

The Fair Housing Act: A Latino Perspective

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The 30th anniversary of the Fair Housing Act is a bittersweet occasion for Hispanics.¹ It represents an important milestone in the Nation's journey toward the ideal of equal opportunity for all. However, a review of the legislation's history reveals that, for too long, housing discrimination against the Hispanic community has been unjustifiably ignored.

In this article, we review briefly the importance of fair housing to the Hispanic community, discuss emerging research documenting the scope and degree of housing discrimination against Latinos, describe recent developments in Federal enforcement of the Act on behalf of Hispanics, and conclude with a few recommendations.

Many working-class and low-income Latinos face severe problems in obtaining "safe, sanitary, and decent" housing. Recent research shows that Hispanics are more likely than other Americans to live in substandard housing and to experience overcrowding. The percentage of Latinos with "worst case housing needs"² has risen dramatically in recent years. The link between low income and housing deprivation is well-established. Indeed, Hispanics now have the dubious distinction of being the poorest of Americans. Thirty percent of Latinos live below the Federal poverty level compared with 29 percent of African-Americans and 11 percent of Whites.³ Data (National Council of La Raza, 1995) reveal that Hispanics are about twice as likely as Whites with similar resources to be inadequately housed and more than three times as likely to live in overcrowded conditions.

Low incomes alone cannot explain completely the housing conditions in which many Latino families live. Clearly, factors other than income are at least partially responsible for the housing deprivation experienced by many Hispanics. Undoubtedly, one of these factors is unlawful housing discrimination.

Beginning in the early 1980s the National Council of La Raza (NCLR) and other advocates called for greater policy attention to the problem of housing discrimination against Latinos. Citing anecdotal evidence and a small but compelling body of research, these

advocates called for more outreach to the Hispanic community on fair housing issues and greater proactive efforts by Federal enforcement agencies.⁴ These efforts initially were unsuccessful. However, in recent years, they appear to have resulted in heightened policy attention to, and stepped-up enforcement efforts on behalf of, Hispanics.

Early Hispanic-Focused Research

Early studies on housing discrimination often did not include data on Latinos. When the studies did include this data, the findings were often inconclusive. Some early findings suggested that discrimination against Hispanics was less severe than discrimination faced by African-Americans.⁵ Later studies, based on a somewhat standardized methodology using carefully matched, paired testers, increasingly showed that Hispanics and African-Americans experienced the same degree of housing discrimination in most housing markets.

In 1988 NCLR published *Hispanic Housing Crisis*, the first comprehensive study of housing issues facing Latinos. This study outlined the findings of many early housing discrimination studies addressing the effects of discrimination on Hispanics seeking housing. Some of the key findings of this research follow.

In 1979 HUD conducted its first research on the extent of housing discrimination against by Hispanics by including one Hispanic site (Dallas) in a multistate national survey. Initially, researchers in the Dallas study assumed that Hispanics faced a lower incidence of discrimination than African-Americans for two reasons: Hispanics made up a smaller portion of the population than African-Americans and Hispanic renters had higher incomes than African-American renters. However, the study findings proved otherwise. According to those findings, a dark-skinned Mexican-American had a 96-percent chance of experiencing at least one instance of discrimination. For light-skinned Mexican-Americans, the chance of encountering discrimination was 65 percent. Dark-skinned Mexican-Americans were more than twice as likely to experience discrimination than African-Americans or light-skinned Mexican-Americans. Dark-skinned Mexican-Americans were more likely than either African-Americans or light-skinned Mexican-Americans to receive less favorable lease terms and conditions. (U.S. Department of Housing and Urban Development, 1979).

In 1981 HUD funded a telephone survey of selected Boston real estate agents who advertised housing units for rent. Three callers conducted 42 test calls. One caller could be identified by voice as White, one as Black, and one as Hispanic. In all 42 tests, White callers were invited to see a unit. In 31 of the 42 calls, Black and Hispanic callers were informed that no units were available. During 23 of 47 site visits, White testers were shown units while Black and Hispanic testers were told that nothing was available (U.S. Department of Housing and Urban Development, 1983).

In 1982 HUD funded a Denver study that used White and Latino auditors to test the incidence of housing discrimination against Hispanics in the sales market. The study reported that Whites and Hispanics received significantly different information from real estate agents. When inquiring about homes available in a given community, 60 percent of Hispanic auditors were told there was nothing else available, while only 31 percent of White auditors were so informed. White auditors were offered considerably more information in their home search than were Hispanic auditors.

The incidence of housing discrimination in Denver was found to be more prevalent in the sales market than in the rental market. However, some differences in treatment did occur in the rental market. For example, Hispanic auditors were twice as likely as White auditors to be told that advertised units were no longer available, and twice as likely as White

auditors not to be told of other available units. However, the findings were not statistically significant in either case due to small sample sizes (Colorado Civil Rights Division, 1983).

In 1986 a HUD-funded study in Phoenix found evidence of discrimination against African-American and Hispanic renters. In 13 percent of the cases, African-Americans and Hispanics were charged higher rents than Whites, while Whites were given rental inducements (City of Phoenix, 1986).

These early studies were the first to document incidences of discrimination against Hispanic renters and homebuyers and paved the way for future housing discrimination studies. Subsequent research has tended to include appropriate samples of Hispanics, thus documenting with greater precision the scope and degree of housing discrimination faced by Hispanic homebuyers and renters.

Latino Housing Discrimination: Recent Findings

In 1989 HUD sponsored the *Housing Discrimination Survey*, a national fair housing study audit conducted by the Urban Institute. This survey was based on 3,800 fair housing audits conducted in 40 metropolitan areas using teams consisting of one White and one minority tester. In each metropolitan area, team members responded separately to randomly selected newspaper advertisements and tracked their experiences with real estate and rental agents. The survey reported a 56 percent discrimination rate for Hispanic homebuyers and 50 percent for Hispanic renters (Turner, 1991).

The Housing Discrimination Survey was the first large-scale endeavor of its kind to include many Hispanic testers and to be conducted in multiple markets. The study validated what Latino and civil rights practitioners and smaller scale studies had been saying: Hispanics experience the same magnitude of housing discrimination as African-Americans. Several other local and regional studies reported similar findings.

In 1995 the Fair Housing Council of Fresno County, California, conducted its first rental audit to document and quantify the incidence of discrimination against Hispanic, Asian, and African-American renters in the Greater Fresno area. The study was based on 58 paired tests conducted in northern Fresno County and the city of Clovis. According to 1990 census figures, the city is less than 5 percent minority, while the county as a whole is 49 percent minority. The study found a 77-percent rate of discrimination against Hispanic renters seeking housing in predominantly White neighborhoods compared with 74 percent for African-Americans and none for Asian-Americans. The incidence of discrimination in these neighborhoods was 100 percent for Hispanic families with children seeking rental housing, while it was 80 percent and 50 percent, respectively, for African-American and Asian families with children (Fair Housing Council of Fresno County, 1995).

In 1997 the San Antonio Fair Housing Council conducted a rental audit of the San Antonio metropolitan area utilizing 66 paired testers who conducted surveys throughout the city of San Antonio and Bexar County. The study found that Hispanic renters faced discrimination 52 percent of the time when seeking housing and received differential treatment in lease terms and conditions (51 percent); information on availability (21 percent); a facially discriminatory policy (14 percent); access to appointments (7 percent); and access to rental application (7 percent) (San Antonio Fair Housing Council, 1997).

That same year, the Fair Housing Council of Greater Washington conducted audits of housing discrimination in the Washington-area rental and real estate sales markets. The rental housing study found that the incidence of discrimination was 37 percent against

Latino renters and 44 percent against African-American renters (Fair Housing Council of Greater Washington, 1997a). The real estate sales study found that Hispanic homebuyers experienced discrimination 42 percent of the time while African-American homebuyers faced discrimination 33 percent of the time (Fair Housing Council of Greater Washington, 1997b).

Other Housing-Related Discrimination

While direct housing discrimination is a large problem in the Hispanic community. Latinos also face many other forms of housing discrimination, including lending discrimination, insurance redlining, and unequal access to credit.

Home Mortgage Disclosure Act (HMDA) data have shown differences in mortgage loan denial rates among Whites, African-Americans, and Hispanics. Low-income Whites (69 percent) were about as likely as moderate-income Hispanics (68 percent) to obtain a mortgage, according to 1990 HMDA data, which also showed that low-income Whites had significantly greater approval rates than upper income Hispanics for refinancing and home improvement loans. A 1993 study of 1991 HMDA data showed that denial rates for mortgage loan applications were 50 percent higher for Latinos than for Whites of equal incomes (Avery, Sniderman, and Beeson, 1993).

For years banks and other mortgage lenders have attributed these inequities to differences in credit histories, asserting that African-Americans and Hispanics have poorer credit ratings overall. However, a 1992 study by the Federal Reserve Bank of Boston found that, holding credit histories equal, Hispanics and African-Americans were still 60 percent more likely to be turned down for a mortgage loan than their White counterparts (Munnell et al., 1992).

In 1992 the California Reinvestment Committee conducted a study on the lending records of California's largest mortgage lenders. This study found that, overall, Latinos fared better than did African-Americans but much worse than Whites when seeking mortgage loans. However, it also found that the total number of loan applications received from Latinos decreased by 16 percent from 1992 to 1993. Latinos who did apply for mortgage loans were twice as likely as Whites to have their application rejected (California Reinvestment Committee, 1995).

One often-ignored form of potential discrimination relates to the distribution of Federal housing assistance. Because Hispanics constitute about 23 percent of all poor families, and because Federal housing assistance is means-tested, one might expect that Latinos would constitute about 23 percent of families receiving Federal housing assistance. However, actual participation data reveal that Hispanics are severely underrepresented among Federal housing assistance recipients. For example, in 1996 Hispanics constituted less than 16 percent of renters living in public housing (13 percent), or receiving tenant-based Section 8 (13 percent) and project-based Section 8 (10 percent) assistance (U.S. Department of Housing and Urban Development, 1996).

These national Federal housing assistance data mask even more dramatic disparities in certain large metropolitan areas (U.S. Department of Housing and Urban Development, 1997). Other factors, such as the rapid growth of the Hispanic population at a time of contraction in Federal housing assistance, are clearly responsible for some of this disparity. However, focus group research and other data strongly suggest that discrimination in the distribution of housing assistance also plays a role (Luna and Perez, 1997). One compelling example of the discrimination hypothesis was presented by Latinos United, a coalition of community groups in Chicago that filed suit against HUD and the Chicago

Housing Authority alleging both intentional and disparate impact discrimination against Hispanics in the distribution of housing assistance in that city.

In 1998 the Fair Housing Council of Greater Washington conducted an audit of race and national origin discrimination in the Washington area's mortgage lending market. The audit of almost 50 of the area's largest volume lenders used similarly situated African-American, Latino, and White testers, controlling for income. The study found the incidence of discrimination was 48 percent for Latinos and 37 percent for African-Americans (Fair Housing Council of Greater Washington, 1998).

Insurance discrimination is another problem faced by Hispanic homeowners, although relatively little research has been conducted in this area. In 1994 the National Fair Housing Alliance (NFHA) conducted a number of neighborhood tests in four cities and uncovered disturbing findings. For example, Hispanic testers seeking homeowners insurance in Chicago experienced discrimination in 95 percent of their encounters with insurance agents (Tisdale, Smith, and Cloud, 1994). In 1994 the Texas State Office of Public Insurance Counsel conducted a review of homeowners insurance redlining guidelines used in six Texas markets (Austin, Dallas, Fort Worth, Lubbock, Houston, and San Antonio). The study concluded that the greater the concentration of Latinos and other minorities in a community, the less likely that an owner-occupied home in that community will be covered by standard homeowners insurance (Kincaid, 1994).

Latino Housing Discrimination: Fair Housing and Equal Opportunity Complaint Case Load

Until the 1990s Hispanics were severely underrepresented in the Office of Fair Housing and Equal Opportunity's (FHEO's) housing discrimination case load, despite advocate claims of and emerging research substantiating the high incidence of discrimination faced by Hispanic renters and homebuyers. Throughout most of the 1980s, complaints filed by Hispanics constituted less than 7 percent of the total FHEO case load. At this time Hispanics constituted between 7 percent and 9 percent of the total population and a much higher percentage of those protected by Title VIII of the Civil Rights Act of 1968.⁶

The Federal enforcement record has improved dramatically in recent years. Between 1992 and 1993 the case load for discrimination complaints based on national origin increased by 32.8 percent. Hispanics now account for almost 10 percent of the FHEO caseload,⁷ a figure that is approximately equal to their percentage of the U.S. population but lower than the percentage of All persons covered by Title VIII. Several factors account for HUD's improved performance.

- The growing body of evidence documenting substantial discrimination against Latinos may have encouraged more vigorous enforcement. Public awareness of this discrimination has been heightened by the release of *Housing Discrimination Survey: A Synthesis* in 1991 and policymaker attention to a growing and increasingly powerful Hispanic community.
- The emergence of the National Fair Housing Alliance (NFHA) and new Federal funding to support private fair housing groups⁸ led to increased Latino-focused enforcement activity. This increased activity was due, in large part, to NFHA's strong commitment to include Hispanics. For example, NFHA and NCLR collaborated in a series of outreach, enforcement, and advocacy activities throughout the early- and mid-1990s. In addition, NFHA nurtured a number of newly formed Latino-focused fair housing groups during this period.

- With the appointment of Housing Secretary Henry Cisneros in 1993, NCLR and other fair housing advocates sensed a substantial increase in policy attention to fair housing in general, and enforcement efforts on behalf of Hispanics in particular.

Recent Department of Justice and HUD Litigation

If HUD's fair housing enforcement efforts on behalf of Hispanics were inadequate until the early 1990s, the performance of the U.S. Department of Justice (DOJ) was dismal. DOJ was charged with litigating cases against municipal governments and cases involving a "pattern or practice" of misconduct. For much of the early 1990's, however, DOJ did not have a single Latino-focused lawsuit in its housing discrimination case load.⁹ The situation has changed substantially in recent years.

In 1995 DOJ settled a case against Security State Bank of Pecos, Texas, which was found to be in violation of the Equal Credit Opportunity Act because it overcharged Hispanic borrowers in more than 300 separate incidents. These borrowers, on average, paid significantly higher rates for loans than equally creditworthy Whites (U.S. Department of Justice, October 1995).

In 1996 HUD settled *Latinos United v. Chicago Housing Authority and HUD*. The Plaintiff alleged that HUD knowingly condoned various policies and practices that illegally limited access to Chicago Housing Authority and HUD Section 8 benefits by Latinos. As part of the settlement, HUD earmarked 500 vouchers for Latinos, funded mobility counseling, and promoted voucher use (Latinos United, 1994).

That same year HUD filed a complaint against the city of Waukegan, Illinois, citing allegations that in 1994, after experiencing significant increases in its Latino population, the city revised its housing code to include more restrictions on overcrowding. DOJ alleged that Hispanic families often were asked to vacate their homes even when they did not live in overcrowded conditions. Furthermore, city records indicated that all the families who were evicted from their homes pursuant to the new city codes were Hispanic (U.S. Department of Justice, 1996).

In 1997 DOJ and the village of Addison, Illinois, settled a case involving allegations that the village had violated the Fair Housing Act by illegally tearing down Latino neighborhoods under the guise of urban renewal (U.S. Department of Justice, 1997).

In March 1998 HUD settled a discrimination case alleging that managers and owners of El Granada Mobile Home Park in Moss Beach, California, discriminated against current and prospective Hispanic residents. Discrimination came in two forms: managers imposed higher qualifying standards for Hispanic tenants and made disparaging statements about Hispanic people living in the park (Project Sentinel, 1998).

Conclusion

Social science research has demonstrated conclusively that Latinos experience substantial housing discrimination. In recent years, Federal agencies and private fair housing groups have begun to carry out increased enforcement efforts to protect the civil rights of Hispanics under the Fair Housing Act. Despite the progress outlined in this article, the Act has not lived up to its promise.

Given the magnitude of discrimination against Hispanics, African-Americans, and others, it is clear that simple, decisive remedies remain elusive three decades after the Fair Housing

Acting became law. There is, in short, no single magic wand that policymakers and advocates can wave to eradicate housing discrimination. However, the goal of equal housing opportunity remains worthy of pursuit. Toward that end, we offer these recommendations.

- Educate the public about the problem of housing discrimination. We are not so naïve as to believe that a public education program alone will end housing discrimination or change the minds of policymakers opposed to stronger civil rights enforcement. However, we are also not so cynical that we think that attitudes cannot be changed. We believe that few Americans are aware of the compelling social science research on housing discrimination. One useful step recommended by the advisory board to the President's Commission On Race would be to publish regular report cards documenting the scope and degree of housing discrimination in American society. In addition, explaining how our entire society suffers as a result of discrimination against any one group might effectively appeal to the public's self-interest and conscience.
- Market discrimination data more effectively. This proposal was recommended by Marc Bendick, a pioneer in the field of paired testing to uncover discrimination. For example, television news magazines have carried several features on paired testing studies using hidden cameras. Greater use of these and other techniques might trigger a change in attitudes and behavior among many Americans.
- Continue to focus attention on funding issues. From an enforcement perspective, it is clear that both HUD and DOJ need more resources to enforce the Fair Housing Act. The FY99 Federal budget includes a major increase in funding for civil rights enforcement agencies, including both HUD and DOJ. This funding increase was achieved, in part, as a result of public attention to President Clinton's race initiative and vigorous advocacy by several organizations led by the Leadership Conference on Civil Rights. To prevent this increase from becoming a one-time occurrence, policymakers and civil rights groups must maintain continued attention to the funding issue.
- Sustain and expand the increasing interest in protecting Latinos against housing discrimination. This interest on the part of HUD, DOJ, and the private fair housing enforcement community comes after decades of neglect. Early in the next century, Hispanics will become the Nation's largest ethnic minority. It is not unreasonable to expect civil rights enforcement efforts to reflect that reality.
- The Latino community must make fair housing a higher priority. Hispanic advocates need to pull their weight in coalition with other supporters of fair housing to strengthen the law so it works for all groups. Simultaneously they must work to assure that the Latino community's interests will never again be ignored. More work also is needed to educate Hispanics about their rights and legal options. Local Latino housing and civil rights organizations should work collaboratively with private fair housing groups where they exist and try to fill the gap in areas that lack such capacity.

If we can accomplish all of this by working together with the small but committed network of fair housing enforcement officials, advocates, and practitioners, perhaps future generations will claim the Fair Housing Act as an unqualified, rather than bittersweet, success for Latinos and all Americans.

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Notes

1. In compiling this article, the authors relied heavily on, and excerpted liberally from, previous research, analysis, and congressional testimony produced by various past and present colleagues at the National Council of La Raza. These documents are cited in the references. The terms *Hispanic* and *Latino* are used interchangeably in this report to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Spanish, and other Latin American descent.
2. *Worst case housing needs* refers to households that do not receive Federal housing assistance, pay more than 50 percent of their income for rent, and earn less than 50 percent of the median family income for their areas.
3. These data, principally from HUD and the Bureau of the Census, are cited in Luna and Perez (1997).
4. See, for example, statement of Charles Kamasaki on the Fair Housing Amendments Act, House Hearings: Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, July 17, 1986.
5. For example, a 1973 League of Women Voters study in Houston and a 1978 study in San Jose, California, found that Mexican-Americans encountered discrimination at a dramatically lower rate than comparable African-Americans.
6. Title VIII of the Civil Rights Act of 1968 prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, or national origin.
7. Data provided by HUD's Office of Fair Housing and Equal Opportunity by telephone, August 1998. HUD/FHEO's national origin case load was 10.91 percent of its total complaints in 1997 (National Fair Housing Alliance, 1998).

8. The Fair Housing Initiatives Program (FHIP) provides funding to support outreach and enforcement activities carried out by private fair housing groups.
9. See also the article by Bill Lann Lee in this issue.

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