

# DENIALS, DISCOUNTS AND DISCRIMINATION



*An Investigation into Racial Discrimination  
in Rental Practices in the Gulf South*



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## I. FOREWORD

Almost fifty years since the passage of the Fair Housing Act, communities across the Gulf South continue to see alarmingly high rates of housing discrimination. Discrimination is less overt today than in previous decades, but it is no less harmful. Our neighborhoods remain highly segregated and the corollary ill effects of racial segregation and concentrated poverty continue.<sup>1 2</sup>

Racial segregation in the South has historically excluded African Americans from neighborhoods offering high-quality housing stock, schools, and other public services. As a result, people living in majority African American neighborhoods are living shorter, less healthy lives, and are much less likely to achieve financial and other success.<sup>3</sup>

Take New Orleans, for example. In New Orleans' zip code 70112, an area with over 87% African American residents, children face **a life expectancy 24 years shorter** than children living in zip code 70124, which is 93% white.<sup>4</sup> The disparity begins at the earliest stages of life, with 34% of residents in zip code 70112 being born at low birth weights, compared to 0% in zip code 70124.<sup>5</sup>

New Orleans is not unique. Wherever one lives, differences in neighborhood conditions powerfully predict who is healthy, who is sick, and who lives longer.<sup>6</sup> One can see why. Observing any highly segregated community in the Gulf South, majority African American neighborhoods often offer corner stores with few fresh food options, small walk-in health clinics instead of hospitals, and fewer transportation or employment opportunities than majority white communities.

While issues of race and class often intersect, studies show that race, not just poverty, is predictive of such disparities in neighborhood opportunity. Middle-class communities of color tend to have lower home price appreciation, fewer neighborhood amenities, lower-performing schools, and higher crime rates than white neighborhoods whose residents have comparable income levels.<sup>7</sup>

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<sup>1</sup> Although this report focused on race, there are seven protected classes under the Fair Housing Act (race, color, national origin, sex, familial status, religion and disability). Although not addressed in this report, discrimination on the basis of other protected classes continues to be prevalent.

<sup>2</sup> Logan, John, *Separate and Unequal: The Neighborhood Gap for Blacks, Hispanics, and Asians in Metropolitan America* (2011), available at <http://www.s4.brown.edu/us2010/Data/Report/report0727.pdf>.

<sup>3</sup> <http://www.equityinallplaces.org/wp-content/uploads/2012/06/CHER-Final-text.pdf>.

<sup>4</sup> *Place Matters for Health in Orleans Parish: Ensuring Opportunities for Good Health for All*, available at <http://jointcenter.org/docs/New%20Orleans%20CHERReport.pdf>.

<sup>5</sup> *Ibid.*

<sup>6</sup> <http://www.equityinallplaces.org/wp-content/uploads/2012/06/CHER-Final-text.pdf>.

<sup>7</sup> <http://www.urban.org/sites/default/files/publication/30631/411955-Promoting-Neighborhood-Diversity->

These statistics all beg the question: why are our communities still so segregated? Historically, stark patterns of racial segregation were established through public policy decisions, including local land use regulation, underwriting requirements for federally insured mortgage loans, and the siting of public housing.<sup>8</sup> Discrimination by private actors, including through the enforcement of restrictive covenants, also played a significant role.

But does intentional housing discrimination continue to act as a barrier for African Americans to live in neighborhoods of opportunity today?

Fair Housing centers in the Gulf South receive calls every day from African American residents who are barred from safe, secure housing in neighborhoods of opportunity and who suspect discrimination is at play.

The discrimination they face is not always overt – rarely do housing providers make blatantly discriminatory statements anymore – but, although more subtle, such discrimination is just as damaging as it once was. Housing providers discriminate by quoting African Americans higher rents or security deposits than their white counterparts, requiring African Americans to undergo more formal application processes, and generally providing them with subpar customer service. Meanwhile, prospective white renters are often given incentives for renting units, told of more availability and, at times, steered to what property managers describe as “better” complexes, which are usually those in better condition, with higher concentrations of white tenants, located in predominantly-white neighborhoods.

With this knowledge in mind, the Louisiana Fair Housing Action Center partnered with the North Texas Fair Housing Center and the Urban Institute to conduct an investigation across three states in an effort to learn more about the prevalence of race-based discrimination in the rental market as a barrier to entry into neighborhoods of opportunity.

The information gained from this investigation will contribute to our continued efforts to dismantle discriminatory housing policies and practices across the Gulf South. Although the findings are troubling, we hope they also serve as a catalyst for mobilization and change.

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[Benefits-Barriers-and-Strategies.PDF](#).

<sup>8</sup> Ibid.

## II. EXECUTIVE SUMMARY

Housing matters. Where one lives and the conditions in which one lives have a direct impact on quality of life. Unfortunately for many African Americans in the United States, access to housing of their choosing remains a challenge.

This investigation shows that race-based discrimination by private housing providers, realtors, and management companies is still prevalent in areas of opportunity across the Gulf South. In fact, more than half the time when an African American sought to reside in a high opportunity area, they faced at least one form of discrimination.

The purpose of this project was to investigate the rate at which housing providers in well-resourced neighborhoods in the metropolitan statistical areas of New Orleans, LA; Jackson, MS; Houston, TX; and Dallas TX, treated prospective applicants differently based on their race. LaFHAC conducted a total of 240 paired tests in New Orleans (75 paired tests); Dallas (50 paired tests); Houston (50 paired tests); and Jackson (65 paired tests). An additional 10 follow-up tests were conducted, which generally confirmed the initial results; those tests are not included in the tallies for this report.

In each city, paired fair housing testers – one white and one African American – posed as prospective tenants and inquired about apartment availability. Testers were matched to ensure that they had similar incomes, career paths, family types, and rental histories. The primary difference between the two testers was race.

**Of the 240 tests conducted across three states, African American testers experienced differential treatment on 126 occasions, or 53% of the time.** In addition to the overall rate of differential treatment, in each city African American testers often faced multiple kinds of discrimination during a single housing transaction.

### Houston

Of the 50 paired tests conducted in the Houston area, African American testers experienced differential treatment 60% of the time.

### New Orleans

Of the 75 paired tests conducted in the greater New Orleans area, African American testers experienced differential treatment 57% of the time.

## Jackson

Of the 65 paired tests conducted in the Jackson area, African American testers experienced differential treatment 48% of the time.

## Dallas

Of the 50 paired tests conducted in the Dallas area, African American testers experienced differential treatment 44% of the time.

### **Discrimination in each city fell into the following broad categories:**

- Refusal to rent to African Americans;
- Differences in terms and conditions, including making exceptions to rental policies for the benefit of white prospective tenants;
- Differences in available units shown or offered, with African Americans receiving notice of fewer available units;
- Differences in follow-up contact received;
- Steering testers to/from properties; and
- Discouraging or encouraging comments made to testers, depending on their race.

The findings of this investigation reinforce the urgency with which we must continue to combat all forms of housing discrimination. In the more than 50 years since the enactment of the Fair Housing Act, strides have been made to remedy the injustice of housing discrimination in the United States. However, as this report illustrates, there is much work yet to be done. To ensure equal housing access – a bedrock value essential for a democratic society – the communities highlighted in this report will need to commit to both rigorous enforcement of fair housing laws, and targeted policy interventions that make sure all residents have equal access to opportunity.

### III. OVERVIEW OF FAIR HOUSING LAW

#### Federal Law

Title VIII of the Civil Rights Act of 1968, commonly referred to as the Fair Housing Act, was passed on April 11, 1968. The Fair Housing Act as amended in 1988,<sup>9</sup> the Civil Rights Act of 1866,<sup>10</sup> and several Supreme Court decisions provide the legal foundation for the fair housing movement. These laws prohibit discrimination in housing and provide protection for consumers seeking to rent or buy a home, secure a mortgage loan, or purchase homeowner's insurance.

The Civil Rights Act of 1866 gave Black citizens the same rights as white citizens to inherit, sell, lease, hold, and convey real land and personal property. In *Jones v. Alfred H. Mayer*,<sup>11</sup> the Supreme Court held that the Civil Rights Act was a valid and important exercise of Congressional power. Under the Thirteenth Amendment, Congress had the power to pass all laws necessary to eradicate the "badges of slavery."

The Fair Housing Act, as amended, expanded protections by prohibiting discrimination on the basis of race, color, religion, sex, disability, family status,<sup>12</sup> and national origin in all transactions related to housing. These bases of protection are commonly referred to as "protected classes."

The Fair Housing Act prohibits a number of discriminatory actions and practices, including:

- Refusing to sell or rent a property, or otherwise make housing unavailable to a person because of membership in a protected class;
- Discriminating in terms, conditions, or privileges of sale or rental because of membership in a protected class;
- Advertising or making any statement that indicates a preference, limitation, or discrimination because of membership in a protected class;
- Misrepresenting the availability of housing because of a person's membership in a protected class;
- Engaging in blockbusting by telling a homogeneous group in a community that others like them are leaving because a group of people representing

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<sup>9</sup> 42 U.S.C. § 3601, *et. seq.*

<sup>10</sup> 42 U.S.C. § 1981, 1982.

<sup>11</sup> 392 U.S. 409 (1968).

<sup>12</sup> Families in which one or more children under 18 live with a parent, guardian, or designee. "Familial status" includes pregnancy.

- a protected class is moving into the neighborhood;
- Engaging in steering by directing renters or buyers to a certain neighborhood or area of a development because of their protected class status;
  - Refusing to make housing accessible for people with disabilities, including by prohibiting tenants with disabilities from making alterations to a property or by refusing reasonable changes to rules or policies that may make housing inaccessible;
  - Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of a fair housing right, or any person who has aided or encouraged another in the exercise or enjoyment of a fair housing right; and
  - Retaliating against any person who has asserted a fair housing right.

In 2015, the Supreme Court upheld a key legal theory that is essential to fighting housing discrimination and persistent patterns of segregation. In *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*, the Court reaffirmed the long-held standard of disparate impact and held that the Fair Housing Act prohibits not only intentional discrimination, but also practices that have discriminatory effects on protected classes.<sup>13</sup>

### State and Local Law

In addition to federal protections against housing discrimination, Louisiana's state fair housing law, the Louisiana Equal Housing Opportunity Act,<sup>14</sup> is substantially equivalent to the Fair Housing Act and allows the Louisiana Department of Justice to investigate complaints of discrimination and file enforcement actions when appropriate. The City of New Orleans' Human Relations Law<sup>15</sup> provides protections for the same protected classes enumerated under the Fair Housing Act, as well as for five additional classes: creed, gender identification, age, marital status, and sexual orientation.

The City of Dallas's fair housing law also protects residents from discrimination based on sexual orientation and gender identity in housing.<sup>16</sup> The City of Houston passed a housing ordinance in 2014 offering additional protections on the basis of sexual orientation, gender identity, genetic information, pregnancy and military status, however it was repealed a year later in a referendum.

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<sup>13</sup> 135 S. Ct. 2407 (2015).

<sup>14</sup> La. R.S. 51:2601, *et. seq.*

<sup>15</sup> Chapter 86 of the Code of the City of New Orleans.

<sup>16</sup> Dallas City Code, Volume 1, Chapter 20A & Volume 2, Chapter 46.

## IV. METHODOLOGY

From October 2016 to February 2017, testers were assigned to investigate a variety of properties, including both large housing complexes and properties owned by small landlords, to determine the incidence of race-based discrimination in the rental market in four major Gulf South cities.

In total, 240 housing providers were tested in the following geographic areas:

- New Orleans, LA (75 tests)
- Jackson, MS (65 tests)
- Houston (50 tests)
- Dallas, TX (50 tests)<sup>17</sup>

### a. Testing Investigation

Testing, sometimes referred to as “mystery shopping,” is used as an objective means to determine how individuals of different protected classes are treated in the housing marketplace. Trained individuals, called “testers,” simulate a housing search in order to collect data about a housing provider’s practices which is then analyzed for differential treatment.

In *Havens Realty Corp. v. Coleman*,<sup>18</sup> the Supreme Court recognized testing as a valid tool for investigating claims of housing discrimination. Both the U.S. Department of Justice and the Department of Housing and Urban Development use testing to conduct investigations of housing discrimination. According to the Department of Housing and Urban Development (HUD), “Paired testing offers a uniquely effective tool for directly observing differential treatment of equally qualified home seekers, essentially catching discrimination in the act.”<sup>19</sup>

For this investigation, pairs (one African American tester and one white tester) were matched to ensure they had similar incomes, career paths, family types, and rental histories. All testers were qualified for the units in which they expressed interest, with the protected class tester possessing slightly more favorable characteristics. **This means that, in all instances, the African American testers were objectively more qualified than the white testers.** All variables were held constant except for race – the variable being tested.

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<sup>17</sup> Testing occurred between the months of October 2016 and February 2017. The Louisiana Fair Housing Action Center (LaFHAC) conducted tests in New Orleans and Jackson, MS; and the North Texas Fair Housing Center (NTFHC) conducted tests in Houston and Dallas, TX.

<sup>18</sup> 455 U.S. 363 (1982).

<sup>19</sup> [https://www.huduser.gov/portal//Publications/pdf/HUD-514\\_HDS2012.pdf](https://www.huduser.gov/portal//Publications/pdf/HUD-514_HDS2012.pdf).

## **b. Training**

All testers received standardized training. Training included both classroom and field components. Testers are trained to act as objective fact-finders and to report, but not interpret, the results of their tests.<sup>20</sup> At no time did testers have any knowledge about the protected class (race) being tested.

## **c. Site Selection**

LaFHAC tested sites in predominately white, well-resourced neighborhoods in the New Orleans, Jackson, Houston and Dallas metropolitan statistical areas. While there is no widespread agreement about which characteristics quantitatively and qualitatively describe communities of opportunity, indicators of neighborhood opportunity may include factors like low poverty rates, low reported violent crime rates, high levels of educational attainment, and low infant mortality rates.

For the purposes of this study, LaFHAC developed criteria using research from housing counseling mobility programs initiated by the U.S. Department of Housing and Urban Development (HUD), such as the Moving to Opportunity initiative. According to this research, families with children that move from communities of high poverty concentration to communities with poverty rates at 20% or lower tend to perform better in school (e.g., dropout rates are lower, grades are better, and college attendance rates are higher). In addition, families report benefitting greatly from reduced crime and greater employment opportunities.

In seeking testing sites, LaFHAC looked for rental units in areas with 30% poverty or less. The 30% threshold is higher than used by many mobility programs, but the less stringent criteria made it possible to conduct a greater number of tests for the purposes of this investigation. Areas of high opportunity identified for this investigation had over 70% white residents.

Within areas where 70% of the population was white and there was less than a 30% poverty rate, testing sites were selected randomly based on the stated availability of advertised units. Advertisements in all locations were chosen from a combination of local newspapers; online sources, including Craigslist.org, Apartmentfinder.com, Apartmentguide.org, Zillow.com, and Google searches; and canvassing qualified neighborhoods for “For Rent” signs.

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<sup>20</sup> To ensure consistent testing reporting and test analysis, LaFHAC and NTFHC used identical training methods, testing forms, and analysis protocols.

#### **d. Not a Statistical Report**

This investigation was designed to serve as snapshot of the rental market for the purposes of gathering information and educating the community about housing discrimination and segregation. It is not a statistical study.

## V. FINDINGS

### **a. Overview**

Prospective African American tenants searching for housing in high opportunity areas in the four cities tested received less favorable treatment than their white counterparts at 53% of the sites tested, or at 126 of the 240 properties.

The types of discrimination experienced by African American testers generally fell into the following broad categories: providing different levels of customer service; informing testers of different rental terms and conditions; advising white testers of more available units than their African American counterparts; and refusing to rent to African American testers. African American testers sometimes faced multiple forms of discrimination during a single housing transaction.

The investigation revealed:

- 1) In New Orleans, housing discrimination most frequently took the form of refusals to rent or engage with African American testers.
- 2) In Jackson, Dallas, and Houston, housing discrimination manifested most frequently in the form of informing white testers of a greater number and variety of available housing units.
- 3) Housing discrimination was often subtle, including through the use of discouraging comments or through repeated follow up communications with the white tester, but not the African American tester.
- 4) Housing providers often discriminated in more than one way during a test.

### **b. Overall Rates of Discrimination by City**

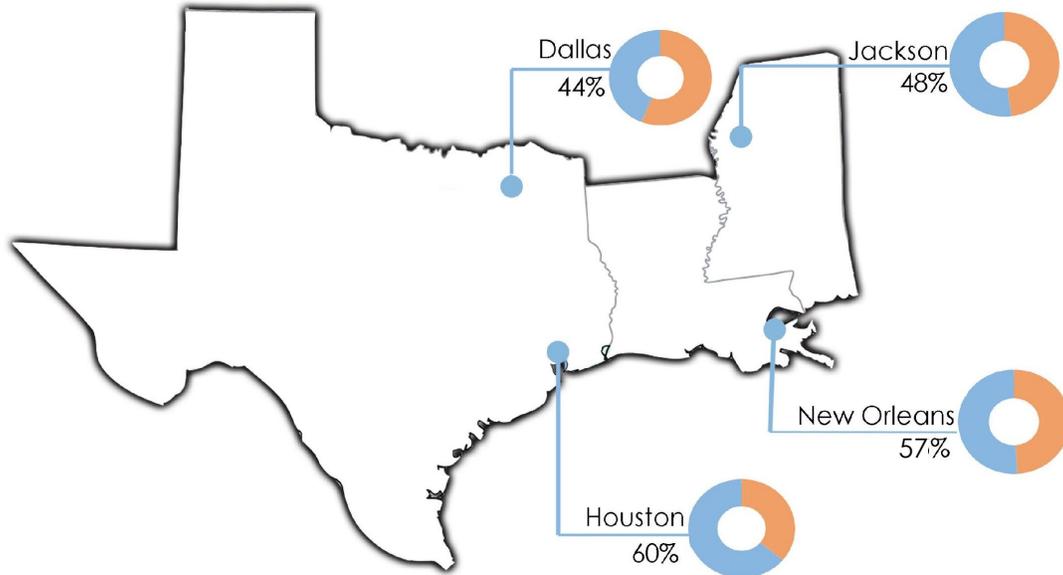
Houston: African American testers were treated unfavorably in 30 out of 50 paired tests (60% of Houston sites tested).

New Orleans: African American testers were treated unfavorably in 43 out 75 paired tests (57% of New Orleans sites tested).

Jackson: African American testers were treated unfavorably in 31 of 65 paired tests (48% of Jackson sites tested).

Dallas: African American testers were treated unfavorably in 22 out of 50 paired tests (44% of Dallas sites tested).

## Rates of Discriminatory Treatment Faced by Black Prospective Renters



Of the 240 paired tests conducted in Louisiana, Mississippi, and Texas, African American testers experienced differential treatment at 53% of the sites tested. The chart above includes the rates at which African American testers experienced discriminatory treatment in each city.<sup>21</sup>

### c. Types of Discrimination Uncovered

#### 1. Refusal to Rent

Under the Fair Housing Act, it is unlawful to refuse to rent a dwelling to any person because of their race.<sup>22</sup> A discriminatory “refusal to rent” includes refusing to rent a unit after an offer is made or refusing to negotiate with someone to rent a unit

<sup>21</sup> Not included in the body of the report are instances where the African American tester received preferential treatment over the white tester:

- In Jackson, there was one instance in which the African American tester was offered preferential terms and conditions as compared to the white tester.
- In New Orleans, there were two instances in which the agent followed up with the African American tester, but not the white tester, after showing the unit.
- In Dallas, there were two instances in which the African American tester was offered preferential terms and conditions, three instances of incentivizing, two instances where additional housing units were shown to the African American tester, and five instances in which the African American tester was offered more units than the white tester.
- In Houston, there was one instance of preferential terms and conditions offered to the African American tester, five instances where additional units were shown to the African American tester, and seven instances where the African American tester was offered more units than the white tester.

<sup>22</sup> 42 U.S.C. § 3604(a).

because of their race. Misrepresenting the availability of a unit is another way agents refuse to rent to prospective tenants, and constitutes a separate and distinct violation of the Fair Housing Act. When a misrepresentation of availability resulted in a tester being unable to view any unit at all, it was counted as a refusal to rent for the purposes of this report.

Of the 240 tests completed in the four aforementioned cities, agents refused to rent to African American testers on a total of 33 occasions, or 14% of the time. Race-based refusals were made in New Orleans and Jackson, but not in Houston or Dallas.

***i. New Orleans: 27 refusals to rent (36% of sites tested)***

Agents refused to rent available units to African American testers in New Orleans at 27 properties. The refusals were realized both verbally and when agents did not return calls to African American testers who had attempted to inquire about unit availability.

Examples of refusals to rent included agents simply not returning calls to African American testers who had left voice messages inquiring about available units; asking testers to call back at a later date (and subsequently refusing to return testers' calls); and informing testers that units had already been rented or were unavailable to show. In all instances, the white testers were invited to view available units but the black testers were not.

At one location, an African American tester spoke with an agent about viewing an available unit and was told the unit was being shown that day. The agent said they would contact the tester if the prospective tenants ultimately decided against renting. The white tester was not told about the prospective tenant and secured an appointment to view the unit on the same day. The African American tester never received a call back to view the unit.

In another instance, an African American tester and a white tester called the agent on the same day just two hours apart. The agent refused to show the unit to the African American tester, while the white tester was invited to view it.

On another occasion, an African American tester scheduled an appointment to view an available unit. On the date of the scheduled viewing, however, the agent never arrived. The same agent showed up for the white tester's appointment.

**ii. Jackson: 6 refusals to rent (9% of sites tested)**

In Jackson, agents refused to rent available units to African American testers at six properties. Most refusals occurred when agents failed to return calls made by African American testers seeking to schedule appointments to view the units. When white testers called they were either able to speak with agents immediately, or they received calls back and were invited to view the apartments.

When speaking to a housing provider, one African American tester was told the unit would be available on a Friday. The same day a white tester called and was informed the unit would be ready that Wednesday or Thursday. The agent then followed up with only the white tester to inform them of a second property that was available to rent.

**iii. Dallas and Houston: 0 refusals to rent**

No testers were refused the opportunity to rent apartments in either Dallas or Houston.

<b>Refusals to Rent *</b>				
	<b>New Orleans</b>	<b>Jackson</b>	<b>Dallas</b>	<b>Houston</b>
<b>Number of properties tested</b>	75	65	50	50
<b>No calls back to African American tester, or agent did not show up for African American tester appointment</b>	18	5	0	0
<b>Deferred/delayed showing prevented African American tester from visiting a property</b>	3	1	0	0
<b>African American tester not invited to view unit, or told that unit was rented</b>	6	0	0	0
<b>Number of tests demonstrating a refusal to rent to the African American tester*</b>	27	6	0	0

<b>Percentage of tests showing a refusal to rent to the African American tester</b>	36%	9%	0%	0%
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**\* Some tests produced more than one kind of discriminatory practice**

## **2. Differences in Terms and/or Conditions**

Under the Fair Housing Act, it is unlawful to discriminate against anyone in the terms, conditions, or privileges of a rental.<sup>23</sup> This includes offering different rental rates,<sup>24</sup> charging different deposit amounts or application fees, incentivizing the preferred renter with special deals or discounts, or applying different occupancy rules to tenants.

Of the 240 properties tested, agents provided information about different terms and conditions to African American testers at 21 different properties (9% of sites tested).

### ***i. New Orleans: 10 properties (13% of sites tested)***

Housing providers in New Orleans offered different information about the rental process based on the testers' race at ten properties.

Examples included agents offering earlier move-in dates and lowering security deposit and monthly rental amounts. In one instance, an agent even offered their personal vehicle to help a white tester move, a courtesy that was not extended to the African American tester.

In the ten tests, there were 11 different favorable terms offered to the white testers.

### ***ii. Jackson: 9 properties (14 % of sites tested)***

In Jackson, agents offered unfavorable terms and conditions to African American testers at nine properties. One agent offered unfavorable terms twice during the same test. Differences included charging the white tester less rent, deposit, and application fees. White testers also received incentives to apply for the unit that were not extended to the African American testers.

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<sup>23</sup> 42 U.S.C. § 3604(b), (d).

<sup>24</sup> 24 C.F.R. 100.60.

At nine properties, African American testers were quoted either a higher security deposit, rental price, or application fee than white testers.

Monetary incentives were offered to white testers, but not their African American counterparts, at five different properties. These included offering a free month's rent and a \$500 discount off of the first month's rent.

Another agent lowered the security deposit for a white tester by \$100 and expressed a willingness to allow the white tester to pay their deposit over the course of two months. The agent told the white tester that they did not usually extend this offer to prospective tenants, and it was not offered to the African American tester.

*"[Offering a payment plan for the security deposit] isn't what I normally do for people."*

In the nine tests, there were 11 different favorable terms offered to the white testers.

### ***iii. Dallas: 8 properties (16% of sites tested)***

At eight Dallas properties, agents offered differential terms and conditions. Two of those four times, agents offered a lower monthly rental price to white testers. At two properties, white testers were offered monetary move-in specials – a \$500 discount and one-half off the first month's rent. These savings were not extended to the African American testers.

### ***iv. Houston: 7 properties (14% of sites tested)***

Agents at seven properties offered favorable terms and conditions to the white tester. At one property, the agent offered the white tester lower fees; at two properties, agents offered the white testers lower rent and move-in incentives that totaled over \$1,200. African American testers were quoted higher rents and fees and given none of the monetary move-in incentives.

<b>Differences in Terms and Conditions*</b>				
	<b>New Orleans</b>	<b>Jackson</b>	<b>Dallas</b>	<b>Houston</b>
<b>Number of properties tested</b>	75	65	50	50
<b>Different security deposit</b>	2	3	0	1
<b>Lower rent</b>	3	3	2	2
<b>Lower fees</b>	0	0	0	1
<b>Incentivizing with move-in specials</b>	6	5	2	3
<b>Total number of unfavorable terms or conditions offered to African American tester</b>	11	11	8	7
<b>Number of tests showing discriminatory practice in which the African American tester was offered an unfavorable term or condition*</b>	10	9	8	7
<b>Percentage of tests showing discriminatory terms and/or conditions</b>	13%	14%	16%	14%

**\* Some tests produced more than one kind of discriminatory practice**

## The "White Renter Discount"

One of the more egregious forms of discrimination in terms and/or conditions was when white testers were offered discounted rent or financial incentives that were not made available to African American testers. All total, white testers were offered nearly \$10,000 in "White Renter Discounts" during this investigation.

	<b>1st Month Rent Discount</b>	<b>Gift Card</b>	<b>Lower Rent</b>	<b>Waived Fees</b>	<b>Security Deposit Discount</b>	<b>Other Discount</b>
Dallas	\$500					
Dallas	\$1,000					
Houston		\$200				
Houston		\$500				
Houston	\$500					
Jackson	\$1,010					
Jackson	\$500					
Jackson						\$100
New Orleans			\$200/month \$2,400/year			
New Orleans			\$50/month \$600/year			
New Orleans			\$100/month \$1,200/year			
New Orleans			\$50/month \$600/year			
New Orleans				\$40		
New Orleans					\$50	
New Orleans	\$725					
Totals	\$4,235	\$700	\$4,800	\$40	\$50	\$100
<b>Total Discount</b>	<b>\$9,925</b>					

### 3. Differences in Application Requirements or Eligibility Criteria

It is unlawful to apply different application or eligibility criteria to a person because of their race.<sup>25</sup> During testing, 11 agents informed the African American tester of more stringent application requirements or eligibility criteria.

#### ***i. New Orleans: 6 properties (8% of sites tested)***

In New Orleans, during one test, the agent told an African American tester that they would need to submit an application to begin the process of renting. However, the same agent told the white tester that the formal application would be waived and they would simply need to submit a letter from their current landlord and possibly some form of employment verification.

*"I generally size people up, and if I'm concerned, I take an application and see what I find out."*

On another occasion, an agent told an African American tester that the application process included a credit check and verification that the tester had been employed for at least six months. The same agent mentioned none of these requirements to the white tester, instead expressing to the tester that they would be allowed to rent a unit so long as they "looked ok."

*"If you don't look like dirtballs, [the unit is] probably yours."*

At another property, the African American tester was told that they would need to supply additional employment verification "if [the tester's] pay stubs look weird." The white tester was not informed of this requirement.

#### ***ii. Jackson: 4 properties (6% of sites tested)***

In Jackson, a housing provider informed the African American tester they would need to undergo a credit and background check and provide pay stubs. The white tester was told they only needed to provide their pay stubs.

Another leasing agent required the African American tester to leave their identification in the rental office, while they were shown a unit. The white tester was not required to leave or even show their identification. In addition, the white

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<sup>25</sup> 24 C.F.R. § 100.60(b)(4).

tester was allowed to take an application with them, while the African American tester was told the application had to be completed in the rental office.

At another property, both the white and African American testers were told on the phone that units were rented on a first come, first served basis. However, when the white tester visited the rental office, the agent stated that they had to take the applications in order, but if the white tester liked it, the agent would “work something out and we’ll get you in.”

**ii. Houston: 1 property (2% of sites tested)**

In Houston, one African American tester was informed that he would be ineligible to rent if he had any felonies. No mention of a criminal background check was made to the white tester.

<b>Differences in Application Requirements or Eligibility Criteria*</b>				
	<b>New Orleans</b>	<b>Jackson</b>	<b>Dallas</b>	<b>Houston</b>
<b>Number of properties tested</b>	75	65	50	50
<b>Total number of tests showing differences in application requirements or eligibility criteria</b>	6	4	0	1
<b>Percentage of tests showing differences in application requirements or eligibility criteria</b>	8%	6%	0%	2%

**4. Differences in Available Units/Complexes Offered, Shown, or Advised**

Under the Fair Housing Act, it is unlawful to misrepresent the availability of units<sup>26</sup> or limit information about suitably priced dwellings available for rent because of race.<sup>27</sup>

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<sup>26</sup> 42 U.S.C. § 3604.

<sup>27</sup> 24 C.F.R. § 100.80.

Of the 240 tests completed in the targeted cities, agents provided different information to testers about the availability of units at a total of 68 properties, or at 28% of the properties tested. In each instance, white testers were either informed of or shown available units that were not mentioned to the African American testers.

In six tests, white testers were advised of additional complexes where units were available.

In eight tests, white testers and African American testers were provided different information about when units would be available; white testers were told that units would be available at an earlier date than that relayed to their African American testing counterparts.

By misrepresenting the number of available units or the date in which a unit can be occupied, agents reduced the housing opportunities available to the African American testers.<sup>28</sup>

***i. Houston: 34 tests (68% of sites tested)***

Agents advised white testers about more available units, showed them more units, or offered them different units from those offered to African American testers on 33 occasions, and offered an earlier availability date once. White testers were offered more units 19 times and shown more units 14 times.

In one test, the white tester was shown three available units but the African American tester was shown only one. In another instance, a white tester was told about six available units and shown one, while the African American tester was informed of three units and shown none.

***ii. Dallas: 16 tests (32% of sites tested)***

During 16 tests, agents showed or offered white testers more available units 20 times. White testers were informed of more units than their African American counterparts 13 times and were shown more units seven times.

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<sup>28</sup> These kinds of tactics have been found to directly contribute to limited housing options and higher costs for African Americans in their search for a home. [https://www.huduser.gov/portal/Publications/pdf/HUD-514\\_HDS2012.pdf](https://www.huduser.gov/portal/Publications/pdf/HUD-514_HDS2012.pdf).

On several occasions, white testers were told about one more unit than their African American counterparts. On one test, a white tester was told about seven available units and shown three, while the African American tester at the same site was only told about three units and shown one. In another instance, a white tester was shown a model unit and the property's amenities, while the African American tester was not shown anything at all.

***iii. Jackson: 24 tests (37% of sites tested)***

Agents offered more units to white testers nine times; showed them more units four times; advised white testers of additional complexes five times; and gave them an earlier availability date six times. In total, there were 24 instances of differential treatment in this category.

On some tests, white testers were told that units would be available on dates earlier than what was quoted to the African American tester. For example, an agent told a white tester several times that an apartment could be ready before the tester's desired move-in date, if need be. However, the African American tester was never informed about this flexibility. At another property a white tester was told that an apartment was immediately ready for occupancy; however, the African American tester was told no apartments would be available for move-in for at least ten more days. On one test, an African American tester was given no specific details about availability, but their white counterpart was told the exact dates units would become available.

On several occasions, white testers were told about or shown more units than their African American counterparts. On four tests, white testers were told about additional complexes where units were available, while African American testers were not. At one property, an African American tester was advised that they had to return to the complex in five days in order to see a unit. However, the white tester at the same complex was shown a model unit the same day as their appointment.

***iv. New Orleans: 5 tests (7% of sites tested)***

At five different properties, agents offered white testers more available units, showed them different units, advised them about additional complexes, or provided white testers with earlier availability dates a total of six times.

White testers were offered more units than African American testers four times, shown more units one time, and offered earlier availability dates once.

On one occasion in which the agent provided different information about when the unit would be available, the African American tester was told that a unit was not ready to show and that the tester should call back at a later date. The white tester, who called on the same day as the African American tester, was able to schedule a visit to view the unit the following day.

<b>Differences in Available Units/Complexes Offered, Shown, or Advised*</b>				
	<b>New Orleans</b>	<b>Jackson</b>	<b>Dallas</b>	<b>Houston</b>
<b>Number of properties tested</b>	75	65	50	50
<b>Differences in units offered</b>	4	9	13	19
<b>Differences in units shown</b>	1	4	7	14
<b>Advised of additional complexes</b>	0	5	0	0
<b>Earlier availability date given to white tester</b>	1	6	0	1
<b>Total instances in which agents misrepresented availability to African American testers</b>	6	24	20	34
<b>Number of tests in which agents misrepresented availability to African American testers*</b>	5	24	16	23
<b>Percentage of tests in which agents misrepresented availability to African American testers</b>	7%	37%	32%	46%

*\* Some tests produced more than one kind of discriminatory practice*

## **5. Steering**

Steering is “directing prospective home buyers interested in equivalent properties to different areas according to their race.”<sup>29</sup> Steering occurs in various forms, including making certain units/buildings in an apartment complex off-limits to certain protected classes and directing potential renters to areas in which the majority of the residents align with the renter’s race or with the housing provider’s assumptions of where a person belongs based on their race.

Of the 240 tests completed in the four cities, agents steered testers to or from a particular property on a total of nine occasions, or 5% of the time. White testers were steered to properties/areas of their respective cities that were deemed to be “better.”

### ***i. Jackson: 5 properties (8% of sites tested)***

Agents steered testers to different units than those about which they initially inquired on five occasions. Steering occurred primarily to the benefit of white testers, who were often advised of units, complexes, and areas in the Jackson area that the leasing agents deemed to be of a better quality.

For example, on two occasions, white testers were verbally encouraged by property managers to live in Rankin County instead of Hinds County. According to the 2010 Census, 77.3% of the residents of Rankin County, Mississippi are white.<sup>30</sup> Alternately, Hinds County, Mississippi is 69.1% African American.<sup>31</sup>

On another occasion, only the white tester was told about availability at a second complex that had a more stringent application process.

*“I’m real picky on who I’ll consider to live at [the second complex].”*

*“We don’t tolerate crap over there.”*

At another property, an agent highly encouraged a white tester to consider a second unit the agent managed and offered to leave a key in the mailbox so the

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<sup>29</sup> *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91, 94 (1979); see also 24 C.F.R. § 100.70(a) (stating that it is unlawful “to restrict or attempt to restrict the choices of a person by word or conduct in connection with . . . renting a dwelling so as to perpetuate . . . segregated housing patterns . . .”).

<sup>30</sup> “Rankin County, Mississippi,” American FactFinder. United States Census Bureau.

<sup>31</sup> “Hinds County, Mississippi,” American FactFinder. United States Census Bureau.

white tester could view the inside of the unit at their convenience. The agent told the white tester that they would get along with the neighbors, but could not elaborate further “by law.” The African American tester, who spoke to the agent prior to their white counterpart, was not told of this additional available unit.

**ii. New Orleans: 4 properties (5% of sites tested)**

On four occasions, housing providers steered testers to different units than those about which they initially inquired. In one example, both testers contacted an agent about an available unit in the Lakeview neighborhood of New Orleans. The agent invited the white tester to view the property, describing Lakeview as having “premium tenants and premium prices.” The African American tester was referred to another unit outside of Lakeview.

<b>Steering</b>				
	<b>New Orleans</b>	<b>Jackson</b>	<b>Dallas</b>	<b>Houston</b>
<b>Number of properties tested</b>	75	65	50	50
<b>Number of agents who steered testers to units other than those the testers desired</b>	4	5	0	0
<b>Overall percentage of steering</b>	5%	8%	0%	0%

**6. Discouraging/Encouraging Comments**

Making discouraging comments based on race, to influence a prospective renter’s choice, can be unlawful under the Fair Housing Act.<sup>32</sup> Of the 240 tests completed in the targeted cities, agents made comments that discouraged the African American tester but not the white tester, or made comments that encouraged the white tester but not the Black tester, at 29 properties, or 12% of the time. Discouraging comments included those exaggerating the drawbacks of a unit to the African American testers, or making comments indicating that the African American might not be the “right fit” for the property.

<sup>32</sup> See Note 24, *supra*.

***i. New Orleans: 13 properties (17% of sites tested)***

Agents made encouraging comments to white testers at 11 properties and discouraging comments to African American testers twice.

On one test, an agent told a white tester that the agent could sense that the tester had good credit and rental references and that the tester would be a good tenant.

*"Looking at you, you're not a person to do anything."*

The African American tester was not encouraged to apply.<sup>33</sup>

***ii. Jackson: 10 properties (15% of sites tested)***

Agents made comments meant to encourage white testers to rent the unit at six properties and discouraging comments to dissuade African American testers at four properties.

In one test, the agent emphasized to the African American tester that the unit would be far from their job. In speaking with the white tester, the same agent expressed hope that the white tester would rent it over another applicant.

In another test, the agent showed the African American tester photos of a unit she recommended for the tester. When showing the photos, the agent stated how good the unit looked in the photos taken prior to the current tenant. The agent stated she had just shown the unit and it no longer appears as it does in the photos, "There's a single mom in there and so much stuff... oh it used to look so good... it will need a LOT of cleaning...crap everywhere."

***iii. Houston: 3 properties (6% of sites tested)***

Agents made discouraging or encouraging comments to testers at three different properties. At one complex, the agent both encouraged the white tester and discouraged the black tester on the same issue.

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<sup>33</sup> Although not discrimination on the basis of race, and therefore not counted in this report, in one test in which the agent encouraged a white tester, the agent revealed their reluctance to rent to a same-sex couple, stating the white tester would be a "better fit" for the unit than a gay couple interested in renting the unit.

The white tester was told the area was “quiet,” with a “low crime rate,” whereas the African American tester was told:

*“We won’t work with broken leases, felons, or any type of theft or assault, no questions asked.”*

The agent never mentioned the prohibitive background criteria to the white tester.

**iv. Dallas: 4 properties (8% of sites tested)**

Agents made encouraging and discouraging comments to testers at four properties. Agents twice made encouraging statements to white testers and twice made discouraging statements to African American testers.

On one test, an agent told a white tester that the neighborhood was “established and safe,” and that the complex did not let anyone with “felonies or misdemeanors, [or] sex crimes” live on the property.

On another test, an agent discouraged the African American tester by stating that the tester might not like the property because there were trains nearby.

<b>Encouraging/Discouraging Comments *</b>				
	<b>New Orleans</b>	<b>Jackson</b>	<b>Dallas</b>	<b>Houston</b>
<b>Number of properties tested</b>	75	65	50	50
<b>Encouraging statements to white tester only</b>	11	6	2	0
<b>Discouraging statements to African American tester only</b>	2	4	2	3
<b>Total instances of encouraging or discouraging statements</b>	13	10	4	3
<b>Percent of tests showing encouraging or discouraging statements</b>	17%	15%	8%	6%

## **7. Differences in Follow-Up Received**

Under the Fair Housing Act, it is unlawful to apply different rental procedures because of race.<sup>34</sup> Of the 240 tests completed in the four cities, agents provided less follow-up contact to African American testers at 25 different properties, or 10% of the time. Some agents followed up with the testers more than once.

Typically, landlords who followed up more with the white testers also engaged in other acts of discrimination during the same test. In Jackson, for example, nine white testers received additional follow-up that their African American counterparts did not receive. Eight of those nine housing providers also discriminated in other ways during the same transaction. When white testers were called back following a test, they received preferential treatment in the following ways: they were provided with information about a different complex, they were offered more units, they were informed of easier application criteria, or incentivized with one month of free rent.

### ***i. Jackson: 10 properties (15% of sites tested)***

After site visits, white testers in Jackson received more follow-up from agents on nine occasions.

For example, at one property, a white tester was contacted by an agent after the viewing and offered \$500 off their first month's rent; the African American tester never received a follow up communication from the agent offering such a discount.

On another occasion, a white tester received three more follow-up communications from the agent than their African American counterpart. In one of the follow-up communications, the agent offered the white tester a move-in "prize" if they rented the unit.

### ***ii. Dallas: 6 properties (12% of sites tested)***

Following site visits, white testers received more follow-up than their African American counterparts on six occasions in Dallas. While some of the follow-up differed only in that the African American tester received one or two fewer follow-up contacts from the agent than white testers, other differences were notable in the amount of follow up received.

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<sup>34</sup> 42 U.S.C. § 3604(a), (d); 24 C.F.R. § 100.60(b)(4).

In one test, the white tester received eight follow-up emails from the agent about the unit, while their African American counterpart received none. In another test, a white tester received three follow-up emails from the agent, while the African American tester received none.

**iii. Houston: 5 properties (10% of sites tested)**

After site visits, white testers received more follow-up from agents/management companies on five occasions. On three occasions, white testers received one or two more follow up contact from agents than their African American counterparts. On two occasions, white testers received two to three follow-up emails, while their African American counterparts received none.

**iv. New Orleans: 4 properties (5% of sites tested)**

White testers received more follow-up than their African American counterparts four times. In one follow-up communication, the white tester was incentivized to rent the unit when the agent offered a \$100 discount off the advertised rental price, a savings of \$1,200 per year.

<b>Differences in Amount of Follow Up Contact</b>				
	<b>New Orleans</b>	<b>Jackson</b>	<b>Dallas</b>	<b>Houston</b>
<b>Number of properties tested</b>	75	65	50	50
<b>Number of agents engaged in more follow-up contact with the white tester than with the African American tester</b>	4	10	6	5
<b>Number of additional follow up contacts received by white testers</b>	4	10	14	0 <sup>35</sup>

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<sup>35</sup> In Houston, the African American tester received two more follow up contacts than the white testers. In the remaining cities, the number of follow up contacts received were: New Orleans – 4 by the white tester and 0 by the African American tester; Jackson – 10 by the white tester and 0 by the African American tester; and Dallas - 26 by the white tester and 12 by the African American tester.

<b>Overall percentage of discrimination in follow-up contact received</b>	5%	15%	12%	10%
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## **8. Racially Discriminatory Remarks**

In the course of testing, several agents made comments about race and ethnicity that raised red flags about their impartiality and whether testers would be given equitable treatment.

### ***i. Jackson***

One agent told a white tester that he was “not racist,” but that stereotypes about “Hispanics” were true, as he learned from his Peruvian wife and her family. He stated that it was true that “Hispanics” had “tempers;” knew how to manage money; and often “room together.” The agent also encouraged the white tester to find “a good Christian roommate” who “wouldn’t bring any boys home or party.”

In describing a member of the maintenance staff, another agent stated of the staff member, “He’s a Black man . . . but he’s a good Christian man.”

One agent noted the grounds crew, “They have seven Mexicans here and that’s all they do – landscaping.”

Another agent, in discussing how the neighborhood came to be developed, stated that people wanted to “escape the inner city.”

### **d. Retesting**

In November 2017, LaFHAC conducted retesting on ten housing providers.

Of the ten providers retested, eight continued to discriminate against African Americans. Three housing providers discriminated in a similar manner as they did in the first test, while other providers employed a different or a variety of methods during the second round of testing to discriminate against the African American tester. ***In those eight tests alone, 43 distinct fair housing violations were uncovered.***

At one complex, the white male tester was told he was “too good” to live at the complex about which he had inquired, and was offered a unit at a complex that

the agent heralded as smaller, quieter, and more “selective” about its tenants. The white tester was shown a unit in that second complex, as well as a cluster of townhomes nearby.

When the counterpart African American tester visited the first complex and spoke to the same agent, the agent showed the tester a unit at the first complex. When the tester inquired if there were other available units or properties, the agent informed the tester of the townhomes, but did not offer the tester the opportunity to view a unit or even provide an address for the tester to drive by the location.

The disparity in treatment continued when a second set of testers visited the same complex and met with the same agent. The agent informed the white tester that she would fit in better at the second complex or the townhomes and that he did not want to put her in the first complex. The agent later stated that the tenants at the second complex would enjoy having her around and that she seemed like a good tenant. The agent escorted the white tester to view both the second complex and the available townhome. At the end of the viewing, the agent informed the tester, “I really want to rent to you.”

When the counterpart African American tester arrived at the first property, she was shown a unit. The agent mentioned the second complex to her, but stated, “There’s another place I can put you in today. But the problem is, will you fit in?” He informed the tester that she “would be the only one” at the complex and the tenants there would “have a heart attack thinking I let the zoo out.” The African American tester was not shown a unit at the second complex or the townhome.

## **VI. REAL LIFE CONSEQUENCES**

After examining the methods of housing discrimination uncovered by this investigation, it's clear that discriminatory practices perpetuate segregation and keep African Americans out of neighborhoods of higher opportunity. Discriminatory acts by housing providers limit home seekers' choices, and they also influence housing patterns based on provider assumptions and prejudices.

Housing location matters. The area in which one lives dictates the schools which children can attend, available services and public transportation options, how far one must travel to work, which medical facilities are accessible, and even one's life expectancy.

Showing or offering more units to white testers serves to extend the time and cost of a housing search and limit housing options for African Americans. Discouraging comments about a unit or one's suitability as a tenant not only impact housing choice but also are hurtful. Steering directly contributes to segregated housing patterns. Denying someone the opportunity to view or rent a unit often means that home seekers are left with more expensive, less convenient, and less safe housing. When these practices are prevalent – and this investigation shows they occurred more than half the time – the impact on the lives of African Americans is far-reaching, harmful, and pervasive.

## VII. CONCLUSION

Over half the time, when African Americans attempted to rent a home they were faced with discriminatory and illegal practices that limited or denied their ability to live where they chose. The patterns were strikingly similar in all major Gulf South cities tested.

The negative ramifications of these barriers to securing safe and quality housing extend far beyond exclusion from a desired neighborhood or particular home. Housing can dictate one's opportunities in life – from birth weight, to educational opportunities, job prospects, access to healthcare, and healthy food – and can even be a factor in determining one's life span.

The testing detailed in this report reveals that housing providers rarely make outright racist statements or explicitly inform prospective tenants that they are making decisions based on race. Instead, the discrimination is less obvious – when interacting with African American testers, housing providers informed them of limited unit availability, made discouraging comments, subjected them to stricter and more formal application processes, and sometimes refused to negotiate with them altogether. In contrast, housing providers consistently provided white testers with more information and offered discounted rental rates and flexible application processes.

While discrimination today is less overt, it is no less harmful. The more subtle tactics housing providers use to discriminate have the effect of excluding African Americans at an alarming rate. Sadly, because this discrimination is often subtle, it frequently goes undetected and unaddressed.

## VIII. Recommendations

Though this investigation focused on discrimination by private housing providers, local governments have a significant role to play in combatting discrimination. Local fair housing policies can include anything from funding and supporting fair housing education for landlords and tenants, to larger-scale policy changes that ensure affordable units are available in well-resourced neighborhoods like the ones tested for this project. Below is a list of recommendations – many included in New Orleans' 2016 *Assessment of Fair Housing (AFH)* plan – to help cities become leaders in addressing housing segregation and discrimination.

### **For Mayors and City Councils:**

#### **1) Pro-actively combat housing discrimination**

In many cases, municipalities can add protections to local fair housing laws not provided at the state or federal level. In addition, municipal governments should set aside staff and resources to educate the public about fair housing and to assist residents who have been subject to discrimination.

Dallas: Dallas has a local ordinance that extends fair housing protections on the basis of sexual orientation and gender identity. The City also has a Fair Housing Department with a website and staff person listed. Texas has banned local jurisdictions from enacting source-of-income discrimination laws to protect Housing Choice Voucher ("Section 8") holders.

Houston: Houston has a Fair Housing Office hotline and educational flyers available, but few other resources on its website. In 2015, voters rejected a local ordinance that would have extended fair housing protections on the basis of sexual orientation and gender identity. Texas has banned local jurisdictions from enacting source-of-income discrimination laws to protect Housing Choice Voucher ("Section 8") holders.

Jackson: Jackson does not appear to have any additional local fair housing protections. A Fair Housing Compliance Officer is the only fair housing staff member listed on the city website. The City of Jackson should consider enacting protections for voucher holders as well as for sexual orientation and gender identity.

New Orleans: New Orleans' human rights laws extend protections on the basis of sexual orientation and gender identity, as well as marital status, age and creed.

In 2019, voters overwhelmingly supported an amendment to the city charter to ensure these protections have the force of law, however, the City has yet to update the related chapter of the city code to ensure a process for investigating complaints or select a new director for the Office of Human Rights and Equity. The City of New Orleans should appoint a new director and ensure the newly formed Human Rights Commission has the power to investigate complaints.

The City of New Orleans can also help create equitable housing access by following its AFH commitments to:

- Schedule regular fair housing training and outreach for youth and other populations in collaboration with other city departments and agencies;
- Increase awareness about fair housing through Fair Housing Month press releases and PSAs; and
- Expand the capacity of public call centers to provide fair housing resources and assistance.

Given the dramatic segregation of Housing Choice Voucher holders in New Orleans, the City should also consider passing a source-of-income discrimination law.

## **2) Support inclusionary zoning initiatives to the greatest extent possible**

Inclusionary zoning requires and offers incentives for new market-rate residential or mixed-use developments to include some affordable units. Inclusionary zoning programs promote diversity and affordability in neighborhoods of opportunity.

Dallas: Texas state law forbids local jurisdictions from implementing mandatory inclusionary zoning programs. While voluntary inclusionary zoning programs rarely produce as many units as mandatory policies, Dallas should implement the recommendations in its 2015 *Neighborhood Plus* revitalization plan. Those recommendations include developing a robust set of incentives for developers who hold a percentage of units affordable. Dallas should also ensure the majority of units created through its new Affordable Housing Revolving Loan Fund are in high opportunity areas.

Houston: Texas forbids local jurisdictions from implementing mandatory inclusionary zoning programs and Houston does not have zoning. Despite the lack of zoning, Houston does have land use codes governing density, height, set back requirements and Tax Increment Reinvestment Zones (TIRZ). Houston should use existing regulations to incentivize affordable housing development in well-

resourced communities, like ensuring TIRZ's meet affordable housing production goals and creating incentives to support the publicly-supported community land trust in creating homes in neighborhoods of opportunity. This recommendation is particularly noteworthy because HUD found the City of Houston in violation of the Fair Housing Act in 2017 for acquiescing to racially motivated opposition to a mixed-income apartment building in a high opportunity neighborhood.

Jackson: Jackson should study the feasibility of a mandatory inclusionary zoning policy and implement the recommendations of the study.

New Orleans: In its *Housing for a Resilient New Orleans* and *Assessment of Fair Housing* plans, New Orleans committed to passing a mandatory inclusionary zoning policy. The New Orleans City Council should amend the remaining pieces of the "Smart Housing Mix" policy currently before them to ensure implementation begins in January 2021 rather than unnecessarily delaying the policy an additional year.

### **3) Improve the quality of the rental housing stock**

While discrimination is a barrier to accessing the neighborhoods tested in this report, part of ensuring fair housing choice must include investing in housing quality in the neighborhoods not present in this investigation. Renters in many cities have seen their rent increase while the quality of units on the market has decreased. Renters that face mold, rodents, sewage, or other health risks face major health concerns and spend significant time and money overcoming the effects of substandard housing. Improving the quality of rentals is a vital step to improving housing choice for most residents.

Dallas: Dallas currently operates a registration program for rental properties that requires a comprehensive inspection every five years.

Houston: Houston currently operates a registration and habitability inspection program for all rental properties with three or more units, however, the city should streamline the complaint infrastructure and fund habitability enforcement to ensure the protections it offers are real.

Jackson: Jackson requires rental properties to be inspected whenever there is a change in tenants, but the code is not currently enforced. The City Council recently held a hearing on a more expansive rental registry and inspection program, and should pass an ordinance that requires and funds regular inspections of rental properties.

New Orleans: In its *Housing for a Resilient New Orleans* and *Assessment of Fair Housing* plans, New Orleans committed to passing a Healthy Homes policy that includes rental registration and inspection. The New Orleans City Council should approve the Healthy Homes Ordinance first proposed in 2016.

#### **4) Ensure that city investments to improve neighborhood quality are coupled with strategies to retain long-time residents**

In many cities, local public investments have accelerated displacement of low-income residents. New amenities like fresh food retailers, public transit lines, park upgrades, or even tax increment financing districts all make neighborhoods more attractive to new residents but do little to preserve affordable housing so that long-term tenants can stay and enjoy the new resources. Cities should carefully analyze investments of federal funds to ensure they are affirmatively furthering fair housing by coupling investments with a strategy to retain housing affordability, not perpetuate displacement and segregation.

Dallas & Houston: Both Dallas and Houston are experiencing gentrification and displacement in some neighborhoods. Though limited in their ability to enact inclusionary zoning, both jurisdictions can pursue other options, including:

- Embracing the practice of neighborhood-led Community Benefits Agreements for private developments in gentrifying neighborhoods;
- Carefully tracking and reporting on all federal funding used for non-housing investments;
- Setting aside public land in gentrifying neighborhoods and offering it to affordable housing developers in conjunction with federal housing funding (HOME and Community Development Block Grant funding);
- Better advertising existing property tax relief programs and funding case management to assist with wills and deeds for generational homes in gentrifying neighborhoods; and
- Pursuing additional targeted property tax relief for long-term, low-income homeowners in areas where property taxes have increased dramatically and families may be at risk of losing their homes.

Jackson: As a smaller and shrinking city, Jackson may not be experiencing the same real estate pressures as Dallas, Houston, and New Orleans. However, city officials should, on an ongoing basis, analyze public investments to ensure they encourage integration rather than displacement and segregation.

New Orleans: Neighborhoods such as the Bywater, St. Roch, Treme, and Mid-City have seen significant investments that make these neighborhoods more attractive to new residents but do little to preserve quality housing for long-time residents. In its AFH the City committed to:

- Passing a mandatory inclusionary zoning policy;
- Carefully tracking and reporting on all federal funding used for non-housing investments;
- Continuing to set aside public land in gentrifying neighborhoods and offering it to affordable housing developers in conjunction with federal housing funding; and
- Refining and revising Place-Based Areas, which dictate priority areas for public investment.

In addition to these policies, the City should vigorously support affordable housing developments in high opportunity areas against NIMBY opposition.

### **5) Utilize a local housing trust fund**

As federal and state housing funding continues to shrink, locally-funded housing trust funds can be important tools in encouraging integrated living patterns.

Dallas: Dallas operates a local housing trust fund and made one-time transfers to the fund totaling \$14 million in 2018. The City should dedicate a local sustainable source of funding to replace one-time transfers.

Houston: Houston does not have a local housing trust fund. Houston does use some portion of the revenue generated from its tax increment investment zones for affordable housing. Still, the city would benefit from passing a locally funded housing trust fund to supplement its federal allocations.

Jackson: Jackson established a local housing trust fund in 2015 to receive funds from the National Housing Trust Fund. The City should be commended for setting up an advisory committee for the fund, however, there is no local sustainable source of funding.

New Orleans: The City of New Orleans has a Housing Trust Fund, called the Neighborhood Housing Improvement Fund (NHIF). The fund is financed through a millage that brings in about \$2.5 million annually and the City intends to ask voters to slightly increase the amount in 2020 through a proposal that also dramatically cuts funding for the library system. The City should use NHIF funds to combat the

discriminatory effects of the private market as well as to invest in the rehabilitation and financing of existing dwellings in order to expand housing choice and opportunity in all New Orleans neighborhoods.

***For Public Housing Authorities:***

**1) Pilot a zip code-based payment standard**

Zip code-based payment standards allow housing authorities to pay rents above the Fair Market Rent (FMR) for units in well-resourced areas. HUD's Moving to Opportunity (MTO) program first piloted a similar practice, and promoted desegregation and increased ability of voucher holders to have more choice in otherwise unattainable neighborhoods. Quantitative and qualitative data on the quality of life for MTO participants after 10 or more years in an opportunity-rich neighborhood indicate that participants felt safer, they experienced better physical and mental health, and their children secured incomes 30% higher as adults than families that did not move to these communities.

Dallas: Dallas has successfully been using zip code-based payment standards for Housing Choice Voucher families since 2011. This program was implemented as part of a settlement with the Inclusive Communities Project after a fair housing lawsuit and is a model for other municipalities committed to creating communities that are truly open and inclusive.

Houston: The Harris County Housing Authority will pay up to 120% above Fair Market Rent (FMR) for units in zip codes with excellent schools and rental rates above the county average. The Houston Housing Authority will pay up to 130% of FMR in similar areas. These practices are a good start. However, even at 120% or 130% of the metro-wide FMR many families may not find housing opportunities in high-rent neighborhoods. Houston should study whether HUD's Small Area Fair Market Rents provide better access to voucher families.

Jackson: Jackson is one of about 30 metro areas where HUD has begun to use zip code-based payment standards to reduce segregation in the Housing Choice Voucher program.

New Orleans: The Housing Authority of New Orleans (HANO) has not implemented Small Area Fair Market Rents, but has created zip code-based exemption payment standards that pay for rents above fair market in higher opportunity areas.

## **2) Implement a housing mobility counseling program**

Housing authorities should recruit and assist tenants to move to low-poverty, high-opportunity neighborhoods. Because voucher holders face high rates of discrimination, any successful mobility program must include additional supports. Mobility counseling programs include activities such as landlord recruitment, housing search assistance, and post-move counseling.

Dallas: As a result of the settlement with the Inclusive Communities Project, Dallas has a successful housing mobility counseling program that includes education/information, housing search assistance, move-related financial assistance, landlord negotiations and bonuses, fair housing counseling, referrals to social service agencies, and other post-move help.

Houston, New Orleans, and Jackson: Housing authorities in Houston, New Orleans, and Jackson should implement robust housing mobility counseling programs similar to Dallas's.

## **3) Implement criminal background policy reforms**

The effects of discrimination described in this report are compounded by further denial of housing authority-assisted rental units, particularly for African Americans, based on outdated criminal background policies.

Dallas and Houston: The Texas Department of Housing and Community Affairs (TDHCA) board recently passed a rule that would ban people with violent felony convictions and some drug-related offenses from state supported housing for three to seven years. The TDHCA board and the Governor should listen to affordable housing providers and members of the public and repeal this rule. The Dallas and Houston Housing Authorities should also review New Orleans' recently implemented criminal background policy and consider adopting something similar.

Jackson: The Jackson Housing Authority's 2017 Admissions and Continued Occupancy Plan (the most recent available on their website) states that any criminal activity in the past five years will be grounds for denial. The policy allows for arrest records to be considered in determining criminal activity, though suggests they will not be the basis for denial. This confusing language may still violate HUD guidance on criminal background screening procedures and fair housing. The criminal activity look-back period of five years is also likely to be unnecessarily long for low-level, non-violent crimes like marijuana possession or

shoplifting. The Jackson Housing Authority should review New Orleans' recently implemented criminal background policy and consider adopting something similar.

New Orleans: The Housing Authority of New Orleans' recently implemented criminal background policy is a model for the nation in creating a fair process for current and prospective HANO tenants with criminal backgrounds. Unfortunately, most HANO clients may still be subject to additional unnecessary background screening by HCV landlords or third-party managers of redeveloped public housing sites. HANO should publicly release the additional screening tools used by third-party managers and urge them to comply with the new policy. HANO should also ensure any future contracts signed with third-party developers require those developers to use comply with its policy.

## **APPENDIX: ABOUT LaFHAC**

### **Mission**

The Louisiana Fair Housing Action Center (LaFHAC) is a nonprofit civil rights organization established in 1995 to eradicate housing discrimination. LaFHAC's work throughout Louisiana includes educational offerings, free legal services for victims of housing discrimination, policy advocacy, and foreclosure prevention counseling. LaFHAC is dedicated to fighting discrimination because it is an illegal and divisive force that perpetuates poverty and segregation, and limits access to opportunity.

### **History**

Since its inception, LaFHAC has built an impressive record of advocating for the fair housing rights of New Orleans consumers through enforcement, policy advocacy, education and outreach, and homeownership protection:

#### *Enforcement*

LaFHAC enforcement staff conducts fair housing investigations and provides legal representation to individuals who experience housing discrimination. LaFHAC enforcement staff routinely conducts testing of the greater New Orleans housing market in order to understand discriminatory trends and identify systemic discrimination. The organization regularly files legal actions against individuals and entities engaging in discriminatory practices and/or operating pursuant to discriminatory policies.

Since Hurricane Katrina, LaFHAC has served more than 1,000 individuals and assisted in the recovery of over \$5.5 million in monetary relief as a result of its enforcement actions. LaFHAC has also negotiated numerous settlements and consent decrees requiring housing providers or local government entities to comply with fair housing laws.

Additionally, LaFHAC has led the way in filing high-impact, innovative litigation, including multi-year litigation against St. Bernard Parish to rescind exclusionary zoning ordinances such as its "blood relative" ordinance, which prohibited rentals to anyone other than homeowners' family members; litigation against the State of Louisiana's Road Home program for discriminatory formulas that awarded smaller rebuilding grants to African American homeowners; and, in partnership with the National Fair Housing Alliance and several other housing agencies, a

settlement with Wells Fargo for discriminatory property maintenance practices that is bringing \$1.4 million to Baton Rouge communities of color.

### *Policy Advocacy*

LaFHAC pursues legislative and regulatory policy solutions at the local, state and federal levels to advance the spirit and promise of the Fair Housing Act. LaFHAC's leadership and staff have provided testimony before the U.S. Congress, the Louisiana State Legislature, and local bodies such as the New Orleans City Council. LaFHAC's overall advocacy objectives include proposing and supporting policies that end housing discrimination and segregated living patterns, as well as policies that expand housing mobility and opportunity in all neighborhoods.

Successes include the historic passage of a Louisiana law to prohibit housing discrimination against survivors of domestic violence; a citywide zoning amendment that creates a clear process for people with disabilities to fully enjoy, access, or modify dwellings in New Orleans; and the introduction of reforms to increase the availability, health, and safety of New Orleans-area rental housing.

### *Homeownership Protection*

In April 2006, LaFHAC launched the Hurricane Relief Project, since renamed the Homeownership Protection Project (HOP). HOP was designed to provide assistance to homeowners affected by Hurricanes Katrina and Rita. Since its inception, HOP staff have worked to protect homeownership and help residents recover and rebuild in hurricane-impacted areas of Southern Louisiana and Mississippi by providing counseling, guidance, and technical assistance with recovery programs.

In 2007, LaFHAC became a HUD-certified housing counseling agency. Since then, HOP efforts have saved thousands of homeowners from foreclosure, and have helped many more receive fair compensation from insurance companies and government recovery programs for hurricane losses. Through careful analysis of client files, HOP staff discovered large racial disparities in the amount of Road Home funding awarded to homeowners. This analysis spurred LaFHAC's successful 2008 Road Home lawsuit against HUD and the State of Louisiana over the discriminatory grant formula. The work of HOP has now shifted primarily to foreclosure prevention for homeowners struggling to retain their homes.

## *Education & Outreach*

LaFHAC trains over a thousand people each year about their fair housing rights and obligations through first time homebuyer classes, the annual *Fit for a King* conference, and talks with students, neighborhood associations, local officials, housing providers, and volunteers. LaFHAC has conducted numerous statewide and local media campaigns to inform consumers and housing professionals of their fair housing rights and responsibilities.

LaFHAC's original children's book, *The Fair Housing Five & the Haunted House*, was designed to initiate conversations between parents, caregivers, teachers, and children about housing discrimination, systemic inequality, and the important role that we all have in ending both. Through collaboration with children, parents, educators, and other community stakeholders, LaFHAC staff designed accompanying workshops and curriculum that are now used to teach children across the nation about fair housing and civil rights.