

FAIR HOUSING MANAGEMENT CONSULTANTS

PRINCE WILLIAM COUNTY

FAIR HOUSING RENTAL TESTING REPORT

June 30, 2020

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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

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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 October 9, 2019, to provide testing services to Prince William County. The testing services are outlined in the Project Work Plan of the contract. Sixty (60) rental tests were conducted in accordance with that contract at apartment complexes located in the western 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 outlined 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 to collect 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 classes of elderliness, sexual orientation, gender identity, source of funds, and status as a veteran. The United States Department of Housing and Urban Development ("HUD") is authorized to review local and state fair housing laws to decide 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 decided that the Virginia Fair Housing Law is substantially equivalent to the federal law.

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

LEGAL PRECEDENTS ESTABLISHING HOUSING BIAS

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

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

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

DEVELOPMENT OF A COUNTY-WIDE TESTING EFFORT

A total of sixty rental tests were conducted at apartment complexes located in the western part of Prince William County, which included the Brentsville, Coles, and Gainesville Magistrate Districts. Thirty (30) tests were conducted at apartment complexes based on race (Black/White testers), and thirty (30) tests were conducted at

apartment complexes based on national origin (Hispanic/White testers). The breakdown per Magistrate District is as follows: Brentsville Magistrate District - 7 Race and 7 National Origin tests (14 total tests); Coles Magistrate District 6 Race and 6 National Origin tests (12 total tests); and Gainesville Magistrate District – 16 Race and 16 National Origin tests (32 total tests). Two additional tests were conducted as re-tests (1 race re-test and 1national origin re-test).

All of the apartment complexes tested contained over 100 units. There was an aggregate of 23,680 units for all the apartment complexes tested.

A master testing schedule was developed, a tester pool was established, and training was undertaken on June 8, 2020. Testing began on June 9 and concluded on June 22, 2020. 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 except for the material factors of race and national origin. The characteristics that relate to the rental qualification processes were matched as closely as practical for each tester. This included matching, for example, the income, employment background, and prior housing history of the testers.

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

The Site Visitation Assignment Form

Site Visitation Assignment Forms were developed for each of the 60 tests. This form indicates the type of housing that the tester is looking for (two-bedroom apartment and the move-in date, for example). The form also indicates the tester characteristics that are required for the completion of the test, for example, income and prior housing history. Slightly superior qualifications were assigned to the protected class testers (Black and Hispanic testers) to assist in determining whether differences were the result of the tester's status as a member of a protected class. Personal characteristics, for example, the sex and marital status of the testers were also matched.

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 after that 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 July 1, 2020.

Tester Training

All testers were required to attend a training session. FHMC conducted training sessions on June 8, 2020. 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 familiarize the testers with all of the testing forms thoroughly. The training also emphasized the importance of timeliness in the completion of the forms to ensure 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. The testers make any corrections and additions to the report form 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 two tests, one test based on race and one test based on national origin. Re-tests were conducted at the two 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 #10 Race Test

This test was conducted on June 10, 2020. Both the Black and White testers requested a two-bedroom apartment for July 1, 2020. Both testers spoke to the same leasing agent. Both testers inquired about rent specials.

The Black tester indicated that she was looking for a two-bedroom apartment for July 1, 2020. The agent told the tester that a two-bedroom apartment would be available for the move-in date requested (July 1) and that the rent was \$1545/month. The agent told the tester that there were no rent specials available upon inquiry by the tester.

The White tester was told that a two-bedroom apartment would be available on July 1 (move-in date requested) and that the rent was \$1545/month. The tester inquired about a rent special and was told that if the apartment unit was rented within 24 hours that the application fee would be waived and that the security deposit fee would be reduced by 50%.

Both testers were offered a virtual tour of the apartment unit. Both testers were told that all information (floor plans, etc.) is available online, and both testers were asked to call back.

This site was re-tested because the Black tester was not told about the rent special after inquiring about it.

Re-test #10 (Test #60)

The re-test was conducted on June 16, 2020. Both testers spoke to the same leasing agent. The leasing agent was not involved in the original test. Both testers were told that an apartment unit would be available on July 1, 2020 (move-in date requested). Both testers were told about the same rent special (if the apartment is rented within 24 hours, the security deposit fee would be reduced by 50%). The agent offered to show the apartment virtually to both testers. Both testers were told the same information about the lease and income requirements. Both testers were told that all information (floor plans, etc.) is available online, and both were asked to call back.

The re-test showed no differences in treatment.

Test #38 (National Origin Test)

This test was conducted on June 10, 2020. Both the Hispanic and White testers requested a two-bedroom apartment for July 1, 2020. 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 July 1, 2020. The agent told the tester that a two-bedroom apartment would be available on July 15. The agent told the tester that the rent was \$1562/month and that the lease was for one year. The tester asked about rent specials, and the agent told the tester that there were no rent specials. The agent told the tester that the security deposit was \$500 and that the maximum yearly income requirement was \$58,000 (tax credit apartment building).

The White tester was told that a two-bedroom apartment would be available on July 1, 2020 (move-in date requested). The tester asked the agent about rent specials and was told there was a rent special. The rent special offered by the agent was a \$500 gift card if the tester moved into the apartment by the end of June. The agent told the tester the same information about the security deposit and maximum yearly income requirement.

This site was re-tested because the Hispanic tester was not told that an apartment would be available on July 1, and the White tester was told about an available apartment on this date. Also, the Hispanic tester was not told about the rent special.

Re-test #38(Test #58)

The re-test was conducted on June 22, 2020. The testers spoke to the same leasing agent involved in the original test. Both testers were told that a two-bedroom apartment would be available on July 1, 2020 (move-in date requested in the initial test and the re-test). Both testers were told about the same rent special that the White tester was told about in the original test (\$500 gift card for apartments rented by the end of June). Both testers were told that the rent was \$1562/month and the maximum yearly income requirement. Both testers were told that all information (floor plans, etc.) is available online. 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

- | | |
|--------------------------------|---------------------------------|
| The Point @Manassas | Sunnygate Village Apartments |
| Barrington Apartments | Orchard Bridge Apartments |
| Soldiers Ridge Apartments | The Elms at Signal Hill Station |
| Ravens Crest Apartments | Maplewood Park Apartments |
| Westgate Apartments | Somerset Point Apartments |
| Orchard Glen Apartments | Ashton Glen Apartments |
| Coverstone 1 | Masons Keepe Apartments |
| Amberton Apartments | |
| Coverstone IV | |
| The Fields of Manassas | |
| TGM Sudley Crossing | |
| Marque @Heritage Hunt | |
| Assembly Manassas | |
| Woodburn Apartments | |
| Somerhill Farm Town Apartments | |
| TGM Ridge | |
| Arcadia Run | |
| Abberly Avera Apartments | |
| The Regency | |

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