

2022-2023

Fair Housing Testing Final Report

City of Portland



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TABLE OF CONTENTS

1. Introduction
2. Methodology
3. Evaluation
4. Test Results
5. Conclusions
6. Recommendations

Audit Testing Final Report

INTRODUCTION

The Fair Housing Act (FHA), enacted on April 11, 1968, prohibited housing discrimination based on race, color, national origin, or religion. In 1988, its provisions were expanded to safeguard individuals based on sex, familial status, and disability. This legislation aimed to dismantle the deeply entrenched racial segregation of mid-20th century America and rectify governmental and private practices that perpetuated neighborhood and community division.

The evolution of the FHA is ongoing, with advancements made at both federal and state levels. For instance, Oregon has broadened its protections under the Oregon Revised Statutes (ORS) Chapter 659A, including measures against discrimination based on marital status, sexual orientation, gender identity, status as a domestic violence survivor, and source of income.

Fair Housing Testing is primarily used by government agencies and non-profit organizations to detect and prevent housing discrimination. It is one method to ensure that individuals are granted equal access to housing opportunities irrespective of race, color, religion, national origin, sex, disability, or familial status, as guaranteed by the Fair Housing Act in the U.S.

The Fair Housing Council of Oregon (FHCO) is a nonprofit civil rights organization with the mission of eliminating illegal housing discrimination in Oregon. FHCO promotes equal access to housing by providing education, outreach, technical assistance, and enforcement opportunities related to federal, state, and local Fair Housing laws.

Today, we assist over 180 housing consumers annually who reach out to us regarding an illegal housing discrimination issue and offer over 100 training and outreach activities statewide to landlords, real estate professionals, and governmental and social service agencies.

The following report details the results of an audit of rental housing conducted by FHCO within the City of Portland for different treatment based on Source of Income, Race, and Disability. This report covers testing that took place from July 2022 through June 2023.

METHODOLOGY

How Fair Housing Testing Works

- **Testers:** Two individuals are trained as "testers." One tester represents a protected class under the Fair Housing Act (e.g., a person of a particular race or with a disability), while the other tester does not. Both testers are given similar profiles in terms of income, employment, and other relevant factors for housing.
- **Application Process:** Both testers independently apply for housing, or they might make inquiries to landlords, property managers, or housing agents to evaluate the treatment they receive.
- **Comparison:** After the tests, the experiences of the two testers are compared. If the tester from the protected class faces discrimination – like being denied an opportunity to rent or buy a home, being quoted a higher rent, or being shown fewer units – while the other tester does not, it is evidence that housing discrimination may have occurred.
- **Legal Action:** If discrimination is detected through testing, the evidence can be used to initiate legal actions against the offending parties.

The U.S. Supreme Court affirmed the use of testers and the validity of evidence they provided in the case of *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982).



Audit Testing Final Report

EVALUATION

How Fair Housing Tests are Evaluated

For this report, we classify the testing outcomes into three specific categories: "Positive," "Negative," and "Inconclusive."

- **Positive:** A test is deemed "positive" when the tester from the protected class receives information, service, treatment, and access to available rental housing that is less favorable compared to that given to the comparative tester. For example, if the protected class tester is quoted a higher security deposit than the comparative tester, this discrepancy signals potential discriminatory treatment, thus marking the test as "positive."
- **Negative:** The test is labeled "negative" when both the protected class tester and the comparative tester receive consistent and equivalent information, service, treatment, and access to available rental housing.
- **Inconclusive:** The outcome is tagged as "inconclusive" when the data gathered doesn't suggest either a positive or negative result. For instance, if both testers discuss the same property with an agent but the protected class tester is advised to apply on a different website than the comparative tester, the test is deemed inconclusive. Such results indicate areas that might necessitate further scrutiny by our agency in subsequent evaluations.

In evaluating the outcome of each test, FHCO was guided solely by the language of the Fair Housing Act (FHA). The statutory language of the FHA prohibits the following activity in a housing transaction (please note, the following list is not an exclusive list of prohibited conduct in the FHA but is instead intended to map out the broad parameters of the law):

EVALUATION

How Fair Housing Tests are Evaluated Continued

Each provision cited below constitutes a separate violation of the FHA.

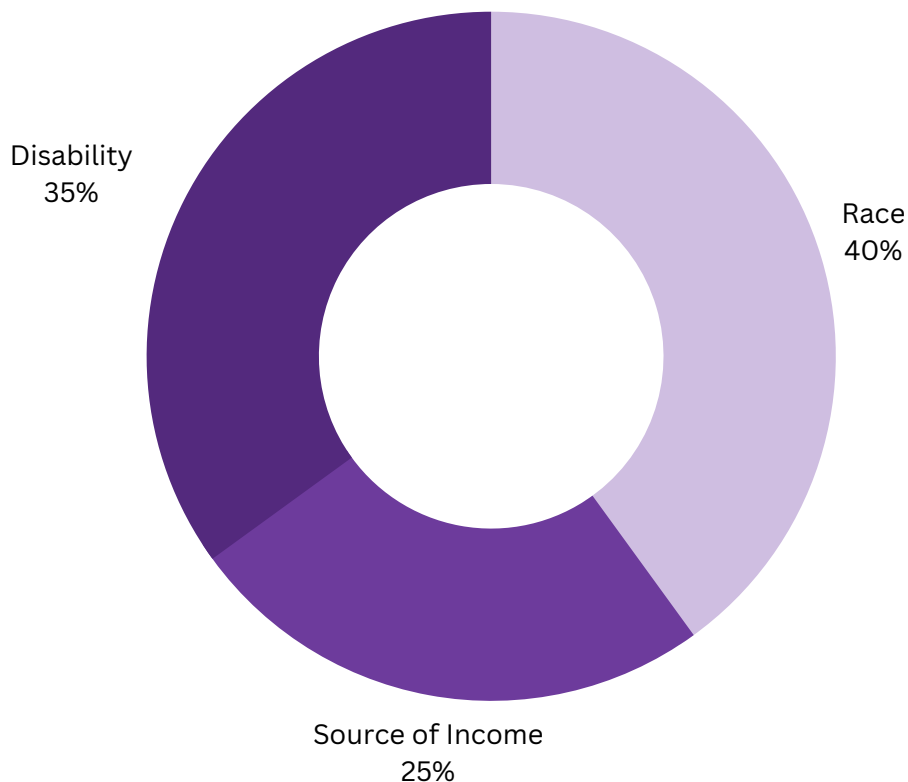
- **Refusal to rent a dwelling or otherwise make unavailable/steering**
 - 42 USC § 3604(a)
- **Discriminatory terms, conditions, privileges, services, or facilities**
 - 42 USC § 3604(b)
- **Discriminatory advertisements, statements, and notices**
 - 42 USC § 3604(c)
- **Misrepresenting availability of dwellings**
 - 42 USC § 3604(d)
- **Discriminate, deny, or otherwise make dwelling unavailable because of disability**
 - 42 USC § 3604(f)(1)
- **Discrimination in terms, conditions, or privileges or in services and facilities because of a disability**
 - 42 USC § 3604(f)(2)
- **Failure to Make a Reasonable Accommodation**
 - 42 USC § 3604(f)(3)(B)
- **Interference, coercion, or intimidation**
 - 42 USC § 3617
- **Practices, decisions, or actions having a disparate impact on dwelling availability**
 - 42 USC § 3604(a)

AUDIT TEST RESULTS

In Portland, the commitment to fair housing and ensuring equitable access for all residents has led to a multifaceted approach to funding housing tests. A significant portion (13) of these tests has been financed by the City of Portland, demonstrating the city’s proactive stance on addressing potential housing discrimination within its jurisdiction.

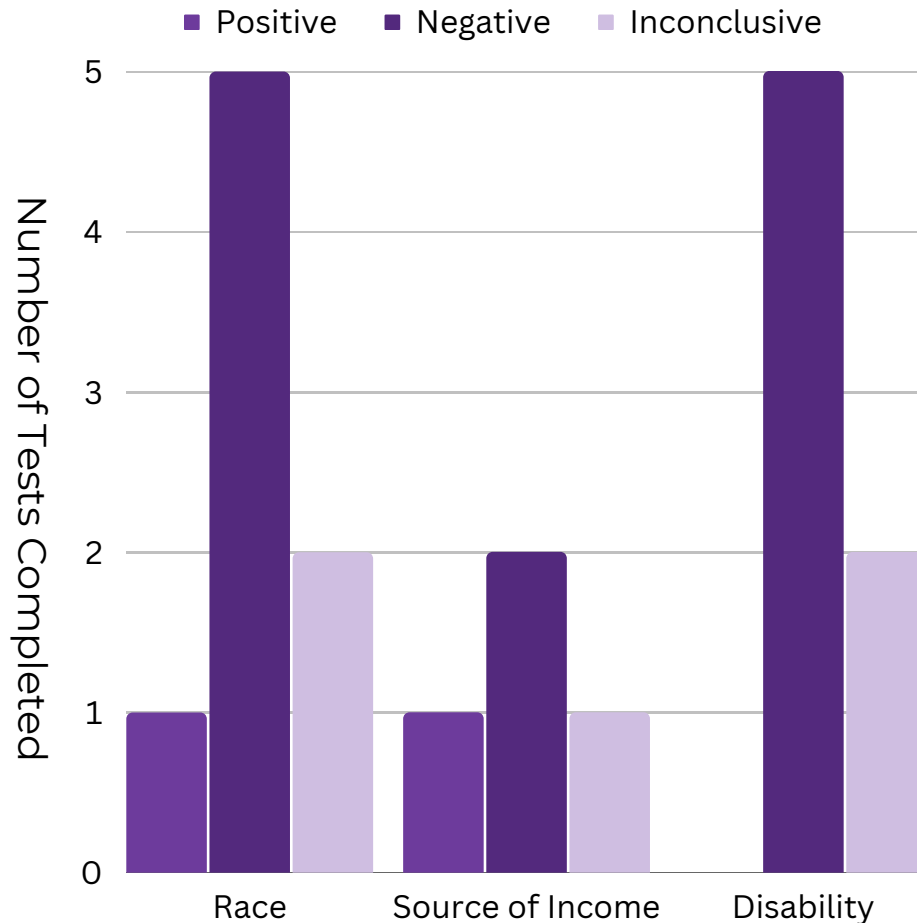
Concurrently, several other tests were carried out thanks to Federal and State grants. These grants, aimed at promoting fairness and equality in housing practices across the nation, reflect a broader, collaborative effort between local and higher-tier governmental bodies to combat housing disparities and ensure a level playing field for all prospective renters and buyers.

Percentage of Tests Conducted by Protected Class



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AUDIT TEST RESULTS



RACE

Of the 20 tests carried out by FHCO, 8 specifically examined racial discrimination.

The tests revealed discrepancies in treatment as follows:

- **Availability Miscommunication:** The White participant was provided information on specific properties they asked about, while the Black participant didn't receive any feedback on their inquiries.
- **Disparities in Terms, Services, and Facilities:** The White Tester received a reply from the housing provider, including links to applications, apartment details, and subsequent communications. Despite reaching out earlier, the Black participant received no follow-up from the housing provider.

Audit Testing Final Report

AUDIT TEST RESULTS

SOURCE OF INCOME

Of the 20 tests carried out by FHCO, 5 specifically examined source of income discrimination.

The tests revealed discrepancies in treatment as follows:

- **Disparities in Terms, Services, and Facilities:** The Control Tester received a reply from the housing representative, including links to applications, apartment details, and subsequent communications. Despite reaching out earlier, the Tester with a Housing Choice Voucher received no feedback from the housing provider.
- **Discriminatory Statements:** The agent stated that the house was still available for rent but not ready for inspection to be considered for a voucher. The Tester also received discriminatory statements such as "Are you taking care of a disabled child is that why you have the voucher"

DISABILITY

Of the 20 tests carried out by FHCO, 7 specifically examined disability discrimination.

The tests revealed no discrepancies in treatment. Most disability discrimination in housing emerges during the tenancy phase after the initial rental agreement has been formalized. While the application process might seem straightforward for many, once tenants with disabilities occupy a residence, they often face challenges related to accessibility and reasonable accommodations. Landlords or housing management may be reluctant or outright refuse to make necessary modifications to the property, such as installing grab bars in bathrooms or ramps for wheelchair access. Additionally, there might be misunderstandings or disputes about assistance animals, with landlords imposing undue restrictions or fees. Such instances of discrimination during tenancy underscore the necessity for continual awareness and education about the rights of disabled tenants, as well as the responsibilities of housing providers under fair housing laws.

Audit Testing Final Report

CONCLUSIONS

The audit's findings of differential treatment based on Race and Source of Income highlight that more efforts are needed to ensure every Portland resident is treated equally and can freely access their preferred housing.

Testing is a component of understanding barriers to housing choices. While it mainly uncovers disparities in the pre-application stage, FHCO insights suggest biases persist across housing stages, from application screenings to post-move-out interactions with protected class residents.

The table below provides a summary of the protected classes of individuals who reported fair housing allegations to our housing discrimination hotline within the City of Portland. Of these calls, 39% cited disability as the reason for their allegation, 18% attributed it to race, and 13% pointed to source of income as the basis for their claim.

FHCO Hotline Data

BASIS	City of Portland		Statewide	
Disability	37	39%	111	34%
Race/Color	17	18%	39	12%
Sex	10	10%	48	15%
Domestic Violence	6	6%	21	6%
Familial Status	4	4%	43	13%
Source of Income	12	13%	54	17%
National Origin	10	10%	10	3%
TOTAL	96	100%	326	100%

RECOMMENDATIONS

Where do you go from here?

Our recommendations are aimed at ensuring equal housing opportunities for all, irrespective of protected class status. The report emphasizes the importance of regular and comprehensive audit testing to identify and document instances of housing discrimination. Additionally, it underscores the need for increased public awareness campaigns to educate both landlords and potential tenants about fair housing rights and responsibilities. FHCO recommends a four-point plan to engage, reach out, educate, and monitor through testing.

1

ENGAGE

Continue collaborations with Culturally Specific Community Groups such as the Urban League and El Programa in an effort to increase reporting of housing discrimination.

2

REACH OUT

Expand distribution of training materials on accepting public funding and Section 8 vouchers. Housing providers must understand their legal obligations regarding income sources.

3

EDUCATE

Education is essential on accommodations, rights, and responsibilities in housing, including parking, assistance animals, and mobility and mental health issues.

4

MONITOR

Expand testing to incorporate additional in-person tests, the results of which we expect to align more closely with hotline data.