

# **Race Discrimination in Rental Housing**

## **In Solano County**

### **Based on Voice Identification**

**An Audit Report By**

**FAIR HOUSING OF MARIN  
Under a Fair Housing Initiatives Program  
contract with U.S. Dept. of HUD**

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## **FOREWORD**

Discrimination in rental housing on the basis of race is illegal under state and federal law. The purpose of this audit was to assess the extent to which African-Americans experience discrimination or differential treatment in the initial stages of homeseeking process, based on their identifiable speech.

Those responsible for this report hope the results and recommendations contained herein will heighten awareness and encourage a cooperative effort by all segments of Solano County's communities to eliminate differential treatment of persons by virtue of their race.

We acknowledge the contributions and support of staff at Legal Services of Northern California, who provided input on the testing methodology and the areas to be tested within Solano County.

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**RACE DISCRIMINATION IN RENTAL HOUSING  
BASED ON VOICE IDENTIFICATION**

**AUDIT REPORT**

**I. INTRODUCTION**

This report presents results of an audit for race discrimination based on voice identification in rental housing in Solano County, California. The audit took place between January and March 2011.

**A. FAIR HOUSING OF MARIN AND LEGAL SERVICES OF  
NORTHERN CALIFORNIA**

Fair Housing of Marin (FHOM) is a private nonprofit agency dedicated to assisting individuals experiencing housing discrimination, and educating the community, including tenants, managers, property owners, and residents, as to their rights and responsibilities under federal and state fair housing laws.

FHOM partnered with the Solano County office of Legal Services of Northern California (LSNC) for this project. LSNC's Solano County office is located in Vallejo. LSNC is a nonprofit organization that provides free legal assistance to low income and vulnerable persons and families in 23 northern California counties, including Solano County.

**B. LEGAL BACKGROUND**

**1. Federal Fair Housing Laws**

Housing discrimination based on race, color, religion, gender, national origin, mental or physical disability and familial status (the presence of children in the family) is illegal under Title VIII of the Civil Rights Act of 1968, as amended in 1988, commonly known as the Fair Housing Act (FHA).

The FHA as enacted by Congress in 1968 prohibited discrimination based on race, color, religion or national origin in the sale, rental or financing of housing. In 1974,

Congress expanded the FHA to prohibit discrimination based on gender. In 1988, Congress passed the Fair Housing Amendments Act (FHAA), which added families with children (familial status) and persons with mental and physical disabilities to the categories of people protected from housing discrimination.

The FHAA specifically states that because of race, color, religion, sex, national origin, disability or familial status, it is illegal to:

- Refuse to sell or rent after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling;
- Discriminate in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities;
- Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates discrimination, preference, or limitation; or
- Represent that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available.

## **2. California Fair Housing Laws**

The two primary state fair housing laws are the Fair Employment and Housing Act (FEHA) and the Unruh Civil Rights Act. These laws include the same protected classes of persons as federal law, and also prohibit discrimination based on marital status, sexual orientation, source of income, ancestry, and arbitrary factors such as age or occupation.

## **C. AUDIT BACKGROUND**

Real estate transactions, including rentals, purchases, and obtaining mortgage loans and homeowner's property insurance, are often conducted in whole or part over the telephone. Over the past 18 years, FHOM has conducted multiple telephone audits in several Bay Area counties designed to measure the extent of discrimination in rental housing against African-Americans. Historically, the results of these audits suggest that discrimination on the basis of race during phone contact continues to

be pervasive.

## **1. Previous Race Audits Conducted by FHOM**

In 2008, FHOM conducted race voice identification audit testing in Marin County which revealed some differential treatment favoring the Caucasian tester over the African-American tester in 8 out of 25 paired tests (32%). FHOM had previously conducted race audits with site-testing in Marin County in 1993, 1997, and 2001; those audits showed evidence of differential treatment based on race in 33% - 47% of tests. The following are similar audits FHOM conducted in other counties; the two with asterisks (\*) were audits where Housing Rights Inc. in Berkeley completed the testing under subcontract with FHOM:

- The city of Richmond (Contra Costa County) in 2008\*, which showed differential treatment favoring the Caucasian tester over the African-American tester in 8 out of 25 paired tests (32%);
- The cities of Pinole, El Sobrante, El Cerrito, Crockett, San Pablo, Rodeo, and Hercules (Contra Costa County) in 2009\*, which showed differential treatment favoring the Caucasian tester over the African-American tester in 19 out of 40 paired tests (48%);
- Sonoma County in 2009, which showed differential treatment favoring the Caucasian tester over the African-American tester in 27 out of 40 paired tests (68%); and
- The city of Richmond (Contra Costa County) in 2011, which showed differential treatment favoring the Caucasian tester over the African-American tester in 16 out of 20 paired tests (80%).

Differential treatment included being offered fewer available units or move-in specials; quoted higher rents, security deposits, or minimum income requirements; or screened out or not receiving follow-up information.

The implication of outcomes of prior audits is that the race or national origin of individuals is apparent during telephone conversations, and that discrimination occurs based upon that voice identification. Studies by Stanford University

linguistics professor John Baugh confirm the existence of race and ethnicity discrimination based solely on speech patterns. In a March 1999 article titled “Perceptual and Phonic Experiments on American English Dialect Identification,” Professor Baugh showed that people correctly identify race 80% of the time by the speaker’s single utterance of the word “hello.”

## **2. Previous Solano County Audit**

In an audit testing for differences of treatment based on the ethnicity in names in email inquiries responding to Craigslist ads, FHOM conducted a total of 63 email tests in Solano County, focusing mostly on the major municipalities of Vacaville (15 email tests), Fairfield (17 email tests), Vallejo (21 email tests), and the remainder (10) on the rest of Solano County, between July and October 2009. Each test consisted of email inquiries from three separate email addresses representing an African-American, Latino, and Caucasian. The time elapsed between inquiry and response, the content included in the response, and the tone of the response differed between testers in several significant instances. In addition, several instances in which the landlord responded only to one or two testers to the exclusion of the other tester(s) indicated potential discriminatory preferences. In the city of Vacaville, the African-American tester received worse treatment than one or both of the other testers in 33% of tests. In the city of Vallejo, the African-American tester received worse treatment than one or both of the other testers in 24% of tests. In the city of Fairfield, the African-American tester received worse treatment than one or both of the other testers in 29% of tests. In all other areas of Solano County, the African-American tester received worse treatment than one or both of the other testers in 60% of tests. Differences were noted in the following categories: availability and access, substance of communication, and tone of communication.

## **3. Solano County Demographics**

Race discrimination is a significant concern in Solano County. Solano County is home to 413,344 residents, according to the 2010 Census. From 2000 to 2010, the overall county population grew by 4.8%. Approximately one-third of the county population rents their homes. Based on 2010 Census data, 51% of the county’s population is Caucasian. African-Americans are the largest minority group in Solano County: at 14.7%, the county’s African-American population is more than

double that of the African-American population statewide.

The cities of Fairfield, Vacaville, and Vallejo have the highest populations within the county. According to Census data, Vacaville is the least diverse of the three large cities, with a population that is 72.1% Caucasian and 10% African-American. In Fairfield, 56.2% of residents are Caucasian; 15% are African-American. Vallejo is the most racially diverse, with a population that is 36% Caucasian and 23.7% African-American. The smaller towns of Benicia and Dixon also lack diversity, though Suisun City is quite diverse. See the chart below for a demographic breakdown by race/ethnicity and city.

<b>City</b>	<b>Caucasian</b>	<b>African-American</b>	<b>Hispanic/Latino (of any race)</b>	<b>Asian</b>	<b>2 or More</b>
<b>Vacaville</b>	72.1%	10%	17.9%	4.2%	5.5%
<b>Vallejo</b>	36%	23.7%	15.9%	24.2%	6.6%
<b>Fairfield</b>	56.2%	15%	18.8%	10.9%	7.4%
<b>Benicia</b>	78.9%	4.8%	9%	7.6%	5.2%
<b>Dixon</b>	70.5%	1.9%	3.1%	3.1%	5.3%
<b>Suisun City</b>	44.4%	19.3%	17.8%	17.7%	8.3%

## **II. AUDIT GOALS AND METHODOLOGY**

### **A. WHAT IS A FAIR HOUSING AUDIT?**

A fair housing audit is a way to assess compliance or non-compliance with federal and state fair housing laws. It is a controlled measurement of the difference in quality, quantity, and content of information and services accorded to paired customers (testers) by housing providers. An audit differs from a complaint-driven test in that it gives a broad overview of housing provider behavior in a given market during a certain time period. Public governmental bodies and private agencies throughout the country routinely conduct audits as an educational and enforcement tool.

## **B. AUDIT GOALS**

1. To identify instances of differential treatment at available rental sites, including four-plexes and larger multi-family complexes, thus indicating the extent to which African-Americans face difficulty in securing rental housing in Solano County due to race discrimination.
2. To conduct on-site tests where phone results indicate potential discrimination, and to conduct additional investigations at sites where results suggest that further investigation could yield stronger evidence of discrimination.
3. To file administrative complaints with HUD in cases with strong evidence of differential treatment.
4. To bring minor violations to the attention of housing providers, in order to increase awareness of the potential consequences of engaging in discriminatory practices and prevent future transgressions.
5. To increase awareness by housing providers of the difficulties African-Americans experience in securing rental housing and to make African-American homeseekers aware of discriminatory practices they may experience and the services provided by FHOM to secure housing rights.
6. To offer training to housing providers on fair housing laws and practices in order to forestall future discrimination.

## **C. GEOGRAPHIC SCOPE OF AUDIT**

The audit included properties in the major cities and unincorporated areas throughout Solano County. FHOM estimates that the forty paired phone tests for this audit reached housing providers who manage and/or own at least 5,356 units in the county.<sup>1</sup> Housing units ranged from four-unit buildings to large apartment

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<sup>1</sup> This is an approximation based on the combined total of rental units at the 40 properties tested. Because some of the rental agents involved in this audit are likely to have control over units at properties other than those tested, the number of rental units affected by the practices found is probably greater than the 5,356 units in Solano County. In

complexes. This figure does not include an estimate of the total units for one test at a property where the agent did not explicitly state the number of units at the site; the actual number is therefore higher.

## **D. AUDIT METHODOLOGY**

### **1. Sampling Techniques**

- a. Audit coordinators selected sites randomly from advertisements on Craigslist, the nation's largest internet bulletin board.

### **2. Matched Audit Teams**

- a. Telephone tests utilized paired teams of African-American and Caucasian testers. Each team member was matched to his or her counterpart as closely as possible in age and gender.
- b. Audit coordinators assigned the paired testers equivalent rental credentials, except that the protected class (African-American) testers were assigned slightly higher incomes than their control (Caucasian) tester counterparts. Each tester had the profile of an employed adult with a spouse, no children or pets, and a household income equaling at least three times the advertised rent. Audit coordinators instructed testers to express identical housing needs. For instance, each member of a pair was instructed to ask for a one- or two-bedroom apartment at the advertised complex.

### **3. Recruitment, Screening, and Training of Testers**

- a. Most testers received general fair housing tester training, and all received special training in audit procedures.
- b. FHOM staff recorded each tester's voice and submitted the recordings to a panel of people of varying genders and ethnicities to identify testers by race. The panelists heard all the potential testers. Audit coordinators selected a group of audit testers who were consistently identified as

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addition, in one test, the total number of units was not stated and is therefore not counted in the number of units.

African-American or Caucasian by their voices alone.

#### 4. Geographic Spread of Tests in Solano County

LSNC staff identified six distinct areas for testing in Solano County. The chart below shows the number of tests conducted in each area.

<b>Geographic Area:</b>	<b># of properties to be tested:</b>
Vacaville	10
Vallejo	10
Fairfield	7
Benicia	7
Dixon	3
Suisun City	3
<b>TOTAL</b>	<b>40</b>

#### 5. Testing Procedure

- a. Each tester telephoned an assigned phone number during a designated time frame.
- b. The first tester of a pair called and left a message if he did not reach an agent. If the tester did not receive a return call, he called a second time either later that day or the next day and left another message; if he still did not receive a call back, he repeated the process, leaving a total of three messages. The second tester of a pair called after the first tester had spoken with an agent or after the first tester had left at least two unreturned messages.
- c. Audit coordinators instructed testers to follow a script during each call. FHOM developed the scripts specifically for the audit. Each tester alternated between two scripts.
- d. Upon ending each call, testers completed a Tester Report Form that

FHOM tailored for this audit, documenting unit availability, rental terms and conditions, application process and tenant prerequisites, and a narrative description of what transpired.

- e. In addition, an audit coordinator debriefed the testers upon completion of each phone test and reviewed their written reports.

## **6. Analysis of the Data**

- a. Two FHOM staff (other than the test coordinator) analyzed the data and evaluated each audit phone test for discriminatory statements or differential treatment. The two analyzing the tests then discussed each test with the Housing Director so as to maintain consistency in rating tests. Staff compared information with regard to the following:
  - i. Screening and follow up;
  - ii. Rental terms and conditions (including amenities and special offers);
  - iii. Unit availability; and
  - iv. Comments and general treatment.
- b. Tests featuring discriminatory statements or differential treatment disfavoring African-Americans may form the basis of further investigations, including on-site testing.

## **III. RESULTS**

Between January and March 2011, FHOM conducted 40 tests in Solano County. The tests fell into several broad groups: those showing no differential treatment, those showing clear differential treatment, those evincing some differential treatment, and those with inconclusive outcomes.

For purposes of this report, “no differential treatment” means each paired tester received identical or almost identical information.

“Clear differential treatment” means there was a demonstrable discrepancy in the amount, quality, or substance of the information the testers received, to the disadvantage of the African-American tester.

“Some differential treatment” means there was a discrepancy in the information received by each tester. The discrepancies favored the Caucasian tester, but not to the clear detriment of the African-American tester. In some cases, the differences involved factors characterized as less significant than those counted in the “clear differential treatment” category.

“Inconclusive outcomes” includes those tests where the discrepancies did not favor the Caucasian tester, or tests where mitigating factors might explain certain differences. For example, in one test deemed inconclusive, the African-American tester called and left three messages, but never spoke to an agent. His Caucasian counterpart reached an agent and was told there were no apartments available, but he received information on filling out an application and being added to a waitlist. In other tests, there were differences, though neither tester was consistently favored. *It is significant that of all 40 pairs of tests conducted, there were no paired tests in which on balance the discrepancies favored the African-American tester.*

## A. GEOGRAPHICAL BREAKDOWN

Thirteen of the tests (33%) showed clear differential treatment favoring the Caucasian tester. Eleven additional tests (28%) showed some differences in treatment favoring the Caucasian tester. Thirteen tests (33%) resulted in an inconclusive outcome, and only 3 tests (8%) showed no differential treatment. Thus, in 24 out of 40 tests (60%), the African-American tester experienced at least some differential or disadvantageous treatment.

### Results of Tests in Solano County

	Number of Tests
Clear Differential Treatment Favoring Caucasian	13 (32.5%)
Some Differential Treatment Favoring Caucasian	11 (27.5%)
Inconclusive Outcome	13 (32.5%)
No Differential Treatment	3 (7.5%)
<b>Total</b>	<b>40 (100%)</b>

### Results by City for Tests with Differential Treatment Favoring Caucasian Tester

City Tested and Number of Tests Conducted	Clear Differential Treatment Favoring Caucasian Tester	Some Differential Treatment Favoring Caucasian Tester	TOTAL
<b>Vacaville – 10</b>	4	3	<b>7</b>
<b>Vallejo – 10</b>	3	2	<b>5</b>
<b>Fairfield – 7</b>	1	2	<b>3</b>
<b>Suisun City – 3</b>	2	1	<b>3</b>
<b>Benicia – 7</b>	3	1	<b>4</b>
<b>Dixon – 3</b>	0	2	<b>2</b>
<b>TOTAL</b>	<b>13</b>	<b>11</b>	<b>24</b>

### B. TYPES OF DISCRIMINATION OR DIFFERENTIAL TREATMENT

The audit data indicates several ways in which housing providers engage in differential treatment to the disadvantage of African-Americans. In 14 out of the 24 tests with evidence of differential treatment, the type of differential treatment experienced by the African-American tester encompassed multiple categories. In 11 tests, the African-American tester experienced differential treatment across two different categories; in 3 tests, the African-American tester experienced differential treatment that spanned three separate categories. More detailed explanations of the types of differential treatment experienced are provided below. In addition,

Appendix 1 charts the types and descriptions of differential treatment present in each test by location.

### ***1. Screening/Follow-up***

For purposes of this audit, “screening” describes a practice whereby the housing provider uses a phone answering system to filter calls, possibly in order to thwart undesired applicants. Screening may also refer to the practice of failing to provide the same information to both callers. Follow-up with some callers but not others (through calls or emails) is another means by which housing providers filter out applicants. Five tests (12.5%) indicated evidence of this practice, to the detriment of the African-American testers.

### ***2. Rental Terms & Conditions, Including Amenities and Special Offers***

Nineteen tests (47.5%) indicated instances of African-Americans receiving information about less advantageous terms and conditions while agents offered more flexible terms and a broader range of options to Caucasian testers. Differences included quoting a lower rent, security deposit, or minimum income requirement (or no requirement) to the Caucasian tester; providing the Caucasian tester with more flexible lease terms or move-in specials; giving only the Caucasian tester the option of a holding deposit; only waiving the application fee for the Caucasian tester; and providing the Caucasian tester with more information or offering faster processing of an application.

### ***3. Availability***

In 14 tests (35%), the Caucasian tester received information about greater availability. This included telling only the Caucasian about additional units (both at the property being tested as well as at other properties) despite both testers asking about additional units; telling the Caucasian tester about units that would be available earlier; and telling the Caucasian tester that the unit was available to view sooner than the date made available to the African-American tester.

#### ***4. Comments/General Treatment***

Three tests (7.5%) reflected a possible bias against the African-American tester based on comments and general treatment. This included the agent spending three times as long on the phone with the Caucasian tester than with the African-American tester; describing amenities only to the Caucasian tester; explaining only to the Caucasian tester how to “get around” a maximum income limit (on a subsidized unit); and providing encouraging information about building amenities to the Caucasian tester while telling the African-American tester only that the building did not have a gang problem.

#### **C. LINGUISTIC ANALYSIS**

As noted previously, FHOM staff recorded each tester’s voice and submitted the recordings to a panel of people of varying genders and ethnicities to identify testers by race. Audit coordinators carefully selected a group of audit testers who were consistently racially identified by their voices.

Based on FHOM panelists’ consistent (and accurate) determination of testers’ race by the sound of their voices, there is a strong suggestion that the housing providers tested in this audit knew which testers were African-American, and which were Caucasian. Professor Baugh, an expert in linguistics and linguistic analysis, has been featured nationally regarding the existence of linguistic profiling and its potential negative consequences. Although it is beyond the scope of this audit to discern the actual reasons for the disparate treatment detected, Professor Baugh noted in regard to a national origin/race voice identification test previously conducted by FHOM that his linguistic analysis supports the proposition that “it is possible that some landlords or sellers may treat prospective tenants or buyers differently based on ... linguistic differences.”

#### **IV. CONCLUSIONS**

##### **A. GENERAL**

Out of 40 tests in Solano County, 13 of the tests (33%) showed clear differential treatment favoring the Caucasian tester. Eleven tests (28%) showed some differences in treatment favoring the Caucasian tester. Thirteen tests (33%)

resulted in an inconclusive outcome, and only three tests (8%) showed no differential treatment. **Thus, in 24 out of 40 tests (60%), there were at least some discrepancies or disadvantages in treatment for the African-American tester.**

## **Minimum Income Requirements**

In addition, a pattern emerged related to minimum income requirements. In 6 out of 40 tests – or 15% – the Caucasian tester was quoted a lower minimum income requirement than the African-American tester, or the Caucasian tester was told there was no requirement at all while his African-American counterpart was told there *was* a minimum income requirement. Quoting applicants different minimum income requirements based on race is fundamentally discriminatory: it effectively sets the bar for access to available housing considerably higher for African-American applicants, making it more difficult for African-Americans to qualify for housing than their Caucasian counterparts in the same income bracket.

## **B. AUDIT LIMITATIONS**

### **1. Non-Application Testing Underestimates the Degree of Discrimination**

By virtue of its very design and purpose, this audit does not identify the full scope of discriminatory conduct. This audit sought to measure only the degree of discrimination an individual would encounter over the phone, at the most preliminary stage of the housing search. Because testers did not appear in person and did not submit applications, this audit cannot identify housing providers who dispense information freely but discriminate later in the tenant selection process. This suggests the need to perform site visits and application tests in addition to the phone tests conducted to date, especially in those instances where phone tests suggest differential treatment. Completed application tests could yield evidence of housing providers turning down qualified African-American applicants because of their race.

Even application tests would not detect the full extent of discrimination against in-place African-American *tenants*, as opposed to *applicants*. African-American renters report discrimination based on race or a combination of race/familial status, race/disability, race /sexual harassment, and other “combined” forms of unfair

treatment. This audit cannot purport to examine evidence of that kind of discrimination.

## **2. Scheduling Factors May Have Influenced the Audit Results**

The audit coordinators opted to alleviate unreasonable delays between the first and second tester's contacts by having them call at specified times. Although that solution reduced the volume of failed tests, the resultant pattern of calling may have subtly impacted the test results.

In some of the tests, for example, the two testers spoke with different agents. Although the most direct comparison takes place in instances where each member of a paired test has contact with the same agent, under generally recognized principles of testing, a test remains valid if testers speak with different agents representing the same housing provider. In addition, what at first appears to be a discriminatory failure to return a phone call could in some cases be simply a product of office hours. Because in most cases testers followed up with agents on either the same or subsequent days, however, it is probable that these circumstances had little impact on the overall audit results.

## **C. RECOMMENDATIONS**

- **Disseminate audit results** to Solano County officials for remedial action. LSNC will also disseminate the audit results to the general public, media, and in particular to advocacy groups as an important educational tool.
- **Monitor sites** where there was an indication of differential treatment. FHOM may take further action if there is confirmation of discriminatory treatment of the African-American tester.
- **Offer Fair Housing training** seminars to the owners, managers, and agents audited in this report. The audit points out the need for continuous training in fair housing laws for all owners and managers of rental property, with an emphasis on the subtleties of differential treatment and the need to supply uniform information and treatment to all potential applicants, even over the phone. Fair Housing of Marin has conducted *Fair Housing Law and Practice* seminars in Marin, Napa, Sonoma, and other counties for many years. Legal

Services of Northern California has also conducted many such seminars in Solano County. Such educational endeavors should be supported by public officials and aggressively marketed to housing industry providers through housing associations and elected officials. It is important to ensure that all housing providers and their staffs receive fair housing information and training.

- **Increase media coverage.** Request that newspapers in Solano County feature articles on race discrimination and barriers faced by African-Americans even in making preliminary phone inquiries about rental housing, and consider providing free advertisements on recognizing and avoiding housing discrimination as a public service.
- **Conduct additional audits.** Because discrimination is so often subtle or cloaked as helpful suggestions, it often goes undetected. Comparative studies such as this one are the best way to bring such practices to light. We recommend that Solano County jurisdictions consider funding similar studies in the future.
- **Housing Industry Action.** Ask members of the housing industry, such as the Solano Association of Realtors, the California Apartment Association (Contra Costa-Napa- Solano division), property management firms in the area, and other local rental housing associations, to take a positive stance that fair housing is good business and good *for* business. We recommend that these organizations publicly declare their support with a statement on their letterhead, outreach materials, and forms.
- **Spread the word to potential targets.** Work with other agencies serving the African-American community to inform their clients of their fair housing rights and available services.
- **Promote display of required HUD poster.** Ask that rental property owners and real estate offices check to make sure that the required HUD equal opportunity housing provider logo is posted in plain view for applicants. The poster can be downloaded from the HUD website at <http://www.hud.gov/offices/adm/hudclips/forms/files/928-1.pdf> or a copy can be obtained by calling toll free 800-347-3739.

# **APPENDIX:**

## **CHART OF TYPES AND DESCRIPTIONS OF DIFFERENTIAL TREATMENT PRESENT IN EACH TEST BY LOCATION**