

### **Executive Summary**

Over the five months from October 2000 to March 2001, the Fair Housing Center of Greater Boston conducted a study of housing discrimination in the area's rental market. The study relied on a review of print advertisements as well as telephone and in-person testing of housing providers. In all, the Center conducted 48 matched pairs of telephone tests and 50 matched pairs of in-person tests covering three classes protected by federal and state fair housing laws: race, familial status and source of income.

The Center found evidence of discrimination against all three groups in 49 of the 98 paired tests conducted, or 50%. When we remove phone tests in which testers were unable to contact an agent, the numbers are even more stark, showing evidence of discrimination in 49 of 75 tests, or 65%.

This report elaborates on these data and places them in the broader context of the otherwise well-documented housing crisis confronting the region today. It is organized into the following eight sections:

Section I gives a brief history of the Fair Housing Center.

Sections II and III provide background on the need for a study of discrimination in the region's rental housing market and a sketch of the housing needs for the area.

Section IV describes the laws and regulations relevant to the study.

Section V presents a summary of the methods the Center used in conducting the study.

Sections VI and VII report the findings, with the former presenting information on the occurrences of discrimination while the latter provides examples of the types of discriminatory behavior encountered by testers.

Section VIII provides a series of recommendations for further action.

This report, like others conducted across the country, serves in our heated housing market to gauge the region's discrimination temperature. The Fair Housing Center calls on individuals and institutions within the housing industry and beyond to join us in eliminating discrimination from our housing market.

### **About the Fair Housing Center of Greater Boston**

The Fair Housing Center of Greater Boston is a non-profit membership organization whose mission is to promote equal housing opportunities for all people throughout the greater Boston area. At the time of its founding in 1998 by a group of housing and civil rights professionals, ours was the only major metropolitan area in the United States that did not have an organization dedicated exclusively to this purpose. The Center pursues its mission through varied programmatic activities: education and outreach, enforcement, and public policy analysis and advocacy.

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The Fair Housing Center proceeds from several basic premises. First, while the region had no dedicated fair housing organization, it was blessed with a rich and effective array of organizations addressing related concerns. Thus, the Center works in close collaboration with other organizations to insert new or enhanced fair housing expertise where needed. Second, since fair housing begins where we live, we recognize fair housing as a local concern. But it is not only that. Fair housing is also a regional problem and requires a degree of collaboration and coordination across town lines. Finally, the Center believes that all communities contain people of good will who are critical to forwarding the goal of making our residential neighborhoods open, welcoming and accessible.

The Center is fortunate that similar organizations exist elsewhere in the country and that we are all served by the National Fair Housing Alliance. As such, while we have created an organization that responds to this region's fair housing challenges, we also have the benefit of expertise accumulated by others over the years. One of the lessons we absorbed is that an audit of the incidence of discrimination in a region is one of the most important tools at a fair housing center's disposal.

The study reported here also grows out of our own experience. The Center's first testing project was a 1998 partnership with one of its member organizations, the Massachusetts Coalition for the Homeless (MCH). Center staff and board members trained homeless activists as testers, then designed and carried out telephone and in-person tests of rental agents in Boston and a neighboring suburb. This pilot project was undertaken at the request of the women in MCH's homeless activists group, who had named discrimination as a major barrier for homeless families. While the results suggested the presence of discrimination based on race and use of housing subsidies, the experience was instructive to the Center for other reasons as well. We learned from participants that receiving comprehensive training and having their own searches for permanent housing placed in the context of testing gave meaning to their efforts. Their experiences have guided the Center's approach to testing, a basic activity of any fair housing center.

### **II. Summary of research on housing discrimination in greater Boston**

In 1975, the U.S. Commission on Civil Rights and Massachusetts Commission Against Discrimination (MCAD) issued a report that analyzed how discriminatory policies in housing, employment and transportation had paved the "road to segregation" in the greater Boston region. It was, at the time, a sobering document that warned that the segregating effects of inaction in the development of towns along Route 128 would extend to the newly constructed Route 495. In framing the analysis, the authors noted:

At the end of the 1960's, it was not uncommon for leaders in the Greater Boston academic community to assert that greater racial integration in Boston's suburbs would occur...[I]t was also suggested by some experts that discrimination in sales and rental of housing was of diminishing importance in shaping residential patterns. No evidence exists that such discrimination has declined anywhere in the Greater Boston Area. 1

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There may be some today who would argue that the region has turned from the road to segregation, that "discrimination in sales and rental of housing [is] of diminishing importance in shaping residential patterns." As much as we would like to believe this may be the case, "no evidence exists" to support such a conclusion. Indeed, the evidence we do have suggests that the fears expressed by MCAD and the Advisory Committee more than 25 years ago have been realized and the region is proceeding headlong down the road to segregation.

Evidence of on-going discrimination is contained in a series of reports on home sales, beginning with the release of the Federal Reserve Bank's landmark analysis of the mortgage lending practices of Boston banks. The Fed found widespread disparities between the outcomes of African-American and white mortgage applications, findings that prompted remedial action by banks as well as increased attention to trends in mortgage lending.<sup>2</sup> Since that time, several other studies have documented some improvement as well as continuing disparities in the home sales market. While these mortgage studies do not purport to explain the differences they report, their cumulative effect is compelling.<sup>3</sup>

The Massachusetts Community Banking Council (MCBC) studies have shown an increase in the number of mortgages written to people of color within the city and its near suburbs, though the studies continue to find disparities by race, national origin and income.<sup>4</sup> The Harvard analysis of HMDA data for the years 1993 to 1998 found a significant proportion of African-American (40 percent) and Latino (60 percent) home buyers made purchases outside the city of Boston (compared with 90 percent of European-Americans). Nearly half of the purchases by African American and Latino buyers (48 percent) were concentrated in seven of the 126 communities included in the study. Using a standard measure of residential segregation, the authors reported that "to achieve racial and ethnic integration with European-American homebuyers, over 50% of African-American and Hispanic homebuyers would have had to have bought a home in a different city or town in the 1993 to 1998 period." The authors conclude that the "pattern of segregation" found in the city of Boston "is replicating itself across the cities and towns outside its boundaries."

Descriptive data on the rental market - let alone explanatory or evaluative information - are even harder to find. We do know, however, that rates of homeownership for people of color lag well behind those of whites. This means that a larger proportion of people of color depend on the rental market than the sales market. An analysis of 1990 census data revealed that 68 percent of the Commonwealth's people of color rent housing in contrast to only 30 percent of non-Latino whites.<sup>5</sup>

While specific economic details from the 2000 census are not yet available, population data paint a demographic portrait of the region's growth, especially along the Route 495 corridor. The data also show a striking increase in the number of people of color. Indeed, as The Boston Globe proclaimed, "Minorities are Hub Majority." But while the city itself now has more people of color than whites, The Globe also reported: "While the overall population of whites [in the region] shrank from 87.7 percent...to 81.9

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percent, the communities surrounding Boston remain overwhelmingly white."6 While the census data are, like the studies of mortgage lending mentioned above, merely descriptive, they do represent an important source of information for future analysis. Combined with the region's consistently low vacancy rate, these simple demographic facts underscore the potential impact of racially discriminatory practices in the rental market.

The potential of discrimination is far greater when one recognizes that other groups are victimized by such treatment. Indeed, Federal and state fair housing laws (Title VIII and Section 151(b), respectively) cover a broad range of protected groups: race and color, national origin, religion, sex, family status, disability, marital status, sexual orientation, veterans status, age and source of income. While the market forces seem to reduce what might be called the "opportunity cost" of discrimination - meaning providers feel they can deny housing to one person with a strong expectation that others will follow - there are signs that two other bases join race and national origin as most common. The first is discrimination based on family status, that is the presence of minor children; and the second is source of income, the use of public subsidy. These bases form the bulk of incidents brought to the Center's attention as well as by legal service and community organizations. Historically, they have also constituted large proportions of the MCAD caseload.

### **III. Housing needs in the greater Boston area**

Housing is one of our most basic needs but in this region, as elsewhere in the country, the lack of affordable housing has reached a crisis point. This fact has been documented many times over by journalists and in policy studies. A well-received 1998 study by Mass. Inc. demonstrated how affordable housing is critical to supporting continued economic growth, yet proposals for affordable housing are generally met by the "not in my backyard" attitude in urban and suburban neighborhoods alike.

According to a report released in 2000 by the Boston Tenant Coalition (BTC), the City of Boston has estimated that there are 26,300 elders, families, and individuals in Boston at risk of being homeless because of the high percentage of income they are forced to spend on housing. In Boston alone, more than 20,000 households are on the waiting lists for public housing and Section 8 subsidies.

A family or an individual in the Section 8 program is issued a rental voucher and has between 90 and 180 days to find housing that meets the rent levels covered by the subsidy. Tenants pay 30 – 40% of their income toward rent. The housing agency then pays the landlord the remainder of the rent, up to a formula cap. Rent caps for the program, though reviewed and adjusted annually, consistently lag behind market rents.

The median advertised rent in 1999 was \$1,400 for a Boston 2-bedroom. Using the standard that a household can afford to spend one-third of its gross income on housing, Boston renters would need to make \$62,000 annually to afford the average rent. Yet two-thirds of Boston renters make under \$40,000 each year. This, at a time when the end of rent control and the loss of government subsidized housing through demolition and pre-

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payment of affordability contracts has caused a significant loss in the number of affordable units throughout the region.<sup>7</sup>

Housing affordability problems are not unique to Boston. Municipal planners list high housing costs, the lack of subsidized housing, and lead paint as primary barriers to achieving full housing choice in greater Boston's urban and suburban communities alike. In housing, as in other arenas, members of protected classes who often share the dual burdens of limited resources and high visibility suffer first and longest from such crises. In fact, a 2000 study from the McCormack Institute at UMass/Boston identified more than 600,000 households across Massachusetts as being shelter poor, the majority of which are single-parent families, elders, and people of color.<sup>8</sup>

State and Federal fair housing laws protect all of us from discrimination that keeps us from accessing the housing of our choice and the laws ensure our right to enjoy the social and economic benefits of living in integrated communities. Many people are not aware of the extent to which housing discrimination continues to be present in our city, region, and nation. Nor are they aware of their rights and responsibilities as home seekers and as housing providers. In training sessions conducted by the Center for housing search workers and low-income home seekers, the majority of participants are not aware that blanket refusals to rent to subsidy holders or commonplace rejections of families with children may constitute housing discrimination.

Unfortunately, both the individual and the institutional anti-discrimination systems are complaint driven, relying upon individuals to file complaints when they suspect they have encountered discrimination. Several housing search organizations have contacted the Center with suspected instances of discrimination, but are reluctant to pursue formal enforcement for fear of alienating already hesitant housing providers. Their clients, under pressure to find housing and with limited resources to pursue their rights, are also reluctant to file complaints. Thus, housing discrimination often goes unreported and therefore uncorrected, allowing larger patterns of community segregation to remain unchanged. In turn, citizens of good will throughout the region interpret the lack of dialogue on discrimination to mean that discrimination does not occur within their communities. One of the purposes of this report is to initiate and inform such a dialogue. Toward this end, the next section contains a summary of existing fair housing requirements.

### **IV. Applicable laws**

Housing discrimination is defined largely by the Fair Housing Act of 1968 and the Fair Housing Act Amendments of 1988 (42 USC § 3601 et seq.). This statute identifies specific practices as prohibited and the regulations implementing the act provide further elaboration. According to the law, it is illegal to:

- Refuse to rent, sell, or negotiate for housing on the basis of the characteristics of a protected class;
- Make housing unavailable or deny that housing is available;
- Set different terms, conditions or privileges for the sale or rental of housing; or

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- Deny or make different terms or conditions for a mortgage, home loan, homeowners insurance or other real estate related transaction.
- Advertise housing for rent or sale in a way that is discriminatory.
- “Blockbust for profit”; persuading owners to sell their homes by telling them minority groups are moving into the neighborhood.
- Threaten, coerce or intimidate anyone attempting to exercise his or her fair housing rights.

The law also specifies the bases of discrimination that are prohibited as: race and color, national origin, sex, religion, family status (families with children, single parents, unmarried parents) and disability. In Massachusetts, as other states, housing discrimination is also prohibited under state law. Here it is Chapter 151b of the General Laws. This statute largely mirrors Title VIII, but adds certain bases: marital status, sexual orientation, veterans status, source of income (receiving welfare or some other public assistance and/or have a housing subsidy), and age. The Massachusetts Lead Law requires that landlords have their units deleaded before renting to families with children under the age of six. The law also prohibits landlords from denying a unit to a family because of the presence of lead paint.

## V. Methodology

### Testing

Testing is one of the most effective ways of uncovering discrimination. Quite simply, a test is designed to reveal differences in treatment and to isolate the cause of that difference. Testing is a controlled method of measuring and documenting variations in the quality, quantity and content of information and services offered or given to various home seekers by housing providers. Testers are matched on personal and home seeking characteristics so that the significant difference between them is the factor being tested. In fact, test assignments are designed such that in a discrimination-free environment, the protected class tester would have the advantage over the control tester. The test counts described throughout this report refer to a matched set of testers –commonly called a paired test. In each pair, the protected class tester is assigned characteristics that make him or her slightly more qualified than the control tester. For example, the person of color would have a higher income than the white tester or the parent would have a more prestigious job than the childless tester. By comparing their experiences we are able to identify any differences in treatment and/or information given.

Testing has become a common and accepted practice in several arenas. Testing has also been used for self-compliance monitoring by the real estate industry and lending institutions. Many agencies and management companies use ‘shopping services,’ a form of testing that allows them to determine if their leasing staff are complying with fair housing laws.<sup>9</sup> Additionally, testing is commonly used in response to a complaint filed by an individual home seeker. This complaint-based testing is used to determine whether or not there is evidence to support or deny an individual’s claim of discrimination. The legitimacy of testing evidence in housing discrimination cases has been long upheld by

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the courts. In fact, in 1982 the Supreme Court in *Havens Realty Corporation v. Coleman*, 102 S.Ct. 1114, held that testers who are discriminated against or receive false information from housing providers have standing to sue.

A rental audit is a systematic investigation of housing discrimination in the rental housing market for the purpose of gauging the prevalence and types of discrimination at play in the market at a given point in time. There has not been such a study of the prevalence of housing discrimination in the Boston area in over a decade.<sup>10</sup> In order to address housing discrimination in Boston, — both in terms of education and enforcement — we need an accurate picture of how it occurs, who it affects, and where it is happening. As has been proven elsewhere in the country, the rental audit is one of the most effective tools for taking a region's discrimination temperature. It is important to emphasize that an audit is intended as an information-gathering device and not to generate complaints or enforcement actions. The findings do, however, establish the foundation for future enforcement efforts and serve to heighten awareness among seekers and providers of housing of their rights and obligations under existing fair housing laws.

### Selection and Training of Testers

The Center recruited and trained fair housing testers from suburban communities to work alongside homeless and very low-income home seekers to conduct the region's first rental discrimination audit in over a decade. Beyond the specific task of testing, the audit provided a forum for relationship building across the often unstated barriers of race, class, and urban/suburban divisions.

Training low-income home seekers as testers adds a unique empowerment component to testing. In Massachusetts, low-income households experiencing or at risk of homelessness are required to look at market rate housing in order to access or retain public emergency benefits. As the Center learned from the joint test with Massachusetts Coalition for the Homeless (described in section I) being required to pursue units they knowingly cannot afford can be a discouraging process for low-income home seekers. Yet the women in the group reported that receiving comprehensive training and having their searches put into the context of testing gave meaning to these efforts.

Based on this experience, the Center recruited testers through organizations working with low-income home seekers in greater Boston as well as through universities and housing and civil rights organizations. As a result of targeted recruiting efforts, over one-third of the Center's trained testers were living in shelters, in other transitional housing, or were rental subsidy holders.

All testers received standardized training from the Fair Housing Center staff, which emphasized the role of testers as objective fact finders. To ensure the objectivity of the test results, testers were not told what form of discrimination they were testing. After completing the training testers are eligible to receive a stipend for completed tests. Some testers choose to donate this back to the Center.

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### Selection of protected classes

As noted above, in the Boston region today, the most common forms of rental discrimination are based on race/national origin, family status, and source of income. These three factors, therefore, were the focus of this audit. Because of limited resources, the Center did not test for discrimination based on national origin – all race tests were conducted using African-American and white testers. Considering the vast number of immigrants who make their homes in the greater Boston area, a systematic study of national origin discrimination is needed, especially focusing on the growing Latino population.

### Selection of sites

The audit consisted of 50 paired in-person tests and an additional 48 paired phone tests conducted between October 8, 2000 and March 9, 2001. The test sites were selected as follows:

**Towns/neighborhoods:** Testers were sent to four distinct Boston neighborhoods and 12 cities and towns in Boston's immediate vicinity. All communities selected either share a border with Boston or with another community in the pool. Communities were selected to provide a representative sample of the diversity of the Boston market with regard to type of rental housing stock, prices, and population. The Center intentionally avoided testing in areas where issues of discrimination have been widely publicized.

**Agencies/complexes:** Again, to reflect the variety of housing sources in the region, testers were sent both to apartment complexes and to real estate agencies, including unaffiliated, single site realtors as well as large chain companies. Since phone tests were done from classified newspaper ads, they also included some individual landlords. Center staff met with Boston area enforcement agencies before selecting sites so that our testing would not interfere with investigations currently under way.

**Sources:** The Center used The Boston Globe, the online apartment search sites Apartments.com and Rent.net, as well as the New England Apartment Guide and Just Rentals apartment magazines.

## **VI. Findings**

The findings have been organized to replicate the typical home seeking process. We looked first at advertisements for apartments, analyzed differences in treatment when testers made phone inquiries, and finally compared the treatment testers received when making visits to real estate agencies and/or apartment complexes. We found significant evidence of discrimination against home seekers of protected classes at every step in the process.

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### **Advertising**

According to The Fair Housing Act, "It is illegal to make, print, publish or cause to be made, printed or published, a notice, statement or advertisement about the sale or rental of a dwelling that indicates a preference, limitation or discrimination."<sup>11</sup>

The Center monitored ads placed in the real estate sections of The Boston Globe and The Boston Herald from October 8, 2000 through March 9, 2001. Since our goal is to replicate the search process for rental housing, we looked specifically at listings for apartments and did not monitor sales ads.

Over the five-month period, there were no discriminatory ads found in the apartment listings in the Boston Herald. However, every single Boston Sunday Globe printed over that period had at least one discriminatory ad. Often, there were as many as six discriminatory ads in the Globe's apartment listings.

### Family status

The large majority of the discriminatory ads found in The Boston Globe showed a preference based on family status. The Department of Housing and Urban Development issued the following guidance in a January 9, 1995, memorandum by Roberta Achtenberg: "advertisements may not state an explicit preference, limitation or discrimination based on family status. Advertisements may not contain limitations on the number or ages of children, or state a preference for adults, couples or singles."<sup>12</sup>

Despite the fact that these ads are illegal, they were regularly printed in the Globe's apartment classifieds. The most common discriminatory statement was the word "adults." Ads also stated "not dealed," "lead paint," "ideal for single or couple," "ideal for adults," "singles preferred," and "1 person per bedroom."

The use of discriminatory ads to deter families with children has not been limited to local newspapers. A one-time search of Apartments.com for apartment listings in the Boston area found a number of discriminatory ads. The ads published the following discriminatory statements: "perfect size for a couple or single person," "no kids under 5-6," "adults/students," "adults," and "not dealed."

### Source of income

Discrimination based on receipt of public assistance is prohibited by Massachusetts General Law Chapter 151b, Section 4, 7B, and this prohibition extends to advertising. There were several ads found in The Boston Globe during the five-month period that stated "No Section 8," although they did appear much less frequently than ads discriminating against families with children.

### Race

There were no ads found between October 8, 2000 and March 9, 2001 that were explicitly discriminatory toward home seekers of color.

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Through discriminatory advertising, qualified home seekers are turned away without even being given the opportunity to inquire about the availability of housing. Many home seekers are being deterred at this initial step in the home seeking process. The number of discriminatory ads in the newspaper represents a small percentage of the total number of ads printed, but the regular publication of such advertisements sends a chilling message to home seekers that such discrimination is acceptable. As the results of our phone testing show, all qualified home seekers are not treated equally even when responding to apartment listings that do not openly state any discriminatory preferences.

### **Phone testing**

To conduct the phone tests, matched pairs of testers called to inquire about the availability of apartments. Testers either replied to ads placed in the local newspaper, ads placed online, or ads placed in apartment magazines such as Just Rentals and New England Apartment Guide.

The objective was to speak to a housing provider, but if testers tried several times to reach an agent and were unsuccessful, they were instructed to leave a message with their contact information. If calling in response to an ad, testers were asked to say about which apartment they were calling. If calling to inquire about apartments at a particular complex or to find out what was available at a particular real estate agency, testers were instructed to leave additional information about unit size and price only. This protocol was adopted to ensure that, with the exception of race phone tests, both testers had an equal chance of receiving a return phone call from the agent or landlord. The Center conducted 48 phone tests and as the following results show, significant differences in treatment occurred for home seekers because of their race, source of income, or family status.

### Race

The Center conducted 17 race phone test. In each of the four phone tests where evidence could be compared, the white tester received preferential treatment. In 13 of the 17 tests the white tester was not able to reach an agent or both the African-American tester and the white tester were told that no apartments were available.

### Family status

The Center conducted 20 family status phone tests. There were differences in treatment and/or information given in 11 out of the 16 tests where both testers were able to speak to an agent. Neither tester was able to get through to an agent in four instances and in five of the tests both testers were given the same information.

### Source of income

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The Center conducted a total of 11 source of income phone tests. In every one of the five tests in which both testers were able to speak with an agent there were differences in treatment and/or information provided by housing providers.

In addition to documenting the prevalence of housing discrimination, the phone testing results provide a glimpse at the state of the Boston rental housing market. In each of the three sets of tests, there were many instances when testers who were not members of a protected class did not receive return calls from housing providers, were told immediately that the apartment in question had been rented, or told that nothing was available. Although testers who were not members of a protected class were often unsuccessful in their attempts to find an available apartment, we still found significant differences in treatment in all of the source of income phone tests, all of the race tests and in over two-thirds of the family status tests. Even counting instances of no response or unavailability, these results revealed discrimination in 40 percent of the total tests (20 of the 48).

### **In-person tests**

The Center conducted a total of 50 paired tests in which testers were instructed to make a visit to a real estate agency or an apartment complex. The Center trained testers to pay close attention to how they were treated and the information they received. Testers then completed a lengthy report that included a detailed narrative documenting their experiences. The experiences of each tester in the pair were then compared and analyzed to determine whether or not there were differences in the treatment, information and/or service provided.

The Center conducted 31 in-person, paired tests to determine if there were differences in treatment and/or information given based on race. The Center conducted 10 in-person tests to determine if there were differences based on home seekers' source of income and nine to determine if there were differences based on family status. (See chart A. on page 14.)

#### Race

Of the 31 Race tests conducted, there were 17 in which there was evidence of discrimination (about 55%).

#### Source of income

For source of income tests, testers with rental subsidies were treated differently and/or given different information in six out of 10 tests (60 %).

#### Family status

There were differences in treatment and/or information given in six out of the nine family status tests (67%).

## **VII. Discriminatory behavior encountered by testers**

These results show that for both phone tests and in-person tests, African-American home seekers, families with children, and rental subsidy holders experienced discrimination in over half of their attempts to find rental housing. The Federal and state fair housing laws that prohibit housing discrimination are very comprehensive, so how is it possible that such high percentages of home seekers are being barred from housing for which they are more than qualified? A closer look at the testing results reveals the often-subtle differences in treatment that limit the ability of

### **Access to View Apartments**

Testers who were not members of a protected class were able to view one or more apartments, but protected class testers were not shown any apartments. Also included in this category are instances when an agent called landlords to see if there were apartments ready to be viewed for one tester, but did not make calls for a protected class tester.

### **Information about Amenities**

This describes instances in which a tester was told about the amenities of a particular unit or apartment complex, but a tester who is a member of a protected class was not told about any amenities. This category also includes instances in which the protected class tester was told reasons why he or she might not want to live in a particular unit or complex.

### **Outright Denial**

There were instances when testers were blatantly denied an apartment by a housing provider because of their protected class status.

Statistics on the frequency with which each protected class encountered these types of discriminatory behavior are illustrated in Charts B, C, and D on pages 25 - 27 of this report.

## **Examples of discriminatory behavior**

The following analysis of what forms of discrimination occurred for each of the protected classes shows that African-American home seekers, home seekers with children and those with rental subsidies are likely to encounter very different barriers to accessing rental housing.

### **Race**

As discussed earlier in the report, compared to the overt practices of the past, discrimination today is often more subtle and can only be detected through testing. This is particularly true for race-based housing discrimination. Of the 31 in-person race tests conducted, there was not a single instance in which one of the testers was told outright that he or she was being turned away because of race. However, an analysis of testing evidence shows that more subtle forms of discrimination against people of color are still common practice in the greater Boston real estate market.

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A review of the ways in which people of color were treated differently shows that African-American testers and white testers are most likely to receive different information regarding the availability of apartments. Out of the 17 in-person tests and five phone tests in which discrimination occurred, there were 16 instances in which African-American testers were given different information regarding the availability of apartments.

For example, an African-American tester was told by an agent that there were no studios or 1 bedrooms available and was informed “there hasn't been anything available like that for a while.” A similarly matched, but slightly less qualified white tester, also inquiring about studios or 1 bedrooms, was told, “I'm sure we can find you a place, in fact I have a lead on one now.” In another test, a white tester was told about an apartment and asked to fill out an application and leave a deposit. The white tester told the agent he would check back. A more qualified African-American tester was later told about the same apartment, but was informed that someone else had already put down a deposit on the apartment.

Differences also frequently occurred in terms of the future availability of apartments. A white tester was told by an agent to check back later in the week to get information on new listings. The African-American tester visited the agency the same week and was told that new apartment listings would not become available for almost eight weeks after the date of the tester's visit.

Out of the 22 phone and in-person race tests conducted that revealed discrimination, there were five tests in which the African-American tester received different terms and conditions for renting an apartment than a white tester or had to go through a different, more strenuous application process. African-American testers were often asked for information regarding credit history and/or verification of employment but similarly matched, less qualified white testers were not asked for such information prior to being given appointments and/or shown apartments.

In one test an agent actually told the white tester to ignore the credit check portion of her application less than two hours after the same agent informed the more qualified African-American tester that a credit check was necessary. In another, the African-American tester was warned by an agent that the monthly rent did not include heat, when a white tester had been informed that the apartment was a good deal because all utilities were included in the monthly rent. An African-American tester, who was not told about apartments, was warned by an agent that having good credit was crucial to the application process, but the same agent told a white tester that he had “just the place for [him]” and did not once ask about his credit. Another African-American tester was told by an agent that the rent for an apartment was \$30 more per month than the white tester was told. If the two testers had been bona fide home seekers the person of color would have spent close to \$400 more per year in rent than the white tester.

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There were two tests in which testers were faced with discriminatory comments. In one, an African-American tester was asked by an agent “what is your background?” before being provided with any information. In the other, an agent complained to a white tester about “those damn discrimination laws” that keep him from being allowed to tell applicants “they will never get these places.” He then admitted to the tester that he often does not even bother to run a credit check on people who he can tell cannot afford the apartments. He then assured the white tester that she would have no trouble getting the apartment, although they had yet to discuss her income.

Steering occurred in one in-person race test. The African-American tester was only informed about an apartment that cost several hundred dollars more per month than his stated price range in a neighborhood with a high concentration of people of color. The white tester with the same price range was told about an apartment within that price range located in a predominantly white neighborhood, given an appointment to view the apartment the next day, and told to bring his checkbook.

### Family status

For family status tests, testers with children were most likely to receive different information than testers without children regarding the availability of units. Of the 17 family status phone and in-person tests that revealed discrimination, this form of differential treatment occurred seven times. One childless tester was informed by an agent that four to six apartments were available, while the same agent told a more qualified tester with children looking for the same size apartment there was only one listing. Similarly, a childless tester was informed by an agent that there were two apartments available and assured that the agency was expecting more listings. The same agent told a tester with children that there was only one apartment available, and warned him that it was not deleted.

Like home seekers of color, families with children were often given different terms and conditions than less qualified childless testers. Testers with children were given different information about application fees, fees needed to move into an apartment, and even the amount of the rent. One agent told a childless tester it would cost two-and-a-half-months rent to move in but told a tester with children that it would cost three-months rent to move in – a difference of several hundred dollars. Another childless tester was informed about a two-bedroom available for \$1,200 per month and was encouraged to apply. Later the same day, a tester with children was told that the two-bedroom was \$1,300 per month, a difference of \$1,200 over the course of a year. In this test, the tester with children was also given different information regarding the availability of apartments. In addition to giving the tester a higher rate, the agent discouraged the tester from applying by telling her that someone else was already in the process of filling out an application.

One factor that distinguishes the types of discrimination faced by families with children from the types of discrimination faced by people of color and rental subsidy holders, is the frequency with which discrimination against families with children takes place in the form of outright denial. In four of the 17 family status tests that revealed discrimination,

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testers with children were told that they were not eligible to rent an apartment because they had children. One tester with two children was informed by an agent that she had “absolutely nothing.” The agent then corrected herself and told the tester that she has some two bedrooms, “but no kids.” A different agency informed a tester that “it’s been years since a delead apartment has been available” through that particular agency. The agent then informed the tester that she “really doesn’t expect any delead apartments to come through in the future at all.”

Testers with children were repeatedly turned away because apartments were not delead, despite the fact that this is illegal. The Massachusetts Lead Law requires owners to delead when children under age six live in the property. It does not justify discrimination against families with children.

### Source of income

Of the 11 source of income tests in which there was evidence of discrimination, there were eight instances in which the differential treatment took the form of access to view apartments. This includes tests in which the tester without a subsidy was offered to view an apartment and a tester with a subsidy was not, as well as tests in which agents rescinded offers to show testers apartments after finding out they had subsidies. One agent told a tester about an available apartment within his price range, and told the tester when he would be showing the place. After the tester mentioned his subsidy, the agent asked the tester if he wanted to be put on the waiting list for an apartment, and then told him that he was not sure if he could get in touch with the landlord to do the showing.

In four of the five source of income phone tests that revealed discrimination, testers with subsidies were not even able to make appointments to speak to agents. More than race tests and family status tests, the source of income tests showed that testers with subsidies were highly likely to be told in person and over the phone, after revealing that they had a subsidy, that someone would get back to him or her, yet received no follow-up call.

Testers with subsidies were also turned away due to false information provided by housing providers, including fair market rents outdated by several years, and other discriminatory policies. In one example, a tester inquiring about apartments at a complex was informed she was ineligible based on subsidy rates that were five years old and then advised to walk to CVS to buy a newspaper so she could find apartments more within her price range.

Each of these actual examples illustrates the injury caused to actual people by housing discrimination. Testing puts a face on these all-too-invisible acts.

### **VIII. Recommendations**

It has been twenty years since Stevie Wonder recorded “Cash In Your Face,” what must stand as an anthem of the fair housing movement. As he sang, “I thought the Bill was passed that said you could not discriminate.” But our study has shown that at least three groups of people continue to confront discrimination in the rental housing market. For

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African-Americans, families with children and people using housing subsidies, too often the message remains, "We don't want your kind living in here." Granted, the message may be far more subtle than such direct statements, but the effect is just as devastating in today's extremely tight rental housing market.

The findings of our study lead to several concrete recommendations:

1. The frequency and subtlety of the discriminatory practices revealed during the Center's rental audit underscore the need for ongoing systemic and complaint-based discrimination testing.
2. With the increasing diversification of the region's population, there is an immediate and pressing need for investigation of discrimination based on national origin.
3. There is an obvious and glaring need for comprehensive training to ensure that housing providers are aware of their responsibilities under the fair housing laws. The Greater Boston Real Estate Board and other realtor associations in the region and the Fair Housing Center should negotiate partnership initiatives that employ fair housing experts to conduct education, training, and outreach programs, and expand voluntary compliance to include the use of testing.
4. There is an equally obvious need for a comprehensive program of ongoing training on fair housing rights and responsibilities specifically for landlords, including both large and small property owners.
5. The subtlety of discriminatory practices revealed by the audit underscores the need for extensive outreach and education for home seekers about their rights under the fair housing laws and the resources available to secure those rights.
6. The various existing enforcement agencies - Federal, state and local -- must continue vigorous efforts to enforce the laws. They must complete investigations of valid fair housing complaints in a timely and efficient manner. These enforcement agencies must be allocated sufficient funds to carry out this work.
7. All publishers of classified housing advertisements - by print and digital -- must examine their policies and practices to ensure their publications are not engaged in prohibited discriminatory advertising. These evaluations should generate mechanisms for monitoring performance on a regular basis.
8. All jurisdictions that have conducted Analyses of Impediments to Fair Housing -- regional as well as local - should thoroughly review those documents, evaluate performance to date, and implement those recommendations not yet addressed. This includes coordination with non-profit organizations and housing authorities.
9. Public housing authorities and other agencies that administer Section 8 subsidies should remove barriers to the use of these subsidies. They should designate payment

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standards at the highest possible levels and they should design their policies and practices in ways that affirmatively further fair housing. Such agencies should monitor illegal denials of their subsidy holders and pursue education, investigation and enforcement on behalf of these clients.

10. The various related agencies - including but not limited to housing, civil rights, social service, research, religious and advocacy organizations - should develop a comprehensive analysis and action plan to address the nexus between housing affordability and discrimination. Participating organizations should coordinate efforts to implement such an action plan.

11. In light of the findings on discrimination against families with children, public and private funding sources must increase the funds available and increase publicity for existing programs for lead removal.

12. Public and private organizations in each of the region's cities and towns must organize efforts to address the community tensions implicit in the widespread discrimination documented by the audit. These efforts should include a range of activities designed to ensure that communities are welcoming, open and accessible.

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1 Massachusetts Advisory Committee to the U.S. Commission on Civil Rights and the Massachusetts Commission Against Discrimination, Route 128: Boston's Road to Segregation, January 1975, p. xi, emphasis added.

2 Munnell, Alicia, Lynn E. Browne, James McEneaney and Geoffrey M. B. Tootell, "Mortgage Lending in Boston: Interpreting HMDA Data," Federal Reserve Bank of Boston, Working Paper No. 92-7.

3 The most recent MCBC report states, for example, "It is beyond the scope of these reports to offer either an explanation of why the observed trends have occurred or an evaluation of how well lenders have performed." Changing Patterns VII, page 2.

4 The MCBC reports, Changing Patterns...Mortgage Lending to Traditionally Underserved Borrowers and Neighborhoods in Greater Boston, began in 1995 with the express purpose of gauging the extent to which there had been an increase in the "provision of credit and banking services to the low-income and minority communities within the City of Boston." The studies were expanded to include 27 suburban "ring" communities in recent years. This study found a similar pattern of disparities between the proportions of subprime loans written to people of color and whites in its March, 2001, report Borrowing Trouble? Subprime Mortgage Lending in Greater Boston, 1999. All of these reports are written by University of Massachusetts/Boston Professor Jim Campen under grants to the Mauricio Gaston Institute for Latino Community Development and Public Policy.

5 See "The Demographics of Housing Demand," by David Winsor and Meir Gross, in the 1998 University of Massachusetts study, A Profile of Housing in Massachusetts. In terms of homeownership, the authors report: "Both African-American and Latino householders in Massachusetts show a much lower homeownership rate than they do across the nation...Rates among African-Americans increased nationwide from 34.5 percent in 1950 to 43.4 percent in 1990, but the increase in Massachusetts was only from 25.5 percent to 26.4 percent...Over the same 40-year period, the national rate [of Latino homeownership] declined from 43.7 percent to 42.4 percent; the rate in Massachusetts declined from 25.3 percent to a very low 18.7 percent." (p. 8.)

6 "City, state take on new cast." and multiple articles under this primary headline ran in The Boston Globe on March 22, 2001, pp A1, B6.

7 See Turning New Growth into Affordable Housing, released by the Boston Tenant Coalition (BTC) on April 2, 2000 for a comprehensive look at potential solutions to Boston's rental housing crisis. The statistics quoted here are all contained in the Executive Summary of the BTC's report.

8 See Situation [Critical] Meeting the Housing Needs of Lower-Income Massachusetts Residents. This September 2000 housing study by the Center for Social Policy at the McCormack Institute of UMass/Boston uses author Michael Stone's concept of shelter

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poverty to measure affordability and presents the situation of residents based on this standard.

9 Fair Housing Coach, November 2000, "Using 'Shopping Services' to Check Leasing Staff's Fair Housing Compliance," Brownstone Publishers, Inc.

10 The Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association was the last organization to conduct testing in the region. During the late 1980s and during the 1990s the Lawyers' Committee testing consistently found evidence of racial discrimination that led to litigation.

11 24 CFR Section 804 (c).

12 On January 9, 1995 Roberta Achtenberg, then Assistant Secretary for Fair Housing and Equal Opportunity, released a memo to "provide guidance on the procedures for the acceptance and investigation of allegations of discrimination under section 804 (c) of the Fair Housing Act (the Act) involving the publication of real estate advertisements." The memo was distributed to HUD Office Directors, Enforcement Directors, Staff, the Office of Investigators and the Field Assistant General Counsel.

‡ Fix, Michael and Margery Austin Turner, eds. March 1999. A National Report Card on Discrimination in America: The Role of Testing. In 1998 HUD sponsored an Urban Institute conference to examine new methods that can be used to create a "national report card" on the state of racial discrimination in America. Conference participants drew links between various forms of discrimination encountered by people - including employment discrimination, and discrimination in housing and lending, and discussed ways to effectively measure and put an end to all forms of racial discrimination. Participants concluded "testing should play a central role in the development of the national report card."

‡ ‡ "Many Housing Vouchers Forfeited" The Boston Globe, March 24, 2001, p. E1.