



Testimony of V. Elaine Gross, President of ERASE Racism

**Before a Joint Hearing of Three New York State Senate Committees:
Committee on Housing, Construction and Community Development;
Committee on Investigations and Government Operations;
Committee on Consumer Protection**

Hempstead, NY

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Committee Chairs, Members of the Committees, I am Elaine Gross, President and CEO of ERASE Racism, and I am pleased to have this opportunity to speak with you today about housing discrimination on Long Island, as it relates to the illegal and unequal treatment of people of color who seek to purchase or rent homes. My testimony will also address other impediments to fair housing.

It is important to note that renters on Long Island often have far fewer housing choices because of the extreme limitations on building multi-family housing on Long Island, creating high competition for a limited number of rental units. In addition, for lower income individuals and families, they have limited resources to pay for the housing and to exercise their right to fair housing. Whether for sale or for rent, there should be no housing discrimination.

I speak from the perspective of an African American woman who was born and raised on Long Island and who currently owns a home on Long Island. In another state, I was a victim of housing discrimination, so I know first-hand the emotional and economic toll of housing discrimination.

Today, I speak on behalf of ERASE Racism, the Long Island-based civil rights organization that exposes and addresses the devastating impact of historical and ongoing structural racism in our region and in the nation, particularly in housing and public school education.

In this role, my expertise derives from ERASE Racism's direct experience successfully advocating for changes to the fair housing statutes of both Nassau and Suffolk counties. I also organized in 2016 a statewide coalition to amend the New York State Human Rights Law to include lawful source of income as a protected class. That amendment became law in April 2019, thanks in part to the work of the expanded coalition, which I co-led.

Since 2001, my experience also derives from our research on Long Island in such areas as residential segregation, segregation in public school education, fair housing enforcement policies and practices – local, state and federal – and the investigation of housing discrimination, including utilizing paired testing as a tool to reveal disparate treatment, racial steering and other violations of fair housing statutes. The paired testing that we used was similar to that conducted by *Newsday* for its landmark investigative report “Long Island Divided.” We did our fair housing investigation prior to *Newsday*’s and on a much smaller scale, but with similar results. That experience illuminates my recommendations to you today.

In 2012, ERASE Racism partnered with the Fair Housing Justice Center, the same nonprofit organization that worked with *Newsday* staff, to conduct a joint investigation with ERASE Racism. Our goal was to determine whether black renters on Long Island were being discriminated against in the housing options that they were offered – or were in other ways the victims of housing discrimination. The paired testing revealed that in both Nassau and Suffolk counties property owners and management companies were showing rental apartments to white applicants and not to black applicants.

When black individuals and couples inquired about apartments, they were told, among other things, that nothing was available, that there was a long waiting list, that they should check back in the future, and they were quoted a higher rent. Whites were shown available apartments and encouraged to apply.

ERASE Racism’s investigation led to successful litigation resulting in court-mandated settlements with the offending real estate companies. Our case in Mineola – *ERASE Racism, et al. v. LLR Realty LLC, et al.* – was

settled in 2014. Our case in Commack – *ERASE Racism, Inc., et al. v. Empire Management America, Corp., et al.* – was settled in 2016.

As a small nonprofit organization, ERASE Racism had demonstrated the existence of housing discrimination but did not have the resources to document it on a broader scale. That is why *Newsday's* investigation is so important. I recommended to *Newsday's* owner that they explore investigating fair housing violations by realty agents by using paired testing and referred them to the Fair Housing Justice Center.

Newsday's investigation found evidence of widespread separate and unequal treatment on Long Island of potential homebuyers who were Black, Hispanic and Asian and of minority communities. Black testers experienced disparate treatment 49 percent of the time, compared with 39 percent for Hispanics and 19 percent for Asian testers.

Newsday's investigation is an enormous public service. They had the resources, and they used them wisely to undertake a three-year region-wide investigation. The results have created a sea change in public acknowledgement of the problem.

That occurred because of *Newsday's* authority, its capacity to publish and promote the findings in extraordinary detail, the scope of the investigation, and the starkness of the results. Almost two decades into the 21st century, nearly half of black home-seekers on Long Island are being discriminated against.

You, the Members of these Committees and the State Legislature, have an essential role. Real estate brokers need a license in New York. That license comes from New York State Department of State, and that Department has not protected nearly half of black home-seekers on Long Island from discrimination in the 21st century.

Not only does the State Legislature have an oversight role inherent in Article III of the State Constitution, the New York State Board of Real Estate, the Department of State's Division of Licensing Services, and the Secretary of State all have some responsibility for the integrity of systems that would ensure that real estate brokers are acting within the law.

Put quite simply: When it comes to overseeing fair housing practices by real estate brokers and companies, at least as they occur on Long Island, the State is failing to do its job with rigor and urgency.

Every aspect of this structure and the systems inherent therein need to be thoroughly investigated to determine what is broken and thus how to fix it. This is the case for both the licensing of real estate brokers and punishments for discriminatory actions, and the New York State Division of Human Rights, which is charged with enforcing the fair housing law.

As stated in the Notice of Public Hearing, the purpose of this hearing is to examine and identify whether and how potential homebuyers of color suffer illegal and unequal treatment by real estate agents on Long Island.

In that context, I urge you to address the following recommendations:

First, fair housing enforcement, including the paired testing that ERASE Racism, other nonprofits, and *Newsday* have conducted to document housing discrimination on Long Island should not be dependent on the resources of nonprofits and a media outlet. The State should be commissioning paired testing in light of these results. Furthermore, the State should increase licensing and renewal fees for real estate licensees to help generate the financial resources needed to pay for

systemic testing. The State of New York, not *Newsday* or ERASE Racism, is mandated to monitor real estate practices on Long Island.

Second, this form of housing discrimination exists in other areas of New York State, based on lawsuits and the investigations of other nonprofits that document housing discrimination. The investigations on Long Island should lead to statewide scrutiny and result in rigorous enforcement and uniform protections for all New Yorkers.

Third, the practices of real estate agents explored in these investigations are only one component of the structural racism that drives racial discrimination and segregation in housing and, therefore, in public schools and other government services. The practices of the real estate industry are intertwined with myriad policies and practices that produce and maintain residential segregation, long established and perpetuated on Long Island and elsewhere in New York. The obligation to ensure fair housing exists at all levels of government and throughout the real estate and banking industry, as does the obligation to remedy violations of fair housing.

Fourth, a culprit in perpetuating these myriad policies and practices is the State's adoption of "home rule," delegating specific powers to local municipalities, including control of land use, which enables exclusionary zoning. Long Island's two counties include 13 towns and 97 incorporated villages, creating a municipal fragmentation that divides rather than unites. In addition, with local control, local municipalities use their power to maintain the status quo; severe racial segregation. Municipalities have engaged in such discriminatory housing practices as using geographic preferences, exclusionary zoning, no as of right multifamily housing and, finally, concentrating affordable family housing, intended for blacks, in communities that are already majority minority and affordable housing for seniors, intended for whites, in communities that are majority white.

A recent paper that I wrote for the NYU Furman Center on “Housing Discrimination and Local Control” explores the impact of local control in this respect.

Fifth, the State should amend its Human Rights Law in two significant ways. First, the Human Rights Law should explicitly prohibit discriminatory action by local governments and public agencies that operate housing programs, control land-use and zoning decisions, or engage in other housing and community development activities to ensure that these programs and activities are not perpetuating segregation by making housing unavailable or limiting access to housing based on race, national origin, etc., which is discrimination. Second, similar to what the State of California did in 2018, the Human Rights Law should require State agencies and departments, local jurisdictions, public housing authorities and other public entities receiving State or federal funds for housing and community development to “affirmatively further fair housing” and take no action that is materially inconsistent with this obligation.

ERASE Racism applauds your three Committees on holding today’s hearings. We welcome your intervention in these issues. Fair housing should be a right in New York. At present, it is not.

I am happy to answer any questions, and I look forward to working with you to address the structural impediments to fair housing on Long Island and in New York state.

Thank you.