

LONG ISLAND FAIR HOUSING: A STATE OF INEQUITY

E·R·A·S·E



E·D·U·C·A·T·I·O·N
R·E·S·E·A·R·C·H
A·D·V·O·C·A·C·Y
&
S·U·P·P·O·R·T
T·O
E·L·I·M·I·N·A·T·E

R·A·C·I·S·M

Ms. Y. Eddy Green,
President
ERASE Team

Ms. Cathryn Flann,
Project Manager
ERASE Team

**INSTITUTIONAL AND STRUCTURAL RACISM IN HOUSING:
THE STATUS OF CURRENT ENFORCEMENT SYSTEMS AND RECOMMENDATIONS
FOR IMPROVEMENT**

Dear Colleagues:

From the racially restrictive housing covenants of the past to the exclusionary zoning and forbidding fair housing enforcement of today, business and government alike at times unwittingly continue to perpetuate a segregated and unequal Long Island. ERASE Racism recognizes that for fair housing to exist, business and government must implement changes in practices and policies that result in inequity.

The board and staff at ERASE Racism are committed to working with others to make fair housing enforcement a reality for Long Island. We believe that this report—*Long Island Fair Housing: A State Of Inequity*—provides valuable information and insight into the state of fair housing today, what works, what's broken and how to fix it.

We ask that you read this report and not only give to your thoughts, but join us in our efforts to make fair housing a reality on Long Island. You can communicate with us online by completing and sending the Fair Housing Report response form found on our website, www.eraseracism.org or calling the ERASE Racism offices at 516-921-4063. We look forward to hearing from you!

Long Island Fair Housing: A State Of Inequity would not be possible without the contribution of many individuals, too numerous to name here, including some past and present ERASE Racism staff, board and volunteers. By far, the person who deserves the most credit for bringing this study to a successful conclusion is ERASE Racism Project Manager Cathryn Haith. To Cathryn, completing this project was truly a labor of love and a reflection of her professionalism and commitment to justice. Thank you, Cathryn! And to the members of the ERASE Racism Fair Housing Task Force (found on the following page) I also want to offer my sincere thanks for sharing your expertise and your commitment to see this project through. Finally, the following individuals from the ERASE Racism Board of Directors, the Fair Housing Task Force and other organizations deserve special thanks for providing us with information, advice and technical assistance: John Logan, Professor of Sociology, Director of American Communities Project, Brown University; Ellen Jacobsen, Director, American Jewish Committee; Susan Lagovic, Executive Director, Housing Help, Inc.; Deborah Post, Esq., Professor of Law, Yeshiva College; Jacob D. Puchberg Law Center, Craig Cantan, Esq., Executive Director, Anti-Discrimination Center of Metropolitan New York; Michelle Samuonico, Executive Director, Long Island Housing Services; Marge Rogatz, President, Community Advocates, Inc.; Howard Chikover, Esq., former Dean, Yeshiva College; Jacob D. Puchberg Law Center; David McClain, Principal, David H. McClain & Associates; Edward J. Pruitt, President, Hempstead Individual Association; and Veronica Todaro, Senior Program Consultant, ERASE Racism.

ERASE Racism would like to acknowledge the following for providing information and materials that were essential to the creation of this report: the U.S. Department of Housing and Urban Development; the New York State Division of Human Rights; Suffolk County Attorney's Office, Nassau County Attorney's Office, the Suffolk County Human Rights Commission and the Nassau Commission on Human Rights.

As Dr. Martin Luther King Jr. said in 1968, the duality of having two housing markets "...has brought about a gradual of injustice ... There is no excuse for continued inaction! It's time for change!

V. Elaine Gross
President, ERASE Racism

ERASE RACISM BOARD OF DIRECTORS

- V. Hattie Cross, *President*
- Dr. Akonisi E. Jordan, *Chair*
- Dr. Martha Darling, *Treasurer*
- Frederick K. Brewington, *Asst. Treasurer*
- Suzie D. Sorenberg, *Secretary*
- Margo Kogatz, *Asst. Secretary*
- Valerie M. Carright, *Director*
- Howard Chikson, *Director*
- Jane Keenan, *Director*
- David F. McLean, *Director*
- Edward Prack, *Director*
- Cristina Vargas Law, *Director*
- Rose Vaccaro, *Director*
- Abraham Kessiah, *Director Emeritus*

FAIR HOUSING TASK FORCE

- Richard Hoffman, Esq., *Legal Director, Anti-Discrimination Center of Metropolitan New York*
- Frederick Brewington, Esq., *Law Offices of Frederick K. Brewington*
- Dr. Martha Darling, *Director, Center for African American & Ethnic Studies, Adelphi University*
- Howard Chikson, Esq., *former Dean, Touro Law School*
- Craig Curtin, Esq., *Executive Director, Anti-Discrimination Center of Metropolitan New York*
- Ms. Joan Kelly, *Executive Director, The Inequality Migration Network*
- Dr. Richard Koslsek, *Coordinator, Public Policy Education Network, Catholic Charities*
- Dr. Akonisi E. Jordan, *Associate Dean of Student Affairs, Saint Barns University School of Medicine*
- Dr. J. Van Kester, *Senior Vice President, Community Development Corporation of Long Island*
- Mr. Paul Elkowitz, *President and Chief Executive Officer, Long Island Housing Partnership, Inc.*
- Ms. Margo Kogatz, *President, Community Advocates, Inc.*
- Ms. Michelle Samantonia, *Executive Director, Long Island Housing Services, Inc.*
- Ms. Ann Sullivan, *Community Developer, Long Island ACCRN*
- Rose Vaccaro, *Associate Director, Fair Home Community Center*

TABLE OF CONTENTS

	<i>Executive Summary</i>	v
I.	<i>Introduction</i>	4
II.	<i>The History of Racial Discrimination in Housing on Long Island</i>	7
III.	<i>Housing: A Key to Opportunity</i>	9
IV.	<i>A Brief History of U.S. Housing Law</i>	12
V.	<i>Types of Housing Discrimination</i>	14
VI.	<i>Fair Housing Enforcement on Long Island</i>	16
VII.	<i>Analyzing Agency Enforcement of Fair Housing on Long Island</i>	21
VIII.	<i>Recommendations for Improving the Effectiveness of Fair Housing Enforcement</i>	25
IX.	<i>Local Government Analysis of Fair Housing Practices: Highlights from the Analysis of Impediments Reports</i>	29
X.	<i>Analyzing the Use of Impediment Reports to Assess Local Government Efforts to Further Fair Housing on Long Island</i>	41
XI.	<i>Recommendations for Local Government Utilization of Analysis of Impediment Reports for Fair Housing Enforcement, Development and Integration</i>	42
XII.	<i>Racial Testing as an Indicator of Housing Discrimination</i>	42
XIII.	<i>Analyzing the Use of Racial Testing in the Enforcement of Fair Housing on Long Island</i>	48
XIV.	<i>Recommendations for Detering Racial Discrimination on Long Island</i>	49
XV.	<i>Closing Comments</i>	49

APPENDIX

	1. <i>Consolidated List of Recommendations</i>	50
	2. <i>Option to Address Housing Discrimination</i>	52
	3. <i>HUD/DOHHC & Litigation Remedies</i>	54
	4. <i>About ERA/SHAC Remedies</i>	56
	5. <i>Indices</i>	59

LONG ISLAND FAIR HOUSING: A STATE OF INEQUITY

INSTITUTIONAL AND STRUCTURAL RACISM IN HOUSING: THE STATUS OF CURRENT ENFORCEMENT SYSTEMS AND RECOMMENDATIONS FOR IMPROVEMENT

"I think in the past all we often see... talked of integration in romantic and esthetic terms and it ended up as merely adding color to a still predominantly white power structure... What is necessary now is to see integration in political terms where there is sharing of power... In every city, we have two economies. In every city, we have two housing markets. In every city, we have two school systems. This duality has brought about a great deal of injustice..."

— Martin Luther King Jr.

EXECUTIVE SUMMARY

IRASI Racism's mission is to study institutional racism — the structures, policies and behaviors that create segregation and inequality in every aspect of daily living. IRASI Racism is dedicated to promoting racial equity through the development and implementation of policies and initiatives to end institutional and structural racism in housing, public school education, health care and economic development. Structural racism is a complex web of policies and practices rooted within the very fabric of our public and private institutions that perpetuate inequities.

This study by IRASI Racism focuses specifically on the housing experience of the African American on Long Island. The study is a continuation of IRASI Racism's commitment to explore the continuum in racial hierarchy from the enslavement of African Americans to the origins and effects of present day structural racism. IRASI Racism recognizes that residents of Long Island under all the protected classes including race, color, creed, disability, national origin, marital or familial status, sexual orientation, gender, age, military status and source of income experience discrimination in housing. The experiences of each community of color and protected class are deserving of an independent study. The experiences of other protected classes, however, are beyond the scope of this particular study.

After reviewing basic U.S. Census data confirming that Long Island is residentially segregated, IRASI Racism embarked on an initiative to determine whether this was a result of institutional and structural racism. A variety of needs were outlined to help in the assessment of why Long Islanders live in predominantly segregated communities. The first step was collecting and analyzing the information on the history of housing and development on Long Island in relation to census data. As IRASI Racism considered a scope of work for the study, it convened a special committee, the Fair Housing Task Force, composed of housing and civil rights experts to provide advice and consultation.

IRASI Racism focused the study on assessing the continuation in model and sites of housing based on race. IRASI Racism investigated: 1) who is in charge of fair housing investigation and enforcement; 2) how the fair housing enforcement system works on Long Island; 3) how effective the enforcement system is at addressing fair housing violations; 4) what proactive strategies are in place to detect and stop discriminatory practices; 5) what if any proactive actions are being taken to deter housing discrimination and to promote integrated housing; and 6) who is taking responsibility for the development of integrated housing and for implementing changes to ensure that fair housing laws are enforced. IRASI Racism also analyzed local racial testing audits conducted by ACTMN and Long Island Housing Services.¹

IRASE Racism's major findings on the state of fair housing on Long Island based on race include the following:

1. **The fair housing enforcement system is inefficient and ineffectual.** It fails to provide victims of housing discrimination with timely resolution of fair housing complaints because of inefficient investigations, the bureaucratic nature of the government enforcement agencies, and the placement of the burden for follow-through on the victims themselves.
2. **Housing discrimination is not deterred by the current enforcement system** because it is designed to be reactive, not preventative, and it relies solely on victims of housing discrimination to initiate the arduous complaint process.
3. **Realty agents are perpetuating segregation by redlining and other forms of discrimination** without fear of reprisal due to the lack of serious fair housing enforcement and the weakness of penalties.
4. **No accurate numbers exist of housing discrimination incidents on Long Island** because enforcement agencies do not use the same criteria for counting fair housing complaints; some agencies do not track complaints in a way that tabulates incidents solely on Long Island; and no method is used for counting any incidents that does not result in a formal administrative complaint or lawsuit.
5. **Government agencies mandated to ensure fair housing often impede the development of integrated housing and the enforcement of fair housing laws** by encouraging restrictive zoning, implementing unequal taxation policies, funding municipalities that knowingly discriminate against African American residents, and failing to support or engage in enforcement activities.

6. **There is a lack of leadership and accountability for promoting integration, implementing preventative strategies, actively dispelling myths and fears about affordable housing, and creating proactive community education about the societal benefits of integrated housing.**

After IRASE Racism completed the investigation of the fair housing enforcement system on Long Island, it compared its findings to literature and studies that addressed the state of fair housing and integration on a national level. Many of the problems cited by IRASE Racism exist in communities throughout the United States. Though federal fair housing laws have been in place since 1968, government fair housing agencies and the courts have been ineffectual at best in enforcing fair housing laws and ensuring integration in housing. IRASE Racism's study documented a history of systemic housing discrimination created by government officials, realty agents, landlords and financial institutions against African American home seekers on Long Island.

Some of the fair housing violations and segregation on Long Island have been and continue to be addressed via litigation. During the last few decades, for example, the town of Huntington has been a defendant facing charges of race discrimination regarding zoning restrictions and the development of segregated affordable housing, which resulted in a guilty verdict against the town for violating the federal Fair Housing Act. The NAACP and Housing Hope, Inc., are two nonprofit entities that continue to be active in bringing suits against the Town of Huntington. ACT UP4 and Long Island Housing Services have filed and continue to initiate individual and agency fair housing suits in state and federal courts against realty agents. Such efforts, however, need to be increased if litigation is to be a true deterrent to racial discrimination by municipalities and real estate companies.

As a result of IRASE Racism's findings, a list of recommendations were developed to promote:

integrated housing, donor housing discrimination, and effectively enforce fair housing. The major recommendations include:

1. Government fair housing enforcement agencies at all levels must immediately take such steps to overhaul the administrative complaints process by ensuring that complaints are investigated thoroughly, are processed expeditiously, and are subjected to the same standards, measures and procedures. The agencies must be held accountable for inexcusable delays in resolving cases. A transparent chain of command must be clearly articulated and those individuals in charge must be held accountable for underperformance and face penalties if they impede fair housing enforcement. The burden of shepherding complaints through the administrative process must be removed from the victim.
2. Systematic and regular auditing of fair housing and enforcement agencies must be implemented to monitor the effectiveness of fair housing enforcement and make recommendations for agency reform.
3. Housing discrimination must become cost-prohibitive to the realty community. Realtors and realty agents must face stiff penalties such as suspension, loss of realtor license and large monetary fines, debarment to participating in steering and other forms of housing discrimination.
4. Integrated complaint tracking systems among agencies must be established to allow victims of discrimination to track case progression and make Long Island housing discrimination data easily accessible. The agencies should report the number of incidents of housing discrimination on Long Island.
5. Proactive enforcement activities must be engaged in by all government fair housing enforcement agencies. A strategic plan to seek out housing discrimination and follow through with effective enforcement activities should be implemented, rather

than relying solely on victims to come forward and file an administrative complaint.

6. Local governments should take a proactive role in educating the public by promoting the positive aspects of integrated housing on Long Island. This should include a plan to offer incentives to the public for purchasing homes in integrated communities, such as tax breaks or buy-back programs. A strategic plan aimed at removing impediments to fair housing, such as exclusionary zoning, unfair taxation systems, and predatory lending, should be effectively implemented. Local governments should plan communities with integration as one of the main goals.
7. A non-partisan task force should be created to promote integrated housing and monitor integrated community development and fair housing efforts.

Prevalent structural and institutional racism, spanning centuries, remains omnipresent on Long Island. From the racially restrictive housing covenants of the past to the exclusionary zoning and forbearance government fair housing enforcement of today, government practices and policies leave the indelible mark of inequality on Long Island communities. The opportunity gap is further widened by unbridled racial steering by local realty agents. For fair housing to exist on Long Island, the public and private sectors must purge institutional racism from the mechanisms used to access societal benefits. This requires an unwavering commitment to the implementation of racially equitable business practices, government policies and effective fair housing enforcement systems.

IRASH Rachel urges that the recommendations in this study be used as a starting point to work toward open and effective fair housing enforcement and integration. Integrated communities create a strong society. The American Dream should be accessible to all residents of Long Island. Every resident should have equal access to housing and an equal opportunity

to build equity through homeownership without race being a factor. Integrated communities create a strong society.

IRASH Ractem will actively seek opportunities to advocate for and monitor fair housing on Long Island through housing fair housing "report cards" for local governments and enforcement agencies and promoting educational opportunities for fair housing and to grant housing. IRASH Ractem is disseminating these findings and recommendations with the mission that this study will be a catalyst for an honest dialogue about fair housing on Long Island. IRASH Ractem's goal is to motivate the community to remove the impediments to fair housing so that all residents of Long Island enjoy the same freedom to live in their neighborhood of choice and have equal access to housing and wealth creation through homeownership.

IRASH Ractem welcomes inquiries and comments to this study. We invite members of the public, government and private organizations to contact IRASH Ractem in writing or through our website at www.irastractem.org.

I. INTRODUCTION

All Long Islanders deserve the right to housing in communities of their choice. Every individual has a legal right to access housing without race being a factor. Protecting this right is essential to decreasing the "opportunity gap" and moving toward a more integrated Long Island.¹ There are a number of unrelated factors that influence the ability of Long Island residents to live in their community of choice. Some are related to potential preferences, while most stem from policies and practices that create barriers to housing opportunities for people of color. The "myth" that African Americans prefer to live solely in African American neighborhoods is not accurate. In fact, a recent study shows that African Americans over-whelmingly prefer 50-50 black/white areas, a density far too high for most whites.²

The Task Force recognized that segregation data are a barometer of how the region is managing and responding to Long Island residents who are people of color. It also acknowledged that 1) Long Island has a lengthy history of implementing racially discriminatory housing practices and policies in both the public and private sectors; 2) the population of people of color has significantly increased on Long Island within the last 15 years; and 3) segregation within the housing market on Long Island has remained virtually the same.³ For example:

- African American residents were forbidden from receiving government sponsored low-cost mortgages in the 1940's and 1950's and were overtly excluded from living in white communities through the use of restrictive racial covenants, which were not rendered illegal until 1948 by the United States Supreme Court. Instead, African Americans were forced into all black communities by the realty industry.⁴
- The level of isolation of African American residents living solely in African American communities has remained virtually unchanged since the 1960's. The isolation factor is almost identical for all African Americans, irrespective of income level. The isolation factor for African Americans dropped very slightly from 44.0% in 1990 to 42.7% in 2000, but remains high. However, the isolation of Latinos in all Latino neighborhoods jumped from 44.2% in 1990 to 51.4% in 2000.⁵
- In 1990, 89% of white residents on Long Island lived in non-integrated, all white communities, irrespective of income. In 2000, the proportion dropped slightly to 83.8%.⁶
- Long Island continues to be one of the most racially segregated regions in the nation, with data from the 2000 Census showing Long Island to be the third most segregated metropolitan region in the US when measuring white and African American residential segregation.⁶

- African Americans are steered into all Black communities such as Wyandanch and Roosevelt, irrespective of income level. The vast majority of white Long Islanders are not aware that an African American middle class exists, even though they were the fastest growing group in the US between 1980 and 1990. This is primarily the result of redline steering, which shepherds African Americans into racially segregated enclaves.¹⁷

This statistical evidence illustrates the continuation of segregation since the inception of suburban communities on Long Island. Based on the findings of such research, FRASH Ractem embarked on its own study to determine the factors and forms behind this persistent segregation in rental and housing sales. FRASH Ractem engaged in the following activities:

- Contacted all of the federal, state and local government agencies that are responsible for housing discrimination enforcement on Long Island and conducted a series of telephone surveys, face-to-face meetings and data collection efforts to determine the prevalence of institutional racism in its relates to housing on Long Island.
- Examined and evaluated the Analysis of Impediments Reports ("AIRs") from the Long Island towns of Babylon, Islip, Huntington, the Nassau County Consortium and the Suffolk County Consortium. AIRs are required from communities applying for federal grants through programs administered by the Department of Housing and Urban Development (HUD), such as Community Development Block Grants (CDBG). All communities must engage in affirmatively furthering fair housing to access the funds.
- Acquired and analyzed data from NCUA's "White's Only" Nassau County rental testing survey published in February 2001 and the Long Island Housing Services' paired testing audit of realty agents on Long Island for race discrimination in the rental and sales of housing conducted in conjunction with the FRASH Ractem study.¹⁸

- Engaged in a series of interviews with individuals and community leaders in housing to obtain a history of the successes and difficulties faced by African Americans on Long Island.

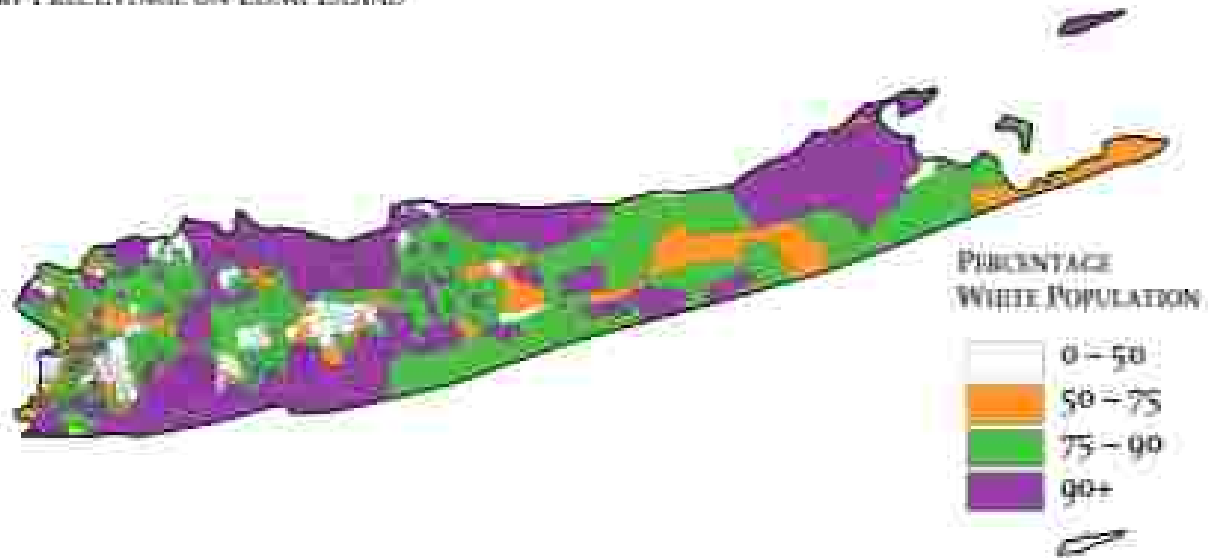
FRASH Ractem commenced this study with the goal of collecting fair housing compliance data pertaining to Long Island from federal, state, local enforcement and advocacy agencies to get a snapshot of the state of fair housing on Long Island. FRASH Ractem's survey grew to include interviews with nonprofits, government officials and community members who had information relevant to fair housing on Long Island. The wealth of information and research collected expanded the Long Island fair housing study to include:

1. History of government sponsored race discrimination in housing.
2. Effects of race discrimination in housing on wealth creation.
3. The "segregation tax" and unequal taxation issues.
4. Evaluation of enforcement agencies.
5. Findings regarding the Analysis of Impediments to fair housing reports.
6. Analyses of recent local rental testing.
7. An outline of the complaints process.
8. Analysis of fair housing litigation.

It should be noted that this study of fair housing provides a snapshot of the state of fair housing on Long Island and is by no means exhaustive in terms of describing all possible barriers to fair housing. The purpose of the study is to highlight the major areas

THE MAJORITY OF AFRICAN AMERICAN RESIDENTS ON LONG ISLAND ARE FORCED TO LIVE IN SEGREGATED COMMUNITIES IRRESPECTIVE OF INCOME. THE SEGREGATION INDEX FOR AFRICAN AMERICANS ON LONG ISLAND IS 74, WHILE TOTAL APARTHEID IS AT 100.

REPRESENTATION OF WHITE AND BLACK COMMUNITIES
BY PERCENTAGE ON LONG ISLAND



Maps courtesy of Professor John Loggins,
Professor of Sociology, Director of American Communities Project, Brown University

of housing discrimination faced by African American residents on Long Island and the affects these impediments have on the community as a whole. Predatory lending, which is part of fair housing, is only mentioned briefly in this study because it is beyond the scope of work BRASH Racism set forth to undertake.

BRASH Racism will actively seek opportunities to advocate and promote the recommendations, monitor fair housing on Long Island through issuing fair housing "score cards" for local governments and enforcement agencies, and promote educational opportunities for fair housing and integrated housing. BRASH Racism welcomes responses and comments to the study. We invite members of the public, government and private organizations to contact BRASH Racism in writing or through our website at www.massracism.org.

II. THE HISTORY OF RACIAL DISCRIMINATION IN HOUSING ON LONG ISLAND

One of the first housing developments in the United States marketed solely to African Americans was on Long Island. In 1927, Mr. Louis Fife, a white man, purchased a parcel of land in rural Suffolk County and started selling tracts of the farm land to working class African Americans from Harlem, Brooklyn and the Bronx. Mr. Fife named his company Gordon Heights Development and Building Corp. and the area became known as Gordon Heights.¹¹

Gordon Heights was deliberately constructed as a segregated community and foreshadowed the race-related obstacles to home ownership African Americans would face for decades to come. Many of its residents had difficulty obtaining bank loans for down payments because of their race, and services like running water and electricity were not available until the late 1940's. Features common to most white communities, like street lights, did not exist in Gordon Heights until 1969. As a result of the difficulties in ob-

taining bank loans, the Gordon Heights community pulled together and started a credit union to facilitate access to down payments for families, servicing primarily African American homeowners. There were no government sponsored low interest rate programs available to African American home seekers. Additionally, the residents of Gordon Heights created their own volunteer fire department and purchased two fire trucks in 1947 because they could not rely on the surrounding white communities for fire protection.¹² The residents of Gordon Heights were isolated from the neighboring communities solely based on their race.

The mid Twentieth Century saw a tremendous boom in home developments on Long Island, driven by a set of mutually supporting governmental and private practices that subsidized new home construction. The Federal Government participated in overt government sponsored race discrimination by explicitly insuring that the neighborhoods created by this new construction were racially segregated.¹³ Notable among these policies were the federal home mortgage guarantee programs created by the Federal Government through the National Housing Act (NHA) of 1934, and administered through such programs as the Federal Housing Administration (FHA).¹⁴ From 1934 to 1949 the FHA required restrictive covenants in any subdivision that used FHA financing.¹⁵

A major thrust of these government programs was to promote uniform appraisal standards for the mortgage industry. A corollary of these standards was the racially discriminatory practice of "redlining."¹⁶ Redlining involves the systematic undervaluation of neighborhoods of color, multi-racial neighborhoods, and white neighborhoods that are predicted to experience "racial transformation" in the future. Such neighborhoods were delineated on appraisal maps with a red line and were categorized as too risky for investment.¹⁷ The value of property was artificially determined by the racial composition of the neighborhood; the higher the concentration of African American homeowners in a neighborhood, the lower the property value.

Aspiring white homeowners were generally able to get financing in all white neighborhoods and aspiring African American homeowners were generally denied financing entirely because their very presence in a neighborhood caused it to be redlined.²⁶ These practices in turn were adopted by much of the private lending industry. The FHA also encouraged local municipalities to adopt exclusionary zoning ordinances and racially restrictive covenants.²⁷ Between 1934 and 1962, the federal government backed \$120 billion in home loans, more than 85% went exclusively to white homeowners.²⁸

The impact of these policies exists today, evidenced by the overwhelming breadth and depth of racialized housing policies and practices. On Long Island, Levittown provides an illustration of this effect. Mass scale affordable housing was built in Levittown, consisting of 17,400 houses on 4000 acres, for whites only as a result of the overly restrictive FHA financing. The racially restrictive covenants stayed in place in Levittown until as late as 1962.²⁹ As a result, not one of Levittown's 12,000 residents was African American in 1968. Levittown remains primarily white today.³⁰

Meanwhile, during the same era, between 1952 and 1954 two housing developments, Carter and Lincoln Park, were built in Wyandanch. These homes were designed as housing for African Americans by local government and realty agents, the opposite of Levittown. Advertisements were placed in African American newspapers in Harlem to ensure only African American home seekers would apply. The African American middle class were the first to invest in these homes; however, shortly thereafter the Department of Social Services commenced placing welfare families in the community.³¹ By 1968, 68 percent of Wyandanch residents were on public assistance. And because few businesses chose to locate in this African American community, the commercial tax base remains quite small, making Wyandanch property tax today among the highest in Suffolk County.³² This was a classic example of a strategically “planned suburban ghetto” by local governments.³³

Today, Wyandanch's population remains primarily African American.

Increasingly, Levittown's and Wyandanch's ethnic compositions continue to echo the racial segregation desired by the white founders. According to the 2000 US Census, Levittown's population consists of 94.1% white and 0.5% African American residents, while Wyandanch's population is close to the mirror opposite, made up of 10.2% white and 77.7% African American residents.³⁴ The African American segregation index for the whole of Long Island is 74, with total apartheid at 100.³⁵

As the African American population increased on Long Island in the mid-twentieth century, segregation was enforced through a variety of other practices. Such practices included the use of racially restrictive covenants, exclusionary zoning, and real estate practices such as the steering of African Americans into African American neighborhoods and blockbusting.³⁶ As a result of these policies, newly arrived African Americans settled primarily in unincorporated areas with pre-existing African American populations.³⁷ Urban renewal also played a role in creating and maintaining residential segregation. Under the guise of redevelopment and slum clearance, such policies were used to destroy neighborhoods of color that were considered threats to white neighborhoods in areas such as Glen Cove, Long Beach, Freeport, Hempstead, Rockville Center, Inwood, Manhasset, and Fort Washington.³⁸ While some are no longer legally viable, many of these exclusionary historical practices and policies remain in use on Long Island today. Moreover, the effects of these historic practices are still felt, as witnessed by continued segregation and disparity of community resources and opportunities.³⁹

THE IMPACT OF FRAGMENTATION IN GOVERNANCE

Segregation is further exacerbated due to the fragmentation of Long Island communities through local

governance. The more governing bodies there are, the harder it is to hold a specific government entity responsible for adhering to principals of fair housing. It also makes it much more difficult to create a strategic plan for integrated community development in the region due to:

1. The sheer number of governing bodies that need to be brought to the table to coordinate such an effort;
2. The local governments' focus on pleasing their constituents who are predominantly adverse to integration in the majority of the white communities; and
3. The power that local governments derive through jurisdiction to insulate themselves from integration through creating local zoning laws that can really only be challenged through court action, which is expensive and time-consuming.

Long Island's labyrinth of governing bodies consists of more than 1000 government units exercising different levels of authority over the region's 1190-square miles. These units include county, town, city, and village governments, school districts and "special districts" for services like electricity and sewage systems.²¹ This level of regional fragmentation creates tremendous barriers to opportunities as the more fragmented a region's local governance, the more segregated the region is by race and class.²² Segregation remains a pervasive reality on Long Island today.²³

III. HOUSING: A KEY TO OPPORTUNITY

Housing is a critical determinant of whether one has access to a multitude of opportunities. Decent, affordable housing in a secure neighborhood facilitates access to better schools, jobs, social networks, public services, and generates wealth creation. National studies have shown that:

- Stable, affordable rental housing plays an important role in helping families find and hold jobs.²⁴
- Home ownership can have especially positive effects on school success and social behavior.²⁵

- All else being equal, children of parents who own their homes and live in neighborhoods with low turnover have a higher probability of completing high school.²⁶

- Neighborhood quality plays an important role in positive outcomes for families. Families relocating to better neighborhoods can improve educational, mental health, and behavior outcomes.²⁷

- Students in racially and economically segregated schools are more likely to fail to graduate from high school than students in integrated and non-poor schools, regardless of whether they are poor.²⁸ The school a child attends is directly based on the community in which he/she resides.

- Better quality housing is related to lower levels of psychological stress, which in turn reduces health care costs and improves productivity.²⁹

- Housing that exposes families to hazards, such as lead paint, can limit lifelong educational and economic achievement. Contaminants of the home relate to incidences of asthma and allergies, electrical problems, poor lighting, etc. lead to risk of illness, injuries, even death.³⁰

- White families have more than twice the wealth of African American families even when they make

STRUCTURAL AND INSTITUTIONAL RACISM ON LONG ISLAND ARE EVIDENCED BY THE EXISTENCE OF SEGREGATED COMMUNITIES THAT WERE MANUFACTURED BY GOVERNMENT PRACTICES THAT INTENTIONALLY ISOLATED AFRICAN AMERICANS AND ARTIFICIALLY DECREASED THEIR PROPERTY VALUES. THESE PRACTICES SYSTEMATICALLY DESTROYED THE ECONOMIC BASE IN AFRICAN AMERICAN NEIGHBORHOODS.

the same income; much of this gap is due to home equity and family inheritances.⁴²

- Housing has a direct effect on employment. Segregation creates separate information networks for white and African American communities. Individuals living in white communities receive information about skilled job vacancies that are not promoted in African American communities, while unskilled, low-paying positions are marketed in communities of color.⁴³

- Segregation also raises employment disadvantages by creating and reinforcing stereotypes. Segregation causes dysfunctional characteristics like educational failure, joblessness, and welfare dependency. These ... [b]ygone associated with every black person ... [e]mployers can freely act on these stereotypes because of the widespread use of subjective evaluation systems for hiring.⁴⁴

Data show that opportunities are significantly less available to people of color. Examples include:

- Nationally, 1999 data from the Department of Housing and Urban Development (HUD) show that only 47% of African American families and 45% of Hispanic families are homeowners, compared to 73% of white families.⁴⁵
- African Americans and Latinos face an increasingly difficult time purchasing homes on Long Island. Between 1999 and 2010, the rates at which conventional home loan applications were denied to African American applicants rose from 22.70% to 23.38% and from 20.67% to 25.61% for Latino home seekers.⁴⁶
- In 2001, the homeownership rate of African Americans on Long Island was 61.7% and 56.4% for non-white Hispanics, compared with 82.7% for whites. The overall homeownership rate for residents on Long Island, according to the 2000 Census data, was 67%.⁴⁷

"Segregation affects all of these areas of life opportunity not only immediately but into the future, as families (African American families) who own homes in segregated areas see depressed property values keep them from increasing their wealth through being outwitted, and children in segregated schools tend to receive inferior educations that ill prepare them for higher education and high-paying jobs."⁴⁸

THE ECONOMIC FACTOR

The economic suffering and lack of opportunities in segregated suburban areas are a direct result of decades of steering, blockbusting and "white flight." White flight occurs when white residents sell their homes to an area because African American and Latino homebuyers are moving into the area. The white residents usually leave the neighborhood because they associate the influx of minorities with a community with social and economic decline ... [and] conclude that minority residents somehow contribute less than whites to a community's health and stability."⁴⁹

In reality, as the wealth of the African American and Latino middle classes has increased, those families have left the cities to join the suburban life style. However, their objective of seeking increased opportunities for their families is frustrated when the white middle class leaves the neighborhoods. Shortly after the white families leave, the businesses follow, weakening the commercial tax base.⁵⁰ This drives up the property tax on homes in the area in order to pay for deteriorating services. The African American and Latino middle classes are not large enough in numbers to absorb or prevent the economic loss that is the result of white flight. The value of homes drop and the community then declines into poverty, which translates into poor schools, inferior services, and decrease in family wealth. White flight causes suburban ghettos and poverty.⁵¹

A prime example on Long Island is the Roosevelt community in the Town of Hempstead. In the 1960's African American middle class families moved into the suburban area. "Organized block-busting and racial steering are responsible for the almost overnight transformation of the [community ...] from a racially integrated community into a predominantly African American neighborhood."¹¹ These African American homebuyers watched their community transform from an integrated, prosperous suburban environment into a racially isolated community with rapidly declining services.¹²

and is a direct result of housing discrimination, such as steering and blockbusting;

Nassau County's property taxation system was challenged in 1986 by the New York Civil Liberties Union (NYCLU), Nassau Chapter, as a result of "racially neutral" factors that concluded in disparate treatment of African American and Latino homeowners.¹³ Nassau County assessed residences for taxation purposes based on what it would have cost to build the dwelling in 1908, rather than on the basis of the current market value of the residence.¹⁴ A homeowner who

TABLE # 11 NASSAU TAX ASSESSMENT CHART PRIOR TO REFORM¹⁵

	Tax Assessment	Market Value (based on sales price)	Residential Assessment Rate	County Tax Property	County Tax Unimproved
GARDEN CITY	\$8,000	\$200,000	2.0%		\$271
	\$6,000	\$50,000	1.2%		\$107
	\$9,000	\$250,000	2.2%		\$180
ROOSEVELL	\$6,000	\$100,000	1.2%	\$600	
	\$8,000	\$140,000	0.6%	\$800	
	\$9,000	\$129,000	1.5%	\$226	

SEGREGATION AND TAXATION

Segregation on Long Island has resulted in the devaluation of African American owned homes and the imposition of a "segregation tax" on African American homeowners that does not exist in integrated communities. The "segregation tax" is calculated by determining home value per dollar of income for each race and then comparing the outcomes.¹⁶ The home value per dollar for white homeowners on Long Island is \$1.23 and \$2.26 for African American residents. This translates into African American homeowners being subjected to a 10% segregation tax.¹⁷ The level of financial privileges through home equity on Long Island is determined by race, not by neutral factors. Again, this inequity affects wealth creation

purchased a large estate that was built at the turn of the 20th century in Nassau County would now pay taxes based on the millions of dollars the estate was currently worth; the homeowner paid taxes based on the building costs and land values in 1908. This system of taxation benefited the wealthiest residents of Nassau County who are predominantly white.¹⁸

Table # 11 above gives an example of how this taxation system unfairly affected African American home owners. The home with the \$6,000 assessment in the predominantly white area of Garden City is under-assessed by approximately 20%, while the home with the \$6,000 assessment in the predominantly African American area of Roosevelt is over-assessed by approximately 102%.¹⁹

The Nassau system of taxation was so blatantly biased against African American homeowners that the Department of Justice stepped in and joined suit alongside the NYCLU against Nassau County. The lawsuit was initiated in 1997 and settled in March of 2000. After three years of hard fought litigation, Nassau County settled on the eve of trial in the face of overwhelming evidence of its discriminatory practices becoming public. On March 28, 2000, Nassau County entered into a Consent Decree and the Court entered a stipulation stating that Nassau County shall adopt a revaluation system and an assessment role that is fair, non-discriminatory, scientific, and equitable and that is based on fair market value.⁴⁶ Nassau County is still in the process of finalizing its new taxation scheme and addressing challenges by citizens whose taxes are being raised as part of the revaluation process. The citizens who benefited from the discriminatory taxation system and the most vocal in attempts to implement a fair taxation system.

An interesting aside into the changes within the taxation system occurred in June 2011, when Nassau County Assessor Harvey Levinson unveiled an initiative that will reclassify any illegal multi-family dwelling from Class 1 (residential) to Class 4 (commercial) property for taxation purposes. On average, the commercial property tax rate is 2 1/2 times higher than the residential rate.⁴⁷ It is yet to be seen if such an initiative will target the illegal apartments in wealthy neighborhoods, where a rented couple or new business owners have converted a space above a garage into a separate apartment, or just in poorer neighborhoods where individuals working in the service and manufacturing industries live together due to the lack of affordable housing.

Both the "segregation tax" and Nassau County's history of racially biased taxation have had a direct effect on the wealth creation prospects for African American residents on Long Island. It required three years of courageously fought litigation, with the added assistance of the Department of Justice, for Nassau County

to commence efforts to correct the unfair and discriminatory taxation system.

IV. A BRIEF HISTORY OF U.S. HOUSING LAW

The Civil Rights Movement of the 1960s was the catalyst that reversed the Federal Government's stance on discriminatory housing practices and policies in both the public and private sectors. Federal recognition of equal rights to housing opportunities for people of color was established through the creation and enforcement of fair housing laws. The Fair Housing Act (FHA), codified as part of Title VIII of the Civil Rights Act of 1968 ("Title VIII"), represented the culmination of years of congressional consideration of housing discrimination legislation. Its legislative history spanned the urban riot of 1967, the release of the Report of the National Advisory Commission on Civil Disorders (the "Kerner Commission Report"), and the assassination of Dr. Martin Luther King, Jr.⁴⁸

The FHA afforded three methods of enforcing these new laws: 1) the U.S. Department of Justice (DOJ) was granted authority to bring "pattern and practice" lawsuits against landlords who practiced widespread discrimination in housing that raised an issue of general public importance; 2) the Department of Housing and Urban Development (HUD) was given authority to administratively hear and resolve fair housing complaints; and 3) private plaintiffs were granted the right to proceed directly to court with charges of housing discrimination.⁴⁹

In June 1968, the U.S. Supreme Court rendered its decision in *Jones v. Alfred H. Meyer Co.*, giving the Civil Rights Act of 1966 (the Act⁵⁰) new life by finding that the Act banned race discrimination in housing.⁵¹ *Jones* and FHA established the legal framework for challenging segregated housing nationally. These new laws, affirmed by the United States Congress and the United States Supreme Court, now broadly guaranteed property rights to all citizens regardless

of race by banning racial discrimination in housing in both the private and public sectors.

On September 13, 1988, President Reagan signed into law the Fair Housing Amendments Act, which was passed by overwhelming margins in the House and Senate during the summer of 1988. This amended name became effective March 12, 1989, making major changes to Title VIII, including: 1) extending legal protection from housing discrimination to people with disabilities and families with children; 2) requiring that DOJ, upon referral from HUD, represent individual victims of housing discrimination in court; 3) establishing a system of administrative law judges ("ALJ") at HUD to decide fair housing complaints; and 4) granting ALJs the authority to impose actual damages, injunctive relief and civil penalties of up to \$10,000.²⁶

However, there was a clear split in the Reagan administration's willingness to effectively enforce fair housing and that of Congress. In 1987, Congress created the Fair Housing Initiative Program (FHIP) to provide funding through grants to private fair housing agencies. The FHIP grants became a much needed and relied upon source of funding for these agencies that were often nonprofits. The Reagan administration, with the backing of the National Association of Realtors (NAR), attempted to thwart fair housing enforcement by seeking to bar grants to agencies that engaged in systemic testing, leading to the most effective way of proving housing discrimination has occurred.²⁷ Congress rejected the Reagan-NAR guidelines.²⁸

Fair housing enforcement became a priority during the Clinton administration, which saw significant increases in: 1) the filing of complaints; 2) funding for private fair housing initiatives; 3) reaffirming commitment to the use of disparate impact theory under the Fair Housing Act; and 4) the expansion of the fair housing testing program under the leadership of the Justice Department.²⁹ Additionally, the Clinton

administration vigorously pursued enforcement of the fair lending laws under the FIA and the Equal Credit Opportunity Act of 1974, which outlawed discrimination in home mortgage lending, underwriting and predatory lending.³⁰

Under the current Bush administration there has been a steady decrease in the funding made available for civil rights enforcement agencies. In the first three years, the Bush administration's requests for funding the civil rights enforcement agencies was less than those of the two previous administrations and amounted to a loss in spending power, after inflation, for HUD, among other agencies.³¹ In late 2001, Bush signed the "American Dream Downpayment Act," which was supposed to make homeownership more accessible to low-income and minority families by providing grants for closing costs and downpayment.³² However, the President eliminated billions of dollars from rent assistance programs, such as Section 8, to fund this program.³³ In the end, the success of the "A Home of Your Own" program was limited due to insufficient funding and an inability to relieve the chronic affordable housing shortage.³⁴ Similarly, President Bush has proposed merging all housing assistance programs into a single grant program administered by the U.S. Commerce Department. This includes the Community Development Block Grant program, which fund many of the affordable housing projects run locally. The President intends to slash the budget of the consolidated housing program by 27%.³⁵

On Long Island, a disturbing trend in new terminology is being used by local builders and elected

FAIR HOUSING LAWS FAIL TO PROVIDE VICTIMS OF RACE DISCRIMINATION WITH AN EASILY NAVIGABLE ROUTE FOR REDRESS AND RARELY IMPOSE PENALTIES THAT ARE EFFECTIVE DETERRENENTS TO ILLEGAL HOUSING DISCRIMINATION.

officials regarding who will have access to the new affordable housing being built. There have been numerous references to “generational housing” or “next generation housing”, which is defined as housing for “your children,” people who have grown up in the local neighborhood and attended local schools. The problem with this is that in areas such as Flatbush, where some of the affordable housing is being built, the people who attended high school in the area are from predominantly white, middle to upper middle income families. “Generational housing” has arguably become the new code for white-only housing.²⁵ In fact, local officials have merely copied the term and, in at least one instance, have publicly corrected an individual who used the term “affordable housing.”²⁶

The concern of further segregated affordable housing was echoed in a New York Times article covering Ms. Dorothy Coody, a councilwoman in the Town of Hempstead. She voiced concerns about the majority of affordable housing units being located in the predominantly African American districts of Hempstead, rather than being spread throughout Nassau County communities in a balanced fashion that creates no segregation. Ms. Coody also voiced concern that the affordable housing being proposed for Hempstead Village is designated for the college student population and not for local residents.²⁷ This appears to be a transparent attempt on the part of local officials to please their affluent white constituents by guaranteeing continued racial segregation in their communities, while pretending to address the issue of integration by only making an attempt to integrate poorer majority African American and Latino communities, as reported in this article describing the actions and statements of local prominent officials.²⁸

V. TYPES OF HOUSING DISCRIMINATION

While local, State, and Federal fair housing laws have their own specific legal definitions of housing discrimination, a general description is:

The unlawful denial of housing and related real estate transactions due to a specified designation, such as race, color, creed, disability, national origin, marital or familial status. Fair housing laws consider these designations “protected classes.”²⁹

Housing discrimination can take the form of³⁰

- **Refusing to sell or rent:** Denying rental or sale of a property to a person of intent solely based on their race. For example, an African American who wants to rent an apartment is told it has already been rented. However, it is in fact still vacant and is rented to a white person soon thereafter.
- **Advertising:** To advertise or make any statement that indicates inclusion or preference of a tenant or homebuyer based on race, color or national origin. For example, a landlord cannot put an ad in a newspaper advertising an apartment for rent to a white person only, nor could he/she leave a message on an answering machine stating that people of color need not apply for the rental home.
- **Steering:** When a realty agent selectively chooses to show a customer only houses for sale or apartments for rent in certain communities based on the customer's race or ethnicity. For example, a realty agent shows an African American couple houses for sale in only African American neighborhoods, excluding all predominantly white communities, rather than showing all homes that are for sale within the couple's price range. This allows realty agents to control in which communities their customers buy or rent property. Steering can take place in advertising as well. Realty agents seeking African American clients for a specific neighborhood may place ads in newspapers that circulate in African American communities, but neglect to put them in newspapers that whites are likely to read.
- **Intimidation:** Harassment and violence by a neighbor or anyone in the community against an

African American family and anyone else who helped the family obtain housing, such as a realty agent is prohibited. For example, an African American family purchases a home in an all white community and a few days later a neighbor spray paints on the family's garage a racial epithet and a message telling the African American family to leave the neighborhood. Similarly, if the realty agent who sold the African American family the house had the window of his/her car smashed by a neighbor because of selling the house to the African American family, the realty agent would have a claim under the FIA, irrespective of the realty agent's race.

- **Retaliation:** An individual who files a housing discrimination complaint may be subject to retaliation by the party or parties who engaged in discriminatory practices, such as a homeowner, landlord, housing and mortgage provider, or real estate agents. For example, if an African American tenant filed a race discrimination complaint against his landlord and then the landlord responded by serving the African American tenant with eviction papers, cut off the tenant's heat, or tried to take the rent, the African American tenant would be protected under FIA.
- **Blockbusting:** Realty agents create a "panic" sale of homes by white homeowners in white neighborhoods by informing them that the neighborhood is about to be "invaded" by minority homebuyers and that this will cause the current value of the homes to plummet. Realty agents use this technique to induce the white homeowners to sell their properties at cut-rate prices. Realty agents then turn around and sell the homes for a large profit to African American homebuyers.²⁷
- **Mortgage Lending:** There are a number of different practices within mortgage lending that perpetuate racial discrimination within the housing market. These include:

- **Predatory Lending:** Predatory lending refers to fraudulent or abusive lending practices including: 1) charging unnecessary or undisclosed fees; 2) not fully disclosing the loan terms; 3) steering an individual to a sub-prime lender when he/she qualifies for a prime rate loan; or 4) writing the terms in such a way that an unreasonable profit is created for the lender. Individuals may not be aware of being a target of predatory lending, as this type of discrimination can be subtly practiced by loan officers.

- **Sub-prime Debt Consolidation and Refinancing Loans:** Sub-prime lending refers to lending products geared toward people with low credit ratings and/or low incomes who do not qualify for conventional loans. In exchange for making these higher risk loans, sub-prime lenders charge a higher than conventional interest rate. Sub-prime lending is not illegal.²⁸

- **Homeowner Insurance – Discrimination and Manual Underwriting:** An important element of mortgage lending discrimination involves the level of insurance given to applicants. United States vs. Denver Federal Savings and Loan found that whites with credit flaws were more likely to have loans approved than African Americans with the same credit flaws.²⁹ It has also been found that white applicants are more likely than African Americans to have received advice during the application process on how to lower their debt-to-income ratios.³⁰

- **Exclusionary Zoning:** Exclusionary zoning is the practice of municipalities using restrictions and zoning laws to prevent certain groups of individuals from living in an area. It is still a commonly used tool to prevent the construction of affordable housing and housing desirable to African Americans, through the establishment of zoning requirements.

VI. FAIR HOUSING ENFORCEMENT ON LONG ISLAND

FRASE Racism contacted all of the federal, state and local government agencies that are responsible for fair housing enforcement on Long Island and conducted a series of telephone surveys, face to face meetings and data collection efforts to determine the prevalence of institutional racism as it relates to housing on Long Island. In addition, FRASE Racism collected information from Long Island Housing Services, Inc., a private nonprofit that competes for federal funds and is dedicated to helping victims of housing discrimination in Nassau and Suffolk Counties. The eight agencies that have some responsibility for enforcing fair housing in the region are:

- U.S. Department of Housing and Urban Development;
- U.S. Department of Justice;
- New York State Division of Human Rights;
- New York State Division of Housing and Community Renewal;
- New York State Office of the Attorney General;
- Nassau County Commission on Human Rights;
- Suffolk County Human Rights Commission; and
- Long Island Housing Services.

Federal government agencies are responsible for enforcing the federal fair housing laws, while the state enforces state fair housing laws and the county is charged with enforcing county fair housing laws. They are three separate sets of laws enforced by three

separate levels of government. However, if the state and/or county have fair housing laws that are substantially similar to the federal Fair Housing Act, then the state and/or county is eligible to receive federal fair housing enforcement money from HUD to aid in the investigation and resolution of fair housing complaints. It should be noted that Long Island Housing Services differs from the other agencies listed above because it is a private nonprofit, rather than a government agency that is mandated to enforce fair housing laws. However, Long Island Housing Services does receive government grants that require the nonprofit to provide a variety of fair housing services on Long Island that lead up to enforcement. Long Island Housing Services also provides informal conciliation services to settle fair housing disputes, via alternative dispute resolution methods.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Department of Housing and Urban Development (HUD) is responsible for enforcement of the federal Fair Housing Act (FHA) in addition to Civil Rights Related Program Requirements (CRRP), an array of laws, executive orders, and regulations, that prohibit housing discrimination on the basis of race, color, national origin, religion, sex, disability and familial status. The statutory exemptions under the FHA include: 1) owner occupied buildings with no more than four units, with some exceptions; 2) single family housing sold or rented without the use

TABLE 22: NUMBER OF HOUSING COMPLAINTS THROUGH HUD ON LONG ISLAND¹⁰

Fiscal Year Assessment	Number of Complaints filed in Nassau County	Number of Complaints filed in Suffolk County	Total Complaints filed in Long Island
1999	28	13	41
2000	21	24	45
2001	41	44	85
2002	36	30	66
2003	33	52	85
Total	159	123	282

of a broker, with some exceptions; and 2) housing operated by organizations and private clubs that limit occupancy to members, provided that membership does not exclude individuals based on race.⁸⁵

Housing discrimination complaints may be filed with HUD but, due to a Memorandum of Understanding with New York State, the majority of fair housing complaints that HUD receives are referred to the New York State Division of Human Rights (NYS/DHR). The complaint is maintained by HUD after it is referred. HUD only maintains sole jurisdiction over complaints that are not covered under New York State Human Rights Laws. HUD is also authorized to initiate its own litigation on behalf of a victim of housing discrimination, but rarely exercises this option.

Staffing: The New York regional office of HUD has a staff of 20 full-time employees, including 15 investigators, and averages 20 cases per staff member. This office is responsible for addressing the fair housing needs for the entire population of the states of New York and New Jersey.

Budget: HUD's overall budget for 2005 is \$31.7 billion, with \$27 million earmarked for Fair Housing Assistance Program (FIAP), which funds government fair housing programs nationally in the areas of: 1) targeted education and enforcement follow-up; 2) Fair Housing Academy, which is formal fair housing training and certification for FIAP staff; and 3) case processing. HUD has reserved \$20.7 million for the Fair Housing Initiative Program (FHIP) nationwide, which funds a fair housing National Discrimination study that is focused on people with disabilities.⁸⁶ FHIP is the only funding directly available to private nonprofit fair housing groups. In order to receive FIAP funding, private fair housing groups must obtain state or local government grants or contracts.

Cases Filed: On Long Island, a total of 334 housing complaints were reported by HUD over a five-year period from 1999 to 2003 (see Table #2). Information

on whether a complaint was filed based on racial discrimination was not available at the time of this report from HUD or NYS/DHR.

Aging of Cases: Aging of cases at HUD has been a continual problem. "Aged cases" refers to cases that have taken longer than the 100 days, as stipulated in the federal Fair Housing Act, to go through the administrative complaint process. At the beginning of 2003, 30% of HUD's open case inventory and 41.7% of those cases funded through FIAP were aged more than 100 days. The average age of cases at HUD was 400 days and 317 days for FIAP cases. The slowness of the complaints process is attributed to funding and staffing needs.⁸⁷

U.S. DEPARTMENT OF JUSTICE

Under the Fair Housing Act, the Department of Justice (DOJ) may step in and commence a lawsuit when it has reason to believe that a person or entity is engaged in 1) a "pattern or practice" of discrimination; or 2) when a denial of rights to a group of persons raises an issue of general public importance. Through these lawsuits, DOJ can obtain both actual and punitive monetary damages for victims of discrimination, as well as injunctive relief, such as access to the housing or monitoring of landlord's business practices to prevent any future discriminatory conduct. The defendant may also be required to pay monetary penalties to the United States.⁸⁸

Cases Filed: In 2003, on the national level the Department of Justice received 25 housing discrimination complaints and charged in only six cases.

NEW YORK STATE DIVISION OF HUMAN RIGHTS

The New York State Division of Human Rights (NYS/DHR) enforces New York State Human Rights Law. New York State Human Rights Law protects against discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex or marital status, as well as discrimination in housing on the

acts of familial status (e.g. families with children).⁶⁶ Housing discrimination is prohibited in the rental, lease or sale of housing, land and commercial space.

New York State Human Rights Law provides statutory exemptions for landlords in certain situations:

- 1) rental of an apartment in an owner occupied two family house;
- 2) rental of a room by the occupant of a house or apartment;
- 3) restriction of all rooms in a housing accommodation to individuals of the same sex; and
- 4) housing operated by religious organizations for their members.⁶⁷

Staffing: With a statewide staff of 12 full time fair housing employees, NYSDHCR processes the most cases and reports an average of 50 cases for each staff member, the highest caseload of the agencies studied.

Budget: NYSDHCR had a State Budget of \$13,734,000 in fiscal year 2000-2001, which was reduced in fiscal year 2001-2002 to \$12,961,000.⁶⁸ NYSDHCR's 2002 annual report states the agency has generated \$2 million in contract revenue from HUD.⁶⁹

Case Determination: Investigators decide which cases to continue. Cases are usually investigated in the Long Island regional office or the office in the Bronx headquarters. According to NYSDHCR, the majority of cases from Long Island are straightforward and require less time by staff. Such cases are handled in the regional office located in Hempstead. More complicated or predatory cases are investigated in the Bronx office. When the Long Island regional offices are at capacity, Long Island cases are handled at other regional offices around the State. For example, a regional office in Syracuse may be assigned cases from Long Island. This complicates the investigation and tracking of these cases.⁷⁰

Cases Filed: ERAASH Racism was unable to obtain data from NYSDHCR regarding the number of complaints filed from Long Island. The staff at NYSDHCR told ERAASH Racism that the data base they use to

store the information was under repair. As of the date of this report, the data base has been under repair for in excess of eight months.

Aging of Cases: The New York State Human Rights Law requires that a fair housing complaint must be investigated within 180 days of filing. If probable cause is found, then a hearing must be scheduled within 220 days of the determination of probable cause.⁷¹ The reality is that NYSDHCR typically takes 3 years to determine whether there is probable cause and an average of 7 years to obtain a decision after an administrative hearing. It takes between 12 and 14 years to resolve 25% of the cases filed with NYSDHCR. Numerous cases are dismissed as a result of losing track of Plaintiffs and/or Defendants over such a lengthy period of time. This is termed "administrative convenience dismissal." Little investigation is done to locate the victims, according to anecdotal information. As of January 2001, there was a reported backlog of nearly 6,000 cases.⁷²

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL

The Division of Housing and Community Renewal (NYSDHCR) has been responsible for the supervision, maintenance, and development of affordable low- and moderate-income housing in the State since 1979. Ensuring fair housing is part of the Division's mission.

NYSDHCR and NYSDHCR have a Memorandum of Understanding to jointly enforce fair housing. All of the housing discrimination complaints are referred and processed by NYSDHCR's regional offices.⁷³

NEW YORK STATE OFFICE OF THE ATTORNEY GENERAL

The New York State Attorney General makes decisions about which cases to prosecute. J. Janssen,

according to the attorney in charge of housing related cases in New York State, these types of cases have not been prosecuted in many years and the office has no plan to do so in the future.²⁸

LONG ISLAND HOUSING SERVICES

Long Island Housing Services (LIHS) is a 501(c)(3) nonprofit organization and the only private fair housing agency serving Nassau and Suffolk Counties. The group's mission is to eliminate "unlawful housing discrimination" and promote "decent and affordable housing through advocacy and education."²⁹

LIHS provides the following fair housing advocacy services to community members who feel they have experienced some form of discrimination in housing:

- In some cases LIHS will file a complaint separately in the agency's name, with HUD, NYSDHR or Federal District Court when LIHS' mission is diverted and/or frustrated due to discriminatory practices;
- Analyzing results of investigations and drafting HUD and/or NYSDHR complaints;
- Attempting to effect a conciliatory agreement between parties before engaging in the administrative process offered by HUD/NYSIDHR;
- Securing pro bono or contingency legal support for the victim; and
- Acting as the victim's representative or advocate throughout the process.

TABLE #3: ALLEGATIONS RECEIVED BY LIHS, 1999-2003³⁰

	1999	2000	2001	2002	2003	Total
Number of allegations received from individuals for investigation	121	10	40	52	74	397
Number of allegations initiated by LIHS	10	13	8	19	8	58
Number of allegations received by recorder	47	20	17	45	33	162
Number of allegations received by national origin	22	7	2	18	14	63
Total number of allegations received for investigation	151	50	67	134	129	531
Number of allegations conciliated by LIHS prior to investigation	7	5	4	8	6	30
Number of complaints investigated	151	68	45	105	76	445
Number of complaints filed with government enforcement agency (HUD or NYSDHR)	11	15	6	8	21	61

- Assisting the client in articulating the discrimination claim to highlight violations and provide supportive evidence of housing discrimination;
- Conducting preliminary investigations before complaints are filed with HUD or NYSDHR and then filing on behalf of (and sometimes with) individual victims;

Staffing: LIHS employs 7 full-time and 1 half-time staff member, including 3 investigators with an average of 20 cases per staff member.³¹ LIHS does not provide direct legal services and has no lawyers on staff. LIHS has no enforcement ability, but helps clients shepherd these complaints through the administrative processes offered by HUD and NYSDHR, provides investigative and evidentiary

support, and informally resolves cases where possible.¹⁷⁶

Budget: As a private organization, LIRES depends on grants and donations in order to meet operating expenses. They periodically receive grants from HUD. Groups like LIRES nationally process more than 70% of the nation's fair housing complaints.¹⁷⁷ When contacted with HUD, LIRES receives formal written evaluations by HUD as a requirement of funding for fair housing writing services and educational activities.

Case Determination: The Executive Director of LIRES decides which cases will be accepted.

Cases: from 1999 to 2003, LIRES received 207 housing discrimination allegations from individuals, 162 were related to race.

NASSAU COUNTY COMMISSION ON HUMAN RIGHTS AND SUFFOLK COUNTY HUMAN RIGHTS COMMISSION

Nassau and Suffolk County have their own human rights commissions with similar structures. They both have a fifteen member commission and are governed by New York State General Municipal Law and individual county human rights laws. Prior to 1999, the Nassau and Suffolk human rights commissions had a Memorandum of Understanding (MOU) with NYSDHRC, which allowed the commissions to investigate fair housing discrimination complaints on Long Island. In 1999, the New York Human Right Law was amended in order to be substantially similar to the federal Fair Housing Act (FHA), as a requirement of entering into a MOU with HUD to receive federal funding for fair housing enforcement. At this point, both commissions lost access to state fair housing enforcement money and were barred from consulting investigators on behalf of NYSDHRC and HUD. The county commissions lost access to these federal fair housing enforcement funds because their fair housing

laws were not substantially similar to the protections offered under the FHA.

The counties' fair housing laws continue to fail to be substantially similar to the federal FHA, and therefore the counties' human rights commissions remain barred from receiving federal funding from HUD for investigating and resolving fair housing complaints. The county human rights commissions can only enforce county fair housing laws.

The Nassau County Commission on Human Rights (NCCHR) is responsible for complaints based on employment, public accommodations, and education. Race, ethnicity, creed, disability, sex, and source of income are protected classes under Nassau County Human Rights Law.¹⁷⁸

The Suffolk County Human Rights Commission (SCHRC) accepts discrimination complaints in the areas of employment, public accommodations, and education. Suffolk County Human Rights Law (SCHRL) includes race, color, creed, national origin, disability, age, marital status, gender, and sexual orientation as protected classes.¹⁷⁹

Though both NCCHR and SCHRC are mandated to carry out fair housing compliance and enforcement efforts on Long Island, they refer all of their cases to NYSDHRC. Neither agency has conducted fair housing investigations or enforcement activities in the past years. SCHRC is not an independent entity outside of the County Government control. SCHRC is part of the County Law Department and receives no funding from the Law Department budget. This arrangement poses a possible conflict of interest in a case where an individual is to try and receive help from SCHRC for an alleged fair housing complaint against the County. Furthermore, it appears to violate New York General Municipal Law, which requires that local human rights commissions remain autonomous from local government constitutions.

VII. ANALYZING AGENCY ENFORCEMENT OF FAIR HOUSING ON LONG ISLAND

A. ANALYSIS OF INDIVIDUAL FAIR HOUSING ENFORCEMENT AGENCIES

When HUDSE Factors began conversations with those agencies responsible for fair housing enforcement on Long Island, it was assumed that it would be a relatively straightforward process to obtain information on the roles and responsibilities of each agency and acquire data that would provide a clear, coherent snapshot of the status of racial discrimination within the housing market on Long Island. A snapshot was provided, but one of a jigsaw that is fragmented, reactive, and incomplete, demonstrating:

- A disproportionate focus on individual complaints as a means of addressing racial discrimination in housing
- The lack of shared standards and measures of success among enforcement agencies in the management of tracking housing complaints
- The lack of a proactive plan of action for each agency as well as for the region as a whole.

The examples below are agency specific for problems with fair housing enforcement and fair housing laws at NYSDHR, NCCLR and SCTHR:

NEW YORK STATE DIVISION OF HUMAN RIGHTS

Receiving information regarding how NYSDHR handles, evaluates and determines cases along with initiatives related to the enforcement process has been a long, arduous, and unsuccessful task for private groups. In 2004, the Campaign to Reform the New York State Division of Human Rights Coalition ("coalition") introduced a bill to the State Assembly of New York, sponsored by Assemblyman Joe Marchi, to reform NYSDHR. The bill passed the Assembly but

never reached the Senate floor. The coalition's findings regarding NYSDHR included:

- Lack of transparency regarding tracking complaints and availability of data about complaints.
- No data regarding how "probable cause" is determined.
- Inefficiency in how the office is run and complaints are handled.
- Lack of oversight—there is no regular reporting on NYSDHR's work.
- Poor advisory committee—the committee meets rarely and its recommendations and findings are not binding. The committee members lack professional expertise in policy making and law.¹⁹⁸

As with HUD, NYSDHR needs to expedite the complaints process without sacrificing legitimate complaints through administrative dismissals. NYSDHR must be held accountable for the effectiveness of its work and be audited on a regular basis. Transparency is essential to resolving the issues of complaints backlog and to working collaboratively with fair housing groups. Adequate funding and staffing are a necessary, along with a defined chain of hierarchy that can be held accountable for the successes and failures of the agency.

NASSAU COUNTY COMMISSION ON HUMAN RIGHTS AND COUNTY LAW

NCCLR does not accept fair housing complaints or investigate allegations, even though the local Human Rights Law prohibits housing discrimination based on race. On June 30, 2004, Nassau County amended the local fair housing laws to include: 1) giving the County Attorney's office the authority to work with NCCLR to take legal action where discrimination is found, 2) giving victims of discrimination a "right of action" to bring a proceeding in County court for

discrimination in housing, (2) adding injunctive relief as a remedy; and (3) increasing penalties for violations from a \$500 minimum to a \$1000 maximum, payable to the victim, to a \$5,000 minimum to a \$10,000 maximum.¹⁰⁷ The increased penalties still are very low in comparison to fair housing remedies through HUD, NYSOHR and the court system.¹⁰⁸

However, NCCHR has yet to bring an action, along with the Nassau County Attorney's office, for fair housing violations. NCCHR has yet to accept complaints; instead they send victims of housing discrimination to NYSOHR to file a complaint with the State. NCCHR is unable to receive federal funding from HUD for fair housing enforcement, or for investigation of complaints filed with NYSOHR because the local Human Rights Law are not "substantially equivalent" to the protection provided under the federal Fair Housing Act. Under the Memorandum of Understanding between HUD and NYSOHR, the State is prohibited from allowing any local governments that has less protective laws than those under the FHA from investigating fair housing complaints.

SUFFOLK COUNTY HUMAN RIGHTS COMMISSION AND COUNTY LAW

There are several serious problems with the Suffolk County Human Rights Law (SCHRL) as written regarding fair housing protection. First, the SCHRL fair housing law is most likely unenforceable because:

- Though it states that housing discrimination is illegal, the law provides no procedural process for enforcement;
- There is no statute of limitations, a time period in which a victim must bring a case;
- The penalties include possible jail time, which is a violation of the United State Constitution – imprisonment is a penalty usually reserved for criminal

acts under the penal code, not civil suits such as violations of fair housing laws; and

- There is no private right of action – nothing that states an individual can file a suit in County court to enforce the fair housing laws.¹⁰⁹

Furthermore, while the SCHRL prescribes the enforcement mechanisms, it lacks the staff to fulfill the enforcement functions. For example, Administrative Law Judges (ALJ) are supposed to conduct the hearings; however, the County does not have ALJs in place for SCHRL housing discrimination hearings and has not committed to fund the positions required.¹¹⁰

Due to a Memorandum of Understanding between HUD and NYSOHR, similar to the NCCHR, the SCARC cannot investigate housing complaints for the State. This is because the fair housing laws in Suffolk County are not equivalent or substantially similar to the protections offered under the federal Fair Housing Act (FHA). Complaints that come to other offices are referred to the NYSOHR.

Though both Nassau and Suffolk counties claim to have funding problems for enforcement of fair housing, the counties limit their access to funds by not bringing their laws into line with the FHA.¹¹¹ For example, Suffolk County would need to amend its fair housing laws to cover the sale of vacant lots, in addition to already covered dwellings, in order to bring its laws into compliance with the FHA.¹¹² Such changes would allow Suffolk County access to funds for local enforcement and investigation from HUD and the State. Amending the county laws would not add new protections as a whole, since the FHA and NYSOHR laws already substantially cover the same areas. Rather, amending the county laws would open the opportunity for federal and State funded enforcement activity on a local level. The issue would be with the county governments to use such funds for effective fair housing enforcement activities.

Table #4 displays the responses for each of the agencies studied related to the six categories captured in telephone interviews.²²⁸

TABLE #4: COMPARISON OF AGENCIES

	Inquiry Finality	Case Assignment Decision	Treatment of Efficiency and Duplication	Agency Resources for Investigating	Personnel Assigned	Speed of Complaints Finality
HUD Regional Office in New York City	Yes	Senior Analyst decides whether to send cases to NYSDHR	No formal evaluation	30 full time employees; 30 cases per employee	Yes	No
NYSDHR	Yes	Investigators make recommendations to Director. Commissioner makes order	Evaluated by HUD annually	12 full time employees; 50 cases per employee	Yes	No
HRIS	No	Executive Director decides which individuals to help file complaints with NYSDHR	Formal evaluation which contracted by HUD	2 full time staff members; 25 cases per employee	No	No
NYSDHCR	No	Does not accept complaints relates to NYSDHR	No formal evaluation	NA	Yes	No
Office of New York State Attorney General	No	Has not prosecuted complaints for years and does not intend to in the foreseeable future	No formal evaluation	NA	No	No
NCCHR	No	Will not accept complaints relates to NYSDHR	No formal evaluation	NA	No	No
SCCHR	No	Will not accept complaints relates to NYSDHR	No formal evaluation	NA	No	No

Note on imposition of penalties. Outside of the Federal and State court systems, only HUD (the New York State Attorney General, and the NYSOHR) can impose penalties on those who are found guilty of housing discrimination. These agencies can convene formal administrative hearings and impose monetary and non-monetary penalties. Suffolk and Nassau counties are permitted to impose penalties under the county Human Rights Laws; however, neither county does.¹⁷¹ While the Long Island Housing Services can arrange conciliation agreements, it does not have statutory authority and cannot impose civil penalties.

B. OVERALL ANALYSIS OF FAIR HOUSING ENFORCEMENT AGENCIES

1. Disproportionate focus on individual complainants as a means of addressing racial discrimination in housing and no proactive plan to deter unlawful behavior.

One of the most disturbing findings for TRANS Racial is that fair housing agencies that serve Long Island are not proactive in investigating the extent of racial discrimination in housing. All the agencies have a reactive approach to fair housing. They wait for victims of housing discrimination to come to them or a person or entity to request fair housing education. There is no preventative strategic plan in place to address fair housing issues and shape Long Island communities with an eye to the future.¹⁷⁴

According to the National Fair Housing Alliance ("NFHA"), there were 1.8 million incidents of race discrimination in housing across the country in 2005. Nonetheless, nationally, there only were slightly more than 25,000 complaints filed in 2007, of which 29% were based on race. HUD received 2,765 complaints in 2007, of which 27% were based on race.¹⁷⁵ Furthermore, a study conducted in 2002 by the Urban Institute for HUD found that 87% who had experienced discrimination in housing did nothing about it. The most common reason for

non-action was that the individual felt that nothing would be accomplished by reporting the discrimination. In fact the study found that "almost two in five people [who believed they had been discriminated against] believed there was no point to responding, that it would not have solved the problem, or, in some instances, that it could have made the problem worse."¹⁷⁶

According to L.I.H.S. from 1999 to 2005, 214 complaints were filed with HUD and/or NYSOHR alleging housing discrimination on Long Island.¹⁷⁷ During the same period, L.I.H.S. received 267 housing discrimination allegations from individuals, 167 were related to race.¹⁷⁸

Federal and State laws allow HUD, NYSOHR and L.I.H.S. to file complaints in court on behalf of the agency (as does DOJ). This process allows the agencies to step into the shoes of the victim and assert the fair housing claims as issue in court as a named Plaintiff, along side or on behalf of the victim. While arguably one of the most effective ways to litigate fair housing complaints in the current climate, this avenue of enforcement is rarely utilized.¹⁷⁹ Of the total number of cases managed by L.I.H.S., 87% were filed as individual complaints with HUD and NYSOHR, many of which L.I.H.S. joined as a complainant, with the remaining 13% initiated by the organization.¹⁸¹

Government fair housing agencies need to acknowledge the low case numbers and develop more effective means of identifying individual complainants, as well as take the initiative to file complaints in court as plaintiffs in fair housing cases. This necessity is derived partially because government agencies are focused on closing or "dumping" cases to meet number requirements, rather than meeting out justice for victims of housing discrimination.¹⁸² The agencies' mission statements to effectively enforce fair housing laws seem to get lost in the bureaucratic shuffle of paper work. Many individuals with housing discrimination claims fall through the cracks due to the focus on queues and the aging of cases, which often lead to inefficient or rushed investigations.¹⁸³

Length of time for case completion. Approximately a third of complaints filed within the past five years are still in progress.¹⁸ Neither HUD or NYSDHR keep as the summary defined time frame for processing complaints, and there are no documents or policies if the agencies unreasonably delay in resolving a complaint. The length of the administrative process under both HUD and NYSDHR is unjustified and unfair to victims of discrimination.

Barriers to filing housing discrimination complaints. In addition to the quantitative data, there are qualitative factors that support the inability to use complaint data, such as the barriers that a potential complainant faces in bringing forth a charge of housing discrimination. Those barriers include: 1) fear of retaliation (such as being evicted); 2) lack of knowledge about housing rights; 3) not knowing which agency or who to contact; 4) language; 5) transportation; 6) ability to take time off during work hours to obtain help filing complaints; 7) the emotional strain caused by the length of the time it takes to reach a resolution; and 8) a host of logistics that make it difficult, if not impossible, for a person who is experiencing housing discrimination to initiate a complaint.

2. The lack of shared standards and measures of success among enforcement agencies in managing the tracking of housing discrimination complaints.

While a review of operations within each agency led to a set of specific findings on how complaints are managed, the lack of operational consistency makes it difficult to assess the overall effectiveness of prevention and enforcement efforts. PRASE Rector found:

Disparity in complaint investigation processes. There is a disparity in how housing discrimination complaints are managed among enforcement agencies. For example, HUD and NYSDHR may receive complaints directly from an individual. HUD and NYSDHR do not provide advocacy services for in-

dividuals who file cases. Both agencies are large bureaucracies that are not them focused but concerned with meeting quotas and carrying out the agenda of the current administration. The onus is placed on individuals filing a complaint to stay in touch with the agency and ensure that their case is investigated and channeled through the administrative process. It is often a matter of "the squeaky wheel gets the grease."¹⁹ This can be overwhelming to a victim of housing discrimination who is not accustomed to administrative wrangling and, as a result, some victims abandon legitimate claims due to the overly burdensome process, a process which was originally designed to help victims.

Other victims of housing discrimination enlist the help of an advocate or lawyer. A lawyer or advocate (initially assists the individual in articulating fact housing claims, highlighting violations, conducting preliminary investigations and providing supportive evidence. After analyzing all possible information available, a lawyer can advise the victim if there is enough evidence to file a case in federal or state court or, alternatively, if the administrative process should be pursued first. Both advocate and lawyer can help the victim draft and file an administrative complaint. In the case of an advocacy organization, such as LHRIS, it may also try to secure an experienced fair housing/civil rights attorney where circumstances warrant/allow. This is not normally part of the government enforcement efforts or procedures. Both advocate and lawyer can help shepherd the complaint through the administrative process alleviating some of the burden for the victim. HUD and NYSDHR are sometimes more responsive when a lawyer or advocate is involved, versus solely a complainant.

Whether it is more advantageous for an advocate or lawyer to be involved is dependent on the level, quality and commitment of their services. A good advocate or lawyer is preferable to an individual trying to navigate the administrative system alone.

Disparity in determinants of cases filed with HUD/NYSIDHR. There is evidence to suggest that there is inconsistency in the determination of whether HUD, as the federal fair housing administrator of complaints, or NYSDHR, as the State administrative means "jurisdiction" over a complaint. Jurisdiction is the lawful power of an agency or court to hear and decide a case.²²⁵ In numerous instances there is "concurrent jurisdiction" over a complaint, meaning the fair housing claim could be considered under either State or Federal fair housing laws.²²⁶ Based on

These cases are then improperly dismissed for lack of jurisdiction.²²⁸

In the case of the NYSDHR, investigators make recommendations to the Director as to whether NYSDHR or HUD has jurisdiction for complaints initially filed with NYSDHR. The Commissioner then makes an official order stating either: 1) NYSDHR has jurisdiction over the complaint, or concurrent jurisdiction, and therefore will return and process the complaint; or 2) that only federal law applies

TABLE #3: OUTCOME OF ALLEGATIONS FILED WITH HUD/NYSIDHR THROUGH LIHS, 1999-2003²²⁷

	1999	2000	2001	2002	2003	Total	% of total
Number of complaints filed with government enforcement agency (HUD or NYSDHR)	14	16	6	8	21	65	100.0
Of complaints filed, number resolved to settlement agreement	10	10	3	0	2	25	38.5
Of complaints filed, # dismissed for No Probable Cause	3	2	1	5	5	16	24.6
Of complaints filed, # dismissed for failure to locate complainants, respondents or witnesses	0	0	0	0	1	1	1.5
Of complaints filed, # administratively closed or withdrawn	1	1	0	2	0	4	6.2
Of complaints filed, # still in progress as 2004	0	2	2	1	14	19	29.2

which laws are applied, the complaint will be under the "jurisdiction" of the agency that administers the complaint. Jurisdiction is the determinant as to whether or not a case will be filed as a complaint with HUD or NYSDHR. A HUD senior analyst will refer a complaint to NYSDHR if: 1) he/she determines there is concurrent jurisdiction or the same authority for processing; or 2) HUD is overwhelmed with complaints. Once a complaint is referred to NYSDHR by HUD, the complaint is considered "dual filed" and HUD then assumes a monitoring role.²²⁷ However, there have been instances where State law exempt cases are erroneously referred to NYSDHR by HUD,

and therefore the complaint will be referred to HUD on the basis of exclusive jurisdiction.²²⁸

On a local level, both Nassau and Suffolk County Human Rights Commissions direct all race related fair housing complaints to NYSDHR,²²⁹ while at LIHS, the Executive Director makes the determination whether a housing discrimination complaint will be filed with HUD or NYSDHR.²³⁰

The result is that there is no common standard as to: 1) whether a complaint will be filed; 2) which agency the complaint will be filed with; 3) which agency will

actually investigate the complaint; 4) what standards will be used in evaluating the complaint; 5) how probable or reasonable cause will be determined; 6) how long the complaint process will take; and 7) the likely outcome of the complaint.

The other concern is that complaints are allegations of violations of the federal Fair Housing Act, a legal matter. The majority of individuals at the federal, state and local agency levels who make the initial determination whether or not to pursue a complaint at the first stages, have little, if any, formal legal training. The vast majority of case workers who make initial determinations are not attorneys. This is a particular concern at the grassroots level, whom a disenfranchised individual who has a complaint goes to a private fair housing agency. LIHS, as a local private fair housing agency, does not have an attorney on staff. The Executive Director and staff determine which complaints to help individuals file. If LIHS feels that the complaint will not succeed, it refrains from rendering further services to the client. Individuals can still file a complaint with HUD or NYSOHR on their own, however, they may feel discouraged from doing so.

LIHS does confer with outside attorneys on some cases, but, whether enough evidence merits to file a complaint is determined by a non-lawyer the majority of the time. Though LIHS, as a private fair housing agency, has access to fair housing websites and some comprehensive legal texts on fair housing, it does not have access to legal resources used by and relied on by attorneys, such as *Wolow and Levin-Nets*, to interpret the most current case law, and conduct comprehensive research on monetary awards and administrative decisions. This issue is compounded by the fact that 1) there are a limited number of fair housing attorneys on Long Island; and 2) most victims of housing discrimination cannot afford an attorney. However, LIHS does fill a gap in advocacy services that the government agencies do not provide. It would be ideal if LIHS had the funds to hire a fair

housing attorney on staff, as do many well funded fair housing agencies in order to ensure that clients receive accurate legal advice for a legal issue.

Dignitary in determining reasonable/probable cause. Once a case is filed with HUD/NYSOHR, a determination is made as to the validity of the complaint. There is documentation from national housing groups finding that because HUD sets the bar of proof of reasonable cause too high, the number of cases that are administratively heard is low and the majority of the cases that are not informally concluded are administratively dismissed.¹³²

Percentage of cases filed with HUD/NYSOHR through LIHS, settled and dismissed. Table #5 illustrates that approximately a third of complaints filed within the past five years are still in progress. Nearly 40% were settled and slightly more than 25% were dismissed.

Table #5 illustrates that even with an advocate from LIHS aiding the complainant, the process of filing a complaint with HUD/NYSOHR through resolution is a time consuming endeavor. Remedies for fair housing violations are not rendered expeditiously. This is exacerbated by HUD repeatedly failing to meet the 100 day timeline for resolving complaints stipulated in the FHA.

Minimal evaluation of effectiveness and duplication. There is minimal evaluation of effectiveness and duplication among agencies that are charged with enforcement of fair housing laws. For example, while HUD evaluates NYSOHR, there is no formal evaluation of the agency itself outside of industry reporting on an annual basis. Watchdog and lobby groups periodically evaluate HUD's performance, but this oversight is ad hoc and not systematic.¹³⁴

While memoranda of agreement have been put in place to prevent duplication, there are no data on whether these steps are successful. Additionally,

according to respondents in telephone interviews, there is a lack of internal evaluation by separate departments.¹²⁶

Minimal mechanisms for determining case progression. There is currently no easy way to follow complaints through the system.¹²⁷ As discussed, numbering systems differ between agencies and cases are not always handled by a regional or local office, which causes further confusion. Additionally, it is not uncommon for multiple case workers to work on one case. Cases get shuffled between case workers, which is inefficient, and makes tracking cases difficult at best.¹²⁸

Lack of integrated prevention initiatives. TRASH Ration inquired about each agency's role in the prevention of housing discrimination. DEASH Ration found that neither the Nassau County Commission on Human Rights or Suffolk County Human Rights Commission currently conducts housing discrimination prevention activities.¹²⁹ Those agencies that carry out prevention activities cited public educational outreach as their primary strategy, including seminars, similar sites, or special visits that are requested by communities. For example, HUD conducts seminars for real estate brokers and banks; NYSOHR has a special outreach program for Asian Americans (funded through HUD), and outside of HUD's annual fair housing

TABLE F-6: CLOSED CASES ON LONG ISLAND FROM NYSDHR

	Long Island						New York State					
	1999	2000	2001	2002	2003	Total	1999	2000	2001	2002	2003	Total
Closed Cases												
AC: Failure to Cooperate					1	1			2		2	4
C: Unable to Locate					1	1					1	1
Lack of jurisdiction	1	1	3	1	1	7	2	10	15	16	9	52
No Probable Cause	16	21	26	18	15	109	124	129	265	235	212	1195
Probable Cause: Unsettled	4	6	8	5	7	39	26	46	45	45	47	209
Probable Cause: Hearing Recommended	7	12	10	4	3	39	7	22	44	15	22	151
Withdrawn with Benefits			3	6	13	22	3	26	28	37		94
Withdrawn without Benefits	2	1	2	2		7	10	9	18	15	20	72
AC: Other		1				1		2	1	2	1	6
AC: Unable to Locate Complaints								1		2		3
Unintimidation Discrimination								1	1			2
Annulment Discrimination									1		2	3
Probable Cause: Conciliated										1		1
Total	20	44	70	41	31	211	192	348	465	511	396	1965
Closed Hearing Cases												
AC: Parallel Proceedings						6						6
Order after Stipulation of Settlement	5	10	6	6	2	29	6	19	19	12	11	65
Order of Withdrawal/Rescission		2				2		2				2
AC: Other			2	3	2	7	2	2	2	6	3	17
Order after Hearing: Sustaining			7		2	9		2	2	2	4	19
Order after Hearing: Dismissing			2		1	3			4	1	2	7
Order of Withdrawal/Rescission			3	2	6	11		19	11	12	24	57
AC: Unable to Locate Complaints					5	5				2		5
AC: Failure to Cooperate					1	1			1	1	1	4
Total	9	12	14	16	14	66	17	31	36	31	25	170

conference, LIEB educates tenants, landlords, realty agents and professionals about fair housing law and fair lending practices. Though, LIEB participates in 40 to 60 fair housing educational outreach events a year, this is surely inadequate to address the vastness and needs of the population on Long Island. Greater resources are needed to address public education.¹³⁹ Almost all of the fair housing education offered to the residents of Long Island was either: 1) initiated by a member of the public, rather than the agencies proactively seeking forums to discuss fair housing rights; or 2) required as part of a secondary agreement or court order.¹⁴⁰ Public education materials are published and distributed to the general

are not made aware of or given the option of utilizing a local fair housing advocate to aid them through the complex complaint process.

Only a small percentage of cases filed are determined to have reasonable/probable cause. In 2003 on the national level, fair housing organizations received over 25,000 claims of housing discrimination.¹⁴¹ However only 10 cases were charged for race discrimination under the federal Fair Housing Act (FHA) by federal enforcement agencies. HUD charged four cases, and the U.S. Department of Justice (DOJ) filed only six cases.¹⁴² This serves as an example of the federal fair housing enforcement

TABLE # 7: CASES CLOSED FOR LONG ISLAND 1999 – 2003

	Administrative Claim		Courtroom		Withdrawn/Other		Reasonable Cause		Probable Cause		Total	
	Number	%/100	Number	%/100	Number	%/100	Number	%/100	Number	%/100	Number	%/100
1999	18	1	2	4	2	1	3	7	4	10	23	23
2000	2	2	6	6	3	6	7	18	5	3	23	31
2001	3	1	7	2	3	2	16	21	3	11	31	46
2002	4	3	5	3	9	0	25	28	4	3	41	38
2003	1	3	3	3	6	1	13	31	2	3	25	41
Total	28	13	23	20	23	10	65	98	18	29	167	173

public by the agencies on both fair housing rights and predatory lending. However, IRASE Ractim found that it often was difficult to identify the correct contact person for obtaining educational materials or to know where to find the information on the websites, particularly at the county level.¹⁴³

Furthermore, on a local level, as of the date of this report, none of the government agencies that serve Long Island refer inquirers to LIEB on their websites.¹⁴⁴ Rather, the websites refer individuals directly to the NYSDH and HUD complaints process and websites. The result is that victims of housing discrimination

agencies' trend to reducing the number of cases pursued under FHA on behalf of victims of race discrimination. Prior to 2003, HUD and DOJ filed 30 race discrimination cases in 2001 and 26 cases in 2002.¹⁴⁵

In New York State, HUD issued findings of reasonable cause to believe that discrimination had occurred 61 times from 2001 to 2003; this number incrementally decreased from 38 in 2001 to 16 in 2002 and 7 in 2003.¹⁴⁶ Of the housing discrimination cases that are subject to a hearing (referred to as "closed cases") reported by NYSUREC between 1999 and 2003, no probable cause was determined in 109 of the complaints.

Of the remaining 127 cases closed during those years, about 79 (62.3%) continued to litigation.¹⁴⁷ Slightly more than half of these cases were found to have no reasonable cause by HUD. Most often, cases are settled prior to a formal hearing and finding by the Administrative Law Judge (ALJ).¹⁴⁸

Table # 6 (page 26) shows statewide statistics for closed and litigated cases compared with those on Long Island. The majority of cases were in Nassau County (see Table #7). A higher proportion of cases statewide were dismissed because of no probable cause than were dismissed on Long Island. Twice the proportion of cases were litigated on Long Island than in New York State. The proportion of cases that were closed through conciliatory or benefit agreement were similar on Long Island and New York State. Table #6 shows the cases from Long Island closed by NYSUHR. The table indicates cases that were closed with and without litigation. These cases were not necessarily opened in the year that they closed or moved to litigation in the year the litigation ended.

Table # 7 shows the cases closed on Long Island from 1999 - 2003. Slightly more than half were closed for no reasonable cause. Approximately 13% were found to have reasonable cause, which is prerequisite and preliminary to a public hearing/trial before an Administrative Law Judge (ALJ). Most often, cases are settled prior to a formal hearing and finding by the ALJ.

Nassau County has more administratively filed fair housing complaints when compared to Suffolk County. However, this does not necessarily mean that discrimination in Suffolk County is occurring less frequently. The charts above are only representative of complaints actually reported. Discrimination in housing is grossly underreported nationally and on Long Island. The disparity in the amount of penalties awarded to court versus through an ALJ is substantial. On Long Island, between 1999 and 2003, the average monetary award to victims of fair

housing discrimination through HUD and NYSUHR ALJs was \$6,679, compared to an average award of \$85,350 for victims who pursued litigation in Federal and State courts. (see tables #72 and #73).

Disparate data bases and coding systems are utilized. The two enforcement agencies primarily responsible for managing discrimination complaints, HUD and NYSUHR, have their own data bases and coding systems.¹⁴⁹ This lack of uniform standards for recording and tracking complaints prohibits a comparative comparison and summation of discrimination complaints, case stages, and outcomes for the Long Island region. Furthermore, LIS uses an entirely differing numbering system that counts cases in a way that does not coincide with either HUD or NYSUHR, further frustrating the processes of tracking complaints filed with the agencies.¹⁵⁰

Data on race-based housing discrimination complaints was not readily available. The two governmental agencies responsible for enforcement on Long Island, HUD and NYSUHR, were not able to provide any information regarding cases of housing discrimination based on race for Long Island. In terms of NYSUHR, this was due to the data base being non-operational for the eight months when ERASH Racism staff was completing his research; the NYSUHR data base was being overhauled and reports were not accessible.¹⁵¹ The NYSUHR office referred ERASH Racism to HUD, even though the NYSUHR has a Memorandum of Understanding ("MOU") with HUD to manage all housing discrimination cases for the State of New York, including those initiated by HUD.¹⁵² NYSUHR is required under the MOU to keep an accounting of fair housing cases and complaints.¹⁵³ However, NYSUHR was unable to produce any such documentation when inquired by ERASH Racism.

Reporting language lacks clarity. The language used by enforcement agencies is different, though synonymous, which causes confusion for people filing

discrimination complaints. For example, the NYSDHR uses the terms "probable cause" and "no probable cause" and HUD uses "reasonable cause" and "no reasonable cause." These terms have the same legal definition, but the term "probable cause" is normally applied to criminal law or Fourth Amendment search and seizure issues, which do not apply to fair housing discrimination complaints. Black's Law Dictionary defines "probable cause" as follows:

*A reasonable ground to suspect that a person has committed a particular crime or that a place contains specific items connected with a crime under the Fourth Amendment. . . . amounts to more than a mere suspicion but less than legal evidence - must be shown before an arrest, warrant or search warrant may be issued."*¹³⁴

NYSDHR has failed, thus far, to explain what factors and threshold of standard of proof needs to be met for "probable cause" to be found.¹³⁵ This is one of the areas of lack of transparency that is currently being addressed by the Campaign to Reform the New York State Division of Human Rights coalition through Senate Bill 5300/Assembly Bill A11229.¹³⁶ Similarly, HUD's standard of "reasonable cause" is not clearly defined to the public; however, it is the standard articulated in FHA and is the standard courts apply in most federal civil rights cases. It would be less confusing if NYSDHR adopted the "reasonable cause" standard language and both agencies clearly articulated the threshold for meeting the standard.

Unlike in a court of law, administrative agencies are not legally bound by the procedure they use. The standards can be influenced and altered with each change of administration. The Director of HUD is appointed by each new President of the United States. When a fair housing case is litigated in Federal or State court, the participants know the standards they must meet based on case law for that jurisdiction. Though case law can be overturned, it is an arduous process that requires transparency regarding the rationale for determining why

certain case law should not be followed. The administrative process does not provide this level of transparency. Thus, it is impossible to ensure that the same standards are being applied by HUD and NYSDHR to determine if discrimination has occurred.

Complaints are counted differently. There is a disparity in how housing discrimination complaints are counted among agencies, leading to the inaccurate portrayal of unique cases on Long Island. For example, if there are multiple complainants, such as the alleged victims of discrimination and an advocacy agency representing the complainant, HUD and NYSDHR may assign more than one number for a single case.¹³⁷ A single fair housing incident brought against a landlord, a building manager and a lending institution by a complainant and an advocacy agency could have as many as six case numbers. The agencies do this because even though there was one fair housing incident, there were numerous violations under the FHA and NYSDHR laws. Both the complainant and the advocacy agency have separate individual rights of action against each of the defendants. It is possible that during the course of the investigation a determination will be made that only one of the defendants is legally accountable for the discrimination. In this case, HUD or NYSDHR can denote the complainant against the two defendants and carry on with enforcement actions against the remaining defendant. In addition, due to the Memorandum of Understanding between HUD and NYSDHR, there are incidents of double counting of complaints. Complaints filed with HUD may be

UNDERFUNDED, INEFFICIENT AND LETHARGIC FAIR HOUSING ENFORCEMENT SYSTEMS FAIL TO PROVIDE TIMELY AND THOROUGH INVESTIGATIONS INTO HOUSING DISCRIMINATION COMPLAINTS, RESULTING IN INADEQUATE AND/OR USELESS RESOLUTIONS FOR VICTIMS OF RACE DISCRIMINATION.

investigated by NYSJHR, but counted by HUD and NYSJHR.¹²² Another scenario can occur when there are multiple complaints against one entity, such as a single landlord. These cases are recorded individually and reflect the number of violations under FHA and NYSJHR law, rather than the incidents of racial discrimination experienced by residents on Long Island.

Local data is not readily available. There is a lack of data regarding fair housing on the local level. Both Suffolk and Nassau County Human Rights Commissions do not track the number of housing discrimination inquiries they receive.¹²³ LHRIS keeps track of the number of allegations of discrimination it receives and the number of complaints it files on behalf of and with clients.¹²⁴ However, LHRIS uses a different numbering system than HUD and NYSJHR. LHRIS assigns one case number per fair housing matter rather than per FHA or NYSJHR violation. This creates confusion when tracking complaints filed with HUD and/or NYSJHR and makes it impossible to get an accurate count of fair housing violations or incidents that occur on Long Island. Furthermore, some victims of housing discrimination do not use LHRIS and file directly with HUD or NYSJHR, while others bypass the complaint process and file directly in Federal or State court.

These considerations lead RCAF's Racism to conclude that additional measures of racial discrimination within the housing market that reach beyond documented complaints must be identified and introduced.

3. THE LACK OF A PROACTIVE PLAN OF ACTION FOR EACH AGENCY AS WELL AS FOR THE REGION AS A WHOLE.

HUD, NYSJHR, Suffolk and Nassau counties do not have strategic plans on how to further fair housing. All of the agencies have mission statements and list their goals but fail to articulate how they will achieve the desired results. HUD provides opportunities to compete for grants to local fair housing organiza-

tions to further fair housing through education and enforcement. However, the testing initiatives are scattered and do not have an overall national plan. Additionally, they only target one protected class for a set period of time. While communities are often scarce and, through some important enforcement has been achieved through such programs, the testing audits are random in nature.

The funds provided to Long Island governments through these agencies have not resulted in a proactive plan of action for mitigation or furthering fair housing. Testing on a local level is conducted usually in response to a victim of discrimination. Testing initiatives in the form of audits can be characterized as sporadic at best. Furthermore, as mentioned later in the Analysis of Impediments section, there is no individual effort to proactively plan for regional community building.

4. FAIR HOUSING ENFORCEMENT AND ADVOCACY AGENCIES ARE UNDER-FUNDED.

A frustration faced by HUD, NYSJHR and LHRIS is a lack of adequate testing for staff and enforcement efforts. The under-funding of Civil Rights programs is a classic method that opponents of racial equality have used to ensure that individuals are only able to eventually exercise their civil rights. As William H. Tisdale, founding President of the National Fair Housing Alliance eloquently stated in a 1999 HUD journal:

"Since the fair housing laws were passed, government has moved with all deliberate slowness to enforce them and in many instances, has participated in obstructing and impeding their enforcement. . . . Our government has never committed the level of resources (human or financial) necessary to effectively combat illegal forms of housing discrimination."¹²⁵

Laws are only as effective as the people's willingness to enforce them. It is acknowledged that funding levels are directly related to the inability to

manage an increased caseload. Private fair housing agencies rely primarily on HUD grants for funding that are provided through HUD FHP grants allow fair housing agencies to administer testing programs, provide counseling, gather evidence where discrimination has occurred and help individuals file complaints.¹⁹² FHP funding is a highly competitive process and the majority of fair housing groups will not continuously get funding. This leaves private fair housing groups to rely on donations and grants from private sources, which is often unpredictable. Private fair housing groups need adequate, reliable sources of revenue to allow fair housing services to remain consistent and expand on demand. This requires steady funding sources beyond HUD because HUD funding is not "to the dictates of the government that administers them and may be reduced to conform to the minimum level a community will tolerate."¹⁹³

Similarly, the Federal and New York State governments need to ensure that funds are provided to HUD and NYSDEH at a level that will allow the agencies to effectively enforce fair housing. This will require a change of political will and fair housing to be taken on as a national priority.¹⁹⁴

VIII. RECOMMENDATIONS FOR IMPROVING THE EFFECTIVENESS OF FAIR HOUSING ENFORCEMENT

1. Fix Long Island's fair housing enforcement system by developing and implementing a proactive roadmap that includes enforcement agencies and complaints. There have been several Memoranda of Understanding (MOU) over the past 5 years with these two agencies responsible for fair housing enforcement. This was done in an attempt to streamline the collection of information and investigation of claims by reducing the number of agencies directly responsible for fair housing investigations and enforcement on Long Island to the federal and state level, i.e., HUD and the NYSDEH. Despite

these new arrangements, there is still considerable red tape and system-wide inefficiencies and inconsistencies that need to be addressed. In reality, these MOUs have allowed for blame-shifting among agencies, leaving no one ultimately accountable for lost or mishandled complaints. The burden has been increasingly placed on the victims of housing discrimination to ensure that their own complaints are filed properly and processed through the system in a timely manner.

2. **Kennedy the disproportionate focus on individual complaints as a means of addressing racial discrimination in housing and proactively pursue housing discrimination via investigative practices, such as testing.**

3. **Develop shared standards among enforcement agencies managing housing complaints.** This would include using the same forms and language for collecting and tracking victim and defendant information, as well as new collaboration in areas such as the appropriate number of days for case aging, determination of case acceptance, and reasonable cause. This would also include such requirements as regional management of NYSDEH cases from Long Island;

4. **Develop a centralized fair housing clearing house for Long Island data** so that housing discrimination on Long Island can be properly and accurately assessed and evaluated. It is essential that complete accurate data be available so as to obtain the depth of information necessary to form a solid foundation for analyzing trends, effectiveness of current fair housing enforcement, and making strategic recommendations for changes in policy and practice. The data base must be able to break out information based on protected class such as race. The data base should track and tabulate not only administrative complaints but also litigation, requests for fair housing information, education outreach conducted, informal complaints, and when a victim reports an incident of discrimination to an agency but decides not to file an admini-

native complaint. The data base also must track the number of incidents of discrimination rather HUD's and NYSDHR's current system of only tracking the number of legal actions. HUD's and NYSDHR's system inflates the amount of discrimination reported by counting each person involved in an incident as a separate action rather than counting the action as part of one incident. The system should be able to admit both methods of counting complaints.

5. Assign unified cases numbers when more than one agency is involved in the same case. While HUD assigns one case number to each case, HUD and NYSDHR may assign several case numbers to the same case based on the number of victims and defendants involved.

6. Implement a targeted Racial Discrimination in Housing Campaign that has specific outcomes and measures of success. This campaign would join the disparate work of agencies in various towns and communities. It would specifically target those who are most inclined to engage in discriminatory behavior — raising penalties and publicity.

7. Encourage the Department of Justice and the New York State Office of the Attorney General to file more fair housing cases on behalf of victims of discrimination. These two offices are the highest civil law offices in the federal and state governments. They carry a higher level of authority than the other enforcement agencies, which permits them to more effectively monitor and ensure enforcement of settlement agreements and injunctive relief.

8. Fund federal, state and local governments to subsidize those the staff and resource requirements to effectively further fair housing goals and integration on Long Island.

9. Stabilize funding for private fair housing agencies like LIHS.

10. Amend fair housing laws to allow for greater penalties at the State and Federal levels.

11. Encourage the New York State Office of the Attorney General to represent pattern & practice fair housing actions in State Court, and the Department of Justice to do likewise in Federal Court.

12. Increase award amounts to victims of discrimination in the conciliation process and have an external review council to ensure that Administrative Law Judges are reaching equitable results.

13. Reform the Advisory Committee that oversees NYSDHR to be comprised of professional individuals with substantial expertise in civil rights, law, and public policy. The Committee must be able to render binding decisions, recommendations, and plans of action to remedy problems within NYSDHR.

14. Identify specific individuals at HUD and NYSDHR who are accountable for fair housing enforcement.

15. Require regional management of NYSDHR cases from Long Island. While many of the housing discrimination cases from Long Island are investigated and managed on Long Island or in the from headquarters of NYSDHR, at times these offices report a lack of the human resource capacity needed to manage all Long Island cases. Thus, some Long Island cases are managed by other regional offices around the state. This process not only complicates the investigation by having long distance investigation of region-specific complaints but also makes the tracking of Long Island cases very challenging for victims, LIHS and other interested parties.

16. Decrease the time for cases to move through the system, without compromising the integrity of the investigation and the thoroughness of the analyses, as well as appropriately addressing the allegations of housing discrimination. Currently,

both HUD and NYDHR have come under sharp criticism for expediting cases by failing to conduct proper investigations and applying shoddy legal analyses with the goal of closing cases to satisfy number quotas. HUD and NYDHR tried to relocate on their goal of eliminating and effectively addressing housing discrimination.

17. **Streamline the HUD forms.** The National Fair Housing Alliance (NFHA) has recently advocated that HUD streamline its system of collecting information from victims. Currently, victims must complete two forms in order to have their complaints processed. NFHA has recently requested HUD to eliminate the use of HUD Form 903.1 and solely use HUD Form 903.

18. **Amend Suffolk and Nassau county laws to mirror the FHA's level of protection,** allowing the counties the possibility of entering into MOAs with the NYDHR and HUD, in addition to the ability to access federal and state funding for fair housing enforcement and investigation.

19. **Amend Suffolk County Human Rights Law to explicitly state that an individual has a private right of action to bring a civil action in county court for fair housing violations under county law.**

20. **Suffolk County must amend Human Rights Law to:** 1) include a functional procedural process for bringing a fair housing complaint, 2) remove the possibility of imprisonment as a penalty for fair housing violations, and 3) explicitly state the nature of limitations for bringing an action under county law.

IX. LOCAL GOVERNMENT ANALYSIS OF FAIR HOUSING PRACTICES: HIGHLIGHTS FROM THE ANALYSIS OF IMPEDIMENTS REPORTS

FRANK Martyn determined that in addition to looking at the structure, policies, and practices of governmental and non-governmental fair housing enforcement agencies, it would be of significant value

to review the Analysis of Impediments Reports (AI) submitted to HUD by Long Island townships and counties. We obtained the AIs and action plans of eight town and county communities for the towns of Hempstead Harbor, Babylon, as well as the Nassau and Suffolk County Governments.

The AIs were put in place by HUD to help bring entitlement communities that receive federal grants into compliance with Federal Fair Housing regulations and the Fair Housing Act. These procedures are required to earn an Affirmatively Further Fair Housing (AFFH) certificate. The AFFH certificate consists of the AI, the action plan by the entitlement community to eliminate impediments to fair housing, and the maintenance of records for the certificate.¹⁹⁸

This certificate is part of a larger consolidated plan that is used to apply for a Community Development Block Grant (CDBG), Home Investment Partnership (HOME), Emergency Shelter Grant (ESG), or Housing Opportunities for Persons with AIDS (HOPWA) grant.

The federal funds that are made available to communities that comply with writing an AI and receive the AFFH certificate are used for a variety of purposes, such as planting trees and erecting street lights, and non-fair housing related activities. The original concept was to ensure that municipalities that received federal funding through HUD were working towards integration and promoting the principals of racial equity within their communities. The AI reports were a tool for municipalities to identify racial inequity and remove those impediments.

Impediments to housing are considered laws, policies, or conditions that affect fair housing. This may include zoning laws, geographies, banking practices, or discrimination and may consist of institutional and unintentional practices or actions.¹⁹⁹

Information for the AI comes from a variety of sources, such as government policies, laws, and data

fair housing complaints, Home Mortgage Disclosure Act data, fair housing testing results, and tax assessment practices. AI reports also include qualitative information from local community and advocacy groups, other government agencies, housing providers, financial institutions, and schools.¹⁰⁷

Based on this information, entitlement communities will specify actions they will take to eliminate impediments to fair housing. The entitlement communities do not have to provide HUD with the AI, but they do submit a summary. HUD can request the full report if, based on the summary, they feel the AI or the action plan is incomplete or inadequate. HUD may comment or even reject the AI if they feel it is insufficient. The AI is part of the Consolidated Plan Report, and the re-application for the grant will be jeopardized if the community does not obtain an AIHI certificate.¹⁰⁸

Unfortunately, in reality the AI has become no more than a perfunctory tool for receiving funds from HUD. HUD rarely, if ever, significantly challenges the AIs it receives from jurisdictions:

"No level of government has placed a high priority on fair housing mandates. In fact, HUD's mandated 'Analysis of Impediments (AI) to Fair Housing' reports are generally viewed by State and local government units as a ceremonial obligation instead of a useful tool to identify and eliminate barriers to fair housing. Until government at all levels assumes its proper leadership role, the eradication of residential segregation will remain an elusive dream."¹⁰⁹

The AIs received from Long Island communities follow this trend. Not one community uses the AI to develop a proactive strategy to eliminate impediments to fair housing and move toward integration. The jurisdictions do show some of the issues, but do not attempt to delve into a deep discussion of why the impediments to fair housing are in place and how to remove them. There is further confusion in the AIs, as the jurisdictions muddle the concepts of affordable

housing and fair housing. Certainly, access to low-cost housing is a barrier to people of color, but it is a barrier to housing for many residents on Long Island, irrespective of race. Given the existing existence of housing discrimination, the creation of affordable housing will not automatically result in housing accessible to African Americans without the aggressive negotiation of fair housing proposals. Results can be exclusion of African Americans or segregated affordable housing. The majority of the AIs devote the bulk of their recommendations to discussing affordable housing. Not one AI from Long Island mentions that racial integration must be a component considered in the planning and building of affordable housing. Similarly, none of the AIs include a substantive strategic plan for developing integrated neighborhoods. This stated, EGASE Racism affirmatively supports all efforts for the development of affordable housing on Long Island. EGASE Racism wants to ensure that integration and racial equity are part of the affordable housing plan and discussion on Long Island.

After analyzing the AIs for Long Island, EGASE Racism pinpointed the following overarching deficiencies in all of the AIs:

- The AIs relied on reports of fair housing complaints to determine if there was any race discrimination in housing occurring rather than proactively interviewing community members, organizations and housing leaders. Virtually no meaningful investigation was conducted.
- The AIs make an overwhelming presumption that if no one has come forward and complained about housing discrimination, that there is no discrimination occurring.
- Almost all the AIs erroneously state that segregation in housing is a result of personal choice and economics, not race discrimination.

- The AIs do acknowledge a problem with NIMBYism (Not In My Backyard), but fail to chart a substantive course of action to remedy the problem.
- The AIs acknowledge some race discrimination, such as found in predatory lending and in relation to the building of affordable housing related to race; however, they do not lay out a proactive plan to identify and overcome these obstacles.
- None of the AIs include strategic planning for integrated communities.
- None of the communities that submitted AIs design or implement findings in the reports for the purpose of planning integrated neighborhoods.
- No plans for proactive education are mentioned; rather, the AIs usually cite private agencies that conduct education in fair housing for the area.¹⁷⁰

The sections below provide a brief summary for each AI submitted by jurisdictions on Long Island.

Islip Impediment Report (February 1996)

Islip's approach to analyzing impediments to fair housing is inadequate. The report states that there are no major impediments to fair housing and no unlawful segregation in Islip. However this conclusion is unsound as the Town fails to cite the methodology of evidence used to support its findings of no discrimination in housing. The AI states that there was no testing for discrimination conducted. Failure to investigate whether housing discrimination, such as steering, occurs does not mean that there is no discrimination. Islip draws the conclusion that if no one complains, then there is no need to take proactive measures to inquire into whether segregation exists. The Town simply states that segregation occurs as a result of lower income levels among minorities compared to whites. However, the Town fails to support this finding and it is ant-

thetical to findings of scholars such as John Logan, PhD, former Director of the Lewis Mumford Center and currently professor of Sociology at Brown University, who has conducted extensive research regarding segregation on Long Island. As previously cited, Dr. Logan has found that segregation of African Americans on Long Island exists equally at all income levels.¹⁷¹

Lack of data problematic: The AI also specifically commented on the lack of information in relation to fair housing complaints, citing that:

- a. There is no local clearing house for information regarding fair housing suits;
- b. Information for the Departments of Justice and HUD are regional and not localized;
- c. Housing related agencies, including Fair Housing groups, consumer groups and quasi-governmental groups do not necessarily maintain data in a format that is easy to provide or analyze.¹⁷²

Huntington Impediment Report (June 2000)

Huntington's AI fails to seriously analyze impediments to fair housing. It presents a lightweight analysis at best. Similar to the Islip AI, there is no plan of action with strategic steps to removing impediments to fair housing. The report lacks any initiative by the Town to take responsibility for resolving housing discrimination or promoting integration.

In its reference to affordable housing, the AI briefly mentions litigation against the Town initiated by Housing Help Inc., a private nonprofit dedicated to helping minorities access affordable housing.¹⁷³ However, it fails to mention that the Town was found guilty of violating the FHA for race discrimination based on exclusionary zoning.¹⁷⁴ The Town of Huntington ("Town") was forced, by Court Order in 1981, to amend its zoning law to allow Housing Help Inc. to build affordable housing in an all white neighborhood. Prior to the suit the Town of Huntington had only allowed multi-family affordable housing

to be built in "racially impacted areas," which were defined as the disproportionately minority, low-income areas around Huntington's railroad station.¹⁷⁶

The Town's lethargic attitude to taking action to correct impediments to fair housing based on race discrimination was so overt that a review by HUD in 1997 found it necessary to authorize sanctions and/or coercive action against the Town. In 1998 HUD again stated it had "significant concerns" regarding fair housing in Huntington and, finally, in 1999 HUD notified the Town that it had referred a fair housing complaint to the Department of Justice based on the Town's lack of willingness to correct its discriminatory affordable housing policies.¹⁷⁸

However, the Town of Huntington has continued to reject applications for multi-family affordable housing in white areas. This is evidenced by a current action brought in 2004 against the Town of Huntington in the United States District Court Eastern District of New York by the Fair Housing in Huntington Committee, the Huntington Branch NAACP and several named plaintiffs.¹⁷⁷ The case again alleges fair discrimination on the part of the Town because of its refusal to build affordable multi-family homes.

Furthermore, the Town and the developer of the affluen 362-acre Greens project agreed to build affordable, multi-family housing in an area known as Roland Road in order to be permitted to complete the Greens development. As a result, the developer submitted a development proposal to the Town for multi-family affordable housing for the Roland Road site. On September 11, 2000, the proposal was revised to only include non-age restricted affordable one bedroom and studio rental apartment units and was approved on November 21, 2000, by the Town. The current lawsuit alleges that the Town knew that one-bedroom apartments were less likely to attract minorities, and therefore would keep the neighborhood predominantly white. The Plaintiffs allege that the Town willfully and intention-

ally discriminated against people of color by only approving the one bedroom and studio apartment development plan.¹⁷⁸

The Huntington AI willfully erases any mention of the litigation that preceded the 2000 AI Update, and seem to continue to impede the progression of integration, rather than encourage it. When put into the context, it is not surprising that the Huntington AI lacks a strategic action plan to further fair housing.

BAFFTON IMPEDIMENT REPORT 1996

Similarly, the Town of Babylon's AI shows a lack of genuine effort to report the true state of fair housing in the jurisdiction. Babylon states that since no complaints or orders have been charged by the HUD Secretary or suits filed by the Department of Justice, there is no problem with race discrimination in Babylon. This analysis is flawed on many levels. As previously discussed, DOJ rarely files fair housing actions, with only 35 filed in 2000 in the entire country. Babylon took no proactive investigative actions to detect if race discrimination in housing was occurring. Furthermore, as mentioned, just because someone does not file a complaint does not mean that race discrimination in housing is not occurring. The AI further lacks any discussion on segregated housing and, though it mentions testing conducted by LIES, the AI fails to discuss any positive or negative results from testing. Finally, the AI makes no effort to substantively discuss strategic plans to remove impediments to fair housing. As written, the Babylon AI omits any concrete information that could be used as a community development tool or plan for future housing to encourage integration.¹⁷⁹

NASSAU COUNTY CONSORTIUM ANALYSIS OF IMPEDIMENTS REPORT (OCTOBER 1996)

The Nassau County Consortium AI used information provided in the Nassau County Consolidated Strategy and Plan—these communities include the three

towns of Hempstead, North Hempstead, and Oyster Bay, the two cities of Long Beach and Glen Cove and the villages of Freeport, Hempstead, and Rockville Centre, and 20 smaller villages. The AI states, "... with the diversity of the county's population, housing discrimination in the sale, rental, lease, and financing of housing has become a problem for portions of the population."¹⁰⁰ Of the nine impediments listed, two directly related to fair housing enforcement: rental/sales discrimination and financial/mortgage lending assistance.

The AI finds that race discrimination in the sale and rental of housing exists in Nassau County and was found and reported by L.H.S. The AI states that based fair housing violation against African American and Hispanic households included: denial of leases; refusal to show apartments or homes by realty agents; and in some cases when a tenant is already in place, tenants are harassed by landlords, forcing them to move. Illegal evictions were also identified as a problem.¹⁰¹

The AI cited the following impediments to fair housing:

- **Lack of funds for government and non-for-profit agencies** – There are many government agencies and not-for-profits that provide important fair and affordable housing services. However, they must deal with small budgets and cannot keep up with the high demand for their services.¹⁰²
- **Discrimination** – Housing discrimination based on race, family size, and disability are the forms of discrimination mentioned in the report.¹⁰³ However, the AI is void of statistics or data addressing the number of complaints or incidents and the resolution. Lastly, Nassau suffers from NIMBYism like many municipalities. The idea of affordable housing is hard to sell to local residents and it arouses stiff opposition from them.¹⁰⁴
- **Unfair lending practices** – Many people of color in Nassau County have been victims of housing

discrimination and unfair lending practices. African Americans in Nassau County are 2.7 times more likely to be rejected for home mortgages. Latinos and African Americans make up 15% of Nassau County's population, but only receive 8% of the mortgages.¹⁰⁵ The Long Island Housing Services reports that providers have not been approving mortgages and insurance applications below \$150,000 and the report suspects this may constitute redlining.¹⁰⁶

The AI cites that "the portfolios of many of Long Island lenders do not reflect the diversity of the area's population, and Federal Fair Housing lending requirements are rarely met."¹⁰⁷

Recommendations for addressing fair housing impediments include education and outreach, as well as monitoring and investigation or testing of real estate practices and enforcement.¹⁰⁸

Additionally, the County states that it hopes to address fair housing impediments by education and outreach, paired testing, and more desegregated public housing.¹⁰⁹

Nassau County and its not-for-profit grantees conduct a number of outreach and educational programs that cover issues such as affordable housing, fair housing and home mortgage counseling, and technical assistance for community groups. The grantees include L.H.S and the Long Island Housing Partnership. L.H.S conducts paired testing to prove housing discrimination. According to the report, better education and outreach about affordable housing is important in order to counter NIMBYism.¹¹⁰

The AI concludes, "It is important that the County and Urban County Consortium members ensure adequate access to fair housing, implementing enforcement remedies, and carry out education and outreach to needy populations. This will involve an on-going commitment of resources by the County, local communities, and housing organizations."¹¹¹

Though Nassau's AI lists a number of fair housing violations and the community groups that are responsible for conducting testing, again it fails to provide a proactive, strategic plan to remove the impediments to fair housing. Interestingly, the AI lists lack of funding as one of the barriers to fair housing information and education. However, the Nassau AI does not mention that Nassau County is unable to access federal funds earmarked for fair housing enforcement purposes due to the Nassau County Human Rights Law failing to be substantially equivalent to the FHA. As a recommendation, if Nassau County brought its law into compliance with the FHA, it would be able to access funds to help with local fair housing enforcement and investigate NYSHRK complaints, which translates into more federal and state funding for fair housing enforcement in Nassau County.

Furthermore, the AI briefly discusses the need for desegregated public housing but does not offer strategic steps on how to achieve this goal. Again, the Nassau AI was not written in the substantive detail required to be a community development or planning tool.

SUFFOLK COUNTY CONSORTIUM FAIR HOUSING PLAN (1999)

The Suffolk County Consortium, organized by the Suffolk County Office of Community Development, is comprised of seventeen municipalities, with the towns of Babson, Huntington, and Isip not participating in the urban county CHDC Program. The Suffolk County Consortium's goal is to carry out "its housing and community development activities in a manner which affirmatively furthers fair housing."¹⁹⁷ The Fair Housing Plan ("Plan") is associated with the 2000-2004 Consolidated Plan to "affirmatively further fair housing" through three components:

1. the analysis of impediments of fair housing;
2. actions to eliminate the identified impediments; and
3. records to evaluate actions taken and their impact.¹⁹⁸

In developing the Plan, the Consortium solicited the involvement of government, nonprofit and community groups in a consultation meeting. Public participation was also solicited via public hearings.¹⁹⁹

Difficulty in monitoring discrimination and recognition of racially segregated neighborhoods as impediment to fair housing: The Suffolk County Consortium found that "though Federal and local laws and the efforts of the private sector have sought to eliminate discrimination, racial and ethnic discrimination still exist to the side, rental marketing and financing of housing. The extent of this discrimination is difficult to monitor."²⁰⁰ The Plan lists racially segregated neighborhoods as an impediment to fair housing with the major cause cited as discrimination, voluntary segregation by people of color to avoid unfamiliar neighborhoods, and the disparities of income between whites and people of color.²⁰¹

Lack of data problematic: The Plan notes that the Suffolk County Consortium Community Development Office reviewed a significant amount of data to conduct the analysis on impediments and found that "much of the data available regarding alleged housing discrimination was national and/or regional in scope."²⁰² It continues that the lack of available local data "makes it difficult to corner specific violations of the fair housing laws and to identify general offenders. It also creates a difficult condition when attempting to devise actions to eliminate or ameliorate impediments to fair housing."²⁰³

While most of the Plan calls for an increase in affordable housing and deals less with combating discrimination, the Community Housing Development Organizations ("CHDO") are cited as specifically addressing racial discrimination within the housing market through their work to "acquire, rehabilitate, and manage subsidized rental housing . . . [that] encourages the expansion of affordable housing choice and reduces the impact of racial steering and voluntary segregation."²⁰⁴ The report also states that

the Consortium funds LHB to provide outreach and fair housing counseling and funds housing counseling programs operated by the Hellport, Hagerman, East Patchogue Alliance, and the North York Housing Alliance.²⁹⁸

The Suffolk County AI, like the Nassau County AI, lists some of the impediments to fair housing, including segregated housing and lack of data related to local fair housing complaints. However, again, Suffolk does not lay out a strategic plan to overcome these obstacles. Furthermore, the AI erroneously states that housing segregation is a product of minorities preferring to live together and earning lower incomes, as discussed at some length above. Alarmingly, this excuse was found in at least two of the AIs to explain segregation in housing. The reasoning is easily undone when looked at in the historical context of Long Island zoning laws and developments.

The Suffolk County Human Rights Law suffer similar deficiencies as Nassau County's, as discussed previously. The Suffolk AI fails to mention the ineligibility of the SCHRL for fair housing, or the inability to receive federal funds to enforce fair housing due to the laws failing to be substantially equivalent to the provisions under FHA.

Once again, the Suffolk AI simply recites some of the impediments to fair housing but fails to contain the substantive content required to be a useful tool for planning future integrated development.

X. ANALYZING THE USE OF IMPEDIMENT REPORTS TO ASSESS LOCAL GOVERNMENT EFFORTS TO FURTHER FAIR HOUSING ON LONG ISLAND

Based on a review of the Analysis of Impediment reports and action plans of entitlement communities on Long Island (Albany, Huntington, Babylon, and the Nassau and Suffolk County Consortiums), TEACH Rachel found:

A dependence on fair housing complaint data as an indicator of racial discrimination. The Analysis of Impediment (AI) reports for Babylon and Islip rely solely on the number of complaints filed with fair housing advocacy or enforcement agencies to determine if discrimination is of primary concern in their jurisdiction. This differs from the more accurate assessment in the Suffolk County report that the issue of this discrimination is difficult to monitor. As mentioned earlier in assessing enforcement agency effectiveness, the number of complaints filed cannot be viewed as an accurate measure of racial discrimination in housing on Long Island.

An assumption that no activity means no discrimination. The AIs make the assumption that the lack of noted acts of racial discrimination, be it as a formal complaint (as previously mentioned) or a town (or) and task force or watch dog entry, equates to the lack of discrimination. Some AIs cite the inability to obtain a more complete picture of the issue, but do not specifically delineate actions to remedy the situation.

A need for more comprehensive fair housing enforcement data. The AIs from the town of Islip and Suffolk County cite the need for more localized and complete data, in a format that is easy to review and analyze, as necessary to ensure accurate assessments of fair housing issues. This would include complaints filed with the respective enforcement agencies as well as lending data.

Education and outreach as the primary means of addressing racial discrimination. Education and outreach are cited in the AIs as being effective ways to address racial discrimination in housing, whether targeting realty agents, landlords, or community members. However, the mechanisms for implementation are varied, such as an Islip Anti Bias Task Force sub-committee created to educate realty agents and the community on fair housing practices and to sponsor educational programs that teach tolerance, understanding, and diversity conflict

negotiation, and cooperative working relationships. The AIs provide no information or evidence of the effectiveness or measurable success of these educational outreach efforts.

Identification of fair housing enforcement, with no concrete action steps. While the AIs recite a need for fair housing enforcement, there is no discussion of the strategic action steps necessary to improve the current system.

Lack of an overarching vision/plan for addressing racial discrimination in housing. With the exception of the Suffolk AI, that states that the Consortium's goal is "to foster racial and social harmony while increasing the housing opportunities for those whose economic status, race, color, religion, sex, and handicap or national origin might serve to deny them," there is no overarching guiding concept within the other AIs.²⁷

XI. RECOMMENDATIONS FOR LOCAL GOVERNMENT UTILIZATION OF ANALYSIS OF IMPEDIMENT REPORTS FOR FAIR HOUSING, ENFORCEMENT, DEVELOPMENT AND INTEGRATION

1. Use AIs as a blue print for each municipality to develop a strategy to create integration and diminish fair housing violations.
2. Encourage HUD to clearly articulate the standards and measures for AIs to meet the prerequisites for the "Affirmatively Furthering Fair Housing" certificate needed to obtain a base of federal funds for affordable housing. HUD must insist through monitoring that jurisdictions strictly apply the measures and standards to community development. HUD must ensure that jurisdictions without AIs do not receive federal funding for projects via compliant jurisdictions. There have been cases reported of States filiating federal funds to non-compliant towns, villages and cities. If a jurisdiction

fails to adhere to an integrated building plan, penalties should be imposed by HUD or funding withheld.

3. Review of AIs by an official committee to be determined outside of the political structure. This committee should consist of local housing experts with superior knowledge of civil rights laws, local housing history, administrative policies, affordable housing, community development, and finance.
4. Collaborate and share best practices across municipalities as well as learn from model programs in other parts of the state and the nation.
5. Encourage HUD to include a mandatory section in the AI on gentrification and its effects on communities of color. Additionally, establish a non-partisan council to monitor gentrification on Long Island and the relationship between local government practices, initiatives, initiatives, and the building and realty community. The council's findings should be included in the AI or submitted to HUD in some forum.
6. Encourage municipalities to review their zoning laws and remove all exclusionary zoning policies. The Federal and State government should adopt a policy that restricts all forms of government funding to communities that enforce inclusionary policies or refuse to remove such laws from their books.

XII. REALTOR TESTING AS AN INDICATOR OF HOUSING DISCRIMINATION

In addition to housing compliance, realtor testing can serve as an indicator of residential discrimination. Realtor testing is used to identify housing discrimination by engaging two individuals, one from a protected class such as African Americans and one from a non-protected group. Each tester contacts the same realty agent regarding the same rental property or house for sale. A comparison is then made on how the realty

agent responded to each individual. The Supreme Court of the United States upheld the use of mailer testing as a valid and important form of evidence in hearing discrimination cases in *Havens Realty Corp. v. Coleman*, 678 U.S. 903, (1992). There are general categories that are useful in assessing the actions of realty agents, such as:²⁸

- **Availability** - Is the advertised unit/home available? Are similar units available? Are a number of units recommended?
- **Inspections** - Was the advertised unit/home available for inspection? Were similar units available for inspection? Were a number of units inspected?
- **Coin financing** - Was the rent advertised available? Were rental incentives offered? Was the security deposit the same? Was an application for response? Was help with house financing offered? Were lenders recommended? Was a down payment discussed?
- **Encouragement** - Was there follow-up contact from the agent? Was the individual asked to complete an application? Were arrangements made for the future viewing of the property? Was the individual told that s/he was qualified to rent?
- **Steering** - Were units/homes recommended? Were homes inspected? Did agents editorialize about the unit, home, and neighborhood?

REALTOR TESTING ON LONG ISLAND

Long Island Housing Services has used testing of real estate agents to prove housing discrimination on Long Island since the 1970s. In the past 5 years,

LIHS has conducted 512 tests, an average of 102.4 a year.²⁹ Two thirds of the complaints successfully filed through HUD (750 cases) in the past 10 years were supported by testing evidence from LIHS.³⁰

LIHS and the Association of Community Organizations for Reform Now (ACORN) both received recent grants from the Long Island Community Foundation to conduct realtor testing on Long Island. Both organizations came back with results that prove racial steering remains very prevalent on Long Island today. The findings support that racial segregation and isolation on Long Island are not the results of natural selection, free choice, economic factors or mere happenstance. The fair housing violations evidenced through the testing show that deliberate, purposeful discrimination occurs on Long Island almost daily and that the realty community feels no pressure to abide by the law.

ACORN REALTOR SITE TESTING SURVEY

METHODOLOGY

ACORN conducted its site testing survey of 16 realtors in Nassau County, Long Island in the summer and fall of 2004. ACORN testers made 164 visits to the realty

LOCAL GOVERNMENT ENTITIES ON LONG ISLAND FAIL TO SERIOUSLY ADDRESS RACIAL SEGREGATION AND WITH ALARMING FREQUENCY EXCUSE RACIAL ISOLATION BY PERPETUATING THE "MYTH" THAT AFRICAN AMERICANS CHOOSE TO LIVE IN SEGREGATED COMMUNITIES.

TABLE 28: LIHS TESTS CONDUCTED, 1997-2003

	1997	2000	2001	2002	2003	Total
LIHS days testing, Number of LIHS testers	36	24	67	44	35	206
Number of tests conducted	10	50	200	70	87	517

agencies, 85 by white testers and 79 by African American or Latino testers. Each tester was provided with training, instructions for their site visit, a structured reporting questionnaire, and an open-ended narrative to summarize the sequence of events at each visit. The factors used in the selection of agencies were: 1) whether agencies offered rental listings, and 2) whether the agencies were located in a predominantly white neighborhood.²⁶

Under ideal testing conditions, both pairs of testers should visit the same real estate office on the same day. Thirty-two pairs of testers went into the real estate offices on the same day; 23 of these offices tested positive for race discrimination. Twenty-five pairs of testers visited the same real estate office within eight days of each other. Ten of the African American and Latino testers experienced disparate treatment. The variables tested and results are represented in the chart below:

ACORN's major findings included:

- White testers were told that apartments were available 67% of the time, while African American and Latino testers were told that apartments were available in the area they were inquiring about only 53% of the time.
- White testers were invited to inspect apartments more than twice as often as African American and Latino testers.

- Approximately one third of African American and Latino testers were referred to a different, usually less affluent, neighborhood, while only 2% of white testers were referred to a different location.
- White testers were offered business cards approximately a third more often than African American and Latino testers.
- White testers were often treated more professionally and warmly than African American testers, receiving a disheartening two-tiered customer service system.²⁷

Examples of discriminatory treatment experienced by some of the testers:

- Realtor in Camden City immediately interviewed the white tester and told the tester about several apartments that were available. The same real estate agent informed the African American tester that no apartments were available for rent.²⁸
- A realtor told one of the African American testers that she "couldn't afford Camden City" and would have better luck in Franklin Square.
- A white tester and an African American tester with the same income were directed to different neighborhoods. Both walked in to the realty company to inquire about apartments. The African American tester was shown an apartment in the low-to-mid-range income range in the predominantly African

TABLE #9: ACORN TESTING RESULTS ²⁹

Variable	White Testers	African American & Latino Testers
Agents offered to show apartments	71%	35%
Total of available apartments	67%	53%
Offered business card	93%	56%
Met with agent	92%	60%
Winded longer than a couple of minutes	16%	35%
Referred to different area	2%	28%

American neighborhood of Elmside. The apartment was below her price range. The white tester was shown apartments in the affluent, predominantly white Garden City.²²⁸

The table below lists the location of the real estate agencies tested in ACCORN's survey from most to least sources of discrimination to least. The following criteria were used to tabulate the average disparity for African American and Latino testers in comparison to white testers: 1) percentage who were told of available apartments; 2) percentage who met with an agent; and 3) percentage who were invited to inspect an apartment. The disparity between the minority testers and the white testers for each variable was tabulated and then an average of all three was calculated to determine the overall average disparity for each real estate agency. Then the results for the real estate agencies located in the same geographical area were averaged to produce the results represented in the chart below.²²⁹

As a result of the findings, ACCORN filed lawsuits against four Long Island real estate companies in early January 2005.²³⁰ Prior to filing the lawsuits, New York State Comptroller Alan Hovav stated "ACCORN's study exposed the often ugly and clearly discriminatory treatment given to people who were simply looking for a decent place to live and a good school for their children. This discrimination is illegal and must be stopped. I will refer these findings to the NYSDFR for further investigation and urge the New York State Secretary of State to immediately revoke any license for a real estate agency or agent found to engage in any kind of discrimination."²³¹ The final outcome of the enforcement action by ACCORN and the

effect of Mr. Hovav's recommendations have yet to be determined.

LIHS REALTOR TESTING TELEPHONE SURVEY

METHODOLOGY

In comparison with the IRASEL/Karim study, LIHS conducted 17 paired realtor telephone visits between February and August, 2004 in Oyster Bay, North Hempstead and Smithtown. Twenty-seven of the paired tests were for inquiries about rentals and 10 of the paired tests were regarding homes for sale. Some additional tests took place; however, they were inconclusive and, as such, are not included in the data below.²³²

LIHS used 17 testers to complete the survey. Each tester went through a three and a-half hour training, role play and practice tests were conducted to ensure the quality of the tests. Testers were matched by age (within a 5-year range) and gender and assigned the similar familial characteristics, job and income. The African American testers were given a slightly higher income, but all testers had good credit. African American testers were screened by LIHS and selected based on consensus of assessment of voice characteristics as being racially identifiable. Some African American testers were also assigned names that would be readily associated with an African American individual.²³³

Real estate agencies were selected through rental and sales ads placed in *Newsday*, *Empire News*, *Yankee Travel Shopper's Guide* and on the internet. However,

TABLE # 10: LIHS TELEPHONE TEST RESULTS²³⁴

Area	Discrimination to Black	Discrimination to White
Oyster Bay	35.5%	100%
North Hempstead	46%	25%
Smithtown	20%	37%

the majority of the agencies were selected from ads in *Norwalk*. Testers filled out assignment forms and wrote a narrative report for each contact made. All names were deleted after the tests and, where tests were recorded, they were transcribed. African American testers usually called first, then were followed up by a white tester on the same day, or the very following day.²²

The samples used for the tests in Table #10 are as follows: 1) *Oyster Bay* – 9 paired rental tests at 7 agencies and 3 paired sales tests at 3 agencies; 2) *North Hempstead* – 11 paired rental tests at 8 agencies and 4 paired sales tests at 4 agencies; and 3) *Southaven* – 5 paired rental tests at 4 agencies and 3 paired sales tests.

LIIIS major findings included:

- White testers were told that dwellings were available 62% of the time, while African American testers were told that the dwellings they were inquiring about were available 46% of the time.
- White testers were invited to inspect the dwellings 28% of the time, while African American testers were offered viewing appointments 22% of the time.
- African Americans experienced 60% of the steering that occurred in the telephone survey and were advised about properties in less affluent communities, while white testers experienced 47% steering into predominantly white neighborhoods.
- African American testers experienced negative differential treatment in 41% of the phone tests.
- Realtors cancelled appointments made with African American testers for viewing properties 8% of the time, while not one white tester had a viewing appointment cancelled.
- Realtors gave African American testers differential information advertised 36% of the time, such as

higher rent than listed, while white testers never received different terms.

- White testers did not receive call backs from realtors 32% of the time, while African American testers did not receive call backs 51% of the time.²³

Examples of discriminatory treatment experienced by some of the testers:

- A realtor told the African American tester to meet him at the 7-Flasen parking lot before viewing the property, while the same realtor told the white tester to meet him at the property.
- A realtor told the African American tester that he must check with the owner regarding showing the property and that the agent was not available to show the property until 2:00 pm on Saturday. The realtor never called the African American tester back. On the same day the same realtor gave the white tester directions to the property for the open house from 11:00 am to 2:00 pm.
- Many of the African American testers were told that apartments or homes advertised were no longer available, while the white testers, who called after the African American tester, were told that the same apartments were available. In one case, the African American tester was told no apartments were available, while the white tester was told three of the apartments were available.²⁴

LIIIS has asked that the names of the real estate agents and real estate agencies that were tested remain confidential at the time of this report.

ANECDOTAL EXAMPLES

Anecdotally, individuals in the community have told IIRASD Racism compelling stories of housing discrimination that support these findings. Professor Deborah Best, a professor of law at Touro College

Jacob D. Pechberg Law Group, experienced discrimination in housing based on her race when she contacted a realtor in Huntington, New York. Prof. Post is an African American woman who was looking to relocate to Long Island from California for a potential position at Town Law Center. Prof. Post told the realtor she was interested in purchasing a home in Smithtown, a predominantly white area. Instead, the realtor showed her six homes in the Huntington Station area, which has a large African American population and was below her price range. Of the six houses the Huntington realtor showed Prof. Post, only one was in decent condition. The other houses were either in great need of repair or defective in some other way. Prof. Post then found out one of her colleagues was selling her home in the General's Subdivision, which is a predominantly white neighborhood. Prof. Post's realtor refused to show her the home and told her "you don't want that home." The home was later sold to a white home seeker.²¹⁰ Prof. Post did not file a fair housing complaint due to time restrictions.

Prof. Post gave up looking for a home until she moved to Long Island. She reports that she was able to purchase a home in a decent neighborhood through a new realtor whose son was her son's best friend. Prof. Post notes that her family is the only African American family in the community of shy homes and there is only one other family of color, who is East Indian. The neighborhood consists of mostly working class white families, with Prof. Post being one of the few professionals. Prof. Post believes that the only reason she was able to purchase a home in this predominantly white neighborhood is because she had a personal relationship with the realtor and the realtor was now selling homes on Long Island.²¹¹

Similarly, an African American graduate student, who wishes to remain anonymous, had difficulty finding housing in 2002. He went to a condominium complex in Suffolk County that consisted of mostly white working class people. He was with his father, who is an African American doctor. The rent at the

condominium was \$1200 a month. He and his father decided it would be a good place for him to reside during his graduate studies and offered to pay a year of rent in advance. The white manager told the graduate student that he should think about whether he really wants to live in this particular community. The graduate student said he did and his father offered to write a \$14,400 check right there. The white manager said he would call them back.²¹²

Later the manager called and told the graduate student, "You're not fit for this particular community" and further stated that the student had a 790 Boston Score credit score, which was not acceptable. A perfect Boston Score is 100, and it should not have been relevant since the manager had financial statements showing the student had three years worth of rent in his banking account and he was going to pay a year in advance. The student's father was told,

How often does a manager turn down a \$14,400 check for a year's rent in advance for a condominium rental in a working class neighborhood? The graduate student and his father deduced that the only reason he was turned down was based on race.²¹³ The graduate did not pursue fair housing remedies available to address the discrimination due to lack of representation in the community.

The Executive Director of Housing Help, Ms. Susan Lagoffe, states that her agency regularly receives reports of housing discrimination from its clients. Housing Help generates a list of apartments and houses that are available for rent on a weekly basis

MANY REALTORS ON LONG ISLAND UNABASHEDLY ENGAGE IN ILLEGAL HOUSING DISCRIMINATION AS A REGULAR PART OF BUSINESS. VIGOROUS ENFORCEMENT OF FAIR HOUSING LAWS WITH LARGE PENALTIES ATTACHED MUST BE PURSUED AGAINST OFFENDING REALTORS TO CURB THIS ILLEGAL AND RACIST BEHAVIOR.

and disseminates the information to clients who are trying to obtain housing. Ms. Lagyille estimates that the agency serves approximately 600 clients per year, with 50-60% of the clientele being African American. Almost all of these clients have reported hearing of incidents of race discrimination in housing and in fact, 150 African American clients report experiencing housing discrimination to the agency annually. Ms. Lagyille and the staff at Housing Help note individual victims of discrimination to LRE; however, many of the clients do not follow through because they need a roof over their head and they fear that any complaints will further impede the likelihood of obtaining housing. Ms. Lagyille reports that if the potential tenant is receiving housing assistance through government subsidies such as Section 8 or is on unemployment assistance, the discrimination faced is two-fold and especially difficult for African American clients.²²

XIII. ANALYZING THE USE OF REALTOR TESTING IN THE ENFORCEMENT OF FAIR HOUSING ON LONG ISLAND

Though realtor testing has occurred sporadically on Long Island, there has yet to be a systematic effort to conduct regular targeted testing. The majority of the testing was conducted by LRE, in response to complaints of housing discrimination by individuals. Under these circumstances, testing is part of the investigative process, in reaction to the complaint, rather than a proactive effort to prevent discrimination from occurring. Without regular testing, the Long Island realty community will not stop discriminatory and illegal housing practices. The testing by AUCNY and LRE evidences how prevalent the unlawful practices are on Long Island, and that many realty agents knowingly and unabashedly break the fair housing laws with little thought of the possible consequences. Long Island is in dire need of a regular, targeted testing program that carries through and tests the information for educational purposes as well as enforcement. Through education, the goal is to change people's minds and hearts, where that

idea, vigorous enforcement of fair housing laws can make housing discrimination an expensive business decision.

XIV. RECOMMENDATIONS FOR DETERING REALTOR DISCRIMINATION ON LONG ISLAND

1. The real estate industry and banking/financial institutions need racially integrated working staff. Real estate agencies should have a sufficient number of African Americans and realty agents of color working in predominantly white neighborhoods and vice versa. Similarly, more people of color should be encouraged to work in the predominantly white banking and financial institutions/branches that provide home loans and mortgages throughout all communities. Visibility of people of color and representation is essential to breaking down the institutional racism that is entrenched in the predominantly white real estate banking, lending and mortgage industry.
2. Increase monitoring and evaluation mechanisms, such as realtor testing, to investigate the extent and types of housing discrimination on Long Island. Testing must be followed up with enforcement actions and the results should be made public. Ideally press coverage revealing perpetrators of fair housing violations should be encouraged.
3. Strengthen penalties for realtors who discriminate to include suspension and loss of real estate licenses. The monetary penalties through the courts and administrative enforcement systems should be increased to make realtor discrimination a cost prohibitive business practice.
4. Improve and increase realty agent education which should be national specifically to make realty agents aware of the consequences of housing discrimination on a societal level.

XVI. CLOSING COMMENTS

Perverse structural and institutional factors, spanning centuries, remains omnipresent on Long Island. From the racially restrictive housing covenants of the past to the exclusionary zoning and linkage government fair housing enforcement of today, government practices and policies leave the indelible mark of inequality on Long Island communities. The opportunity gap is further widened by unabashed racial steering by local realty agents. For fair housing to exist on Long Island, the public and private sectors must purge institutional racism from the mechanisms used to access societal benefits. This requires an unwavering commitment to the implementation of racially equitable business practices, government policies and effective fair housing enforcement systems.

ERASE Racism hopes that the recommendations in this study will be used as a starting point to work towards honest, open and effective fair housing enforcement and integration. The American Dream should be accessible to all residents of Long Island. Every resident should have equal access to housing and an equal opportunity to build equity through homeownership without race being a factor. Integrated communities create a thriving society.

MANY AFRICAN AMERICAN RESIDENTS ON LONG ISLAND SEE REPORTING INCIDENTS OF HOUSING DISCRIMINATION AS A TIME-CONSUMING EXERCISE IN FUTILITY SINCE COMPLAINTS RARELY ARE ADEQUATELY ADDRESSED. THIS PERCEPTION IS CONFIRMED BY ERASE RACISM'S INVESTIGATION INTO THE FAIR HOUSING ENFORCEMENT SYSTEM.

APPENDIX

1. Consolidated List of All Recommendations
2. Options to Address Housing Discrimination
3. HUD/NYSOHR & Litigation Remedies
4. About ERASE Racism

1. CONSOLIDATED LIST OF RECOMMENDATIONS

ERASE Racism will actively seek opportunities to advocate and promote the recommendations, monitor fair housing on Long Island through creating fair housing “report cards” for local governments and enforcement agencies, and promote educational opportunities for fair housing and integrated housing.

1. Fix Long Island’s fair housing enforcement system by developing and implementing a proactive roadmap that includes Enforcement Agencies and Complaints. There have been several Memoranda of Understanding (MOUs) over the past 5 years with those core agencies responsible for fair housing enforcement. This was done in an attempt to streamline the collection of information and investigation of claims by reducing the number of agencies directly responsible for fair housing investigations and enforcement on Long Island to the federal and state level, i.e., HUD and the NYSDHRC. Despite these new arrangements, there is still considerable red tape and system-wide inefficiencies and inconsistencies that need to be addressed. In reality, these MOUs have allowed for blame-shifting among agencies, leaving no one ultimately accountable for lost or mishandled complaints. The burden has been increasingly placed on the victims of housing discrimination to ensure that their own complaints are filed properly and proceed through the system in a timely manner.

2. Remedy the disproportionate focus on individual complaints as a means of addressing racial discrimination in housing and proactively pursue housing discrimination via investigative practices, such as testing.

3. Develop shared standards among enforcement agencies managing housing complaints. This would include using the same forms and language for collecting and tracking victim and defendant information, as well as new collaboration in areas such as the appropriate number of days for case aging, determination of case acceptances, and reasonable cause. This would also include such requirements as regional management of NYSDHRC cases from Long Island.

4. Develop a centralized fair housing clearing house for Long Island data so that housing discrimination on Long Island can be properly and accurately assessed and evaluated. It is essential that complete, accurate data be available so as to obtain the depth of information necessary to form a solid foundation for analyzing trends, effectiveness of current fair housing enforcement, and making strategic recommendations for changes to policy and practice. The data base must be able to break out information based on protected class such as race. The data base should track and tabulate not only administrative complaints but also litigation requests for fair housing information, education outreach conducted, informal complaints, and where a victim reports an incident of discrimination to an agency but decides not to file an administrative complaint. The data base also must track the number of incidents of discrimination rather than HUD’s and NYSDHRC’s current systems of only tracking the number of legal actions. HUD’s and NYSDHRC’s system inflates the amount of discrimination reported by counting each person involved in an incident as a separate action rather than counting the action as part of one incident. The system should be able to tabulate both methods of counting complaints.

5. Assign unified case numbers when more than one agency is involved in the same case. While HUD assigns one case number to each case, HUD and NYSDHRC may assign several case numbers to the same case based on the number of victims and defendants involved.

6. **Implement a targeted Racial Discrimination in Housing Campaign** that has specific outcomes and measures of success. This campaign would join the disparate work of agencies in various towns and communities. It would specifically target those who are most inclined to engage in discriminatory behavior – streaming penalties and publicity.

7. **Encourage the Department of Justice and the New York State Office of the Attorney General to file more fair housing cases on behalf of victims of discrimination.** These two offices are the highest civil law office in the federal and state governments. They carry a higher level of authority than the other enforcement agencies, which permits them to more effectively monitor and ensure enforcement of settlement agreements and injunctive relief.

8. **Fund federal, state and local governments to realistically meet the staff and resource requirements to effectively further fair housing goals and migration on Long Island.**

9. **Stabilize funding for private fair housing agencies like LIHS.**

10. **Amend fair housing laws to allow for greater penalties at the State and Federal levels.**

11. **Encourage the New York State Office of the Attorney General to represent pattern & practice fair housing actions in state court and the Department of Justice to do likewise in federal court.**

12. **Increase award amounts to victims of discrimination in the conciliation process and have an external review council to ensure that Administrative Law Judges are awarding equitable remedies.**

13. **Reform the Advisory Committee that oversees NYSDHR to be comprised of professional individuals with substantial expertise in civil rights, law, and public policy.** The Committee must be able to render

binding decisions, recommendations, and plans of action to reform problems within NYSDHR.

14. **Identify specific individuals at HUD and NYSDHR who are accountable for fair housing enforcement.**

15. **Require regional management of NYSDHR cases from Long Island.** While many of the housing discrimination cases from Long Island are investigated and managed on Long Island or in the Bronx headquarters of NYSDHR, at times those offices report a lack of the human resource capacity needed to manage all Long Island cases. Thus, some Long Island cases are managed by other regional offices around the state. This process not only complicates the investigation by having long distance investigation of region-specific complaints but also makes the tracking of Long Island cases very challenging for victims, LIHS and other interested parties.

16. **Decrease the time for cases to move through the system, without compromising the integrity of the investigation and the thoroughness of the analyses, as well as appropriately addressing the allegations of housing discrimination.** Currently, both HUD and NYSDHR have come under sharp criticism for expediting cases by failing to conduct proper investigations and applying shoddy legal analyses with the goal of closing cases to satisfy number quotas. HUD and NYSDHR need to refocus on their goal of eliminating and effectively addressing housing discrimination.

17. **Streamline the HUD forms.** The National Fair Housing Alliance (NFHA) has recently advocated that HUD streamline its system of collecting information from victims. Currently, victims must complete two forms in order to have their complaints processed. NFHA has recently requested HUD to eliminate the use of HUD Form 903.1 and solely use HUD Form 903.

18. Amend Suffolk and Nassau county laws to mirror the FHA's level of protection, allowing the counties the possibility of entering into MOUs with the NYCOHR and HUD, in addition to the ability to access federal and state funding for fair housing enforcement and investigations.

19. Amend Suffolk County Human Rights Law to explicitly state that an individual has a private right of action to bring a civil action to county court for fair housing violations under county law.

20. Suffolk County must amend Human Rights Law to: 1) include a functional procedural process for bringing a fair housing complaint; 2) remove the possibility of imprisonment as a penalty for fair housing violations; and 3) explicitly state the statute of limitations for bringing an action under county law.

21. Use AIs as a blue print for each municipality in developing a strategy to create integration, eliminate fair housing violations, examine the pervasiveness of exclusionary zoning and encourage inclusionary zoning.

22. Encourage HUD to clearly articulate the standards and measures for AIs to meet the prerequisites for the "Affirmatively Furthering Fair Housing" certification needed to obtain a host of federal funds for affordable housing. HUD must insist through monitoring that jurisdictions strictly apply the measures and standards to community development. HUD must ensure that jurisdictions without AIs do not receive federal funding for projects via compliance jurisdictions. There have been cases reported of States filtering federal funds to non-compliant towns, villages and cities. If a jurisdiction fails to adhere to an integrated building plan, penalties should be imposed by HUD or funding revoked.

23. Review of AIs by an official committee to be determined outside of the political structure. This committee should consist of local housing experts with superior knowledge of civil rights laws, local housing history, administrative policies, affordable housing, community development, and finance.

24. Collaborate and share best practices across townships as well as learn from model programs in other parts of the state and the nation.

25. Encourage HUD to include a mandatory section in the AI on gentrification and its effects on the communities of color. Additionally, establish a non-partisan council to monitor gentrification on Long Island and the relationship between local government practices, finances, increases and the building and realty community. The council's findings should be included in the AI or submitted to HUD in some form.

26. The real estate industry and banking/financial institutions need racially integrated working staff. Real estate agencies should have a sufficient number of African Americans and realty agents of color working in predominantly white neighborhoods and vice versa. Similarly, more people of color should be encouraged to work in the predominantly white banking and financial institutions/branches that provide home loans and mortgages throughout all communities. Visibility of people of color and representation is essential to breaking down the institutional racism that is entrenched in the predominantly white real estate, banking, lending and mortgage industry.

27. Increase monitoring and evaluation mechanisms, such as realty testing to investigate the extent and types of housing discrimination on Long Island. Testing must be followed up with enforcement actions and the results should be made public. Publicly press coverage revealing perpetrators of fair housing violations should be encouraged.

28. Strengthen penalties for realtors who discriminate to include suspension and loss of real estate licenses. The monetary penalties through the court and administrative enforcement systems should be increased to make realty discrimination a less profitable business practice.

24. Improve and increase realty agent education which should be tailored specifically to make realty agents aware of the consequences of housing discrimination on a societal level.

2. OPTIONS TO ADDRESS HOUSING DISCRIMINATION

A victim of housing discrimination has a number of options. The individual has the option of either: 1) taking the administrative route by filing a complaint with HUD or NYSIDHR, or 2) finding a lawyer and filing a lawsuit directly in Federal or State court. The individual can file a complaint with HUD or NYSIDHR with or without the assistance of an advocate. The individual must decide whether to seek out the help of a fair housing advocate or lawyer.

The administrative route is at no cost to the victim of housing discrimination and in rare cases HUD or DOJ, at HUD's request, will represent the individual at no cost in Federal court if the discrimination is particularly egregious. The advantage of the administrative complaint system is that there are many opportunities for individuals to resolve the dispute without litigation, which is often protracted, invasive and expensive. Both agencies are mandated to conduct investigations into the discrimination at no cost to the victim. An individual can file a complaint with HUD or NYSIDHR and later choose to abandon the process and file a case in court so long as there has not been an administrative hearing in front of an ADJ or a hearing in front of an examiner (NYS IDL §97.6).

TABLE #11: AMOUNT RECEIVED FROM ADMINISTRATIVE CASES FILED THROUGH LHS, 1999-2003

Year	Number of Cases Filed	Total Amount Received
1999	14	\$76,500
2000	16	\$141,700
2001	6	\$7,425
2002	8	0
2003	21	\$100,000
Totals	65	\$265,625

It should be noted that finding an attorney willing to take a fair housing case can be difficult. Most clients will need to seek an attorney willing to work "pro-bono" (for free), or on a contingency basis, meaning that the attorney will collect a portion of the amount awarded to the victim of discrimination if the case succeeds in court. If the case loses, then the attorney does not get paid. For this reason, most civil rights attorneys only take cases they know they can win. Fair housing cases are usually very expensive and most people cannot afford an hourly rate unless they are very wealthy.

Statute of Limitations: An individual has one year from the date of the discrimination to file a complaint with HUD or NYSIDHR. Otherwise there is a 2-year statute of limitations to file a complaint of housing discrimination under the NYSIDRL to file in New York State court and a 2-year statute of limitations under the FHA to file in Federal District Court. If the housing discrimination occurred more than a year ago and the individual has not filed a complaint with HUD, NYSIDHR, the issues can no longer be addressed through the administrative complaint process.²⁴

ADMINISTRATIVE COMPLAINTS PROCESS GENERALLY:

Step 1—File a Complaint with HUD/NYS/DHR: The complainant should ideally complete and supply: 1) a list of the names, titles, addresses and phone numbers of all individuals who discriminated against the individual; 2) a list of all witnesses to the discrimination, including their phone numbers and addresses; 3) any documentation or evidence that the discrimination occurred; and 4) a detailed, written narrative account of all events relative to the discrimination.

Step 2—Investigative Procedure: HUD/NYS/DHR will investigate: 1) determine jurisdiction; 2) notify respondent of allegation of discrimination; 3) dual file with HUD at complainant's request if originally filed with NYS/DHR; and 4) use written inquiry, field investigation and telephone conference methods to collect evidence. The agency will attempt to settle the matter through conciliation. If conciliation fails, then the agency will determine whether there is probable/ reasonable cause and will notify both complainant and respondent in writing.

Step 3a—No Probable Cause Found: Following investigation, if NYS/DHR finds no probable cause, then the complainant has 60 days to file an appeal to the State Supreme Court. If HUD finds no probable cause, then complainant can proceed to Federal District Court within the 2-year statute of limitations.²⁵

Step 3b—Probable Cause Found: If probable cause is found, the original office attempts conciliation by: 1) preparing proposed terms of conciliation; 2) then offering the terms to the respondent and, if the respondent accepts, the agency submits the agreement to the victim – NYS/DHR allows the victim 15 days to accept or object to the proposed terms of the conciliation; and 3) if conciliation fails, the case is recommended to public hearing.

Step 4—Public Hearing: NYS/DHR's administrative hearing process is substantially similar to HUD's: 1) an agency attorney will represent the victim of discrimination or an individual can seek outside counsel; 2) both sides receive a notice of hearing at least one week in advance and the date of the hearing will only be changed for good cause; 3) the hearing can last more than one day and may not be held on consecutive days by the ALJ; 4) a Proposed Order is prepared by the ALJ and is sent to both parties upon request for comment; 5) the Commissioner's Order (NYS/DHR) or Secretary's Order (HUD) either dismisses the complaint or finds discrimination; 6) if discrimination is found, the Order can force the respondent to cease the discriminatory actions and impose injunctive and monetary relief; and 7) the Order may be appealed within 60 days of its issue to the State Supreme Court (NYS/DHR) or United States Court of Appeals (HUD).²⁶

As illustrated above, filing a complaint can be a lengthy process and involves a series of steps. There are a number of possible outcomes throughout the process and many chances for parties to make a conciliatory agreement or settlement. Complainants may receive monetary and/or non-monetary awards. Non-monetary benefits can include restoration of housing denied, renewed lease terms, and obtaining reasonable accommodations for persons with disabilities.

3. HUD/NYS/DHR & LITIGATION REMEDIES

The awards given by Administrative Law Judges ("ALJ") are often lower than those awarded in court. Tables 12 & 13 below illustrate this point. LIIF found that its clients who pursued litigation successfully between 1999 and 2010 received an average of \$66,250, while clients who pursued the administrative process received an average award of \$6,674.24.²⁷

Claim fair hearing attorneys prefer that victims of discrimination file an administrative complaint before the attorney will file in court. This allows the victim

TABLE #12: AMOUNT RECOVERED IN LAWSUITS SETTLED THROUGH LHS, 1999-2003

Year	Number of Lawsuits Filed	Total Amount Recovered	Number of PHS Lawsuits Pending as of 12/31/04
1999	1	\$116,000	1
2000	0	NA	NA
2001	1	—	1
2002	2	\$29,000	2
2003	0	NA	NA
Total	4	\$145,000	4

and thereby the benefit of the preliminary investigation by the agency at no cost and the possibility of settling the case without incurring the expense of litigation.

4. ABOUT ERASE RACISM

ERASE Racism develops and promotes policies and initiatives to end the perpetuation of institutional and structural racism in economic and social arenas such as public school education, housing, health care and economic development.

ERASE Racism's mission is to undo institutional racism – the structures, policies and behaviors that create segregation and inequality in every aspect of daily living.

Why Institutional Racism?

As a nation, we have begun to address many forms of racism, including officially and unofficially sanctioned racism and even personal prejudice. However, we have failed to take on racial hierarchy and racial disparities that are perpetuated by policies, practices and structures of public and private institutions.

Because of our failure to address institutional racism, African Americans and many other people of color do not enjoy the same advantages that white people receive in housing, education, the job market, health care and almost every other aspect of day-to-day living. By addressing institutional racism, we begin to undo the infrastructures that are the bedrock to the very heart of racial inequality and disparity.

Our Focus

ERASE Racism operates as a resource and networking hub for nonprofits, businesses, health care organizations, educational institutions, local governments and philanthropic organizations. We develop and implement problem-solving activities and strategic, coordinated actions that undo institutional racism.

ERASE Racism initiates public discourse with regional leaders to increase awareness and develop strategies that address disparities and inequities for different racial groups. We shine a spotlight on the history and perpetuation of institutional racism in order to help organizations recognize and reverse

institutional racism within their own institutions and the community at large.

Our Core Strategies

ERASE Racism engages in the following strategies to address racial disparities:

- conducting research and creating policy papers to educate the public and decision makers;
- developing collaborative projects to affect change;
- organizing conferences and forums;
- conducting cultural competency assessments;
- sponsoring speaking tours, meetings, and
- providing technical assistance.

OUR ACCOMPLISHMENTS IN 2004

Education

- *Brown V. The Board of Education: The Unfinished Agenda*

ERASE Racism sponsored a conference that brought together 15 Long Island universities and colleges, over 600 participants, representatives of 26 school districts, and five local elected officials.

- Published a monograph containing briefing papers that analyze options for addressing public school education inequities and segregation.

Housing

- Conducted a study of fair housing enforcement practices and an analysis of the state of fair housing on Long Island that incorporates paired testing results. This Fair Housing Report, summarizing our findings and recommendations for change is published here with in early 2005.
- Developed strategies to address (a) racial steering by real estate agents, (b) inadequate enforcement policies and practices of local, state and federal enforcement agencies, and (c) the lack of proactive coordinated strategies to halt discrimination and reverse segregation.

Health Care

- Developed and distributed a cultural competency self-assessment tool to the health care organizations participating in the Nassau Partnership for Healthy Communities to aid providers with efforts to increase their capacity to deliver quality services and improve access to care for all, regardless of racial, cultural or linguistic characteristics of patients.
- Analyzed responses and developed a series of recommendations to advance institutional systems, which improve cultural competency.
- Co-facilitated a "Race, Culture and Healthcare" seminar for Stony Brook University Medical School students on the importance of cultural competency in health care.

Outreach

- Provided information and materials about ERASE Racism's vital work regionally and nationally to an array of organizations in other areas of the country. Additionally we have been quoted in numerous articles about racism and discrimination, including *The New York Times*, and participated in a two-hour television program focused on segregation in Long Island public schools.
- Organized an event entitled *Strategic Responses to Racial Disparities and Inequities on Long Island Affecting African American Communities*. This event was co-sponsored by the Long Island Community Foundation.

Training/Consultation

- Sponsored a two-day training session on undoing racism conducted by nationally recognized trainers from Cultural Bridges. Thirty-one Long Island educators and activists attended. There is a waiting list for future trainings.
- Conducted several film forums/discussions related to institutional racism.
- Served as an adviser to the Center for Assessment and Policy Development (CAPD), one of four organizations selected nationally to assist in designing an Internet-based Evaluation Tool-Kit to help organi-

zations self-assess progress towards anti-racism and inclusion goals.

- Conducted programs on institutional racism for out-of-state community foundations.

Our Services

ERASE Racism is your first resource for undoing institutional racism and for building your organization's anti-racism agenda. We can assist you by:

- Conducting organizational assessments that include quantitative surveys, qualitative interviews and recommendations specific to your organization's need and structure.
- Developing and conducting large and small training activities and educational forums that have been designed to undo institutional racism.
- Recommending ways to integrate undoing racism goals into your organization's program development, strategic planning, organizational assessment and training.
- Conducting research on the impact of institutional racism on your field of interest.
- Facilitating a response to organizational and community concerns about racial issues.
- Developing publications and other communications materials on institutional and structural racism.

For more information about our program successes, ongoing projects and future projects, please visit our website: www.eraseracism.org, or contact us at (516) 923-4863.

ERASE RACISM BOARD OF DIRECTORS

Y. Blaine Cline

President, ERASE Racism

Dr. Adarius E. Jordan

*Chair, Associate Dean of Student Affairs,
SUNY Brooklyn University School of Medicine*

Dr. Marsha Darling

*Deans, Director, Center for
African American Studies, Adelphi University*

Frederick K. Dowdington

Asst. Treasurer, Law Offices of Frederick K. Dowdington

Suzy D. Sorenberg

*Secretary, Executive Director, Long Island
Community Foundation*

Marge Royce

Asst. Secretary, President, Community Advocates, Inc.

Valerie M. Carrigho

*Director, Attorney at Law, L'Abbate, Balkin, Columbia
and Conroy, L.L.P.*

Howard Dickson

*Director, Former Dean of Tufts College,
Jacob D. Fuchsberg Law Center*

Jane Kereses

*Director, Senior Vice President, Community Health &
Public Policy, North Shore Long Island Jewish Health
System Foundation*

David E. McClean

Director, Principal, David E. McClean & Associates

Edward J. Prutz

Director, President, Hempnaze Industrial Association

Christina Virgin-Low

*Director, Director, Office of Diversity &
Affirmative Action, SUNY Brooklyn University*

Heer Visconti

*Director, Associate Director,
Five Towns Community Center*

Abraham Krasnoff

Director Emeritus, Retired CEO of the Hill Corporation

** Organizational affiliations are listed for informational purposes only.*

ENDNOTES

1. Questions regarding the methodology used by other organizations for analyzing data or conducting surveys should be directed at the specific organization used in the study by PNAS or Nature.

2. "Opportunity gap" means the difference in income, education, employment, wealth creation, health care, and economic development between white and African American populations. The opportunity gap is caused by obstacles faced by the African American community that do not exist for its white population, for example, the same access to loans and income taxes.

3. Maria Kopyeva, *The Revlonated Progress of Atlanta 2.0 (They Explain Economic Segregation)*, *Social Issues Today*, Vol. 3 (March, 2021), pp. 62-64.

4. Prof. John Logan, *Renters and Owners: Sources of Neighborhood Inequality*, (available at <http://www.sas.columbia.edu/~jgl10/>) (a) his public speech titled *Opportunities, Obstacles, and the Future* (recorded February 21, 2021), and (b) also *Low-Income Mortality: Current and Comparative Urban and Regional Research*, *Urban Opportunity Census, Neighborhood Inequality*, *Log*, (dated 10 November 18, 2021), pp. 1-7.

5. John Powell, Institute on Race and Poverty, *Racism and the Opportunity Divide on Long Island* (working paper prepared for PNAS) (Nature, 2022), pp. 1 (using Institute on Race and Poverty, *Racism and Atmospheric Dynamics: The Civil Rights Challenge of the 21st Century* (working paper prepared for the Ford Foundation, 2020) pp. 4-10; see also *Shelby v. Holder*, 545 U.S. 116 (2005)).

6. Prof. John Logan, *Renters and Owners: Sources of Neighborhood Inequality*, (available at <http://www.sas.columbia.edu/~jgl10/>) (a) his public speech titled *Opportunities, Obstacles, and the Future* (recorded February 21, 2021), and (b) also *Low-Income Mortality: Current and Comparative Urban and Regional Research*, *Urban Opportunity Census, Neighborhood Inequality*, *Log*, (dated 10 November 18, 2021), pp. 2-3.

7. John Powell, Institute on Race and Poverty, *Racism and the Opportunity Divide on Long Island* (working paper prepared for PNAS) (Nature, 2022), pp. 11 (using Low-Income Mortality: Current and Comparative Urban and Regional Research, *Urban Opportunity Census, Neighborhood Inequality*, *Log*, (dated 10 November 18, 2021); Low-Income Mortality: Current and Comparative Urban and Regional Research, *The New Urban Patterns in America's Suburbs* (July 9, 2020)).

8. Dr. Richard Kauder, *History of Racial, Ethnic and Class Segregation on Long Island*, pp. 2.

9. See <http://www.liscommunityfoundation.org/>

10. Molly McCarty, *Gender Injustice: Hurt by Blacks, Hurt the Greatest*, *Age*, Newsday (available at <http://www.history.com/news/gender-inequality/sexism-against-blacks>), accessed August 29, 2022.

11. *Ibid.*

12. John Powell, Institute on Race and Poverty, *Racism and the Opportunity Divide on Long Island* (working paper prepared for PNAS)

(Nature, 2022), pp. 1 (using Institute on Race and Poverty, *Racism and Atmospheric Dynamics: The Civil Rights Challenge of the 21st Century* (working paper prepared for the Ford Foundation, 2020) pp. 4-10).

13. *Ibid.*

14. The Honorable John C. Stennis, Mayor, City of Anderson, South Carolina, Remarks as Case of the Case The Urban Struggle: Real or Imagined (Washington, DC), June 2, 1960 (copy of transcript on file with the Working Institute).

15. Institute on Race and Poverty, *Racism and the Opportunity Divide on Long Island*, p. 2. (The practice of redlining to force flight under the Federal Fair Housing Act of 1968).

16. *Ibid.*

17. *Ibid.*

18. *Ibid.* (voluntary zoning in the presence of municipalities using restrictive and zoning laws to prevent certain groups of individuals from living in an area. It is called a community used "tool" to prevent the construction of affordable housing and housing desirable to African Americans through the establishment of minimum zoning requirements. Restrictive covenants are contracts that were written into deeds that explicitly prohibited the home buyer from ever selling the home to an African American individual. Racially restrictive covenants were declared unconstitutional by the Supreme Court in 1948. See *Shelby v. Holder*, 545 U.S. 116 (2005)).

19. Leadership Conference on Civil Rights, *Building Healthy Communities, Community Achievement Act and the Federal Student Loan Program, Leadership Conference on Civil Rights, Building Communities* (Education Fund), pp. 16 (available at www.civilrights.org/publications/communities_reporters_report_chapter.pdf).

20. Mervyn Dymally, Remarks as Case of the Case The Urban Struggle: Real or Imagined.

21. Michael H. Schiff and Susan M. Wachter, "The Sprawl Issue of Inland Housing Law and Policy: Commercial Property in Urban America," 145 *Urban L. Review* 101 (1992) (citing David H. Gold, *The Politics of American Cities: Urban Power and Public Policy* 281 (1979) (citing *PLN Engineering Manuals*); see also PNAS (Nature, 2022) (Board of Education, *The Debarred Agenda* (March, 2004) (available at <http://www.dream.k12.ny.us>), pp. 14).

22. Dr. Richard Kauder, *History of Racial, Ethnic and Class Segregation on Long Island*, p. 2 (citing Richard Kauder, 1961 *Redlining: A Typical Profile in a Black Suburb*, Queens College, 1970), 24. *Ibid.*

23. US Census 2000 for Louisiana (available at <http://www.census.gov/hhes/www/housing/cen2000/pdfs/c2kbr01-001.pdf>), and <http://www.census.gov/hhes/www/housing/cen2000/pdfs/c2kbr01-002.pdf>.

24. David Cook, *Homeowners: Long Island's 'Gold Mine' May Not Be One: Challenging Urban Sprawl & Suburban Segregation*, *Long Island, NY*, June 1, 2003 (copy on file with PNAS) (citing *Urban Opportunity Census* 2020).

25. Redlining is when a trader approaches white homeowners

and indicates that the demand for their homes is often to place them in the neighborhood in which he became predominantly African American. This suggests a particular role of the homes by the White bourgeoisie in the market as a racialized price. The value of these homes is raised and sold the homes for a large profit to African American home buyers.

38. Andrew Wiese, *Racial Churning in the Suburbs: Suburban Commuters, Urban Renewal, and Segregation in Long Island, New York, 1940-1960* in *Colored Peoples: Race Politics and Intersections in Suburban Connecticut Press, 1992*.

39. *Ibid.*

40. John Powell, *Racism and the Openness Paradox in Long Island*, pp. 4.

41. *Ibid.* at pp. 4.

42. David Rusk, *Good-Covered Middle-Class: Writing Geography for Money* (Urbain Renewal) (University of Illinois Press, 1998), pp. 4.

43. Long Island's population is approximately 6.5M. African American, however, 9% of African American residents live in only 20% of Long Island's communities, with just 10% of the communities on Long Island having an African American residence at all. We think of Long Island's cities, towns and villages have a population that ranges from 10K to 1M. African American residents. *Openness and Change in NYC: A Town School Tangles with Openness* 2012, Washington Post, April 27, 2012.

44. Affirmative Housing Commission, *Report of the Hispanic Affairs and Housing Committee Addressing Our Nation's Housing Challenges*, (May 30, 2010) pp. 23.

45. *Ibid.*

46. *Ibid.*

47. *Ibid.*

48. HOUSING FACTS, *Openness: Issues of Education: The Unfinished Agenda: Monograph* prepared by HOUSING FACTS, (available at HOUSING FACTS website, HOUSING FACTS annual) (March 2000) pp.12.

49. *Ibid.*

50. *Ibid.*

51. Cary Adelman, *REAL LIFE: Affirmative Action for White City Homeless and Racism* (San Francisco Chronicle), June 29, 2001 (available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2001/06/29/AD150930001.DTL>).

52. Maurice P. Mincze, *Openness: American and City Segregation and Suburban Education*, 44 *UCLA L. REV.* 1175-204 (1996).

53. *Ibid.* at 1201.

54. US-CITY PLAN BUREAU, *Housing Markets and Home Ownership Annual Database*, (2000) (available at <http://www.uscityplanning.com/html/home01.html>).

55. M. X. HUI, *The Color Divide: An Analysis of Racial and Economic Segregation in Home Purchase Intensity, Family Wealth, and in the Metropolitan Area*, (NCCRE) October 2005, pp. 11.

56. Brown University, *Spacial Segregation in Social Networks: Abstract Communications*, (Project, Metropolitan Racial and Ethnic Change

- Census 2000 (available at <http://www.census.gov/c2k00/data/hispanic/ah14.html>).

57. John Powell, *Immigrant on Race & Housing, Racism and the Openness Paradox in Long Island*, pp. 7.

58. *Breaking Boundaries: More Homes* (available at http://breakingboundaries.com/press/books/Report_AmericanHomeBuilders.pdf) (retrieved Jan. 20, 2010) pp.11.

59. *Ibid.* at pp. 11, 15.

60. John Powell, *Immigrant on Race & Housing, Racism and the Openness Paradox in Long Island*, pp. 6 (citing Rodney Ross and Elizabeth Taylor, *Racial Relations: How do suburbs fit in?* (Harcourt Books, 2002), pp. 140-41).

61. *Ibid.*

62. David Rusk, *The "Openness Gap": The Case of Racial Segregation in Black Homeownership*, prepared for the Breaking Boundaries, Center on Urban & Metropolitan Policy survey Series (October 2011)(available at the breaking boundaries, Washington, D.C.) pp.2. The annual calculation requires comparing mean home sales and mean house hold income from a standardized measure. For a detailed discussion on segregation see please refer to the last annotated source.

63. *Ibid.* at pp. 12.

64. *Columbus: Solde a' Ciudad*, (pp. 13) (Nueva York, NY: UNICEF, September 2000) (March 29, 2008).

65. New York Child Services (NYS), *NYCS11: In the Case, Columbus a' Solde*, (available at http://www.nyc.gov/html/csls/html/guides/guide_jan_01_2008).

66. *Ibid.*

67. Jane Freeman, Kelly J. Lee, Tracy Anderson & Miel, *Living By the Rules: An Assessment Report to Nassau County Executive Thomas A. Colantuono*, members of the Board of Assessors, Nassau County and Members of the Nassau County Legislature, (October 5, 1994) (available at <http://archive.abc.org/communitysurvey/assessments.html>) (retrieved on August 6, 2010). For further information on the Nassau County Budget Commission, *A Current Guide to Assessment in Nassau County*, (1999) pp. 14, 15, 170.

68. *Ibid.*

69. New York Child Services (NYS), *NYCS11: In the Case, Columbus a' Solde*, (available at http://www.nyc.gov/html/csls/html/guides/guide_jan_01_2008).

70. James L. Young, *Immigrant Policies On Long Island* (Policy paper, Aug. 2, 2005), *Center for Urban Studies in 2004*, June, (available at <http://www.uscityplanning.com/html/home01.html>) pp. 5.

71. *Struggling to Buy, One Step at a Time?* (available at <http://www.cityhigh.com/with/strugglingtobuy.html>) (retrieved January 2, 2010).

72. *Ibid.*

73. *Ibid.*, see also James, *Opport. 200* (19-410), (June 1994).

85. [Chaffin.org, Chaf Right 300, Part 7 Financing](http://Chaffin.org/ChafRight300/Part7/Financing), (available at: <http://www.chaffin.org/central/consent/afright/07/financing.html>) (accessed January 7, 2010)

86. See Housing equity definitions on pages 46 & 47.

87. [Chaffin.org, Chaf Right 300, Part 7 Financing](http://Chaffin.org/ChafRight300/Part7/Financing), (available at: <http://www.chaffin.org/central/consent/afright/07/financing.html>) (accessed January 7, 2010).

88. *Ibid.*

89. *Ibid.*

90. U.S. Commission on Civil Rights, *Redeveloping Rights in America: the Civil Rights Record of the George W. Bush Administration, 2001-2004*, Draft Report for Commissioners, *Review of Government Operations* file at U.S. Commission on Civil Rights, Washington, DC, 2004, pp. 42.

91. James Sullivan, *Bank Right: American Dream* (Newspaper Ad), press release 10/23 No. 27-140 (December 26, 2007) (on file at UIC), Washington, DC.

92. Section 8 provides a rental subsidy to households of low income and working families nationwide to bridge the gap between low wages/low and high rent (that even particularly in heavily populated urban and suburban areas).

93. U.S. Commission on Civil Rights, *Redeveloping Rights in America: the Civil Rights Record of the George W. Bush Administration, 2001-2004*, pp. 14.

94. Robert Price, *President Bush Proposes a Cut in Housing Funding*, *New York Times* (February 4, 2008).

95. Richard Koubek, Ph.D., *Chairman of the Public Policy Education Network Catholic Charities, Director of Rockville Center, New York, Interview Regarding Fair Housing on Long Island*, with Cathryn Dashi, *Project Manager, HOAH of Nassau* (February 1, 2008). The definition for gentrification housing was defined for Dr. Koubek by the builder firm by Cathryn being in common housing to plan view as a public housing regarding the proposed housing.

96. See South Sea News Digital Edition, *Housing in Housing Agency* (Feb. 27, 2008) (available at http://www.southseanews.com/news/2008/02/27/community_news_2_and_interview_with_dr_richard_koubek_phd_public_policy_education_network_chairman_catholic_charities_director_of_rockville_center) (February 4, 2008).

97. *The New York Times, Long Island Homelessness*, *What You Need to Know* (February 13, 2008).

98. *Ibid.*

99. [Chaffin.org, Chaf Right 300, Part 7 Financing](http://Chaffin.org/ChafRight300/Part7/Financing), (available at: <http://www.chaffin.org/central/consent/afright/07/financing.html>).

100. Since this report focuses on housing discrimination faced by persons of color, all examples used will center around race as a protected class. Please note that the examples presented apply to all protected classes under federal, state and local law.

101. Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass at Harvard University Press, 1993*, pp. 30-31.

102. These practices also include steering, which involves a bank or other lender or other American steaming a prime loan, which often provides income more, when the African American consumer meets all the criteria in applying (the African American is then sent to a sub prime lender and ends up paying more interest than a white consumer with the same or more credit rating). This practice is illegal and prohibited by federal law. See Center for Responsible Lending, *Steering Practices: Some Signs of predatory lending* (March 2005) (available at <http://www.responsiblelending.org/steering/basics.cfm>).

103. *Consumer Agreement, United States of America Federal Reserve and Loan Association, No. 1-01-CV-2798-KAM (D.C.D.C., Sept. 17, 2002)*.

104. *Ibid.*

105. U.S. Department of Housing and Urban Development, *Fair Housing Equal Opportunity for All* (H.U.D. 2006) (H.U.D. January 2007) (available at <http://www.fairhousing.gov/ceofit/2006/eo/afright06.pdf>) pp. 1-2.

106. The Department of Housing and Urban Development, *H.U.D. Fiscal Year 2007 Budget Summary Report* (2007) (available at <http://www.fairhousing.gov/ceofit/2006/eo/afright06.pdf>) pp. 19-20.

107. Section 8 and other housing services have been declining in both the home and HUD state claims by numbers of individual complaints and respondents while HUD had been concentrating much a concentration on race (5).

108. U.S. Commission on Civil Rights, *Two Year Check-Up: How Federal Agencies Responded to Civil Rights Recommendations* Vol.

IV, (September 2006) on file at U.S. Commission on Civil Rights, Washington, DC, 19-21.

109. U.S. Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section, *Frequently Asked Questions From Users of the Department of Justice Website for Fair Housing Act* (January 19, 2007) (available at <http://www.usdoj.gov/civilrights/faq/housingfaq.html#introduction>).

110. New York State Division of Human Rights, *Fair Housing Guide: When Protected Who Must Follow the Law, and When Protected*, (available at <http://www.nyhr.state.ny.us/fairhousing/faq/faq.htm#1>) (NYHR) (accessed February 23, 2008).

111. *Ibid.* or when housing is covered.

112. New York State Division of Human Rights, *New York State Division of Human Rights Annual Report 2007* (2007), p. 6. Note that this remains the most current Annual Report available at the time of publication of NYHR's *Fair Housing Report*.

113. *Ibid.*

114. Telephone interview with Ed Hudkins, Deputy Commissioner (August 1, 2006).

115. Campaign to Reform the New York State Division of Human Rights, *Civil Rights Groups join together and Assemblyman Joseph Blumenthal in Call for Reform of the New York State Division of Human Rights*, *Civil Rights Center Issues Performance in Defining Human Rights Law*, press release (May 16, 2004) on file with

American Jewish Committee New York State Advocacy Task Force, Albany, New York.

96. Campaign to Reform the New York State Division of Human Rights Coalition, N.Y.H.R.C. (111) Background: *Bill to Reform the NYS Division of Human Rights*, (2006) (on file with American Jewish Committee New York State Advocacy Task Force, Albany, New York).

97. New York State Division of Housing and Community Renewal, Publications, 2011 Performance Report, Approved by HUD on December 20, 2011 (available at <http://www.dhcr.state.ny.us/pubs/annualrpt/2011.html>).

98. Interview with New York State, Office of the Attorney General, July 10, September 2003 (on file with HRAM) (Rachin, Spence, NY).

99. Long Island Housing Services, Long Island Housing Services Access System, available at <http://www.lilhousing.org/aboutthe-accessibility.html> (accessed February 23, 2006).

100. HUD's employee case loads include other forms of discrimination aside from race.

101. Letter from Michelle Sammons, EEO, Long Island Housing Services, Inc. to Elaine Olson, EEO, HRAM/RAHM, DEAC (Administrational Enforcement Agency (Annual Survey) (April 6, 2006) (on file at HRAM) (Rachin).

102. National Fair Housing Alliance, ANNUAL FAIR HOUSING TRENDS REPORT, (April 2, 2006) (on file at National Fair Housing Alliance, Washington, DC) (Spence).

103. Source: Long Island Housing Services. Note: According to HUD, the Fair and Equal Housing Loans by members of individual domains (complaints and responses) while HUD is currently logging such a case might be as one (1).

104. Human Rights Commission on Human Rights, Complaints: Coverage (available at <http://www.unhcr.org/refugees/pdf/hrc0101-complaints.pdf>) (Annual Report of the Human Rights Commission, Geneva, 2005) (accessed February 22, 2006).

105. Suffolk County Human Rights Commission, Proposed Case-load, available at http://www.suffolk.ny.us/web/human_rights/4445-10100000001 (February 6, 2006).

106. HUD, and telephone interview with Ellen Samolich, Director, American Jewish Committee – New York State Advocacy Task Force, (February 6, 2006).

107. Long Island Housing Services, Inc., *Highlights of the Newly Awarded Home County Human Rights Case* (available at <http://www.lilhousing.org/newsroom.htm>) (accessed February 23, 2006). For a full list of the assignments please see the:

108. See HUD MEMORANDUM & ENQUIRY REMEDIES pp.55.

109. See Suffolk County Human Rights Law Article 12.

110. Telephone interview with Elaine Samolich, EEO, Suffolk County Human Rights Commission (January 25, 2006).
111. *Id.*
112. *Id.*
113. See HRAM VII. Analytical Agency Dispositions of Fair Housing on Long Island pp. 25-26.

114. *Insights of the Fair of the City of New York, Commission on Civil Rights, In Time to Defend the Law: A Report on Filling the Promise of the New York City Human Rights Law* (December 2003) (on file at Association of the Bar of the City of New York, New York, NY).

115. National Fair Housing Alliance, *National Fair Housing Alliance 2004 Fair Housing Trends Report* (April 2, 2005) pp. 3-4. See the report for its depth details of the methodology employed by participants as well as their rationale.

116. Martin D. Abraham & Mary K. Cunningham, *The Urban Rent Gap: What Must Be Done?*, Public Assessment of the Housing Fair Housing Law, prepared for HUD's Office of Policy Development and Research (April 2005) pp. 27-28.

117. See table #2, pp. 16.

118. See table #3, pp. 19.

119. Association of the Bar of the City of New York, *Commission on Civil Rights, In Time to Defend the Law: A Report on Filling the Promise of the New York City Human Rights Law*.

120. All information gathered by HRAM/RAHM in form of telephone surveys with the agencies listed in above chart (August 2005 to December 2006).

121. See table #2, pp. 16.

122. Letter to Chris Lund, Office of Policy Development & Research, HUD, (Chief of U.S. Department of Housing & Urban Development, FY 2007 - FY 2008 Strategic Plan (December 12, 2005), from Barbara K. Jensen, EEO, Housing & Community Development Project, Casework Committee for Civil Rights Under Law (on file at Analytical Committee for Civil Rights Under Law, Washington, DC) (Spence) pp. 2-4 and American Jewish Committee, *New York State Advocacy Task Force & ANNUAL NY STATE (111) Background: Bill to Reform the NYS Division of Human Rights*, (2006) (on file at American Jewish Committee, (Spence, NY).

123. *Id.*
124. See table #5, pp. 26.

125. Bryan A. Garner, *Black's Law Dictionary: Pocket Edition* (West Group, 1996) pp. 156.

126. *Id.*
127. HRAM/RAHM factbook survey findings from HUD (2001-2006) (on file at HRAM/RAHM, Spence, NY).

128. Interview with Michelle Sammons, Executive Director, Long Island Housing Services (March 12, 2006).

129. *Id.*
130. Telephone interview with Elaine Samolich, EEO, Suffolk County Human Rights Commission (January 26, 2006); and telephone interview with Elaine Samolich, EEO, Suffolk County Human Rights Commission (January 26, 2006), or also <http://www.suffolkcounty.gov/official/humanrights/hrc0101-complaints.html> (Spence), and http://www.suffolk.ny.us/web/human_rights/4445-10100000001.

131. Telephone interview with Michelle Sammons, EEO, Long Island Housing Services (January 26, 2006).

132. Letter to Chris Lund, Office of Policy Development & Research,

1101. *HUD Dept of U.S. Department of Housing & Urban Development FY 2001 – FY 2004 Housing Plan*, pp.3 and National Fair Housing Alliance, *National Fair Housing Alliance/Fair Housing Trends Report*, pp.10-11.

112. Chart provided by Michelle Sammons, Executive Director, Long Island Housing Services, Syosset, NY (April, 2004) on file at DEASH Rector, Syosset, NY.

113. Based on DEASH Rector Telephone Surveys (August 2004 to December 2004) on file with DEASH Rector, Syosset, NY, See table 43, pp. 15.

114. *Id.*

115. *Id.*, telephone interview with Michelle Sammons, E.O., Long Island Housing Services (January 26, 2005); American Jewish Committee, New York State Advocacy Task Force & NYSRNY/STHVA, 110+ Background, 2004 as before the NYS Division of Human Rights.

116. Telephone interview with Michelle Sammons, E.O., Long Island Housing Services (January 26, 2005) on file at DEASH Rector, Syosset, NY.

117. Based on DEASH Rector Telephone Surveys (August 2004 to December 2004) on file with DEASH Rector, Syosset, NY.

118. *Id.*

119. *Id.*

120. HUD published educational materials on fair housing on the most widely accessed, and can be found through its website – HUD also has a link on its fair housing page in the website for the National Fair Housing Alliance, the nation's largest private fair housing advocacy group. See <http://www.hud.gov/offices/equal/hudmain.htm>.

121. See HUD's current website.

122. National Fair Housing Alliance, National Fair Housing AD (June 2004 Fair Housing Trends Report 2004 pp.3. Most of these numbers include all processed claims, not just race.

123. *Id.* at p. 5. % being data provided to NHTA by Housing and Civil Rights Division, United States Department of Justice, March 24, 2004.

124. *Id.* at p. 5.

125. *Id.* at p. 10. These numbers reflect all processed claims, not just race discrimination cases.

126. Data based on information supplied by HUD and NYSRNY to DEASH Rector's Fair Housing Survey Commission file at DEASH Rector, Syosset, NY.

127. *Id.*; and telephone interview with Ed Walker, Deputy Commissioner, NYSRNY (August 3, 2004) on file at DEASH Rector, Syosset, NY.

128. Data based on information supplied by HUD and NYSRNY to DEASH Rector's Fair Housing Survey Commission file at DEASH Rector, Syosset, NY; and Letter from Michelle Sammons, E.O., Long Island Housing Services, Enforcement Agency National Survey 2005 allegations and formal complaint information (2005-2007) (April 20, 2004) on file with DEASH Rector, Syosset, NY.

129. *Id.*

130. DEASH Rector requested data from NYSRNY in August 2004 and again in December in 2004.

131. Data based on information supplied by HUD and NYSRNY to DEASH Rector's Fair Housing Survey Commission file at DEASH Rector, Syosset, NY; and telephone interview with Ed Walker, Deputy Commissioner, NYSRNY (August 3 & 11, 2004) on file at DEASH Rector, Syosset, NY.

132. *Id.*

133. Current, *Black's Law Dictionary*, Black's Edition, pp. 503.

134. Telephone interview with film producer, Director, American Jewish Committee – New York State Advocacy Task Force, (February 1, 2005). It is also noted in the New York Human Rights Law that the more probable cause is the issue, but it remains unclear when HUD and NYSRNY are processing the same complaint in two different jurisdictions that neither agency adequately defines.

135. New York Assembly 1220, 2004 Reg. Sess. (May 15, 2004).

136. Letter from Michelle Sammons, E.O., Long Island Housing Services, Enforcement Agency National Survey 2005 allegations and formal complaint information (2005-2007) (April 20, 2004) on file with DEASH Rector, Syosset, NY.

137. *Id.*

138. Telephone interview with Nadine Barwick, E.O., Sul.

139. Elk County Human Rights Commission (January 25, 2005) and telephone interview with Brian Thomas, E.O., Nassau County Human Rights Commission (February 18, 2005).

140. See table 45, pp. 25.

141. William E. Shafer, *Chicago: A Journal of Policy Development and Research*, Volume 4, Number 3 (2000) Fair Housing Strategies for the Future: A National Approach, U.S. Department of Housing and Urban Development, Office of Policy Development and Research, pp.147.

142. National Fair Housing Alliance, National Fair Housing Alliance 2004 Fair Housing Trends Report, pp. 14-15.

143. Shafer, *Chicago: A Journal of Policy Development and Research*, Volume 4, Number 3 (2000) Fair Housing Strategies for the Future: A National Approach, pp.113.

144. *Id.* at pp. E2.

145. Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Fair Housing Guide Volume 1, (1997), pp. 1-5, 7-8.

146. *Id.* at pp.7-8.

147. *Id.* at pp.2-5.

148. *Id.* at pp.2-10.

149. Shafer, *Chicago: A Journal of Policy Development and Research*, Volume 4, Number 3 (2000) Fair Housing Strategies for the Future: A National Approach, pp.112.

150. Issue of Job Community Development Agency, *Analysis of Impediments Report*, (1994), pp. X & 35-40; Housing and Community Development Agency, *An Analysis of Impediments and Strategies to*

Address them. *June 2000*, pp. 12-24; *Community Development Program Fair Housing Plan, Analysis of Impediments: Access to Affirmatively Fairer Fair Housing* (1996), pp. 3-8; *Nassau County Office of Housing and Intergovernmental Affairs, Nassau County Analysis of Fair Housing Impediments*, October 1996, prepared for the County of Nassau and the Nassau County Urban County Consortium.

(October 1996) pp. 2, 11, and *Suffolk County Office of Community Development, Suffolk County Community Development Consortium, Fair Housing Plan*, (1996), pp. 2, 10.

171. Prof. John Logan, Ph.D., Department of Sociology, Brown University, logan@brown.edu, <http://www.brown.edu/dept/soc/people/logan/john>, accessed February 4, 2003.

172. *Urban Policy Community Development Agency, Analysis of Impediments Report*, (1994), pp. 30.

173. *Huntington Community Development Agency, An Analysis of Impediments and Strategies to Address them*, (June 2000), pp. 8.

174. *The Huntington Beach NAACP's Housing, 144 U.S. 706 (1912)*, 492 *predecessor*, 498 U.S. 15 (1990) (*Huntington*).

175. *Fair Housing in Huntington* (published in *State of Huntington, CV 02-2307* (2002) (WFO) E-11022, H.V. Assoc., Compl. ¶ 1 (April 8, 2002).

176. *Id.* at ¶¶ 15-26.

177. *Id.* at ¶¶ 14-24.

178. *Id.* at ¶¶ 7-10.

179. *Habitat Community Development Program Fair Housing Plan, Analysis of Impediments: Access to Affirmatively Fairer Fair Housing* (1996), pp. 5-9.

180. *Nassau County Office of Housing and Intergovernmental Affairs, Nassau County Analysis of Fair Housing Impediments*, October 1996, prepared for the County of Nassau and the Nassau County Urban County Consortium (October 1996).

181. *Id.* at 7.

182. *Id.* at 8.

183. *Id.* at 7.

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.*

188. *Id.* at 9-11.

189. *Id.* at 11.

190. *Id.* at 11-13.

191. *Id.* at 11.

192. *Suffolk County Office of Community Development, Suffolk County Community Development Consortium Fair Housing Plan*, (1996), pp. 1.

193. *Id.* at 3.

194. *Id.*

195. *Id.* at 5.

196. *Id.*

197. *Id.* at 4.

198. *Id.*

199. *Id.* at 9.

200. *Id.* at 20.

201. *Id.* at 9-10.

202. *John Weeks, Study for Housing Discrimination (Study) from a 1970's Study of Real Estate Agents, National Institute of Housing*, 2002 (available at <http://www.habitatcommunity.org/2002studyhousing.pdf>), pp. 1.

203. *See* *id.* at pp. 28.

204. Telephone interview with Michelle Sammons, U.S. Long Island Housing Services (April 6, 2004).

205. *1996 Facts, White Only: Racial Discrimination in the Nassau County Real Estate Market and in the Public School System*, prepared for New York NAACP Long Island (February 2004), pp. 2.

206. *Id.* at pp. 9.

207. *Id.* pp. 8-11.

208. *ACT/NA, New Report Finds Significant Racial Discrimination in Long Island Real Estate Market*, Press release (February 2004) (on file with ACT/NA Complaint, New York).

209. *1996 Facts, White Only: Racial Discrimination in the Nassau County Real Estate Market and in the Public School System*, pp. 9, 11-12.

210. *ACT/NA, New Report Finds Significant Racial Discrimination in Long Island Real Estate Market*, Press release.

211. *New York Times, New York Times, NY Again Opposes Long Island*, (March 2004), (January 21, 2004).

212. *ACT/NA, New Report Finds Significant Racial Discrimination in Long Island Real Estate Market*, Press release.

213. *Long Island Housing Services, Phase 2 Study Project Report*, prepared for HRASL/Kochin (November 2004) (on file at Long Island Housing Services, Jamaica, NY) pp. 1-2.

214. *Id.*

215. *Id.*

216. *Id.* at pp. 3-4.

217. Results obtained by HRASL/Kochin from Summary Long Island Housing Services 2004 Phase 2 Study Project Report. Prepared by Michelle Sammons (November 2004) (on file at HRASL/Kochin, Jamaica, NY).

218. *Id.*

219. Interview with Prof. Deborah-Ann, Professor of Law at SUNY School of Law (February 22, 2004).

220. *Id.*

221. Interview with Judith Rubin (March 1, 2004).

222. *Id.*

223. Susan Cappillo, *Corporate Director Funding Help Increase Housing Discrimination*, with Cathryn Hart, *Project Manager*, HRASL/Kochin (February 11, 2004) (on file with HRASL/Kochin, Jamaica, NY).

224. *See* 47 LSA 7843 §§ 8700(1)(5)(A) & 8702 and 84701, 59979.

225. The composition of the 2-year term of Jonathan Director.

<p>include the immediate risk to your through the administrator general. See 42 U.S.C. and 42 CFR 431.20.</p> <p>20. See 42 U.S.C. 431.20 (a) - (d) and New York State Division of Human Rights, http://dhr.state.ny.us/complaints.html (accessed May 17, 2004).</p> <p>21. Charts and information provided by Multiple Sclerosis, Executive Director, Long Island Planning Services, Jamaica, NY (Dr. Bruce FRANK, Director, Jamaica, NY).</p>															