

# 2024 Fair Housing Trends Report



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## About the National Fair Housing Alliance

Founded in 1988 and headquartered in Washington, D.C., NFHA is the only national organization dedicated solely to ending discrimination in housing.

NFHA works to eliminate housing discrimination and ensure equitable housing opportunities for all people and communities through its education and outreach, member services, public policy, advocacy, housing and community development, tech equity, enforcement, and consulting and compliance programs.

NFHA is a consortium of more than 290 private, nonprofit fair housing organizations; state and local civil rights agencies; and individuals from throughout the United States. NFHA recognizes the importance of home as a component of the American Dream and aids in the creation of diverse, barrier-free communities throughout the nation.

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## **Executive Summary**

When President Lyndon Johnson signed the Fair Housing Act 56 years ago, he said: “Now, with this bill, the voice of justice speaks again. It proclaims that fair housing for all — all human beings who live in this country — is now a part of the American way of life.” Fair housing is technically the law of the land but the everyday reality for many is quite different. There are tens of thousands of fair housing complaints filed each year, in addition to millions of unreported housing discrimination incidents nationwide. Often, people don’t report instances of discrimination because they may be difficult to prove, or tenants fear retaliation or eviction by a landlord. This year’s report, like past reports, reveals that there’s still so much work to do to achieve the landmark law’s promise of a nation free from housing discrimination and the harmful impacts of residential segregation.

In 2023 — the most recent year for which we have data — private non-profit fair housing organizations, the U.S. Department of Housing and Urban Development (HUD), Fair Housing Assistance Program (FHAP) agencies, and the U.S. Department of Justice (DOJ) received 34,150 fair housing complaints, the highest number of fair housing complaints recorded since NFHA began producing its Trends Report in the mid-1990s; this is the third year in a row in which that milestone has been met. In 2021, the above agencies received 31,216, an 8.7 percent increase over the number of complaints filed in 2020. In 2022, there were 33,007 complaints received, a 5.74 percent increase. The 34,150 complaints received in 2023 represents an increase of 1,143 filed complaints, an amount that is 3.5 percent higher than the previous year. The increase in complaints filed in 2023 comes despite six fair housing organizations being unable to report fair housing data this year; in the case of four of the agencies, this was due to lost funding. This underscores the need for lawmakers to prioritize fair housing and funding for programs to both educate the public about the Fair Housing Act and enforce the law.

In addition to better supporting fair housing, we need lawmakers to stay ahead of new advancements in technology that could impact the way we interpret the law. For example, the increased use of artificial intelligence in the rental screening process, in mortgage underwriting,



and in banking could further entrench existing biases if the proper guardrails aren't put in place to ensure people have a fair shot at housing and credit opportunities.

To produce this report, NFHA collected data from HUD, state and local FHAP agencies, and the DOJ. Together with private, nonprofit fair housing organizations (FHOs), these agencies make up the national infrastructure to address housing discrimination in the United States. In light of these most recent findings, NFHA is even more committed to expanding the public's knowledge of fair housing rights and equipping people with the tools they need to seek assistance if they feel they've been the target of housing discrimination.

Key highlights in this Report include the following:

- Private nonprofit fair housing organizations processed 75.52 percent of complaints, compared to 5.10 percent by HUD, 19.26 percent by FHAP agencies, and 0.12 percent by DOJ.
- Discrimination based on disability accounted for the majority (52.61 percent) of complaints filed with FHOs, HUD, and FHAP agencies.
- In 2023, there were 1,521 complaints of harassment reported, an increase of 66.23 percent over the previous year. This number represents the highest number of harassment complaints filed since NFHA began reporting harassment-specific data in 2006.
- In 2023, there were 824 complaints based on color reported; this represents an increase of 35.30 percent. The largest increases in complaints based on color originated from rental complaints (386 in 2023) and harassment complaints (97 in 2023).
- This year marks the first year that appraisal bias complaints were collected as a standalone transaction type. In 2023, a total of 87 appraisal bias complaints were reported among FHOs, HUD, and FHAP agencies.

This report is separated into five sections. In Section I, we outline in detail the fair housing complaint data for 2023, providing information by type of agency, protected class, and type of transaction. Detailed information is also provided regarding government complaint data, including information about charged or caused cases, case conciliations and closures, aged cases, and more. In Section II, we provide a sample of important outcomes for several housing and lending discrimination cases that occurred in 2023. Much work is underway on the fair housing front, and we understand that this report provides only a high-level overview of the complex world of housing and lending discrimination. However, the data are instructive in reminding us that housing discrimination remains a serious problem that perpetuates racial and ethnic inequities in communities throughout the nation, and it merits considerably more attention and remedies. Section III is a new addition to the Trends report, sparked by the work of NFHA's Responsible AI Lab, which aims to prohibit or restrict the use of discriminatory automated systems such as credit and insurance scoring, underwriting, and pricing models in housing and financial services. In Section IV, the report highlights recommendations for effectively addressing the troubling increase in complaints. Finally, Section V features a discussion guide for fair

housing advocates to use when talking with congressional leaders; regulators; national, state and local policymakers; and others.<sup>1</sup>

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<sup>1</sup> **Note on the language in this report:** As a civil rights organization, we are aware that there is not universal agreement on the appropriate race or ethnicity label for the diverse populations in the United States or even on whether or not particular labels should be capitalized. We intend in all cases to be inclusive, rather than exclusive, and in no case to diminish the significance of the viewpoint of any person or to injure a person or group through our terminology. For purposes of this report, we have utilized the following language (except in cases where a resource, reference, case, or quotation may use alternate terminology): Black, Latino, Asian, and White. In prior publications, we have utilized the term “African American,” but there are some who argue that this term is exclusive, and we intend to be as inclusive as possible. We are also aware that many persons prefer the term “Hispanic” or “Latinx.” We intend in this report to include those who prefer “Hispanic” or “Latinx” in the term “Latino” and intend no disrespect. We refer to “neighborhoods of color” or specify the predominant race(s) of a neighborhood, rather than utilizing the term “minority.” We also use the term “disability,” rather than “handicap” (the term used in the Fair Housing Act”).

## Section I: Fair Housing Complaint Data for 2023

### Overview of Housing Discrimination Complaints Reported in 2023

Each year, NFHA collects data from private nonprofit fair housing organizations (FHOs) and government agencies throughout the country that receive and investigate fair housing complaints from the public. The data provides a snapshot of the number and types of housing discrimination complaints reported for the year. This complaint data comes from FHOs, the U.S. Department of Housing and Urban Development (HUD), state and local Fair Housing Assistance Program (FHAP) agencies, and the U.S. Department of Justice (DOJ). Together these agencies make up the national infrastructure to address housing discrimination in the United States.<sup>2</sup>

There were **34,150 fair housing complaints** received by private non-profit fair housing organizations, HUD, FHAP agencies, and the DOJ in 2023, an increase of 1,143 (3.5 percent) complaints compared to the 33,007 complaints received in 2022. This number marks the highest number of fair housing complaints recorded since NFHA began releasing its Trends Reports. It also marks the third year in a row that this milestone was met. Eighty-six (86) private, non-profit fair housing organizations (FHOs) processed 75.52 percent of complaints, compared to 5.10 percent by HUD, 19.26 percent by FHAP agencies, and 0.12 percent by the DOJ.

From 2022 to 2023, private non-profit fair housing organizations and the DOJ saw an increase in complaints received, while HUD and FHAP agencies saw a decrease. FHOs reported a 5.68 percent increase in complaints reported, or an increase of 1,385 complaints from the previous year. The DOJ reported six more complaints in 2023 than in 2022, increasing from 36 complaints to 42 in FY2023. HUD reported a 9.03 percent decrease in complaints from FY2022 to FY2023, and FHAP agencies reported a 1.13 percent decrease.

Housing discrimination takes myriad forms and occurs in many different types of housing transactions or areas, including rental, real estate sales, mortgage lending, housing-related insurance, zoning, and appraisals. Housing discrimination also occurs when developers build units that are inaccessible to people with disabilities and when housing providers deny requests for reasonable accommodations and/or modifications which impedes the ability of a person with a disability to use and enjoy their home. For the purposes of this report, data is collected and reported primarily on the seven federally protected classes: race, color, religion, national origin, sex, disability, and familial status. However, this report also includes additional data on classes of persons protected under state and local laws, including sexual orientation, source of income, marital status, and several other categories.

The data collected for this report represents only a small portion of the millions of incidents of illegal housing discrimination that occur each year. Housing discrimination often goes undetected and unreported because it is difficult to identify or document. It is also common for victims of discrimination to feel that nothing can or will be done about their civil rights being

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<sup>2</sup> Private fair housing agencies report their data based on the calendar year, while HUD, FHAP, and DOJ data are reported based on the federal fiscal year (October-September).

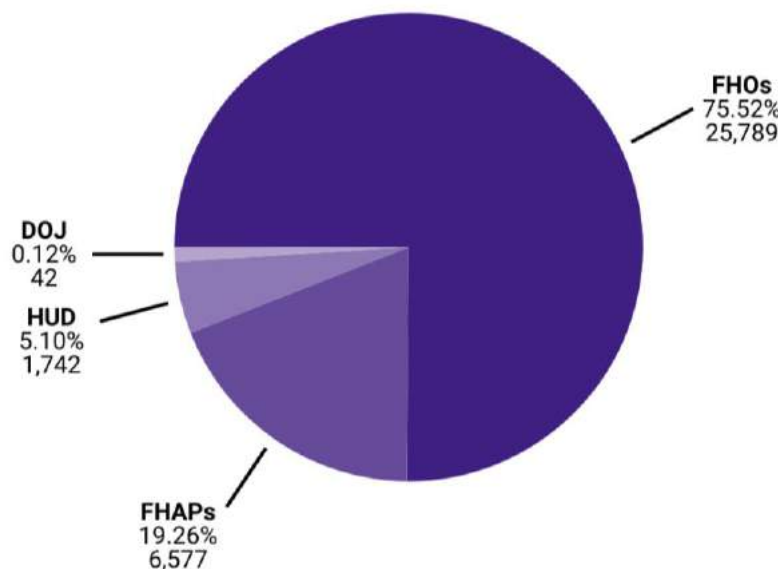
violated, and the fear of retaliation by their housing provider, landlord, or even neighbors discourage many from reporting.

## Housing Discrimination Complaints by Reporting Agency

This year's report includes submissions from 86 of NFHA's Operating and Supporting Members, which are private, non-profit fair housing organizations or legal aid agencies. This year's total of 86 FHOs is the same as last year's total of 86. An additional six FHOs were unable to provide 2023 complaint data due to a variety of factors. Four fair housing organizations reported they were unable to provide 2023 complaint data because of a lack of or pause in funding from the Fair Housing Initiatives Program that primarily supports fair housing organizations' ability to receive and process fair housing complaints. Private, non-profit fair housing organizations have historically processed the lion's share of fair housing complaints as past reports have detailed, making this increase in reports of lack of funding for fair housing activities very concerning.

In addition to FHO data, this report includes data from the 10 regional HUD offices and 77 state and local government agencies<sup>3</sup> that participate in the FHAP program at HUD, from which they receive funding to support fair housing administrative and enforcement activities. FHAP agencies conduct complaint investigation, conciliation, administrative and/or judicial enforcement, training, implementation of data and information systems, as well as education and outreach activities. The report also contains information gathered from DOJ, which addresses cases involving patterns or practices of discrimination or cases that are of general public importance.

### Housing Discrimination Complaints in 2023 by Reporting Agency



<sup>3</sup> HUD. (2023a). Fair Housing Programs.  
[https://www.hud.gov/sites/dfiles/CFO/documents/2023\\_CJ\\_Program\\_Fair\\_Housing\\_Programs.pdf](https://www.hud.gov/sites/dfiles/CFO/documents/2023_CJ_Program_Fair_Housing_Programs.pdf)



# 2024 Fair Housing Trends Report

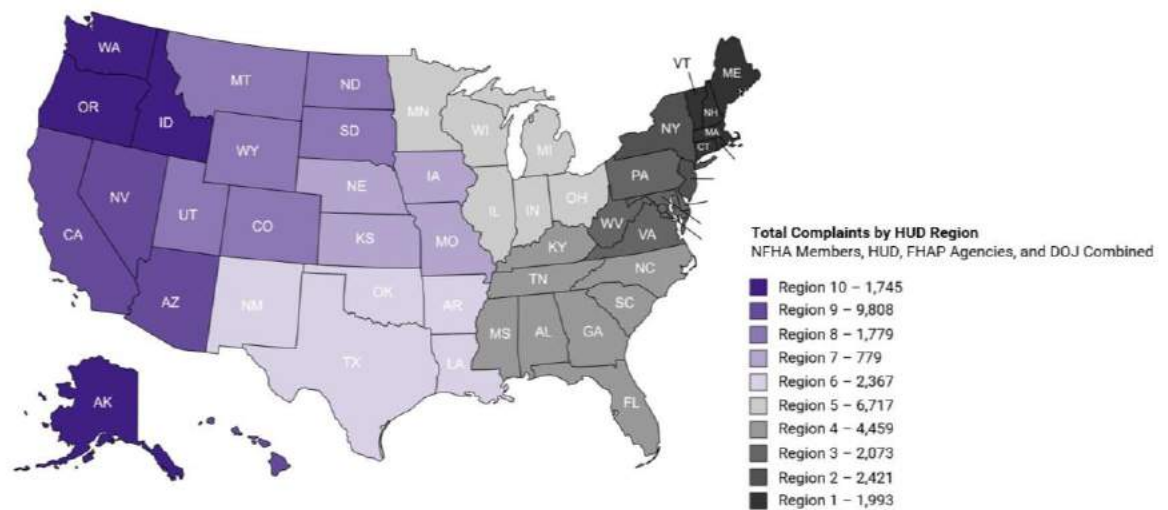
Fair housing complaint data by agency is included in the table below, along with data from the last 10 years. Fair housing organizations continue to address almost three times as many complaints as the government agencies combined.

**Complaint Data by Agency, 2013-2023**

Year	NFHA Member	HUD	FHAPs	DOJ	Total
2013	18,932	1,881	6,496	43	27,352
2014	19,026	1,710	6,758	34	27,528
2015	19,645	1,274	6,972	46	27,937
2016	19,740	1,371	7,030	40	28,181
2017	20,595	1,311	6,896	41	28,825
2018	23,407	1,784	5,987	24	31,202
2019	21,117	1,771	5,953	39	28,880
2020	21,089	1,697	5,883	43	28,712
2021	22,674	2,093	6,413	36	31,216
2022	24,404	1,915	6,652	36	33,007
2023	25,789	1,742	6,577	42	34,150

## Housing Discrimination Complaints by Region

**Total Fair Housing Complaints by HUD Region**  
Fair Housing Trends Data, 2023



## Housing Discrimination Complaints by Basis of Discrimination

This section details the national complaint data by protected class, or basis of discrimination. As in prior reports, complaints alleging discrimination based on disability account for the majority of complaints filed with FHOs, HUD, and FHAP agencies. There were 17,986 complaints of discrimination against persons with disabilities, (52.61 percent of all complaints). The second most reported type of housing discrimination was based on race, with 5,820 complaints (17.04 percent of all complaints). Sex was the third most frequent basis of discrimination, with 2,588 complaints (7.56 percent of all complaints). The fourth most frequent basis of discrimination was familial status, with 2,139 complaints (6.26 percent of all complaints). The fifth most frequent basis was national origin, with 1,693 reported complaints (4.96 percent of all complaints). Color was the basis of discrimination for 824 complaints (2.41 percent of all complaints), and religion was the basis of 337 complaints (0.99 percent of all complaints nationwide).

Notably, from 2022 to 2023, there was a large increase in complaints based on color. In 2022, a total of 609 complaints based on color were reported, which accounted for 1.85 percent of all complaints by basis of discrimination. In 2023, there were 824 complaints based on color reported; this represents an increase of 35.30 percent. The largest increases in complaints based on color originated from rental complaints (386 in 2023) and harassment complaints (97 in 2023).

The table below shows the frequency of discrimination complaints by basis and type of reporting agency.

**Complaint Data by Basis and Agency in 2023**

	Race	Disability	Familial Status	Sex	National Origin	Color	Religion	Other	Total
<b>NFHA Members</b>	3,634	12,803	1,434	1,614	992	501	145	4,666	<b>25,789</b>
<b>HUD</b>	374	1,123	155	195	130	40	37	134	<b>1,742</b>
<b>FHAPs</b>	1,805	4,033	548	768	571	283	155	981	<b>6,577</b>
<b>DOJ</b>	7	9	2	11	0	0	0	13	<b>42</b>
<b>Total</b>	<b>5,820</b>	<b>17,968</b>	<b>2,139</b>	<b>2,588</b>	<b>1,693</b>	<b>824</b>	<b>337</b>	<b>5,794</b>	<b>34,150</b>
<b>Percent of Total</b>	17.04%	52.61%	6.26%	7.58%	4.96%	2.41%	0.99%	16.97%	

Note: Some reported complaints included more than one basis of discrimination.

While fair housing organizations primarily receive complaints of discrimination based on federally protected classes, they also receive complaints of discrimination based on protections provided

only by state and/or local fair housing laws. In 2023, 5,794 complaints (16.97 percent of all complaints) involved a basis of discrimination in the “other” protected class category.

Private fair housing organizations provided a breakdown of “other” protected class categories for 4,666 complaints, including the following primary categories:

- Source of Income (2,178 complaints)
- Age/Student Status (425 complaints)
- Sexual Orientation (296 complaints)
- Gender Identity/Expression (195 complaints)
- Marital Status (63 complaints)
- Criminal Background (336 complaints)
- Victims of Domestic Violence (318 complaints)
- Military Status (32 complaints)
- Retaliation (234 complaints)
- Immigration Status/ Citizenship (27 complaints)

In 2023, there was an uptick in “other” complaints based on age or student status, sexual orientation, gender identity or gender expression, and victims of domestic violence. The continued increase in domestic violence complaints is especially concerning, as it doubled in size from 2020 to 2021 and has continued to rise each year since.

## Housing Discrimination Complaints by Transaction Type

The data in this section is based on complaints received that occurred in rental, real estate sales, mortgage lending, and homeowners’ insurance transactions, as well as harassment and other complaints based on protected class. For the first time, this section also details complaints received that occurred in appraisal transactions. Complaint numbers below are for private fair housing organizations, HUD, FHAP agencies, and the DOJ.

### Complaints by Transaction Type in 2023

	Rental	Sales	Lending	Insurance	Harassment	Appraisal	Advertising	HOA/Condo	Other	Total
<b>NFHA Members</b>	22,925	292	182	14	1,502	24	191	129	371	<b>25,630</b>
<b>HUD</b>	1,105	83	47	0	0	31	0	0	523	<b>1,742</b>
<b>FHAPs</b>	4,289	391	60	1	0	32	0	0	1,865	<b>6,577</b>
<b>DOJ</b>	24	0	5	0	0	0	0	1	12	<b>42</b>
<b>Total</b>	<b>28,343</b>	<b>766</b>	<b>294</b>	<b>15</b>	<b>1,502</b>	<b>87</b>	<b>191</b>	<b>130</b>	<b>2,771</b>	<b>33,991</b>
<b>Percent of Total</b>	83.38%	2.25%	0.86%	0.04%	4.42%	0.26%	0.56%	0.38%	8.15%	

## ***Rental Market – 28,483 Complaints***

As in prior years, rental-related housing discrimination complaints in 2023 were the most prevalent of any complaint transaction type. In 2023, there were 28,483 complaints of discrimination in the rental market reported across all agencies, and 22,925 of these were processed by private fair housing organizations. The number of rental-related complaints reported in 2023 increased by 1,147 complaints compared to the 27,336 complaints received in 2021. Rental-related complaints in 2023 accounted for 83.41 percent of all transaction types reported, compared to 82.82 percent in 2022, 81.69 percent in 2021, and 72.65 percent in 2020.

## ***Real Estate Sales – 766 Complaints***

Real estate sales complaints accounted for 2.24 percent of all housing discrimination cases reported in 2023, with 766 total complaints. This number represents a decrease of 151 complaints from 2022 when 917 sales complaints were reported. This marks the second consecutive year that sales complaints have seen a decline and may be a function of the continuation of a slowing real estate sales market resulting from limited housing supply and a dramatic increase in mortgage interest rates.

## ***Mortgage Lending – 294 Complaints***

In 2023, there were 294 complaints of lending discrimination, a decrease from 2022's total of 365 complaints. Private fair housing organizations reported 61.91 percent of these complaints, an increase of over 10 percent from their share in the previous year.

## ***Homeowners Insurance Transactions – 15 Complaints***

Discrimination in the provision of homeowners insurance is difficult to identify because it is rarely overt. In 2023, 15 complaints of homeowners insurance-related discrimination were reported, representing less than one percent of all cases. This is a decrease from the 31 homeowners insurance complaints reported in 2022.

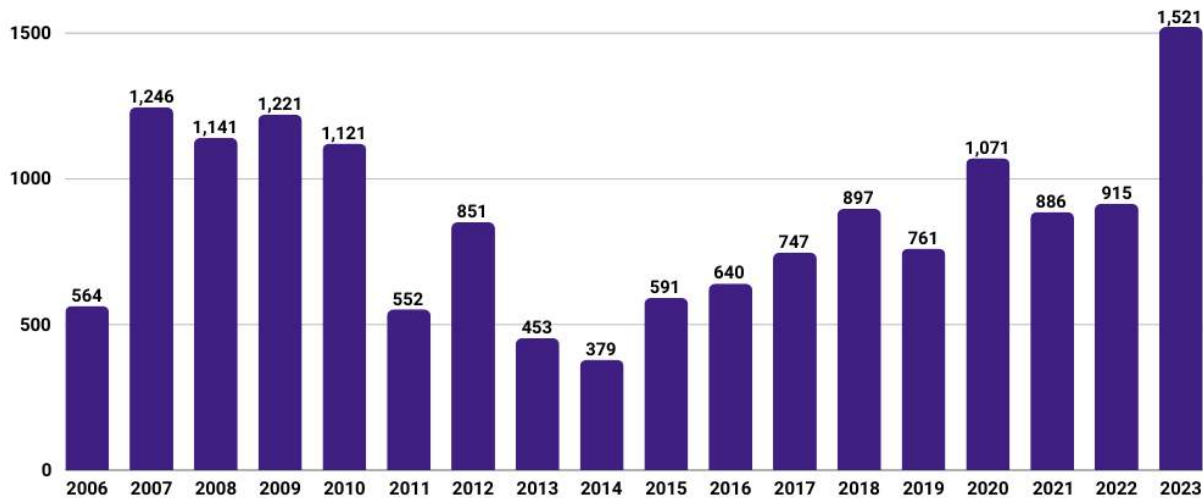
## ***Harassment – 1,521 Complaints***

Women, single- parent heads of households, people of color, persons with disabilities, immigrants, persons with housing assistance, and others are very vulnerable to harassment in housing because they fear retaliation or loss of housing. Harassment against protected classes may take the form of coercion, intimidation, threats, or interference; this is illegal under the Fair Housing Act, both in the provision of housing and in a housing setting.

In 2023, 1,521 harassment complaints were reported, a significant increase from the 915 complaints reported in 2022. This spike of 606 additional complaints based on harassment represents an increase of 66.23 percent. This year's total of 1,521 is the highest number of harassment complaints reported since NFHA began reporting harassment-specific data in 2006.



## Housing Discrimination Complaints Based on Harassment, 2006 - 2023



There were 440 harassment complaints on the basis of disability, 316 harassment complaints on the basis of race, 262 harassment complaints on the basis of sex, 102 harassment complaints on the basis of familial status, and 97 harassment complaints on the basis of color. While almost every protected basis saw an increase in harassment cases from 2022 to 2023, a few bases saw dramatic increases in complaints. Harassment complaints on the basis of color saw an increase of 470.59 percent, and harassment complaints on the basis of race saw an increase of 114.97 percent.

### Appraisal – 87 Complaints

This year's report marks the first year that appraisal complaints were collected as a standalone transaction type. Recent research,<sup>4</sup> news stories,<sup>5</sup> and rising appraisal discrimination allegations all indicate that biases in appraisals negatively impact consumers and communities of color and exacerbate the racial wealth gap. In 2023, there were 87 appraisal complaints reported. Of these 87, 24 were reported by private non-profit fair housing organizations, 31 were reported by HUD, and 32 were reported by FHAP agencies.

### Other Housing-Related Transactions – 3,092 Complaints

In 2023, 3,092 complaints fell into "other transaction" categories. Other housing-related transactions included 191 complaints of discriminatory advertising by housing providers and 130 complaints of discrimination by homeowners or condominium associations.

<sup>4</sup> Howell, J., & Korver-Glenn, E. (2022). *Appraised: The Persistent Evaluation of White Neighborhoods as More Valuable Than Communities of Color*. Eruka. <https://www.eruka.org/appraised>.

Yap, M. et. al, (2022). *Identifying Bias and Barriers, Promoting Equity: An Analysis of the USPAP Standards and Appraiser Qualifications Criteria*. Appraisal Subcommittee. <https://nationalfairhousing.org/resource/identifying-bias-and-barriers-promoting-equity-an-analysis-of-the-uspap-standards-and-appraiser-qualifications-criteria/>

<sup>5</sup> Glover, J. (Executive Producer). (2021). *Our America: Lowballed* [Documentary]. ABC. <https://abc7.com/feature/our-america-lowball-home-appraisal-racial-bias-discrimination/12325606/>.

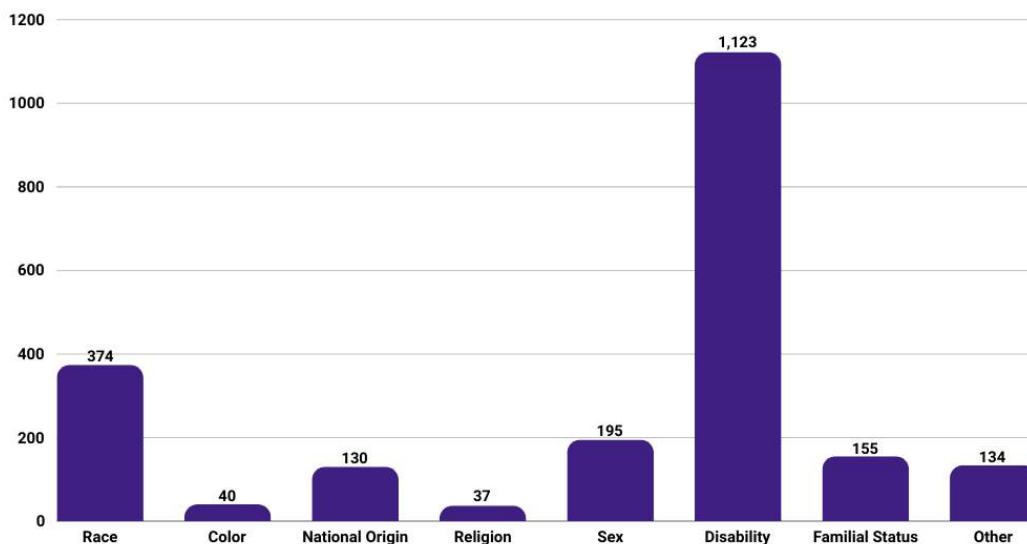
## Complaint Data Reported by HUD and FHAP Agencies

HUD's Office of Fair Housing and Equal Opportunity (FHEO) is responsible for enforcing the Fair Housing Act's requirements. FHEO enforces the Fair Housing Act and other civil rights laws, including Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Title IX of the Education Amendments Act of 1972, and the Architectural Barriers Act of 1968. HUD has the authority to investigate and conciliate housing discrimination complaints filed under the Fair Housing Act. It can also initiate investigations and file complaints on behalf of the Secretary of HUD, as authorized under Section 810 of the Fair Housing Act. In addition to enforcement activities, HUD publishes and distributes educational materials that provide information on how to report unlawful discrimination; administers and manages the Fair Housing Assistance Program (FHAP) and the Fair Housing Initiatives Program (FHIP); establishes fair housing and civil rights regulations and policies for HUD programs; publishes guidance on complying with the requirements of fair housing and various civil rights laws; and monitors and reviews HUD programs and activities for compliance with federal nondiscrimination requirements and the requirement to affirmatively further fair housing.

### HUD Administrative Complaints

HUD received 1,742 discrimination complaints in 2023, a decrease of 203 complaints or 10.6 percent compared to 2022. The chart below details the HUD complaint information by protected class. Although most protected bases of HUD-reported complaints decreased from FY22 to FY23, complaints based on religion increased from 13 in 2022 to 37 in 2023.

Housing Discrimination Complaints Reported by HUD in 2023

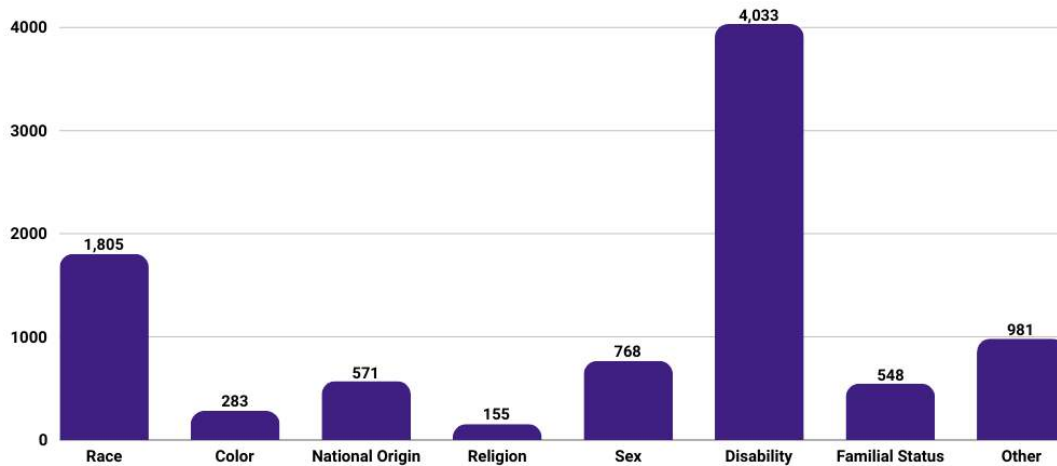


Note: Some reported complaints included more than one basis of discrimination.

## FHAP Complaints

FHAP agencies received 6,577 discrimination complaints in 2022, a decrease of 75 complaints from 2022. From 2022 to 2023, there was a 3 percent increase in housing discrimination complaints based on disability, with an increase from 3,914 in 2022 to 4,033 in 2023.

### Housing Discrimination Complaints Reported by FHAP Agencies in 2023



Note: Some reported complaints included more than one basis of discrimination.

## Secretary-Initiated Complaints

The Fair Housing Act allows HUD to initiate complaints when (1) the Department obtains sufficient evidence to believe that a Fair Housing Act violation has occurred or is about to occur or (2) when it has received an individual complaint but believes there may be additional victims of discrimination or wants to obtain relief in the public interest. In 2023, two new Secretary-initiated complaints were opened, one of which included allegations based on disability, sex, and familial status claims.

## Charged Cases

In 2023, HUD more than doubled its 2022 number of charged cases, increasing from 21 in 2022 to 47 charged cases in 2023. This is the highest number of charges that HUD has reported since 2011. This achievement is very likely attributable to extensive efforts undertaken by Secretary Marcia Fudge to rebuild HUD's Office of Fair Housing and Equal Opportunity (FHEO). The Secretary's prioritization of the FHEO division was arduously supported by FHOs who advocated for significant increases in HUD's budget to support the agency's ability to rebuild FHEO and hire more staff. A "charge" is issued when HUD determines there is reasonable cause to believe discrimination has occurred. HUD cases are resolved more often through conciliation or are closed for administrative reasons. Administrative reasons include untimely filing, jurisdiction issues, withdrawal by the complainant without resolution, or inability to locate the respondent. The chart below details the number of HUD-charged cases from 2011 to 2023.

## HUD Charged Cases by Year

Year	NFHA Member
2011	55
2012	43
2013	37
2014	27
2015	28
2016	37
2017	19
2018	28
2019	37
2020	36
2021	36
2022	21
2023	47

FHAP agencies also play an important role in the charging and closure of cases. HUD refers complaints that originate in cities or states with a FHAP agency to that agency. A FHAP agency may issue a “cause” determination if it determines probable discrimination has occurred. In 2023, there were 428 cause determinations at FHAP agencies, a decrease of 9.1 percent from the 471 charged cases in 2022.

The table below shows the types of HUD and FHAP case completions in 2023. There were 7,746 completions; 1,628 by HUD and 6,118 by FHAP agencies. There were 26 more cases charged or caused by HUD in 2023 than in 2022, while FHAP agencies reported 43 fewer cases charged or caused in 2023 compared to 2022. HUD conciliated or settled 21 more cases in 2023 than in 2022, and FHAP agencies conciliated or settled 50 more cases in 2023 than in 2022. For cases receiving a “no cause” determination, 116 fewer cases were “no caused” by HUD or FHAP agencies in 2023 than in 2022.



## 2023 HUD and FHAP Case Completion Types

Case Completion Type	HUD	FHAPs	Total
Administrative Closure	293	777	1,070
Charged or FHAP Caused	47	428	475
Conciliation / Settlement	577	1,108	1,685
DOJ Closure	10	0	10
No Cause	562	3,417	3,979
Withdrawn after Resolution	139	388	527
<b>Total</b>	<b>1,628</b>	<b>6,118</b>	<b>7,746</b>

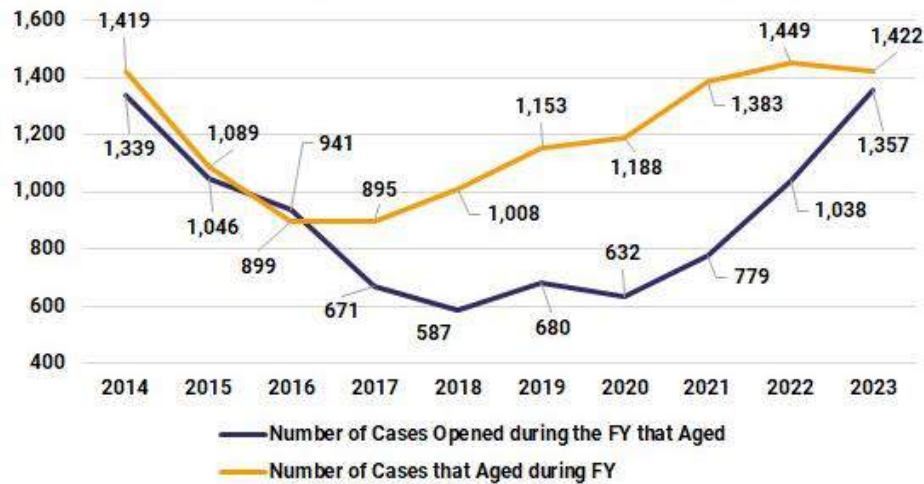
### Aged Cases

HUD regulations under the Fair Housing Act require that HUD and FHAP agencies complete their investigations of fair housing complaints within 100 days of the initial receipt of a complaint, with the exception of complex investigations (for example, appraisal bias, mortgage lending, or insurance discrimination cases) or systemic cases. If a case exceeds the 100-day statutory mark, it is considered an “aged” case. Aged cases at HUD and FHAP agencies often remain stalled for several years. The failure to complete a timely and thorough investigation leaves complainants and respondents in limbo and is an injustice to all parties involved in resolving the complaints.

HUD had 1,357 new aged cases during FY2023, a 30.7 percent increase from the 1,038 new aged cases during FY2022. The chart below shows cases that were opened and passed the 100-day mark during the fiscal year. HUD also had 1,422 ongoing cases that continued to age during FY2023. This number is a 1.8 percent decrease over FY2022 when HUD had 1,449 ongoing cases that continued to age. Over the years, HUD’s ability to complete timely investigations has been stymied by a decline in full-time staff. In more recent years, the volatile political climate has also been a factor. David Uejio was nominated by President Biden in June 2021 to serve as assistant secretary for fair housing and equal opportunity for HUD, but his nomination lagged in the narrowly divided Senate. The failure to confirm the nominee impacted the division’s abilities to successfully execute its responsibilities.

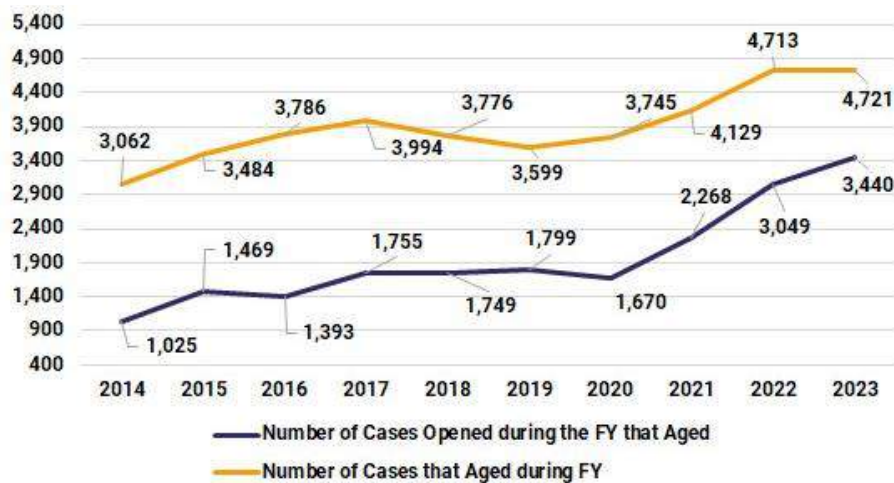
# 2024 Fair Housing Trends Report

## Number of Aged Cases FY2014-FY2023 (HUD)



FHAP agencies had 3,440 cases that were opened and aged during FY2023, representing a 12.8 percent increase from the 3,049 cases reported during FY2022. FHAP agencies also had 4,721 ongoing cases that continued to age during FY2023, a slight increase of eight cases compared to the 4,713 ongoing cases that continued to age during FY2022. An increased caseload and more complex investigations (appraisal, insurance, and redlining) may be fueling the high number of cases that exceed the 100-day benchmark for processing.

## Number of Aged Cases FY2014-FY2023 (FHAPs)



## Complaint Data Reported by DOJ and DOJ Cases

The Housing and Civil Enforcement Section of the Department of Justice (DOJ) is responsible for enforcing the Fair Housing Act, the Equal Credit Opportunity Act (ECOA), the Servicemembers Civil Relief Act, and Title II of the Civil Rights Act of 1964, which prohibits discrimination in public accommodations. The 1968 Fair Housing Act gave DOJ the authority to prosecute cases involving a “pattern or practice” of housing discrimination, as well as cases involving acts of discrimination that raise “an issue of general public importance.” The 1988 Fair Housing Amendments Act (FHAA) increased the DOJ’s authority, allowing it to bring cases in which a housing discrimination complaint is charged by HUD and in which one of the parties “elects” to go to federal court. The FHAA also empowered DOJ to initiate civil lawsuits in response to matters that involve fair housing violations by any state or local zoning or land-use laws referred by HUD. In 1992, the DOJ exercised its authority to establish fair housing testing programs. The DOJ also subsequently established a fair lending program designed to challenge discriminatory mortgage and other lending practices and to educate lenders about their obligations under the Fair Housing Act and the ECOA.

With respect to lending discrimination, the DOJ has authority to enforce both the ECOA and the FHA on its own initiative or upon referral from another agency. The ECOA prohibits creditors from discriminating against credit applicants on the basis of race, color, national origin, religion, sex, marital status, age, source of income, or because an applicant has exercised in good faith any right under the Consumer Credit Protection Act. The Fair Housing Act prohibits discrimination in residential real estate-related transactions because of race, color, religion, sex, national origin, familial status, or disability. In cases involving discrimination in mortgage or home improvement loans, the DOJ may file suit under both the ECOA and Fair Housing Act.

### Overview of FY2023 DOJ Cases

DOJ’s Housing and Civil Enforcement Section filed 42 cases during FY2023, six more cases than the 36 cases filed in the previous year. Twenty of these cases were “pattern or practice” cases. The 42 cases reported in 2023 included 23 cases alleging discrimination based on race and/or national origin discrimination, 10 cases involving sexual harassment in housing, nine cases alleging discrimination based on disability, and four cases alleging violations of the Service Members Relief Act.

DOJ reported 12 HUD election cases and 11 amicus or intervention cases in FY2023, five more than the six reported in FY2022. The 11 reported amicus or intervention cases represent the largest number of such cases filed by the DOJ in a fiscal year since at least 2005, the earliest year for which we have data.

### Combatting Redlining Initiative

DOJ established its Combatting Redlining Initiative in October 2021, building upon its longstanding efforts to make mortgage credit and homeownership accessible to all Americans on the same terms and conditions. The Initiative seeks to eradicate redlining and hold lenders accountable when they deny people of color equal access to lending opportunities. In FY2023,

the Department filed and settled five redlining cases and secured over \$48.1 million in loan subsidy funds. One of these redlining cases is detailed below.

In FY2023, DOJ filed and settled *United States v. City National Bank* (C.D. Cal.), resolving claims of redlining in Los Angeles, California. The complaint alleged that City National Bank engaged in unlawful redlining in Los Angeles County by avoiding providing credit services to majority-Black and Hispanic neighborhoods because of the race, color, and national origin of the people living in those neighborhoods. The complaint also alleged that while City National Bank avoided providing mortgage lending services to majority-Black and Hispanic neighborhoods, other banks received more than six times as many applications in the same neighborhoods. The consent order requires the Bank to invest at least \$29.5 million in a loan subsidy fund to increase credit opportunities for majority-Black and Hispanic neighborhoods in Los Angeles County and will also open a new full-service branch in a majority-Black and Hispanic neighborhood. This settlement is historic for the DOJ, as it represents the largest settlement ever secured by the Department against a bank engaged in redlining.

## **Sexual Harassment Initiative**

DOJ established a Sexual Harassment in Housing Initiative in 2018. The Department continued to open sexual harassment investigations challenging alleged sexual harassment in housing, with a record-setting 10 sexual harassment lawsuits filed in FY2023. In FY2023, DOJ also settled six sexual harassment cases. Since the launch of the Initiative, DOJ has filed a total of 39 lawsuits challenging alleged sexual harassment in housing and has settled 27 sexual harassment cases and obtained one favorable jury verdict, resulting in a total of almost \$12 million in damages for over 340 victims, as well as substantial injunctive relief aimed at preventing future harassment.

## **DOJ Case Highlights**

DOJ obtained 43 settlements and judgments in FY2023, resulting in \$56 million in monetary relief. Those settlements include the following:

The Department settled six sexual harassment cases in FY2023. For example, DOJ settled *United States v. Dos Santos* (D. Mass.), a case that alleged that a property manager in Chicopee, Massachusetts had sexually harassed female tenants since at least 2008 and that two family trusts that own the properties are liable for his conduct. The consent decree requires defendants to pay \$425,000 in damages to six aggrieved persons and a \$25,000 civil penalty to the United States. The consent decree bars further discrimination and retaliation; requires that the property management responsibilities be turned over to an independent manager; and mandates the implementation of a sexual harassment policy, complaint procedure, and Fair Housing Act training. The consent decree also permanently bars Dos Santos from participating in any property management responsibilities at any residential rental property.

The Department settled several cases alleging discrimination related to race or national origin. In *United States v. SSM Properties, LLC* (S.D. Miss.), the case alleged that the owners and manager of three apartment complexes in Pearl, Mississippi, discriminated on the basis of race in violation of the Fair Housing Act by steering Black testers towards one complex, and falsely representing that the other two complexes did not have vacancies. The consent decree requires defendants to



pay \$110,000 in damages and attorneys' fees and \$13,000 in civil penalties. In *United States v. City of Hesperia, et al.* (C.D. Cal.), the DOJ alleged that the City of Hesperia and the San Bernadino County Sherriff's Department engaged in a pattern or practice of discrimination against Black and Hispanic individuals and communities in Hesperia, in violation of the Fair Housing Act and Title VI of the Civil Rights Act, through the adoption and enforcement of a "crime-free" rental housing program. The resolution repealed the "crime-free" ordinance and defendants committed to a \$670,000 settlement fund to compensate individuals harmed by the program. Defendants also paid \$100,000 in civil penalties, \$95,000 for affirmative marketing to promote fair housing in Hesperia, and \$85,000 for partnerships with community-based organizations.

The Department settled 19 cases alleging disability discrimination in a variety of contexts. In *United States v. Albright Care Services, et al.* (M.D. Pa.), the DOJ alleged that a continuing care retirement community refused to grant a reasonable accommodation to allow the son of a resident with disabilities to live with her as an aide. The consent order required defendants to pay \$215,000 in damages to the HUD complainants and adopt reasonable accommodation policies in all their continuing care retirement communities in Pennsylvania, Maryland, and Tennessee. In *United States v. Eilman, et al.* (E.D. Wis.), the DOJ alleged that the owners and managers of a Wisconsin apartment complex discriminated on the basis of disability by refusing to grant a reasonable accommodation to allow a prospective tenant with a disability to live with her assistance animal at the complex. The consent order required defendants to pay the complainant \$33,250 and adopt a reasonable accommodation policy.

The Department filed or settled five cases challenging the inaccessible design and construction of residential properties in FY2023, including *United States v. LJLD, LLC (Bridgewater)* (E.D. Mo.). Filed in FY2022 and settled in FY2023, the owners, developers, and builders of the Bridgewater Residences Apartments in St. Louis, Missouri agreed to a settlement resolving claims by the DOJ that they violated the accessibility requirements of the Fair Housing Act and the Americans with Disabilities Act in the design and construction of the complex. To resolve the claims against them, the defendants will retrofit public and common use areas of the complex as well as multifamily units covered by the law to make them accessible to people with disabilities. They will also pay \$18,500 into a settlement fund to compensate individuals who were harmed.

More detailed information about cases filed/settled by DOJ is available at <http://www.justice.gov/crt/about/hce/caselist.php>.

## Section II: Case Highlights 2023

The cases featured in this section highlight the issues and challenges that millions of consumers face each day as they attempt to gain access to housing opportunities. The cases sampled below reveal the types of systemic and individual impediments consumers face in the housing market, and they illustrate the variety and extent of housing discrimination and how it affects many different segments of our society.

Please also see the DOJ case highlights located at the end of Section I.

### Appraisal Bias

#### ***Bailey v. Santander Bank*<sup>6</sup>**

In December 2023, a mixed-race Connecticut couple settled an appraisal discrimination lawsuit with Santander Bank under undisclosed terms. The plaintiffs had alleged violations of the Fair Housing Act, Equal Credit Opportunity Act, the Civil Rights of 1866, and the state anti-discrimination law after receiving a low valuation on their home. In February 2021, the bank's appraiser appraised the 7,000 square foot, seven-bedroom home at \$780,000, and the bank denied the plaintiff's refinancing application because of the low value. After that, the plaintiffs "white-washed" the home by removing family photos and artwork. The husband, who is White, greeted the second appraiser. The second appraisal came in at \$1.2 million, which was \$420,000 more and nearly 54 percent higher than the first appraisal.

#### ***Connolly v. Lanham*<sup>7</sup>**

loanDepot.com LLC agreed to settle a lawsuit alleging appraisal discrimination. The lawsuit was filed by Nathan Connolly and Shani Mott, a Black couple and Johns Hopkins professors, who alleged that when they applied to refinance the mortgage on their home, which is located in an affluent white neighborhood in Baltimore, the defendants "dramatically undervalu[ed] the property because of their race and because the house was adjacent to a Black census block." When the plaintiffs removed any indications that they were Black from their house, a second appraiser appraised it at a value that was \$300,000 higher than the first appraisal.

Under the terms of the settlement, loanDepot will implement comprehensive policies and practices for applicants to obtain reconsideration of an appraisal if they believe it is flawed. The company will conduct analyses of appraisals and requests for reconsideration to identify any possible discrimination. loanDepot employees will attend training on appraisal discrimination. loanDepot has also agreed to a monetary payment. Shane Lanham and 20/20 Valuations, LLC, the other defendants in the lawsuit, were not parties to the settlement.

<sup>6</sup> *Bailey et al. v. Santander Bank, N.A., et al.*, No. 3:2023-cv-00129 (D. Conn. Dec. 1, 2023) (settlement agreement signed)]

<sup>7</sup> *Connolly, et al., v. Lanham, et al.*, No. 1:2022-cv-02048-SAG (D. Md. March 22,, 2024) (settlement agreement filed)

## Disparate Impact

### ***HOPE Fair Housing Center v. Oak Park Apartments***

HOPE Fair Housing Center filed a discrimination complaint with HUD against Oak Park Apartments, a large operator of rental housing in Oak Park, Illinois. In its complaint, HOPE charges that Oak Park Apartments' policy denying tenancy to persons with any kind of eviction history "disproportionately denies and otherwise makes unavailable rental housing opportunities to Black renters, and to Black women especially." HOPE alleges that this policy and its implementation violate the Fair Housing Act. HOPE conducted a testing investigation of the Oak Park Apartments before filing its complaint.

### ***National Association of Mutual Insurance Companies v. HUD<sup>8</sup>***

A federal district judge entered summary judgment for HUD in a case challenging the validity of the Department's disparate impact rule.

The National Association of Mutual Insurance Companies (NAMIC) sued HUD after it promulgated a rule in 2013 that set out a legal framework for establishing disparate impact claims under the Fair Housing Act. HUD recodified the 2013 rule and NAMIC filed an amended complaint in the district court, challenging the current version of the rule. Both HUD and NAMIC filed motions for summary judgment.

In September 2023, Judge Richard Leon entered summary judgment for HUD, ruling that the rule in question does not conflict with the Fair Housing Act and that NAMIC's arguments for invalidating the rule "are unconvincing."

Judge Leon rejected HUD's claims that NAMIC lacked standing and that its claims were not ripe. However, he ruled that NAMIC had not established that the rule is invalid because it conflicts with the Fair Housing Act. NAMIC argued that the rule is invalid because it would require insurers to consider protected characteristics in a "pervasive way," and that insurers would be forced to consider protected characteristics that state laws prohibit from consideration. It also argued that the rule impermissibly allows plaintiffs to "force housing authorities to reorder their priorities." Judge Leon rejected these arguments. He observed that NAMIC's "post-Inclusive Communities arguments, creative as they might be, are unconvincing."

### ***Reyes v. Waples Mobile Home Park Ltd. Partnership<sup>9</sup>***

A Fourth Circuit panel ruled that the operator of a mobile home park could not assert an interest in not being prosecuted for harboring undocumented immigrants as a business necessity in a lawsuit alleging that its requirement that all residents show proof of legal residency had an illegal disparate impact on Latino tenants.

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<sup>8</sup> *National Association of Mutual Insurance Companies v. HUD*, No. 13-966, 2023 U.S. Dist. LEXIS 166959 (D.D.C. Sept. 19, 2023)

<sup>9</sup> *Reyes v. Waples Mobile Home Park Ltd. P'ship*, 91 F.4th 270 (4th Cir. 2024)

In 2015, Waples Mobile Home Park in Fairfax, Virginia, began requiring all adult tenants and applicants to provide proof of lawful status in the United States. If a household could not present proof for each adult resident, Waples would convert the tenancy to a month-to-month tenancy and increase the household's rent by \$100 a month.

Several residents sued Waples Mobile Home Park Limited Partnership (Waples), alleging that the policy had a disparate impact on Latino tenants and applicants in violation of the Fair Housing Act. Waples moved for summary judgment, arguing that it had shown that its policy was necessary to achieve a legitimate, nondiscriminatory interest. In particular, Waples claimed that "the Policy of verifying its tenants' legal status was justified by the risk of prosecution under the federal anti-harboring statute...."

A federal district court entered summary judgment for Waples. A Fourth Circuit panel reversed. The panel found that "the anti-harboring statute simply does not apply to landlords merely leasing to undocumented immigrants, and Waples's risk of prosecution is too attenuated to cross the threshold of a plausible concern." The panel held that Waples had not met its burden of establishing that the policy served a legitimate interest and remanded the case to the district court for further proceedings.

## National Origin Discrimination

### ***NFHA v. Secretary of Commerce*<sup>10</sup>**

NFHA, Housing Opportunities Project for Excellence, Inc., Fair Housing Center of the Greater Palm Beaches, the Asian Real Estate Association of America, and a real estate company filed a complaint in federal court in Miami, Florida, against the state of Florida challenging SB 264. SB 264, which Florida Governor Ron DeSantis signed into law on July 1, 2023, prohibits anyone who is a "member of the People's Republic of China," a member of any political party in China, or anyone domiciled in China (and not a U.S. citizen or lawful permanent resident) from purchasing property in Florida, and restricts purchases of real property within 10 miles of "critical infrastructure facilities" or military installations by "foreign principals" of China, Russia, Iran, North Korea, Cuba, Venezuela, and Syria. In its complaint, NFHA and the other plaintiffs allege that SB 264 has the purpose and effect of discriminating based on national origin in violation of the Fair Housing Act and the Florida Constitution.<sup>11</sup>

## Source of Income Discrimination

### ***Fair Housing Justice Center, Inc. v. Pelican Management, Inc.*<sup>12</sup>**

A federal district court entered judgment for the Fair Housing Justice Center (FHJC) against the owners and managers of rental buildings in New York on claims that the defendants' minimum

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<sup>10</sup> *NFHA v. Kelly*, No. 1:24-cv-21749 (S.D. Fla. May 6, 2024) (complaint filed)

<sup>11</sup> *National Fair Housing Alliance, et al. v. Kelly, et al.* (2024) . <https://nationalfairhousing.org/historic-legal-battle-unveiled-against-discriminatory-florida-housing-law-sb-264/>.

<sup>12</sup> *Fair Housing Justice Center, Inc. v. Pelican Management, Inc.*, No. 18-cv-1564, 2023 U.S. Dist. LEXIS 175084 (S.D.N.Y. Sept. 29, 2023)



income requirement policies had a disparate impact on applicants with disabilities who receive housing subsidies.

FHJC sued Pelican Management Inc. and two other defendants alleging that minimum income policies enacted in 2015 and 2019 excluded renters who receive rental subsidies and had a disparate impact on applicants with disabilities in violation of the Fair Housing Act and the New York City Human Rights Law. It also alleged that the policies violated the New York law's prohibition on discrimination against voucher holders.

A bench trial was held, and in September, District Court Judge Edgardo Ramos issued findings of fact and conclusions of law. Judge Ramos ruled that the 2015 policy, which required that all prospective renters, including those receiving rental subsidies, were required to have an annual income of at least 43 times their monthly rent, was unlawful. He also found that the 2019 policy, which modified the annual income requirement— but only for applicants who received vouchers for their entire rent— was unlawful as to the requirements it imposed on applicants receiving partial rental subsidies.

Judge Ramos entered an injunction enjoining the defendants from denying applicants on the basis of disability or lawful source of income and ordering them to adopt non-discriminatory rental criteria. He awarded FHJC \$240,540 in compensatory damages and \$750,000 in punitive damages.

### ***Open Communities v. Harbor Group Management Co. LLC<sup>13</sup>***

Open Communities, a fair housing organization in northern Illinois, agreed to settle a lawsuit in which it and an individual plaintiff alleged that the defendants used artificial intelligence to reject applicants for housing who used housing choice vouchers and who were predominantly African American.

According to Open Communities, Harbor Group used artificial intelligence automated systems to detect and reject renters participating in housing choice voucher (HCV) programs to communicate a blanket ban on accepting housing choice vouchers, and to reject applications from persons participating in the housing choice voucher program who were predominantly African American. The plaintiffs allege that the defendants' "conduct and tactics constitute unlawful intentional discrimination based on race and have an unlawful disparate impact on African American renters." Under the terms of the settlement, the defendants will not deny applicants based solely on their source of income. They will also provide a written report to Open Communities that will include a summary of the reasons for any denials of voucher applicants. Open Communities will review the defendants' non-discrimination policies and suggest and discuss any potential revisions or modifications to the defendants' procedures.

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<sup>13</sup> *Open Communities v. Harbor Group Management Co. LLC*, No. 23-cv-14070 (N.D. Ill. Jan. 23, 2024) (consent decree entered).

## Standing

### ***Acheson Hotels, LLC v. Laufer*<sup>14</sup>**

The Supreme Court dismissed a case raising the issue of whether a self-appointed “civil rights tester” has a legal right to file a lawsuit under the Americans with Disabilities Act. The plaintiff alleged that a hotel had failed to provide information about its accessibility on its website and filed a lawsuit. The Supreme Court unanimously agreed that the case was moot or no longer presented a live controversy because the plaintiff voluntarily dismissed her lawsuit.

The First Circuit Court of Appeals relied on the landmark Supreme Court standing decision, *Havens Realty Corp. v. Coleman*, and held that Ms. Laufer had standing. Until dismissed, the Supreme Court’s consideration of the case raised the possibility that the Supreme Court would revisit the well-established standing precedent set forth in *Havens*.

### ***Louisiana Fair Housing Action Center, Inc. v. Azalea Garden Properties, L.L.C.*<sup>15</sup>**

A Fifth Circuit panel ruled that the Louisiana Fair Housing Action Center (LaFHAC) did not have standing to bring a disparate impact claim based on race against a housing operator that automatically denied the application of anyone with a criminal history, including for misdemeanors.

LaFHAC conducted testing of the operators of the Azalea Garden apartment complex in Jefferson, Louisiana. Testers were told by Azalea Garden agents that a past criminal history would cause their applications to be rejected. LaFHAC sued Azalea Garden Properties, alleging that it had engaged in a pattern of illegal discrimination based on race and disability, and that its policy had a disparate impact on African Americans and applicants with disabilities.

A Fifth Circuit panel held that LaFHAC did not have standing because it had not established that it had suffered a cognizable injury. LaFHAC had pled in its complaint that it had been injured because it was forced to divert resources to counteract Azalea Garden’s policy. According to LaFHAC, it had diverted its resources from other investigative projects and activities in order to perform a focused investigation of Azalea Garden’s practices. It also alleged that it had dedicated resources to counteract the effect of Azalea’s alleged discrimination in the community, and that Azalea’s policy “required it to divert resources away from other planned projects and activities in furtherance of its mission.” However, the appeals court found that LaFHAC’s investigation “did not differ from its routine activities in the slightest,” and ruled that LaFHAC had “fail[ed] to allege that its activities in response to Azalea Garden’s alleged discrimination perceptibly impaired its mission.”

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<sup>14</sup> *Acheson Hotels, LLC v. Laufer*, 144 S. Ct. 18, 20 (2023)

<sup>15</sup> *La. Fair Hous. Action Ctr., Inc. v. Azalea Garden Props., L.L.C.*, 82 F.4th 345 (5th Cir. 2023)

## ***Vargas v. Facebook, Inc.*<sup>16</sup>**

A panel of the Ninth Circuit ruled that the members of a protected class had standing to sue Facebook in a lawsuit alleging that Facebook’s “targeting methods” violated the Fair Housing Act as well as California and New York law.

Rosemarie Vargas and two other plaintiffs filed a lawsuit against Facebook on behalf of themselves and other similarly situated persons. Rosemary Vargas is a female of Hispanic descent who has a disability and is the mother of two minor children. According to Vargas, when she conducted searches on Facebook looking for housing in Manhattan in 2019, her searches “yielded no ads for housing in Manhattan.” Vargas claims that when a white friend sat with her and used the same search criteria, she received ads for locations that were preferable to those received by Vargas.

The plaintiffs alleged that Facebook had violated the Fair Housing Act and California and New York law by allowing advertisers to self-select target audiences for their housing advertisements. According to the plaintiffs, this practice “allowed housing advertisers to ‘steer advertisements, information, and content away from users in protected classes,’ resulting in a segregated marketplace for housing.” The district court dismissed the claim, ruling that the plaintiffs had not alleged a concrete injury sufficient to confer Article III standing,

In a memorandum opinion, a Ninth Circuit panel reversed the district court. The appeals court rejected the district court’s findings that the plaintiffs had not stated a claim because they had not identified specific advertisements, noting that the “Plaintiffs’ very claim is that Facebook’s practices concealed information from housing-seekers in protected classes.” The court also found that the district court had erred in ruling that the plaintiffs did not have standing because only paid advertisements used Facebook’s targeting methods and the plaintiffs did not specify whether the advertisements that her White friend saw were paid ads. The panel also ruled that the district court had erred in ruling that Facebook had immunity based on Section 230 of the Communications Decency Act, which protects providers of content, because the plaintiffs’ claims “challenge Facebook’s conduct as a co-developer of content and not merely as a publisher of information provided by another content provider.”

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<sup>16</sup> *Vargas v. Facebook, Inc.*, No. 21-16499, 2023 U.S. App. LEXIS 27288 (9th Cir. Oct. 13, 2023)

## Section III: The Emergence of Algorithmic Bias

NFHA has addressed harms associated with AI or automated systems since its inception in 1988. We first concentrated our efforts on prohibiting or restricting the use of discriminatory automated systems such as credit and insurance scoring, underwriting, and pricing models, in housing and financial services.

Several years ago while litigating a major case against then-Facebook, it became even more clear that technology, including AI, is the new civil and human rights frontier and, as a civil rights agency, NFHA had to be a leader in this sector. Thus, we established our Responsible AI division with an initial focus on Tech Equity.

Since launching our Responsible AI work, NFHA has contributed to, advocated for, and created technical and policy solutions that advance responsible use of technologies in housing. This includes our contributions to the White House's AI Bill of Rights, the National Institute of Science and Technology's Risk Management Framework, the development of a state-of-the-art framework for auditing algorithmic systems<sup>17</sup>, and other policies. The 2023 Trends data survey is the first to include questions around algorithmic bias.

Respondents were asked how informed their organization was about the benefits and risks of automated systems in housing and whether they had any cases where a consumer may have been unfairly treated and an automated system may have been involved. They were also queried about the number of cases they had received involving adverse action notices (credit and lending) with unsatisfactory explanations and whether they thought automated decision-making systems played a role in any of those cases.

The level of awareness of the risks and benefits of automated systems in housing ranged from very aware to very little awareness, indicating the vast amount of work needed to educate the fair housing community about technology as the new civil rights frontier. Therefore, the Responsible AI Team plans on continuing its work around AI Literacy with a focus on targeting efforts towards NFHA's members. It is essential we form the connection between fair housing issues and AI challenges to ensure fair housing groups are well-equipped to recognize signs of technology and AI bias, and can effectively educate the consumers they serve, investigate cases, and undertake appropriate enforcement actions. It is also important to ensure fair housing groups can meaningfully contribute to the development of effective local, state, and federal policies to govern this arena.

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<sup>17</sup> Akinwumi, M.; Rice, L.; & Sharma, S. (2022). *Purpose, Process, and Monitoring: A New Framework for Auditing Algorithmic Bias in Housing and Lending*. National Fair Housing Alliance. <https://nationalfairhousing.org/issue/purpose-process-and-monitoring-framework-ppm/>

## Section IV: Recommendations

From coast to coast, the nation's fair and affordable housing crisis continues to be a strain on the budgets of everyday people. Skyrocketing housing costs are the result of low housing inventory, record competition from corporate investors for affordable housing stock, exclusionary zoning ordinances, rising costs of labor and materials, and rising mortgage loan interest rates. Despite several attempted deflationary efforts by the Federal Reserve, housing continues to drive inflation and its impact is not expected to subside until the end of 2024 and beyond. Further, the necessary action and support needed to fully enforce our nation's robust anti-discrimination–fair housing and lending laws– have yet to occur. Moreover, there has been a disturbing silence as to when HUD's final Affirmatively Furthering Fair Housing (AFFH) rule<sup>18</sup>, which is critical to creating affordable, inclusive, and thriving communities for all, will be released by the Biden Administration. Despite the rule being sent to the Office of Management and Budget on December 22, 2023, as of the date of this publication, the final rule has not been promulgated. Without the final AFFH rule, it will be difficult to achieve many of the Biden Administration's equity goals. Further, massive federal infrastructure funding programs supported by the Inflation Reduction Act of 2022<sup>19</sup>, Bipartisan Infrastructure Law<sup>20</sup>, and CHIPS and Science Act<sup>21</sup> stand to entrench racial wealth gaps, including the additional \$20 trillion expansion of the Black/White wealth gap from the COVID-19 housing refinancing boom<sup>22</sup>, without the "stick" versus "carrot" protection provided by the AFFH mandate. The Biden Administration made strong commitments to advance racial equity and fair housing on day one of the administration and it should finish the job.

The inability to legislate a comprehensive housing plan has been a significant failure leaving the American people struggling with rising housing costs. Polling data and news reports<sup>23</sup> reports continue to demonstrate voters want solutions to the nation's fair and affordable housing crisis, including reforms to the home valuation process to ensure appraisals are fair and accurate. The recommendations outlined below propose concrete steps to advance a housing equity now agenda for Congress and the Biden Administration. These measures are necessary to build a just

<sup>18</sup> Affirmatively Furthering Fair Housing Proposed Rule. 88 F.R. 8516. (proposed February 9, 2023). <https://www.federalregister.gov/documents/2023/02/09/2023-00625/affirmatively-furthering-fair-housing>.

<sup>19</sup> Inflation Reduction Act, P.L. 117-169; 136 Stat. 1818 (2022).

<sup>20</sup> Infrastructure Investment and Jobs Act, P.L. 117-58 (2021).

<sup>21</sup> CHIPS and Science Act. P.L. 117-167; 136 Stat. 1366 (2022).

<sup>22</sup> Wells Fargo Rejected Half Its Black Applicants in Mortgage Refinancing Boom. *Bloomberg*. (2022, March 11). <https://www.bloomberg.com/graphics/2022-wells-fargo-black-home-loan-refinancing/?embedded-checkout=true>

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<sup>23</sup> Sartwell, J.W. (2024, June 18). Polling suggests affordable housing shortage could be potent political issue in NC in 2024. *Carolina Public Press*. <https://carolinapublicpress.org/64307/housing-political-issue-nc-2024/>

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and inclusive future and transform every neighborhood into a place of opportunity, equipped with the resources and amenities necessary for all individuals to thrive.

## **1. The Biden Administration Must Promulgate the January 2023 Final Affirmatively Furthering Fair Housing rule.**

Access to a safe and affordable home near well-resourced schools, reliable transportation, healthy foods, quality healthcare, fresh air, clean water, and living wage jobs is basic to the American Dream and to our nation's future. The final HUD AFFH rule published in January 2023 advances opportunity for everyone, including people of color, women, families with children, LGBTQ+ persons, people with disabilities, and others. It helps jurisdictions and other entities better comply with the Fair Housing Act.<sup>24</sup> The law requires entities receiving federal funds for a housing and/or community development purpose to administer those funds—as well as all their other housing and community development programs—in a manner that affirmatively furthers fair housing and ensures the equitable and non-discriminatory distribution of critical resources. The rule will help create and maintain more equitable and affordable housing opportunities and stronger, more viable neighborhoods. Among its many positive components, the proposed rule outlines a practical, data-driven fair housing planning process, requires state and local governments and public housing agencies to complete fair housing plans, and provides a flexible framework and critical data to accommodate the different conditions and needs of HUD's grantees. It is needed to transform our society into a place that leaves no community behind and promotes productivity and strengthens the economy. Research shows that closing the Black/White wage gap 20 years ago would have added about \$2.7 trillion in income available for consumer consumption or investment. Moreover, closing the wage, education, housing, and credit gaps between Blacks and Whites alone would add \$5 trillion of additional Gross Domestic Product to the U.S. economy over a 5-year period.

## **2. Congress Must Increase Funding for Local Fair Housing Enforcement Agencies and the Private Enforcement Initiative Program Funding Process Must be Revamped**

Every year, there are over 4 million incidents of housing discrimination, with most going unreported. As stated earlier in the report, private, non-profit FHOs processed the majority of all housing discrimination complaints at 75.52 percent. While some high profile victims of housing discrimination garner media attention, private fair housing agencies continue to serve on the frontlines guiding them and everyday individuals and families impacted by unlawful discrimination to seek the appropriate remedy to their harms.<sup>25</sup> Despite their value, private, non-

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<sup>24</sup> National Fair Housing Alliance. (2023). *Expanding Opportunity for All*[Fact sheet] .

<https://nationalfairhousing.org/wp-content/uploads/2023/03/2023-AFFH-Top-Line-Messaging-Points-FINAL.pdf>

<sup>25</sup> Kamin, D. (2024, May 31). She Made an Offer on a Condo. Then the Seller Learned She Was Black. *The New York Times*.<https://www.nytimes.com/2024/05/31/realestate/race-home-buying-raven-baxter.html>

profit FHOs are subject to the whims of the appropriations process and have yet to receive sustainable funding for their critical work. In order to place private, non-profit FHOs on a path to build necessary infrastructure for their continuity and growth and ensure victims of housing discrimination can be made whole, Congress must appropriate \$125 million to support the Fair Housing Initiative Program in the FY '25 appropriations bills.

While FHAP agencies along with HUD reported a decrease in complaints in 2023, they still processed 19.26 percent of the complaints demonstrating the critical role these local and state government civil or human rights agencies play in managing the cases filed through HUD's administrative compliant process. In order for FHAPs to maintain staff and keep up with biased technological developments that are increasingly saturating the housing system along with appraisal bias, and redlining. They also require adequate funding to mitigate a growing backlog of complaints and provide much-needed training for their employees. Congress must appropriate \$36.6 million to support the Fair Housing Assistance Program.

HUD's FHEO staffing is grossly under-resourced, causing it to lack the critical ability to conduct its important function. The division needs 1,125 full-time employees and the ability to provide training resources for staff. Increased support is needed to enable FHEO to effectively provide oversight of HUD's programs for compliance with the Fair Housing Act's affirmatively furthering fair housing requirement, provide technical assistance to HUD grantees, timely investigate claims of housing discrimination, and draft policies to fulfill the Fair Housing Act. Congress must appropriate \$153 million to FHEO.

Moreover, HUD must revamp the Private Enforcement Initiative (PEI) Program from a competitive grant process to a Fixed Price Award process. Change is necessary to produce consistent funding cycles as Congress does not always pass its annual budget in a timely manner resulting in local fair housing enforcement agencies losing critical staff capacity while agencies await a Notice of Funding Opportunity (NOFO). Simplifying and revamping the funding mechanism for the PEI is critically necessary to improve efficiencies in the PEI program, lessen demands on HUD's Fair Housing and Equal Opportunity staff, improve program oversight and monitoring, reduce the burden on and improve performance of fair housing organizations, provide more quality, consistent and enhanced fair housing services in communities throughout the nation, improve services to people who have experienced discrimination, better prevent discrimination from occurring, and produce enhanced programmatic results.

### 3. Policymakers Must Take Stronger Action to Prohibit Source of Income (SOI) Discrimination

The Housing Choice Voucher program is one of the nation's most important housing programs, and it has the greatest potential to offer real choice for low-income families and individuals who simply cannot make enough income to afford market rate rental housing and alleviate racially

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*Politics Nation with Rev. Al Sharpton* [TV Series episode]. (2024, June 9). MSNBC.  
<https://www.msnbc.com/politicsnation/watch/actor-wendell-pierce-shares-personal-experience-with-housing-discrimination-212590661842>

concentrated poverty and segregation. Voucher discrimination continues to be a leading challenge in the program's administration. To combat SOI discrimination, the following actions are needed. First, Congress must amend the Fair Housing Act to include SOI as a protected class. Second, HUD should provide guidance to Public Housing Authorities (PHAs) and landlords of federally assisted properties laying out in clear terms that voucher discrimination may be a violation of the Fair Housing Act under the disparate impact doctrine. Third, PHAs must expand the use of HUD's Small Area Fair Market Rents (SAFMRs) to increase access to well-resourced areas for voucher holders. Fourth, the Low-Income Housing Tax Credit (LIHTC) statute explicitly prohibits voucher discrimination in tax credit properties, yet there is no oversight or enforcement infrastructure at the Department of the Treasury to implement this important provision. Congress must properly fund the Treasury Department and ensure it is effectively supervising fair housing and lending protections in the programs it oversees. Fifth, HUD must begin to use its Secretary-Initiated Complaint Authority to pursue disparate impact claims against rental companies that refuse voucher holders and pursue strong remedial settlement terms. Sixth, the Government Sponsored Enterprises (GSEs) could do more to ensure that they meet the greatest needs of the nation's lowest-income renters including voucher holders, by banning SOI discrimination by recipients of GSE financing.

## **4. Comprehensive Housing Legislation is Necessary to Address the Nation's Fair and Affordable Housing Crisis and Responsible AI Policies are Needed to Ensure Equity**

Congress and the Biden Administration should pass legislation that includes equitable housing solutions to address the nation's fair and affordable housing crisis. Rising housing, gas, and food costs are the main drivers of inflation. But housing costs are the key driver.<sup>26</sup> In 2022, a record-high 22.4 million renter households were "cost-burdened," meaning they spent more than 30 percent of their income on rent and utilities.<sup>27</sup> This is an increase of 2 million households over three years. Black and Latino renters were more likely than White renters to be cost-burdened. More than half of Black renters (57 percent) and Latino renters (54 percent) were cost-burdened, while about 45 percent of White renters were cost-burdened. These disparities make it more difficult for Black and Latino renters to build wealth and save for down payments for homeownership. Further, despite important efforts to close racial homeownership gaps, the White homeownership rate is nearly 67 percent higher than the Black homeownership rate, 45 percent higher than the Latino homeownership rate, and 20 percent higher than the rate for the Asian American community. Thus, comprehensive legislation such as the H.R. 4233-Housing Crisis Response Act of 2023 coupled with H.R.423/ S.3930-Downpayment Toward Equity Act and

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<sup>26</sup> Morrow, A. (2024, June 13). Housing costs are clouding an otherwise glowing economy. *CNN*.

<https://www.cnn.com/2024/06/13/business/housing-inflation-economy-nightcap/index.html>

Cancryn, A.; Daniels, E. & O'Donnell, K. (2024, March 14). The Rent Is Too Damn High and Biden Knows It. *Politico*

Mueller, E., and O'Donnell, K. (2024, February 1). Congress Scrambles to Fix Housing as Prices Soar. *Politico*

Probasco, J. (2024, January 11). Inflation and the Housing Market. *Bankrate*.

<sup>27</sup> *America's Rental Housing 2024*. (2024). Joint Center for Housing Studies of Harvard University.

[https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard\\_JCHS\\_Americas\\_Rental\\_Housing\\_2024.pdf](https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf)

H.R. 3940/S.657-Neighborhood Homes Investment Act with fair housing principles are needed to provide supply and demand solutions to the crisis while also strengthening fair housing enforcement with \$100 million for local agencies.

Addressing inequality in the housing sector is not a zero-sum game. Rather, solutions that drive inclusive opportunities and advance both sensible supply and demand strategies can result in growth for the economy over a 5-year period by \$5 trillion producing thousands of jobs and generating billions in local revenues.

Further, algorithmic and automated systems—tenant screening applications, risk-based underwriting and pricing, automated valuation models, and advertising and marketing— are increasingly playing a key role in housing decision making and must be free of bias. According to senior officials from the Federal Reserve, FDIC, OCC, and CFPB<sup>28</sup>, existing civil rights laws already apply to these decisions and banks are responsible for ensuring compliance. While this is true, gaps in protections exist and Congress must pass comprehensive responsible AI legislation.<sup>29</sup>

## 5. HUD Must Strengthen Fair Housing Enforcement and Complaint Administration

HUD's authority to pursue Secretary-initiated fair housing complaints is an important means for the federal government to bring systemic enforcement to promote open and inclusive housing markets. Unfortunately, as illustrated by the FY 2023 data in this report, HUD only used this authority to open two new complaints, including allegations based on disability, sex, and familial status claims. Also documented in last year's report, the FY 2022 data similarly indicated that HUD only opened two Secretary-initiated complaints that year. This constitutes a pattern of a modest number of complaints pursued, representing a shortfall in the use of this authority. Furthermore, none of the recent Secretary-initiated cases that were opened or closed dealt with discrimination based on race or national origin, just as in FY 2022, instead they focused on disability, sex, and familial status claims. It is important that HUD continue to dedicate resources to pursuing active enforcement across the full range of protected classes. Given our country's deep legacy of discrimination against Black and immigrant households, HUD must focus its resources to pursue Secretary-initiated fair housing complaints to address race and national origin discrimination and take on some of the most persistent forms of discrimination that plague our housing markets across a range of areas, including rental, lending, sales, insurance, appraisals, technology, advertisements, and other areas.

In March 2024, the Biden-Harris Administration's Interagency Task Force on Property Appraisal and Valuation Equity (PAVE) marked the second anniversary of releasing its comprehensive Action Plan.<sup>30</sup> NFHA™ and other leading civil rights and consumer advocates issued a statement

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<sup>28</sup> Regulators say banks responsible for ensuring AI complies with law. (January 2024) *ABA Banking Journal*. <https://bankingjournal.aba.com/2024/01/regulators-say-banks-responsible-for-ensuring-ai-complies-with-law/>

<sup>29</sup> Artificial Intelligence and Housing: Exploring Promise and Peril: Subcommittee on Housing, Transportation, and Community Development U.S. Senate Committee on Banking, Housing, and Urban Affairs, 118<sup>th</sup> Cong. (2024) (Testimony of Lisa Rice). [https://www.banking.senate.gov/imo/media/doc/rice\\_testimony\\_1-31-24.pdf](https://www.banking.senate.gov/imo/media/doc/rice_testimony_1-31-24.pdf)

<sup>30</sup> Interagency Task Force on Property Appraisal and Valuation Equity. (2022, March). *Action Plan to Advance Property Appraisal and Valuation Equity Action Plan: Closing the Racial Wealth Gap by Addressing Mis-valuations for Families and Communities of Color*. U.S. Department of Housing and Urban Development. <https://pave.hud.gov/actionplan>



commending the Administration for its leadership in organizing the first-ever interagency task force focused on addressing appraisal bias.<sup>31</sup> The advocates also called on the PAVE Agencies to finish the job of reforming the home valuation process to end appraisal bias and to prevent harm to consumers and communities of color. Specifically, the civil rights organizations called on HUD to resolve the over 160 consumer complaints alleging appraisal discrimination to provide relief to harmed consumers and a resolution for accused respondents.

HUD is responsible for processing fair housing administrative complaints in a timely manner. The federal Fair Housing Act was amended in 1988 to include, among other things, a provision that requires HUD and associated FHAP agencies to “make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint ... unless it is impracticable to do so.”<sup>32</sup> As noted above, a case is considered “aged” if exceeds the 100-day statutory mark. Unfortunately, complaint data indicates that HUD had 1,357 new aged cases during FY2023 and 1,422 ongoing cases that continued to age during FY2023. Together with comparable FY 2022 cases, these figures are more aged cases than any year since NFHA began documenting figures on HUD aged cases in 2014. It is likely that some of these aged cases result from an increased caseload, more complex cases, a decrease in staff, and insufficient funding over the years. However, the protracted processing of HUD and FHAP fair housing complaints delays relief to people who pursue their fair housing rights, complicates enforcement when the factual evidence grows old, and ultimately serves as a disincentive to people who experience discrimination from seeking relief through the administrative process.

Another important indicator of the effective operation of the HUD and FHAP administrative complaint process is the extent to which, at the close of an investigation, the agency issues a charge that there is reasonable cause to determine that discrimination took place. The FY 2023 data suggests that HUD charged 47 cases, more than any number of complaints charged in over 10 years, second only to 55 cases charged in 2011 when NFHA started compiling these figures that year. HUD should be commended for this work to charge cases and it should build off this performance in the coming years.

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<sup>31</sup> National Fair Housing Alliance. (2024, March 21). *Leading Civil Rights and Consumer Advocates Urge the Biden-Harris Administration to Complete Its Important Work of Reforming the Home Valuation Process to End Appraisal Bias* [Press release]. <https://nationalfairhousing.org/leading-civil-rights-and-consumer-advocates-urge-the-biden-harris-administration-to-complete-its-important-work-of-reforming-the-home-valuation-process-to-end-appraisal-bias/>

<sup>32</sup> FHA 3610 (a)(1)(B)(iv). <https://www.govinfo.gov/content/pkg/USCODE-2009-title42/html/USCODE-2009-title42-chap45-subchap1.htm>





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