and received 2,500 telephone inquiries. Executive Director Nancy Haynes says her organization is trying to build an “army of fair housing advocates” and that the use of local partners helps increase fair housing enforcement and compliance.

The FHCWM receives the majority of its housing complaints on the basis of race and, more recently, on the basis of familial status. Ms. Haynes attributes the rise of familial status complaints to the unsettled conflict between the Fair Housing Act and the Communications Decency Act. Many websites do not have any filters or, like newspapers, employees trained in fair housing. Ms. Haynes believes that the lack of online filtering has led to an increased number of online advertisements that include statements such as “no kids,” and has thus greatly increased the number of familial status cases. Ms. Haynes also speculates that because of the economy many property owners are struggling to adjust to their unexpected new role as landlord and self-advertise without knowledge of fair housing laws.

With regard to race-based fair housing complaints, racial steering and discrepancies in service and treatment are the most common issues – problems Ms. Haynes says have not changed in the past 30 years. Ms. Haynes finds that housing providers and real estate professionals readily use subjective judgment and steer potential residents to areas where they feel the newcomers will best “fit in” with the racial and economic status quo. Regarding treatment and service, the FHCWM has conducted a series of tests that showed the most preferred clients are white women, followed by white men, black women, and lastly black men. During one test, a white woman was shown several different apartments and told about specials, whereas the FHCWM black male tester was told he would be informed when housing was available and was also told that a criminal background check was mandatory.

With regard to differences in complaints in rural and urban areas, Ms. Haynes says that the urban area of Grand Rapids sees more race-based complaints than the rural areas, as most of the African American population in the FHCWM service area resides in urban areas. While rural communities tend to be more racially homogenous, the migrant farm worker population tends to be of a minority background, and Ms. Haynes notes that rural complaints typically fall under the basis of disability, national origin, or familial status. Disability complaints have been on the rise during the last 10 years and the FHCWM anticipates future increases due to limited fair housing education in rural communities.

Rural Enforcement Challenges and Strategies

The FHCWM believes that the key to fighting fair housing violations is to build as many partnerships as possible, and the organization's main enforcement strategy is to provide effective education and training, as well as conducting testing for several years. The FHCWM tends to choose mediation and administrative hearings as its primary medium of resolution and tries to always insert an FHCWM staff member as the unbiased third-party mediator.

Haynes states that confidential settlements may not be the most effective resolutions for rural areas because clients in smaller communities need accessible examples of successful reconciliation in order to move forward with fair housing enforcement. In addition, Haynes believes that effective rural enforcement requires strong partnerships and an equally vigorous educational component, saying that the two measures go hand in hand and that building relationships with a fair housing center as part of a settlement is key.

According to Haynes, the main challenge to increased fair housing enforcement in rural communities is a lack of resources. Lack of funding has prevented the FHCWM from engaging in more proactive education and outreach efforts in its vast service area. Further, while the FHCWM has made contact with some of the organizations working in rural localities, Haynes finds it difficult to make connections with the actual victims. In addition, Haynes states that fair housing agencies must have the flexibility and will to enforce the law and that some fair housing centers have a hard time providing effective education and enforcement because they see it as a conflict of interest to enforce the law upon people they have trained.

To overcome the logistical barriers to rural fair housing enforcement, Haynes suggests that a model be put into practice whereby a single statewide entity will field complaints and then refer individuals to local fair housing centers. Moreover, Ms. Haynes believes that greater emphasis on fair housing enforcement at the federal level can lead to more effective enforcement on the ground, and that housing practitioners should be mandated to provide fair housing training to staff if they receive public funds.

TRENDS

The Housing Assistance Council (HAC) analyzed more than 91,000 fair housing complaint records in HUD's TEAPOTS dataset to identify fair housing complaint trends. Several trends related to rural fair housing complaints were identified through this analysis.

- Portion of housing discrimination complaints originating in rural communities. HAC's analysis of TEAPOTS data shows that approximately 13 percent of all complaints filed are based on discrimination that occurred in a rural county. The proportion of rural complaints has remained constant over the last decade.
- Processing of rural complaints. HUD offices are responsible for processing a greater proportion of rural complaints as compared to urban complaints, indicating that many rural areas may not be within FHAP jurisdictions. For example, largely rural states like Mississippi, Alabama, Wyoming, Montana, New Mexico, South Dakota, Nevada, and Alaska have not enacted substantially equivalent fair housing laws, and are therefore not participating in FHAP. As a result, HUD investigates housing discrimination complaints that arise in these states.
- Geographic concentration of rural complaints. A significant proportion of rural complaints are filed in specific HUD regions (i.e., Regions IV, V, VI, and VII). While this is consistent with larger geographic patterns, it may suggest the need for additional capacity to address these needs.
- Basis and issue of rural complaints. For the most part, rural fair housing complaints are similar to urban complaints in terms of both basis and issue. Rural disability complaints have increased over the last five years and disability has replaced race as the major basis of complaint.

BEST PRACTICES

Fair housing providers from Michigan, the Dakotas, Iowa, and Arizona provided insight as to the challenges they face in addressing housing discrimination and the best enforcement strategies and tools in rural areas. While the enforcement experiences of these providers vary, there are several lessons learned that can be gleaned from their work.

- Partnering with community stakeholders and creating strong partnerships can facilitate greater outreach and improved enforcement. Several providers made the case that fair housing enforcement is an issue of trust, as complainants must feel that fair housing providers will follow through on their claims and not exacerbate the conflict. Residents must view the organization as a reliable source of support and assistance. This can be achieved by working closely with trusted partners in the community. The creative use of local realtors and law students to identify fair housing cases or discriminatory advertisements increases the reach of the fair housing organization and improves its reputation in the community.
- Outreach and education efforts must be customized and directed to local stakeholders in order to overcome antipathy and indifference towards housing discrimination. Education efforts are difficult in rural communities, specifically because of the large geography many organizations cover. Rural

providers noted that innovative outreach strategies can be used to share lessons with both victims and perpetrators of housing discrimination. Conciliation agreements can be shared with those accused of fair housing violations as an educational tool to help them understand how they can address their issues and also with victims to help them see the results of complaints.

- Effective testing requires knowledge of local culture and dynamics. Practitioners recognize the challenges of fair housing testing in rural communities; however, each of the providers interviewed used fair housing tests. Providers noted that testing can work in communities when there is a genuine knowledge of the community and an understanding of local culture. Testing must also be done in coordination with education and outreach in order to be most effective.

Additionally, fair housing stakeholders identified a range of concerns that affect their ability to extend fair housing protections in these communities. Several providers discussed the challenges of extending services to large geographic areas with limited resources. Second, each of the stakeholders identified limited funding as a pressing concern. More specifically, practitioners were concerned about the cost of litigation as compared to the amount of funding that is available to pursue this activity.

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ⁱ There were 10,552 fair housing complaints filed with HUD and the FHAP agencies in 2008. Private fair housing organizations received another 20,173 complaints that are not part of this analysis (NFHA 2009).

ⁱⁱ HUD may also conduct systemic investigations of entire agencies or industries to uncover steering, lending and insurance discrimination, or discriminatory actions in zoning and local ordinances.

ⁱⁱⁱ For a more detailed discussion of DOJ's fair housing responsibilities, please see the Appendix.

^{iv} HUD provided organizations total funding of \$18.9 million; \$13.9 million was provided under the Private Enforcement Initiative grant program and \$4.2 million was funded under the Education and Outreach Initiative (EOI) grants.

^v This information is from the HUD website, FY 2008 Fair Housing Initiatives Program (FHIP) Awards. The grants in the write-up reflect 92 grantees; information for 10 grantees was missing from the dataset.

^{vi} The Fair Housing Act contains exemptions for religious organizations as long as they do not discriminate against other protected classes. The exemption does not apply to commercial property. For example, a church may restrict convent housing to nuns, but it is unlawful for a religious institution to restrict the sale or rental of a home based on religion (Seng 2005).

^{vii} It must be noted that fair housing complaints can include multiple issues of discrimination.