

# Commentary: Expanding the Fair Housing Testing Landscape

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In my 12 years as a fair housing nonprofit organization CEO, I have never read more thorough and in-depth analyses of fair housing testing than those presented in these several articles. Although I have occasional disagreements, the authors succeed in presenting compelling analyses of testing history, methodology, and results.

When read as a group, the articles are thorough in their analyses of testing specifics, while occasionally referencing important macro considerations. The authors presumably prioritized sufficiency of technique, assuming that an important path to resolution of greater challenges was testing efficacy.

I, however, think it important to consider macro questions that the articles do not raise directly. What point is there to perfecting testing and the collection of its data if policymakers fail to use it when promulgating policy? The real estate market crash of the late 2000s was predicted by testing data evidencing reverse redlining in minority neighborhoods. Black and Latino neighborhoods became foreclosure ghost towns that, years in advance, foretold the fate of the American real estate market. The testing data that unearthed this phenomenon should have informed a course correction to stem discriminatory redlining and prevent the crash. The failure of policymakers to take action based on testing data, however, resulted in historic losses of equity, first in minority neighborhoods and then across all neighborhoods.

In the end, the quality of testing matters little if policymakers refuse to see it as the all-important tool it is. It can be argued that there is no more sophisticated and advanced tool for determining trends in the real estate market. Policymakers would do well to prioritize the role of testing in setting housing policy for the nation.

Turning more directly to the science of testing, authors Fred Freiberg and Gregory D. Squires raise important concerns and poignantly think through the future of testing. The authors use experiences and lessons from enforcement investigations in New York, America's most competitive housing market, to argue that the U.S. Department of Housing and Urban Development's (HUD's) decennial paired-testing studies must evolve should HUD intend the studies to remain relevant. The authors correctly argue that the "predominantly complaint-responsive approach to enforcing fair housing laws is inadequate" and HUD should "place a greater emphasis on proactive testing to uncover systemic discrimination" (Freiberg and Squires, 2015: 92).

Freiberg and Squires (2015) prescribe multiple-contact testing rather than simple initial-contact testing to provide fuller insight into discriminatory practices. I agree. Testing in academic spheres often chases data purity so aggressively that organizers lose sight of the goal. Rather than achieving perfect data collection, testing should seek to determine whether or not differential treatment has occurred. The methods of deterring differential treatment unfortunately do not always fit neatly in data collection schematics. Like Freiberg and Squires (2015), I urge academic and audit-based test organizers to evolve their thinking and testing in a manner that always prioritizes uncovering discrimination.

This concept comports perfectly with an overall, but understated, finding that weaves through each article. Testing is evolutionary. The articles document the transition from print advertising to online advertising in determining which housing providers to investigate. Testing organizers have adopted digital audio and video recording in jurisdictions that allow it. Testing has emerged as a method for investigating not only race-based discrimination but also discrimination based on national origin, disability, religion, familial status, income, sex, and sexual orientation. In recent years, organizers have been able to conduct some tests wholly via digital communication without need for in-person contact or voice conversations. As housing markets have evolved, so has testing. These articles are testament.

A final issue that is evident but, again, not directly confronted in the articles is the lack of funding for additional audit and enforcement testing. The housing market is huge. The market produces hundreds of billions of dollars in transactions each year. In the third quarter of 2014, housing accounted for 15.2 percent of U.S. Gross Domestic Product.<sup>1</sup> President Obama's 2016 budget proposal, however, recommends only \$71 million for fair housing programs.<sup>2</sup> A serious commitment to eradicating housing discrimination requires funding levels that allow for testing to become commonplace in American housing transactions. Government spending on testing is less than 1 percent of the value of American housing transactions. Most people in the real estate business can practice their entire careers without ever being audited for fair housing practices. Unused tools are of no value. These articles demonstrate the sophistication and broad ability of the testing tool. So let us put it to work. Government should give testing value and purpose by expanding its use in the American housing market. Absent that increased use, it is unlikely that we will ever fully eradicate discrimination in American housing transactions.

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<sup>1</sup> <http://www.probuilder.com/housing-policy-update-gdp-and-housing-industry's-impact>.

<sup>2</sup> <http://portal.hud.gov/hudportal/documents/huddoc?id=36-FY16CJ-FHPrograms.pdf>.

## Author

James Perry is a fair housing advocate who previously served as Executive Director of the Greater New Orleans Fair Housing Action Center and the Mississippi Gulf Coast Fair Housing Center.

## References

Freiberg, Fred, and Gregory D. Squires. 2015. "Changing Contexts and New Directions for the Use of Testing," *Cityscape* 17 (3): 87–101.

