

Testimony before the

**NATIONAL COMMISSION on  
FAIR HOUSING and EQUAL OPPORTUNITY**

“Still Separate and Unequal:  
The State of Fair Housing in America”

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To the Honorable Members of the Commission:

My name is William R. Tisdale. I am President and CEO of the Metropolitan Milwaukee Fair Housing Council, where I have been employed since 1978. I also served as the founding President of the National Fair Housing Alliance from 1988 through 1995, and continued to serve as a member of the Board of Directors until 2002.

The Metropolitan Milwaukee Fair Housing Council (MMFHC) was established in 1977 as a private, non-profit organization dedicated to promote fair housing throughout the State of Wisconsin by combating illegal housing discrimination and by creating and maintaining racially and economically integrated housing patterns.

As a full-service fair housing organization, MMFHC fulfills its mission through three program components: Enforcement, Education and Outreach, and Community and Economic Development. MMFHC's **Enforcement Program** includes complaint intake, testing and investigation of systemic forms of housing discrimination. MMFHC has handled almost 6000 complaints alleging illegal housing discrimination and conducted over 10,000 tests in the rental, sales, insurance and lending markets. MMFHC has assisted over 550 complainants in filing lawsuits; roughly 98% (all but 8) were brought to successful resolution for the complainant. Subsequently, plaintiffs in enforcement actions recovered over \$6.3 million in damages. Additionally, some MMFHC clients were able to legally secure the housing denied them. MMFHC has also been involved in unusually complex cases, including 16 lawsuits based on systemic forms of discrimination filed since 1990. Statewide fair housing enforcement activities have been an integral part of MMFHC since 1984. MMFHC provides statewide enforcement services through its Milwaukee office and two satellite offices – the Fair Housing Center of Greater Madison (FHCGM) located in Madison and the Fair Housing Center of Northeast Wisconsin (FHCNW) located in Appleton.

MMFHC's **Education and Outreach Program** includes fair housing presentations to consumers, advocates and the general public, production of a newsletter and dissemination of fair housing educational materials. Additionally, MMFHC provides training to members of the housing industry regarding their legal rights and responsibilities. Through these outreach and educational efforts, MMFHC has reached hundreds of thousands of persons throughout Wisconsin to inform them of provisions of fair housing laws.

MMFHC's **Community and Economic Development Program** works with community organizations, developers and local policy makers on the need for inclusionary housing policies and the promotion of racial and economic integration. This program component also promotes fair lending and seeks to eradicate predatory lending practices, including the intake, counseling and investigation of predatory lending complaints.

Mr. Jim McCarthy of the Miami Valley Fair Housing Center has provided a brief overview of the failures of government in its efforts to directly enforce the fair housing laws. I would like to address other government actions that also affect enforcement efforts by private fair housing organizations and impede victims of housing discrimination from exercising their fair housing rights.

**1) Government has failed to adequately engage in partnerships with private fair housing organizations in efforts to collectively eliminate discrimination and promote integration**

Private fair housing organizations are a valuable and unique resource available to government in the enforcement of fair housing laws and promotion of equal opportunity in housing. With strong roots in our communities, we have networks with Independent Living Centers, civil rights organizations, community groups, neighborhood associations, faith-based organizations and advocacy agencies. We also have contacts with thousands of persons who have been victimized by illegal housing practices. As a result, we know the insidious ways that discrimination emerges in housing transactions, we see the effects those actions have on persons victimized and have first-hand knowledge of the impact on the larger community. As non-governmental, non-profit organizations we possess extensive knowledge of the fair housing laws and case precedents, the nature and extent of housing discrimination in our communities, as well as methods for investigating and gathering evidence to support fair housing cases. We are, unequivocally, experts in this field of civil rights law enforcement.

HUD fails to take full advantage of this knowledge and expertise. While our local HUD office recognizes and fully utilizes our resources, this, by no means, reflects the experience of many of our colleagues. Further, at a national level there is limited effort to tap into our expertise. There are ample opportunities for private fair housing organizations to be at the table to share ideas regarding national fair housing priorities and strategies to ameliorate levels of discrimination and segregation. For example, neither HUD's Strategic Goals nor Policy Priorities expressly address dismantling segregation or promoting integration. This is certainly a priority that private fair housing organizations would identify, as such agencies observe the costs of segregation on a daily basis. There are a myriad of other issues on the national level that could be more comprehensively addressed with the addition of the expertise of members of the private enforcement sector. Unfortunately, the current mode of such communication efforts is limited to hour and a half meetings with regional representatives of HUD at its bi-annual policy conferences. This neither affords direct access to higher levels of HUD's administrative staff and decision-makers, nor provides adequate time for ongoing discussion of critical issues.

**2) Government should encourage and promote regional and national partnerships between private fair housing organizations to combat systemic forms of housing discrimination**

An example of one of the most effective means of combating systemic forms of housing discrimination was a HUD-funded investigation of redlining practices in the homeowners insurance industry in the mid-1990s. Private fair housing organizations including Housing Opportunities Made Equal of Richmond (VA), the Toledo Fair Housing Center (OH), Housing Opportunities Made Equal of Cincinnati (OH), the Metropolitan Milwaukee Fair Housing Council and the National Fair Housing Alliance conducted a comprehensive systemic investigation (which included testing) to uncover fair housing violations. This investigation led to changes in underwriting practices of four major homeowner insurers (Liberty Mutual, Travelers, Aetna and Prudential), which in turn resulted in major changes in the way homeowners insurance is marketed and provided throughout the industry.

It is widely acknowledged that housing discrimination cannot be eliminated by investigating one individual complaint at a time. Institutional discrimination occurring on a systemic basis must be combated holistically and proactively. It's not enough to simply decapitate one of the hydra's heads – the beast of housing discrimination must be struck at its heart. This is especially important because many housing providers and providers of housing-related services act on an interstate or national basis. Large insurers, lenders, developers, real estate brokers and rental management companies have the power to affect millions of people with their discriminatory behaviors, and it requires a concerted regional or national effort to stop them. HUD has not aggressively acted upon the success of private sector enforcement partnerships to combat the broad range of housing market discrimination. Priority in HUD funding programs should be given to the creation and maintenance of private enforcement sector partnerships.

**1) Local communities continue to receive Community Development Block Grant (CDBG) funding despite failing to meet the HUD mandate to “affirmatively further fair housing.”**

Many CDBG jurisdictions do little or nothing that fulfills HUD's requirement that they affirmatively further fair housing. Many CDBG jurisdictions, which answer to citizen commissions and local elected officials, find that support for fair housing activities is politically unpopular. Other CDBG programs erroneously claim that the need for fair housing services is low. Thus, they justify their insufficient efforts to combat discrimination and promote integration. The Milwaukee suburb of West Allis, for example, claims to affirmatively further fair housing by having a Fair Housing Board that, amongst its duties, is charged with investigating and adjudicating complaints of illegal housing discrimination. Yet, this Board meets once a year for a few minutes, at most, and Board members have publicly stated they had never

seen or received copies of the West Allis fair housing ordinance. Unfortunately, HUD has imposed no sanctions on the West Allis CDBG program. What type of remedy or redress can a victim of housing discrimination expect to receive from filing a complaint with this entity?

Some local jurisdictions purport to affirmatively further fair housing by holding fair housing poster or essay contests for local youth, while other jurisdictions do nothing at all. These communities' efforts to further fair housing are meaningless or nonexistent, but they continue to receive CDBG funding and discrimination continues within their borders unabated.

In addition, some Wisconsin CDBG jurisdictions have outdated or inadequate *Analyses of Impediments to Fair Housing Choice* (AIs), documents HUD requires of CDBG funders so that local jurisdictions can identify and plan for the eradication of obstacles to fair housing. For example, Waukesha County is one of the fastest growing communities in Wisconsin with some of the highest job growth in the metropolitan Milwaukee area. Due to residential segregation, there is a spatial mismatch between the supply of employment opportunities in Waukesha County, which is overwhelmingly white, and the unemployed minority population within Milwaukee's central city. Yet, this County submitted and maintains an AI that is a mere 15 pages in length.

Worse yet, the City of Kenosha published an AI that makes only a passing reference regarding discrimination against persons with disabilities and concludes, based solely on discussions with the local Board of Realtors, that discrimination within the real estate industry does not exist.<sup>1</sup> Further, the AI justifies the City's lack of representation of persons with disabilities on its CDBG and other committees, with the following statement:

"While persons with disabilities have not served on the committees, some of the committee members have friends or family members who have disabilities and are cognizant of housing and accessibility issues confronting the disabled community."<sup>2</sup>

Additionally, the AI contends there is little documentation of discrimination within Kenosha because the majority of complaints filed with the State administrative agency were dismissed for lack of probable cause. It states the following conclusion without any supporting information:

"It appears that unfounded claims are being made and it is speculated that complainants either lack knowledge of the laws or they are using the laws to mask other issues. In either case, education for all parties regarding fair housing seems to be needed."<sup>3</sup>

The AI fails to take into account, however, that no testing occurs within Kenosha, and that the dearth of charged fair housing complaints is likely due to the lack of effective investigations of those complaints. Other jurisdictions,

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<sup>1</sup> City of Kenosha. *Analysis of Impediments to Fair Housing Choice*, October 2005, p.24.

<sup>2</sup> *Ibid.* p. 28.

<sup>3</sup> *Ibid.* p. 25.

such as the City of Madison, have no *Analysis of Impediments* document at all.

Without meaningful AIs, it is little wonder that so many jurisdictions do nothing to affirmatively further fair housing. CDBG programs' failure to affirmatively further fair housing impedes the enforcement efforts of private fair housing organizations and the ability of victims of discrimination to achieve legal remedy. Further, when HUD permits CDBG programs to shirk the responsibility to affirmatively further fair housing, HUD is missing a critical opportunity to promote partnerships between local government entities and private fair housing organizations.

HUD must begin to require high-quality *Analysis of Impediments* documents, as well as monitor and evaluate CDBG jurisdictions' efforts to affirmatively further fair housing. Those jurisdictions that fail to produce an *Analysis of Impediments* document and fail to affirmatively further fair housing should face the possibility of losing CDBG funds.

**2) Deficits in the HUD Fair Housing Initiatives Program (FHIP) demonstrate lack of government commitment to ending segregation and illegal housing discrimination**

No level of government, whether local, state or federal, has committed adequate resources to the promotion of integration and the eradication of housing discrimination. The FHIP funding instrument is no exception. Funding for FHIP should be increased, and FHIP should offer three-year grant periods that automatically renew, or renew with an abbreviated application process, as long as the grantee has received excellent performance ratings. FHIP should also prioritize programs that promote racial and economic integration. Each of these recommendations would allow private fair housing organizations to be more effective in their efforts to end entrenched segregation and illegal housing discrimination.

In closing, I would like to thank you for the opportunity to provide this testimony to you today. Housing discrimination and its resulting residential segregation continues to plague communities throughout this country. It is only through focused and concerted efforts, such as those put forth by this Commission, that we can collectively achieve the dual goals of eliminating housing discrimination and promoting residential integration, as mandated by the Federal Fair Housing Act.