

# **Fair Housing in Federally Funded and LIHTC Rental Projects**

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# AGENDA

## What is Affordable Housing

- Identifying residents and owners

## What are the rights and responsibilities of individuals in fair housing

- Identifying tenant, owner and Housing Finance Agency roles and responsibilities

## What is Fair Housing

- Identifying 7 protected Classes
- Identifying disparate impact and disparate treatment

# AGENDA CONTINUED

## Identifying Housing Discrimination Impacts

- Socioeconomic impacts
- Disinvestment
- Lack of educational opportunities
- Lack of health care
- Lack of adequate food resources
- Lack of viable employment opportunities

## IHCDA's Partnership with ICRC for Fair Housing Testing

- Testing, Findings, Mandatory Training

## Addressing Fair Housing Complaints

- How to handle complaints, investigations and findings of fair housing violations

# What is Affordable Housing

## Low Income Housing Tax Credit

- Under IRS code, developers agree to build affordable units in exchange for a reduction of their federal tax liability
- In exchange for credits, developers and owners agree to keep program units rent and income restricted and to keep property safe, decent and sanitary for the entirety of the compliance period

## Federally Funded Programs

- Funding from US Department of Housing and Urban Development (HUD)
- Allocated from HUD to IHCDA
- IHCDA allocates funds to cities and towns throughout Indiana that are not large enough to receive their own funds from HUD
- In exchange for funding, owners agree to keep units rent and income restricted and to keep the property safe, decent and sanitary for the duration of the compliance period- POA

# Who lives in Affordable Housing?

## Tenants

- Individuals who belong to any of the seven protected classes under the Fair Housing Act-
  - Families
  - Former Youth in Foster Care
  - Elderly
  - Individuals with disabilities
  - Individuals who have been chronically homeless, and their families
  - Formerly Homeless Veterans
  - Formerly incarcerated who meet criminal screening criteria
  - Family Unification Program Participants
  - Individuals at risk of homelessness



# Who owns Affordable Housing Properties?

## Landlords

Person or entity who owns real estate property that is for rent or lease to a tenant

- Private individuals
- Investors
- Corporations
- Public Housing Agency
- Not for Profit Organizations
- Local Units of Government
- For Profit Organizations
- Limited Partnerships
- LLC
- Property management organizations



# Tenant Rights Under IHCD's Affordable Housing Programs

- Right to live in community of their choice
- Right to Rent restricted to published rates
- In some cases, not to lose eligibility if income increases after initial eligibility
- Section 8 Housing Choice Vouchers must be accepted
- Cannot be discriminated against based on the seven protected classes- race, color, national origin, familial status, disability, religion, or sex
- Right to reasonable accommodations and/or reasonable modifications in accordance with the Fair Housing Act.
- Right to good cause evictions/Non-Lease renewals
  - Prohibits eviction/non-renewal of lease without good cause
- VAWA Protections
- Right to – safe, habitable and affordable housing
- Free from retaliation for reporting non-compliance, fair housing violations and/or VAWA violations

# Tenant Responsibilities

- Completely and accurately report information related to household size, income, assets, and student eligibility status
- Pay tenant rent timely
- Pay tenant utilities timely
- Comply with lease terms
- Comply with property rules
- Recert annually





# Owner Responsibilities

- Ensure units are leases to eligible households in non-discriminatory manner
- Charging no more than the maximum allowable gross rent (rent + tenant paid utilities + non-optional fees)
- Maintaining property in habitable condition
- Ensure record retention
- Attend IHCDCA Compliance trainings
- Be knowledgeable about funded program requirements
- Complete an Annual Owner certification
- Participate in audits
- Respond to IHCDCA inquiries, audits, findings, and remediate any concerns timely
- Train staff
  - \*At least annually, all employees should attend fair housing training.
- Reporting changes timely
- Review reasonable accommodations and reasonable modifications
- Develop and Distribute Affirmative Fair Housing Marketing Plan
- Develop tenant selection plan
- Develop any additional application requirements i.e. credit checks, criminal background requirements.
- Enforce lease

# IHCDA's Oversight of Affordable Housing

- Conduct Compliance Audits
- Conduct Physical Unit Inspections
- Annually review owner required compliance certifications
- Partner with ICRC to conduct Fair Housing Testing
- Partner with Fair Housing Center of Central Indiana to offer Free Virtual Fair Housing Training
- Contract with leaders in Compliance to provide free in person and virtual trainings to property owners, managers and their staff
- Receive and remediate tenant complaints
- Provide referrals and resources
- Provide technical assistance to owners/owner agents to ensure compliance
- Report fair housing violations to appropriate entities

# IHCDA's partnership with ICRC Fair Housing Testing



# FAIR HOUSING ACT

1968- enacted

1988- Congress passed the Fair Housing Amendments Act which expanded housing protections to include individuals with disabilities and familial status (pregnant women or presence of children age 18 or younger)

## 7 Protected Classes

- Race
- Color
- Religion
- National Origin
- Disability
- Sex and Sexual Orientation/Identity
- Familial Status



Equal Housing  
Opportunity

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## FAIR HOUSING

# What is housing discrimination?

## Fight Discrimination- Support Fair Housing Testing

- Housing discrimination occurs when individuals and families are treated unequally/unfairly based on characteristics from one of the 7 protected classes:
  - Race,
  - Color
  - National Origin
  - Religion
  - Sex including Sexual Orientation
  - Familia Status
  - Disability
- Discrimination can be overt, such as outright refusal to rent based on a person's identified class or can be subtle such as steering/customer treatment.

## 42 US CODE § 3604(F)

- (f)(1) Discrimination in sale or rental or otherwise make unavailable or deny
- (f)(2) Discrimination terms, conditions, or privileges of sale or rental of dwellings
- (f)(3) Discrimination includes
  - (A) Reasonable Accommodations
  - (B) Reasonable Modifications
  - (C) Design and Construction

# DISPARATE IMPACT

## Disparate Impact:

Refers to a legal doctrine where a seemingly neutral policy or practice disproportionately harms a protected class



## Examples

- Criminal Background Checks: landlords rejecting tenant based criminal background history, particularly without considering the nature of the offense or the time elapsed.
- Employment Requirements: requiring full time employment as a condition for housing



# DISPARATE TREATMENT

Disparate Treatment:  
Involves intentional discrimination  
towards a protected class



## Examples

- Charging higher application fees to persons of a specific ethnic group
- Denying reasonable accommodations
- Refusing to rent to individuals based on their sex/sexual orientation
- Policies in place that prohibit same sex couples from residing in the same unit.

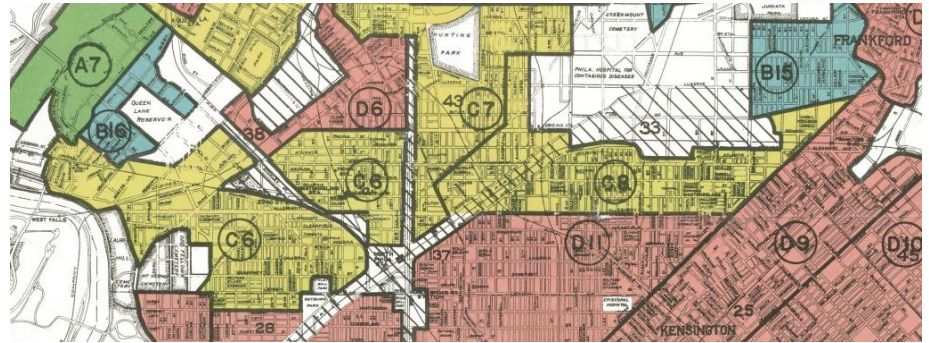


# IS IT IMPACT OR TREATMENT

- Requiring all applicants to be employed
- Blanket denials on basis of criminal history
- Municipalities zoning to restrict affordable housing in certain areas
- Blanket statement No Animals Allowed
- Having Minimum Income requirements
- Charging additional fees to individuals of specific national origins
- Denying applicants to rent on second or third floors due to having small children
- Evicting a resident for calling the police too often
- Blanket denials on apartment modification requests

# IMPACTS OF HOUSING DISCRIMINATION

- Keeps communities segregated
- Impacts access to resources such as employment, transportation, infrastructure, education and health care
- Perpetuates cycle of economic disparities and limits social mobility
- Contributes to generational wealth gap
- Not a choice rather, a product of institutional racism



# EFFORTS TO AVOID FAIR HOUSING VIOLATIONS

Using a control group and a test group, IHCDa in partnership with ICRC randomly sample partners within the IHCDa affordable housing portfolio on an annual basis to determine if a real applicant, would the provider violate fair housing.

- Analyze data from tests
- Determine which of the protected class groups are being tested or if all are being tested.
- ICRC works with testers to develop scripts so that both the control and test group are presenting exactly the same with the exception of one being an identified member of a protected class.
- ICRC and IHCDa are always looking to revise tests, enhance testing areas, and ensure that we provide enough education to help partners be Fair Housing Superstars.



# 2023-2024 IHCDA'S FAIR HOUSING TESTING FINDINGS

## 113 Properties Tested in 2024

### 57 tests= Disability

- 13 favored the control group
- 6 Favored protected class
- 2= No significant differences
- 29=No significant difference
- 8 had significant differences
  - 2 significant diff favored control
  - 6 significant diff. favored protected class



### 56 tests= Race

- 13 favored control group
- 8 favored protected class
- 3 inconclusive
- 25 no significant differences
- 7 showed significant difference
  - 5 significant diff favored control group
  - 2 significant diff favored protected class



# 2025 PROPOSED TESTING

- Test providers on all 7 protected classes.
- Testers will be visiting in person to apply for units vs. past attempts at phone calls first
- Incorporating VAWA into fair housing
- Adding areas specific to reasonable modifications/accommodations
- Developing better method of tracking partner compliance with mandated fair housing training needs identified
- Providing more referrals to ICRC for potential fair housing violations
- Continuing partnership with Fair Housing Center of Central Indiana to continue to offer free fair housing trainings on line to all partners.

# Addressing Complaints/ Potential Violations

## Mandated Training

IHCDA and/or ICRC may mandate owner's and their staff to participate in fair housing trainings

Referrals to Indiana Civil Rights Commission <https://www.in.gov/icrc/file-a-discrimination-complaint/housing>

If IHCDA compliance staff discover potential violations, they will work with ICRC to provide details and refer the case for further investigation

Referrals to HUD's Office Fair Housing and Equal Opportunity  
<https://www.hud.gov/fairhousing/fileacomplaint>

Referral to Indiana Legal Services <https://www.indianalegalservices.org/>

# Questions



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