

FAIR HOUSING MANAGEMENT CONSULTANTS

# PRINCE WILLIAM COUNTY

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## FAIR HOUSING RENTAL TESTING REPORT

**April 10, 2019**



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## Prince William County Human Rights Commission

The Human Rights Commission consists of nine at-large members appointed by the Board of County Supervisors (BOCS). Commissioners advise the BOCS on issues pertaining to human and civil rights enforcement and concerns that arise in the community.

### Human Rights Commission

Curtis O. Porter, Chair

Ramunda Young, Vice Chair

W. James Young, Parliamentarian

Samuel Korson, Commissioner

Eugene Brown, Commissioner

Susan Holly, Commissioner

William A. Johnston III, Commissioner

Donald Scoggins, Commissioner

Mohammad Usman, Commissioner

### Human Rights Staff

Raul Torres, Executive Director

Shelia Venning, Manager

Crystal Athan, Admin Support

## **INTRODUCTION**

Fair Housing Management Consultants (“FHMC”) entered into a contract with the Northern Virginia Regional Commission on June 27, 2018, to provide testing services to Prince William County. The testing services are set forth in the Project Work Plan of the contract. Sixty-five (65) rental tests were conducted in accordance with that contract at apartment complexes located in the eastern part of Prince William County. Oversight of the testing project was maintained by the staff of the Human Right Commission (“Staff”). Appendix A sets forth the testing sites. However, the test sites set forth in Appendix A are not listed in the actual order in which they were tested.

## **THE COUNTY’S ROLE IN CHALLENGING HOUSING BIAS**

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

## **FAIR HOUSING TESTING**

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

Testing is a method to determine whether or not a home seeker is treated differently in his or her search for housing. A person's race, for example, would be an impermissible factor in denying an opportunity to rent an apartment. Testers in housing discrimination cases have been defined as "individuals who, without an intent to rent or purchase a home or apartment, pose as renters or purchasers for the purpose of collecting evidence of unlawful discriminatory housing practices." *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 373 (1982). The experiences of testers are used to compare the treatment of one home seeker (protected class) to another (non-protected class). In this context, testing measures the difference in treatment afforded a home seeker as determined by the information and services provided by property management firms, rental agents, and others.

## **FEDERAL, STATE AND COUNTY FAIR HOUSING LAWS**

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

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

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

## **LEGAL PRECEDENTS ESTABLISHING HOUSING BIAS**

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

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

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

## **DEVELOPMENT OF A COUNTY-WIDE TESTING EFFORT**

A total of sixty-five rental tests were conducted at apartment complexes located in the eastern part of Prince William County which included the Woodbridge, Occoquan, Neabsco and Potomac Magistrate districts. Thirty (32) tests were conducted at apartment complexes based on race (Black/White testers), and thirty (33) tests were conducted

at apartment complexes based on national origin (Hispanic/White testers). Four of these tests were re-tests (1 race re-test and 3 national origin re-tests). All of the apartment complexes tested contained over 100 units. There was an aggregate of 14,040 units for all the apartment complexes tested.

A master testing schedule was developed, a tester pool was established, and training was undertaken on March 9, 2019. Testing began on March 11<sup>th</sup> and concluded on March 31, 2019. The testing results are discussed in the Analysis section of this report.

### **Testing Site and Characteristics Assignments**

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

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

### **The Site Visitation Assignment Form**

Site Visitation Assignment Forms were developed for each of the 65 tests. This form indicates the type of housing that the tester is looking for (two-bedroom apartment and the move-in date for example). The form also indicates the tester characteristics that are required for the completion of the test, for example, income and prior

housing history. Slightly superior qualifications were assigned to the protected class testers (Black and Hispanic testers) to assist in determining whether differences were the result of the tester's status as a member of a protected class. Personal characteristics, for example, the sex and marital status of the testers were also matched.

The testers were sent to the same apartment complex on the same day, usually 1 to 2 hours apart. Generally, the testers were instructed to have the protected class tester visit the rental office first followed thereafter by their teammate. The tester teams were assigned to express interest in renting the same type of apartment and move-in date. In the race and national origin tests, both members of the tester teams posed as being married with no children and stated that they were looking for a two-bedroom apartment for April 15, 2019.

### **Tester Training**

All testers were required to attend a training session. FHMC conducted a training session on March 9, 2019. Pretest training serves to enhance the credibility of the testing process and diminish the likelihood of deviation from controlled factors. Testers are oriented as to what is expected of them when conducting a test. Tester training included instruction in the following areas: (a) brief discussion of federal, state and local fair housing laws; (b) what testing is; (c) playing the role of a tester; (d) conducting the test and (e) the debriefing process. These, of course, were not the only components of the training but were critical to the process of preparing the testers.

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

**Debriefing Process**

The testers were generally debriefed each day after completing their assigned tests by the contractor, FHMC. The debriefing interview is a mechanism to ensure that the testing experience is being reported accurately and objectively. During the debriefing interview FHMC carefully reviewed the Tester Report Form with each tester. Particular attention was given to the narrative portion of the form. Any corrections and additions to the report form are made by the testers during the debriefing session. Each member of the tester team was debriefed separately. Debriefing each tester separately maintains the confidentiality and objectivity of the testing results.

**ANALYSIS OF TEST RESULTS**

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

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

It is important to note that, because the rental tests did not include having the testers complete a rental application or participate in the subsequent qualification process at any of the apartment complexes tested, the tests could only measure the initial contact the testers experienced in the leasing office. The tests were designed to

measure differences in treatment based on the availability of a two-bedroom apartment unit requested by the testers and the corresponding treatment concerning the issue of availability received by the testers. Thus, while this aspect of testing is critical in understanding how persons are treated at the initial stage of home seeking, it cannot tell the complete story of how individuals are processed and what their ultimate treatment will be. Notwithstanding, experience dictates that the initial contact with and treatment by a housing provider are often where most problems arise when it comes to housing bias. Thus, initial experiences in ascertaining availability remain important factors in determining if housing bias is practiced.

### **Review of the Test Results**

A review of the rental tests in the most recent battery of testing showed that there were differences in treatment found in one test based on race and three tests based on national origin. Re-tests were conducted at the four apartment complexes where issues were found to determine if there were any subsequent problems. There were no differences in treatment found in either the race or national origin re-tests. The testing results are reviewed below.

#### **Test #23 Race Test**

This test was conducted on March 23, 2019. Both the Black and White testers requested a two-bedroom apartment for April 15, 2019. Both testers spoke to the same leasing agent. Both testers were instructed to inquire about rent specials.

The Black tester indicated that she was looking for a two-bedroom apartment for April 15, 2019. The agent told the tester that a two-bedroom apartment was not available for April 15, 2019, but that there was a unit available on the date of the test. The agent told the tester to call back in a week to see if a two-bedroom apartment becomes

available on the April 15<sup>th</sup> occupancy date requested. The agent told the tester about the income requirements, security deposit, and other fees. The agent gave the tester floor plans and other informational material. The agent volunteered information about rent specials.

The White tester was told that a two-bedroom apartment would be available on April 15, 2019, as well a unit being available on the date of the test. The agent discussed the income requirements, security deposit and other fees with the tester. The agent gave the tester floor plans and other informational material. The agent volunteered information about rent specials.

This site was re-tested because the Black tester was not told that an apartment would be available on April 15, 2019, and the White tester was told about an available apartment on this date.

#### **Re-test #23 (Test #64)**

The re-test was conducted on March 29, 2019. The testers spoke to different leasing agents. Neither leasing was involved in the original test. Both testers were told that a two-bedroom apartment would be available on April 15, 2019. Both testers were provided information about the security deposit and other fees. The agent told both testers about rent specials. Both testers were given materials about the complex and invited to call the agent back. The re-test showed no differences in treatment.

#### **Test #41 (National Origin Test)**

This test was conducted on March 14, 2019. Both the Hispanic and White testers requested a two-bedroom apartment for April 15, 2019. Both testers spoke to the same leasing agent. Both testers were instructed to ask about rent specials.

The Hispanic tester indicated that she was looking for a two-bedroom apartment for April 15, 2019. The agent told the tester that they would have an apartment available for that date. The tester asked about rent specials, and the agent said there weren't any available. The agent discussed the income requirements, security deposit, and other fees. The agent gave the tester floor plans and other informational material. The agent invited the tester to call back.

The White tester was told that a two-bedroom apartment would be available for April 15, 2019. The White tester was told similar information about the security deposit and other fees. The agent volunteered information about a rent special before the tester had a chance to ask about it. The rent special included the waiver of the amenity fee if the apartment was rented by April 1, 2019. The tester was given similar informational materials that the Hispanic tester was given.

This site was re-tested because the Hispanic tester was not told about the rent special.

#### **Re-test #41(Test #61)**

The re-test was conducted on March 30, 2019. Both testers spoke to different leasing agents. The White tester spoke to the same agent involved in the original test. Both testers were told that a two-bedroom apartment would be available for the occupancy date requested, April 15, 2019. Both testers were told about the security deposit and other fees. The agents told both testers that there were no rent specials available at the time of the test. Both testers were given informational materials about the complex. Neither tester was told to call back. The re-test showed no differences in treatment.

**Test # 48 (National Origin Test)**

This test was conducted on March 15, 2019. Both the Hispanic and White testers requested a two-bedroom apartment for April 15, 2019. Both testers spoke to the same leasing agent. Both testers inquired about rent specials.

The Hispanic tester indicated that she was looking for a two-bedroom apartment for April 15, 2019. The agent told the tester that they would have an apartment available on May 8, 2019. The agent discussed the rent special, security deposit, amenity fees and income requirements with the tester. The agent gave the tester floor plans and other informational material. The agent invited the tester to call back.

The White tester was told that a two-bedroom apartment would be available on April 15, 2019. The White tester was also told similar information about the rent special, security deposit, and amenity fees. The tester was given similar materials that the Black tester was given.

This site was re-tested because the White tester was told that an apartment would be available on April 15<sup>th</sup> and the Hispanic tester was told that an apartment would be available on May 8<sup>th</sup>.

**Re-test #48 (Test #62)**

The re-test was conducted on March 30, 2019. Both testers spoke to the same leasing agent involved in the original test. Both testers were told that a two-bedroom apartment would be available for the occupancy date requested, April 15, 2019. Both testers were told similar information about the security deposit and other fees. Both testers were told about the rent special. Both testers were given informational materials about the complex. Both testers were invited to call back. The re-test showed no differences in treatment.

**Test # 58 (National Origin Test)**

This test was conducted on March 19, 2019. Both the Hispanic and White testers requested a two-bedroom apartment for April 15, 2019. Both testers spoke to the same leasing agent. Both testers inquired about rent specials.

The Hispanic tester indicated that she was looking for a two-bedroom apartment for April 15, 2019. The agent told the tester that they would have an apartment available on May 9, 2019. The agent told the tester that no rent specials were available after the tester inquired about rent specials. The agent also told the tester about the security deposit and other fees. The agent gave the tester floor plans and other informational material. The agent invited the tester to call back.

The White tester was told that a two-bedroom apartment would be available for April 15, 2019. The White tester was also told similar information about the security deposit and other fees. The White tester was also told about a rent special which included the waiver of the amenity fee and \$300 off the first month's rent if the apartment was rented by April 1, 2019.

This site was re-tested because the Hispanic tester was told an apartment would be available on May 9<sup>th</sup> and the White tester was told that an apartment would be available on April 15<sup>th</sup>. Also, the Hispanic tester was not told about the rent special.

**Re-Test #58 (Test #63)**

The re-test was conducted on March 30, 2019. Both testers spoke to the same leasing agent. The leasing agent the testers spoke to was not involved in the original test. Both testers were told that a two-bedroom apartment would be available for the occupancy date requested, April 15, 2019. Both testers were given similar information about the

security deposit and other fees. Both testers were told about the same rent special. The rent special included \$300 off the first month's rent and waiver of the amenity fee if an apartment was rented by April 4, 2019. This is the same rent special offered to the White tester in the original test. Both testers were given informational material about the complex. Both testers were invited to call back. The re-test showed no differences in treatment.

**APPENDIX A**

**APARTMENT COMPLEXES TESTED IN PRINCE WILLIAM COUNTY**

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

## List of Apartment Complexes

Orchard Landing Apartments	Orchard Landing Apartments
Potomac Ridge Apartments	Potomac Ridge Apartments
Woodwind Villa Apartments	Woodwind Villa Apartments
Rolling Brook Village Apartments	Rolling Brook Village Apartments
Windsor Park Apartments	Windsor Park Apartments
Long View Apartments	Long View Apartments
Riverside Station Apartments	Riverside Station Apartments
Landing @Markham Grant	Landing @Markham Grant
The Flats @Neabsco	The Flats @Neabsco
Linden Park Apartments	Linden Park Apartments
The Sutton Apartments	The Sutton Apartments
Signal Hill Apartments	Signal Hill Apartments
River Oaks Apartments	River Oaks Apartments
East Gate Apartments	East Gate Apartments
Quantico Court Apartments	Quantico Court Apartments
Shorehaven Apartments	Shorehaven Apartments
River Woods Apartments	River Woods Apartments
Misty Ridge Apartments	Misty Ridge Apartments
Meridian Bay Apartments	Meridian Bay Apartments
Oasis at Montclair Apartments	Oasis at Montclair Apartments
Shenandoah Station in the Park	Shenandoah Station in the Park
Wyndham Point	Wyndham Point
Virginia Commons Apartments	Virginia Commons Apartments
The Preserve at Catons Crossing	The Preserve at Catons Crossing



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