

Sexual Orientation and Gender Identity Housing Discrimination in Cuyahoga County

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Housing Research & Advocacy Center (The Housing Center) is a 501(c)(3) nonprofit organization whose mission is to promote fair housing and diverse communities; and to work to eliminate housing discrimination in Northeast Ohio by providing effective research, education, and advocacy. The Housing Center works to achieve its mission through work in three primary areas: research and mapping; education and outreach; and enforcement of fair housing laws through advocacy, testing, complaint investigation and resolution, and litigation. In addition to addressing traditional issues of housing discrimination and segregation, The Housing Center also provides research, education, and analysis of subprime and predatory lending practices and trends in the region.

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I. EXECUTIVE SUMMARY

Housing discrimination remains a significant problem throughout Northeast Ohio and the United States for the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) community. Such discriminatory practices adversely impact quality of life, safety, and educational and economic opportunities. The federal Fair Housing Act does not explicitly protect people from housing discrimination on the bases of sexual orientation or gender identity. However, the U.S. Department of Housing and Urban Development (HUD) has expanded fair housing policy to acknowledge housing discrimination based on non-conformity with gender stereotypes as sex discrimination under the federal Fair Housing Act. Although the State of Ohio does not provide fair housing protections for residents on the bases of sexual orientation or gender identity, in Cuyahoga County 15 municipalities have enacted a fair housing ordinance banning housing discrimination on the basis of sexual orientation; 11 have done so on the basis of gender identity.

This report assesses the prevalence of housing discrimination on the bases of sexual orientation and gender identity in Cuyahoga County, measuring the incidence of “differential treatment” to these populations through 30 onsite and 60 email matched-pair tests. Among conclusive tests carried out on the basis of sexual orientation, 35.3% (18 out of 51 tests) showed differential treatment of the protected tester. Of the conclusive tests carried out on the basis of gender identity, 32.1% (9 out of 28 tests) revealed differential treatment of the protected tester. These findings are consistent with the overall rates of discrimination found in other state and national studies of housing discrimination on the bases of sexual orientation and gender identity.

Persons of color experienced two thirds of the identified differential treatment on the basis of sexual orientation though they accounted for exactly half of all tests conducted. Eighteen total tests revealed differential treatment on the basis of sexual orientation; among them, 12 tests revealed persons of color experiencing differential treatment. There was not a significant difference noted by sex among tests conducted by white testers. However, among tests conducted by persons of color, women (8 tests) experienced twice the rate of differential treatment men did (4 tests). Overall, same-sex female couples experienced higher rates of differential treatment (40.7%) than did their same-sex male couple counterparts (25%). Seven of the 26 (26.9%) conclusive sexual orientation tests conducted within covered jurisdictions, where sexual orientation is a protected class, revealed differential treatment, representing 38.8% of all identified differential treatment on the basis of sexual orientation.

Of the 28 conclusive tests conducted on the basis of gender identity, 32.1% (9 tests) showed differential treatment of the transgender tester. The tester of color experienced differential treatment at a rate of 33.3% (5 out of 15 tests) compared to a rate of 30.7% (4 out of 13 tests) for the white tester. Seven of the 9 tests (77.7%) which revealed differential treatment on the basis of gender identity occurred in the covered jurisdictions, where gender identity is protected by a local fair housing ordinance.

To ensure fair housing for the LGBTQ population of Cuyahoga County, it is imperative to strengthen fair housing laws to protect individuals on the bases of sexual orientation and gender identity on the local, state, and federal levels. As shown in this report, 51.8% of differential treatment on the bases of sexual orientation and gender identity occurred in municipalities where such discrimination is banned (14 of 27 tests) suggesting that the local awareness and enforcement of these laws is weak. Robust enforcement of fair housing laws is essential to ensuring fair housing for the LGBTQ community. It is imperative that local jurisdictions develop adequate enforcement measures and local capacity to address identified violations. Educational trainings on fair housing law and municipal fair housing ordinances for both landlords and the LGBTQ community are a further step towards fair treatment of the LGBTQ community in the housing market.

II. PREVIOUS RESEARCH OF LGBTQ HOUSING DISCRIMINATION

Until recently, little research has been done on Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) housing discrimination in the United States. Early studies focused on conducting surveys in the LGBTQ community to gauge rates of housing discrimination. A statewide study in Pennsylvania, undertaken by the Philadelphia Lesbian and Gay Task Force in 1996, showed that between 9% and 11% (with some variation based on race) of males report housing discrimination and between 5% and 11% of females reported housing discrimination on the basis of sexual orientation.¹ In a nationwide 2000 study by the Kaiser Family Foundation, 11% of lesbian, gay, and bisexual individuals surveyed reported that they had experienced housing discrimination.² In a national survey of lesbian, gay, and bisexuals conducted in 2005, 4% of respondents said they experienced housing discrimination due to their sexual orientation.³ In a 2011 national survey of transgender people, by the National Center of Transgender Equality and the National Gay and Lesbian Task Force Foundation, 19% of respondents reported being denied a home and 11% reported being evicted because they were transgender or gender-nonconforming.⁴

Increasingly, advocates and researchers have begun utilizing systemic testing to estimate the level of discrimination occurring in the housing market by housing providers. Testing is a technique where individuals engage housing providers in the initial stages of securing housing in order to observe how the housing provider treats different groups of people (see page 8 for a more in-depth description of testing). In 2007, the Fair Housing Centers of Michigan carried out a statewide, systemic testing audit on the basis of sexual orientation. They found that disparate treatment of testers on the basis of sexual orientation occurred in 27% of tests.⁵ In 2013, the United States Department of Housing and Urban Development (HUD) carried out an extensive, nationwide, housing-discrimination study (HDS) using matched-pair testing via email, looking at housing discrimination on the basis of sexual orientation in 50 metropolitan markets. HUD typically has carried out nationwide housing discrimination studies, using matched-pair testing, once a decade; with two looking at race (1977 and 1989), one looking at race and ethnicity (2000), one looking at sexual orientation (2013), and one looking at disability status (2015). The HUD study showed that housing providers favored heterosexual couples over gay and lesbian couples in 15.9% and 15.6% of tests respectively.⁶ Also in 2013, Fair Housing Contact Service, Inc. carried out 40 matched-pair tests in the City of Akron on the bases of sexual orientation and gender identity; using phone, email, and onsite tests; showing “disparity in treatment” in 35% of tests.⁷ In 2014, the Equal Rights Center conducted

¹ L.P. Gross and S.K. Aurand, *Discrimination and Violence against Lesbian Women and Gay Men in Philadelphia and the Commonwealth of Pennsylvania: A Study by the Philadelphia Lesbian and Gay Task Force*. Philadelphia: Philadelphia Lesbian and Gay Task Force (1996).

² The Henry J. Kaiser Family Foundation, *Inside-Out: A Report on the Experiences of Lesbians, Gays and Bisexuals in America and the Public's Views on Issues and Policies Related to Sexual Orientation* (2001).

³ Gregory M. Herek, “Hate Crimes and Stigma-Related Experiences among Sexual Minority Adults in the United States: Prevalence Estimates From a National Probability Sample,” *Journal of Interpersonal Violence* vol. 24, 54-74 (2009).

⁴ Jaime M. Grant, Lisa A. Mottet, Justin Tanis, et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (2011) available at: <http://endtransdiscrimination.org/report.html> accessed August 20, 2015.

⁵ Fair Housing Centers of Michigan, *Sexual Orientation and Housing Discrimination in Michigan: A Report of Michigan's Fair Housing Centers* (2007). Available at: http://www.fhcmichigan.org/images/Arcus_web1.pdf accessed August 20, 2015.

⁶ M. Davis and Company, et al., *An Estimate of Housing Discrimination Against Same Sex Couples*, United States Department of Housing and Urban Development (2013).

⁷ Fair Housing Contact Service, Inc., *LGBT Housing Discrimination in the City of Akron* (2013) available at <http://fairhousingakron.org/wp-content/uploads/2013/11/Final-Report-on-LGBT-Housing-Discrim-in-Akron.pdf>

a 10-state investigation focusing on housing discrimination against older, same-sex couples. In 48% of tests the tester with a same-sex spouse faced some kind of disparate treatment. Twenty of these tests were carried out in Ohio where LGB testers experienced adverse treatment in 45% of tests.⁸ Housing Opportunities Made Equal of Virginia, Inc. (HOME of Virginia) performed a systemic audit of the Richmond, Virginia metro area consisting of 30 email-based tests on the basis of sexual orientation. The Home of Virginia study showed differential treatment against same-sex couples in 31% of tests.⁹ In a review of their statewide testing program between the years of 2012 and 2015, the Connecticut Fair Housing Center found that the transgender tester experienced discrimination in all of the 10 tests he carried out.¹⁰

accessed January 2, 2016.

⁸ Equal Rights Center, *Opening Doors: An Investigation of Barriers to Senior Housing for Same-Sex Couples* (2014). Available at: http://www.equalrightscenter.org/site/DocServer/Senior_Housing_Report.pdf?docID=2361 accessed August 20, 2015.

⁹ Housing Opportunities Made Equal of Virginia, Inc., *A Study of Housing Discrimination Against Same Sex Couples in Virginia* (2014) Available at: <http://www.homeofva.org/Portals/0/Images/PDF/HousingDiscriminationAgainstSameSexCouplesinVA.pdf> accessed August 21, 2015.

¹⁰ Connecticut Fair Housing Center, *Where Can We Go From Here?: The Results of Three Years of Fair Housing Testing in Connecticut 2012-2015* (2015.) Available at: <http://www.ctfairhousing.org/wp-content/uploads/Where-can-we-go-from-here-testing-report1.pdf> accessed August 4, 2015.

III. FAIR HOUSING PROTECTION FOR LGBTQ INDIVIDUALS

A. Federal Fair Housing Protections

In 1968, Congress passed the federal Fair Housing Act (42 U.S.C. §3601, *et seq.*) to remedy the history of housing discrimination that existed throughout the country. The Fair Housing Act makes it unlawful, on account of one of the classes protected by the statute, to:

- Refuse to sell or rent a dwelling;¹¹
- Refuse to negotiate for the sale or rental of a dwelling;
- Otherwise make unavailable or deny a dwelling;
- Discriminate in the terms, conditions, or privileges of the sale or rental of a dwelling;
- Discriminate in the provision of services or facilities in connection with a dwelling;
- Make discriminatory advertising or statements with respect to the sale or rental of a dwelling;
- Indicate any discriminatory preference or limitation with respect to the sale or rental of a dwelling;
- Misrepresent the availability of a dwelling;
- Engage in “blockbusting;”¹²
- Discriminate in the financing of residential real estate related transactions;
- Discriminate in the provision of brokerage services;
- Coerce, intimidate, threaten, or interfere with any person in the exercise of his or her rights under the Act or retaliate against an individual for exercising his or her rights under the Act.

The federal Fair Housing Act prohibits discrimination based on seven grounds: race, color, religion, national origin, sex, familial status, and disability or handicap.¹³ “Familial status” is defined under the Fair Housing Act to mean one or more individuals under 18 years of age living with a parent, legal custodian, or the designee of such a parent or legal custodian. The provision also protects individuals in the process of securing legal custody of a minor and pregnant women. 42 U.S.C. §3602(k).

A “disability” or “handicap” is defined under the Fair Housing Act to include a physical or mental impairment which substantially limits one or more major life activities, a record of having such an impairment, or being regarded as having such an impairment. 42 U.S.C. §3602(h).

The Fair Housing Act can be enforced by the U.S. Department of Justice, the U.S. Department of Housing and Urban Development (HUD), and through private lawsuits brought by individuals or organizations having experienced discrimination.

Though the federal Fair Housing Act does not explicitly protect people from housing discrimination on the bases of sexual orientation or gender identity, in 2010 the federal government announced that HUD will, when appropriate, retain jurisdiction over complaints filed by LGBT individuals. HUD stated that

¹¹ In certain circumstances, the owner of a single-family home may be exempt from coverage under the federal Fair Housing Act. In addition, under the “Mrs. Murphy” exemption, an owner-occupied complex of four or fewer units may be exempt from coverage. These exemptions do not exist under Ohio’s fair housing law.

¹² “Blockbusting” refers to encouraging homeowners to sell their homes quickly (and often at below market rates) by creating a fear that members of a minority group are moving into the neighborhood.

¹³ In passing the Act in 1968, Congress prohibited discrimination based on race, color, religion, and national origin. (Civil Rights Act of 1968, Title VIII, Pub. L. No. 90-284.) Discrimination based on sex (including sexual harassment) was prohibited by a 1974 amendment. (Housing and Community Development Act of 1974, Pub. L. No. 93-383, §808.) In 1988, Congress amended the Act to include familial status and handicap as protected classes. (Fair Housing Amendments Act of 1988, Pub. L. No. 100-430.)

housing discrimination based on non-conformity with gender stereotypes is sex discrimination under the federal Fair Housing Act. Furthermore, housing discrimination based on the stereotype that because someone is gay they may have HIV/AIDS is discrimination on the basis of regarding that person as having a disability.¹⁴ In 2012, HUD published a rule acknowledging that LGBT individuals do not have equal access to housing and noted local and state efforts to protect LGBT individuals and families from housing discrimination. In an effort to increase fair access to housing for LGBT individuals and families, HUD stated that individuals and families will have equal access to housing that is funded or where financing is insured under HUD programs on the bases of sexual orientation, gender identity, and marital status. This includes assisted housing programs such as the Housing Choice Voucher Program and project-based, subsidized housing. It also includes housing and services in the private market, such as homes for rent with FHA backed loans or housing constructed with HOME or Community Development Block Grant monies.¹⁵

The U. S. Department of Housing and Urban Development (HUD) Office of Fair Housing & Equal Opportunity has since accepted claims of housing discrimination on the basis of “sex”, a basis protected by federal law, when allegations raised regarding sexual orientation or gender identity discrimination indicate discrimination on the basis of sex for non-conformity with sex role stereotypes. HUD provides the following example on its webpage on “LGBT Housing Discrimination” of a gender identity discrimination complaint which may be jurisdictional as a sex discrimination complaint under the federal Fair Housing Act: *A property manager refuses to rent an apartment to a prospective tenant who is transgender. If the housing denial is because of the prospective tenant's non-conformity with gender stereotypes, it may constitute illegal discrimination on the basis of sex under the Fair Housing Act.*¹⁶

B. Ohio Fair Housing Protections

In Ohio, residential property is also covered by state law governing fair housing (Ohio Revised Code 4112.02(H)). In many respects, the Ohio statute is broader than the federal Fair Housing Act. First, Ohio law prohibits discrimination based on all the classes protected by federal law (race, color, religion, national origin, sex, disability, and familial status). It also prohibits housing discrimination based on two additional grounds: “ancestry,” a somewhat different and potentially broader category than “national origin,” and military status. Second, while federal law contains several provisions that exempt certain residential property from coverage, Ohio’s statute does not include these exemptions, making Ohio’s fair housing law applicable to almost all housing in the state. The State of Ohio provides no fair housing protection for its residents on the bases of sexual orientation or gender identity.¹⁷

Outside of Ohio, twenty-one states and the District of Columbia prohibit housing discrimination on the basis of sexual orientation. Sixteen states and the District of Columbia ban housing discrimination on the

¹⁴ Shantae Goodloe, “HUD Issues Guidance on LGBT Housing Discrimination Complaints: Department Addresses Housing Discrimination Based on Sexual Orientation and Gender Identity,” HUD No. 10-139 (July 1, 2010).

¹⁵ The United States Department of Housing and Urban Development, “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, Final Rule.” *Federal Register* Vol. 77, No. 23 (February 3, 2012), 5662-5676.

¹⁶ The United States Department of Housing and Urban Development, “Lesbian, Gay, Bisexual, Transgender Individuals,” Available at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp accessed January 5, 2016.

¹⁷ Ohio Revised Code 4112.02 (H).

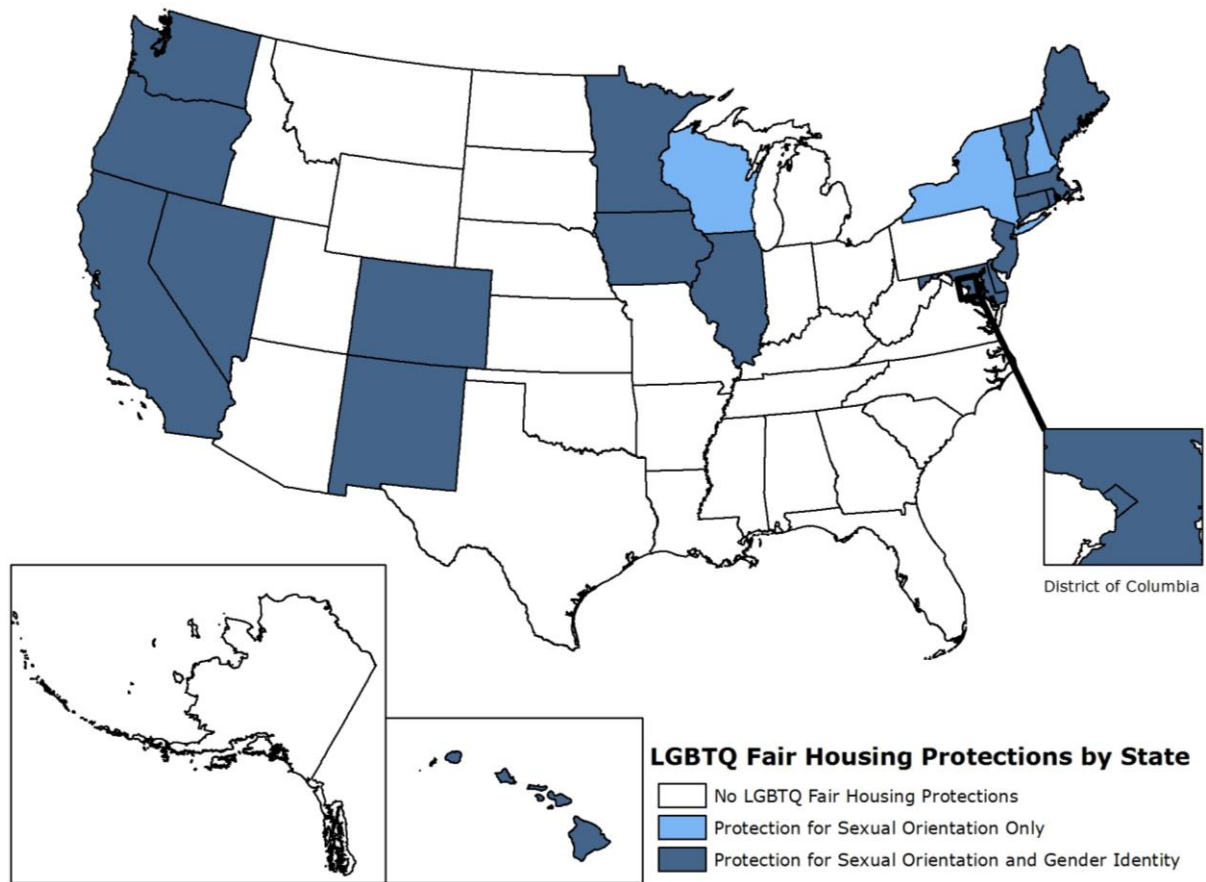
basis of gender identity.¹⁸

State	Bans Sexual Orientation Housing Discrimination	Bans Gender Identity/Expression Housing Discrimination
California	X	X
Connecticut	X	X
Colorado	X	X
Delaware	X	X
District of Columbia	X	X
Hawaii	X	X
Illinois	X	X
Iowa	X	X
Maine	X	X
Maryland	X	X
Massachusetts	X	X
Minnesota	X	X
Nevada	X	X
New Jersey	X	X
New Hampshire	X	
New Mexico	X	X
New York	X	
Oregon	X	X
Rhode Island	X	X
Vermont	X	X
Washington	X	X
Wisconsin	X	

¹⁸ The United States Department of Housing and Urban Development, “Lesbian, Gay, Bisexual, Transgender Individuals,” Available at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp accessed August 5, 2015.

National LGBTQ Task Force, “State Nondiscrimination Laws in the U.S.,” Available at http://www.thetaskforce.org/static_html/downloads/reports/issue_maps/non_discrimination_5_14_color_new.pdf accessed January 26, 2015.

Map 1: States with Sexual Orientation and Gender Identity Fair Housing Protections

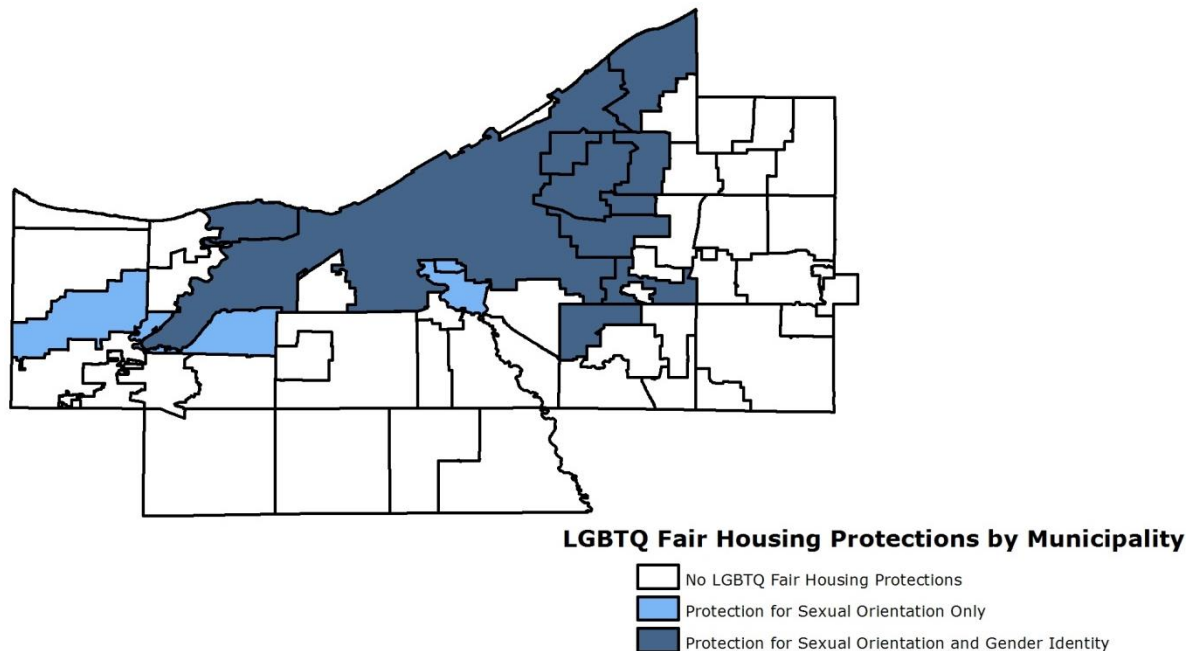


C. Local Fair Housing Protections

In the United States, hundreds of municipalities protect LGBTQ individuals from housing discrimination. In Cuyahoga County, 37 municipalities have enacted a fair housing ordinance. While some of these ordinances provide the same protection as federal or state law, others are broader, offering protection from discrimination to additional classes of individuals. In Cuyahoga County, 15 municipalities ban housing discrimination based on sexual orientation and 11 ban housing discrimination based on gender identity.

Municipality	Bans Sexual Orientation Housing Discrimination	Bans Gender Identity/Expression Housing Discrimination
Brook Park	X	
Cleveland	X	X
Cleveland Heights	X	X
Cuyahoga Heights	X	
East Cleveland	X	X
Euclid	X	X
Lakewood	X	X
Linndale	X	X
Maple Heights	X	X
Newburgh Heights	X	
North Olmsted	X	
Shaker Heights	X	X
South Euclid	X	X
University Heights	X	X
Warrensville Heights	X	X

Map 2: Jurisdictions with Sexual Orientation and Gender Identity Fair Housing Protections in Cuyahoga County



IV. TESTING METHODOLOGY

Testing is a technique used to directly observe and investigate the practices of housing providers. Testers pose as individuals seeking housing and engage housing providers in the process of acquiring housing or services related to acquiring housing. A test coordinator selects sites to test and gives testers a specific profile that defines their household, their income, and other characteristics as needed for the test. For the purposes of this study, The Housing Center utilized *matched-pair testing*. In a matched-pair test, a test coordinator selects two testers with similar characteristics except for a specific trait (class) that may elicit discriminatory treatment from a housing provider. The tester with said trait is called the “protected tester” (PT) because, in general, most tests are investigating discrimination on the bases of classes protected from housing discrimination by federal, state, or local laws. Discrimination based on the classes of sexual orientation and gender identity is legal in many localities in Cuyahoga County, and thus in many of our tests the class that is the focus of the test is not an expressly protected class, but we continue to use the phrase “protected tester” because it is an established term used in the practice of matched-pair testing. The other tester is called the “control tester” (CT) because they are not a member of that class. In all tests, both testers are financially qualified for the unit they are seeking, but the PT is given slightly better financial qualifications than the CT. Matched-pair rental tests were carried out through both in-person onsite tests and email only tests. Matched-pair testing allows the test coordinator to determine if discrimination has occurred by comparing the treatment of the two testers because many forms of housing discrimination are impossible to detect by the victim alone.

Tests are either *systemic* or *complaint-based*. Systemic testing is an investigative technique that examines institutional discrimination in a particular housing market. During systemic testing, a test coordinator randomly selects a set number of housing units in an area for testing. Systemic testing provides an estimation of the amount of discrimination occurring in a given area. Systemic tests that detect housing discrimination can serve as a basis for fair housing complaints. Complaint-based testing is a targeted investigation of a specific housing provider based on reported acts of housing discrimination. During a complaint-based test, a test coordinator will design the test around the protected class of the alleged victim of housing discrimination. For this report, all tests carried out were systemic tests.

A. Onsite Tests

The Housing Center carried out 30 matched-pair, onsite tests in Cuyahoga County on the basis of sexual orientation. Sixteen tests were performed in municipalities with ordinances that protect people from housing discrimination on the basis of sexual orientation and 14 were performed in cities with no protection from housing discrimination for LGBTQ individuals. As described above, in an onsite test, two testers engage a housing provider by showing interest in obtaining rental housing as directed by the test coordinator. For the purposes of objectivity, testers are only given their specific profile and the contact information of the housing provider they are to test. In general, testers are not made aware of what class is the focus of the test, i.e., they are not told if they are the PT or the CT. Testers are not made aware of the identity or the profile of the other tester, nor are they made aware of any circumstances that precipitated the design of the test. Testers are instructed to act as if they are interested in the tested unit and to not assume that housing discrimination has or will take place. The testers make a record of their experience and submit that record to the test coordinator who analyzes the results.

The Housing Center originally planned for and attempted to carry out 10 matched-pair, onsite tests on the basis of gender identity. Recruiting and retaining testers who identify as transgender or gender non-conforming to serve as PTs for the study proved difficult. Three such testers were recruited and trained over the course of the study. The initial goal of conducting 10 onsite gender identity tests was not achieved during the performance period for this study. Six site-visit gender identity tests were attempted; all were

inconclusive. Testers withdrew from testing as their schedules did not allow for them to participate timely, they felt uncomfortable interacting with housing providers, and because adversity due to local culture and their visibility as transgender led them to relocate.

B. Email Tests

The Housing Center staff carried out 60 matched-pair, email tests in Cuyahoga County: 30 on the basis of sexual orientation (15 with male couples and 15 with female couples, half of each using white testers and the other half with testers of color) and 30 on the basis of gender identity (all 30 pairing a transgender woman with a non-trans, or cisgender, woman; 15 with white testers, 15 with testers of color). Thirty tests were performed in municipalities with ordinances that protect people from housing discrimination on the bases of sexual orientation and gender identity and 30 were performed in cities with no protection from housing discrimination for LGBTQ individuals. The Housing Center staff set up free email accounts.

For sexual orientation tests, testers used email addresses and names that were racially/ethnically identifiable and “unambiguously gendered” for all contact with the landlord. Four pairs of “testers” were created of different races and sexes to test for differential treatment among people in same-sex relationships but of different sexes or racial and ethnic groups. The following pairs were created: Hispanic women, white women, African American men, and white men. Within individual tests, both the PT and CT were of the same sex, race, and ethnicity. In each test, CTs indicated that they lived with partners with unambiguously gendered names of the opposite sex and used opposite sex pronouns when referring to their partners, whereas PTs indicated that they lived with partners with names and pronouns unambiguously gendered as the same sex.

For gender identity email tests, testers used email addresses and names that were racially/ethnically identifiable and unambiguously gendered for all contact with the landlord. The following pairs were created: African American women and white women. PTs were transgender women and CTs were cisgender women. The PTs revealed their profile to the landlord, via email, by referring to themselves using an unambiguously gendered, racially identifiable, female names but noting that they were formerly called an unambiguously, racially identifiable, male name. The PTs’ email also included following quote and transgender symbol in the signature:

“It takes courage grow up and become who you really are.” E.E. Cummings.



Test coordinators designed the tests, selected the rental ads, and analyzed the results. Staff members functioned as testers by engaging in all communication with the landlord, acting as both PT and CT, via the tester email accounts. During the test the PT made the first inquiry about the rental ad while the CT made their initial inquiry up to a day later. In the event of no response by the landlord, a second inquiry would be made between 24 to 48 hours later. If the second inquiry received no response a third inquiry would be made 24 to 48 hours after the second. The test was considered complete if no response was received after three inquiries for that tester. In the event of a response by a landlord, the tester would set up an appointment to view the rental property and then cancel prior to the appointment. If the landlord offered to make an appointment to view the property the test was considered complete for that tester.

C. Testing Outcome Methodology

The test results are returned to the test coordinator for analysis to determine if the housing provider has engaged in differential treatment on the basis of the tested class. For the purposes of this study, the test coordinator gives the test one of the following results: “same treatment” or “differential treatment.”

In tests that resulted in differential treatment:

- The housing provider denied housing to one tester by not responding to one tester or by offering it to one tester and not the other by telling them it was unavailable
- The housing provider responded to the control tester before protected tester even though the protected tester made the first inquiry
- The housing provider made a greater perceived effort to promote the property to one tester and not the other or offered more information to one tester and not the other

V. ONSITE TESTING ANALYSIS

In the evaluation of the onsite tests, select criteria were utilized to assess differential treatment of protected status and control testers. The criteria are differential treatment of protected status tester in terms of level of information given and level of service. These criteria highlight forms of covert discrimination against the protected tester. It was also noted if the protected tester was given preferential treatment, if the unit was already rented, whether both testers received positive treatment, and whether neither tester received a response.

A. Tests Carried Out

Sixteen of the tests conducted were located in “covered” jurisdictions and 14 were located in “uncovered” jurisdictions. For the purposes of this report, a “covered” jurisdiction is a municipality in Cuyahoga County whose fair housing laws include sexual orientation as a protected class. An “uncovered” jurisdiction is a municipality whose fair housing laws do not include sexual orientation as a protected class, meaning that discrimination based on sexual orientation is not prohibited by local law.

The Housing Center carried out 30 matched-pair, onsite tests on the basis of sexual orientation. Tester profiles were divided into the following categories:¹⁹

- Female, person of color, covered jurisdiction (4 tests)
- Female, person of color, uncovered jurisdiction (3 tests)
- Male, person of color, covered jurisdiction (4 tests)
- Male, person of color, uncovered jurisdiction (3 tests)
- Female, white, covered jurisdiction (4 tests)
- Female, white, uncovered jurisdiction (4 tests)
- Male, white, covered jurisdiction (4 tests)
- Male, white, uncovered jurisdiction (4 tests)

Of these 30 tests, 3 resulted in an inconclusive result. The inconclusive result was due to a range of issues: both testers heard nothing back from the housing provider, both were told the unit was unavailable, control tester was never responded to, or the protected tester was not given opportunity to disclose protected class. The following profiles received inconclusive results:

- Female, person of color, covered jurisdiction (1 test)
- Female, person of color, uncovered jurisdiction (1 test)
- Male, white, covered jurisdiction (1 test)

B. Total Test Outcomes

Fifteen out of the 27 (55.5%) conclusive site visit tests revealed differential treatment of the protected tester. Of these, 12 tests revealed differential treatment of the protected tester in terms of level of information provided to protected tester by landlord and 12 tests showed differential treatment of the protected tester in terms of the level of service given to protected tester by landlord.²⁰ None of the

¹⁹ See Appendix on page 25 for complete testing results.

²⁰ While there are 15 total onsite tests that reveal differential treatment, the differential treatment was subdivided into two criteria: level of information provided and level of service to protected tester. Therefore, certain tests revealed both differential treatment in terms of level of information and in terms of level of service while other tests revealed only one of the forms of differential treatment. This allows for the results of 12 instances of level of information differential treatment and 12 instances of level of service differential treatment (9 instances of both levels of

landlords tested in the onsite tests stated an overt discriminatory preference or policy on the basis of sexual orientation.

The following instances received differential treatment:

- Female, person of color, covered jurisdiction (3 tests)
- Female, person of color, uncovered jurisdiction (2 tests)
- Male, person of color, covered jurisdiction (2 tests)
- Male, person of color, uncovered jurisdiction (2 tests)
- Female, white, covered jurisdiction (1 test)
- Female, white, uncovered jurisdiction (2 tests)
- Male, white, uncovered jurisdiction (3 tests)

C. Covered and Uncovered Jurisdictions

The testing results revealed differences in the treatment of the protected tester where local fair housing laws have been enacted. In uncovered jurisdictions, there were more instances of differential treatment in terms of level of information than in covered jurisdictions. Both covered and uncovered jurisdictions equally showed differential treatment in level of service. However, within the covered jurisdictions, there were six instances in which the protected tester was given preferential treatment in comparison to the control tester. Within covered jurisdictions, a rate of 42.8% (6 of 14) revealed differential treatment, compared to a 69.2% rate in uncovered jurisdictions (9 of 13).

D. Level of Information

Twelve instances of differential treatment in terms of level of information provided and requested by the landlord occurred in four covered jurisdictions and eight uncovered jurisdictions. The majority of this type of differential treatment was directed to persons of color, equally distributed among male and female in covered and uncovered jurisdictions (8 of 12 tests). Such instances include vetting of the protected tester on the phone, landlord requests of more background information of protected tester than control tester (eviction record, credit score, criminal background), more services provided to control tester (maintenance, other property options), asking a higher security deposit price of the protected tester than the control tester, offering the control tester an additional utility included in the cost of rent, and providing a tour to control tester but offering no response or limited information to protected tester. The tests with the following profiles received differential treatment in terms of level of information:

- Female, person of color, covered jurisdiction (2 tests)
- Female, person of color, uncovered jurisdiction (2 tests)
- Male, person of color, covered jurisdiction (2 tests)
- Male, person of color, uncovered jurisdiction (2 tests)
- Female, white, uncovered jurisdiction (2 tests)
- Male, white, uncovered jurisdiction (2 tests)

differential treatment, 3 instances of level of information differential treatment, and 3 instances of level of service differential treatment).

E. Level of Service

There were twelve instances of differential treatment in terms of level of service to the control tester and protected tester, meaning differences in the quality of customer service provided and manner of selling the property. The differential treatment occurred in covered (8) and uncovered (4) jurisdictions. Eight of the twelve instances occurred to persons of color, most particularly to women of color (5 of 8). Examples of differential treatment include the following: advantage given to control tester by being shown other properties, landlord providing other apartment rentals to control tester when inquiry unit rented while protected tester was not provided equal information, control tester given prompt reply while protected tester reply was delayed several days to a week, control tester tour scheduled and given while protected tester received no response or was stood up by landlord, and protected tester offered less services (maintenance) than control tester offered. There were two instances in which only the control tester received follow up from the landlord and one instance in which both the control tester and the protected tester received follow up from the landlord. There were also two instances in which the unit was already rented, two instances in which both testers received positive treatment, and one instance in which neither tester received a response. The tests with the following profiles received differential treatment in terms of level of service:

- Female, person of color, covered jurisdiction (3 tests)
- Female, person of color, uncovered jurisdiction (2 tests)
- Male, person of color, covered jurisdiction (2 tests)
- Male, person of color, uncovered jurisdiction (1 test)
- Female, white, covered jurisdiction (1 test)
- Female, white, uncovered jurisdiction (1 test)
- Male, white, uncovered jurisdiction (2 tests)

F. Sex

Of the 30 matched-pair tests, 15 tests were comprised of male testers and 15 tests of female testers. Of the 14 conclusive tests of male pairs, there were 7 instances of differential treatment, a rate of 50.0%. Of the 7 conclusive covered jurisdiction tests, 2 showed differential treatment (28.5%). However, 5 of the 7 conclusive uncovered jurisdiction tests (71.4%) revealed differential treatment. Of the 15 instances of differential treatment in the onsite tests, 46.6% (7 tests) of tests were conducted by male testers. Of the 13 conclusive tests of female pairs, there were 8 instances of differential treatment, a rate of 61.5%. Of the 7 conclusive covered jurisdiction tests, 4 showed differential treatment (57.1%). However, 66.6% of uncovered jurisdictions revealed instances of differential treatment (4 of the 6 uncovered jurisdiction tests). Of the 15 instances of differential treatment in the onsite tests, 53.3% (8 tests) of tests were conducted by female testers.

G. Race and Ethnicity

Of the 30 matched-pair tests, 14 included tests with persons of color, including African American, Asian American, and mixed race Asian and Hispanic American testers. Protected testers experienced differential treatment in 75.0% of the matched-pair onsite tests by testers of color, or in 9 out of 12 conclusive tests, as 2 out of 14 total tests conducted were inconclusive. Women of color experienced differential treatment in more instances (5 tests) than did men of color (4 tests). White persons experienced differential treatment in 40.0% (6 out of 15) of the conclusive matched-pair onsite tests conducted by white testers.

H. Preferential Treatment of the Protected Status Tester

In nine instances the protected tester received more favorable treatment than the control tester CT. Six such instances occurred in covered jurisdictions and three in uncovered jurisdictions. The majority of times, the protected tester was offered a viewing and the control tester received no response or a cancelled viewing. Other examples of giving the protected tester preferential treatment include: the protected tester was given more information or a special discount, the control tester was more thoroughly vetted, the control tester received lower quality customer service, and different rental application procedures were offered. Of the 9 instances of favored protected testers, 66.7% were white; 55.6% were male; and none were women of color. The tests with the following profiles revealed preferential treatment to the protected class tester:

- Male, person of color, covered jurisdiction (2 tests)
- Male, person of color, uncovered jurisdiction (1 test)
- Female, white, covered jurisdiction (2 tests)
- Female, white, uncovered jurisdiction (2 tests)
- Male, white, covered jurisdiction (2 tests)

I. Conclusions

The protected status tester experienced differential treatment in 55.5% of onsite tests (15 of 27). Of these, 12 tests revealed differential treatment of the protected tester in terms of level of information provided to protected tester by landlord and 12 tests showed differential treatment of the protected tester in terms of the customer service given to protected tester by landlord. Persons of color experienced more instances of differential treatment than did white testers. Persons of color experienced differential treatment at a rate of 75.0% and accounted for 60.0% of those tests in which the protected tester experienced differential treatment (9 out of 15). White testers, in turn, experienced discrimination at a rate of 40.0% (6 out of 15 tests) and accounted for 40.0% of differential treatment tests (6 out of 15 tests). Tests within covered jurisdictions showed a rate of 42.8% (6 of 14 tests), compared to a 69.2% rate in uncovered jurisdictions (9 of 13 tests).

VI. EMAIL TESTING ANALYSIS

The results of completed email tests were coded as either “differential treatment” or “same treatment.” In all email tests where the protected tester (PT) experienced differential treatment, the housing provider either made the unit unavailable by ignoring the PT or telling the PT that it was unavailable while offering it to the control tester (CT), or the housing provider gave other preferential treatment to the CT. In these tests, the housing provider responded first to the CT or gave the CT the first opportunity for an appointment despite the fact that PT made the first inquiry. In some cases it took multiple inquiries by the PT for the housing provider to respond though they responded to the CT after the first inquiry.

A. Sexual Orientation Email Tests Carried Out

The Housing Center carried out 30 matched-pair, email tests on the basis of sexual orientation. Tester profiles were divided into the following categories:

- Female, person of color, covered jurisdiction (4 tests)
- Female, person of color, uncovered jurisdiction (4 tests)
- Male, person of color, covered jurisdiction (4 tests)
- Male, person of color, uncovered jurisdiction (4 tests)
- Female, white, covered jurisdiction (3 tests)
- Female, white, uncovered jurisdiction (4 tests)
- Male, white, covered jurisdiction (4 tests)
- Male, white, uncovered jurisdiction (3 tests)

Of those 30 tests, 6 resulted in an inconclusive result meaning both testers either heard nothing back from the housing provider or were both told that the unit was unavailable. The following profiles received one inconclusive result each:

- Female, person of color, uncovered jurisdiction
- Male, person of color, covered jurisdiction
- Male, person of color, uncovered jurisdiction
- Female, white, covered jurisdiction
- Female, white, uncovered jurisdiction
- Male, white, covered jurisdiction

B. Total Sexual Orientation Test Outcomes

The protected status tester experienced differential treatment in 12.5% of (3 out of 24) conclusive email tests on the basis of sexual orientation. The tests with the following profiles experienced instances of differential treatment:

- Female, person of color, covered jurisdiction (1 test)
- Female, person of color, uncovered jurisdiction (2 tests)

C. Gender Identity Email Tests Carried Out

The Housing Center carried out 30 matched-pair, email tests on the basis of gender identity. Tester profiles were divided into the following categories:

- Person of color, female, covered jurisdiction (9 tests)
- Person of color, female, uncovered jurisdiction (6 tests)
- White, female, covered jurisdiction (6 tests)
- White, female, uncovered jurisdiction (9 tests)

Of those 30 tests, 2 resulted in an inconclusive result where both testers received no response from the housing provider. The following profiles received one inconclusive result each:

- White, female, covered jurisdiction
- White, female, uncovered jurisdiction

D. Total Gender Identity Test Outcomes

The protected status tester experienced differential treatment on the basis of gender identity in 32.1% of (9 out of 28) conclusive email tests. The following profiles received instances of differential treatment:

- Person of color, female, covered jurisdiction (4 tests)
- Person of color, female, uncovered jurisdiction (1 test)
- White, female, covered jurisdiction (3 tests)
- White, female, uncovered jurisdiction (1 test)

E. Covered and Uncovered Jurisdictions

Eight of the 26 (30.7%) conclusive email tests carried out in jurisdictions with protections for gender identity or both gender identity and sexual orientation email tests showed differential treatment for the tested class. Four of the 26 (15.3%) conclusive email tests carried out in uncovered jurisdictions showed differential treatment of the protected status tester.

F. Race and Ethnicity

Eight of the 28 (28.5%) conclusive email tests carried out with testers who were people of color showed differential treatment on the basis of either sexual orientation or gender identity. Three of the 5 (60.0%) conclusive email tests conducted on the basis of sexual orientation by women of color revealed differential treatment. No differential treatment was identified on the basis of sexual orientation in the 17 other conclusive email tests conducted by men of color (6 tests), white men (6 tests), or white women (5 tests). Five of the 15 conclusive email tests conducted on the basis of gender identity by transwomen of color, or 33.3%, showed differential treatment. Four of the 24 (16.6%) conclusive email tests carried out by white testers resulted in differential treatment on the basis of either sexual orientation or gender identity. The 4 tests in which white testers experienced differential treatment were conducted on the basis of gender identity. White transwomen experienced differential treatment at a rate of 30.7%, or 4 out of 13 conclusive tests.

G. Preferential Treatment of the Protected Status Tester

In five email tests the protected status tester received preferential treatment in comparison to the control tester. In both tests the CT received no response from the housing provider. In the following profiles PT received preferential treatment:

- Sexual Orientation, female, white, uncovered jurisdiction (1 test)
- Gender Identity, female, white, covered jurisdiction (1 test)
- Gender Identity, female, white, uncovered jurisdiction (2 tests)

- Gender Identity, female, person of color, covered jurisdiction (1 test)

Preferential treatment of the PT occurred in 1 of 28 (3.5%) conclusive email tests where the tester was of color and in 4 of the 24 (16.6%) conclusive email tests where the tester was white.

H. Conclusions

Of the 24 conclusive email tests looking at sexual orientation, 3 (12.5%) resulted in differential treatment of the PT. Nine of the 28 (32.1%) conclusive email tests looking at gender identity resulted in differential treatment of the PT. LGBTQ people of color were more likely to receive differential treatment. All 3 instances of discrimination on the basis of sexual orientation happened to the tester of color. Five of the 9 instances of discriminatory behavior because of gender identity happened to the African American tester. Local fair housing protections did not decrease the rate of housing discrimination. Of conclusive email tests, 30.7% (8 out of 26) of those carried out in covered jurisdictions resulted in differential treatment of the PT while 15.3% (4 out of 26) carried out in uncovered jurisdictions showed differential treatment of the PT.

VII. TESTING OUTCOMES: ONSITE & EMAIL TESTING

A total of 90 tests were conducted to assess housing discrimination in Cuyahoga County on the bases of sexual orientation and gender identity. Seventy-nine of the 90 tests conducted had conclusive results. Among these, a total of 27 tests revealed less favorable treatment to the LGBTQ tester, an overall rate of 34.1%.

The incidence of discrimination documented in onsite tests (sexual orientation tests only) was 55.5% (15 out of 27 conclusive results). The incidence of discrimination among email tests conducted on the basis of sexual orientation was 12.5% (3 out 24 conclusive tests). PT testers experienced housing discrimination on the basis of sexual orientation more than 4 times more often in onsite tests than in email tests. This is likely due to the fact that a site visit test is a more intimate interaction with a housing provider and the tester is closer to completing the process of securing housing.

Test outcomes highlight the intersectionality of racism, heterosexism, and sexism. Of the 60 sexual orientation tests conducted, both email and onsite, a total of 51 tests had conclusive results. Among them, 18 revealed differential treatment, a rate of 35.2%. The majority of tests revealing differential treatment were carried out by testers of color. Same-sex couples of color experienced differential treatment from their opposite-sex couple counterparts of color at a rate of 48.0% (12 out of 25 tests). Women of color couples experienced discrimination at a rate of 66.6% (8 of 12 conclusive tests) and men of color couples at a rate of 30.7% (4 of 13 conclusive tests). White male and female same-sex couples each received less favorable treatment in 3 tests, or 21.4% and 20% of tests respectively. Thirty-nine percent (38.8%) of tests showing discriminatory treatment (7 tests) occurred within the 15 Cuyahoga County jurisdictions where discrimination on the basis of sexual orientation is expressly prohibited by local ordinance.

Of the 30 gender identity email tests conducted, 28 had conclusive results. Among them, 9 revealed differential treatment. Though testers were recruited to conduct onsite tests, none of the completed onsite gender identity tests resulted in conclusive outcomes. The incidence of discrimination among email tests conducted on the basis of gender identity was 32.1%. The white tester experienced discrimination in 4 of 13 conclusive tests, or in 30.7% of tests. The tester of color experienced discrimination in 5 of 15 conclusive tests or in 33.3% of tests. Seventy-seven percent of tests showing discriminatory treatment (7 tests) occurred within the 11 Cuyahoga County jurisdictions where discrimination on the basis of gender identity is expressly prohibited by local ordinance. As the incidence of discrimination on the basis of sexual orientation in onsite tests was more than 4 times that of email tests, and as the incidence of discrimination in email testing on the basis of gender identity was more than double the incidence noted in sexual orientation tests, further testing or other means of assessing discrimination during in-person encounters is needed on the basis of gender identity.

VIII. FAIR HOUSING ENFORCEMENT ACTIVITY

In addition to assessing the incidence of discrimination through the use of email and onsite testing, The Housing Center also engaged in complaint intake, investigation and advocacy to assist potential victims of sexual orientation and gender identity housing discrimination. In preparation, The Housing Center staff obtained cultural competency training through the LGBT Community Center of Greater Cleveland and conducted additional outreach and education to the LGBTQ community and LGBTQ community service providers. The Housing Center advised and reviewed the City of South Euclid expanding its fair housing ordinance to include gender identity and sexual orientation among other additions. Finally, The Housing Center filed agency complaints of housing discrimination when test results revealed discriminatory treatment because of sexual orientation or gender identity.

The Housing Center incorporated information on the fair housing rights of the LGBTQ community into its fair housing presentations throughout the performance period for this project and produced and distributed a brochure entitled LGBTQ Fair Housing Rights. Funding from the Cleveland Foundation for this project enabled The Housing Center to provide ongoing advocacy and assistance to individuals who experienced gender identity and sexual orientation housing discrimination. Because federal and state fair housing laws do not prohibit discrimination on the bases of sexual orientation or gender identity, filing a complaint explicitly on either basis is only possible in jurisdictions where local fair housing ordinance prohibits discrimination on those grounds.

A. Complaint Intake and Investigation

The Housing Center increased its visibility through community partnerships, consumer education, and outreach. In the 13-month period between November 1, 2014 and December 31, 2015, The Housing Center received a total of 22 reports of housing discrimination on the bases of sexual orientation and gender identity; 12 on the basis of sexual orientation; 11 on the basis of gender identity.²¹ In the 13-month period immediately preceding the start of this project The Housing Center received a total of 11 such complaints; 6 on the basis of sexual orientation, 5 on the basis of gender identity. Reported complaints doubled during the grant period.

Alleged violations were reported to have occurred in the Cities of Cleveland, Cleveland Heights, East Cleveland, and Lakewood in Cuyahoga County and in the City of Akron in Summit County. Because the overwhelming majority of housing discrimination goes unreported and the complaints reported to The Housing Center were relatively few in number, no conclusions may be drawn regarding where discrimination most frequently occurs throughout Cuyahoga County.²²

Sixteen complaints were made against private housing providers (including small, independent landlords, large, corporate management companies, and a homeless shelter). The other 6 complaints alleged discrimination within assisted housing (including subsidized housing, public housing, and homeless shelters). The Housing Center provided an average of 9 hours of assistance working with each individual reporting such discrimination.

Federal and Ohio fair housing laws afford victims of housing discrimination the right to raise complaints through a civil lawsuit or an administrative complaint. As many victims of housing discrimination do not have the resources to pay for a private attorney to represent them in a lawsuit, the administrative

²¹ One complainant raised allegations of discrimination because of both gender identity and sexual orientation.

²² National Fair Housing Alliance, *Where You Live Matters: 2015 Fair Housing Trends Report*. <http://www.nationalfairhousing.org/Portals/33/2015-04-30%20NFHA%20Trends%20Report%202015.pdf> accessed January 5, 2016.

complaint process, free and available to all, is an important option. In Ohio, administrative complaints may be filed with HUD, the Ohio Civil Rights Commission (OCRC), or a local fair housing enforcement authority of a municipal government. This alternative helps ensure that all potential victims of housing discrimination have an avenue available to them to report their complaint and have it investigated.

The Housing Center provided a variety of services to individuals who contacted our office for assistance with complaints of sexual orientation or gender identity discrimination including intake, complaint review, review of the administrative complaint process, referral to an administrative agency, provision of fair housing education and literature, assistance completing the administrative complaint form, drafting the complaint form on behalf of the individual filing the complaint, drafting a letter on behalf of client to articulate needs or concerns to management, and assisting the individual through the administrative complaint process. Referrals were made to HUD, OCRC, and the cities of Lakewood and Cleveland for 18 complaints received. The Housing Center assisted by drafting complaint forms for 6 of the reported complaints. Five administrative complaints were filed. Three of the complaints were closed; two investigations are ongoing. Two additional complaints were resolved through direct assistance and advocacy provided by The Housing Center.

B. Agency Complaints

As noted in previous sections of this report, 26 test results revealed differential treatment on the bases of sexual orientation (18 tests) and gender identity (9 tests). The Housing Center filed a total of 12 administrative complaints against Cuyahoga County housing providers as a result of test evidence from this study; 9 on the basis of gender identity; 3 on the basis of sexual orientation. As noted elsewhere in the report, no housing providers tested during this study made overt discriminatory statements on the bases of sexual orientation or gender identity; rather, discriminatory treatment appeared, often with a smile and a handshake, in the forms of less information or inferior service, by failing to respond to a rental inquiry or delaying response, or by misrepresenting the availability of an advertised unit. As decreasing homeownership rates in the wake of the foreclosure crisis and limited affordable rental housing place pressure on the rental market.²³ A delay in response can result in a lost opportunity to view or rent the property. Receiving less information or fewer advertised perks does not motivate or invite application the same way engaged promotion and encouragement does. Prospective tenants who are denied a housing opportunity for discriminatory reasons stand to lose more than just the opportunity to live in the housing about which they inquire; they may also as a result be denied the attendant access to healthy food, high-performing schools, green spaces, employment or public transportation afforded by the neighborhood or community in which the property is located.²⁴

This project was intended to engage local jurisdictions' complaint process where protections are in place on the bases of sexual orientation or gender identity when discriminatory practices were identified within their boundaries. Accordingly, agency complaints were filed with the cities of Cleveland, Maple Heights, and Warrensville Heights. As discriminatory treatment was also identified in communities without a local fair housing ordinance or whose ordinance does not provide protection on these bases, complaints were also filed with HUD and the OCRC. Complaints filed with the Cities of Maple Heights and Warrensville Heights both went unanswered. Both complaints have since been refiled with HUD to ensure the matters receive their due attention. This situation, however, points to one of the shortcomings of reliance only on local fair housing law to ensure nondiscrimination within a jurisdiction on a specific basis; many cities are

²³ National Low Income Housing Coalition, *RENTERS IN FORECLOSURE: A Fresh Look at an Ongoing Problem*, September 2012, http://nlihc.org/sites/default/files/Renters_in_Foreclosure_2012.pdf accessed January 15, 2016.

²⁴ Kirwan Institute, *Opportunity Mapping Issue Brief*, 2013, http://kirwaninstitute.osu.edu/wp-content/uploads/2013/09/FINAL_OM_9-5.pdf accessed January 15, 2016.

unaccustomed to receiving complaints. When local administrators lack training or experience investigating complaint allegations because they receive so few fair housing complaints or when they are tasked with too many other duties, an increasing trend within city governments, it can render even a well-written ordinance ineffective. The additional protections many cities have enacted on behalf of their residents are moot in the absence of dedicated and available enforcement staff. All 12 agency complaints are currently pending investigation as of the date of this publication.

IX. RECOMMENDATIONS

Housing discrimination against lesbian, gay, bisexual, transgender, and queer people is prevalent across Cuyahoga County. In 51 conclusive tests carried out on the basis of sexual orientation (both onsite and email) 35.2% (18 tests) showed differential treatment of the protected tester. Of the 28 tests carried out on the basis of gender identity (email only) 28.5% (8 tests) showed differential treatment of the protected tester. Of the 9 agency complaints filed with 3 local jurisdictions, only those filed with the City of Cleveland received a timely response or acknowledgement.

- 1) Strengthen state and local fair housing laws to prohibit housing discrimination on the bases of sexual orientation and gender identity and ensure local jurisdictions have adequate enforcement measures in place to address identified violations including intake and enforcement staff or boards who have received training and education regarding housing discrimination generally, LGBTQ housing discrimination and fair housing rights, and LGBTQ cultural competency.**
- 2) Increase express protection from sexual orientation and gender identity housing discrimination in Cuyahoga County through the passage of local fair housing ordinances where they do not yet exist and through amendment of existing ordinances to include such protections.** Thirty-seven of a total of 59 local jurisdictions in Cuyahoga County have fair housing ordinances. Only 15 and 11 of these ordinances prohibit discrimination because of sexual orientation and gender identity, respectively.
- 3) Continue filing and tracking outcomes of HUD-investigated complaints of sexual orientation and gender identity housing discrimination as sex-based housing discrimination.** Individual victims of housing discrimination and fair housing agencies throughout the country in areas without state-level fair housing protections on these grounds or local ordinances which are adequately enforced should continue to file such complaints with HUD's Office of Fair Housing and Equal Opportunity. Ongoing experience and training by HUD for its intake staff will help ensure any such complaints raised are identified as sex-based housing discrimination and accepted for investigation. Routine document requests in accordance with the Freedom of Information Act will enable advocates to review complaint allegations and outcomes. To the extent fair housing agencies have the resources and capacity to do so, they should assist individual victims of sexual orientation and gender identity housing discrimination in, at minimum, drafting or providing input on the individual's complaint form filed with HUD to help ensure HUD accepts and investigates their complaint.

Fifteen municipalities ban housing discrimination based on sexual orientation and eleven ban housing discrimination based on gender identity. This is commendable, but laws do not deter discriminatory behavior without enforcement. Fourteen of the 46 (30.4%) tests carried out in jurisdictions where sexual orientation or gender identity are already protected classes showed differential treatment while 13 out of the 44 (29.5%) tests carried out in jurisdictions without sexual orientation or gender identity protections showed differential treatment.

- 4) Educate housing providers of their responsibilities under local fair housing laws.** Not all municipalities have fair housing ordinances. Housing providers might not be aware of fair housing laws beyond those of the federal government or the State of Ohio. Further, they may be unaware of changing and expanding protections afforded by existing laws.

- 5) **Educate individuals of their rights under federal, state, and local fair housing laws.** If individuals are not aware of laws that protect them they will not use those laws to seek relief from housing discrimination.
- 6) **Vigorously enforce prohibitions of sexual orientation and gender identity housing discrimination.** Discriminating housing providers will not be deterred if they believe there are no consequences for their actions. Engage in systemic testing to uncover discriminating housing providers in local jurisdictions. Explore additional means by which to reach potential victims of gender identity-based housing discrimination and additional means by which to recruit and retain transgender and gender non-conforming testers. Testers not only aid in investigations into such complaints; they are also critical to identifying unreported or yet undetected gender identity-based housing discrimination.

Appendix

A. Onsite Testing Results

Test	Basis	Profile	Sex	City	Jurisdiction	Result
1	Sexual Orientation	Person of Color (POC)	Male	Euclid	Covered	Differential Treatment
2	Sexual Orientation	POC	Male	Warrensville Heights	Covered	Differential Treatment (In favor of PT)
3	Sexual Orientation	POC	Male	Maple Heights	Covered	Differential Treatment
4	Sexual Orientation	POC	Male	South Euclid ²⁵	Covered	Differential Treatment (In favor of PT)
5	Sexual Orientation	POC	Male	Bedford	Not Covered	Differential Treatment (In favor of PT)
6	Sexual Orientation	POC	Male	Garfield Heights	Not Covered	Differential Treatment
7	Sexual Orientation	POC	Male	Mayfield Heights	Not Covered	Differential Treatment
8	Sexual Orientation	White (W)	Male	Cleveland	Covered	Same Treatment
9	Sexual Orientation	W	Male	Cleveland (Old Brooklyn)	Covered	Inconclusive
10	Sexual Orientation	W	Male	N. Olmsted	Covered	Differential Treatment (In favor of PT)
11	Sexual Orientation	W	Male	Brook Park	Covered	Differential Treatment (In favor of PT)
12	Sexual Orientation	W	Male	Brecksville	Not Covered	Same Treatment
13	Sexual Orientation	W	Male	Berea	Not Covered	Differential Treatment
14	Sexual Orientation	W	Male	Westlake	Not Covered	Differential Treatment
15	Sexual Orientation	W	Male	Strongsville	Not Covered	Differential Treatment
16	Sexual Orientation	POC	Female	Brook Park	Covered	Differential Treatment

²⁵ Test conducted after South Euclid expanded fair housing ordinance to include sexual orientation and gender identity

Test	Basis	Profile	Sex	City	Jurisdiction	Result
17	Sexual Orientation	POC	Female	North Olmsted	Covered	Differential Treatment
18	Sexual Orientation	POC	Female	Lakewood	Covered	Inconclusive
19	Sexual Orientation	POC	Female	Cleveland	Covered	Differential Treatment
20	Sexual Orientation	POC	Female	Parma Heights	Not Covered	Differential Treatment
21	Sexual Orientation	POC	Female	Brooklyn	Not Covered	Differential Treatment
22	Sexual Orientation	POC	Female	Parma	Not Covered	Inconclusive
23	Sexual Orientation	W	Female	Brook Park	Covered	Differential Treatment (In favor of PT)
24	Sexual Orientation	W	Female	Cuyahoga Heights	Covered	Differential Treatment (In favor of PT)
25	Sexual Orientation	W	Female	Fairview Park	Not Covered	Differential Treatment (In favor of PT)
26	Sexual Orientation	W	Female	Cleveland	Covered	Same Treatment
27	Sexual Orientation	W	Female	Strongsville	Not Covered	Differential Treatment
28	Sexual Orientation	W	Female	Rocky River	Not Covered	Differential Treatment
29	Sexual Orientation	W	Female	Parma	Not Covered	Differential Treatment (In favor of PT)
30	Sexual Orientation	W	Female	Cleveland	Covered	Differential Treatment

B. Email Testing Results

Test	Basis	Profile	Sex	City	Jurisdiction	Result
1	Sexual Orientation	Person of Color (POC)	Male	Euclid	Covered	Same Treatment

Test	Basis	Profile	Sex	City	Jurisdiction	Result
2	Sexual Orientation	POC	Male	East Cleveland	Covered	Same Treatment
3	Sexual Orientation	POC	Male	University Heights	Covered	Same Treatment
4	Sexual Orientation	POC	Male	Shaker Heights	Covered	Inconclusive
5	Sexual Orientation	POC	Male	South Euclid ²⁶	Not Covered	Same Treatment
6	Sexual Orientation	POC	Male	Garfield Heights	Not Covered	Same Treatment
7	Sexual Orientation	POC	Male	Garfield Heights	Not Covered	Inconclusive
8	Sexual Orientation	POC	Male	Bedford Heights	Not Covered	Same Treatment
9	Sexual Orientation	White (W)	Male	Cleveland	Covered	Same Treatment
10	Sexual Orientation	W	Male	University Heights	Covered	Inconclusive
11	Sexual Orientation	W	Male	Cleveland	Covered	Same Treatment
12	Sexual Orientation	W	Male	Cleveland Heights	Covered	Same Treatment
13	Sexual Orientation	W	Male	Rocky River	Not Covered	Same Treatment
14	Sexual Orientation	W	Male	Parma	Not Covered	Same Treatment
15	Sexual Orientation	W	Male	Broadview Heights	Not Covered	Same Treatment
16	Sexual Orientation	POC	Female	Newburgh Heights	Covered	Same Treatment

²⁶ Test conducted before South Euclid expanded fair housing ordinance to include sexual orientation and gender identity

Test	Basis	Profile	Sex	City	Jurisdiction	Result
17	Sexual Orientation	POC	Female	Cleveland	Covered	Same Treatment
18	Sexual Orientation	POC	Female	Lakewood	Covered	Same Treatment
19	Sexual Orientation	POC	Female	Maple Heights	Covered	Differential Treatment
20	Sexual Orientation	POC	Female	Fairview Park	Not Covered	Inconclusive
21	Sexual Orientation	POC	Female	Olmsted Falls	Not Covered	Differential Treatment
22	Sexual Orientation	POC	Female	Strongsville	Not Covered	Same Treatment
23	Sexual Orientation	POC	Female	Parma	Not Covered	Differential Treatment
24	Sexual Orientation	W	Female	North Olmsted	Covered	Inconclusive
25	Sexual Orientation	W	Female	Shaker Heights	Covered	Same Treatment
26	Sexual Orientation	W	Female	University Heights	Covered	Same Treatment
27	Sexual Orientation	W	Female	Parma Heights	Not Covered	Inconclusive
28	Sexual Orientation	W	Female	Mayfield Heights	Not Covered	Same Treatment
29	Sexual Orientation	W	Female	Lyndhurst	Not Covered	Same Treatment
30	Sexual Orientation	W	Female	Parma	Not Covered	Differential Treatment (In favor of PT)
31	Gender Identity	POC	Female	Lakewood	Covered	Same Treatment
32	Gender Identity	POC	Female	Shaker Heights	Covered	Same Treatment

Test	Basis	Profile	Sex	City	Jurisdiction	Result
33	Gender Identity	W	Female	Lakewood	Covered	Inconclusive
34	Gender Identity	POC	Female	Cleveland	Covered	Differential Treatment
35	Gender Identity	POC	Female	East Cleveland	Covered	Same Treatment
36	Gender Identity	POC	Female	Bedford	Not Covered	Same Treatment
37	Gender Identity	W	Female	Rocky River	Not Covered	Inconclusive
38	Gender Identity	W	Female	Brooklyn Heights	Not Covered	Differential Treatment
39	Gender Identity	W	Female	Brooklyn Heights	Not Covered	Differential Treatment (In favor of PT)
40	Gender Identity	W	Female	Parma	Not Covered	Same Treatment
41	Gender Identity	POC	Female	Beachwood	Not Covered	Same Treatment
42	Gender Identity	POC	Female	Bedford Heights	Not Covered	Differential Treatment
43	Gender Identity	POC	Female	Bedford	Not Covered	Same Treatment
44	Gender Identity	POC	Female	Woodmere	Not Covered	Same Treatment
45	Gender Identity	POC	Female	Garfield Heights	Not Covered	Same Treatment
46	Gender Identity	W	Female	Solon	Not Covered	Same Treatment
47	Gender Identity	W	Female	Mayfield Heights	Not Covered	Differential Treatment (In favor of PT)
48	Gender Identity	W	Female	Parma	Not Covered	Same Treatment

Test	Basis	Profile	Sex	City	Jurisdiction	Result
49	Gender Identity	W	Female	Rocky River	Not Covered	Same Treatment
50	Gender Identity	W	Female	Newburgh Heights	Not Covered	Same Treatment
51	Gender Identity	W	Female	Lakewood	Covered	Same Treatment
52	Gender Identity	W	Female	Cleveland	Covered	Differential Treatment
53	Gender Identity	W	Female	Cleveland	Covered	Differential Treatment
54	Gender Identity	W	Female	Lakewood	Covered	Differential Treatment (In favor of PT)
55	Gender Identity	W	Female	Cleveland	Covered	Differential Treatment
56	Gender Identity	POC	Female	Euclid	Covered	Differential Treatment (In favor of PT)
57	Gender Identity	POC	Female	Cleveland Heights	Covered	Same Treatment
58	Gender Identity	POC	Female	Warrensville Heights	Covered	Differential Treatment
59	Gender Identity	POC	Female	Cleveland	Covered	Differential Treatment
60	Gender Identity	POC	Female	Cleveland	Covered	Differential Treatment

The Housing Research & Advocacy Center is a not-for-profit agency whose mission is to promote fair housing and diverse communities, and to work to eliminate housing discrimination in Northeast Ohio by providing effective research, education and advocacy.

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