FAIR HOUSING
Telephone Testing Report
Disability and Familial Status

Fairfax County Human Rights Commission
Fair Housing Program
Fairfax, Virginia

October 2010

EQUAL HOUSING OPPORTUNITY

COUNTY OF FAIRFAX 1742 VIRGINIA

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ACKNOWLEDGMENTS

The Human Rights Commission would like to thank the following individuals for their assistance in completing the Fair Housing Project.

SUSAN SCOVILL, FAIR HOUSING CONSULTANT

Susan Scovill was selected as the consultant to assist with the development of the Fairfax County Fair Housing Telephone Rental Testing Project. Ms. Scovill, who has more than twenty years experience in fair housing testing and investigations, was involved in the selection of the test sites; provided materials, training, and debriefing of the testers; scheduled the tests and submitted a report thereon to Commission staff. Throughout the project, Ms. Scovill reported to and provided regular status reports to Commission staff members who maintained oversight, provided input and administered the project.

FAIR HOUSING TESTERS

The Fairfax County Human Rights Commission could not have conducted such an effective testing program without the testers, whose interest, professionalism, and dedication to the mission of Fair Housing are greatly appreciated.

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EXECUTIVE SUMMARY

In April, 2010, Fairfax County entered into a contract with Susan Scovill, Fair Housing Consultant, to provide fair housing telephone testing services at rental properties in the County. Forty fair housing telephone tests were conducted in May, June and early July, 2010. Twenty tests were conducted to assess how families with children are treated in their search for housing, including denials or discouragement as well as reasonableness of occupancy standard policies; and twenty tests to assess whether or not housing providers were willing to permit reasonable modifications to physical structures of the rental unit or to make reasonable accommodations to their policies and practices for people with disabilities, as required under fair housing laws.

40 Fair Housing Telephone Rental Tests
(20 Familial Status Tests; 20 Disability Tests)

Bases:

Familial Status*:*
20 tests for evidence of discrimination due to familial status
Willingness to rent to families with children

Disability:
20 tests for evidence of discrimination due to disability:
Willingness to permit reasonable modifications (10 tests)
(Install grab-bars and/or a ramp)
Willingness to make reasonable accommodations (10 tests)
(Waive “no pets/pet fees” for service animals)

Results:

Familial Status (20 tests):

- In 3 of the 20 tests (12.5%), housing providers indicated a refusal to rent to or discourage families with children. None rejected children outright; rather the issue was with the number of children in the household.

- In 2 of the tests, the housing provider made comments about the number of children, but appeared willing to show or rent the property.

- In the remaining 15 tests, the housing providers appeared to have no issues with either the fact or number of children in the family.

Disability (20 tests):
Requests for Reasonable Modifications (10 tests)

- In 9 out of the 10 tests, the housing provider indicated a willingness to permit the requested modifications (ramp and/or grab bars)

- One leasing agent and two real estate agents expressed some initial uncertainty about whether or not the modifications would be allowed.

- Only one private owner expressed reluctance to allow the modification.

Requests for Reasonable Accommodations (10 tests)

- In 5 out of the 10 tests (50%), the housing providers showed an unwillingness to make reasonable accommodations in their policies for a service animal: waive their "no pets" or "no dogs" policies and/or impose "pet fees" on the service animal. Most disturbingly, all five were real estate professionals and, therefore, would be expected to have had substantial fair housing training on this issue.

In none of the twenty disability tests conducted did the housing provider appear to discourage the tester based solely upon the existence of the disability.

Conclusions

Families with children and persons with disabilities have been protected from discriminatory housing practices by fair housing laws for over 20 years. These protections, and the issues of occupancy standards regarding families with children and the requirements for reasonable modifications and accommodations for persons with disabilities, have been the subject of many fair housing education opportunities offered to property managers, real estate professionals, and landlords over that time.

Familial Status Tests:
The incidence of discrimination against families with children was fairly low and none of the tests reflected an outright unwillingness to rent to families with children. In the three tests where the tester was refused or discouraged from renting, the issue was not renting to families with children, rather the number of children. While it can be legitimate to use size and occupancy standards in determining how many individuals can legally occupy a particular property, fair housing laws prohibit denying housing based on the number and, for that matter, the age or sex of children in a household. Clearly, it is important to increase awareness about the law in this regard.

Disability Tests:
None of the disability tests showed discrimination on the basis of the disability alone; however, comments by housing providers did indicate a lack of understanding or an unwillingness to comply with the requirements to permit reasonable modifications and, especially, to make reasonable accommodations for persons with disabilities. Given that the largest number of fair housing complaints filed both nationally, and with the

Commission in 2009 were disability related, there is a need to emphasize and increase awareness about these issues among housing providers and others providing real estate related services and the consequences for violating the law.

Recommendations

Since the number of familial status and disability tests in this particular testing cycle was relatively small, future testing, on a larger scale, should be designed to determine if the current results are an anomaly or indicative of a wider problem. In the meantime, expanding outreach efforts to housing service providers, developing closer ties and exploring opportunities to partner with other local organizations and advocacy groups promoting equal opportunity in housing, and further incorporating and emphasizing some of the more troubling aspects of the overall findings into fair housing training materials is recommended.

Continued monitoring of the housing rental market using a comprehensive, focused and effective testing program provides a powerful incentive for local housing providers and others offering real estate and related services to comply with fair housing laws. It allows the County to more accurately measure compliance, act on related enforcement issues, identify areas of concern, and address emerging trends in the housing market and their impact on fair housing issues.

INTRODUCTION

It is the policy of the County of Fairfax to provide for fair housing throughout the County, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, marital status, or handicap, and to prohibit discriminatory practices with respect to residential housing. In order to increase awareness of Fairfax County fair housing laws and to determine whether laws barring housing discrimination are being violated, the Fairfax County Human Rights Commission provides ongoing education and outreach efforts on fair housing issues to housing providers and the public, and collects housing discrimination data through its fair housing testing program. As part of this effort, in 2010, forty telephone tests were conducted; twenty on the bases of familial status, and twenty on the basis of disability. The familial status tests were designed to evaluate the willingness of housing providers to rent to families with children. The disability tests were designed to evaluate the willingness of housing providers to make reasonable accommodations in rules, policies, practices or services for prospective tenants, if necessary for the disabled person to use the housing. The tests involving requests for reasonable modifications were conducted to evaluate how willing housing providers were to allow potential tenants to make reasonable modifications to the dwelling or common areas, at the tenant's expense, if necessary for the disabled tenant to use the housing.

In April, 2010, Fairfax County entered into a contract with Susan Scovill, a fair housing consultant, to provide fair housing testing services for this project to the County. Ms. Scovill is an independent fair housing consultant with over 20 years of successful experience in fair housing testing and investigations. She provides training, technical assistance, and project management services for local governments, housing professionals, service agencies, and advocacy groups. Ms. Scovill was a former director of the Virginia Fair Housing Office from 1991-1995 (a Fair Housing Assistance Program agency) and directed the fair housing education and enforcement activities of HOME of Virginia, a nationally recognized non-profit fair housing organization, from 1995-2009. She has a B.S. from Virginia Commonwealth University and a J.D. from the T.C. Williams School of Law at the University of Richmond. Ms. Scovill has designed, supervised, conducted, and evaluated thousands of fair housing tests for various audits, studies, and enforcement purposes in the areas of rentals, sales, lending, and homeowners insurance and has developed testing methodologies and protocols, tester profiles and reporting forms for site visit and telephone testing, and forms and spreadsheets to assist in analyzing test results. Her testing experience includes telephone rental tests on the specific issues of disability and familial status, including the willingness of housing providers to make reasonable modifications and accommodations for persons with disabilities, and how willing housing providers are to accept families with children and the reasonableness of stated occupancy standards. She has extensive experience in successfully recruiting, training, and managing skilled testers.

In accordance with the contract, forty telephone tests were conducted at rental properties located in Fairfax County and advertised online. The tests were conducted over a period of twelve weeks in May, June, and July, 2010, twenty on the basis of familial status, and twenty on the basis of disability (requests for reasonable accommodations or reasonable modifications). A more detailed description of the testing project, results and recommendations are provided in the main body of this report. The results will be considered in discussions regarding whether to conduct more extensive testing in these areas.

FAIRFAX COUNTY'S ROLE IN ENSURING EQUAL HOUSING OPPORTUNITY

On April 28, 1997, the Fairfax County Board of Supervisors appropriated funds for a fair housing testing program. On June 23, 1997, the Fairfax County Board of Supervisors adopted an Analysis of Impediments to Fair Housing Choice in Fairfax County. This document authorized the development of a plan to address fair housing impediments under the auspices of the Fairfax County Human Rights Commission and in partnership with other County agencies and appropriate regional and local community based and housing industry organizations. The Board of Supervisors decided that the Fairfax County Human Rights Commission should take primary responsibility for addressing the identified impediments including: lack of availability of discrimination data, need for education and outreach, and lack of housing opportunities for families with children and persons with disabilities. Following the Board of Supervisor's directive, in 1998 and 1999, the Commission contracted with two fair housing testing providers to conduct fair housing rental tests on the basis of race, national origin, disability, and familial status (presence of children in the household).

In August 1998, the Human Rights Commission formed a Fair Housing Task Force composed of stakeholders from the housing industry, community associations, public officials, nonprofit groups, and interested citizens. This Task Force recommended that Fairfax County conduct fair housing testing on an ongoing basis. The Board of Supervisors adopted this recommendation in its Fair Housing Plan on July 26, 1999.

The Human Rights Commission published its first Testing Report in 1999. This study represented the first countywide testing study undertaken by Fairfax County. Since that time, the Commission has continued with its fair housing testing initiatives, enforcement efforts, and related education and outreach programs. Copies of this testing report can be downloaded online, under Publications, at http://www.fairfaxcounty.gov/hrc/; hardcopies can be obtained by calling the Office of Human Rights and Equity Programs, Human Rights Division, at 703-324-2953. Alternative formats of this report will be provided upon request.

FEDERAL, STATE, AND COUNTY FAIR HOUSING LAWS

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

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. Fairfax County has been through the process of having its Rights Ordinance, as amended, reviewed by HUD for substantial equivalency certification. HUD has certified that the Fairfax County Human Rights Ordinance is equivalent to the federal law.

Both the Fairfax County Human Rights Ordinance and the Virginia Fair Housing Law prohibit discrimination in housing transactions and services on the same bases covered by the federal law. Both the state and county law also include elderliness (age 55 and over) as a protected basis. In addition, the Fair County Human Rights Ordinance (Article 1) prohibits discrimination on the basis of marital status.

THEORIES OF HOUSING DISCRIMINATION

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, based on their membership in a protected class. For example, requiring African Americans to pay higher rents simple because of their race would be a violation of fair housing law based on race. Fair housing testing is designed to uncover disparate treatment. This is the most common evidence uncovered by fair housing testing.
>
> Disparate Impact - Evidence of disparate impact occurs when housing providers have seemingly legal "neutral" policies, practices or procedures that 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 fair housing laws. For example, an advertisement for a 2 bedroom unit which states a preference for "2 persons only" might have a disparate impact on families with children because, though it does not explicitly state a preference based on familial

status, it creates an overly restrictive occupancy limit which would affect families with children to a greater extent than other types of households.

FAIR HOUSING TESTING PROJECT

Description of the Testing Project:
This project consisted of a series of single contact telephone tests to determine the availability of housing to families with children and persons with disabilities in Fairfax County, Virginia. These two categories became protected classes under the federal Fair Housing Amendments Act of 1988 and were added to the Virginia Fair Housing Law in 1991.

Fair housing laws protect families with children from unlawful discrimination, including refusals to rent or the imposition of different terms and conditions because of the presence of children under 18 years of age. The law also prohibits the imposition of unreasonable occupancy restrictions that limit the housing choice of families with children. A reasonable occupancy standard is generally considered to be 2 persons per bedroom, depending upon the size and configuration of the housing unit. The U.S. Department of Housing and Urban Development has issued a guidance memorandum outlining the factors to be considered in assessing the reasonableness of occupancy standards.[1]

Persons with disabilities are also protected from unlawful discrimination in housing. In addition to the protections afforded all members of protected classes, three additional requirements apply to persons with disabilities:

1) builders and developers are required to include minimum accessibility design features in covered multi-family housing built after March of 1991;
2) persons with disabilities must be able to make reasonable modifications to housing units and common areas that are necessary for their use and enjoyment of the dwelling; and
3) housing providers must make reasonable accommodations to their policies and procedures for persons with disabilities if they are necessary to ensure use and enjoyment of the housing.

This project looked at the willingness of rental housing providers to comply with the reasonable modification and accommodation requirements. Guidance on what actions are necessary to comply with these provisions can be found in two joint memoranda of the Department of Justice and the Department of Housing and Urban Development.[2]

Testing is a controlled investigative procedure in which individuals posing as home-seekers inquire about a housing unit and the information provided to the tester is recorded on a

[1] See Fair Housing Enforcement-Occupancy Standards; Notice of Statement of Policy (Keating memo), Dec. 22, 1998, available at: http://www.hud.gov/offices/fheo/library/occupancystds.pdf
[2] See Joint HUD/DOJ Statement on Reasonable Modifications under the Fair Housing Act, available at:: http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf; and Joint HUD/DOJ Statement on Reasonable Accommodations under the Fair Housing Act, available at: http://www.hud.gov/offices/fheo/library/huddojstatement.pdf

report form. Testing can be performed by matched pairs of testers seeking housing or in single contacts by one tester. Testing reveals useful information about a single individual's experience during a housing transaction, including possible discriminatory statements and the use and application of various policies and procedure. Testing is designed to provide a fair and impartial mechanism for determining whether or not home-seekers are being treated fairly in their search for housing. Testing has been approved by the United States Supreme Court as a legitimate means of uncovering otherwise concealed discriminatory housing practices.[3]

A total of forty (40) single contact telephone tests of rental properties advertised online were conducted for this project over a period of twelve weeks, in May, June, and July of 2010: twenty (20) tests to assess how families with children are treated in their search for housing, including denials or discouragement as well as the reasonableness of occupancy standard policies; and twenty (20) tests to assess whether or not housing providers are willing to permit reasonable modifications or allow reasonable accommodations for people with disabilities.

TESTING METHODOLOGY

Identification of test sites: Test sites in Fairfax County, Virginia were identified through online classified advertising sites including Craigslist, Rent.com, The Washington Post, Realtor.com, UrbanIgloo.com, and various property management sites. Advertising for apartments, townhouses, condos and single family homes for rent that included telephone numbers and/or email addresses were identified and selected for testing, including properties offered by management companies, real estate professionals, landlords, and owners. No advertisements were observed that included discriminatory language in the ad.

Testing materials: Test forms, including tester assignment and report forms, were developed to conform to fair housing testing practices. Assignment forms provide the tester with the necessary information to conduct the test, including test site identification and contact information, tester identity and profile, including family composition, income and employment information, type of unit and timeframe desired, and any special instructions, such as details on the number of children in the family or what modification or accommodation to ask for. Test report forms capture the sequence and details of what occurred during the test and include both question and answer sections and a chronological narrative of the telephone conversation. The completed report forms provide the information necessary to evaluate the contact for possible discriminatory housing practices. Telephone tests are not recorded by tape or digital recorders.

Recruitment and training of testers: Five (5) testers participated in this project. Each received specific training for this project, although three of the five testers had substantial previous testing experience. All testers were female. Training for the testers on this project included a three hour session on basic fair housing; the role of testers; the importance of objectivity, accuracy, timeliness, and completeness in testing; and a thorough review of the test procedures and of test assignment and report forms for this project. New testers also

[3] Havens Realty Corp. v Coleman, 455 U.S. 363 (1982)

completed a practice test of an advertised property outside the project test area. Tester identities are not included in this report as they are confidential and are protected to ensure the integrity of this and future investigations or testing.

Tester profiles: Tester profiles were developed to be consistent with the profiles of likely actual applicants and to ensure, to the extent possible, that the testers were qualified for the housing they sought. Testers were assigned income levels sufficient for the rents on the properties about which they called and were provided with local employment information consistent with their income. All tester profiles included good credit histories, no smokers in the household, and, unless specifically assigned for the reasonable accommodation tests, no pets.

Testers on the familial status tests had family compositions that included married parents (to avoid introducing marital status as a variable) and a number of children under the age of 18 years. Tester profiles indicated they were relocating to Fairfax County for new employment and were seeking rental housing. Family size varied depending upon the size of the unit inquired about, but was two persons per bedroom; e.g., a tester calling about a two bedroom unit had a family of four, a family of six with four children for a three bedroom, a family of eight with six children for a four bedroom, and a family of ten with eight children for a five bedroom home. Testers first asked about availability of the property advertised and then introduced the presence of children and their family size.

Tester profiles for the disability testing were of a married couple with no children seeking to relocate to Fairfax County. The profile included a spouse who required modifications to the unit or an accommodation because of a disability. The tester was provided with information about the specific nature of the disability and the need for the modification or accommodation. The tester first inquired about the availability of the rental property advertised and then requested the housing provider to permit a specific modification to a physical structure (e.g., to install grab bars in a bathroom and/or to put a ramp at the entryway) or make an accommodation in their policies and procedures (e.g., to allow a service dog despite a “no pets” policy and/or to waive pet fees for the service animal). The service animal was a 45 pound, mixed breed dog (collie-retriever to avoid issues with certain restricted breeds) and the tester had documentation of the need if necessary.

Coordination of testing and debriefing*:* Testers used cell phones and/or email to contact housing providers and were provided with the assignment forms with their profiles and report forms on which to document the test. Testers were assigned specific tests to complete and were provided with the online classified ads for those properties and assignment forms for those tests. Each assignment and profile was reviewed with the tester. Testers made contact with the housing providers by telephone. In some cases, ads did not provide telephone numbers and the initial contact was by email. Emails indicated that the tester was interested in discussing the property and asked for a telephone number. In some instances the tester received no response to emails or phone messages from the housing provider; in others, the property was already rented. Completed tests are those for which the tester was able to make telephone contact with the provider and the property was available. For all completed tests, the reports are based on the telephone conversation between the tester and the housing provider. Testers conducted the tests in accordance with their assigned profiles, completed the written test report form as soon as the test was

finished, and were debriefed by the test coordinator to ensure that everything that occurred during the call was included on the report form.

Test review and analysis: Each completed test report was reviewed and the tester was debriefed by the test coordinator to ensure the report was complete and accurate and then analyzed to determine the test results. Test information was entered into a spreadsheet in order to track completed tests and test results.

Familial status testing was designed to assess how families with children are treated in their search for rental housing and whether the housing provider imposed restrictive occupancy standards. Instances of denial or discouragement were noted and the application of any occupancy standard policies was evaluated for conformance to the occupancy standards guidance memorandum issued by HUD's Office of Fair Housing and Equal Opportunity referenced earlier in this report.

Disability testing was designed to assess whether or not housing providers were willing to permit reasonable modifications to be made to physical structures of the rental unit or whether or not they were willing to make reasonable accommodations to their policies and practices for people with disabilities. Ten (10) modification tests were conducted in which the tester inquired about steps at the entrance to the housing and requested installation of a ramp. Testers for the modification tests also inquired about the presence of and permission to install grab bars in bathrooms. Ten (10) accommodation tests were conducted in which the tester inquired about the pet policy and pet fees and asked for such policies and fees to be waived to allow a service dog. Instances of denial, discouragement, or refusal to allow the modification or make the accommodation were noted. Guidelines for assessing the reasonableness of such requests can be found in two joint memoranda of HUD and the Department of Justice on reasonable modifications and on reasonable accommodations referenced earlier in this report.

TEST RESULTS

Familial Status:
Twenty (20) completed familial status tests are included in these results. Of the 20 completed tests, 3 (12.5%) indicated a refusal to rent to or discouragement of families with children. None of these rejected children outright; the issue was with the number of children in the household. Nine of the test sites were professionally managed by property management companies; many of which have 800 numbers directed to regional call centers. Six were offered by real estate agents. All real estate agents and most property management company staff receive fair housing training and should be familiar with the requirements regarding families with children and the issue of reasonable occupancy standards. All 3 tests showing discouragement or refusal were of 3 bedroom townhouses. Two were offered by private owners; one by a real estate agent.

> In Test FS-013, the tester was told by the owner of a 3 bedroom townhouse that it may be too small for 4 children and that she might want something bigger.

In Test FS-017 the tester was told by the owner that the 3 bedroom townhouse was too small for a family of 6 and that “it would not work.”

In Test FS-018 – which was advertised as “oversized” – the tester was told by the real estate agent for the owner that the 3 bedroom townhouse would be a “tight squeeze” for 4 children and that the tester should look for a 5 bedroom house.

In two other instances, the housing provider made comments about the number of children, but appeared willing to show or rent the property.

In Test FS-010, after hearing that the tester had 4 children, the owner of the 3 bedroom townhouse asked their ages, sighed and paused. The owner did not refuse or discourage the tester, but did not encourage her to view the property.

In Test FS-011, the retired realtor owner of a 5 bedroom single family house said “we might be frightened by the prospect of 8 children” but it “might be a great house for your family.”

In the remaining 15 tests, housing providers appeared to have no issues with the fact or number of children in the family.

While a total of 24 tests were completed, four tests were not included in the final results. In tests FS-001, FS-004, and FS-015 the tester did discuss the presence of children with the housing provider but did not reveal the total family size or number of children in the family. Test FS-014 was a duplicate of a housing site.

Housing characteristics:
Housing units tested ranged in size from 2 bedrooms to 5 bedrooms; included apartments or condos, townhouses, and single family homes; and were offered by property management companies, real estate agents, and private owners. The chart below indicates the number in each category for size, housing type, and provider type.

Housing Characteristics					
Size	2 bdrm	3 bdrm	4 bdrm	5 bdrm	Total
	6	10	2	2	20
Housing Type	Apt/condo	Townhouse	Single Family		
	6	8	6		20
Provider Type	Mgmt Co	Real Estate Agent	Private Owner		
	9	6	5		20

A chart (Appendix A) summarizing the results of the familial status tests is provided at the end of this report.

Disability:
Testing for disability was conducted in two areas: reasonable accommodation and reasonable modification. A total of 20 tests were conducted: 10 for accommodation and 10 for modification. Nine out of ten tests for modifications indicated willingness to permit the requested modifications of a ramp and grab bars; but 50% (five of ten) of the accommodations tests showed unwillingness to make reasonable accommodations in their pet and pet fee policies for a service animal. In none of the tests did the housing provider make statements that would appear to discourage the tester based solely upon the existence of the disability.

Reasonable Modifications
Housing providers appear to have a basic understanding of the requirement that they must permit persons with disabilities to make reasonable modifications to dwellings, i.e., changes to physical structures such as installation of ramps and grab bars in bathrooms. Of the ten modification tests, only one private owner expressed reluctance to allow the modifications (10% of modification tests; 5% of the total disability tests). Yet, one leasing agent and two real estate agents expressed some initial uncertainty about whether the modifications would be allowed (DIS-009, DIS-017, and DIS-018).

> In test DIS-016, the owner of a single family house reluctantly agreed that a ramp could be allowed, but did not want grab bars installed in the tiles of the bathroom.

Reasonable Accommodations
Housing providers appear to have greater difficulty with the requirement to make reasonable accommodations in their policies and procedures for persons with disabilities. In five of the ten accommodation tests (50%), housing providers were unwilling to waive their “no pets” or “no dogs” policies and/or imposed pet fees on the service animal. Most disturbingly, all five were real estate professionals: four were professional management companies and one a real estate agent. Both would be expected to have had substantial fair housing training on this issue.

> In test DIS-001, the leasing agent said he would give a “break” on the pet deposit but would not waive it for a service animal because “an animal is an animal.”

> In test DIS-003, the leasing agent stated he was not certain whether or not a service dog would be permitted, but could not guarantee the policy would be waived as it is a “cat only” property.

> In test DIS-011, the leasing agent said he would allow a service dog in the “cats only” property, but the $300 pet deposit and $35/month pet fees would still be imposed.

> In test DIS-012, the realtor managing the “no pets” property for his owner-friend initially offered a discount on the rent, but after hearing about the service dog, stated that the service dog would probably be allowed but at the full rental amount and would not waive a pet fee.

In test DIS-013, the leasing agent said they would waive the “no pets” policy for a service animal but a $500 pet deposit would have to be paid.

Housing characteristics

Housing units tested included apartments or condos, townhouses, and single family homes; and were offered by property management companies, real estate agents, and private owners. The chart below indicates the number in each category for housing type and provider type by type of test.

Housing Characteristics				
Housing Type	Apt/condo	Townhouse	Single Family	Total
Accommodation	5	3	2	10
Modification	4	0	6	10
Total	9	3	8	20
Provider type	Mgmt Co	Real Estate Agent	Private Owner	
Accommodation	6	3	1	10
Modification	5	3	2	10
Total	11	6	3	20

A chart (Appendix B) summarizing the results for the reasonable accommodation and reasonable modification tests for persons with disabilities is provided at the end of this report.

CONCLUSIONS

Families with children and persons with disabilities have been protected from discriminatory housing practices by fair housing laws for over 20 years. These protections, and the issues of occupancy standards regarding families with children and the requirements for reasonable modifications and accommodations for persons with disabilities, have been the subject of many fair housing education opportunities offered to property managers, real estate professionals, and others involved in real estate related activities over that time.

Familial Status:

The incidence of discrimination against families with children was fairly low (3 of 20 tests or 12.5%) reflecting awareness of the fair housing requirements for this protected class. None of the tests reflected an outright unwillingness to rent to families with children; rather, the issue in the three tests in which the tester was refused or discouraged was the number of children in the family. In all three problem tests, the housing provider (two private owners and one real estate agent) was uncomfortable with or unwilling to permit a family of six with four children to rent a three bedroom unit. Future education and outreach efforts should emphasize that while it can be legitimate to use size and occupancy standards in determining how many individuals can legally occupy a particular property, fair housing laws prohibit denying housing based on the presence of children in the household. Specifically, fair housing law covers most housing and, unless the property is “exempt”

(meets certain requirements); the number of “individuals” occupancy limits permit is the determining factor and not the presence, number, age or sex of children in the household.

Disability:
The protections for persons with disabilities are more complex than for other protected classes and the largest number of complaints of discrimination received by government and private fair housing agencies are on the basis of disability. This is reflected in the testing results for reasonable modification and accommodation. While none of the disability tests showed discrimination on the basis of the disability alone, they did show a lack of understanding or unwillingness to comply with the requirements to permit reasonable modifications and, especially, to make reasonable accommodations for persons with disabilities. Most providers were willing to allow the prospective tenant to install a ramp at the entrance or grab bars in the bathroom, although several made comments expressing some degree of confusion about what the law required and indicated that they would do whatever the law required them to do.

The most striking result of the testing was that half of the housing providers tested for reasonable accommodation were unwilling to waive “no pets” or “no dogs” policies and pet fee policies for a prospective disabled tenant with a service dog. All five were housing professionals – four property management companies and one real estate agent – who have likely had training on this issue. Clearly, something more than training is necessary to ensure compliance with this aspect of the law.

RECOMMENDATIONS

Since the number of familial status and disability tests in this particular testing cycle was relatively small, future testing, on a larger scale, should be designed to determine if the current results are an anomaly or indicative of a wider problem. Continued monitoring of the housing rental market using a comprehensive, focused and effective testing program provides a powerful incentive for local housing providers and others offering real estate and related services to comply with fair housing laws. Testing allows the County to more accurately measure compliance, act on related enforcement issues and address emerging trends in the housing market; for example, the increased use of the internet to advertise housing, and the impact of rising foreclosure rates on the market for home ownership and rental housing.

Providing access to comprehensive education and training opportunities on a regular and continuing basis about fair housing laws and related issues is critical. Expanding outreach efforts to housing service provides; developing closer ties and opportunities for collaboration with other local organizations and advocacy groups promoting equal opportunity in housing in the County and greater D.C. area; and partnering with community based organizations, non-profit groups and agencies that serve and interact on a regular basis with target audiences to provide information about fair housing and the resources and services the Commission and others provide is recommended. In the meantime, further incorporating and emphasizing some of the more troubling aspects of the current findings into fair housing materials, presentations and other outreach initiatives is advised.

An effective testing program, strong enforcement of fair housing laws and ongoing efforts to provide outreach and education programs on fair housing compliance issues are all essential components of the County's efforts to minimize housing bias and ensure that equal housing opportunity is a reality in Fairfax County.

When merited by the facts, the Fairfax County Human Rights Commission will continue to file complaints to enforce the fair housing laws of Fairfax County. Regardless of the number of discriminatory practices uncovered by testing, the goal of the Commission remains to eliminate housing discrimination throughout the County. The ability to monitor compliance through its testing program continues to be a critical component of that goal.

Victor Dunbar
Chairperson

Heather Lawson
Vice Chair

Kenneth L. Saunders
Executive Director

APPENDIX A

Familial Status Testing Summary

Test #	Results	Prop type/Prov type	Source
Fx-FS-001	2 bdrm – no problem w/kids (T did not mention total family of 4 w/2 children)	Apt/mgmt co	Craigslist
Fx-FS-002	2 bdrm – no problem w/family of 4 w/2 kids	Apt/mgmt co	Craigslist
Fx-FS-003	3 bdrm – no prob w/4 kids, family of 6	Townhouse/mgmt co	Craigslist
Fx-FS-004	3 bdrm – T not asked # of people & did not mention 4 children, family of 6	Apt/mgmt co	Craigslist
Fx-FS-005	2 bdrm – ok w/family of 4	Apt/mgmt co	Craigslist
Fx-FS-006	2 bdrm – ok w/family of 4	Apt/mgmt co	WashPost
Fx-FS-007	3 bdrm – ok with 4 kids, family of 6	Single family/mgmt co	Rental Homes Plus
Fx-FS-008	3 bdrm – ok w/family of 6 w/4 kids, also mentioned 2nd 4 bdrm house, either house good for kids	Single family/owner, RE agent	Craigslist
Fx-FS-009	2 bdrm – ok with family of 4 w/2 kids	Apt/mgmt co	Craigslist
Fx-FS-010	3 bdrm – family of 6 w/4 kids, did not refuse by did not encourage, paused & sighed	Townhouse/owner	Craigslist
Fx-FS-011	5 bdrm – family of 10 w/8 children, "we might be frightened by prospect of 8 children" but "might be great house for your family"	Single family/owners, retired RE agent	Craigslist
Fx-FS-012	2 bdrm – ok w/family of 4 w/2 kids	Apt/leasing agent for mgmt co	Craigslist
Fx-FS-013	*3 bdrm – may be small for 4 kids, might want something bigger, smaller bdrm may not be big enough for 2 kids*	*Townhouse/owner*	*Craigslist*
Fx-FS-014	2 bdrm – ok with family of 4 (duplicate of 023)	Apt/mgmt co	Craigslist
Fx-FS-015	2 bdrm – T not asked # in family & did not mention # of kids	Townhouse/owner	Craigslist
Fx-FS-016	3 bdrm – no problem w/family of 6 w/4 kids	Single family/agent	Craigslist
Fx-FS-017	*3 bdrm – told too small for family of 6, said it "would not work"*	*Townhouse/owner*	*Craigslist*
Fx-FS-018	*3 bdrm – advertised as "oversized" but discouraged, told "tight squeeze" for 4 kids, better to look for 5 bdrm house*	*Townhouse/agent for owner*	*Craigslist*
Fx-FS-019	3 bdrm – ok w/family of 6 w/4 kids	Townhouse/possible owner	Craigslist
Fx-FS-020	2 bdrm – ok w/family of 4 w/2 kids	Townhouse/owner	Craigslist
Fx-FS-021	5 bdrm – ok w/family of 10 w/8 kids	Single family/RE agent	Craigslist
Fx-FS-022	4 bdrm – ok w/family of 8 w/6 kids	Apt-condo/mgmt co	Craigslist
Fx-FS-023	3 bdrm – ok w/family of 6 w/4 kids	Apt-townhouse/prop mgmt	Craigslist
Fx-FS-024	4 bdrm – ok w/family of 8 w/6 kids	Single family/RE co	Realtor.com

APPENDIX B

Disability Testing Summary

Test #	Results	Prop type/Prov type (yr built for Mod)	Source
Fx-DIS-001-A	*"break" on pet deposit but still imposed on service dog as "an animal is an animal"*	*Apt/leasing agent, mgmt co*	*Craigslist*
Fx-DIS-002-A	Service animal ok, would only ask for fees if law permits it; 1st said not sure, then said FH laws are clear about whether fee allowed, "will do what law says"	Condo/mgmt co	Craigslist
Fx-DIS-003-A	*Not certain if service dog ok, but cannot guarantee policy would be waived as "cat only" property; could not reach supervisor to confirm*	*Apt/leasing agent, mgmt co*	*Craigslist*
Fx-DIS-004-A	Ok w/service dog, no fee	Single family/owner	Craigslist
Fx-DIS-005-M	Willing to make reas mod for ramp & grab bars; also referred to more accessible complexes	Apt/leasing agent, mgmt co (1952)	Craigslist
Fx-DIS-006-M	Said bldg is accessible, no steps; ok to put in grab bars	Apt/leasing agent, mgmt co (1971)	Craigslist
Fx-DIS-007-A	Condo assoc rules are no dogs > 35 lbs; felt they would waive weight limit & fees for service dog but would have to check w/condo assoc; asked for medical	Apt/leasing agent, RE co	Craigslist
Fx-DIS-008-A	Will waive all fees & restrictions for service animals	Apt/mgmt co	Craigslist
Fx-DIS-009-M	Agent said he'd have to ask maintenance about ramps & grab bars & would call back. T called back, agent said OK to have ramp & grab bars installed	Apt/mgmt co (35+ yrs)	Craigslist
Fx-DIS-010-A	Service animal ok, no fee	Townhouse/RE agent	WashPost
Fx-DIS-011-A	*Cats only property but will allow service dog; pet fees still imposed, $300 pet deposit, $35/month*	*Apt/mgmt co*	*Craigslist*
Fx-DIS-012-A	*No pets but would probably allow service dog but at full rent (previously offered discounted rent) and would not waive pet fee*	*Single family/RE agent handling for owner-friend*	*Craigslist*
Fx-DIS-013-A	*Will waive no pets policy for service animal because law requires it but will still have to pay $500 pet deposit*	*Townhouse/mgmt co*	*Craigslist*
Fx-DIS-014-M	Ok w/ramping step and installing grab bars at tenant's expense	Single family/owner	Craigslist
Fx-DIS-015-A	Service dog ok, no fee	Townhouse basement/owner-RE agent	Craigslist
Fx-DIS-016-M	*Reluctant to allow ramp and grab bars but willing to consider ramp, did not want grab bars in tile*	*Single family/owner*	*Craigslist*

Fx-DIS-017-M	Agent said owner has to do what's "reasonable" and would allow ramp & grab bars at tenant's expense; may require restoration; suggested other houses that might be easier to adapt	Single family/RE agent	Craigslist
Fx-DIS-018-M	RE agent checked w/owner; ok to install ramp so long as removed later; ok to install grab bars if done professionally & multi-year lease	Single family/RE agent	Craigslist
Fx-DIS-019-M	Agent said flat entry so no need for ramp, ok to install grab bars at tenant's expense	Apt/RE co (1970)	Craigslist
Fx-DIS-020-M	Ok to ramp steps; ok to put in grab bars if later removed if possible	Single family/mgmt co	Craigslist
Fx-DIS-021-M	Ok to ramp steps; ok to put in grab bars	Single family/RE firm	Craigslist

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