

Creating a Fair Housing System Available to Hispanic Families

Submitted to:

**National Commission on Fair Housing and Equal Opportunity
Boston, Massachusetts**

Submitted by:

**Janis Bowdler
Associate Director, Wealth-Building Policy Project**

NATIONAL COUNCIL OF LA RAZA
Raul Yzaguirre Building
1126 16th Street, NW
Washington, DC 20036

September 22, 2008

My name is Janis Bowdler, Associate Director of the Wealth-Building Policy Project at the National Council of La Raza (NCLR). NCLR is a private, nonprofit organization established in 1968 to reduce poverty and discrimination and improve opportunities for the nation's Hispanic Americans. As the largest national Hispanic civil rights and advocacy organization in the U.S., NCLR serves all Hispanic nationality groups in all regions of the country through a network of nearly 300 affiliate community-based organizations. I oversee our research, policy analysis, and advocacy on issues related to Latinos' financial security such as homeownership, financial services, and banking. During my time at NCLR I have published several documents relevant to today's hearing, including: *American Dream to American Reality: Creating a Fair Housing System that Works for Latinos*; *Saving Homes, Saving Communities: Latino Brokers Speak Out on Hispanic Homeownership*; and *Jeopardizing Hispanic Homeownership: Predatory Practices in the Homebuying Market*. I have also had the opportunity to serve as an expert witness before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, the U.S. House Committee on Financial Services, and before the Board of Governors of the Federal Reserve.

I would like to thank the National Commission on Fair Housing and Equal Opportunity for inviting me to testify. Perhaps more than ever, Latino families are faced with a number of barriers that prevent them from accessing their rights under the Fair Housing Act.

NCLR has a long history of fighting for Latinos' right to fair and affordable housing. Over the past two decades, we have testified before Congress on this issue multiple times and worked with partners in the private and nonprofit sectors to improve Latino families' access to decent and safe housing. Complementing this work, NCLR has also been a leader in advocating and conducting research on affordable housing issues important to the Latino community. This work focuses on issues such as wealth creation and barriers to homeownership, access to affordable mortgage products, and programs and legislation that support fair lending. Since 1997, NCLR has been a national intermediary designated by the U.S. Department of Housing and Urban Development (HUD) to distribute funds for housing counseling. The NCLR Homeownership Network (NHN) is made up of 50 community-based organizations in more than 23 states, which provide bilingual homeownership counseling to low-income families in predominately Latino neighborhoods. NHN counsels nearly 30,000 families each year, more than 3,500 of which become homeowners. In early 2006, NCLR recognized the need to provide foreclosure counseling to Latino homeowners. In 2008, we have assisted more than 6,000 families who are struggling to keep their homes.

Housing discrimination in and of itself is a major societal concern and undermines the fundamental American commitment to equal opportunity under the law; for that reason alone society should be committed to its eradication. However, discrimination also results in tangible damage to its victims and neighborhoods. The most obvious and measurable is segregation. Major studies of segregation patterns have identified a trend of rising segregation levels after an historic low in the mid-1980s. Neighborhood segregation contributes to cycles of poverty, segregated and underperforming schools, and decreased access to city services and jobs. Moreover, limiting housing choices undermines wealth creation and economic mobility.¹

¹ John R. Logan, *Separate and Unequal: The Neighborhood Gap for Blacks and Hispanics in Metropolitan America* (Albany, New York: University of Albany, Lewis Mumford Center for Comparative Urban and Regional Research, 2002); Juan Onésimo Sandoval, Hans P. Johnson, and Sonya M. Tafoya, "Who's Your Neighbor: Residential

Overwhelming evidence shows that Hispanic renters and homeowners are often outside the fair housing system. Latino families are less likely to report incidences of discrimination, and Latino-focused fair housing agencies are underrepresented among fair housing grantees, especially in the area of enforcement. In today's testimony I will give some background on why this is the case, outline the barriers Hispanic families face when accessing the fair housing system, and make a set of recommendations on how we can do better.

Evidence of Discrimination

Discrimination against Latino homeseekers is not a new issue and, given the current backlash against immigrants, we have reason to believe that it may be intensifying. In a chapter published in *Fragile Rights Within Cities: Government, Housing, and Fairness*,² NCLR reviewed the history of housing discrimination against Latino families, as well as the participation of Latino-led organizations and Latino-serving agencies in the Fair Housing Initiatives Program (FHIP) and the Fair Housing Assistance Program (FHAP), respectively. We found that while incidences of housing discrimination against Latinos are on the rise, support for the victims and the agencies and organizations that serve them are not.

Approximately every ten years, HUD conducts a study using paired testing to gauge incidences of discriminatory acts whereby a minority and a White tester are given identical financial profiles and apply for the same apartment or home loan. HUD conducted the study in 2002, which resulted in the largest, most comprehensive snapshot of discrimination to date. The study found that nearly one in five Hispanic homebuyers and more than one in four Hispanic renters experience some act of discrimination while searching for their new home.³ While discrimination against Hispanic homebuyers had decreased since the previous HUD-sponsored report (completed in 1989), the incidence of discrimination against Hispanic renters rose, while the same figures fell for other renters. This is troubling in light of the important contribution that Hispanic families make to the renting market, accounting for more than 17% of all renters.

Other evidence suggests a potential rise in housing discrimination against Latinos nationwide. In response to what can only be called a backlash against hardworking immigrant families, some local municipalities have selectively enforced their zoning laws to target Latino families. In 2004, for example, the U.S. Department of Justice (DOJ) settled a case against Bound Brook, New Jersey in which an elected official was found using an Internet chat site to solicit addresses of Latino-occupied units for selective housing code enforcement. Hazelton, Pennsylvania and Riverside, New Jersey made national headlines when they passed ordinances that would make it illegal to rent to undocumented immigrants. Similar laws have popped up across the country,

Segregation and Diversity in California," *California Counts* 4(1) (2002); Gary Orfield and Chungmei Lee, *Brown at 50: King's Dream or Plessy's Nightmare?* (Cambridge, Massachusetts: Harvard University Civil Rights Project, 2004); and Gary Orfield, *Housing Segregation: Causes, Effects, Possible Cures* (Cambridge, Massachusetts: Harvard University Civil Rights Project, 2001).

² Janis Bowdler and Charles Kamasaki, "American Dream to American Reality: Creating a Fair Housing System that Works for Latinos," in *Fragile Rights Within Cities: Government, Housing, and Fairness*, ed. John Goering (Lanham, Maryland: Rowman & Littlefield, 2007), 229-250.

³ M.A. Turner, S.L. Ross, G.C. Galster, and J. Yinger, *Discrimination in Metropolitan Housing Markets: Phase 1* (Washington, DC: U.S. Department of Housing and Urban Development, 2002).

despite successful legal challenges against them. Anecdotal evidence suggests that landlords will avoid renting to anyone they believe is an immigrant to avoid penalty under these laws.

In other areas, cities have passed new laws that are designed to keep large immigrant families out of their neighborhoods. Prince William County, Virginia administrators attempted to change local building codes to redefine “crowding.” *The Washington Post* reported that the change resulted in Latino families becoming the primary targets of related complaints and that numerous searches were conducted without merit (determined by the fact that no infractions of the code were found).⁴ The targeted nature of the revised codes and their selective enforcement caught the attention of HUD officials, who are currently investigating the case.

There is other evidence of discrimination in the home insurance and lending markets. For example, analysis of Home Mortgage Disclosure Act data confirms earlier findings that Latinos and other minority and low-income families are disproportionately receiving higher-cost home loans, even when controlling for key loan characteristics such as income, loan amount, property location, co-applicant, and gender.⁵

Failures of the Current System

Despite the evidence of discrimination against Latinos, few are participating in the fair housing system as complainants, employees, or organizations. Research completed by the National Fair Housing Alliance shows that reports of discrimination lag far behind the actual number of incidences. This is especially true for Hispanic families, who are among the least likely to file a complaint. A review of FHIP grantees shows that since 2002 support for organizations targeting Hispanic, immigrant, or Spanish-speaking homeseekers has not increased. Moreover, the bulk of the support for organizations targeting these communities is for outreach activities rather than enforcement activities. Thus we are concerned that even effective outreach activities could be undermined by a lack of enforcement.

The absence of Latinos from the fair housing system is not an accident. A pattern of noninvestment in Latino organizations and an ineffective enforcement system has led to an environment where many have lost faith in the fair housing system. NCLR has identified three major obstacles that prevent Hispanic families from knowing and defending their rights under the Fair Housing Act:

- **Many Latinos are unaware of their rights.** Because historically there have been so few Latino-focused, community-based organizations involved in fair housing outreach, education, and testing, there is a lack of cultural awareness of the civil rights enforcement system in general and the fair housing system in particular. The result is that many Hispanics who encounter housing bias may not recognize it when it occurs. The National Fair Housing Alliance’s (NFHA) *2003 Fair Housing Trends Report* estimates that—based

⁴Stephanie McCrummen, “Concerns Persist About Manassas Anti-Crowding Efforts,” *The Washington Post*, Thursday, February 23, 2006, VA15; and Nikita Stewart, “Prince William Sizes Up Crowded Housing Problem,” *The Washington Post*, Wednesday, February 22, 2006, B02.

⁵Debbie Bocian, Keith Ernst, and Wei Li, *Unfair Lending: The Effect of Race and Ethnicity on Subprime Lending* (Durham, North Carolina: Center for Responsible Lending, May 2006).

on HUD findings of a 27% discrimination rate against Hispanic renters and on the average number of Hispanic families who move each year—Hispanics alone probably encounter at least 441,085 incidents of discrimination a year. However, there were only 25,000 total claims filed on behalf of all protected classes during 2002.⁶ Further, many federal and local offices, as well as agencies funded by FHIP and FHAP, lack bilingual staff and materials, which inhibits effective outreach to the Hispanic community; many Latino families do not understand their rights, are reluctant to report discrimination, or do not receive information about subsidized housing programs.

- **Enforcement systems do not meet the needs of victims of housing discrimination.** Despite the widespread discrimination encountered by Latinos in the housing market, there is substantial evidence that the fair housing enforcement system fails to adequately enforce their rights. For example, Hispanic households are severely underrepresented in federal charge caseloads and litigation and in complaints filed with state-local enforcement agencies and private fair housing groups. A review of the DOJ's publicly available case summaries for housing and civil rights enforcement, for example, reveals that it has pursued only 22 fair housing cases involving Latino plaintiffs between 2000 and January 30, 2004 and filed one amicus curiae brief out of more than 180 cases.⁷ This litigation on behalf of Hispanics constituted less than 13% of all DOJ's caseload over this period. (A brief review of updated summaries on the DOJ website suggests the rate has not changed.) The fair housing system relies heavily on victims reporting incidents of discrimination, which requires victims to know their rights, to realize they have been discriminated against, and to be comfortable reporting the incident. Absent a robust enforcement system, those that violate fair housing laws have little to fear and little incentive to put fair renting and sales practices in place.
- **Funding for Latino-focused fair housing has not been a priority.** Unfortunately, Latinos have not been welcomed as mainstream stakeholders in the fair housing system. As a result, few mainstream fair housing agencies that have the capacity to serve the Latino community effectively—and even fewer Latino community-based organizations—engage in Latino-based work in the field of fair housing. Although anecdotal evidence suggests that a significant number of mainstream fair housing agencies have some capacity to serve the Hispanic community, it is still far from the norm for Latinos or other bicultural or bilingual staff to be proportionately represented in such agencies. NCLR research shows that Latino-serving agencies do not receive the funds they need to adequately reach the Latino community. The funds they do receive are more often focused on outreach rather than on enforcement. Given recent demographic changes and the research findings documenting a high incidence of housing discrimination against Hispanics, one might expect a substantial portion of funding to be allocated to agencies building Latino-focused capacity, or Hispanic organizations seeking to build fair housing capacity, or both.

Moreover, other factors further compound the impact of these barriers. A fundamental barrier to building capacity in new communities is the funding structure of FHIP. To be competitive for

⁶ *2003 Fair Housing Trends Report* (Washington, DC: National Fair Housing Alliance, 2003).

⁷ *Case Summaries*, U.S. Department of Justice, Civil Rights Division Housing and Civil Enforcement Section, 2004 www.usdoj.gov/crt/housing/documents/casesummary.htm (accessed September 18, 2008).

FHIP funds, an organization has to already have experience carrying out fair housing activities. However, most organizations rely on HUD funds to leverage additional support from state or local sources. There is a small set-aside for creating new fair housing organizations; however, it is not up to scale with the demand for discrimination services. As mentioned, rising anti-immigrant sentiments are also problematic. We have heard many reports from community organizations that landlords or homebuying agents threaten to have families deported, even when a family is legally present and the threat is baseless. These intimidation tactics only serve to keep all Latinos from trusting the fair housing system.

While we have seen HUD take some steps to keep up with the evolving threats to fair housing, such as hiring lending specialists, the structure of the fair housing system still does not meet the needs of many Latino families. Incremental changes in funding or staff are not enough. We need a fundamental change in the fair housing system that emphasizes prevention and deterrence, rather than a reactionary, complaint-driven system.

Recommendations

NCLR applauds the National Commission for hosting these hearings. We hope the result is renewed energy and innovation in the field of fair housing. Latino families are routine targets of housing and lending discrimination and are underrepresented among the groups that offer assistance. The consequences of a community left behind by fair housing enforcement are great: segregation, limited ability to create and retain wealth, and distrust of the civil rights system. We must reinvigorate the fight against housing and lending discrimination to ensure that all communities can enjoy the full benefits of the law.

NCLR offers the following recommendations to the Commission:

- **Build awareness internally and externally.** To serve Latinos and immigrants better, greater awareness of their needs must be built into the fair housing system at every level. Diversity within the fair housing workforce is a crucial first step. Fair housing agencies and grantees must hire bilingual and bicultural staff with a knowledge and understanding of the vast communities that rely on fair housing laws. HUD and DOJ should also partner with organizations that have cultural and linguistic capacity to serve the underserved, but who may not be designated as FHIP or FHAP grantees. Awareness needs to be increased among the general public, as well. A broad public education campaign in multiple languages is necessary to educate homeseekers on their rights to fair access to a home, how to file a complaint in the event of an incidence of discrimination, and who in their area can help them through the process.
- **Build capacity.** Congress must increase the funding for the fair housing programs and set aside a portion of this increase to build capacity within Latino-serving community organizations. Through FHIP, HUD must embrace multi-service, community-based organizations that are well established in Latino and immigrant communities; it must also be willing to fund these organizations for at least three years at a time. NCLR recommends that HUD work with knowledgeable organizations to develop a priority list

of cities and localities that are most in need of the investment, including those that lack capacity and those that are facing rising anti-Latino or anti-immigrant sentiments.

- **Expand enforcement actions.** Current enforcement efforts are largely complaint driven. To truly attack and reduce incidences of discrimination, we urge HUD to develop a “zero tolerance” policy on housing discrimination. This position should be backed up by rigorous paired testing and a national scorecard on the nation’s largest real estate firms, lenders, broker houses, and insurance agencies. When discrimination is found, enforcement action must follow immediately. The program would also include “whistleblower” protections for industry employees that reveal patterns of discrimination.

As a closing comment, we note that a strong and effective enforcement system is the key to ensuring all families enjoy their rights under the Fair Housing Act. Without enforcement, education and outreach activities will be undermined.