

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 1, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: CONSIDERATION OF RESULTS OF FISCAL YEAR 2004 FAIR HOUSING TESTS

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**ISSUE:** Consideration of the results of fair housing tests performed in Fiscal Year 2004.

**RECOMMENDATION:** That City Council accept the results of fair housing tests conducted in Fiscal Year 2004 for discrimination in rental housing based on race/national origin, sexual orientation, familial status, and mobility impairment, and thank the Fair Housing Testing Program Advisory Committee for its work.

**BACKGROUND:** The Fair Housing Testing Program uses pairs of trained testers to identify evidence of discrimination in the provision of housing by the rental, sales and mortgage lending industries. The program is overseen by the Fair Housing Testing Program Advisory Committee and tests for discrimination prohibited by the City's Human Rights Ordinance. Federal fair housing law prohibits housing discrimination on the basis of race, color, religion, sex, age, familial status, national origin or handicap. State fair housing law includes the same protections, and adds elderliness. The City's Human Rights Ordinance adds protection against housing discrimination on the basis of marital status and sexual orientation. Prohibited rental and sales practices include, but are not limited to, refusal to rent, sell, or negotiate the sale or rental of housing, but also discrimination in the terms, conditions, or privileges of rental or sale, as well as the provision of services or facilities.

Since the Fair Housing Program's initiation in 1990, the Office of Housing has conducted a series of tests to identify discriminatory housing practices in real estate sales and rental housing against African-Americans, Hispanics, families with children, persons with disabilities, rental discrimination on the basis of sexual orientation and discrimination in real estate sales based upon race and national origin. A summary of all testing to date is provided as Attachment II to this report.

**DISCUSSION:** From June 2003 through March 2004, the City tested rental complexes for discrimination in rental housing based on race and national origin<sup>1</sup>, sexual orientation, familial status, and mobility impairment (persons using wheelchairs). A total of 83 apartment complexes in the City with 20 or more units were randomly assigned to one of the four categories of tests conducted with two exceptions. All complexes built and occupied since the last race and national origin testing was conducted in Fiscal Year 2000 were tested on this basis. In addition, complexes that had indicated potential differential treatment in one of these categories in past testing conducted were tested in the category where the previous tests had indicated possible differences. Comparison of the test results with past results are provided in Attachment I, and used by staff to measure progress in industry compliance with fair housing laws. This information helps staff evaluate the effectiveness of the testing program and also evaluate and plan the City's fair housing education, outreach and enforcement activities.

Results detailed in Attachment I show there was only one problem found in all of the tests, and that complex, when retested, revealed no further problem. Therefore, staff finds no basis to recommend the filing of any complaints. Staff will contact the owners and managers of that complex to discuss the problem encountered in the initial test, offer fair housing training, and make recommendations to ensure future compliance with the City's Human Rights Ordinance. The Fair Housing Testing Program Advisory Committee voted at its March 11, 2004 meeting to recommend that Council accept the report and the recommendations of staff.

Attachments I and II describe the results of the fair housing testing the City has conducted since 1990. The results show a significant decrease over time in the number of instances involving possible discriminating treatment. It clearly appears that the City's aggressive testing program, education and outreach programs for property management and real estate professionals, combined with national and regional fair housing efforts, have increased awareness and understanding of fair housing laws in the housing industry, resulting in decreasing evidence of housing discrimination in Alexandria. Staff will continue to evaluate and offer fair housing education and outreach services to property management and real estate professionals in Alexandria, and will continue to conduct ongoing fair housing testing.

**ATTACHMENTS:**

Attachment I. Results of Tests and Comparison to Prior Years

Attachment II. Summary of the Results of the City of Alexandria's Fair Housing Testing Program (All Years)

**STAFF:**

Melodie Baron, Division Chief, Landlord-Tenant Relations

Onwuchekwa Okpara, Relocation Advisor, Landlord-Tenant Relations

Mildrilyn Stephens Davis, Director, Office of Housing.

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<sup>1</sup>Race and national origin testing is conducted as one category of tests because of similarities in discriminatory practices based on race and national origin, and similarities in evaluating this discrimination. Race and national origin are tested simultaneously by HUD, localities and non profit fair housing organizations for these reasons.

**RESULTS OF TESTS AND COMPARISON TO PRIOR YEARS**

- A. **Race and National Origin:** A total of 28 apartment complexes were tested for discrimination based on race or national origin, with no differential treatment identified in any of the tests. Eight tests were conducted by Hispanic/White tester teams and 20 tests were performed by African-American/White tester teams.
- B. **Testing for Discrimination Based on Sexual Orientation:** There were no problems found in the 18 apartment complexes tested for discrimination based on sexual orientation.
- C. **Testing for Discrimination Based on Familial Status:** Testing in this category indicated no problems in the 19 apartment complexes that were tested.
- D. **Testing for Discrimination Based on Mobility Impairment:** Initial tests were conducted for discrimination based on disability at 18 apartment complexes. One re-test was conducted because of differences in information offered to the control tester and the tester with a disability. In the initial test, the tester with a disability was not given information about a rent special that was offered to the control tester. The tester using a wheelchair was told that there were no available one-bedroom apartments and advised to contact the office at a later date to check for future available units. No differences were identified in the re-test of that complex.

**Comparing Fiscal Year 2004 Testing to Prior Test Results**

Race and national origin testing was conducted in Fiscal Year 1990 and in Fiscal Year 2000. In 1990, 17.7% of complexes tested for discrimination on the basis of race and national origin indicated possible differential treatment, with 5% of complexes retested showing potential discrimination. Testing performed in Fiscal Year 2000 identified potential problems in 5.5% of all complexes tested, with no problems encountered in retests. No problems were identified in tests conducted in Fiscal Year 2004.

Familial status tests were conducted in Fiscal Year 1992 and again in Fiscal Year 2002. In 1992, 14.1 percent of the complexes tested indicated potential discriminatory treatment of families with children. Two of the complexes tested for familial status discrimination in Fiscal Year 2002 indicated potential problems. There were no problem tests in the Fiscal Year 2004 tests conducted.

Testing for discrimination based on sexual orientation was first conducted in Fiscal Year 1997 with initial tests indicating problems in 4% of the complexes tested. No retest indicated potential disparate treatment. Fiscal Year 2004 testing did not identify differential treatment in any complexes tested.

Disability tests were conducted in Fiscal Year 1994 and again in Fiscal Year 1999. Fiscal Year 1994 testing included numerous types of disabilities not included in later tests because almost all problems were limited to two types of disabilities, and either no problems, or problems not repeated on retests, were identified in the other types of disability tests. Fiscal Year 1999 testing included only three categories where either significant prior problems were identified and then repeated to occur with retesting, or the Commission on Persons with Disabilities felt strongly that the tests should be included.<sup>2</sup> The 1994 categories of disabilities tested were hearing, visual impairment and mobility impairment. Fiscal Year 2004 testing included only mobility testing.

Fiscal Year 1992 identified 32% of complexes with problems, with 9.6% of complexes retested indicating problems for combined categories. Fiscal Year 1999 testing indicated 7.1% of complexes with potential problems, and 1.4% of complexes with repeat problems on retest. Fiscal Year 2004 testing found a possible disparate treatment in one test, or 5.5% of complexes tested, which was not indicated on the retest of the complex.

**Method:** Tester teams were structured to include one tester from each protected class and one control tester, except that some of the sexual orientation tests were conducted by couples, with one same sex couple representing themselves as a domestic partnership, and a male-female couple conducting the control test. Hispanic and African American testers were paired with white testers of the same gender, and testers using wheelchairs were paired with ambulatory testers with the same general characteristics. Familial status testers included two testers of the same race and gender stating to the rental agents that they were seeking units based on households of the same size, with one tester requesting a unit for their family, including one child, and the control tester seeking a unit for the tester's family, which included the tester or spouse's mother.

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<sup>2</sup> There were no repeated problems in testing encountered in retests by testers with visual impairments, but the Commission on Persons with Disabilities felt strongly that this category should be retested.

**SUMMARY OF THE RESULTS OF THE CITY OF ALEXANDRIA'S  
FAIR HOUSING TESTING PROGRAM**

Testing Period	Basis of Test	Total Number of Tests and Number of Apartment Complexes or Real Estate Firms Tested	Findings
Jan. - May 1990 Fiscal Year 1990	Race (African- American/White and Hispanic/White) Rental Housing	96 Tests (53 African- American/White and 43 Hispanic/ White)  79 Apartment Complexes	<u>African-American/White</u> Favorable treatment to Whites was found for 11 (20.8%) of the African- American/White tests (7 complexes, 8% of total). One complaint was filed with the Human Rights Office and was settled for \$10,000 and remedial actions; see note below.*  <u>Hispanic/White</u> Favorable treatment to Whites was found for 8 (18.6%) of the Hispanic/ White tests (7 complexes, 8.9% of total).
5 Dec. 1990 through Apr. 1991 Fiscal Year 1991	Race (African- American/White and Hispanic/White Rental Housing offered for lease by real estate firms	24 Tests (16 African- American/White and 8 Hispanic/White)  21 Real Estate Firms	<u>African-American/White</u> Favorable treatment to Whites was found at 3 (14.3%) of the real estate firms (rental) (12.5% of total tests)  <u>Hispanic/White</u> No favorable treatment was found.
May 1991 through Jan. 1992 Fiscal Year 1992	Familial Status Rental Housing	93 Tests  71 Apartment Complexes	<u>Familial Status</u> Adverse treatment was found in 10 (14.1%) of the complexes (10.8% of total tests). Nine of the cases involved occupancy policies. One complaint was filed with the Human Rights Office and was settled for \$4,000 with the same conditions outlined in the note below.*

\*Note: In addition to the monetary settlements, the owners of the complexes agreed to disclose all available units to all prospective renters regardless of race, sex, familial status, sexual orientation, disability, national origin, color, religion, or ancestry; provide fair housing training to all their staff; and if the owners advertise for rental vacancies, they shall do so in compliance with the fair housing advertising regulations. The owners were also required to display fair housing posters visible to the public in their rental offices.

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Testing Period	Basis of Test	Total Number of Tests and Number of Apartment Complexes or Real Estate Firms Tested	Findings
<p>6</p> <p>Jun. 1992 through Oct. 1993 Testing concluded in Fiscal Year 1994</p>	<p>Disabilities:</p> <p>AIDS</p> <p>Past History of Alcoholism</p> <p>Past History of Drug Problems</p> <p>Hearing Impairment</p> <p>Mobility Impairment</p> <p>Visual Impairment</p> <p>Mental Illness</p> <p>Rental Housing</p>	<p>263 Tests and 28 Retests</p> <p>78 Apartment Complexes</p>	<p>Disparate treatment was found in 25 complexes (32%). An additional 3 problems were encountered on retests (9.6% of all tests) Three complaints were filed with the Human Rights Office, and were settled for a total amount of \$2,500. There was no monetary settlement in the third complaint, however, the owner agreed to implement various remedial actions that the City requested.</p>
<p>March 1996 through Jan. 1997 Fiscal Year 1997</p>	<p>Sexual Orientation and Retesting for Racial Discrimination Rental Housing</p>	<p>Sexual Orientation</p> <p>75 Tests and 4 Retests</p> <p>75 Apartment Complexes</p> <p>Racial Discrimination</p> <p>20 Tests - 8 Targeted and 12 Random</p> <p>20 Apartment Complexes</p>	<p>Sexual Orientation:</p> <p>Potentially disparate treatment was found in three complexes (4% of complexes and 5% of total tests). Problems were not repeated in retests.</p> <p>Race:</p> <p>No Problems Found</p>

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Testing Period	Basis of Test	Total Number of Tests and Number of Apartment Complexes or Real Estate Firms Tested	Findings
Sept. 1997 through June 1998 Fiscal Year 1998	Race and National Origin in Real Estate Sales (Hispanic/White and African-American/White)	62 Tests and Retests (45 Tests and 17 Retests) of 16 Real Estate Firms	<p>Potential problems were encountered in 8 (17.7%) of initial tests and 6 (35.3%) of retests. A total of 14 (22.5%) of all tests showed differential treatment of the minority tester.</p> <p>Potential problems were found in 7 (44%) of the 16 firms on initial tests, and in 3 (18.7%) on retests. Disparate treatment was encountered in 9 (56.2%) of all firms tested.</p>
August 1998 through February 1999 Fiscal Year 1999	Disabilities: Deafness Mobility Impairments Visual Impairments	218 Tests including retests (209 tests and 9 retests) of 70 apartment complexes	Potential problems were found in 5 complexes, or 7.1% of the complexes tested. Of the 218 total tests, 6 tests (2.8%) suggested disparate treatment or failure to grant requested reasonable accommodations.
April 1999 through September 1999 Testing concluded in Fiscal Year 2000	Race and National Origin	75 tests including retests (72 initial tests and 3 retests)	Potential problems were found in 3 complexes (4.2% of complexes tested) or 4% of the total tests including retests. Two potential problems were found in the 48 complexes initially tested by African American/white testers, and one problem (4%) was found in 24 initial tests performed by Hispanic/white testers. No problems were found in any of the three retests.

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Testing Period	Basis of Test	Total Number of Tests and Number of Apartment Complexes or Real Estate Firms Tested	Findings
May through October 2001 Completed in Fiscal Year 2002	Familial Status in Rental Housing	87 Tests and retests of 85 complexes (85 initial tests and 1 retest)	Two problems identified (2.3% of total tests, 2.2% of complexes tested). No problems identified in the retests.
June 2003 through February 2004 Completed in Fiscal Year 2004	Race/National Origin	28 Apartment complexes tested. 8 white/Hispanic and 20 black/white for a total of 28 complexes.	No problems found.
	Sexual Orientation	18 apartment complexes tested.	No problems found.
	Familial Status	19 apartment complexes tested.	No problems found.
	Mobility Impairment	18 complexes tested.	1 problem found or 5.5% of apartment complexes tested.
		Total tests including retests 84 (83 initial tests and 1 retest)	1.2% of total tests had a problem.