



STATEMENT OF CONSTANCE CHAMBERLIN
President and CEO
Housing Opportunities Made Equal of Virginia, Inc.

before the National Commission on Fair Housing and Equal Opportunity
October 17, 2008

Good afternoon. I'm Connie Chamberlin, president of Housing Opportunities Made Equal of Virginia, or HOME. HOME is one of the oldest and most well-respected fair housing organizations in the country, with a long history of successful fair housing enforcement and a broad-based and holistic approach to ensuring equal access to housing. We are also a HUD-approved housing counseling agency, and back when there was any federal money for mobility, we ran a successful mobility program.

WHAT HOME DOES:

HOME's mission is to ensure equal access to housing, and we believe that in order to do this, we must achieve seven major goals:

1. Eliminate racial and ethnic disparities in homeownership
2. Eliminate housing discrimination and unfair practices
3. Decrease concentration of poverty
4. Lower the rate of mortgage default
5. Work to desegregate housing patterns
6. Help more people become homeowners
7. Increase the availability of affordable housing

We work to achieve these goals through three Centers.

The Center for Housing Education provides individuals and families with the knowledge and financial management skills that help them take advantage of new housing opportunities, provides financial assistance for first time home buyers, and offers Virginia's premier program of foreclosure prevention and intervention.

The Center for Housing Advocacy provides our traditional fair housing services. It provides fair housing education and outreach to consumers, training, technical and planning assistance to the industry and local governments, and investigates housing discrimination through individual complaints and systemic investigations.

We have also realized that for us to be successful, we have to change the structures of our society that trap millions of people in situations with limited opportunities for personal, professional and economic development. HOME's **Center for Housing Leadership** is our policy arm, and works to change the systems that create economic, social and legal barriers to housing choice. We provide up to date research on housing issues that is used by advocates, industry and government throughout Virginia. We do grassroots organizing and education about housing issues, and are leaders in promoting policy change on the local and state levels. Through the Center for Housing Leadership, within the past year we have gotten state legislation passed that makes some forms of foreclosure rescues legal and provides a window of opportunity for borrowers in default to seek help in avoiding foreclosure. This year our legislative priorities include addressing the lack of accountability for mortgage brokers and the refusal of many housing providers to accept Housing Choice Vouchers. We also hope to make Virginia's Fair Housing Certification Program mandatory.

We believe all three of these approaches are essential if equal access to housing is to be achieved. We are funded by various localities, the Commonwealth of Virginia, HUD, corporations, foundations and numerous individual donors, as well as the Virginia Equal Housing Foundation, which HOME started with litigation proceeds. We also work closely with the Virginia Fair Housing Office, a substantially equivalent agency.

SOME FAIR HOUSING ENFORCEMENT HIGHLIGHTS:

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Havens:

Our fair housing enforcement actions have included some of the most significant fair housing cases in the history of the United States. In 1982 the U.S. Supreme Court voted unanimously in *Havens Realty Corp. v. Coleman* a racial steering case brought by HOME, to affirm the right of testers and fair housing organizations to bring fair housing cases.

Wedgewood Village:

In 1998 Wedgewood Village, a complex receiving subsidies from HUD, settled a DOJ lawsuit for \$480,000, based on a discrimination complaint initially brought by HOME. It was an interesting case in several respects. First, because we had a local presence, HOME received a complaint from a white resident that African Americans were being discriminated against. We tested and filed a complaint with HUD and the Virginia Fair Housing Office, which ultimately went to the Justice Department for further investigation. Justice, with access to investigatory resources the rest of us can only dream of, found additional plaintiffs and filed a lawsuit. Meanwhile, with the help of Ira Goldstein, HUD's Region 3 director at the time, we were able to persuade HUD to stop subsidy payments to Wedgewood until the case was resolved. This was not easy, and it is particularly important, because it was one of the few times I am aware of that HUD's housing and fair housing components actually worked well together to promote fair housing.

Nationwide Insurance:

In 1996 we filed a lawsuit against the Nationwide Insurance Company in state court, alleging redlining of African American neighborhoods in the City of Richmond. The unanimous jury verdict awarded HOME \$500,000 in compensatory damages and \$100,000,000 in punitive damages. After a rollercoaster ride of appeals, decisions and reversals by the Virginia Supreme Court, the case was ultimately settled for \$7,500,000 for HOME, with comprehensive affirmative relief provisions and \$8,000,000 for the National Fair Housing Alliance. I will have more to say later about this case, and how we got there.

Use of fair housing audits to change the system:

In 2002, we released the results of fair housing audits in numerous cities around the Commonwealth of Virginia. Those audits showed that between 44% and 60% of the time African Americans seeking rental housing were treated less well than whites, and 96% of covered multifamily housing complexes did not meet the accessibility requirements of the fair housing laws. We went to the Virginia General Assembly with that information and proposals for strengthening Virginia's fair housing enforcement process. As a result of that bipartisan effort, and with the support we were able to garner from the housing industry, a new Fair Housing board was created, additional legal resources were made available to the Virginia Fair Housing Office from the Virginia Attorney General's office, and a voluntary fair housing certification process was established. We have seen a notable increase in the number of fair housing cases with reasonable cause findings as a result.

However, last week we released the results of a new audit in the seven cities of Hampton Roads. We conducted 165 tests for race, accessibility, reasonable accommodations and modifications, familial status, and acceptance of housing choice vouchers, although source of income is not a protected class in Virginia. Part of the accessibility audit was funded by the Virginia Fair Housing Office using HUD partnership money, and HUD has assisted with publication of the results. While considerable progress has been made with the acceptance of families with children and in permitting people with disabilities to make reasonable modifications to their units, the results in the rest of the categories were dismal.

85% of housing providers whose rents would have qualified for Housing Choice Voucher either refused to accept a voucher or imposed impossible qualifications. (Yes, we'll accept the voucher

but your income will have to qualify you for the unit - at 4 times the rent!). This is consistent with other testing we have done to assess the availability of housing for voucher holders, and demonstrates the failure of the voucher program to provide the housing opportunities it was originally intended to promote. While we would like to see "source of income" added as a protected class in Virginia law, the extremely powerful industry lobby has vowed to kill any such legislation, so we are taking a different approach and have found patrons to introduce a bill that will create a tax credit for housing providers in low poverty areas who accept housing choice vouchers.

76% of housing providers either discouraged or refused but try to permit a service animal or charged illegal fees despite the fact that this has been the most common example used in fair housing training for reasonable accommodations for 20 years. We are reviewing these results for further action.

88% of the 25 covered multifamily dwellings tested did not meet the accessibility requirements in at least one area. 72% had three or more areas of noncompliance, and 36% had four or more. Stairs and level changes making it impossible for someone in a wheelchair to have the full use and enjoyment of were the most common failures. Since the release of our last accessibility results six years ago, HUD developed and underwrote training on the accessibility requirements, and that and similar training has been provided for architects, builders and developers on many occasions by HOME, the Virginia Fair Housing Office, the Virginia Housing Development Authority, the Virginia Department of Housing and Community Development, and the Virginia branch of the American Institute of Architects. In addition, the accessibility requirements have been incorporated into the International Building Code and the Virginia Uniform Statewide Building Code.

We have met with city managers, city attorneys and building officials in all seven localities, as well as with those government officials in charge of building code enforcement on the state level, and have made recommendations for strengthening their enforcement of the accessibility requirements. We will also be working with them to determine exactly where in the process for each of the violations the system has broken down. It is very clear that there is an enormous amount of confusion about the requirements on the part of building officials. We are working with the Virginia Fair Housing Office, which funded part of the accessibility audit, to determine the appropriate level of enforcement in each case. But what is very clear is that the continued weakness of enforcement in this area, and the lack of clarity as to whether such violations are continuing violations or require filing within the two year time period has denied many, many people with disabilities the accessible housing they need and to which they are entitled under the law.

And last but not least: we conducted 50 matched pair tests to evaluate whether or not there were differences in treatment between African American rental homeseekers and whites. For all seven Hampton Roads Localities the overall results were that **in 66% of the tests white homeseekers were treated better than their black counterparts.** In individual localities the results ranged from 50% of the time to 82% of the time. The differences in treatment were frequently egregious - \$132/\$32, \$929/\$250; waiting list, number of units, etc. etc. We are reviewing the individual test results for further action, and will be going back to the Virginia General Assembly with a proposal to make the Fair Housing Certification program mandatory.

However, what is very clear is that 140 years after race discrimination in housing first became illegal, the problem is not going away. Education of consumers and training of the industry, while necessary is not sufficient. Without coordinated, effective enforcement on all fronts, we will never achieve the goal of the Fair Housing Act to provide for fair housing within the United States.

We believe that to continue with the current fragmented and ineffective system will continue to deny millions of Americans the personal, social and economic benefits that equal access to housing provides, and will continue to trap communities into never ending cycles of poverty and revitalization.

We have several proposals, many of which are designed to harness all of the activities of the federal government in support of ensuring equal access to housing. Until we insist on this, we are merely paying lip service to the American dream of justice and equality.

CHANGE THE STRUCTURE:

- I. **Create an independent, cabinet level agency to enforce the fair housing act**

First, it is obvious that we will never achieve equal access to housing if the responsibility for fair housing is primarily limited to one part of one federal agency. A new structure needs to be created that elevates the fair housing enforcement function to an independent agency and

provides adequate funding. The office of Fair Housing and Equal Opportunity is a stepchild at HUD, with a tiny budget and little influence over the major housing programs of the federal government which historically have been one of the greatest causes of segregation and unequal treatment and which today are administered in ways that continue to perpetuate segregation and the concentration of poverty.

II. Assign dedicated attorneys from the Department of Justice to work with the new fair housing agency on the development of cases.

This is analogous to what we achieved in Virginia a few years ago, which has greatly improved the coordination between the Virginia Fair Housing Office and the Office of the Attorney General of Virginia, and led to significant improvements in the state's enforcement of its fair housing law.

III. Create legal requirements for all federal agencies to ensure that their actions affirmatively further fair housing

Every federal agency needs to be given responsibility for ensuring that their actions in a very real sense affirmatively further fair housing. A model might be the existence of the cabinet-level Advisory Council on Historic Preservation and the requirement that all federal agencies comply with the requirements of Section 106 of the Historic Preservation Act of 1966. The National Historic Preservation Act granted legal status to historic preservation in federal planning, decision making, and project execution. Section 106 requires all Federal agencies to take into account the effects of their actions on historic properties, and provide the Advisory Council with a reasonable opportunity to comment on those actions and the manner in which Federal agencies are taking historic properties into account in their decisions. The legal framework for ensuring fair housing should at the very least be on a par with that for protecting our historic resources.

IV. Require ALL local and state government recipients of all forms of federal funding to demonstrate that the uses they will make of this money will affirmatively further fair housing or at the very least, do no harm.

As part of this reorganization, expand the requirement to affirmatively further fair housing to all federal funding programs. Transportation and education dollars, to name just two, have frequently been used to perpetuate existing patterns of segregation, or to destroy minority

communities. Until we have all the resources of the federal government united behind a commitment to ensure equal housing, what the right hand giveth the left hand will be taking away.

V. Ensure that federal subsidies do not go to housing providers who are in violation of the fair housing laws

When a determination of reasonable cause is made in a complaint against a provider of subsidized housing, all federal funding for that housing should be automatically stopped, without injury to the residents, until the case has been resolved. This would not only ensure that the federal government does not reward illegal behavior, it would also be a powerful deterrent to illegal behavior.

GET SERIOUS ABOUT REQUIRING STATE AND LOCAL GOVERNMENTS TO AFFIRMATIVELY FURTHER FAIR HOUSING

I. Create and enforce sanctions, such as suspension of eligibility for certain federal funds, for states and localities that fail to meet requirements for effectively affirmatively furthering fair housing.

Without the existence and use of sanctions, the requirement to affirmatively further fair housing will continue to be fundamentally a meaningless exercise.

II. Make the requirement that states and localities receiving federal funds “affirmatively further fair housing” meaningful.

Standards should be set that require certain actions be taken before government recipients or subrecipients of federal funds can certify that they have “affirmatively furthered fair housing”. Poster contests and resolutions celebrating fair housing month are grossly insufficient. In the vast majority of cases (probably all of them) those local governments that have designated a fair housing officer have made that as one small, subordinate responsibility among many others that take precedence, and many of the so-called fair housing officers do not have the time, knowledge, resources or authority to be effective. Such standards might include requirements that local governments support effective fair housing enforcement, and that they provide

dedicated training to their building officials on compliance with the accessibility guidelines, with periodic review of newly constructed housing to ensure that the guidelines have been met.

- III. Continue to require recipients of federal funds to complete Assessments of the Impediments to Fair Housing, but set and enforce standards to ensure that those assessments adequately assess the barriers to housing choice.**

We have seen AIs in which housing industry representatives were interviewed and their statements that they didn't think housing discrimination was a problem taken as conclusive. Every AI, at a minimum should be required to include testing to determine the level of discrimination against a variety of protected classes in a variety of housing transactions. Such testing should be required to be conducted in a professional manner by experienced fair housing organizations. All AIs should be required to include an analysis of Home Mortgage Disclosure Act data for the impact of lending patterns on members of protected classes, and to evaluate whether their programs of downpayment assistance, for example, are administered in a way that promotes, rather than limits, housing choice. There are many other elements that should be considered essential. The National Fair Housing Alliance evaluated many different AIs. They should be contracted with to help develop these standards.

The current effort on the part of HUD to require localities to make progress on barriers to housing choice identified in their AIs is nothing more than an annoyance to local governments, because HUD's ability to insist on meaningful progress is limited.

PROVIDE ADEQUATE FUNDING FOR FAIR HOUSING ENFORCEMENT

- I. Require recipients of CDBG funds to devote a portion of those funds to fair housing enforcement.**

Some localities are willing to fund fair housing enforcement, but many more are not. Without adequate funding for local fair housing organizations, the most effective tool we have for fair housing enforcement will not be utilized. Local governments are frequently focused on community revitalization, do not see the ultimate economic impact of housing discrimination, and consider fair housing to be a subordinate goal, taking resources away from things that really matter. A

requirement that they provide adequate funding for fair housing enforcement will strengthen the fair housing movement nationwide.

II. Increase Fair Housing Initiatives Program funding for enforcement, and maintain the integrity of the program by ensuring that only qualified private fair housing organizations are eligible for funding.

Many exceptions to the requirements for funding set out in the law have been made, and in increasingly difficult economic times additional pressure will be placed on HUD to make these funds more widely available, and organizations looking for ways to remain viable search for new sources of revenue. I can say this from a relatively disinterested viewpoint since HOME has not applied for FHIP enforcement funds for about five years.

III. Support the effective use of qualified private fair housing organizations to conduct systemic investigations.

Probably the single most effective systemic investigation of violations of the fair housing laws was conducted by a group of private fair housing organizations- the National Fair Housing Alliance, the Toledo Fair Housing Center, the Metropolitan Milwaukee Fair Housing Center, HOME of Cincinnati, and HOME of Virginia- of redlining in the homeowners' insurance industry. Each organization applied for FHIP funding for a project that required at least three of them to be funded, and the applications were all approved. This coordinated investigation resulted in multiple lawsuits against multiple insurers, including HOME's litigation against Nationwide, which resulted in a far greater level of relief than was achieved by the Department of Justice when the preliminary results of the investigation were returned over to them. Shortly thereafter, HUD changed the requirements of the FHIP Notice of Funding Availability to make this kind of cooperation impossible. Private fair housing groups are far more nimble much closer to the issues, and have much more access to the community than do federal agencies, and should be the first line of offense in systemic investigations. Qualified private fair housing organizations should have the freedom to design systemic investigations without arbitrary limitations on how those investigations should be structured. The powers and resources of the Department of Justice should be used to support, not supplant, the systemic investigations by private groups.

REQUIRE DISCLOSURE OF DATA ON HOMEOWNERS' INSURANCE POLICIES

Require disclosure of homeowners' insurance data similar to that required of lenders for mortgage loans.

The current crisis in the financial markets should be a clarion call about the need for greater transparency in the provision of financial services. The insurance marketplace in particular lacks meaningful public disclosure, limiting our understanding of the way the market is being served and stifling debate about important public policy issues. Insurers should be required to provide the same level of public information about applications and policies that the Home Mortgage Disclosure Act has required lenders to disclose about mortgage loans for more than 30 years. Both industries are providers of critical financial services and have been determined as a matter of public policy to need some level of regulation. Yet unlike the lending industry, insurers are not required to provide the information that will make appropriate review and regulation possible. Data collected should include the race, gender and income of the applicant, credit score if applicable, disposition of application, location of the policy, premium type of policy, cancellations, and number of claims at a minimum. HMDA data has allowed lenders, regulators and the public to identify areas of concern and seek methods of solution. Homeowners insurance is just as important, and should receive the same level of public scrutiny. Without it, it will continue to be impossible, short of litigation, to determine whether or not homeowners' insurance is being made available on an equal basis.

CONCLUSION:

The current financial crisis is fundamentally a fair housing crisis, based on the historic redlining of minority communities that contributed to a hunger for credit and made them vulnerable to offers of high cost loans. It is a clear demonstration of the impact of failure to regulate and to enforce the fair housing laws, and should remind us that fair housing is not a peripheral issue of interest to only a few, but an essential element of our economic prosperity as well as our hopes for justice.

Thank you for the opportunity to share HOME's experience and our ideas with you.