

Congressional Testimony of James Perry, Executive Director of the Greater New Orleans Fair Housing Action Center – 1/13/06

Introduction

Consider the following statements:

- “I would love to house a single mom with one child, not racist but white only”
- “Not to sound racist but because we want to make things more understandable for our younger child we would like to house white children”
- “Provider would provide room and board for \$400, prefers 2 White females.”

To many of you these statements may sound like a flashback to discriminatory housing advertisements from the 1960’s. Unfortunately though, these statements are from a sampling of discriminatory advertisements placed on housing websites for Hurricane Katrina evacuees, including Katrinahousing.org, Katrinahome.com, nolahousing.org, dhronline.com and relief.welcomewagon.com. I have here 28 pages of ads like these where people, purporting to help evacuees, restricted their so-called goodwill, based on a person’s race, color, religion, national origin, sex or familial status. (See attached)

Greater New Orleans Fair Housing Center

Good afternoon, my name is James Perry, I am Executive Director of the Greater New Orleans Fair Housing Action Center (FHAC). Chairman Ney, Ranking Member Waters, and members of the Committee, I would like to thank you for inviting me to speak with you today about the fair housing issues facing New Orleans.

FHAC is an 11-year-old private, non-profit civil rights organization established to eradicate housing discrimination throughout the greater New Orleans area. FHAC promotes fair competition and equal opportunity in rental, sales, home lending, and provision of housing-insurance. FHAC is dedicated to fighting housing discrimination not only because it is illegal,

but also because it is a divisive force that perpetuates poverty, segregation, ignorance, fear, and hatred. We work primarily under the Federal Fair Housing Act, which, as you know prohibits discrimination in seven protected classes: race, national origin, color, religion, sex, family status, and disability.

FHAC is the only full-service fair housing center in the state of Louisiana. This means that we educate consumers and the housing industry about fair housing and we enforce fair housing law through litigation and HUD's administrative process.

Status of Housing Discrimination Post-Katrina and Rita

Since Hurricanes Katrina and Rita, FHAC has received a record number of calls – approximately 200 - about discriminatory treatment in housing. Complainants and independent investigation have uncovered the following:

- Some landlords have represented to Black home seekers that vacant livable units were unavailable or unlivable;
- Black home seekers have been charged more rent and higher deposits than their White counterparts;
- Rental agents failed to return messages to African-American home seekers while returning the calls of their White counterparts;
- Rental agents offered special inducements like lower security deposits to White home seekers, while refusing to offer the same to their Black counterparts;
- People with mobility impairments have complained that there are few accessible housing units available.
- In December, we were forced to file a lawsuit against the City of Denham Springs after the city applied its zoning code in a manner that discriminated against a group home for displaced New Orleanians with mental disabilities. At the public hearing on the issue, neighbors made numerous statements indicating that their resistance to the new group

home was based upon false stereotypes and misconceptions about people with mental disabilities.

- As previously noted, at least five websites, created to assist evacuees in locating housing, ran housing advertisements that were discriminatory. The ads blatantly stated: no blacks, no Latinos, no children and Christian only. FHAC has filed complaints against the websites, and in the process, found that FEMA sponsors one of the sites. In response, FEMA, in a Times-Picayune article praised the website as a key asset in matching housing with displaced residents.
- Additionally, we filed a complaint against the Housing Authority of New Orleans after learning that the few available public housing units in the City located at the redeveloped St. Thomas housing project were actually being leased to the housing authority's employees, rather than to returning St. Thomas residents. This despite a conciliation agreement between the HUD, HANO, and former St. Thomas residents requiring that a preference be given to former residents of the development.
- A huge issue is the not in my backyard sentiment, or "NIMBYism," espoused by many people in and around New Orleans. One St. Rose resident remarked: "My concern was strangers coming into my neighborhood that I knew nothing about... I don't want my neighborhood ruined because theirs is." This NIMBYism has prevented FEMA from locating thousands of trailers on sites in and around the city of New Orleans. That is, thousands of displaced New Orleanians can't come home because some people say simply: not in my backyard. Our office is closely monitoring the issue.
- In a study by the National Fair Housing Alliance compiled after Hurricane Katrina, it was found that White evacuees seeking housing were favored and treated more favorably than Black evacuees seeking housing, 66% of the time. The Alliance has filed complaints against some of housing providers as a result.

I say to you committee members – housing discrimination, unfortunately, is alive and strong. Members, FHAC is the single organization assisting victims of housing discrimination in the entire state of Louisiana. Because of the Hurricane, we have only 2 employees. HUD has offered some support and we have been working closely with the Lawyers' Committee for Civil Rights

Under Law and the National Fair Housing Alliance...but we need more support and more funding, and we need it now. We need your help in battling housing discrimination.

Overall Housing Concerns

I'd like now to turn for moment to some other aspects of the rebuilding.

The Gulf States have entered a new chapter in dealing with the aftermath of Hurricanes Katrina and Rita. The focus has turned from the provision of necessities like water and food, to housing, housing and housing. This is no longer a natural disaster emergency – rather it is a housing emergency.

Thousands evacuees are ready, willing and trying to return to normalcy, but a lack of housing prevents them. There are several problems in the federal, state and local responses to the housing emergency. I'll address some of the federal housing issues and an important local issue specific to New Orleans.

Federal Housing Issues

FEMA and SBA have been designated as the agencies to handle many housing needs; FEMA through provision of rental assistance and trailers and SBA through home loans. The problem is that neither agency has the housing expertise or the capacity to provide this assistance. The result has been tough times for Gulf State residents. For example:

1. The Advocacy Center, a local disability advocacy non-profit had to threaten legal action against FEMA to get them to provide trailers accessible to people disabilities.
2. After being advised of discriminatory statements on an affiliate web site, FEMA praised the web site as a key asset in matching housing with displaced residents.

3. FEMA has consistently made unclear statements about the expiration of hotel housing leaving evacuees on the precipice of homelessness. This is without out solidifying a housing plan for evacuees.
4. The Baton Rouge Advocate Newspaper reported that by mid-October SBA had denied 9 of every 10 applications for assistance – the problem was so bad that Rep. Nydia Velázquez, a member of this committee called for an investigation.

FEMA and SBA are failing on the housing front and it brings up a simple question – Why is HUD – the United States Department of **Housing** and Urban Development – not handling the provision of housing? The agency is likely the largest owner/manager of housing in the Gulf States. The agency is charged with monitoring and investigating complaints of housing discrimination. Further, it oversees the Federal Housing Administration and as a result has oversight regarding an immense number of home loans. FEMA and SBA are failing the Gulf States – the housing portion of the recovery should be moved to HUD.

Federal Legislation

I'd like to first thank each of you for appropriating more than \$390 million for vouchers for section 8 and public housing residents. Key to our recovery is one for one replacement of public housing units in a way that integrates public housing residents evenly into our city. These funds will go a long way helping to achieve that goal.

In addition, thank you for the \$11.5 billion dollars appropriated in CDBG funds. These funds are desperately needed as well and will be pivotal in our recovery. Regarding CDBG funds, I implore and charge our state and local elected officials to remember that by federal statute, all states and municipalities receiving these funds must affirmatively further fair housing. That is when using the funds, New Orleans and Louisiana are legally obligated to work to end racial segregation and provide equal housing opportunities for everyone.

I am hopeful that the Baker bill, will receive your support and pass as well; however I do urge a few considerations regarding the bill.

1. Homeowners should be paid 100% of the value of their homes, not 60% as in the current version of the legislation. Remember this the only way that many uninsured homeowners will recover for their destroyed homes.
2. Participation in Baker Plan, must remain completely and totally optional – that is homeowners should, at no point, be required to participate in the plan.
3. The current plan allows homeowners to sell properties to the Louisiana Recovery Authority and allows developers to purchase redevelop their homes. There should be an option that allows homeowners, through federal bonds, to redevelop their own properties.
4. Developers, acquiring properties through the Louisiana Recovery Authority should be expressly required to affirmatively further fair housing. Further, all projects should be examined to insure that they do not perpetuate racial and economic segregation.
5. All new development coming as a result of the bill should be required to have a mixed-income component.
6. At least 20% of new housing built through the Baker bill process should be accessible.

Local Housing Issues

PUBLIC HOUSING: I would also like to make some remarks regarding the future of public housing in New Orleans. Sec. Jackson has lauded the HOPE VI redevelopment of the St. Thomas public housing project, now know as River Garden, as excellent and an example of the future of public housing in America. Well make no mistake – River Garden has failed New Orleans, it citizens and, most importantly, the residents of public housing. In attempts to de-concentrate poverty, most low-income residents of River Garden were simply moved to and concentrated in other high-poverty areas of the city. So yes, poverty was de-concentrated in upper-income, majority White uptown New Orleans but only because the poverty was removed and re-concentrated in New Orleans East, the Lower 9th Ward and the St. Bernard Housing Development. HOPE VI, through River Gardens has done little more than further segregate New Orleans and the people who lived in St. Thomas. Any future plan must take a holistic approach aimed at desegregating the entire city, not a single neighborhood. HOPE VI must change its focus from bricks and mortar, to the people.

Now Is the Time for Action

This is a key time and key opportunity for New Orleans. Our city has struggled with a history of racial segregation that has left much of the African-American population poor and destitute. African-Americans lived in the lower 9th ward and New Orleans East, often times, not by choice, but because of historic patterns of residential segregation in New Orleans. Here's what is different this time. Usually, segregation causes African-Americans to attend failing schools, have poor access to healthcare and fewer job opportunities. That remains true here, but this time, segregation, working with Hurricane Katrina, caused African-Americans to lose their homes. We all know that story of the American Dream – and along with it is the image of the home with the white picket fence. Well here – residential segregation – working with Hurricane Katrina demolished the home and destroyed the white picket fence, and with it the American Dreams of thousands of African-Americans in New Orleans. Members, I submit that you have an opportunity, through good legislation and monitoring of federal agencies, to re-implant the American Dream in the minds of thousands of New Orleanians. Equal housing opportunity and desegregation of New Orleans neighborhoods must be the guiding principle. Through proper governing of CDBG, public housing assistance and the Baker Bill, you can insure equal housing opportunity for all New Orleanians. Take our challenge and use your power to insure every New Orleanian has access to housing that is connected to opportunity, housing that is inclusive, housing that is accessible, housing that is fair.

Recommendations and Action Items

- Federal, state and local government officials must strongly and publicly condemn housing discrimination and make fair housing a priority in appropriate program activities.
- Create a government funded transportation project for the specific purpose of transporting and returning displaced Gulf Coast residents back to their homes.
- Design and facilitate a right of residents to return to their homes and neighborhoods

and contribute to the rebuilding process, consistent with the United Nations Guiding Principles on Internal Displacement.

- Facilitate the right to return of New Orleans residents by prohibiting discrimination on the basis of the use of a housing subsidy or voucher. Many families seeking to return may be forced to rely on housing vouchers to be able to afford housing in the private market. Policies that excluded renters with housing subsidies were pervasive in the New Orleans housing market before Katrina and will inhibit the return of residents if allowed to continue.
- As all Gulf Coast cities, counties and parishes rebuild and create housing opportunities, they should make fair housing a basic component of each program. The redevelopment of communities should be integrated in terms of race, national origin, and economic class.
- Transfer the housing related components of the rebuilding process from FEMA and SBA to HUD.
- Local fair housing organizations in Louisiana and Mississippi should receive additional funding from HUD and other entities for their education and enforcement programs.
- Support the Baker Bill with a 100% of market value buyout option rather than the existing 60% option.
- Keep participation in the Baker Bill plan completely optional.
- All new development coming as a result of the Baker bill should be required to have a mixed-income component.
- The Baker Bill should have an option that allows homeowners, through federal bonds, to redevelop their own properties.
- FEMA must make fair housing a component of the relief it is offering. Its trailer parks must not perpetuate residential segregation. FEMA is not exempt from federal, state or local fair housing laws.
- Municipalities that receive Community Development Block Grant funds are required to affirmatively further fair housing. They should utilize a portion of these funds to fund the education and enforcement programs of local fair housing organizations.
- A fair housing education campaign, specific to victims of Katrina, should be developed and run in print and electronic media outlets. Resources should be allocated to address

the needs of those who respond to the campaign.

- HUD should be actively involved in funding local fair housing efforts and addressing fair housing concerns.
- HUD should monitor all FEMA and SBA housing related activities to prevent possible fair housing violations.
- The Red Cross, United Way, and other charitable organizations must ensure that their programs are administered without regard to race, religion, national origin, etc. These charities are not exempt from federal and local fair housing laws. The housing placement offered must not perpetuate segregation.
- HUD should fund a national enforcement testing project to uncover the nature and extent of housing discrimination against people displaced by the recent hurricanes and people rebuilding in the Gulf Coast region and to identify predatory lending and home repair scams.
- Support federal funding of emergency and long term housing needs consistent with the recommendations of the National Policy and Advocacy Council on Homelessness.
- FEMA should create an anti-displacement policy ensuring that it's efforts to create short-term housing do not result in evictions of other residents, resulting in the creation of new homeless populations.
- Support survivors in their efforts to require FEMA to make it easier to apply for temporary housing assistance and to provide immediately more transitional.
- Renters should be able to return to those homes and resume their rental payments in accordance with their existing leases.
- Residents without leases, or those who are renewing their leases, should be protected from rental increases that exceed 10 percent of their previous rental amount.
- Make use of existing housing units in the private market before relying on mobile homes.
- Create an inventory of blighted, HUD and government owned properties located in neighborhoods that were not affected by flooding. Considering that non-flooded neighborhoods already have utilities and other infrastructure not yet available in flooded areas, plan and implement incentives for currently blighted properties to be placed in commerce.

- Look at strategies for acquisition of blighted properties to be renovated for workforce housing, affordable rental housing, and homeownership.
- Use the rebuilding effort as a means of creating wealth and building the assets of New Orleans residents through homeownership opportunities, training in the building trades, and small business development.
- HANO should immediately establish the right of every former HANO-assisted public housing or voucher resident to return to New Orleans to a unit that is affordable, and inform every displaced HANO-assisted tenant of this right.
- The physical condition of all public housing units should be determined: habitable, needs minor rehabilitation, needs more substantial rehabilitation, or must be demolished. This information must be made public immediately.
- HANO tenants should be permitted to have temporary guests and to temporarily overcrowd without penalty, especially for those guests without affordable housing who are disabled or seeking work.
- HANO should not demolish any structurally sound buildings in any publicly subsidized developments just for the purpose of facilitating redevelopment until this immediate housing crisis is resolved.
- If units were partially destroyed, allow tenants to decide whether to terminate the lease or to accept a transfer to another HANO property while the unit is being repaired. Make all repairs to public housing units that were only partially destroyed within 90 days.
- Provide Section 8 vouchers to public housing residents whose units were destroyed and assist them in locating alternative temporary housing while their units are being repaired.
- Implement a tracking system to ensure that HANO continues to communicate with public housing and voucher residents about the housing and moving resources available to them both in the short term and after any redevelopment activities are completed. Few residents will be able to take advantage of redevelopment if HANO has no way to contact them. This could include providing a means for HANO residents to ask questions of an ombudsperson, as well as to update their contact information and check their waiting list status, etc.

- Once buildings or developments are identified as uninhabitable, make non-negotiable the participation of former public housing residents in the planning and implementation of any redevelopment plans. Make training and employment of former public housing residents in redevelopment activities a condition of funding and contracting.
- Support the increase of voucher payments up to 150% of fair market rents or higher when necessary to assist lower income households to compete for scarce, more expensive housing. Residents on fixed incomes would have to spend nearly all of their income on rent to pay the difference between their voucher payments and the actual rental costs in the post-Katrina rental environment. Currently residents participating in the Katrina housing voucher program (KDHAP) are reportedly capped at 100% of the fair market rents set prior to Katrina. Even residents using vouchers prior to Katrina were able to request payments of 110% of fair market rents.
- Provide housing counseling assistance for families with vouchers who need help finding affordable housing near jobs, schools, and services.
- Oppose efforts to siphon off existing voucher funds to pay for redevelopment of public housing. Vouchers may be one of the few means to provide housing to public housing residents waiting for public housing units to be redeveloped.¹⁷
- Provide incentives to suburban jurisdictions that accept former New Orleans public housing residents using vouchers. Support the portability of voucher use between parishes.
- Prevent the exodus of landlords from the Section 8 programs by paying fair rental amounts to landlords whose properties are currently habitable.
- Create an inventory of low income tax credit properties, which are unable to deny housing to families on the basis of their use of a housing voucher.
- Assist the right to return of the City's workforce by supporting proper notice with regard to eviction proceedings. Proper notice must consist of a minimum of notice by mail. Tacking notice should be the notice of absolute last resort.
- Extend the mortgage forbearance period, provision of design and technical assistance to homeowners, and provision of financial assistance to homeowners to facilitate their right to return.

Respectfully Submitted by

James H. Perry

Executive Director

Greater New Orleans Fair Housing Action Center

938 Lafayette Street,

New Orleans, LA 70113

www.gnofairhousing.org

New Orleans Office: 504-596-2100



**No Home for the Holidays:
Report on Housing Discrimination Against
Hurricane Katrina Survivors**



December 20, 2005

**National Fair Housing Alliance
1212 New York Avenue, NW
Suite 525
Washington, DC 20005
(202) 898-1661
www.nationalfairhousing.org**

REPORT ON HOUSING DISCRIMINATION AGAINST HURRICANE KATRINA SURVIVORS

EXECUTIVE SUMMARY

The National Fair Housing Alliance (NFHA) is the only national civil rights organization focused solely on eliminating housing discrimination and promoting residential integration. Based in Washington, D.C., NFHA was founded in 1988 and is a consortium of more than 220 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. NFHA works to educate the public and the housing industry about their rights and obligations under fair housing laws, and it conducts investigations into discriminatory rental, real estate, mortgage lending and homeowners insurance practices throughout the nation.

In response to concerns of housing discrimination against persons forced to evacuate because of Hurricane Katrina, NFHA conducted an investigation of rental housing practices in five states to determine whether victims of Hurricane Katrina would be treated unfairly based on their race. We conducted tests over the telephone to determine what both African-American and White home seekers were told about unit availability, rent, discounts, and other terms and conditions of apartment leasing. In 66 percent of these tests – 43 of 65 instances – White callers were favored over African-American callers. We also conducted five matched pair tests in which persons visited apartment complexes. In those five tests, Whites were favored over African-Americans three times.

Several of these tests revealed egregious types of discrimination, and NFHA has filed administrative complaints with the United States Department of Housing and Urban Development (HUD) against five apartment complexes. NFHA's first goal in taking this action is to remind both apartment seekers and housing providers that housing discrimination is illegal. NFHA's second goal is to hold accountable the housing providers who have discriminated on the basis of race and national origin.

OVERVIEW OF THE INVESTIGATION

The waters have receded from the Gulf Coast in the aftermath of Hurricane Katrina. The images of those fleeing New Orleans and those left behind during the hurricane reflected a significant and struggling African-American community. The media images provided graphic evidence of the destructive effects of residential segregation in the United States.

Illegal housing discrimination and residential steering based on race created the segregation in New Orleans, the Gulf Coast and most other communities

throughout the United States. In order to ascertain whether or not even those forced to relocate because of the hurricanes would experience discrimination, NFHA conducted testing of rental housing providers in several communities. Although housing discrimination based upon race, color, religion, sex, national origin, disability or familial status is illegal,¹ NFHA's investigation into housing practices following the hurricanes documented violations of the federal Fair Housing Act in several states to which many hurricane victims fled: Alabama, Georgia, Florida, Tennessee and Texas. Out of 65 tests of rental housing providers, African-Americans experienced discrimination in 43, or 66 percent, of the transactions. NFHA will conduct further testing in 2006 to ascertain treatment of displaced people based on national origin, disability and family status.

To counteract these widespread findings of race discrimination against Hurricane Katrina survivors, NFHA has filed complaints alleging violations of the federal Fair Housing Act with the U.S. Department of Housing and Urban Development against five apartment complexes. These are the complexes at which the most egregious instances of differential treatment occurred.

SUMMARY OF FINDINGS

From mid-September through mid-December, 2005, NFHA conducted telephone tests of rental housing providers in seventeen cities in five states, as follows:

Alabama: Birmingham, Mobile, Huntsville and Montgomery
Florida: Gainesville, Tallahassee and Pensacola
Georgia: Atlanta, Columbus, Macon and Savannah
Tennessee: Nashville, Chattanooga and Memphis
Texas: Houston, Dallas and Waco

NFHA conducted 65 tests in five states, all with two White callers and one African-American caller. In 43 of these tests, White testers were favored over African-American testers. With limited resources and a short time-frame, NFHA was able to conduct five in-person tests at apartment complexes for which we had identified differential treatment on the initial phone test. These in-person tests were matched pair tests with one White tester and one African-American

¹ Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988, (42 U.S.C. § 3601 et. seq) prohibits discrimination in housing and housing related transactions based on race, color, religion, sex, national origin, disability or familial status. Its legislative history is entwined with the national experience of urban riots and civil unrest, and its passage was expedited in response to the assassination of Dr. Martin Luther King, Jr. and the release of the Kerner Commission Report that concluded that America was "moving toward two societies, one black, one white — separate and unequal." In enacting the Fair Housing Act, Congress' purpose was "to provide, within constitutional limitations, for fair housing throughout the United States." 42 U.S.C. § 3601 (2004). The ultimate purpose of the FHA was to create "truly integrated and balanced living patterns." 114 Cong. Rec. 3422 (1968).

tester. In these site visit tests, differential treatment that favored White testers was detected in three of the five tests, or 60 percent.

Types of Differential Treatment

In many tests, White testers were given truthful information about the availability of units or the terms and conditions for securing an apartment, while that information was withheld from or provided differently to their African-American counterparts. Many types of differential treatment were detected in the tests, but most fell into the following categories:

Failure to tell African-Americans about available apartments. White callers were told that one or more apartments were available while African-American callers were told that nothing was available. For example: in Gainesville, two white callers to one complex were told that two apartments were available, while an African-American caller was told that all apartments were currently taken and that management was only taking names for a waiting list. In Pensacola, two white testers were told that one or more apartments were available, while the African American caller was told there was nothing available

Failure to return telephone messages left by African Americans. Testers were instructed to leave voice mail messages when no one answered the phone. In several tests, rental agents failed to return messages left by African-American testers. At a complex in Waco, both white testers spoke with an agent and were given information about available apartments. The African-American tester left three phone messages but never received a return phone call. A third White tester who left a message after office hours had her call returned within 12 hours.

Failure to provide information to African-American testers. Managers volunteered more information to White callers about the number of units available, dates of availability, rental price ranges and security deposit requirements. For example, at one apartment complex on the same day, both White callers were given a range of rental prices and unit availability. In contrast, the African-American was told that the computer was down and the agent would have to call her back with rental price information. The agent never called the tester back.

Quoting higher rent prices or security deposits to African-American testers. In many tests in several locations, African-American callers were told the rent or security deposit for a unit would be higher than the rate quoted to White callers for the same or a similar unit. In Birmingham, a White tester was told that a \$150 security deposit and \$25 per adult application fee would be waived for her as a Hurricane Katrina victim. She

was also told that she needed to make 2.5 times the rent to qualify for the apartment. The African-American tester was told that she would have to pay \$150 for the security deposit and a \$25 application fee for each applicant. The African-American hurricane survivor was also told that she would have to make 3 times the rent to qualify for the apartment.

Offering special inducements or discounts to White renters. White testers were provided with a number of discounts or special inducements, while their African-American counterparts were not. For example, in Dallas, both White testers were told that if they rented at a particular complex, they would receive a free 26 inch LCD television. The African-American tester was not told about the free television but was told that she would have to pay a \$500 security deposit plus a \$500 administration fee (non-refundable). One White tester was told that the administration fee was \$400, plus a \$100 refundable security deposit. A second White tester was told that, if she leased within 48 hours, the security deposit would be \$500 with \$100 refundable. The agent offered to fax or overnight an application to the White tester and asked if he should take the apartment off the market for her.

The Ramifications of Housing Discrimination on Katrina Survivors

Under normal market conditions, studies have documented high levels of discrimination against African-Americans, Latinos, and Asian-Americans. Given the devastating images of New Orleans and the Gulf Coast, NFHA is concerned that hurricane survivors face even higher levels of discrimination.

What is happening now in the face of the current crisis? What would be the impact of almost one million displaced households on the housing market nationwide? How many people of color, families with children, single female-headed households, and individuals with disabilities will experience discrimination as they search for new housing in the rental and real estate sales markets? How many renters and homeowners will experience discrimination when filing a claim with their insurance company? How many people will become victims of predatory lenders as they seek to obtain financing to repair or replace their homes? How much worse is the level of discrimination in housing markets inundated with those forced to evacuate the Gulf Coast areas?

There are an estimated 125,000 evacuees still located in hotel rooms paid for by the Federal Emergency Management Agency (FEMA). Of these, approximately 85,000 applications for FEMA rental assistance are as yet undecided.² In addition to evacuees known to be in hotel rooms, an untold number of people are

² Hsu, Spencer S, "FEMA Ordered to Extend Hotel Stays," *The Washington Post*, December 13, 2005, p. A1.

staying with friends and family or living in cars, tents or damaged homes.³ All are in need of housing, and a large number of them are African-American. As this population seeks a more permanent housing solution and contacts any number of housing providers, a sixty-six percent rate of discrimination could translate into hundreds of thousands of acts of discrimination against Katrina survivors. Fair housing must become a component of all housing programs, and FEMA must make particular efforts to ensure the persons it assists do not experience housing discrimination.

One of NFHA's staff members has attempted to contact the Washington, DC, office of FEMA on three occasions in order to ascertain what FEMA's policy is on housing discrimination as it relates to persons evacuated because of the hurricanes. She explained that she was calling on behalf of NFHA and that NFHA had concerns regarding the potential for discrimination by housing providers who might be contacted by displaced persons. The first time she called, she was told by a woman who answered the phone that her call would be returned; it was not. She second time she called, she was asked what fair housing was and was told that she had called the wrong agency. The third time she called, she was told that FEMA doesn't deal with "fringe organizations" and the person with whom she was speaking hung up the phone.

HUD's Office of Fair Housing and Equal Opportunity has a role to play as well. While brochures and media campaigns are underway to alert displaced persons about their fair housing rights, FHEO needs to channel funds directly to private non-profit fair housing agencies to help people combat housing discrimination and to open all neighborhoods to displaced families.

HOUSING DISCRIMINATION IN THE LARGER CONTEXT

Recent research by the United States Department of Housing and Urban Development (Housing Discrimination Study 2000, Phases One, Two, and Three) has documented significant levels of discrimination against African-Americans, Latinos, Native Americans, Asian Americans, and Pacific Islanders.⁴ There is no comparable national data for persons with disabilities, yet this group files the highest number of complaints with HUD each year and a recent small scale study of housing discrimination based on disability documented significant levels of unfair treatment.⁵ Whether or not the discrimination is blatant, done

³ Sanders, Kerry, "Thousands Still Waiting for FEMA Trailers," *NBC Nightly News*, December 10, 2005, available at <http://www.msnbc.msn.com/id/10399646/>.

⁴ *Discrimination in Metropolitan Housing Markets, National Results from Phase 1, Phase 2, and Phase 3 of the Housing Discrimination Study*, Urban Institute 2002-2003) available at <http://www.huduser.org/publications>.

⁵ *Discrimination Against Persons With Disabilities: Barriers at Every Step*, Urban Institute, 2005, available at <http://www.huduser.org/publications>.

with a “we don’t want you people here” attitude, or done politely through more subtle differences in treatment, housing discrimination is a fact of life for large numbers of people in our society. A recent study commissioned by NFHA found that race and national origin discrimination in the rental/real estate sales housing market occurs more than an estimated 3.7 million times a year. These results are based on data produced by HUD’s Housing Discrimination Study 2000 (HDS 2000).⁶

Studies by social scientists and others echo these findings. A 1995 study by John Yinger found that the cumulative likelihood of experiencing some form of racial discrimination in U.S. rental markets was 53 percent.⁷ The HDS 2000, which NFHA believes significantly undercounted the incidence of housing discrimination, found that whites were favored over African Americans in rental housing transactions 20.6 percent of the time.⁸ A study of the general public found that 14 percent of adults, the equivalent of more than 28 million people, said that they had experienced housing discrimination at some point in their lifetime.⁹

Even as a growing U.S. population becomes more diverse, our communities remain highly racially segregated, and segregation continues to extract a high price in economic and societal terms.

A recent study of 2000 U.S. census data indicates that of 69 metropolitan areas in which African Americans are a dominant minority, 64.8 percent of Whites live in neighborhoods that are exclusively White and 52.3 percent of Blacks live in neighborhoods that are majority Black. That is, in 69 key urban areas, more than two-thirds of Whites live in areas that have less than a 5 percent Black

⁶ Simonson, John, *Report for the National Fair Housing Alliance on the Incidence of Housing Discrimination Based on HDS 2000*, Center for Applied Public Policy at the University of Wisconsin-Platteville. The HDS reported on the probability (using percentages) that discrimination would occur; NFHA’s commissioned study reports instead on the number of instances of discrimination.

⁷ Yinger, John, *Closed Doors, Opportunities Lost: The Continuing Costs of Housing Discrimination*. New York: Russell Sage Foundation (1995).

⁸ NFHA believes that the Housing Discrimination Study significantly under counts housing discrimination. For example, this study:

- Excludes many smaller owner-occupied housing units which comprise a significant portion of the rental market;
- Fails to capture housing discrimination that occurs at the preliminary telephone contact stage (an increasingly frequent phenomenon in today’s housing markets); and
- Fails to capture discrimination that occurs after an applicant submits an application for housing.

See also: Massey and Lundy, *Use of Black English and Racial Discrimination in Urban Housing Markets: New Methods and Findings*, Population Studies Center, University of Pennsylvania, June, 1998, available at <http://www.ksg.harvard.edu/inequality/Seminar/Papers/Massey.PDF>.

⁹ *How Much Do We Know?*, United States Department of Housing and Urban Development, Office of Policy Research and Development, 2002, available at <http://www.huduser.org/Publications/pdf/hmwk.pdf>

population. In these same communities, more than half of Blacks live in neighborhoods that are more than 50 percent Black.

A similar examination of suburban neighborhoods indicates that these neighborhoods are also likely to be exclusively White: 58 percent of the suburban neighborhoods examined were exclusively White, while only 21 percent of the urban neighborhoods were exclusively White. Only about one-third of the neighborhoods studied were considered to be mixed neighborhoods — those with significant populations of both Blacks and Whites.¹⁰

Douglas Massey, who has conducted extensive research on patterns of racial segregation, has noted that *America's large urban areas remain only slightly less segregated than South Africa during apartheid*. Today, 41 percent of Black Americans live in neighborhoods that are described as hyper-segregated, that is, in all Black high-density neighborhoods near other all-Black neighborhoods. Another 18 percent of African Americans also live in conditions of high segregation.

TESTING APPROACH AND METHODOLOGY

In order to understand and document the experiences of those seeking housing due to displacement by the hurricanes, NFHA conducted telephone tests of housing providers located in states to which we knew many people had fled. NFHA utilized “paired” and “sandwich” testing approaches to measure and document the types of discrimination occurring in these markets. Testing is a widely-accepted methodology that has been utilized for both enforcement and research purposes for decades.¹¹

Fair housing testing is a controlled method for measuring and documenting differences in the quality, quantity and content of information and services offered or given to various home seekers by housing or housing service providers. For example, a paired test for racial discrimination in the rental context might involve sending both an African-American tester and a White tester to an apartment building, in the same general time frame, to inquire about the availability of the same or similar apartments for rent. The two testers are generally matched on their personal and home seeking characteristics so that the only significant difference is their race. A sandwich test is an expansion of a paired test. It involves the same general principles as a paired test, but adds a third tester. The third tester is matched with both the first two testers, differing only in race,

¹⁰ Rawlings, L., Harris, L., and Turner, Margery Austin, “Race and Residence: Prospects for Stable Neighborhood Integration,” *Neighborhood Change in Urban America*, Urban Institute, March 2004.

¹¹ The use of fair housing testing evidence has uniformly been accepted by the courts, including the Supreme Court. See e.g. *Havens Realty Corp v. Coleman*, 455 U.S. 363, 373-374 (1982).

national origin or other protected characteristic from one of the first two testers. Sandwich tests are particularly useful in situations in which the availability of a specific apartment or house is in question. For example, a White tester calls to inquire about an apartment and is told that there is a specific apartment available on a particular date. An African-American tester calls to inquire about the same apartment and is told the apartment is no longer available. A second White tester calls to inquire about the same apartment as the first two testers and is told that there is a specific apartment available on a particular date. Testers are generally matched on the type of housing sought, income, employment qualifications and credit standing, with the minority tester usually slightly more qualified than her white counterpart. Testers provide detailed reports and narratives of their contacts with the housing provider. Discrimination in the quality and quantity of information and services provided to testers can be evident in a comparison of the reports.

Almost all housing transactions these days begin with a phone call. Many people never even have an opportunity to see an apartment or house because some housing providers identify persons by race or ethnicity over the phone and refuse to do business with the callers. The methodology used in these tests incorporates this behavior of “linguistic profiling” and utilizes the research of linguistics expert John Baugh.¹² In this specific project, NFHA also utilized a number of testers from the south. Several of the testers are originally from New Orleans and have linguistic characteristics that are both racially and geographically identifiable.

RECOMMENDATIONS

In order to address and combat the high levels of discrimination against African-Americans attempting to find housing in the wake of the hurricanes, NFHA makes the following recommendations.

1. As all Gulf Coast cities and counties rebuild and create housing opportunities, they should make fair housing a basic component of each program. The redevelopment of communities that are integrated in terms of race, national origin, and economic class must be a priority.
2. Local fair housing organizations in Louisiana and Mississippi should receive additional funding from HUD and other entities for their education and enforcement programs.
3. Federal, state and local government officials must strongly and publicly condemn housing discrimination and make fair housing a priority in appropriate program activities.

¹² See e.g. Baugh, John, "Perceptual and Phonetic Experiments on American English Dialect Identification," (with Thomas Purnell and William Idsardi). *Journal of Language and Social Psychology*, Vol. 18 No. 1, pp. 10-30 (1999).

4. FEMA must make fair housing a component of the relief it is offering. Its trailer parks must not perpetuate residential segregation. FEMA is not exempt from federal, state or local fair housing laws.
5. Municipalities that receive Community Development Block Grant funds are required to affirmatively further fair housing. They should utilize a portion of these funds to fund the education and enforcement programs of local fair housing organizations.
6. A fair housing education campaign, specific to victims of Katrina, should be developed and run in print and electronic media outlets. Resources should be allocated to address the needs of those who respond to the campaign.
7. HUD should be actively involved in funding local fair housing efforts and addressing fair housing concerns.
8. The Red Cross, United Way, and other charitable organizations must ensure that their programs are administered without regard to race, religion, national origin, etc. These charities are not exempt from federal and local fair housing laws. The housing placement offered must not perpetuate segregation.
9. HUD should fund a national enforcement testing project to uncover the nature and extent of housing discrimination against people displaced by the recent hurricanes and people rebuilding in the Gulf Coast region and to identify predatory lending and home repair schemes.

CONCLUSION

The aftermath of Hurricane Katrina demonstrated the devastating impact of social, racial and economic segregation on communities of color. The legacy of segregated neighborhoods continues to this day, where neighborhoods are redlined into zones bereft of economic activity, city and government services are nominal, businesses and grocery stores are few, and property values are stagnant. Segregation exacerbates economic disparities between Whites and people of color, reinforces institutionalized racism within the housing industry and entrenches attitudes about where people of certain races and ethnicities should live.

Professor Craig Colten of Louisiana State University attributes New Orleans' segregated communities, and the subsequent disproportionate suffering of impoverished African Americans, to the legacy of racial inequality and its parallel economic class divisions. Because only those with the highest incomes could afford to live in safer, more attractive areas, the neighborhoods with the fewest services were left to those with the least means. The resulting drain on the tax

base left an overall infrastructure weakened and city administrators unable to plan effectively for their citizens.¹³

The destruction wrought by Hurricane Katrina illuminated the hazards of both racial and economic segregation in our communities and the crucial responsibility that the housing industry has in ensuring equal treatment and promoting integrated neighborhoods. Not only do integrated neighborhoods create a more diverse community and reduce the concentration of poverty in a city, they also sustain better schools, more amenities, a healthy infrastructure, a stronger tax base and a broader mix of businesses. Neighborhood integration provides everyone with the opportunity to have multi-cultural and multi-racial associations.

In September, FEMA estimated that 300,000 families were homeless and that 200,000 of them would require government housing as a result of Hurricane Katrina. In addition, surveys of evacuees in Houston indicated that two-thirds did not have available credit or insurance, most family incomes were less than \$20,000 and half had children under 18. Despite housing units being made available in hotels, motels, cruise ships, rental units and military bases, of six hundred manufactured housing sites proposed at the time, only five percent had ready access to water, sewer, power and other essential services.¹⁴

In areas affected by Katrina and throughout the country, it is crucial for federal, state and local agencies to ensure that the federal Fair Housing Act is upheld for all residents in the process of securing safe and decent housing. Additional funding must be made available to promote compliance with fair housing laws and educate consumers about their right to secure housing, homeowners insurance and mortgage loans free from discrimination. It also falls upon the housing and real estate industries to support and advance integration in our neighborhoods so that all citizens can gain equal access to wealth, stability and reliance on our country's social safety net.

Acknowledgements: NFHA is deeply grateful to the testers who participated in this project. While it is impossible to individually name the testers in a public document, this project and its important findings and enforcement actions would not be possible without the professionalism exhibited by individual testers around the country. Testers provided detailed and objective accounts of encounters with housing providers for minimal reimbursement. Many of these testers were from New Orleans and the Gulf Coast area and were themselves displaced by Hurricane Katrina. In the midst of their own personal relocations and rebuilding, their time for this project is profoundly appreciated.

¹³ National Public Radio, *Professor Craig Colten on Race, Poverty and Katrina*, September 2, 2005.

¹⁴ "Housing the Displaced is Rife with Delays," *The Washington Post*, September 23, 2005.

About The National Fair Housing Alliance

The National Fair Housing Alliance is the voice of fair housing. NFHA works to eliminate housing discrimination and to ensure equal housing opportunity for all people through leadership, education, outreach, membership services, public policy initiatives, advocacy and enforcement.

Through these programs, NFHA provides equal access to apartments, houses, mortgage loans and homeowners insurance policies for millions of people across the United States and in all neighborhoods throughout the nation.