

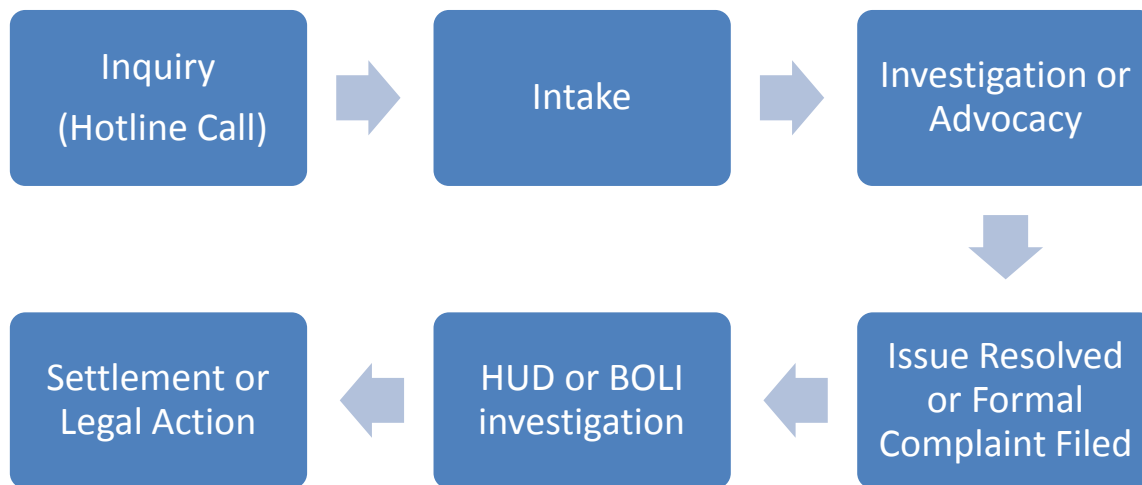
Portland, Gresham, Multnomah County Fair Housing Analysis

Prepared by Fair Housing Council of Oregon, October 2015

Background

To assist the Fair Housing Advocacy Committee in undertaking an evaluation of fair housing issues and barriers to equal access to housing in Portland, Multnomah County, and Gresham, the Fair Housing Council of Oregon (FHCO) has prepared the following analysis. We have reviewed FHCO's fair housing inquiries and intake data for the period 7/1/10-6/30/15. We have also reviewed complaint investigation and outcome activities conducted by the U.S. Department of Housing and Urban Development (HUD) and the state of Oregon's civil rights investigation arm, the Bureau of Labor and Industries (BOLI), for the period of 7/1/14-6/30/15. We have requested data from HUD and BOLI for the periods of 7/1/10-6/30/14 to match the timeframes covered by the FHCO data provided. Housing case information has been requested from Disability Rights Oregon and Legal Aid Services of Oregon as well, however, we do not believe that there will be a substantial number of cases handled by either agency that are not already included in the FHCO, HUD, BOLI data. U.S. Department of Justice and Oregon Department of Justice cases are included in the HUD and BOLI data, as they are initiated as part of the administrative complaint process.

The Fair Housing Enforcement Process



In order to best understand the data, it is important to understand the mechanics of the discrimination complaint process. When an individual contacts FHCO, they are connected with an intake specialist who will listen to the individual's concerns, ask further questions, and assess the situation to determine if it meets all of the criteria to be considered a bona fide allegation of housing discrimination. At a minimum, the intake indicates that:

- The individual is a member of a protected class
- The individual was otherwise qualified to enter into the transaction or was in good standing with the housing provider
- The event in question took place within the past year
- The transaction is one that is jurisdictional to fair housing laws (related to housing or a housing program, not public accommodation, etc.)
- The event took place in Oregon or SW Washington

Once it has been determined that this appears to be a bona fide allegation, a robust collection of demographic and other information is performed by the intake specialist. All calls that are screened but do not result in intakes are recorded in the database as “hotline calls”, although they may also include inquiries from walk-in clients and/or inquiries sent to FHCO via email. Intake specialists provide individuals with appropriate referrals to other organizations or resources when the issue articulated is not a fair housing matter. A similar screening process is followed by HUD, BOLI, and any other organization engaging in fair housing enforcement. In 2014-15, FHCO received 676 hotline calls from this region (Portland, Multnomah County, Gresham) and 145 (or 21%) of those resulted in intakes.

Fair Housing intakes generally require further investigatory activities to support or refute the individual’s allegation. After intake, FHCO may perform testing (similar to secret shopping), conduct witness interviews, review documents, conduct research into policies and practices employed by the parties to the transaction, visit a neighborhood or apartment complex and canvas neighbors, etc. Further, in 50-75% of the intakes performed by FHCO, advocacy is conducted to attempt to resolve the situation in an informal manner that is amenable to both parties. Advocacy may include activities such as making a call to the housing provider to remind them of fair housing obligations, mediating a challenging conversation between the housing provider and the housing consumer, or writing an advocacy letter. In 2014-15, 64 advocacy letters were sent on behalf of housing consumers, resulting in 38 favorable outcomes.

If an individual chooses to file a formal fair housing complaint, HUD and BOLI both have administrative complaint processes. That is to say, FHCO will assist the client in making contact with HUD or BOLI and may aid the victim in filing a formal fair housing complaint. FHCO sometimes files its own formal complaint against a housing provider if the agency has expended resources to investigate an allegation. This complaint may be filed to support the client’s complaint or it may be filed if a victim does not wish to file their own complaint for fear of retaliation or other adverse action by the housing provider. A HUD or BOLI complaint initiates a formal investigation by that agency and may result in further legal action and/or penalties being assessed. (Less than 15% of FHCO’s intakes result in a formal complaint being filed.) When a HUD or BOLI investigation concludes that a preponderance of evidence indicates discrimination has taken place, the complaint may proceed to an administrative law judge, a private civil suit, or to state or federal court with the representation of a Department of Justice attorney for the plaintiff. Many cases are settled before they reach litigation.

During intake, FHCO informs the individuals of the options available to them and provides assistance with navigating the process when they identify what course of action they prefer. The intake and hotline data you have been provided with in this report reflect activities that have been initiated during the timeframes indicated. The HUD and BOLI data may represent complaints that have been in the investigation and adjudication process for years.

Also of note, in 2005, FHCO conducted a statistically significant survey of households throughout the state. Only 10% of the individuals who indicated they believed that they had been victims of illegal discrimination in the past year claimed to have taken any action to seek redress of their rights. This number corresponds with similar national HUD survey outcomes asking the same question.

Intake Data

Portland

BASIS	2010/11	2011/12	2012/13	2013/14	2014/15
Race/Color	7	29	10	16	6
National Origin	8	25	2	12	11
Religion	3	0	0	2	0
Sex	4	9	5	5	6
Familial	15	20	5	15	9
Disability	25	44	18	67	75
Domestic Violence	0	0	1	4	3
Sex Orientation/Gender	3	13	3	1	2
Income Source	3	2	1	5	8
Marital Status	1	1	0	0	1
TOTAL	124	143	45	127	121

Table 1: Portland 2010-2014 Intake Data by Protected Class Basis.

Alleged Act	2010/11	2011/12	2012/13	2013/14	2014/15
Eviction	4	13	14	12	6
Reasonable Accommodation	9	25	14	35	40
Disparate Treatment	0	0	0	8	3
Design/Construction	0	1	4	0	1
Illegal Ad/Statement	5	29	0	0	1
Refusal to Rent	6	20	9	12	16
Refusal To Sell	0	1	1	12	1
Steering	0	0	0	0	1
Harassment	7	35	10	33	14
Terms and Conditions	8	69	28	20	19
Retaliation	0	5	11	5	4
Reasonable Modification	0	0	1	5	0

Table 2: Portland 2010-2014 Intake Data by Alleged Act.

Fairview/Troutdale

BASIS	2010/11	2011/12	2012/13	2013/14	2014/15
Race/Color	1	1	0	0	0
National Origin	1	1	0	0	
Religion	0	0	0	0	0
Sex		0	0	0	0
Familial		0	0	1	1
Disability		0	0	3	0
Domestic Violence		0	0	0	0
Sex Orientation/Gender	1	0	0	0	0
Income Source	0	0	0	0	1
Marital Status	0	0	0	0	0
TOTAL	3	2	0	4	13

Table 3. Unincorporated Multnomah County 2010-2014 Intake Data by Protected Class Basis.

Alleged Act	2010/11	2011/12	2012/13	2013/14	2014/15
Admissions	0	0			
Eviction	0	0			
Reasonable Accommodation	0	0		1	
Disparate Treatment	0	0			1
Design/Construction	0	0			
Redlining	0	0			
Illegal Ad/Statement	0	0			
Refusal to Rent	1	0		2	1
Refusal To Sell	0	1			
Refusal to Permit	0	0			
Steering	0	0			
Harassment	0	0			
Terms and Conditions	1	0			2
Retaliation	0	0			
Reasonable Modification	0	0			

Table 4: Unincorporated Multnomah County 2010-2014 Intake Data by Alleged Act.

Gresham

BASIS	2010/11	2011/12	2012/13	2013/14	2014/15
Race/Color	1	0	3	0	1
National Origin	1	1	0	3	3
Religion	0	0	0	0	1
Sex	1	0	0	1	1
Familial	1	1	1	4	
Disability	2	3	0	9	4
Sex Orientation/Gender	0	0	0	0	0
Income Source	0	0	0	0	1
Marital Status	0	0	0	0	0
TOTAL	14	5	4	17	11

Table 5: Gresham 2010-2014 Intake Data by Protected Class Basis.

Alleged Act	2010/11	2011/12	2012/13	2013/14	2014/15
Eviction	2	0	2	1	
Reasonable Accommodation	0	1		5	3
Disparate Treatment	0	0	1		
Design/Construction	0	0			
Illegal Ad/Statement	0	0			1
Refusal to Rent	0	1		3	2
Refusal To Sell	0	0			
Steering	0	0			
Harassment	1	1	1	4	3
Terms and Conditions	1	0			1
Retaliation	0	0			
Reasonable Modification	0	0			

Table 6: City of Gresham 2010-2014 Intake Data by Alleged Act.

Data Notes

There is a substantial dip in activity for the 2012/2013 period. We believe this is a result of several different factors. During this timeframe, FHCO implemented a new database for collection of hotline and intake data and nationally, other fair housing colleagues reported seeing a decline in complaint activity. While intake numbers may have truly been lower in this period, it is also possible that some FHCO data was not recorded or was lost in the database transition. More than 660 hotline calls were recorded for the same period, which is somewhat lower than the prior and subsequent years, however, the ratio of intakes to calls was significantly less than the 20-21% usually recorded. Therefore, we have

concluded that the 2012/2013 period contains some errors. A further discrepancy exists in that an alleged act was not selected by the intake specialist for each intake in the database and without reading the case notes for each intake could not be reflected in the data tables. Additionally, it is common for one intake to have several types of acts alleged, therefore, recorded numbers of alleged acts by each category should be assumed to be higher than is actually indicated.

The type of housing transaction was not indicated in the data sets provided. While FHCO does conduct intakes alleging discrimination in lending, real estate sales, home insurance, and other housing-related activities, more than 80% of the hotline calls and intakes relate to rental housing.

Data Analysis

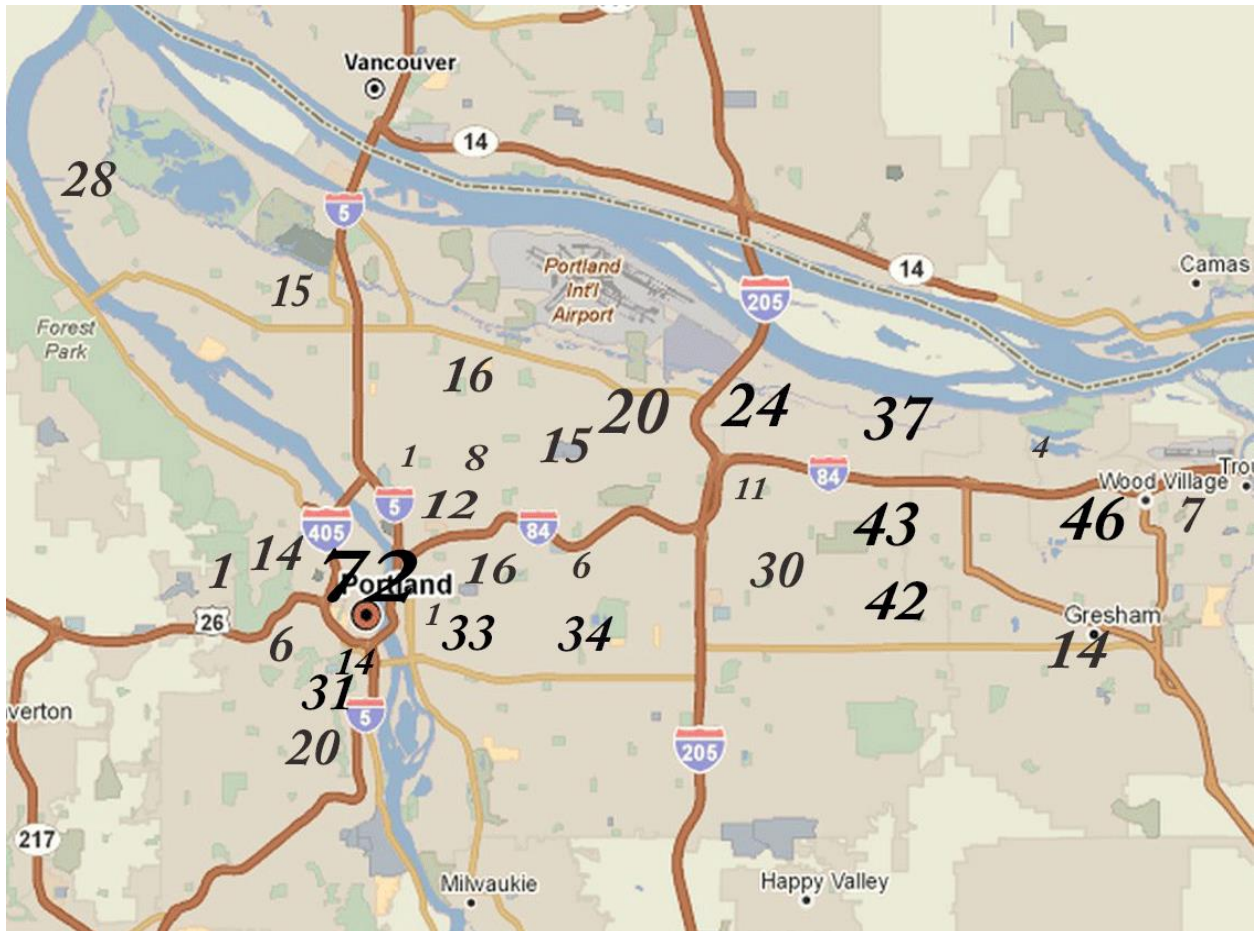
The data above reflect an increase in intakes on the basis of source of income. This would be expected to be the case as the source of income protection in Oregon was increased in 2014. While housing providers were previously allowed to refuse to consider applicants with a housing subsidy, a legislative change removed that exemption. Simultaneously, the housing market rebounded from the economic recession and fewer rental units have been available. The result has been a dramatic increase in calls to FHCO by Housing Choice Voucher Program (Section 8) participants requesting advocacy to inform landlords of the change in the law. FHCO receives almost daily calls about this issue.

Steadily increasing numbers of intakes on the basis of disability are also reflected. Extensive education and outreach to housing consumers and housing providers has resulted in a high volume of renter requests for assistance in obtaining a reasonable accommodation. Because the request process is highly interactive and often complex, the aid of the intake specialist to mediate the outcome is beneficial to both parties attempting to navigate the process.

Discrimination alleged on the bases of race, national origin, and familial status is a consistent issue across the five-year period. These complaints come from households attempting to access housing as well as by those who are in-place tenants. The Portland Audit Test project, demonstrated that people of color attempting to enter into a housing transaction have a significantly higher likelihood of adverse treatment than their white counterparts. Audit testing also demonstrated that families with children are more likely to experience adverse treatment than households without children. Considering the audit testing results, intake data for allegations based on race, national origin, and familial status are likely to be significantly lower than the data indicate. And, while audit testing is generally not a good tool for assessing the treatment of in-place tenants, intake activity alleges that families and people of color experience harassment by their landlord and/or by their neighbors and are subjected to different treatment because of their membership in a protected class.

The data also indicate a consistent increase in the numbers of intakes from domestic violence survivors in Portland. Intake specialists report that most of these complaints are related to a refusal to rent or a landlord who does not allow a victim to be released from their lease or who does not allow a victim to have the abuser removed from the lease.

The following map is a snapshot of intake data for 2014-2015, mapped to show the location of the housing about which the discriminatory action was alleged. While mapping intake data in this fashion can be useful to identify unusual patterns of discrimination in an area, it often reflects high numbers of allegations of discrimination from neighborhoods where rental housing is most common. In other words, the higher the number of rental units, the more likely there will be high numbers of intake activity. The types of discrimination alleged and the protected class bases of the discrimination were evenly distributed throughout all areas.



Additional Considerations

While intake activity and testing reflect fair housing concerns, there are also indicators that improvements are being made through education, outreach, and advocacy. FHCO and the landlord trade associations have worked jointly to address specific areas of discrimination as a result of the barriers identified in the region.

The Portland Audit Test project highlighted a concern that some housing providers have screening requirements with a disparate impact on immigrants. FHCO engaged in advocacy with several local property management firms. As a result, the firms made voluntary changes to their screening processes to remove the barriers identified. In general, these policies now allow for alternative documents to be used for identification when an individual does not have a social security number and/or offer an array

of options for providing rent and damage guarantees when an individual's rental history or credit history cannot be verified. The firms are sharing these best practices with other housing providers to increase regional access to housing opportunity for immigrants.

Over a number of years, FHCO and the regional landlord trade associations have actively engaged in an education campaign targeted to housing providers. This work resulted in a reduction in the number of tests that showed adverse treatment toward an applicant with disabilities requesting a reasonable accommodation when applying for housing.

Recent public testimony and regional news stories have uncovered the increasing problem of tenants being displaced from their housing with a "no cause" termination notice. In some cases, the residents of entire apartment complexes have been forced to leave their homes. There is no requirement for landlords to provide a copy of this notice to a regulatory agency. Therefore, it is impossible to know how many people are impacted by this activity or if there is any discriminatory intent or impact. Because people of color, people with disabilities, and families with children are disproportionately more likely to be renters than homeowners, it can be assumed that any large scale displacement of tenants will have a disparate impact on the protected classes listed.

Similarly, the current rental market has driven up the cost of rent substantially. Low income tenants, who also have disproportionately higher representation from the communities of color, community of people with disabilities, and families with children, are finding it increasingly more difficult to secure affordable housing in areas of economic opportunity. National studies have shown that, in part, generational poverty can be attributed to the neighborhood in which a household resides. Portland has done excellent work on mapping areas of the city to identify areas of economic opportunity as well as areas that need infrastructure contributions to improve access to opportunity for the residents. Further work will be required to expand affordable housing opportunities throughout the region and find ways to assist low income renters with housing choices that improve access to jobs and other resources.

Recommendations

FHCO recommends that targeted education be employed to improve housing provider awareness of the barriers experienced by families, people of color, domestic violence survivors, and subsidized renters. And, that the education and advocacy work that supports people with disabilities in obtaining reasonable accommodations be used as the best practice model to improve equitable access to housing for all protected classes. Further, we recommend regular audit testing to measure the actual status of discrimination across the region rather than assuming that enforcement activity accurately reflects the magnitude of the barriers to equal opportunity in housing.

We also recommend that the regional governments adopt a strategy for collecting demographic information on households impacted by "no-cause" terminations. Unless and until these housing practices are given closer scrutiny, it is possible that illegal discrimination is happening in large volume.

Some Examples of Fair Housing Intakes

At the request of the committee, some examples of actual fair housing intakes have been included below.

1. A case manager from a local nonprofit contacted FHCO about difficulty placing her clients with certain management companies that refuse to accept the client's voucher program, even after the new Section 8 law clarified that all federal, state, and local housing assistance is to be considered as source of income. FHCO followed up with one housing provider directly because the client was still interested in the housing. FHCO conducted testing of the other housing provider's practices. The case manager expressed that there is often much resistance around placing these individuals who receive federal housing assistance, in some cases because of negative associations with individuals in recovery from addiction or who have been homeless, or because the housing provider does not want to calculate eligibility based on the amount that client will actually be paying (3x the client's portion vs. 3x the full rent, for example).
2. An apartment resident contacted FHCO with concerns about a neighbor threatening Latino residents with calling ICE to report them and threatening them that they will be deported. It is not clear why this neighbor would be threatening the Latino residents. FHCO is following up with the residents in conjunction with other agencies to address habitability concerns that were also reported. No formal action was taken by the residents.
3. A domestic violence survivor was not initially allowed to bring an assistance animal to a transitional housing program operated by a nonprofit. FHCO followed up with the nonprofit. This survivor now has the animal at the residence and FHCO is following up with the agency about their policies around reasonable accommodations.
4. An individual had breast cancer and has health issues as a result. She requested that her apartment provide a stackable washer and dryer rather than a side-by-side set to manage the physical limitations resulting from her cancer operation. She had a verification letter from her doctor which she had submitted to the management company. FHCO wrote a letter to management on her behalf requesting the RA. The request was granted and the file was closed.
5. An individual is a live-in care provider for her grandfather who has COPD and is on oxygen. The residents were told that this was a non-smoking complex when they paid the "holding deposit" before moving in. They were told that tenants "can't smoke inside the unit". However, she has come to realize that they smoke on their porches. The client smells marijuana often through the day and thinks the upstairs neighbor is smoking marijuana. The resident went to the manager and talked about her grandfather's disability and smoking. FHCO assisted the resident with a reasonable accommodation but the client is now being harassed by the upstairs neighbors for "complaining about them".
6. An individual has lived on one side of a duplex for 8 years. She is a Section 8 program participant. The landlord has placed the duplex on the market and has an offer. The resident is looking for a new unit that can accommodate her physical disability and that will accept her voucher. Her doctor wrote a third party verification letter for her and also explained to her current landlord that she may need longer than 30 days to find a suitable unit because of her disability. The client is concerned that she needs to see a unit before she can determine if it meets her needs and many units are not available for viewing prior to leaving a deposit. FHCO advised the client to make her needs clear to the prospective landlord and ask for a reasonable accommodation (like to have nonrefundable deposit refunded if it doesn't meet her disability

needs). Her current landlord denied the reasonable accommodation request for more time to find a suitable rental because they will lose the sale if the resident doesn't move in time.