

Fair Housing Issues in Ohio

**A Briefing Before the Ohio Advisory Committee
to the U.S. Commission on Civil Rights Held in
Cleveland, OH, May 21, 2008**

**Ohio Advisory Committee to the
United States Commission on Civil Rights**

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Ohio Advisory Committee to the U.S. Commission on Civil Rights

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Introduction

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).¹ In part because it has been 40 years since the passage of the Fair Housing Act and as a result of the housing market collapse of 2007, the Ohio Advisory Committee decided to hold a briefing on fair housing issues in Ohio.

On May 21, 2008, the Ohio Advisory Committee held the briefing in Cleveland, OH, where it heard testimony from fair housing advocates on various fair housing issues that they were observing in the state. The briefing was not designed to be a finding of fact nor was it intended to address all aspects of the state's current housing crisis. This report's lack of observations and recommendations reflects this purpose. Instead, the Committee sought to hear general issues in order for it to determine whether any of these issues could become the subject of a more thorough and balanced future Committee project. Therefore, in following the historic role of state advisory committees, the Committee invited advocates who represent Ohio residents and who believe that these individuals have been subject to practices that violated their rights under the Fair Housing Act. These advocates reside from diverse areas of the state and represent a similarly diverse set of Ohio citizens. This report provides the general public with the information that was presented to the SAC at the proceedings. However, it also includes a summary of each presenter's statement and the discussions that ensued.

¹ Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*

Summary of Proceedings

First Panel

Jeffrey Dillman

Mr. Dillman, Executive Director of the Housing Research & Advocacy Center in Cleveland, explained that housing impacts different aspects of people's lives beyond the physical space one occupies. He argued that where one lives also influences the quality of schools that children attend, the transportation options one has to get to work, the access to employment options one has, and even one's health and safety. Given the importance of the subject, Mr. Dillman was particularly pleased with the SACs' interest in the topic given that it was the Fortieth Anniversary of the passage of the Fair Housing Act and the Kerner Commission's report on the racial unrest in American cities. Mr. Dillman stated that the Kerner Commission's 1968 finding that the United States was moving toward two societies – one black, one white – has in some ways become reality.

Presenting statistics from the U.S. Census Bureau, Mr. Dillman informed the Committee that Cleveland is the sixth most segregated metropolitan area in the country for African Americans and the eleventh most segregated for Hispanics or Latinos. In addition to this sobering data, Mr. Dillman informed the Committee the research his organization conducted of housing complaints filed with HUD found that in the last five-year period, there was an 87 percent increase in the number of fair housing complaints compared to the previous five-year period. The majority of these complaints were based upon race and disability. Mr. Dillman explained that this increase in complaints was even more sobering because most people who experience discrimination do not file complaints to a government agency, with HUD estimating that only about one percent of people who experience discrimination actually filing a complaint.

In February 2008, the Housing Research and Advocacy Center ("HRAC") released a report entitled, "Continuing Racial and Ethnic Disparities in Ohio Mortgage Lending." After examining recent Home Mortgage Disclosure Act data throughout Ohio, the HRAC concluded that African Americans and Latinos were denied loans more often than whites, and when the former groups receive home loans, they are more likely to be subprime loans than when whites receive home loans. Mr. Dillman went on to explain that the assumed explanation for this disparity is income, since both African Americans and Latinos are paid less on average than whites. However, the HRAC study analyzed the data accounting for income disparity. The result was upper income African Americans are denied mortgage loans more often than low income whites throughout the state of Ohio. Furthermore, the study found that in every metropolitan area of Ohio, upper income African Americans received more high-cost subprime loans than low income whites with Cleveland having the highest disparity in this category throughout the state. The statewide disparities were not as great between Latinos and whites, but Latinos were

still denied loans at higher rates than whites and also received more high-cost subprime loans than whites.

Mr. Dillman believes that the lenders have the obligation to address these racial and ethnic disparities, and government housing agencies at all levels must effectively enforce existing fair lending laws. He cited an example where a few years ago the Federal Reserve referred approximately 200 instances of discriminatory lending for additional investigation. However, as of the date of the briefing, no results had been released regarding these investigations or whether they even occurred.

Jim McCarthy

As President and CEO of the Miami Valley Fair Housing Center (“MVFH”) in Dayton, an organization that works to eliminate illegal housing discrimination and ensure equal housing opportunities, Mr. McCarthy concurred with Mr. Dillman that illegal housing discrimination remains a problem 40 years after the Fair Housing Act became law. He also suggested based upon available data that Miami Valley neighborhoods are even more segregated today than they were in 1968. Despite numerous topics under the umbrella of fair housing, Mr. McCarthy chose to discuss fair housing issues related to two protected classes: familial status and disability.

Mr. McCarthy explained that familial status was added as a protected category under the Fair Housing Amendment Act of 1988. The protection extends to families who have children under the age of 18 living in their household through birth, adoption, or informal arrangement. Despite this law, Mr. McCarthy stated that his agency finds, as a matter of routine, landlords who assess additional charges for children. He stated these additional charges usually range between ten and fifteen dollars per month. The MVFH also finds landlords who restrict occupancy arbitrarily. For example, a landlord will decide on his or her own initiative that only three individuals can live in a two bedroom apartment. Mr. McCarthy stated that more than one of these cases is currently filed with the Ohio Civil Rights Commission. Finally, Mr. McCarthy stated that familial discrimination can sometimes be extremely blatant, where landlords will tell potential renters that they do not want children living in their properties.

In regard to housing discrimination based upon disability, Mr. McCarthy limited his comments to the accessibility design in construction requirements established in the Fair Housing Act and what he sees as the failure of builders, developers, and architects to meet those requirements. In the Fair Housing Act Amendment of 1988, Congress required all multi-family housing dwellings constructed after March 13, 1991, to comply with seven specific criteria in order to ensure that the dwellings will be fully accessible to people with disabilities.² The MVFH, using HUD grants, conducted fifteen audits of new construction, multi-family housing built in the past four years. Mr. McCarthy sadly reported that 100 percent of these audits found violations of the federal housing laws. He provided examples of the common, and what he called blatant, violations his organization found: steps to the front doors of the leasing offices were inaccessible to people in wheelchairs, front door thresholds to the units were too high, kitchens and bathrooms

² 2 U.S.C. § 3604(f)(3)(C)(2009).

were designed without sufficient clear floor space, and thermostats and light switches were placed too high.

Mr. McCarthy was also disappointed to find that the developers and architects of these properties have opposed resolving the problems after complaints were filed with the Ohio Civil Rights Commission. He is concerned that while these complaints are working their way through the administrative and court systems, more inaccessible housing units are being built. On top of this, Mr. McCarthy stated the need for accessible housing is increasing as a result of an aging population and the return of veterans from foreign wars.

Patricia Kidd

Ms. Kidd is Executive Director of the Fair Housing Resource Center (“FHRC”), a certified HUD housing agency. She spoke to the Committee about disability discrimination. In 2005, FHRC conducted a systemic testing study of disabled individuals and non-disabled individuals to compare how they were both treated by housing providers. The study concluded that 66 percent of disabled individuals were denied housing when they sought rental housing in Lake County, OH. Ms. Kidd reported that this percentage denial rate was twice the rate of any other protected category studied.

Ms. Kidd explained briefly that the Fair Housing Act prohibits property owners from discriminating against a housing applicant because of the latter’s disability and from refusing to reasonably accommodate a disabled individual or provide reasonable modification. Ms. Kidd defined a reasonable accommodation as a simple request for exception or some kind of change in the policy or rule so that an individual can have an equal opportunity to use and enjoy their property. In comparison, Ms. Kidd defined a reasonable modification as a request to change some kind of internal structure or external structure to modify the unit so it is more accessible. Examples of reasonable modification that Ms. Kidd cited were ramps, grab bars, and lock boxes outside a property so that emergency units would have easy access into the unit.

Ms. Kidd recounted one client who was blind and had a guide dog. This individual was trying to rent a one-bedroom unit, but he was denied 27 times. She told of another client with a spinal chord injury who was admitted to a temporary nursing home for wound care. However, the nursing home facility refused to have his service animal present for him, despite the fact this animal provided approximately 160 tasks for the man.

In conclusion, Ms. Kidd surmised that discrimination against disabled individuals is so prevalent either because of a general lack of education regarding the rights of disabled individuals or because of a general feeling among property providers that they can do what they want to do. Ms. Kidd attested to the fact that she educates individuals daily about fair housing laws because people generally have no idea what it is. She also argued that there is dire need for enforcement of these laws.

Discussion

Committee member Forte began the discussion by asking Mr. Dillman to define upper income and lower income for purposes of his organizations report. Mr. Dillman explained that they used the standard U.S. Census Bureau classifications, which states upper income is more than 120 percent of the median income, and lower income is less than half of median income. Mr. Forte then followed up asking whether the study was able to analyze whether the individuals in these income categories were overreaching in terms of standard loans that they could afford. Mr. Dillman answered that information of the loan amounts and debt-to-income ratios are not publicly available. He did say that they only analyzed homes purchased for primary residence, not investment or other types of properties. He also stated that other studies have been able to control for some of these factors and still found similar disparities in lending. Mr. McCarthy added that if lending regulations in place were enforced properly, people would not be able to receive loans for which they did not qualify.

Chairman Dent followed Mr. Forte's question to see whether the study looked at assets, employment history, and other relevant lending factors. Mr. Dillman responded that lenders do not reveal that data, but then he attempted to place the Committee's general line of questioning into an historical framework. Mr. Dillman said that over three years ago, housing advocates raised concerns about the racial disparity in lending practices, but lenders always responded that there were other factors like income that was not revealed which would account for the disparities. Then, the income data became available, and the racial disparities still exist even when income is considered. Mr. Dillman surmised that credit scores and other factors would explain some of the disparities if revealed, but it would not explain all the differences. Furthermore, Mr. Dillman stressed that modern day wealth differences, primarily between white and black Americans, are partly a function of past discrimination when black Americans were not allowed to own land, legally or in practice.

Chairman Dent asked whether Mr. Dillman believes the lending problems resulted because lenders were unwilling to lend or because lenders were too willing to lend. Mr. Dillman responded by stating that the Community Reinvestment Act, Fair Housing Act, Equal Credit Opportunities Act, and other civil rights statutes try to achieve fair access to credit.³ Individuals should have access to fair and appropriate credit. However, Mr. Dillman says offering loans with unfavorable terms to communities that had been deprived of credit for years or that were historically redlined by banks and savings & loans is not a benefit to those communities. He would prefer to see access to fair credit and not credit on any terms. He argued the irresponsible subprime loans that lending institutions offered "took off" initially in predominantly minority communities, and those communities have been disproportionately affected by the fall out.

Committee member Gerber asked Mr. McCarthy whether permits or licenses or some type of education on fair housing laws was required before one is allowed to build or rent property. Mr. McCarthy responded that in regard to renting property, no training is required. In regard to builders and developers, the problem, in his opinion, is that even though there are zoning ordinances and building permits, the local county government or city government has no obligation to enforce the federal laws. Some of these entities do it

³ Community Reinvestment Act, 12 U.S.C. §§ 2901-08; Fair Housing Act, 42 U.S.C. §§ 3601-3619, 3631; Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-91f.

as a matter of best practices, but they do not condition the granting of permits based upon compliance with federal civil rights statutes.

Committee member Colker inquired if Ms. Kidd came across patterns in her study where people with disabilities are unable to provide the deposit that landlords' require. Ms. Kidd responded that the only time this comes into play is when a housing provider, in order to make a reasonable accommodation, waives a no-pet policy for a disabled renter with a service animal or therapy-assistive animal but charges a higher security deposit as a result of the animal being present in the residence. Ms. Kidd said that her organization sees that practice as a violation of the Fair Housing Act because landlords do not charge somebody a higher rate because they have a wheelchair.

For her second question, Committee member Colker asked the panel whether they experienced difficulty with group homes for individuals with mental problems being zoned in a particular neighborhood. Ms. Kidd responded that she had never filed a formal complaint in this regard but had been involved in many zoning committee hearings and city council meetings where she attempted to educate the municipality of the Fair Housing Act and how it applies to group homes. She said that she has found this type of outreach in negotiation to be most effective. Mr. McCarthy stated that he also went before zoning commissions and other municipal agencies to educate those bodies about zoning ordinances that do not comply with the Fair Housing Act. He stated that this advocacy has been successful in resolving the issues without the need for filing a complaint.

Committee member Forte followed up on the group home zoning question by asking whether Mr. McCarthy believed that the record is generally getting better in regard to the housing of people with mental challenges. Mr. McCarthy stated that it is fair to say that when education is provided to a governmental body that the law is respected. However, he stated that group homes or family care homes still meet a lot of resistance from neighbors of the surrounding property, and residents of these homes often have issues with treatment from neighbors if they do get zoned there. He also found it disappointing that, forty years after passage of the Fair Housing Act, zoning ordinances are still not in compliance despite the fact these ordinances have been updated by the law departments of these jurisdictions numerous times.

Committee member Doshi asked Mr. Dillman if the increase in complaints in the past five years was primarily a result of greater general awareness and recordkeeping. Mr. Dillman stated that he was not sure what caused the increase. He said it is normal to see large swings in the number of complaints from year to year, so that is why the study was designed to look at five-year periods. Despite these efforts, Mr. Dillman told the Committee that he cannot say discrimination has increased in relative proportion to the number of complaints in the past five years. Instead, the increase can be partly explained by greater awareness of the laws and a higher motivation by those discriminated against to report the discriminatory actions. However, Mr. Dillman stressed that it is difficult to attribute any particular cause to the increase.

Committee member Doshi's second question to Mr. Dillman was whether there was any other noticeable discrimination against an ethnic group or race in the higher income levels. In response, Mr. Dillman said that the study did not look at Native Americans because of their relatively small population in Ohio, found that Asian Americans and Pacific Islanders tended to be similar to whites, and uncovered that

Hispanics were between whites and African Americans in terms of discrimination rates. Data was not present to study any other groups.

Committee member Citrino asked Mr. Dillman to discuss the connection between housing discrimination and education. In response, Mr. Dillman said that in most communities the school children attend is determined by where they reside. Thus, if someone is denied the opportunity to live in a particular community, it can have a large effect on what type of school their children attend. Mr. Dillman concluded that given the recent Supreme Court decision limiting the remedies that school districts can use to try to achieve integration, housing segregation becomes an even more important issue in regard to education equality. Mr. McCarthy added that in his organization's audits, school districts are often used as a proxy for racial discrimination. He stated that when white testers inquire about housing in communities of color, these testers are often cautioned about the quality of the school districts in that community. However, African American and Latino testers seeking housing in those same communities are not given the same cautionary line.

Committee member Johnson asked the panel whether individuals with disabilities were, in general, segregated in regard to housing. Ms. Kidd responded that in Lake County individuals with disabilities are segregated not because they are disabled but because those individuals are usually on an income subsidy. Thus, their income subsidy requires that they live in subsidized housing, which is concentrated in one small city.

Committee member Bledsoe asked Mr. Dillman whether the study showing Cleveland to be the sixth most segregated city in the nation included the Cleveland area or just the city proper. Mr. Dillman explained the study looked at the Cleveland metropolitan area, which includes Cuyahoga, Lorain, Lake, Medina, and Geauga Counties. He added that in terms of lending Cleveland proper is still highly segregated, but he did not know where it would rank in comparison to other cities.

Committee member Thrower stated that in the West End area of Cincinnati, city planners have been revamping public housing units. To do so, she claims that families in these older units were moved out. However, these original tenants oftentimes cannot afford to move back into the revamped units because the cost of these new and improved units had increased. Mr. Dillman stated he was not familiar with the public housing situation in Cincinnati, but throughout the country public housing units have been redeveloped in an effort to decrease the concentration of low income individuals living in a particular community. He said that most agree it is a good thing for cities not to be segregated by income, but it is challenge to find affordable housing throughout cities. In addition, these efforts most likely have a disproportional impact on African Americans, but Mr. Dillman did not know if a claim could be brought because of it.

Committee member Gerber asked the housing advocates how they decide upon whom to sue to enforce fair housing laws given limited resources. Ms. Kidd said that they sue everyone they can without appearing litigious. Mr. McCarthy stated that they first attempt to educate everyone at the beginning. If some people are recalcitrant, he then attempts to use the administrative process, which is the Ohio Civil Rights Commission ("OCRC") because it is free and effective. The OCRC offers mediation, which is an informal setting to try to negotiate terms and resolve the complaint. If a case then has to go to court, Mr. McCarthy relies on volunteer attorneys in the private bar association who take the cases on a contingency basis.

Committee member Citrino asked who pays for a reasonable accommodation or modification to be made for a person with a disability. Mr. McCarthy stated that in regard to a private development, a reasonable accommodation or modification is paid for by the individual who has the disability, so there is no cost imposed upon the housing provider. However, if the housing provider has received a government subsidy, then the cost for the accommodation or modification shifts to the housing provider. Mr. McCarthy added that research done in the past 20 years shows that if a new housing development is planned and designed properly from the start, the additional cost is less than one percent more than what inaccessible housing costs.

Second Panel

Kathy Broka

Ms. Broka is President and CEO of the Cleveland Fair Housing Center (“Center”) and the Northwest Ohio Development Agency in Toledo. She reported, among the many accomplishments, that the Center was successful throughout the 1980s and 1990s entering into Community Reinvestment Act (“CRA”) agreements with area lenders, which resulted in millions of dollars in investments into urban areas. Ms. Broka reported, however, that recent weakened enforcement of the CRA has made utilizing it increasingly difficult. In addition to CRA agreements, the Center has dramatically expanded its scope of services to deal with the current credit crisis. Last year, 50 percent of the complaints the Center received dealt with lending practices. Despite this increase, Ms. Broka does not believe Ohio has more or less discrimination than other states, but she feels the state does a better job than other states in holding those who discriminate accountable.

Ms. Broka wanted to focus her prepared comments on the issue of insurance discrimination. She reported that she has seen insurance discrimination appear in Toledo in many forms. She recalled how insurance providers who would not insure homes over 50 years old would only strictly enforce that policy in central city neighborhoods. In addition, insurers often determine if a home has a moral hazard issue. In this scenario, a bank may provide a lender with a loan, but the insurer will not offer to insure the property because of alleged credit issues. However, the insurance company’s concern may have actually been that they did not want to insure a home for too much because they felt the owner may burn the house down. Ms. Broka stated that the Center never lost a case against an insurer on these issues because insurers could never provide statistical evidence that what they were alleging was reasonable.

Ms. Broka told the Committee that the Center is litigating a case now against an insurance company claiming that the company never offers residents of predominantly African American neighborhoods the company’s best insurance policy. For example, the Center alleges the company only will insure homes in these neighborhoods for a portion of their full value. In another case that is not against an insurance company, Ms. Broka told the Committee that the Center is in litigation against a small municipality near Toledo that would not allow a group home for mentally disabled to open, despite efforts by Center attorneys to educate the municipality.

Ms. Broka informed the Committee that fair housing agencies are struggling to keep up with the mounting expenses of all the litigation and investigation needed in the housing area. On top of this, the Center’s funding from fair housing initiatives and from the community development block grant has decreased in recent years. She recalled how one case against a major insurer would have closed the agency if they had lost. Because of these cost pressures, Ms. Broka said fair housing agencies proceed with litigation very cautiously because one catastrophic lawsuit could close an agency.

Elizabeth Brown

Ms. Brown is the Executive Director of HOME in Cincinnati, a fair housing organization whose mission is to eliminate illegal housing discrimination and help build stable integrated communities. HOME receives complaints of potential violations of fair housing laws, gathers evidence for these claims, and serves as an advocate when appropriate. In addition, HOME is active in education and training of housing professionals like realtors, apartment associations, and investor groups. They also have a mobility program that places families with Section 8 housing vouchers near jobs and good schools as well as recruits landlords to accept these families when they otherwise would not. Furthermore, HOME is funded by the United Way to operate a stability program for transitional neighborhoods which helps prevent foreclosures and its devastating neighborhood repercussions. Finally, HOME runs a joint project with the Hamilton County Regional Planning Commission where professional planners are hired to work in suburban communities with the goal of encouraging these communities to become more stable and integrated.

Ms. Brown informed the Committee about some recent housing discrimination cases of which HOME is involved. Ms. Brown says most of the racial discrimination now seen is subtle. HOME does testing by sending white and black potential renters to apply for housing in vacant units and then comparing whether the testers were treated differently. In one case, a woman inquired about an apartment that had a sign signifying it was for rent but was told the unit was rented. After the sign was not removed, she called HOME because she believed she may have been denied because of her children. However, a racial test performed by HOME found out the landlord clearly treated the white applicant differently from the black applicant.

In another less subtle case, a landlord rented a unit to a black couple in a mostly white neighborhood. The other white tenants in the building were frightened by this and began complaining to the landlord about alleged things the black couple did. So, the landlord cancelled the month-to-month lease of the black couple. HOME helped the couple file a complaint and the landlord settled.

In regard to home sales, Ms. Brown stated the primary problem is racial steering by real estate agents. In one case, a buyer's agent steered a buyer away from an integrated neighborhood, and when the buyer went to see the property alone and told the seller's agent, the latter became very offended. A complaint was not filed against the buyer's agent but a substantial settlement was negotiated. However, nothing would have been done if the buyer had not gone to see the property on her own.

Ms. Brown reiterated to the Committee that most cases involve subtle discrimination, but she is still shocked at the number of overt racist acts that exist. She retold one recent case where a woman called about a unit for rent and, in reply, the landlord left an ugly racial tirade on her voice mail. This voice mail was played back in court, and the court easily found discrimination. In another overt example of racist activity, a real estate agent made an offer on a house in Hamilton County on behalf of a

black family. The seller in reply told the agent that he would burn his house down before selling it to a black family.

Ms. Brown told the Committee that she realizes that HOME sees the dirty underbelly of race relations, which are the exception to the norm. She also wishes that HOME had worked itself out of a job after 40 years. However, she opined that the amount of interracial discrimination that exists requires that fair housing laws are vigorously enforced.

Vincent Curry

Mr. Curry is the Director of the Fair Housing Advocates Association (“FHAA”), an organization that engages in education and enforcement activities throughout Ohio in areas that do not have fair housing groups. He told the Committee that most complaints his agency receives involves rental housing, and he sees both blatant and more subtle discrimination. According to Mr. Curry, families with children and people with disabilities suffer the most blatant forms of discrimination. He also stated the biggest impediment to fair housing in Ohio is lack of resources for education and enforcement.

After his introduction, Mr. Curry began to talk to the Committee about sex and religious discrimination. Mr. Curry said that sometimes providers are using religious beliefs to determine whether or not they will rent to somebody. He used an example of an unmarried couple who were told by a potential landlord that he could not rent to them because their relationship was against his religious beliefs and that they were going to hell. Another landlord told this couple that she would not allow fornication on her property. Mr. Curry acknowledged that marital status is not a protected class and individuals have a right to hold those religious beliefs, but he did not think those beliefs should be factors in determining who gets access to housing. Mr. Curry also cited a current case where an insurance provider provided extra perks and benefits based upon whether the insured was a Christian who attended church. If the insured is not a person of Christian faith who attended church, then that person did not receive the benefits. In another case involving religion, Mr. Curry told the Committee a campground in Lancaster, Ohio, required the cottage owners to be Christian even though it was not a church-run campground but a for-profit organization. This campground also did not allow a woman to reside there because she was divorced. The FHAA took this case to federal court to enforce fair housing laws.

Mr. Curry prefaced his comments about sex discrimination and housing in Ohio by stating that approximately 60 percent of complaints his office receives do not have merit. Like other fair housing organizations, the FHAA gathers evidence through testing, which may involve paired testing, wired testers, or more simple telephone tests. Through these testing efforts, the FHAA compiles evidence to determine the merit of complaints. The results of these tests resulted in a case where a federal jury awarded several women \$490,000 after they were victims of sexual harassment by an elderly, white male. Another case involved a woman on Section 8 in Mount Vernon, Ohio. She was divorced and on the verge of losing custody of her daughter if she did not find housing. A landlord used the woman’s dependency on housing to coerce her to have sex with him. The FHAA also

prevailed in the case against this landlord. Mr. Curry went on to discuss other housing cases involving sexual harassment in which FHAA is involved.

Mr. Curry informed the Committee about a case against the municipality of Zanesville, Ohio. Almost unbelievably, public water was not provided to an area of the city that was populated primarily by African Americans. Some of FHAA's clients in this case had lived there their entire lives without ever having water. Although the case is still being tried, those residents now have running water.

Edward Kramer

Mr. Kramer is Director and Chief Counsel of The Housing Advocates, Inc., ("THA") in Cleveland. His organization is a public interest law firm that has grown into a fair housing organization and consumer and housing counseling agency. Currently, the organization is working on approximately 15 cases with the Department of Justice against municipalities that have zoning laws that are preventing group homes from being developed. Mr. Kramer's focus of discussion with the Committee was on linguistic profiling and predatory lending abuses.

The Housing Advocates has a linguistic profiling program for African immigrants because these immigrants are usually identifiable when they call to inquire about housing. THA has found that this distinctive linguistic trait makes African immigrants likely victims of housing discrimination. Therefore, THA has over 75 testers from African and Hispanic communities to conduct phone tests and follow-up on-site tests to determine whether or not discrimination is occurring. In the first six months of the program during 2006, three out of every four tests conducted resulted in a finding of significant forms of discrimination. The discrimination ranged from not having calls returned or returned after white testers were called back to having numerous questions asked that were not asked of the white testers. The testing also uncovered one case of discrimination against a white tester who was inquiring about a rental unit in an African American community.

In 2007, THA completed a second round of testing, and the organization expected better findings as a result of their first tests and the follow-up education activities. However, as Mr. Kramer formally announced for the first time publicly, the results of the second testing were even worse. Of the 54 completed tests, THA found 83 percent of those tests to come back with a probable cause of discrimination. Mr. Kramer surmised that this high rate of discrimination may be the result of immigrants already having strikes against them because citizens hold so many presumptions about them. In addition, African immigrants are also black and subject to the biases of people who hold racial prejudices. If the immigrant is an African woman, Mr. Kramer says that may be a third strike if the landowner holds sexist attitudes. Mr. Kramer says there must be greater efforts to enforce fair housing laws at the local, state, and federal levels with regard to these vulnerable immigrant groups.

In regard to predatory lending, Mr. Kramer stated that there are 10,000 vacant foreclosed properties in Cleveland or 1/12th of all the housing stock in the city. He shared a case that highlighted the problem that foreclosures bring to communities. An African American woman in East Cleveland had been paying a mortgage on a home for years and

refinanced it in 2005 at an appraised value of \$89,000. A few weeks before the Committee meeting, the same house appraised for \$31,000 because the only comparable the appraiser could find was from sheriff's sales. He again stressed the Fair Housing Act has provisions that should protect people from predatory lending if enforced.

Discussion

Committee member Gerber began the discussion by asking the panel how their agencies decide what cases to pursue in court. Specifically, he asked Ms. Brown why HOME focuses on litigating race discrimination cases when there are other categories of protected groups. Mr. Curry responded that if a person comes to FHAA and is a victim of discrimination, then the organization will pursue the case. The question is where. He told the Committee that at minimum all cases can be pursued cheaply through the Ohio Civil Rights Commission, the state administrative agency that protects the rights of the citizens of Ohio. However, he said if it is a slam-dunk case, FHAA will pursue the case in court.

Ms. Broka responded that the Center chooses which cases to pursue based upon plain timing and the amount of money available. Another vital factor for her agency is whether the Center can find an attorney to take the case on contingency. She also mentioned that when litigating, plaintiffs have to consider the resources of the defendant.

Ms. Brown responded that race complaints make up the largest number of complaints HOME receives, and she spoke about them as part of the program schedule. However, she added that in 2007, disability complaints almost matched the number of race complaints, and she stated that they receive a good number of discrimination complaints based upon familial status. She told Mr. Gerber that HOME does not make choices regarding what types of discrimination cases to pursue.

Committee member Bledsoe asked whether any of the representatives from housing agencies received complaints of discrimination against persons reentering society from prison, even though such persons are not a federally protected class. Mr. Kramer said that THA just completed a successful settlement regarding such a case. He said the person was released from prison, got married, and wanted to live with his wife who had lived in a rental unit for over two years and paid her rent on time. This former inmate went to the landlord to explain the situation, and the landlord informed him that he did not rent to persons convicted of felonies and tried to have the wife evicted. Mr. Kramer also explained that THA did a study with Dr. Mark Solie from Northern Ohio Data Information Service that showed in Cuyahoga County 71 percent of all incarcerated individuals are African American and 81 percent are male. Thus, they sued for disparate impact based upon both sex and race discrimination under the Fair Housing Act.

Committee member Thrower asked whether the integrated communities of which Ms. Brown spoke were affluent communities. Ms. Brown cited a study done in Cincinnati that identified 14 stable integrated communities in Hamilton County, 13 of which were in Cincinnati. She explained most of them were not necessarily affluent but middle class or perhaps slightly upper middle class. Committee member Thrower also asked Ms. Brown to comment on a settlement with Nationwide Insurance regarding the redlining of minority communities in Cincinnati. Ms. Brown pointed out the interesting thing about

the settlement was that it included a large fund to provide down payment assistance to potential home owners, which Ms. Brown believed appropriately addressed the problem the lawsuit sought to correct.

Committee member Forte asked Mr. Kramer to what extent THA works with groups that are active in intercultural education and understanding to solve housing discrimination problems. Mr. Kramer responded that THA have a speaker's bureau that give speeches to groups about fair housing and the history of Cleveland's housing development. Mr. Forte asked more specifically whether THA is involved with any groups to help integrate the African immigrants into American culture. Mr. Kramer said that they have met with African immigrant groups and encouraged them to develop housing committees to work with housing agencies. In addition, after the settlement of the case with the Ohio Civil Rights Commission, the landlord involved in the case will provide THA housing information on units available one week before they are open to the public. THA will then provide that information to African immigrant groups so that they can possibly find new housing in suburban locations.

Committee member Johnson asked whether it was legal under fair housing law for municipalities to pass ordinances that prohibit renters from renting to undocumented workers. Mr. Kramer, agreeing with Chairman Dent, responded that it is a disputed issue. Mr. Kramer said the legal question is whether such ordinance would create a disparate impact that would potentially violate federal law. However, he did not believe any federal court has decided the issue yet.

Committee member Johnson's second question was regarding the tension under the Fair Housing Act between a person's national origin being a protected category but the law applying only to U.S. citizens. Mr. Kramer explained that, to him, the Fair Housing Act protects everyone because it says "person," which he believed the courts interpreted to mean any person in this country legally. He said the issue is whether or not undocumented persons are protected. To him, even these individuals are protected under the Fair Housing Act because they are persons. Chairman Dent questioned Mr. Kramer's beliefs because the status of the person is not a protected category. Mr. Kramer, although agreeing with Chairman Dent, said the question would then be disparate impact based upon race, but that it may not be too relevant since a person present illegally could be deported. Thus, such a person would likely not come forward to pursue his or her rights under the Fair Housing Act.

Committee member Citrino followed up this discussion by adding that her experience as a regional director of the Ohio Civil Rights Commission taught her that most exploited people are those who are afraid to come forward. Thus, she believes it is important that the federal civil rights laws protect people regardless of immigration status or else they could face horrible treatment.

Transcription

BRIEFING MEETING OF THE OHIO ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS

BRIEFING ON FAIR HOUSING ISSUES IN OHIO

Transcript of proceedings had before Judi Sadler, Registered Professional Reporter and Notary Public within and for the State of Ohio, commencing at 10:30 a.m. on Wednesday, the 21st day of May, 2008 at the Crowne Plaza, 777 St. Clair Avenue, N.E., Ritz Room, 6th Floor, Cleveland, Ohio.

BEFORE:

George Dent, Chairman, Ohio Advisory Committee
Kevin McDermott - Columbus, Ohio
Scott Gerber - Ada, Ohio
Kelli J. Johnson - Hamilton, Ohio
Robert Harrod - Cincinnati, Ohio
Diane Citrino - Cleveland, Ohio
Aaron Wheeler - Columbus, Ohio
Cassandra Bledsoe - Cleveland, Ohio
Edith Thrower - Cincinnati, Ohio
David Forte - Cleveland, Ohio
Ruth Colker - Columbus, Ohio
Dilip Doshi - Westerville, Ohio

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Also Present: David Mussatt, Ph.D., Director
Midwest Regional Office

www.stenoreporters.com

PANEL 1 - Morning Session:

Jeffrey Dillman, Executive Director, Housing Research and Advocacy Center

Patricia Kidd, Executive Director, Fair Housing Resource Center

James McCarthy, President and CEO, Miami Valley Fair Housing Center and Chair of the board of directors, National Fair Housing Alliance

PANEL 2 - Afternoon Session:

Vincent B. Curry, Executive Director, Fair Housing Advocates Association

Katherine Broka, President and CEO, The Fair Housing Center

Edward G. Kramer, Director and Chief Counsel, The Housing Advocates, Inc.

Elizabeth Brown, Executive Director, HOME (via telephone)

PROCEEDINGS

MR. DENT: Let's get started, if we may. We're already 15 minutes late and since we have speakers scheduled at 1 o'clock, we don't want to run too late here. The format here, I believe, is for each of our three guests to speak for about 15 minutes. And then I think it would be better if we could, in general anyway, hold questions until after all have spoken and then we can pose our questions to them, either to a particular individual or to the whole panel. Although if someone wants to intrude with a particular question at a particular time that you think would be better to do so, if you think it's really appropriate, then do so. Otherwise, I think let's hold the questions until after all three have spoken. I have no preference for order here. On the agenda we have set here it's Mr. Dillman first then Mr. McCarthy then Ms. Kidd, but if -- does anyone have any problem with going in that order? I guess not. Okay. So shall we start with you, Mr. Dillman, for about 15 minutes?

MR. DILLMAN: Yes. Thank you Chairman Dent and committee members for the opportunity to come and speak with you today. My name is Jeffrey Dillman and I'm the executive director of the Housing Research and Advocacy Center. The Housing Center was founded in 1983 and our mission is to eliminate housing discrimination and to assure choice in northeast Ohio by providing people at risk the effective information, intervention and advocacy. And we do this by doing work in three primary program areas. We do research into issues of housing patterns, lending patterns, population trends. We conduct education and outreach into fair housing and related laws for various constituencies. Everyone from landlords and social workers to architects and builders. And we also conduct general education programs for the general public and provide information to consumers on issues related to predatory lending. And we have an enforcement and advocacy program that is designed to detect and deter housing discrimination and advocate on behalf of stronger laws and greater enforcement of fair housing laws.

I think that fair housing is an especially important area given that housing impacts many different areas in people's lives, not only affects where one is given the opportunity to live, but also the quality of schools that children can attend, access to transportation and employment as well as whether one lives in a healthy and safe environment. And this year in particular is very significant in terms of fair housing because it's both the 40th anniversary of the passage of the Fair Housing Act, which was passed in April of 1968, one week after Dr. Martin Luther King, Jr. was assassinated, but it's also the 40th anniversary of the Kerner Commission's report that was done to examine some of the cause of unrest that was occurring in the 1960's in a variety of American cities. And the Kerner Commission concluded that we were moving towards two societies; one black and one white, separate and unequal. And I think that those of us in the fair housing movement, and I can speak very specifically to northeast Ohio, feel that we have much to do to try to remedy that. And in some ways we are living in a country, in a region with two societies, separate and unequal.

According to U.S. census information, Cleveland is the sixth most segregated metropolitan area in the country for African Americans and the eleventh most segregated for Hispanics or Latinos. And the research that our organization has done here in northeast Ohio has shown that there is continuing increased reports of racial discrimination in the rental and sale of housing, as well as in mortgage lending.

We released a report in April that looked at housing complaints that were filed with HUD and we found that in the last five-year period there was an 87 percent increase in the number of fair housing complaints compared to the previous five-year period. The vast majority of those complaints were based on race and disability with familial status being the third most common. And we also know that most people who experience discrimination don't actually complain to anyone or to any official body, whether it's HUD or the Ohio Civil Rights Commission or bring a lawsuit. And HUD estimates only about 1 percent of fair housing people who experience housing discrimination file a complaint.

While our organization deals with our types of housing discrimination, I'd like to focus a little bit on some of the research that we've done about mortgage lending trends and some of the racial disparities and ethnic disparities that we have uncovered in Northeast Ohio and actually throughout the state of Ohio. And I did bring some copies of the executive summary of this report, which I can provide to the committee members when I finish.

In February of this year we released a report entitled, Continuing Racial and Ethnic Disparities in Ohio Mortgage Lending. And in this report we examined the most recent HMDA, Home Mortgage Disclosure Act, data in the state of Ohio as well as the several largest metropolitan areas. This data includes the vast majority of all mortgage loans that are made in urban areas and is generally regarded as the best source of data for this type of research. And what we've found is that African Americans and Latinos are denied loans more often than whites, and when they receive loans, they're more often more likely to end up with a high cost subprime loan than whites.

Now, one possible explanation for this is differences in income. As a group, African Americans and Latinos both are paid less income than whites do. And so we not only examined race and ethnicity, but we also looked at income. And when we did this, we found that upper income African Americans are denied mortgage loans more often than low income whites throughout the state of Ohio and in virtually every one of the major metropolitan areas. By way of example, in the Cleveland metropolitan area, about 37 percent of African Americans were denied home purchase loans compared to only 24 percent of low income whites, and that was the highest racial disparity that we found in the state. And if you want to think about it, obviously people who make more should be denied less often so here we had one group, African Americans, being denied more than low income whites. When we looked at the type of loans that people actually received, we actually found even greater disparities. In every metropolitan area in the state, upper income African Americans received more high cost subprime loans than low income whites, and Cleveland, unfortunately, had the distinction of having, again, the highest racial disparities in this. And we had in Cleveland upper income African Americans

receiving high cost home purchase loans at three times the rate of low income whites. It was around 63 percent compared to 22 percent and it was not quite as much, about twice the rate for high cost refinance loans.

When we looked at the rates of lending to Latinos we found that they weren't -- the disparities weren't as great as between African Americans and whites, but they still received or were denied loans at higher rates than whites and they also received more high cost subprime loans than whites.

We believe that this evidence shows and raises some very troubling concerns about bias in the mortgage industry in Ohio. Not only do African Americans and Latinos have a harder time getting a loan than whites, but once they get a loan, they're more likely to wind up with one of these high cost subprime loans that it's more likely to lead to foreclosure than whites, even when they have higher incomes that would justify a better loan product. These disparities are also exacerbated by what I discussed earlier in terms of the effect of housing on other areas of people's lives in terms of access to employment, in terms of access to jobs, access to health, safety of neighbors and access to education. Moreover, home ownership is one of the primary ways that individuals in our society accumulate wealth and so it's this series that we're seeing that are leading to extremely high foreclosure rates throughout the state are likely to exacerbate differences in wealth for generations to come. So African Americans are likely to be -- and Latinos, to be disadvantaged not just now, but in the future.

The lending community obviously has an obligation to address these types of racial and ethnic disparities, but we know from experience that they don't do that voluntarily and it's up to their housing organizations as well as governments at all levels to bring effective enforcement actions in order to ensure that the lending community does not discriminate in terms of the loans they offer and they provide a fair access to credit to all individuals without regards of their race and ethnicity.

The housing discrimination that we see in northeast Ohio, and there are high degrees of racial segregation with racial disparities in mortgage lending as well as discrimination in other areas, has been the result of official policies of a number of actors, and it was not -- it's not an accident that we have these high degrees of segregation and the large amount of discrimination that we see. There historically have been policies of government that are discriminatory. There's been actions by private businesses and associates as well as individual actions of homeowners, rental agents, real estate agents and others that have brought us to the situation that we're in now.

And ending discrimination, likewise, is going to take a broad base of efforts by federal, state and local governments as well as neighborhood and community organizations and activists who are committed to building strong and diverse communities that are welcoming people regardless of their race or national origin, their income or disability and other dimensions of inequality that we have. With regard, in particular, to these lending disparities, we think the federal government needs to vigorously undertake additional investigations of mortgage lenders, including banks, savings and loans and

other nondepository institutions to investigate bias and to bring appropriate charges. Approximately two and a half years ago there were a number of instances in which lenders -- in which the federal reserve found possible discrimination by lenders. There were approximately 200 that were referred for additional investigation, and we haven't heard anything in terms of what the results were of those investigations or whether any charges are being brought or what's going to happen to those cases. But with the actions of the housing community as well as local communities, we're hopeful that we'll be able to address the two societies that have developed in our country and try to bring it together so that we have one society where people, regardless of their race or other protective class statuses, can have an equal opportunity to maintain home ownership or rental and not be discriminated against.

I want to thank you again for the opportunity to speak with you this morning. I'd be happy to answer any questions that you may have later on.

MR. DENT: Thank you, Mr. Dillman. Mr. McCarthy, I think you're next.

MR. McCARTHY: All right. Thank you Chairman Dent, members of the committee. My name is Jim McCarthy. I am the president and CEO of Miami Valley Fair Housing Center in Dayton, Ohio and I also currently serve as the chair of the board of directors of the National Fair Housing Alliance based in Washington, D.C. Miami Valley Fair Housing Center has been around since the late 1970s and originally began as a program of other host agencies like the Legal Aid Society of Dayton and the Ombudsman Program. In 1993 the center was incorporated as its own standalone agency and has been providing services to Montgomery, Clark and Green Counties surrounding Dayton, Ohio since that time.

Our mission is to eliminate illegal housing discrimination and ensure equal housing opportunity for all people in our region and we accomplish this mission through education and outreach services as well as an aggressive fair housing testing program that we use to assist people who approach us and believe that they have encountered illegal housing discrimination in their search for housing, be it in the rental or sales market. And also we conduct random audits of housing providers to ensure their compliance with the Fair Housing Act.

Like Mr. Dillman and I think as you will hear from all of our colleagues today from across the state of Ohio, we believe we still have a real problem with illegal housing discrimination in this country, some 40 years after the passing of the Fair Housing Act. In fact, much of the data that we have available to us shows that any of our neighborhoods are even more segregated today than they were in 1968 when the Fair Housing Act was passed. My focus today is to talk to you about two protected classes that were part of the Fair Housing Amendment Act passed in 1988, specifically, familial status and disability.

Familial status was passed because Congress recognized that back then in 1988 and just before, the most often discriminated groups of individuals that we saw were single heads of household families with children, and it matter not whether they had a substantial

income from a Fortune 500 company or whether they were receiving some form of public assistance. The fact that they had families -- or children in their families prevented them from obtaining housing in the large amount of the housing stock that was available. And so, quite simply, the familial status protection extends to those families who have children under the age of 18 living in their household. And that can be either children by birth, by adoption or even an informal arrangement so that if someone is out of the country, perhaps serving in the military, and they ask a friend or a colleague to watch their children for them while they are performing that service overseas, that relationship would constitute protection for familial status for the person who volunteered to do that on behalf of the parent.

It is not uncommon in our work for us to routinely find landlords who assess additional charges for children to live in properties, even to this day. My agency, in particular, has brought a number of cases on this issue. We've seen charges of between 10 to \$50 per month per person in addition for any number of occupants beyond two in a household. We've also seen this in mobile home communities wherein, even though we have folks who own their own mobile homes and are essentially renting a space upon which to park their mobile home, the mobile home community will assess an additional fee, or attempt to assess an additional fee for children or for occupants more than two in the household. This obviously has a disparate impact upon families with children when they seek out affordable housing and make housing less available to them based on their familial status.

We also routinely find landlords who restrict occupancy arbitrarily. They will decide, based upon the size of a unit, and it's not necessarily correlated with any health or safety standards or overcrowding concerns, but they will decide that you can only have three individuals living in a two-bedroom apartment. And I always refer to this as a Midwest problem because, of course, any of you who have lived in any of our larger metropolitan cities on either coast will know that people live in much smaller spaces and do so quite successfully than we do in the state of Ohio. But my agency has a couple of cases like this right now, which are currently filed with the Ohio Civil Rights Commission, and one which we believe we're going to have to bring in court in order to try and address this problem.

The level of discrimination that we see against families with children still continues to be pretty blatant. We see landlords who will routinely be quite forthcoming that they don't want children living in their property or that they really would prefer to have singles or adults only in their property. This despite the fact that the law was changed some 20 years ago.

In addition, with disability I'm going to speak to you today specifically about the accessibility design in construction requirements of the Federal Fair Housing Act and the failures of builders, developers and architects to meet those design and construction requirements. To recap just quickly, the Fair Housing Act that was amended in 1988 required that all multi-family housing dwellings constructed after 2001 complied with seven specific criteria, which are pretty simple, and essentially means that the unit will be

fully accessible and able to be fully enjoyed and used by people with disabilities including those folks who may need a wheelchair for mobility purposes.

My agency using grants from the U.S. Department of Housing and Urban Development under the fair housing initiatives program have conducted a number of audits on new multi-family housing developments that were built within the last four years. We have conducted 15 tests over the last four years on properties that have actually come up out of the ground just recently and I'm sad to report to you that we found 100 percent violations in those properties that were constructed. The types of violations that we found were pretty blatant. Steps to the front doors of the leasing office which essentially prevent a barrier to keep anyone from a wheelchair to even entering to inquire about units that may be available. Front door thresholds to the units themselves which are unacceptably high and constitute a barrier for someone in a wheelchair's use. Kitchens and bathrooms that are designed without the sufficient clear floor space to allow a wheelchair user to navigate in them and, thus, use the facility. Environmental controls like thermostats or even light switches that are placed so high on the wall that a person sitting in a wheelchair who attempts to use them cannot reach them and, thus, cannot enjoy or use the unit.

We have brought a number of these cases administratively with the Ohio Civil Rights Commission in order to try and resolve this with the developers and architects. But what I can tell you is we have met with quite a bit of opposition. The developers and architects claim ignorance. They claim not to have intentionally discriminated, but nevertheless they continue to build housing that is inaccessible. And I'd like to remind you that I think with the aging baby boomers who are out there and also with the number of people who are returning from service to our country in Afghanistan and Iraq, the need to have accessibly designed housing and constructed housing, essentially designed and construction housing is even more pressing than it has been in the past.

Just recently my agency, together with the National Fair Housing Alliance and the Metropolitan Milwaukee Fair Housing Center filed a multi-jurisdictional federal lawsuit against a developer called Steiner & Associates. Steiner & Associates is responsible for the development of city town centers, which are mixed use developments. Some of you may be familiar with the Easton Town Centre in Columbus. Steiner & Associates developed that property. And in my area, near the Dayton area, in Beaver Creek, Ohio they developed a property called Gilbert Court at the Green. And in these properties they are using a design that has been modeled not only in Ohio, but also Kansas City, Missouri, Lindale, Wisconsin and Hampton, Virginia. It is the same design that is inaccessible where there is a one-bedroom unit where the only bedroom in that unit with the only walk-in closet which is, of course, where most of us keep our clothing and dresses, is up three steps, so it's wholly inaccessible to anyone in a wheelchair.

When we filed this case with the Ohio Civil Rights Commission and we attempted to conciliate through the Ohio Civil Rights Commission process, the response from the developers was, well, we're entitled to an exemption if we call this property -- instead of calling these units one-bedroom units, going to call them studio apartments. And a

portion of those studio apartments then is permitted to be raised or in a loft area, or sunken in a conversation pit. And so that bedroom is really no longer a bedroom since we're going to classify this as a studio apartment, rather that's an architectural design feature and therefore, we are not in violation of the law. Obviously, the Ohio Civil Rights Commission found that explanation unacceptable, as did we. I am happy to report that the developers requests for reconsideration was denied and as a result we felt it was necessary to go forward and file in federal court, as well. The problem is, of course, as I'm speaking to you today, developers like Steiner & Associates continue to bring new properties up out of the ground and the cost associated with the time invested in trying to bring these properties into compliance means, again, that people with disabilities are denied the opportunity to the housing of their choice and we have a need for that housing.

I really do much better answering questions and doing it in a free flow format, so that is all I am prepared to say to you today. If you have any questions, I'd be happy to take them after.

MR. DENT: Ms. Kidd?

MS. KIDD: I, too, want to thank the Ohio Advisory Committee for allowing my colleagues and myself to speak before you today and I'm going to kind of keep with the theme that both Mr. Dillman and Mr. McCarthy have said. I'm the executive director of Fair Housing Resource Center where, like the other two fair housing agencies, are nonprofit advocacy organization. And we are primarily based in Lake County, but we do serve the surrounding counties of Geauga and Ashtabula. Our agency has been in place since 1984 as an arm of the county government. And in 1999 they had split off themselves from the county to be an independent run fair housing organization, and I was hired in to help the organization get up off the ground. Personally I have 11 years in fair housing training.

Our services that we provide out in Lake County is very similar to the services that the two other agencies provide here this afternoon. We do fair housing investigation work. We have a landlord-tenant hotline. We are also a certified HUD housing agency and we do a lot of presale counseling in our eyebrow-deep-in-foreclosure crisis, as well, that I'm sure any of you read about. But keeping with the theme and talking about the passage of the Fair Housing Act and the fact that it's been 40 years and that special commission report that identified this dual society, those words just resonate with me when I was learning about the Fair Housing Act and this area of law back in the day. Because you would think that we would have an integrated community today. We have the laws on the books. Everybody should know what it is that they are supposed to do. Everybody should be educated, but I'm sure as you know, as we do, too, that is definitely not the case.

It is my opinion that 40 years later we do have a dual society. My dual society that I claim is one of one abled and one disabled where individuals are separate, but unequal. And my subject to discuss today is disability discrimination. In 2005 my agency conducted a systemic testing study where we were studying the treatment of disabled individuals as compared to nondisabled counterparts. How were they treated by their

housing providers when they were out seeking housing. The results of our study were very alarming. Our results concluded that 66 percent of disabled individuals were denied housing when they were seeking rental housing in the Lake County area. The results of the tests were so alarming and the statistics were so high, it even exceeded the other protected classes of race below the status that we had conducted. The results -- it basically double the comparison of the other protected classes.

The Fair Housing Act prohibits housing providers from discriminating against housing applicants because of their disabilities or the disabilities of persons associated with them. The act also prohibits any people to refuse to accommodate an individual or refuse to a reasonable modification, which I'll explain what those are in a minute, in order for them to use or enjoy their premises. A reasonable accommodation is merely a simple request for exception or some kind of change in the policy or rule so that an individual can have an equal opportunity to use and enjoy their property. At the same token, a reasonable modification is a request to change some kind of internal structure or external structure to modify the unit so it's more accessible so they can enjoy it more fully. Some reasonable modifications would include a ramp or grab bars. And I've even had one where it was an external lock box on the outside of an apartment complex.

I had an elderly woman who was in a wheelchair and she tended to fall out of it a lot, would hit the fire button, the fire department would come to the apartment. They couldn't get in to her unit. She had those heavy steel doors on the second floor. They would break down the steel doors and they would be able to access to her, however, when she got back to the apartment after her hospital stay she received a very large bill from her landlord to replace the woodwork and the steel door. Some of these modifications can be creative, they're most of the time rather simple. But by installing a lock box on the outside of the apartment itself where the fire department had and the housing provider had a code to, they were able to access her, you know, very easy and she wasn't incurring any additional expenses in the future.

Our area where we did this study, we were just amazed at the amount of discriminatory treatment individuals were receiving. And these were the individuals that were coming forward. I can't even tell you how many individuals did not. I had a client a couple years ago who was blind and he had a guide dog and he was trying to find new housing, just a one-bedroom house in our area. He was denied 27 times. 27 times. I was physically with him during quite a few of them where we would have himself and daily care worker would come into the office. We would read the classifieds to him. He said, That's sounds like a nice one. We want to go check that out. We would call up, go through the process of writing down -- you know, we are dealing with an individual who was sight impaired. 27 times he was denied housing.

I had another individual not that long ago who was a quadriplegic with a spinal cord injury and he had a very expensive and very trained service dog who provided -- the dog provided approximately 160 tasks from picking items up off the floor, even called 911 a couple times. This individual had to go into a temporary nursing home facility for about four to six weeks for wound care and the nursing home facility denied him his right to

have a service animal present claiming that they had nursing on staff to do that for him. We had to educate this particular facility that it was his right to have his service dog with him all the time and it was his right to choose to have his service dog get his blanket or grab his slippers in lieu of having the nursing staff. Plus we had to stress the importance that the absence and separate between the individual and his guide dog for a six-week period would be detrimental to the service animal's training.

When I think about handicap discrimination, I think it's common sense. If you have an individual who is blind and needs a dog or if you have somebody whose mobility is impaired and they have to have a unit that's accessible to a wheelchair, but unfortunately today that's not the case. The denials are still too high. 40 years later we still have an incredible amount of denials. And it's either due to lack of education or a lot of individuals who are educated, but choose to ignore and do what they want to do anyway. There are so many clients that we see and talk with and deal with on a daily basis. They don't understand what the Fair Housing Act is. They just have a feeling in their gut that something's wrong and, to me, I think the general public should be educated a lot further. And I think that we have a dire need for enforcement in these issues and the issues that my colleagues are raising. 40 years, it's a very long time for so many individuals to be so unsure and unclear and uneducated about what these rights are.

And I do better with the Q and A so I will rest there. Thank you.

MR. DENT: Okay. Thanks to all of you. And for the panel, do you have questions?

MR. FORTE: Mr. Dillman, thank you very much. I was very interested in how you corrected for your statistical analysis. I thought it was very revealing that upper income blacks were denied at a higher rate than lower income whites for loans, correct?

MR. DILLMAN: Yes.

MR. FORTE: I have a couple questions regarding that. First, what is defined as upper income and lower income for purposes of this?

MR. DILLMAN: It's based on standard classification by census bureau so upper income is more than 120 percent of the median income. Lower income would be less than half of the median income. There's also a moderate and middle income category, but we used upper and lower for this.

MR. FORTE: Thank you. Did you also correct for the kind of loans that the upper income people were looking for for these loans?

MR. DILLMAN: Those were separated out in terms of home purchase and refinance.

MR. FORTE: All right. What I meant was the level being sought. For example, I'll give you one anecdote. I know a banker in Kent during the subprime issue when everyone was running these subprime loans and he renewed and he had a client who was a lawyer who

could afford a \$350,000 house, which is a pretty good house down in Kent, but he wanted a \$600,000 loan. And my banker said, Well, I can't -- you don't have the basis for that, but the lawyer went out and got a subprime loan and now he's foreclosed. So my question is, whatever these upper incomes, whether black or white, did you correct to see whether they were reaching beyond themselves more than another cohort -- or a different cohort would, say?

MR. DILLMAN: No. The information of the loan amounts and things like debt-to-income ratios or those types of things are not part of the publicly available data that's released through HMDA. So the data we looked at was they were homes to either purchase or refinance for single family homes. So it wasn't going to be investment properties. It wasn't multifamily property loans, but we can't -- with the publicly available MHDA data was not control for the size of the loan.

MR. FORTE: But conceivably it was how -- and particularly with new middle class blacks and upwardly mobile ambition that was not the same in terms of what an upper class, lower class whites would. Then conceivably that could be an error, correct?

MR. DILLMAN: That could be one of the factors. While we haven't been able to control some of these factors, there were some studies nationwide in some other geographies that have controlled for some of these additional factors. In fact, there's an organization center for responsible lending which actually has access to sort of internal banking -- they run a credit union in addition to being a research institution and so they controlled for a huge number of factors including credit score, debt-to-income ratios, loan-to-value ratios and found similar types of racial disparities even after controlling for all of these things. The control did decrease somewhat when they countered with some of these factors, but there were still unexplained differences between African Americans and whites as well as Latinos and whites in terms of the loans that were received.

MR. FORTE: And do you have access to those reports?

MR. DILLMAN: Yes, I can provide you with citations.

MR. FORTE: Can you provide them, please?

MR. DILLMAN: Sure.

MR. FORTE: Thank you.

MR. MCCARTHY: If I could, I'd also like to comment, if the marketplace was functioning properly and regulations were functioning properly no matter what the rate that the individual who may be reaching beyond their terms, they wouldn't be given a loan that they can't afford.

MR. FORTE: I understand that, but that's not what we're talking about. We're talking about specific racial discrimination, not the greed of bankers, which we all know about.

MR. DENT: I want to follow up on that because you did mention -- you did correlate the lending practices with income, but income isn't the only factor that lenders look at, is it? Don't they look at assets and employment history and so forth?

MR. DILLMAN: Yeah, that's correct. Lenders, in addition to looking at income, look at loan-to-value ratios and debt-to-income ratios, credit scores. All of those pieces of information, lenders, you know, will not reveal those even though it's revealed in the confidential insurance, so you can't track what particular individual's credit score is.

MR. DENT: So there's a lot we don't know?

MR. DILLMAN: There's some we don't know. Historically, I think it's important to note the income data only became available about three years ago, and before that was available -- a lot of advocates raised concerns about the racial disparity that they say and lenders said at the time oh, well, there's other stuff you don't know about. There's income and other things that you don't know about that explain a lot of these differences. Well, when we got it -- and they didn't release any of that data for many years. When the income data finally became available, now they said, Well, there's other data that you don't have that explains the differences and that we don't want to release, either. So yeah, I think credit scores and these other factors explain some of the difference, but I don't think it explains all the difference. And I think the huge differences that we see will not be explained solely by issues of credit score or someone's wealth or other factors. The other point that I think is very important to make, though, is that wealth differences are partly a function of previous discrimination. Whites as a group have much more wealth than African Americans. A lot of that is due to property ownership of current, you know, parents, grandparents and other individuals and so some of the differences that you could say, oh, that's not attributable to current discrimination, that's attributable to current wealth distinction. Those wealth distinctions are partly a function of historic discrimination that African Americans and other racial minorities have experienced in our society. So I don't think that it completely exonerates society for disparities that we see.

MR. DENT: That's certainly true, but I thought the question was not society, but the lenders. But beyond that, I also have a more general question. There's been a lot of criticism of lenders in the last year or two because they were too promiscuous in granting loans and charges that this is particularly true in minority neighborhoods. So is the problem that lenders have been unwilling to lend money or is the problem they've been too willing to lend money?

MR. DILLMAN: Well, different lenders have done different things. I think that out of the Community Reinvestment Act lenders have an obligation to meet the credit needs of all communities, but that doesn't mean any type of credit. What the Community Reinvestment Act as well as the Fair Housing Act and Equal Credit Opportunities Act and other civil rights statutes are trying to achieve what is fair access to credit. So it's not that any type of credit should be given to individuals, it's that individuals should have

access to fair credit and appropriate credit. And so offering, you know, communities that were deprived of credit for years, that were redlined historically by banks and savings & loans and other institutions to then have any kind of institution, whether it's a nondepository mortgage lender or a bank or savings & loan and then coming in and offering loans at highly unfavorable terms is not really much of a benefit for that community. It might be a temporary benefit where people can buy a house or refinance, but they're basically postponing what's going to happen and maybe making the community worse off in terms of a loss of further equity. And so what I would like to see is fair access, access to fair credit and not credit on any terms and that's one thing that I think that the lending community has not provided. I think that, you know, as was said earlier, a lot of lending institutions have behaved very irresponsibly in the last 10 or 15 years in terms of operating subprime loans to all types of individuals, however, this type of lending took off initially in predominantly minority communities and they've been disproportionately affected by it, and are being disproportionately hurt by the resulting foreclosures.

MR. GERBER: This is for Mr. McCarthy. You mentioned that some of the folks that violate the law they claim ignorance of law, they didn't know so they didn't intend to violate it. I would assume, however, that before they're allowed to build something or rent property, they have to get some kind of permit or license and they would be educated right in that process that there's a fair housing law and you have to make it available to all classes of folks; isn't that true?

MR. McCARTHY: Well, in the case of renting property, if you just own property, no, there's no requirement that you get any kind of training or education in order to be able to rent property. In fact, with mom-and-pop-type landlords that's the problem that you see. They either decide that real estate is a good investment opportunity or they inherit property and then they view it as a business that can be run out of a hutch drawer, and they don't take a business approach to their practices.

With builders and developers, there's an additional problem in that while there are zoning ordinances and building permits that are required to be pulled, the local county government or city government has no obligation to enforce the Fair Housing Act or to provide training or education about the accessibility, design and construction requirements of the Fair Housing Act because it's a federal law. Some do and it's a best practice to do, but they certainly don't condition the granting of permits based on compliance with the Fair Housing Act.

MR. DENT: Ms. Colker?

MS. COLKER: I think this question is for Ms. Kidd. I was real interested in your study of the practices of renters when they're —

MR. DENT: I'm having a hard time hearing you and I'm not sure the court reporter can either, so maybe you should use the microphone.

MS. COLKER: Sorry. Is this on? I had a question about the study you had done about the experiences with people with disabilities who were trying to rent. I know there's been some litigation about problems with deposits, that many people with disabilities can't come up with the deposit that the landlord requires. I was just wondering if that turned out to be a factor?

MS. KIDD: That generally never really came into play. The only time that a security deposit would come into play is when the provider would have a no-pet policy. And if you had an individual that has a service animal or therapy-assistive animal, they are asking for an accommodation to that policy and they would pay the same security deposit that any abled body tenant would pay.

The only time it comes to our attention is when somebody does make a reasonable accommodation to waive a no-pet policy, and the housing provider will waive it, but elect to charge a higher security deposit as a result of a service animal, therapy-assistive animal. It can be anywhere between one month to three months the normal rate. And then that's when we get involved because we see that as a violation of the Fair Housing Act, as if you wouldn't charge somebody a higher rate because they have a wheelchair.

MS. COLKER: One other question I may have. I don't know if Mr. McCarthy or you would be the best person to answer it. Have either one of you done work on zoning laws because I know that, particularly where I live in Columbus, we have trouble with group homes for individuals with mental retardation or mental health problems try to locate into a neighborhood, there's always a zoning issue and that's (inaudible).

MS. KIDD: I have never litigated against one or had to file a formal complaint, but I personally have been involved in many zoning committee meetings and city council meetings basically trying to educate the municipality of the Fair Housing Act of how it applies to group homes and what we coin "nimbyism," or not in my backyard. I think with that type of outreach in negotiation, we're usually most effective. And I have in the Lake County area had an instance where they went ahead and denied the group home and we had to file a case.

MR. McCARTHY: Well, I, too, have had experience having to go before zoning commissions and city commissions or township trustees in order to provide education based upon a zoning ordinance that we had discovered is out of compliance. But I am happy to report that usually that advocacy worked before those governmental bodies had been successful in resolving the issue without the need of filing either an administrative complaint or a lawsuit.

MR. FORTE: Two questions, Mr. McCarthy. One just following up on what you said, something I was interested in. Is it fair from all of your experiences, then, that the record is generally getting better or good when it comes to the group home issue in regards to the housing of people who may be mentally retarded or handicapped?

MR. McCARTHY: Well, I think it's a dual answer. The resistance to the placing of group homes or family care homes into neighborhoods still meets with a lot of resistance especially from neighbors of the surrounding property, and there's still a whole lot of unresolved issues actually when people move in, and then the treatment that they encounter from their neighborhoods. I think that it is fair to say that when education is provided to a governmental body that there is more receptive -- I would have to tell you honestly that I don't see people go, Oh, we're glad to know that you're here, but they do respect the law once they're educated about the law and they do the right thing once they're provided with the information. What's disappointing is that we're now 20 years after the passage of the Federal Fair Housing Act. Many of these zoning ordinances have been updated by the law departments of these jurisdictions a number of times in the past 20 years, but they have not brought their zoning ordinance into compliance. And it isn't until we get involved, and but for the activity of the private fair housing movement maybe these group homes would be left of their own and would have to obtain legal counsel or try and do their own advocacy.

MR. FORTE: That's very interesting about not bringing it up-to-date at legal directorship. That's very interesting. My other question, if I may --

MR. DENT: Well, there are others who have questions.

MR. FORTE: I'll yield for now.

MR. DENT: Mr. Doshi.

MR. DOSHI: Jeffrey, you indicated there was increase in the complaint by 85 percent over the five years. Is that primarily because of general awareness and people would complain and there was better recordkeeping? And secondly, interesting finding about this discrimination in the higher income group. Was there any other ethnic groups besides the African American that you saw that could have been discriminated for the same reason?

MR. DILLMAN: With regard to the second question, the HMDA data provides information based on their race and ethnicity of an individual, so we can find out -- you know, we can look at the major racial group to be non-Hispanic whites or you can add into that Hispanics, African Americans, Asian Americans, Native American and biracial individuals because we were looking at some smaller communities. And given the demographics of Ohio, we didn't look at Native Americans because there were so few loans, as well as with regard to multi racial or biracial individuals. Asian Americans tended -- Asian Americans and Pacific islanders, which are together as one group, tended to be very similar to white. In some communities they would be -- they would be a little bit better than whites, in some communities a little bit worse, but, in general, acted very closely with non-Hispanic whites. Hispanics were somewhere between whites and African Americans and the data doesn't allow us to look at other ethnic groups, which would be a very interesting thing to do, but it's just not collected in the loan application process, and so lenders don't collect that information and, therefore, don't report it to the

government so we don't have access to it. In terms of the causes of the increase that we saw, we're not sure about it. In fact, in our report where we talked about this, we didn't attribute a cause to it. I think a lot of it might be -- I mean, sometimes, you know, the number of complaints goes up or down, you know, by 20, 30, by a large-ish percent in the region in any given year. That's why we tried to group them to five-year periods. Tried to account for some of that in one year, all of a sudden, there's a huge number of complaints filed, or the number drops by a large amount. We group it into five-year periods.

Based on that, I can't say that discrimination has increased by that much in the region. Because I think a lot of it, you know, could be due to better awareness of laws. The people who may have been experiencing discrimination may be more motivated for some reason to report the discrimination. Our organization and some other organizations have tried to do more outreach, you know, trying to get information out of the public about our organization and what to do if they encounter discrimination. Occasionally there's Public Service announcements on television. So we can't attribute it to exactly what caused it. The amounts of discrimination has gone up by that. I would definitely not say it has gone up that much. And it's doesn't show that the number of complaints have gone up by a large amount, but it's hard for me to attribute what the exact cause of that is.

MS. CITRINO: Mr. Dillman, you've touched on the connection between housing discrimination and education and it was something prior to the public part of the meeting that we briefly touched on here amongst ourselves, and I wondered if you could elaborate on that.

MR. DILLMAN: Well, yeah, in terms of public school education -- is that what you're -- yeah. In most communities the school that you go to is determined by where you live and so if you live in the city of Cleveland, you're going to be going to a Cleveland public school. If you live in the city of Shaker Heights, you're going to a Shaker Heights school. And school districts, particularly in northeast Ohio, in Cuyahoga County we have 58 jurisdictions in the county, which is an astounding number for the size of the population and for one county to have. And so if someone is denied an opportunity to live in a particular community, whether it's a particular city or a particular neighborhood in a city, that could have a large effect on what type of school they're going to go to. Whether it's a school that is, you know, high performing and has lots of resources based on the local tax base. And other types are the type of children that are going there because they come from families where education is the main priority or it's very high priority of whether they're going to a low performing school that is overcrowded, that suffers from children who are moving in and out of the neighborhood in large amounts which a lot of urban districts face and it makes it very difficult for children to get a good education.

And so if someone is denied a housing opportunity in a particular neighborhood or a particular city, that could have very large consequences to what's going to happen to the children of that family and whether they're going to -- how well they will do in their life, to a large degree. I mean, education is a very important factor in determining what type of job you're going to have. And then again, those things pass on from generation to

generation. And so particularly given the Supreme Court's decision last summer in the school desegregation case in terms of limiting some of the opportunities or remedies that school districts can use to try to achieve integration, housing segregation becomes even more important. Because, I mean, if we lived in a society where most neighborhoods were relatively integrated, then all these -- you know, school bussing would never have been an issue for integration purposes because everyone in the neighborhood would be relatively diverse and the school, therefore, would be relatively diverse. Putting aside a small percentage of those who chose parochial schools. So addressing housing discrimination becomes even more crucial given the Supreme Court's decision last term, and I think it becomes, you know, one of the most important factors that we have to look at in terms of where we have to still achieve success in terms of dealing with discrimination in our society.

MR. McCARTHY: I'd like to make one comment, too, and that is in our area when we do auditing, testing for illegal discrimination based on sales, we see over and over again the school districts are often used as a proxy for racial discrimination wherein we send African American testers inquiring about housing that's located in a primarily white neighborhood and they are systemically steered away from those neighborhoods into primarily minority neighborhoods. When we send Caucasian testers inquiring about housing that is located in primarily minority neighborhoods, they are immediately cautioned about the school district and the quality of the school district. And essentially told if you have children, you don't want to live in our area in the city of Dayton because you're going to the city of Dayton public schools. However, African American and Latino home seekers are not provided with that same cautionary line from their housing professionals.

MR. DENT: Yes.

MS. JOHNSON: Following up to what you said, do you find that the same form of geographic segregation for people with disabilities that Mr. Dillman was describing in terms of -- do you find the same kind of so that if a particular neighborhood or city or county will have a higher proportion because there is accessibility and another neighborhood will have no accessibility or does it not really work that way?

MR. DENT: Is that directed to --

MS. JOHNSON: Any of them. I mean --

MS. KIDD: I'm going to answer. In our community I would say that it is concentrated in one specific area, but due to a different reason. And the reason being that those individuals who do have a disability are usually on some kind of income subsidy. And with that income subsidy requires that you find subsidized housing. In the Lake County area, all of the subsidized housing is concentrated in one city. All of our minorities are living within that city with the subsidy. And our statistics, I think, are outrageous. Out of 227,000 residents, we only have 4 percent total minority population and 3 percent of those live in one small city. Everything is concentrated. So we have -- it's the

accessibility or the access to subsidized housing and lower cost housing for individuals with Social Security disability income can afford.

MS. JOHNSON: Thank you.

MR. WHEELER: Yes. Mr. McCarthy, I just want to say that I applaud what you're doing as it relates to the disabled. Speaking now as a civil rights commissioner, we have slammed these architects and contractors coming in and, just for the record, most of them are playing we didn't know, and they are now fighting amongst each other on who's going to share the responsibility of the burden. So I want to thank each and every one of you all because you are the eyes and the ears out there and advocates, and that when it comes before the civil rights commission, it's our job to shape them up and ship them out, so thank you very much.

MS. BLEDSOE: First of all, I want to thank each and every one of you for the excellent work that you are doing. It's extremely important. My question is for Mr. Dillman. Your statistics in the beginning talked about Cleveland is the most segregated city and 11th for Hispanics. Is that the City of Cleveland proper or how many other cities does that include?

MR. DILLMAN: It's the Cleveland metropolitan area and Cleveland was No. 6 in the country and the metro area was No. 6 in the country, not the first. But it's the metropolitan area, which includes the whole county of Cuyahoga, as well as Lorain County, Ashtabula -- I'm sorry, not Ashtabula. Lorain, Lake, Medina and Geauga counties.

MS. BLEDSOE: So when your report comes out, does it say that it also includes not only Cuyahoga County, but three other counties?

MR. DILLMAN: Four other counties. Yes, yes, it does, yes.

MS. BLEDSOE: Do you have documentation just for the city of Cleveland proper or is all of your documentation for all four counties?

MR. DILLMAN: In terms of segregation in the city of Cleveland?

MS. BLEDSOE: Yes, in your report.

MR. DILLMAN: We didn't break down the city of Cleveland itself.

MS. BLEDSOE: So the report is for four counties? Metropolitan area, which includes four counties? Because one of the things that you stated is Cleveland. It sounds like it's the city of Cleveland when you say Cleveland, but what you're really saying is Cleveland metropolitan area which includes four counties. How many counties are there in Cuyahoga County that you looked at?

MR. DILLMAN: I'm sorry, counties? There are 58 jurisdictions in Cuyahoga County.

MS. BLEDSOE: And how many in Lake County?

MR. DILLMAN: I'm not sure of the exact number in Lake County. In terms of the segregation, I could help you by simply giving you --If you were speaking just the city of Cleveland, I want to correct that. I meant to say the Cleveland metropolitan area. I thought I said that. If that wasn't clear, I apologize. In terms of what's going on in terms of lending, we actually looked at mortgage lending and some of the other measures within the city of Cleveland. In fact, broken down the city of Cleveland to its various statistical planning areas, and I believe there's 35 of those in the city of Cleveland for segregation. And if you look at most of those planning areas, I think you would, unfortunately, see that Cleveland is still relatively segregated. Most neighborhoods in Cleveland are highly segregated. I don't know where it would rank in terms of comparing the city of Cleveland to the city of Detroit or other large metropolitan cities and not looking at the metropolitan area, which is generally the way the census department requires segregation.

And just as a follow-up in terms of the mortgage lending, when we looked at mortgage lending within the city of Cleveland itself and among its individual neighborhoods, we did find, unfortunately, a very striking degree of difference between both white individuals who obtained loans and African American individuals. And the numbers are slightly different, but it's the same basic pattern of upper income African Americans having a harder time getting a loan and getting a worse loan than low income whites. As well as a similar pattern in regards to geography. So on the east side of Cleveland, which is predominantly African American, there were much higher denial rates and there were many more high cost subprime loans on the east side compared to the west side, which is predominantly white.

MS. BLEDSOE: Thank you very much. Once again, I just really appreciate all the work that you do.

MR. DILLMAN: Thank you.

MS. THROWER: Mr. Dillman, you mentioned there were desegregated communities, and one would not have to resort to bussing and that's kind of true and kind of not true. My parents bused my brothers and I to better schools than our neighborhood school, which was in a diverse and racially mixed community, for lack of a better way of saying it. So parents had other options. Bussing was both voluntary and mandatory at some stages during that whole bussing period. So I just wanted to make that comment.

Also I have a concern. I've lived in Cincinnati since 1993 and since then metropolitan housing has been revamping their public housing and I was amazed, first of all, to see so much of it in a city the size of Cincinnati. Massive housing projects all over the inner city. In doing so, they moved these people out of public housing with the option of -- giving them the option of moving back in once it's been revamped. And they're quite

nice, in an area called the West End in Cincinnati. Any one of us in this room would gladly live in those revamped projects or public housing facility because they're so nice. However, the former tenants can't afford to move back in there. Although they were given the option to move back in there again, metropolitan housing got away clean in moving these people out which was their ultimate plan to begin with. And I'm just wondering, can that be classified as some sort of discrimination, racial or otherwise, because their income didn't change, however, their -- however, the housing rate did change. The housing costs did change and they could not afford to move back into these revamped or renovated housing units. And is that a prevalent issue? It's very prevalent in Cincinnati and these people were simply moved from one area that was -- that had a high concentration of poor people, to another area which now has a high concentration of poor people and now dilapidated housing. I'm sure the same thing will happen here years from now. They'll go into that area and revamp it and give them an option of moving back in, but not the option of improving your income. Is that a form of discrimination and can that be addressed or is that -- or did you understand my question?

MR. DILLMAN: No, I understand your question and the issues, excuse me, around subsidized housing has been difficult. They're adding similar things. I'm not familiar with the situation in Cincinnati. I believe in the afternoon panel someone from the Cincinnati fair housing agency will be speaking so I can't speak with regard to that, in particular. I mean, I think there has been a problem throughout the country in that when public housing projects are being redeveloped in an attempt to try to decrease some of the concentrations of low income individuals in particular communities and replace the housing with better housing which is a good thing to do. I think that all of us would agree it would be better not to have individuals not segregated by income as well, having neighborhoods where there's very high concentrates of poverty. But when the housing is replaced it's usually not the number of units that were there originally, and some people lose a lot of opportunities. There's less people that can rent the units.

MS. THROWER: And it's no longer affordable housing.

MR. DILLMAN: And in some cases it might not be as affordable. And so it's going to be a challenge. I can't tell you without knowing more whether there's a fair housing claim there. I think that in most situations -- in a lot of urban areas there would likely be a disproportional impact on African Americans and other racial minorities. Whether that's enough to bring a claim, I can't say that off the top of my head about that. I'd have to look at it and I think that would be something worthwhile talking about with the Cincinnati Fair Housing where they should or not because it is a problem that you see in a lot of urban areas. Chicago had -- it's been an issue for them when they've been removing some of their very large multi-story housing projects, you know, very few of the units are being replaced on a percentage basis.

MS. THROWER: When there was an outcry from that community about the displaced uprooted people from their homes, the metropolitan housing said, you know, we're not doing anything wrong because we're just moving you out until we revamp this place and then you can move back in, but they couldn't move back in because their income had not

changed, however, the cost of the unit had changed. So it appears to me that there may be something there, but I just wasn't sure whether that was something that was prevalent or not.

MR. DILLMAN: Yeah. I'm not aware of -- I mean, in northeast Ohio there have been instances where the housing of -- older public housing projects have been renovated or demolished and replaced with other things. I'm not aware of the huge price increases going along with that, but I think it's worth looking into.

MS. THROWER: What does the Fair Housing Act say about race? I have not read the Fair Housing Act, I apologize. I will read it after being here.

MR. DILLMAN: Discrimination based on race -- and there's a whole host of factors and type of actions that are prohibited, but race is one of the protected classes. Discrimination based on race whether it's against, you know, by white against an African American by an African American against a white. Anyone based on race, discrimination would be illegal.

MR. DENT: I think the affordability issue is very important and it's interesting to me that in a mandating access to say where people congress have substantially raised the cost of housing, but hasn't provided money to deal with the exacerbation of the affordability problem that that creates. Yes.

MR. GERBER: The game seems to be that there's a lot of violation of the fair housing law, that more folks need to be educated and when education doesn't work, they need to be sued. How do you decide who you're suing? You know, it sounds like with the visually impaired person you could have sued 27 people. I assume you didn't sue any of them.

MS. KIDD: No, we did.

MR. GERBER: You sued all 27?

MS. KIDD: We didn't sue all 27. We did not want the client to appear litigious, but we sued a majority of them, yes.

MR. GERBER: Okay. And Mr. McCarthy, you said you're currently suing somebody. How do you decide -- I know resources are limited. How do you decide you're going to sue this person and not that person, or you're going to educate this person and not that person?

MR. MCCARTHY: Well, first of all, we attempt to educate everyone, so education is something that we offer from the beginning. And because we believe strongly in it, number one, and we think that oftentimes if you provide education, there will be some people who will step up to the plate and do the right thing which makes litigation unnecessary. Unfortunately, we encounter many people who are pretty recalcitrant, and

so it is a matter of we first attempt to use the administrative process, which in the state of Ohio flows through the Ohio Civil Rights Commission because that process is free and is effective in many ways. One of the first things that the Ohio Civil Rights Commission does is offer mediation, so it gives the parties an opportunity to sit down in an informal setting to try and negotiate terms to resolve the complaint. The administrative process, either at OCRC or HUD, is not perfect and sometimes we have to go to court.

We are very lucky in that we have a group of dedicated advocates who work in private fair housing organizations and then we have a number of people who are private attorneys in the private bar association who step up to the plate and take these cases on contingency fees and so they provide representation to individuals who have been discriminated against or to organizations and do it free of charge until they are successfully through the litigation of the case and are awarded their fees as a result of litigating the case. But for that volunteer spirit and entrepreneurship that we see from the private bar association, we would be in a world of hurt. Because frankly, the system that's in place in this country both through HUD and the various fair housing assistance programs is not sufficient.

MR. McDERMOTT: From a historical perspective, how long has the disability component been part of the Fair Housing Act?

MR. McCARTHY: The act was amended in 1988 so prohibitions against people based upon disability have been in effect, I think, since six months after the act was passed in 1988. The provision surrounding accessibility, design and construction for new development became effective in 1991.

MR. McDERMOTT: So 1988?

MR. McCARTHY: Yeah.

MR. DENT: Diane, we're getting pretty close to the end here so you'll be the last question.

MS. CITRINO: Well, I'd like to follow up on a question of our Chairman, Mr. Dent, regarding who pays for reasonable accommodation or modification? Would you address that, please, because there was mention that it was unfunded.

MR. McCARTHY: Sure. Well, in the situation of a private development, so market rate housing, a reasonable accommodation or modification comes at the cost of the individual who has the disability. So there's no disproportionate cost imposed upon the housing provider. If the housing provider has received some type of government subsidy, whether that's a tax incentive loan or some type of other support or if the property is, in fact, subsidized housing, then the cost for providing those accommodations or modifications shift to the housing provider.

But the other thing that I'd like to comment upon is that there's been a lot of research done in the last 20 years and, in fact, if the development is planned and designed from the start properly, the additional costs are less than 1 percent over what it would be to build inaccessible housing. So the cost is not as much as what you might know, but what one might assume if the planning, design and construction is done appropriately.

MR. DENT: Okay. I guess we ought to break now. At least, it is noon. But thank you. This has been very informative and I'm impressed by how knowledgeable and articulate all of our speakers have been. And I don't know if applause is in the issue. It certainly was impressive and very grateful and I'm sure I trust that I speak on behalf of the entire committee that we're all extremely grateful to you and impressed. Thank you.

And we will adjourn now and be back at 1 o'clock. And I would say we'll try to be on time and particularly because if we run late, I would like to leave time after our afternoon speakers to be able to discuss things of interest to the committee, and yet I know people are not going to want to prolong the afternoon excessively so please do try to be here at 1 o'clock. (Whereupon, the meeting was recessed at 12 p.m. to be reconvened at 1 p.m. of the same day.)

AFTERNOON SESSION(1 p.m.)

MR. DENT: So we're going to get started then. We're trying to establish a phone contact with Elizabeth Brown, but meanwhile we're delighted to have three other speakers here with us. As in the case of the morning proceedings, we would like each of you to speak for no more than 15 minutes and then eventually we're going to have questions. Again, we're trying to get -- one of our panelists is going to be speaking to us by phone, so I will apologize in advance. I don't know exactly how this is going to work, but I will apologize in advance if we have to interrupt for that call. There's no indicated -- well, we've got the names that are on our list in alphabetical order. If you have a preference for something different that's certainly okay with me, but otherwise we can stick with the alphabetical order and go with Ms. Broka as our first speaker if you're willing to do that.

MS. BROKA: Certainly.

MR. DENT: Okay, great.

MS. BROKA: First of all, I'd like to thank Chairman Dent and the rest of the Ohio Advisory Committee to the U.S. Commission on Civil Rights. My name is Kathy Broka. I'm the president and CEO of the Cleveland Fair Housing Center as well as the northwest Ohio Development Agency.

They wanted us to give you a little bit of history about our organizations and since I'm the only one in the room representing northwest Ohio, I'll be pleased to do that. Our organization was founded in 1975 on the principles of community, tolerance and justice by the Women of the Old West End which is a neighborhood in central city Toledo, and the League of Women Voters and others. The groups were concerned about redlining

back then and other discriminatory housing practices that were affecting their neighborhoods, so they established an organization that would combat these practices and educate the public on the Fair Housing Act. Over the past 33 years the Center has investigated almost 10,000 complaints and has recovered over \$27 million in damages while demonstrating a talent for setting national precedents in the enforcement of fair housing laws.

In 1987 we filed the first challenge under the Community Investment Act in the country with the Federal Home Loan Bank Board against First Federal Savings & Loan. In 1983 we filed the first sexual harassment complaint in the country in Shellhammer versus Lewallen. In 1987 the Center received a \$625,000 award which was the highest award ever granted at that time for a race arrest in the case Rudolph versus Taberner. This also resulted in a stiff prison sentence for the landlord. In that same year the standards for establishing a prima facie -- and I always say that wrong so all your attorneys in the room, I'm sorry -- neighborhood redlining complaint were established in a lawsuit initiated by the Center in the Old West End Association versus Buckeye Federal. In '88 the Center set a national precedent by receiving free rental units for the homeless -- first time that had happened in the country -- an FHC versus Lexington Apartments case. In '90 Grey, Wainer and the Toledo Fair Housing Center versus P.K. Mobile Home Park set precedent for acceptable and nonacceptable standards for significant services and facilities for senior citizen housing complexes.

In '93 the Fair Housing versus Nationwide Insurance Company was the first complaint in the country which was filed against an insurance company based on testing evidence. That case resulted in a settlement that brought hundreds of thousands of dollars back into the community that had been underserved. In '96 the Center, along with the National Fair Housing Alliance, settled a systemic complaint against the nation's largest homeowner's insurer at the time which, according to the National Underwriter, which is an insurance trade publication, resulted in a single document which would forever change the way homeowner's insurance would be written in our country. Between '96 and today the Center has entered into partnerships with several major insurance companies resulting in over \$10 million in investments in Toledo's urban communities and altered underwriting guidelines that had an disparate impact on the African American and Latino neighbors.

In past decades, primarily in the '80s and the '90s, the Center was also successful in entering into a number of Community Reinvestment Act agreements with area lenders, resulting in millions of dollars in investments in central city neighborhoods. However, in the current decade because of weakening enforcements of CRA and other conditions, the Community Reinvestment Act as a valuable tool has become increasingly more difficult to utilize.

Today, Toledo fair housing continues its fight for equality in housing and, along with a myriad of services that the Center provides, we are currently involved in three major lawsuits: One is against an insurance company which alleges racial discrimination; another class action lawsuit against a lender which alleges familial status and sex discrimination; and one is against a municipality, which you talked about earlier today,

alleging zoning violations which affect persons with disabilities. Last year 50 percent of the complaints that we received dealt with predatory lending practices, and the Center has dramatically expanded its scope of services, including credit counseling, loss mitigation, loan modification, et cetera in order to provide help with the foreclosure crisis currently ravaging the nation.

I brought all of this up because I don't think that Ohio has more or less discrimination than other states in the nation. I just like to think that we do a better job in bringing people to task. It has -- Ohio has been known throughout the country as on the cutting edge for bringing people to task and even so, 40 years later, sometimes I feel like we're right back where we started.

I wanted to talk specifically about insurance discrimination because we tend to have a lot of experience. We have seen it all. It has run the gamut. I was involved in testing way back when. Before I was even an investigator, I was a tester for the Toledo Fair Housing Center when Shauna Smith, who is now the president of the National Fair Housing Alliance, was in my neighborhood in Toledo. And they were testing a number of insurance providers who were not providing homeowners insurance to houses that were more than 50 years old. During that testing, however, we found out that that policy was very strictly enforced in central city neighborhoods where the housing stock tends to be older, but not enforced at all out on River Road where the housing stock -- it was as old, or almost as old, certainly more than 50 years old, and had not in my neighborhood which was a little enclave on Cherry Street that was built in the 1920's and had a lot of houses on the historic register. So when my insurance agent asked me how old my house was, of course, I didn't know what they were testing for at the time so I didn't think anything of it. He asked me how old my house was and I said, Well, I'm not really sure. I don't know whether it was built in twenty -- he goes, Well, if you're not really sure, just don't put anything down. I didn't realize why he had asked that, but it's because he couldn't have insured my house if I would have put it down, or he would have probably just left it vacant anyway. So those are some of the things that we saw in insurance. We also saw the moral hazard issues. Later on we saw issues such as an insurance company turning down insurance on a house because of credit issues, but a bank had given it a 30-year loan. We never quite understood that one. I never understood that one, never understood it. The moral hazard issue was that we don't want to insure the house for too much because chances are they'll burn the house down. A lot of the things we went to court on where we asked where their statistical evidence that showed all the things that they were alleging and they never came up with any, so we never lost any of those cases, not one. But it seemed like every two or three years another insurance company was doing it and the same issues, and we had to take them to court or we filed an administrative complaint and it was over and over the same thing. Then there was a little lapse for a while.

The case that I told you about earlier that we currently have is with an insurance company. That was the first insurance company that was sued in the country that it settled before -- well, actually our case was filed first, but that one settled first, so it went down on the books as the first insurance company that settled. The issue that we have in the case that we are litigating right now is the fact that if you live in a predominantly

African American neighbor, you are never offered the best policy that they offer. In this case, let's just say it's the gold star policy. Now, you're not offered that policy. You're offered an inferior policy that if your house burnt down, probably only about half of what your house was worth is going to be covered, yet you pay more for that policy than you do for the gold star policy when you consider what you're getting for it. And it has a disparate impact against neighborhoods of color because they basically are saying that if your house -- if the value of your house -- we will only insure your house for half of what the value of your house is. So, of course, that has a disparate impact in many of our central city neighborhoods. So this is an issue that has come up before. It's been argued before, but some insurance companies just don't get it. So those are some of the issues that we're fighting right now.

Another one of the cases that we have is an 11-year case -- yes, you heard me right -- of a lady and her husband who applied for a loan and they told her that because she was on a paid maternity leave at the time that they could not give her the loan because there was no guarantee that she would ever go back to work, even though she had proof that she was on paid maternity leave and when she was heading back to work. That case has been in litigation for 11 years because it is a class action lawsuit. The third case that I wanted to bring up to you, and only because you had talked about it in the morning session, was a case of a village - which is a little enclave, actually it's a suburb on the outskirts of Toledo -- who would not allow a group home for mentally disabled individuals to open up. That one is in litigation right now.

We also, as I said before, are dealing with the predatory lending situation, foreclosures. When people see -- if your name has fair housing in it, like ours does, or housing opportunities, like a lot of other agencies, people who are losing their houses think that you're the agency that's going to help them and, in fact, in Toledo there really aren't any other agencies that are helping them and so 50 percent of the cases that we're working on right now are that issue. Those are some of the concerns that we have moving forward and we're hoping that the results and the things that you take forward are -- some of the things that you take forward are the fact that fair housing agencies, especially private fair housing agencies, are struggling to keep up with the times and the expenses of all of this litigation and investigations. Obviously everything is getting more expensive. Someone this morning asked how could you afford it or who do you choose to sue. When we filed against Nationwide Insurance that very first lawsuit that we filed, if we would have lost that case, it would have closed our doors. That stops a lot of people from filing a lawsuit especially smaller fair housing agencies in smaller areas that might be the only fair housing agency in the state. So it's a decision that we make and we do not make it lightly because any one catastrophic lawsuit could be the -- the result could be that we would be closing our doors. So those are some of the issues we're looking at. Our funding from the fair housing initiatives and from also the community development block grant money has decreased in recent years. It makes it -- it makes us then go out and try to find additional funding which, as you all know sitting around this table, economic times in the state of Ohio and especially in northwest Ohio where the G plant and the automotive industry, our employers, is making it extremely difficult. I know that I talk a lot so I better get off the microphone.

MR. DENT: I'm an academic so I'm used to it. Thank you very much, Ms. Broka. I think we're ready with our phone panelist now.

(Ms. Brown appearing telephonically.)

MR. DENT: Ms. Brown, can you hear me?

MS. BROWN: Yes, I can.

MR. DENT: Okay. Very good. I'm George Dent, the chair of the committee and so we'd like you to speak. I hope this is going to work. Previous speakers were set for up to 15 minutes and then, if you can, can you stick around? Will you be able to hear the proceedings and take part in the question-and-answer session later on?

MS. BROWN: I would be glad to if it works out on the phone. Did you want me to present now? I don't mean to cut in line if it's not time for me on the agenda.

MR. DENT: No, no. We called you at an appropriate time, so LHIW, let's hope it works. So go ahead.

MS. BROWN: Okay. Very good.

MR. DENT: So please go ahead.

MS. BROWN: All right. Good afternoon. I really do appreciate you arranging for me to speak by telephone with my colleagues with the other private housing agencies. I understand that Kathy this afternoon has given you a sense of what many of the current issues of housing discrimination in Ohio are. I want to add to the story by telling you about the work of HOME here in Cincinnati and, if it's all right, what I'd like to do is briefly review our program and then talk specifically about some of the recent racial discrimination cases that we've handled.

MR. DENT: Yes, please do. Again, try not to go over 15 minutes because our time is short and I know that we're going to have lots of questions.

MS. BROWN: All right, great. And just give me a flag if you think I'm going on too long.

MR. DENT: Okay. I will.

MS. BROWN: HOME was formed 40 years ago in 1968, the same year the Federal Fair Housing Act was passed. There were volunteer committees before that for about a decade working on what at that time they called open housing. I've learned a lot about that history even though I've only been at HOME for about four years because the history professor at UC wrote a book for us as part of the anniversary celebration that highlighted

what was happening in the way of housing segregation in Cincinnati during that time period and up to the present. It's fascinating. The mission of HOME is to eliminate illegal housing discrimination, particularly racial discrimination, and to help build stable integrated communities. We are the group that people call when they feel they have experienced discrimination. We received about 1,500 calls last year about housing issues in general, and about 500 of those were for potential violations of the fair housing laws.

Like the other private fair housing groups, HOME helps to gather evidence for testing and advises them on enforcement options and serves as their advocate, as appropriate. In early years HOME was very active in the court. Today most of our cases are filed administratively with HUD and the Ohio Civil Rights Commission, although we do occasionally help clients file court cases in particularly egregious situations. We recently had a ruling here in Cincinnati I'll tell you about in a racial case. However, in addition to the compliance work with the clients, HOME has a very active education and training program. We train about 2,000 housing professionals each year through boards of realtors, private real estate companies, apartment associations and investor groups. We also do consumer outreach to let people know about their housing rights. And we very often speak with social workers and case managers in staff meeting type settings.

HOME also has, in addition to the fair housing enforcement work, we have a mobility program that operates as a placement service for families with Section 8 housing who want to move to neighborhoods of opportunity where there's little poverty and they can be close to jobs and good schools. We recruit landlords in the neighborhood who otherwise would not accept Section 8 tenants and match them with tenants who are screened to meet the landlord's standards. It's a real win/win and the landlords like the program, the tenants like the program and it helps ease the concentration in inner city neighbors of subsidized housing. We also have a program that's funded by the United Way that we call neighborhood stability program to help transitional neighborhoods. Currently we provide foreclosure prevention services through this program to help retain homeowners and lessen the devastating effects of vacant foreclosed properties. And we also have a neat program, it's a joint project with the Hamilton County regional planning commission where we actually have hired a professional planner who works with the planning commission serving the smaller, older suburban communities, sort of the first suburb communities, as they call it, doing housing plans for some of them and serve the whole group as a consultant. The idea is to encourage these communities to look seriously at their housing stock and market dynamics and not just the knee jerk of defining their current problems as, Who is moving in, and attacking either the people that are low income, racially different or have Section 8 vouchers, which is the whole reason that their community is declining. That has been a very successful program where the planner has been really accepted by those communities and I think it's gone a long way to help them accept who they are and to hopefully become stable integrated communities. That's just a brief summary of HOME's programs. We're a small nonprofit agency with about 12 employees.

Let me just briefly talk about some of the racial discrimination cases that we see in our compliance program. Most people will tell you that racial discrimination today is subtle.

People often call us because they have been denied housing and something just doesn't feel right about the interaction. We do the testing. We send the black and white testers to apply and see how they're treated -- whether they're treated differently. Very often the landlord may be friendly to the black applicant but say nothing is available, while showing the white tester a vacant apartment a couple hours later. Or there may be high application fees that are mentioned only to the black applicant or a move-in special will be offered the white tester, but not the black.

In one recent case a woman called about a sign for an apartment and was told that there was nothing that was available, but she kept seeing the for rent sign. She, when she called us, thought it was because she had children, because the landlord had asked a lot of questions about her children. But when we tested, we saw no difference based on family status, but we then did a racial test and saw a very clear difference based on the treatment of white to black applicants. She didn't even think that in the beginning, but it became very clear that that was why she was turned down.

In another recent case a young black couple moved into a four-family in a mostly white neighborhood. The landlord had no problem with them initially, but the elderly white tenants in the building were frightened by the black man being in the building. They complained to the landlord constantly. They went through the couple's trash looking for anything they considered vicious. When there was a break-in they were sure it was this black tenant, although there was absolutely no evidence that he was in any way involved. A stranger knocked on their door and they complained all the time that this was -- you know, that it somebody that he must have let in. And finally the landlord gave into the pressure and, you know, he ended up cancelling the people's month-to-month lease. That's the point at which they called us. They left because they feared the eviction, but they really didn't think it was right that they basically lost their housing because of their race and the fear of these other tenants. We helped them file a complaint and the landlord did settle and you can sort of feel sorry for him because he was caught in the middle, but he basically took the action that denied the couple housing because of the racial prejudice of the other tenants. And therefore, he was violating their federal fair housing laws.

Most of what we see are rental cases. The primary problem in home sales continues to be racial steering by real estate agents. We had a case last year in which a realtor told a buyer that the house she asked about was in a bad neighborhood and she wouldn't want to raise her family there. The buyer -- the only reason we knew about it was because the buyer went to see the house anyway on her own and told the seller's agent what had been said. The white seller found out about it and was furious. She had raised her family in this wonderful integrated neighborhood and she loved the neighborhood, was highly insulted for herself and the neighborhood. And it's very interesting, she was a realtor -- actually a vice president in a competing real estate company and that she knew steering was a violation of the Fair Housing Act. It was never filed as a complaint because she negotiated a settlement, a very substantial settlement with this agent on her own without filing anything. And she didn't take any money for it. She made sure that her selling agent got paid and she made the rest of the funds go to the neighborhood association.

While most racial discrimination is subtle today, what still shocks me is the number of in-your-face cases that we still see, and I think this is all over. I don't think it's just Cincinnati. We had -- the court case that we recently had, it was last month in April -- we received -- one of our clients got a \$26,000 award in a federal court case here in Cincinnati. This woman had simply called about a for rent sign in a window, calling the number that was listed. And in reply, she got an ugly racial tirade. The landlord called back and left another ugly message on the family's voice mail. And when this message was played in court, the judge blanched. They said they could physically see and react to the violence and the ugliness of the message, and they had no trouble finding discrimination in this case. And this was a case that was not -- you know, it was not a far out area. This was a case within the city limits of Cincinnati.

And last year we also had a real estate agent who called us. She had presented an offer to a seller for a house in Hamilton County and the seller of the house told her that he'd burn his house down before he'd sell it to a black family. And the agent was well-trained enough to know to separate herself from the situation and to call us immediately. And that's a case where you have damages both by the buyer and both of those real estate agents were damaged by the seller's racial prejudice.

I understand that at HOME we basically see the dirty underbelly of race relations and I think sometimes when I speak here in Cincinnati people roll their eyes and talk about, There she goes again. I know that the cases we see are not the norm, they're the exception. We really do have many stable, integrated areas in the Cincinnati area. But there is no question in my mind that the extent of both interracial discrimination that we continue to see requires that we continue to vigorously enforce the fair housing laws. After 40 years, I really wish HOME had worked itself out of a job, but we have -- really understand that we have very much work left to do. And that's pretty much all I wanted to say in the beginning of the statement. I'm sure that folks there have questions about what's going on or maybe some of the other fair housing agencies can fill in on some of their experiences.

MR. DENT: Thank you very much, Ms. Brown. Now what we're going to do is listen to the other two speakers and then take questions, if you can hang on there on the line. Can you do that?

MS. BROWN: I would be glad to. Thank you very much.

MR. DENT: Okay. Thank you. Okay. Our next speaker is Mr. Vince Curry.

MR. CURRY: Thank you. As stated, my name is Vincent Curry and I'm the director of the Fair Housing Advocates Association and I'd like to thank this commission and committee for allowing us the opportunity to provide information on a subject that's very important to our everyday lives. Our agency was started in 1993. We have the unique experience of kind of operating throughout the state in various areas where there are not fair housing groups. We have received honors for our programming. We engage in both

educational and enforcement activities as part of our mission to promote equal opportunities in housing.

In 2000 we received an award from the U.S. Department of Housing and Urban Development as one of the top 50 public education programs in the country. We take it very seriously. In fact, we were honored with a program called Brightening Our Future. We developed fair housing activity books that have fair housing themes. We use animals and stories to teach kids about fair housing, and it's gone over very well. Because if you're going to change the future, we have to deal with those who are going to be our future and those are our children. We also do a monthly radio program on 1350 to reach a broader audience. All of us in fair housing groups use sessions and seminars, but a lot of times folks don't come to those so we try to provide opportunities to reach a broader audience.

Most of the cases that we receive complaints relate to rental houses. We get very few complaints regarding the real estate industry. And I realized that our community is still very segregated, but people really don't file those complaints. We consider ourselves to be the voice of fair housing and for those victims who feel they cannot exercise their rights. We enforce our fair housing rights not only in state and federal court, but also administratively through the agencies such as the Ohio Civil Rights Commission. We are finding that, depending upon the protected class, discrimination can be both very subtle and very blatant. We find that families with kids and people with disabilities suffer the most blatant forms of discrimination. Landlord's don't mind saying, hey, you've got three kids, you've got five kids, I don't want to rent to you. Or if you happen to be somebody that has a mental disability, I don't want to rent to you all. If you don't take your medicine, go crazy and I don't want to. Those are the blatants, but we still have the subtle stuff, but still discriminatory, needless to say. In terms of what we see as impediments in our great state of Ohio as my colleagues said, I think resources is the key. Resource is not only to us, to fair housing groups, but to the agencies such as the Ohio Civil Rights Commission that we partner with to be able to help protect the rights of folks in our communities. And it's funny that housing is where we all go when we leave work, when we leave school, we all go home. But if you look at the surveys we get, for example, from our local, state or federal politicians, they talk about employment, they talk about education, they talk about security, but nobody really talks about housing. That's a very important place because that impacts everything if I don't have peace at home. That's going to affect how I'm educated if I don't have peace at home. I'm not going to be focused on my job if I can't live close to where I want to get a job. So it impacts a lot of areas on a large part of our lives.

Some of the unique fair housing issues that I've been asked to talk about relate to unfair sex discrimination and a governmental case -- a case against a local company, but I also want to talk about religion. It seems while we're in a climate, and as a person of faith, sometimes I'm at odds with my colleagues, but sometimes providers are using their religious beliefs to determine whether or not they're going to rent to somebody. We had a case in which a couple was denied because they were an unmarried couple and that's fine if you're unmarried, you're not a protected class, but the landlord said it goes against my

Christian beliefs, and he began to quote scripture and telling them they were going to go to hell. Another landlord tells them that she didn't want fornication going on in her properties because she was a Christian. Those are -- that's fine, but I don't think we should bring those into making decisions because even in the religious communities we can't agree on what's good behavior or what's bad behavior, so those should not be factors to determine who gets access to housing. We also find that even in the realm of religion we have a case now with the National Fair Housing Alliance where an insurance provider was providing extra perks and benefits based on whether you were a Christian and went to church for your homeowner's insurance. If you went to church you got extra perks, you got things knocked off, a little extra benefit. If you weren't a person of faith and didn't go to church, we had access to that.

In another case we had out of Lancaster, Ohio, there was a campground that requires that cottage owners be Christian. And they also considered a female client not to be a good occupant. Why? Because she was a bad woman because she was divorced. And this, it was not operated by a church. It was a campground for the purposes of making money, and we ended up going to federal court and getting them to change that, but we're finding that religion is playing more and more of a role. In fact, we had a client who was being harassed because of her religion and she said they're throwing rocks at my house, they're trying to drive me out. And I said, Well, why? What's your religion and she said, well, I worship the devil. And I was like, oh, okay. Now, I didn't totally -- I didn't agree with that, but for her that was her religion and we explained what her rights were, and she didn't follow through with it to come and file a complaint, but if she had, we would have had to provide assistance to her despite my own personal views, but that was her own particular religion.

Some of the cases that I want to talk about are sexual harassment. Kathy talked about Toledo being a leader in the state of Ohio in the area of sexual harassment. That was the Shellhammer case. In fact, Shauna Smith, who is now the executive director of the National Fair Housing Alliance in Washington, D.C., was a tester in that case where she worked with the police department to wear a wire to go in and gather the evidence needed to substantiate whether or not sexual harassment was taking place.

Let me say this. Every complaint that comes to our offices does not have merit. Probably 60 percent of them don't, I'd venture to say, but 40 percent and above, yes, we find some form of discrimination. And we try to gather evidence through testing. Sometimes that involves wearing a wire. Sometimes it involves sending someone out, testers, say a male versus a female, and sometimes it involves just doing a telephone test to seek out information. One of these cases out in this area, Diane was involved, was a case of Walker versus Crawford where a federal jury awarded several women \$490,000 for being victims of sexual harassment, sexual discrimination. The landlord was a 76-year-old white male who did a lot of crazy things. Asked them about oral sex, patted them down. One of his reasons was that he thought since we were all going to heaven, we ought to get along down here first. So his warped sense of thinking, he found crazy ways to try to get along with women. But that case was so -- activity was so egregious that I believe the

court stopped him from being able to manage his property and he had to hire an independent company to manage his property.

We had a case back in 2002, a single woman who was on Section 8, going through a divorce with her husband needed to find housing, otherwise her husband was going to use lack of housing to get custody of their daughter. The landlord found out about that and said, If you don't have sex with me, I'm going to not give you this house and you're going to lose custody of your daughter. This is one of the few cases where there was actually sexual activity engaged in. In fact, the landlord, when he had her come over to sign the Section 8 paperwork, had the pornographic movie playing in the living room. Now, that case was down in Mount Vernon, Ohio and we prevailed in that case and the landlord was found guilty. Not only for sexual harassment, but for retaliating against the tenant for complaining about being sexually harassed. But once she did, he tried to evict her.

Another case, it comes out of Jim's neck of the woods one of the most egregious cases I've seen besides this one. A woman called me and said, Hey, I feel funny about something my landlord is doing to me. I said what? She said he's made some derogatory statements about whether he wants to come over and date me and that kind of stuff. And I said, Well, if what you're saying is true, that sounds like there might be some sexual harassment going on. But right now we don't have any evidence. It's your word against his. She said -- I said, now are you willing to turn on a tape-recorder. We've got to gather evidence. And she said yes. So she got a tape-recorder. And her landlord wanted her to come over to work on his computer and sign some paperwork and while she was there he had pornographic movies playing. He also made such derogatory -- crazy statements such as, I'm going to F your brains out. Your p-u -- and you can finish that -- is mine. But at the end of it all, he then says, Don't tell anybody, particularly your mother because I don't want her to think I'm a bad person. Now, we are now in state court and he has filed a counterclaim against us saying that we set him up because we recorded the conversations. We used his own words against him, so hopefully we will prevail in that case. That's down in Beaver Creek. There's another case out of Akron, Summit County, McGill versus Bellissimo from 1993 where there's a \$75,000 jury verdict where a young female, I think she's about 22 years old, was being sexually harassed by a 70-something year old, and she prevailed.

One of the unique things about the Fair Housing Act is it not only covers housing providers, but it covers governments. Governments have a responsibility to make sure that they are implementing their programs and services in a manner which does not discriminate on the basis of race, color, religion, et cetera. Most of the time when we think of cases against cities, we're thinking zoning cases where they're not making accommodations for group homes and people with disabilities. However, we have a unique case out of the city of Zanesville, Muskegon County, in which there was a neighborhood -- like the best way to describe it is, let's say, a doughnut. The black people live in the hole, the white people live in the doughnut. The doughnut had public water service. The people in the hole did not have public water. They had been asking for water for over 50 years. Our oldest client was 93 years old. The latest time they asked for water was around probably 2001 right after 9/11 and one of the commissioners directly said,

Your grandparents didn't have water, you ain't going to get water. Your grandkids might. The only way you're going to get water is if you tell President Bush Bin Laden is here and he drops a spiral bomb and water shoots out of the ground. Needless to say, they now have water because we took action, but it was sad -- we are in trial now. As we speak, the trial is going on now. It's a four to six-week trial. But if you hear people talk about some of the adverse conditions that they lived in because they didn't have water, such as growing up taking a bath. Things we take for granted. Get in, run it on up to our necks and bathe. They had to share bath water. First kid got in, took a bath, second kid got in, took a bath, third kid got in. Couldn't flush the toilet. Couldn't take a shower. One girl talked about -- or one woman, she's a grown woman now, when they went to catch rain water -- that's what they used to wash their hair -- there would be little squiggly worms in the water. So these people's lives were adversely impacted. Talking about having to -- when the pump went out in the cistern in the ground -- that's how they had water -- they had to have the water put in a cistern, then they would get a bucket and lift it out. But in the middle of winter that pump went out or you couldn't get down there. You had to get down there and scrub it. So just the hardship that was created for those residents in that case. So hopefully we will prevail in that case. They do have water now and one of our clients just passed away last year. She was 92, but before she passed away she was able to take her first full real bubble bath. But the unique thing was also to go into the house and see sinks with no faucets because there was no piping in the house. And we talked with one guy, he drank the water and how it was yucky and sometimes it had little bugs and mosquitoes or if you went down the cistern -- they had to clean it -- and you might find a mouse or a frog and just the crazy hardships. Or the embarrassment, you'd have -- because you don't have a flushing toilet, you'd have to go out and dump your waste someplace else.

So that's a case, one of the unique ones, that we are working on now where it shows that the city and the county have the responsibility to make sure that it's providing its services in a nondiscriminatory manner. Now, they're saying that, hey, it wasn't cost-effective. It would cost too much money. They never asked for water. But the ironic thing was they were sending water 25 to 30 miles away right behind these people's houses there's a waterline, but yet they couldn't tap into it. So hopefully good things happen the way they should and we prevail in that case. I thank you for the opportunity.

MR. DENT: Thank you, Mr. Curry. I'm glad your presentation has come after lunch instead of just before. And our last speaker for this program is Mr. Edward Kramer.

MR. KRAMER: Thank you. I'm Edward Kramer, director and chief counsel of The Housing Advocates, Inc. Let me just welcome the Ohio Advisory Committee to my city, the city of Cleveland, and thank you for holding your hearing here. The Housing Advocates has been in existence since 1975. We are somewhat different. We are a 501C-3 tax exempt corporation, but we are recognized by the IRS as a public interest law firm. And from the public interest law firm, we've grown into a fair housing organization and consumer and housing counseling agency and we have a multitude of programs. And I've given to each of you a brochure with some of our programs because of the limits of our discussions.

I also would like to just ask -- five of my staff are here. Would you stand up, and especially Joanne Woo who is our assistant director and Gretchen -- go ahead, stand up. Gretchen is one of our staff attorneys, too. So we appreciate you coming here and it's wonderful to share our experiences and have a chance to answer any of your questions.

We have many of the same experiences that you've heard discussed here. We're working with the Department of Justice on up to 15 cases against municipalities that have zoning laws that are preventing group homes from being developed. And the Department of Justice is going to be in each of these cases because we could not, after two years of attempting to negotiate, could not get communities to change. Two of those communities have zoning ordinances that say that a group home could not be built within two and a half square miles of another group home. And some of these -- these are both townships which don't even have two and a half square miles. And we could not get those communities to change voluntarily, so we had to file charges with the U.S. Department of Housing and Urban Development and they've been referred to the Department of Justice.

But I've been asked to talk about two areas which we have some unique perspectives on. One is our linguistic profiling, and I've provided you a fairly detailed testimony which I hope you'll take a chance to look at. We have a linguistic profiling program for African immigrants, not African Americans, but immigrants from African countries. Immigrants have very serious problems finding housing, especially individuals who are from countries in Africa, we have found. They not only have potentially financial problems, but they have cultural problems, language problems. They're very identifiable when they call to inquire about housing.

And in 2006 we developed this program to test whether or not individuals were having potential discrimination before they even are able to come into and apply for housing, when they are on the phone just simply trying to get information and to ask for an opportunity to come and see the units. We have a testing program. We have a staff member who's from Nigeria. We have over 75 testers from both Africa and Hispanic communities that we're testing with. We are using both phone tests and follow-up on-site tests to determine whether or not discrimination is occurring. In our first six months of that program, which was from May of 2006 to October of 2006, we had 34 tests which were found to have probable cause. That was every 3 out of every 4 tests that we were conducting we found significant forms of discrimination. In some instances under our protocols, our testers have to call at least three times. They're tape-recorded, they have -- and they use cell phones so that we can make sure that the tests are done uniformly.

What we were finding often is that when we would have a tester who was from an African country who had an accent who would be identifiable as both black and from a foreign country, those three calls went unanswered, but when the white tester would call, they would either receive an immediate call back or they would get a call within the three times, so that that was one form of the acts of discrimination. We also found when African immigrant testers were calling, that individuals were asking information about where they were born, are they citizens, are they -- you know, what's the size of their

families, where do they work, how long have they been in this country. Many other kinds of questions that seem to at least indicate a concern for the type of person who is making the call. Those concerns were not expressed or, at least, not expressed in detail by the white testers.

And I have a couple of maps here that I would like to use. I think the easiest one to look at is -- this is an example of our first sets of tests and the red test dots are where probable cause findings were and the green are the no probable cause. Now, you can see we tested a number of other instances and in 13 of them they were inconclusive. That was because one of the other testers called and the place was already rented or there were other reasons why we could not determine whether discrimination was occurring. As you can see the types of testing, this is a map of the municipalities in Cuyahoga County. Both east side and west side tests came up discrimination.

And one interesting case, we actually had a reverse discrimination case of one of -- our white tester was discriminated against because the site of the location was in a predominantly African American neighborhood and the landlord who was African-American discouraged the white tester from coming and reluctantly agreed to meet with that tester, while embracing the African immigrant tester. And when the white tester went out for the time of the appointment, the landlord did not show up. So there are reverse discrimination, and I think we have to remember sometimes that while this is a problem often of color, there is discrimination that occurs on both sides and we need to take action.

The other thing I wanted to point out, this particular map is a breakdown of the locations of African born persons or renters. And again what you see, the darker the color, the larger number of African-born persons, and you can see that the tests where the red dots are indicates still discrimination occurring in these areas. They occur, of course, in the white areas which have almost no African American immigrants. And lastly, this other map is based on median household income and, again, what you see is that it does not seem to indicate that this is an issue of income. The darker areas are 120 to 200,000, however, there are acts of discrimination occurring, and in areas that are between zero and 24,000 there certainly are acts of discrimination occurring.

Now, these results were published. And in Exhibit 1 attached is a front page article from our Cleveland Plain Dealer concerning our study. In the last year, the -- we conducted a second round of testing and we were assuming that we would see a dropoff simply because landlords should have become aware of the fact that there were testing being done in this area, that educational programs -- we went out and educated communities about this issue, and it would -- you would expect both for business purposes and not changing a person's heart, but changing potentially the threat to their wallet that we would see a drop.

Today we are announcing results of this second year of testing that was basically done from December of 2006 through November of 2007. And, unfortunately, what we have found is even more discrimination. We found -- and this is with regards to the 54

completed tests, so we had more than the completed tests that we had the previous time, we found 83 percent of those tests to come back with a probable cause of discrimination. Even worse than last year.

So what is the answer? I think part of the answer simply is the fact that an immigrant already has a strike against him or her because they are different and people tend to presume certain things. We've had complaints of people asking bona fides from Somalia, for example, whether or not they would keep goats in the apartment. I mean, there was a feeling that because they are different that they are not going to be as good as someone who is similar to us. That is the prejudice and that's what the Fair Housing Act was enacted to prohibit. The fact that the African immigrant testers we use are also black is a second strike. Sometimes when we use women, they have the third strike. And so I guess while we are shocked at the fact that this has not had the impact that we had hoped, that we assumed when we were conducting these tests in the second year, it is not surprising.

What this tells us, though, is that there needs to be greater efforts of enforcement both at the local levels, at the state levels and in the federal levels about this most vulnerable group of individuals are immigrants. And we have experienced some issues already, not only with African immigrants that we have tested for, but, for example, we've gotten bona fide complaints in the past concerning landlords discriminating against individuals who have come over from the U.S. -- previous Russia -- Russian community from the previous socialist block. They, too, are very vulnerable because they don't really trust government. They don't make complaints. And in one instance I got a call from a lawyer that indicated that the landlord's agent had said, You've got to give me a thousand dollars and I'll get you on the top of the waiting list. And the Russian immigrant thought that was just something that was acceptable for him to do because that's how it worked in the motherland.

Let me then talk to you about what I think is the most serious problem and I think you've heard it and you know it, is the predatory abuses that have happened, and Cleveland is, unfortunately, a prime example. We have ten --

MR. DENT: We're going to be running a little short on time. If you could make it brief, that would be nice.

MR. KRAMER: I will make it very brief. We had 10,000 vacant foreclosed on properties. That's 1/12th of all of our housing stock in the city of Cleveland. We have spent hundreds of millions of dollars, both the city, federal government, local development, some of you saw us present the checks today to two organizations in a settlement that we had gotten. The Cleveland Housing Network cannot develop new housing because of this.

And let me just end with a case that we have just settled and it's not -- they haven't signed the documents. This woman had lived in the house -- she's an African American on the east side -- lived in the house for 38 years, paid the mortgage, paid mortgage payments for 38 years. Entered into a new refinance mortgage with a subprime lender. The appraisal was \$89,000 in 2005. It might be a little high. I've been there. It's a very nice

house. Four weeks ago we got the new appraisal; \$31,000. That is because the appraiser couldn't find a comparable house except for sheriff's sales.

Our community is at risk. Our state is at risk. Our nation is at risk and I hope you will look at that issue when you make your report because the Federal Fair Housing Act has things that can be done. The Ohio Civil Rights Commission found probable cause in our Archett case so that the fair housing board, attached to, as Exhibit 3, is a recently executed conciliation agreement which for Argent and housing advocates and the fair housing board of the city of Cleveland, where we're going to get information about where they sold those loans from Cleveland to who, because Wall Street and investment bankers are the ones that need to be -- they have the money and they have had the greed and they reloaded those predators. That's why we've got 10,000 vacant units. Thank you.

MR. DENT: Okay. Now, personally, I don't have any deadlines, but I know that several members of the committee do need to leave before too long, so this section is scheduled to go until about 2:30. That gives us about 20 to 25 minutes for questions. So go ahead, Mr. Gerber.

MR. GERBER: I'd like to ask the question of the afternoon panel that I asked of the morning panel.

MR. DENT: Excuse me, one second. Ms. Brown, are you still with us?

MS. BROWN: Yes, I am.

MR. DENT: Okay. And you can hear?

MS. BROWN: Yes, very well.

MR. DENT: Okay. Very good. Go ahead, Mr. Gerber.

MR. GERBER: I know resources are limited and I know Mr. Curry mentioned that. I'm still trying to figure out how you decide what cases to push hard. And the cases that you described, Mr. Curry, are what lawyers would call slam-dunks, the smoking gun. You have the audiotape, the woman slept with the person. I mean, those are easy cases, a hundred percent victory.

MR. CURRY: You hope.

MR. GERBER: Yeah. You had said that about 40 percent of the cases that you get have merit to them. I assume that you can't conciliate with all of those 40 percent, so ideally you'd like to push them all the way. And I assume you cannot. It sound like you do sue a lot of people, but you still would like to sue more people. So how do you go about making that decision? And related to that with regard to Ms. Brown on the phone, she had said that her emphasis is on race discrimination in fair housing. My question is

related to that. Why emphasize that when there are other categories of protected groups, as well.

MR. CURRY: Speaking for how we did it, if a person is a victim of discrimination, we're going to pursue that case. The issue is where. Do we take it to the state or federal court, or do we push it through the Ohio Civil Rights Commission, which is the administrative agency that protects the rights of the citizens of Ohio, and it's more cost-effective if we don't have the resources. So even with the reality of limited resources, we still pursue cases.

Now, if it's a slam-dunk case, we will take that case to court. But if it's one where we don't have the resource or if it's one that's a marginal case -- I'm going to call it marginal, but it's not really strong, that still is a case and we're going to pursue, because there's evidence that shows it's more than likely that discriminatory practices took place. So we'll pursue that through the Ohio Civil Rights Commission. Now, one of the keys with the Fair Housing Act is attorney fees are part of that if you prevail, so you want to make sure you have a case. Even though it's not a blatant one, you still need enough evidence to prevail and it gets motivation to attorneys who support what we do to agree to take those cases.

MR. DENT: By the way, I've been asked to ask people to identify themselves when they ask a question for the purposes of the court reporter and for Ms. Brown. So Ms. Broka, you have a question?

MS. BROKA: Can I answer his question, also? How we choose when we're going to sue and when we're not, a lot of times it's just plain timing and the amount of money that we have. Other times, and more importantly probably, is if you can find an attorney that will take the case on contingency. We are very lucky in Toledo. A lot of cases that we have is because we have some extremely good attorneys. Tom Carter who just recently retired from private practice, but is now working a little with Actions Equality, and Steve Dane who is now with Relman & Dane in Washington, D.C. If you don't have dedicated attorneys who know civil rights law, it's very difficult and it can sometimes be a crapshoot. And so it's the timing, where is your agency, who can you pull off of the case.

They wanted me to talk about insurance and I would have like to have brought my investigator, Gin Teshner, who is our expert on staff in insurance issues. But she's up to her eyeballs in the case that we're litigating right now and so we have 13 people on our staff. Three of those deal with systemic issues and the rest deal with everything else including training and sitting on boards for predatory lending and foreclosure issues and so on and so forth. So it's a number of things that you think about. You also don't want to take the time and the energy to sue someone who doesn't have any money because they're very expensive and time consuming. So you certainly look at that also when you're litigating, but that doesn't mean that we haven't taken people to the Ohio Civil Rights Commission, because even if we got them to cease and desist their activities and slapped them on the hand and embarrassed them, that might sometimes be worth it. So it's a complicated question and I don't think there's one answer.

MS. BROWN: If I could respond to the question about the race cases. I said we focus on that more than I wanted to talk about that today. You know we -- as far as what I wanted to focus on in my conversation because I knew some of the other groups were talking about other issues. Race does continue to be the biggest number of complaints that we get. Last year for the first time the number of the disability complaints just about equaled the number of race complaints, and this year we may end up with more disability complaints than racial complaints. We get a handful of family status complaints, although when we do random testing, we find a whole lot of discrimination based on families with children. We help the clients that come in our door. We don't make choices as far as what type of discrimination we're working on, you know. It's a matter of who it is that's filing a complaint, who it is that understands that have rights who have been violated in a housing situation.

MR. DENT: Thank you. Ms. Bledsoe, let's try for the third time.

MS. BLEDSOE: Good afternoon. My name is Cassandra Bledsoe from the city of Cleveland. I want to applaud each and every one of you. I'm extremely pleased with the work that you're doing. It's excellent work. First, my first comment is to Ed Kramer. I am overwhelmed by your study especially with the African immigrants. My passion in Cleveland lately has been the Somali, too. And I'm pleased to see that someone else is out there noticing not only are there's discrimination tremendously when it comes to housing, but social service agencies have dropped African immigrants significantly as opposed to other immigrants. My question to anyone who would answer; although I know it is not a protected class, is there any work or anything in the fair housing industry that looks at reentry, because we get a lot of calls for persons of reentry who are not able to get homes even though we know that persons coming from prison is not a protected class.

MR. KRAMER: Yes, and -- this is Ed Kramer. Actually, we just ended a successful lawsuit with a settlement on that particular issue. An individual coming back from prison got married. His wife had lived in the rental unit for over two years. Paid the rent on time. And they did the right thing. He went down, said, look, I've just gotten married. I want to apply for this, but I want to tell you I just got out of prison. It was not a -- it was a stupid thing, he got drunk and stole a car because he was cold, waited for a bus for an hour -- and then realized it and called the police. So the police could not hold him responsible for grand theft because there was no witness, but they got him for receiving stolen property. So he paid his dues. The landlord said I have a policy that I won't rent to someone who's been convicted of a felony and trying to evict the wife and the husband.

We got the case. We filed in Cleveland housing court and stopped the eviction and was able to get the landlord to do a new policy. We have a model policy now, which I would love to give to you on this, but that is a huge issue for people. And we use the Fair Housing Act, because the study that we had done by Dr. Mark Solie from Northern Ohio Data Information Service showed that in Cuyahoga County 71 percent of all individuals who are incarcerated are African American, but 81 percent happen to be male. And so we sued for both sex and race discrimination. And that is a tool which we believe could be

used with the Federal Fair Housing Act and other individuals -- we just attended a HUD convention and we were talking about that. Other individuals have contacted me around the country and said, Gee, we're getting these same problems. Give us your theory and your statistical information. So yes, there is a tool to use the Federal Fair Housing Act for that -- not a protected class, but by disparate impact.

MR. DENT: Ms. Thrower.

MS. THROWER: Elizabeth?

MS. BROWN: Yes.

MS. THROWER: Hi. Edith Thrower. How are you?

MS. BROWN: Hi, Edith. Very good.

MS. THROWER: Good. The integrated communities that you spoke of earlier in Cincinnati, are those affluent communities?

MS. BROWN: Actually, Edith, there was a study done in Cincinnati recently that was very detailed looking at census data and also economic data on communities and they identified 14 stable integrated communities in Hamilton County. Out of those 14, 13 were in the city of Cincinnati. Most of them are what you would call either mixed income or -- not necessarily affluent communities, but perhaps middle class, maybe slightly upper middle class.

MS. THROWER: I suspected as much. And Kathy Broka mentioned a lawsuit against Nationwide. I wonder if you could give a blurb on our lawsuit, our joint lawsuit with Nationwide. That was before your time, but I know you're familiar.

MS. BROWN: It was before my time, and I think Edith, through the NAACP and HOME, was also involved in a Nationwide lawsuit. And again, Kathy, I didn't hear your testimony, but basically looking at the idea of redlining minority communities in the provision of homeowner insurance. And that lawsuit was settled for a very substantial amount of money. And one of the things that I was aware of, Edith, not so much the early parts of the lawsuit, but that the settlement included a large fund that provided down payment assistance.

MS. THROWER: Absolutely. In fact, we were instrumental in placing 300 renters into homes.

MS. BROWN: Right. It was very successful as far as improving home ownership. To me, it was a very creative way of doing a settlement, that you're actually addressing the problem. They were preventing people from becoming homeowners in these neighborhood by not providing homeowner insurance or having a very high cost of homeowner insurance and the solution was to have people become homeowners.

MS. THROWER: Thank you.

MR. DENT: Mr. Forte.

MR. FORTE: This is David Forte speaking. My question is to Mr. Kramer. Mr. Kramer, I think you mentioned -- if it wasn't you, it came up before -- that the Cleveland area is a mosaic of ethnic -- self-identified ethnic and national communities, and it has many, many groups that are active in intercultural education and understanding. To what extent does your group work with those groups so that these problems can be solved at the cultural educational level rather than the legal level?

MR. KRAMER: We emphasize outreach and education. We have a speaker's bureau. We provide speakers. I just recently gave a speech to the (phonetic) Society of Northeast Ohio about fair housing and a history of Cleveland which pointed out that in 1860, 92 out of our 104 census tracts were integrated and they were African Americans. And by 1930 we then had this segregated situation, and it wasn't done by accident. So people get surprised by what the history is. And I think it's important that we know the history of our community, that this was not done by accident. It was done by private and public discrimination. And what we try to do is we have outreach programs and we're always encouraging individuals to contact us and allow us to talk about the program. We have a web site that --

MR. FORTE: Let me be more specific --

MR. KRAMER: Yes.

MR. FORTE: -- with regard to the African immigrants.

MR. KRAMER: Yes.

R. FORTE: Are you involved in any groups that help to socially and culturally integrate African immigrants into our culture here?

MR. KRAMER: We've been asked and been invited to a number of African immigrant groups to present our information and we've encouraged them to develop housing committees so that we can work with them and, in fact, just recently we have the Ohio Civil Rights Commission case where it was probable cause. We have gotten our first settlement where the landlord now will have to provide us, one week before his housing is available, a list of that housing, which we will provide to African immigrant groups so that they could use that for their members to find new housing hopefully in, you know, suburban locations. So yes, we are going around and that's one of the things that our Malakai Swekai, who is our African housing immigrant coordinator attempts to do, is to get those invitations.

MR. DENT: Ms. Johnson.

MS. JOHNSON: Kelli Johnson. I have two actual questions for the legal minds in the room. Is it legal under the fair housing law for municipalities to pass laws or statutes or regulations that prohibit renters from renting to undocumented workers? Can a municipality say no one in this city is allowed -- if you own property, is allowed to rent to someone without legal documentation?

MR. DENT: I know that's a disputed issue, isn't it?

MR. KRAMER: That's right. I mean, I've gotten a number of inquiries off the list served. The real question is, does that create a disparate impact that would potentially violate the federal law. I don't believe there are any cases. There has been a couple of potential lawsuits and I think the U.S. Department of Housing and Urban Development actually threatened litigation in New Orleans with some suburban locations who attempted to pass those. So it's an open question. Certainly I don't believe there are any district court opinions yet.

MS. JOHNSON: Okay. And my second question is, we touched on this briefly this morning and that is that we agreed that national origin is a protected category, but I thought I read in the information that I read over for today that fair housing law only applies to U.S. citizens. Is that correct? And where is -- who falls between being discriminated against because their national origin is other than American, and people who do not -- who don't have legal residence status or whatever constitutes protection under this law?

MR. KRAMER: I believe that the fair housing law protects everyone, whether they're a citizen of the United States or not. The definition says person. And I believe that the courts have interpreted that to mean that certainly if the person has a proper visa to come into this country, the real issue is undocumented individuals, especially Hispanics, and that whether or not they would be protected. But the law says person. And I would, certainly as a lawyer, argue that that protects any people who are maybe illegal here. They may ultimately have to go through the federal immigration, but I don't believe they can be discriminated against.

MS. JOHNSON: Okay. Thank you very much.

MR. DENT: I'm not too sure about that, because --

MR. KRAMER: No?

MR. DENT: Well, if the landlord says, I'll rent to white illegal aliens, but not black illegal aliens then it would be racial discrimination, but if he says, I'll rent to anybody who is here legally, but I won't rent to anyone who's here illegally, I'm not sure that that violates the federal housing laws. I'm not sure that's a protected category. But I'm not sure.

MR. KRAMER: The question really is disparate impact. If that policy affects more adversely a particular race, not on national origin but on race, I think there is an argument to be made that the federal law would apply. But you're right. I mean, I think, unfortunately, if you're an undocumented and illegal immigrant, while you may have that protection, ultimately you might lose your freedom.

MR. DENT: You'll be deported.

MR. KRAMER: What happens, I think, in a practical sense, they will not come forward and, you know, try to enforce their right.

MS. CITRINO: And can I just say one thing on this point? I know there has been question, but on this point having been in the position of a regional director of an enforcement agency, what you see as the most exploited people are those who are afraid to come forward. And if the law, in fact, does not protect that person, as Ed said, and only citizens, those who are here with questionable immigration status -- think about it in terms of every area of enforcement, such as criminal enforcement -- people would be horribly, horribly treated.

For example, an employment issue, if you could discriminate freely because someone was here with a questionable immigration status, you would have people who are living in horrible conditions paid miserably, but with no way to enforce the protections of our laws, and I think it's a very important point that the law says persons. And I have addressed this and I do believe that it's essential that our law protects people regardless of immigration status.

MR. GERBER: But is it an open question still? That's the point.

MS. CITRINO: I'm not saying that it's not -- if a landlord said, I'm not renting to people who are undocumented, that's a particular question of -- does he ask Canadians to produce immigration papers or only people who speak with a Hispanic or African accent. That's an enforcement issue. It's not an issue of whether, in fact, discrimination laws protect people who are undocumented, in my view of the law. I mean, just spouting off my view of the law. I'm certainly not --

MR. DENT: All right. I have some questions about that, but time is running short so this may have to be our last question. Mr. Doshi?

MR. DOSHI: My question is to Ms. Broka. You mentioned about insurance, the discrimination. That was interesting for me to learn. I wonder what happens in the case of a home-based business or ethnic businesses in the area. I, as a business owner, would have insurance, but it's separate from a homeowner's. Business insurance, do people get discriminated on that also, or do we have any statistics?

MS. BROKA: I don't have any personal history on business insurance issues so -- how about you, Ed?

MR. KRAMER: I did do some issues about auto insurance and that where there was serious discrimination, I believe, especially of Cleveland residents and that, concerning automobile insurance. I don't have anything about like casualty insurance for a commercial building. That, I don't have.

MR. DOSHI: More and more businesses are coming in, the ethnic businesses, grocery stores, the dry cleaning places. They would want to have insurance. How do they get treated in the community?

MS. BROKA: I have not checked this at all. We only deal with homeowners insurance.

MR. KRAMER: I know the little deli across the street from our office, which is on 32nd and Prospect, they were broken in several times and now they can't get insurance. So, I mean, that's part of the problem you have. Residential, you have the fear plan, or at least in Ohio, for residential insurance, but we don't have that kind of protection. So this business owner now has to potentially just take the risk that there's a fire or, you know, a break-in and he just has to cover it. It's a serious problem, which only can be covered, by the way, wouldn't be covered by the federal fair housing law only as residential, but the 1866 Civil Rights Act, 42 USC 1991 could deal with that particular issue, I'd like to point out.

MR. DENT: Well, we have reached the end of this scheduled session. Again, as this was the case this morning, I believe -- and I believe the others will agree with me -- that the presentations have been extremely impressive in terms of the knowledge and experience that you speakers have. I found it very interesting. I would have to say also in many respects I found your testimony depressing, but I guess I shouldn't have come here expecting to hear a lot of good news. Again, I thank you, and if I can follow the precedence set this morning suggest a round of applause for our panel. And I again thank you. I wish we could go on longer, but I don't want to impose on either you or the members of the committee who have to leave. So thank you.

CERTIFICATE

State of Ohio,
SS:
County of Cuyahoga.

I, Judi Sadler, Registered Professional Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the proceedings was taken by stenotypy, afterward transcribed by means of computer-aided transcription, and that the foregoing is a true and correct transcript of the testimony as given as aforesaid.

I do further certify that this proceeding was taken at the time and place in the foregoing caption specified.

I do further certify that I am not a relative, employee or attorney of any party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 4th day of June, 2008.

Judi Sadler, Registered Professional Reporter
and Notary Public in and for the State of Ohio.

My commission expires September 14, 2009.

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Appendix



June 9, 2009

Dr. David Mussatt, Ph.D, J.D.
Director Midwestern Regional Office
United States Commission on Civil Rights
Midwestern Regional Office
Xerox Centre, Suite 410
55 West Monroe St.
Chicago, IL 60603

Dr. Mussatt:

Thank you for providing Steiner + Associates the opportunity to respond to the testimony made by James McCarthy, President and CEO of the Miami Valley Fair Housing Center ("MVFH"), during a briefing sponsored by the United States Civil Rights Commission last year.

Steiner + Associates is fully committed to building projects which exceed the minimum standards of accommodation delineated in the Fair Housing Act. We have never knowingly discriminated against any individual or group and find Mr. McCarthy's allegations to be utterly shocking and untrue. To our knowledge, not one single disabled person has been discriminated against or filed any complaint relating to accommodations in our mixed-use town centers. MVFH had initiated its investigation of our compliance to the Fair Housing Act in pursuit of its own motivations.

We have hired nationally recognized architects and contractors to design and construct our projects; we instructed them to do so in accordance with all applicable laws. When MVFH first brought the alleged violations of certain FHA standards to our attention, we were in utter disbelief. The deviations had not occurred to save cost or discriminate against any class of potential residents for our project. Rather, we learned that very few licensed architects and contractors understand the full extent of these regulations, and that the tolerances of construction result in numerous errors that are measured in fractions of an inch. The local plan review and code enforcement process had also failed to catch these issues.

While MVFH and Mr. McCarthy wish to emphasize an image of public service, efforts such as their unnecessary federal lawsuit with us are actually counter productive to the matter of accommodation, wasteful of resources in every account, and highlight the great failure of the Fair Housing Act to provide a rational path for correction of non-compliant matters.

Mr. McCarthy asserts that he participated in conciliation with us and the other respondents before the Ohio Civil Rights Commission ("OCRC"); this assertion is simply inaccurate. When the OCRC conciliation was held in MVFH's home town of Dayton, Ohio, Mr. McCarthy was the only party in the charge who was not in attendance. We and the other respondents reported that we agreed to remediate the violations and had already begun to do so. We submitted our response both to the OCRC and Mr. McCarthy. Unfortunately, Mr. McCarthy continued to refuse to sit down with us and review the outstanding items and our efforts to remediate them. Instead, he filed a lawsuit in federal court, largely out of his frustration that 9 of the 11 deviations initially brought to our attention had already been corrected. At the public reconsideration meeting held before the OCRC, the Commission applauded the efforts we made to resolve Mr. McCarthy's charge; unfortunately, the OCRC was not able to continue in its efforts due to their institutional deadlines. Mr. McCarthy filed his action in federal court, naming projects which MVFH had never even investigated, before even attempting to resolve this matter in the context provided by the OCRC.

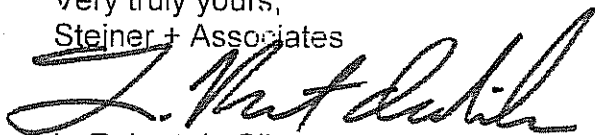
Our desire to be good corporate citizens is borne out by the fact that while this action was pending before the OCRC and prior to the filing of the federal lawsuit, we began to remediate those items brought to our attention. Any deviation which is brought to our attention by an occupant or prospective tenant is immediately corrected. We have an ongoing process of remediating deficiencies in individual units when they become vacant. We simply will not allow anyone to be discriminated against due to these unfortunate oversights in the initial design and construction of our buildings.

We would never have deliberately constructed our residential projects with known deviations of the Fair Housing Act standards; several had been completed before the matter was brought to our attention. Since becoming aware of these issues, we have included a peer review process specifically focused on FHA and accessibility issues during the design of our projects. At first we received resistance from our design professionals, but having caught many potential violations in the drawing stage, they have now come to embrace this process.

The real story here is that just by bringing these matters to our attention, we initiated action to remove any potential discrimination at both our existing and planned developments. Our efforts have actually been slowed by the

entanglement of the Federal lawsuit, but we remain fully committed to making any necessary repairs and keeping our projects open and available to every prospective tenant.

Very truly yours,
Steiner + Associates

A handwritten signature in black ink, appearing to read "L. Robert da Silva". The signature is fluid and cursive, with a large initial "L" and a stylized "R".

L. Robert da Silva
Senior Vice President, Construction