



JACKSONVILLE
**HUMAN RIGHTS
COMMISSION**

Housing Discrimination Study
Phase I
Persons with Disabilities

Prepared for:

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Executive Summary

Jurisdictions receiving federal block grant funds such as the Community Development Block Grant, HOME Investment Partnership, Emergency Solutions Grant, and Housing for Persons with AIDs are required to affirmatively fair housing as a condition of receiving these funds. Affirmatively furthering fair housing involves not only identifying patterns of segregation and discrimination in housing transactions, but also working to eliminate them. The federal requirement to affirmatively further fair housing was strengthened in July 2015 through a rulemaking process intended to bring stronger, more visible actions to bear in addressing housing discrimination in federal block grant communities. Jurisdictions failing to affirmatively further fair housing risk loss of federal block grant funds.

The City of Jacksonville is committed to affirmatively furthering fair housing. Activities of the Jacksonville Human Rights Commission (JHRC) are at the forefront of the City's work towards elimination of housing discrimination against classes protected under the Fair Housing Act as Amended in 1988. These legal protections prohibit housing discrimination based on race, color, religion, sex, national origin, familial status, pregnancy, or disability. JHRC provides not only investigation of fair housing complaints, but also an array of educational programs and materials aimed at increasing compliance with fair housing law.

Sponsored by the JHRC, this report addresses potential housing discrimination experienced by persons with disabilities. Complaints by persons with disabilities have been on the rise in recent years and currently represent one-half (50%) of housing discrimination complaints in Jacksonville/Duval County. This report represents the first of two phases of a study housing discrimination by JHRC; the second phase will address discrimination based on race and ethnicity.

Study's Focus

This report contains findings related to potential discrimination against persons with disabilities based on (1) differences in treatment of apartment-seekers in a household with a person with a disability as compared with apartment-seeking households without a disability; (2) the presence of ground-floor rent premiums, which negatively impact those who must request a ground-floor unit for physical reasons; and (3) lack of accessibility in builders' model homes making it difficult or impossible for persons in wheelchairs to shop for newly constructed homeownership opportunities.

Study Results

While paired-testing field work did not find differences in the treatment of potential tenant households including a person with a disability as compared with potential tenant households without a disability, this is not a reason to conclude that housing discrimination against persons with disabilities is not occurring. Based on complaints received by JHRC from September 1, 2012 through August 31, 2015, discrimination most often occurs based on requests for reasonable accommodation and/or reasonable modification. Such requests often occur *after* the lease is signed; thus, finding that no discrimination occurs in the initial contact with rental

properties tends to mask the complexity of how housing discrimination against persons with disabilities typically occurs.

Ground-floor rent premiums of \$20 or more per month were found in 22% of the apartment properties surveyed. Such premiums are most prevalent in the Mandarin (45%) and Arlington (33%) neighborhoods. Ground-floor rent premiums create a disparate impact on persons whose disability requires a ground-floor. In other words, persons with such a disability are forced to rent a ground-floor unit, while persons without a physical disability are able to rent units on a higher floor—and at a lower rent.

Finally, nine out of the ten builders' model home sites were inaccessible to persons whose disability requires the use of a wheelchair. Public comment received during preparation of the City of Jacksonville's *Analysis of Impediments to Fair Housing Choice, 2011* indicated that some persons with disabilities have a strong preference for buying a home that can be adapted and provide an accessible living environment on a long-term basis. One way of accomplishing this is to buy a new home and request that it be built with features such as a roll-in shower, grab bars, a ramp, and other adaptations. The ability of a person requiring use of a wheelchair to shop for such a home is severely constrained, however, by the lack of accessibility found when visiting model home sites in Jacksonville and its near suburbs in Orange Park and northern St. Johns County.

Recommendations

Recommendations arising from the findings of this study include:

1. Continue educational outreach for property owners and managers, particularly encouraging them to provide information on how requests for reasonable accommodation and modification will be handled early in the leasing process—not after the lease is signed.
2. Continue educational programs for persons with disabilities and the general public related to fair housing issues most often faced by persons with disabilities.
3. Include information on the potential for disparate impact based on ground-floor rent premiums in educational materials and programs targeting property owners and managers.
4. Consider enforcement activity for properties charging a ground-floor rent premium.
5. Include information on accessibility in model homes in educational materials and programs targeting new home builders.
6. Consider enforcement activity for new home builders whose model home sites are not accessible to persons whose mobility impairment requires the use of a wheelchair.

Looking beyond these recommendations, there is a strong need to increase the supply of accessible housing in Jacksonville/Duval County. The nation's population is aging, and because Florida continues to be a retirement destination for so many seniors, Jacksonville and other Florida cities have a higher population of retirees than many other metropolitan areas in other parts of the country. Because aging increases the likelihood that an individual will experience a disability, the need for accessible housing units—whether for rent or for sale—will continue to grow.

JHRC and the City of Jacksonville's Housing and Community Development Division can help to facilitate such an expansion of housing opportunities for persons with disabilities by continuing their work with other public agencies, nonprofit organizations, and the private sector.

Introduction

The Fair Housing Act of 1968 as amended in 1988 prohibits housing discrimination based on race, color, religion, sex, national origin, familial status, pregnancy, and disability. These legal protections apply to housing-related transactions, including the sale, rental, and financing of dwellings. Despite this history of fair housing law in the United States, discrimination still occurs.¹²

The City of Jacksonville is committed to affirmatively furthering fair housing.³ Affirmatively furthering fair housing goes beyond enforcement of the Fair Housing Act as amended in 1988; it requires activities aimed at making fair housing choice a reality for all. As a part of this commitment, the Jacksonville Human Rights Commission (JHRC) engages in widespread educational programs, in addition to serving as Jacksonville's fair housing enforcement organization.

JHRC's activities in affirmatively furthering fair housing include periodic research providing evidence on the status of housing discrimination in Jacksonville. The last housing discrimination study conducted in Jacksonville was prepared in 1998 by Jacksonville Area Legal Aid (JALA). The study focused on rental housing discrimination against African-Americans and used paired testing (two prospective tenants where one was African-American and one was White) to investigate whether the experiences of African-Americans differed from those of Whites.

While the 1998 study provided much-needed information regarding the presence of housing discrimination based on race, it did not include an examination of housing discrimination associated with disability status. Persons with disabilities have been a protected class under Fair Housing law since the 1988 amendment of the Fair Housing Act of 1968.

From September 1, 2012 through August 31, 2015, fully one-half (50%) of housing discrimination complaints made to JHRC were associated with disabilities. In order to address both discrimination based on disability and minority status, JHRC envisioned a two-phase housing discrimination study. Phase I addresses housing discrimination as it affects persons with disabilities, while Phase II will address housing discrimination related to race and ethnicity. This report covers Phase I of the study.

JHRC contracted with two experienced organizations, Policy & Planning Insights, LLC, and JALA to conduct the Phase I housing discrimination study in late 2014. This report has been prepared through collaboration between Policy & Planning Insights and JALA. Dr. Anne Williamson of Policy & Planning Insights performed background research and analyzed results obtained by JALA. She is also the editor and a key contributor to this report. Dr. Williamson has

¹ *Housing Discrimination Against Racial and Ethnic Minorities*, 2012, U.S. Department of Housing and Urban Development, Washington, DC.

² *Discrimination Against Persons With Disabilities: Testing Guidance for Practitioners*, 2005, Urban Institute, Washington, DC.

³ *Analysis of Impediments to Fair Housing Choice*, August 2011, Housing and Neighborhoods Department, City of Jacksonville, Florida.

more than 25 years' experience in housing and demographic research and led the preparation of the City of Jacksonville's *Analysis of Impediments to Fair Housing Choice* in 2011. She regularly engages in fair housing research and has been recognized by the U.S. Federal Court (11th District/Palm Beach, Florida) as an expert on housing policy and discrimination.

JALA has been a housing discrimination investigative agency for the U.S. Department of Housing and Urban Development (HUD) for more than two decades. JALA's investigators are experts in paired-testing methodology and other techniques used to reveal housing discrimination. Further, they regularly train with the National Fair Housing Alliance to remain current on housing discrimination issues and means for identifying discrimination. Along with JHRC, JALA also work to address housing discrimination complaints brought by those who feel they have experienced discrimination in housing-related transactions.

JALA conducted surveys via telephone calls and performed field research for this study. A more detailed description of the methods used in this study are reported in a separate section of this report.

This report is organized in six (6) sections:

- Introduction
- Methods Used in This Study
- Paired-Testing Results
- Ground-Floor Rent Results
- Builders' Model Results
- Conclusion

Methods Used in this Report

Because Jacksonville/Duval County is geographically the largest local jurisdiction in the U.S., it represents not only a single metropolitan area, but also a number of diverse neighborhoods. With this in mind, field research and surveys were conducted in five distinct neighborhoods: Arlington, Downtown, Mandarin, Northside, and Southside. Spreading out the research over these neighborhoods provides a more accurate picture of housing discrimination in Jacksonville/Duval County.

The only exception to this approach is with the testing of builders' model homes for wheelchair access; these were spread out across the Jacksonville/Duval County area to the extent possible, but because new homes are being built in very specific places, the field research was constrained as to neighborhood based on those locations. Model homes were tested in Baymeadows and in the newly developed areas near the Jacksonville International Airport. Further, model homes in suburban locations close to Jacksonville were tested in Orange Park and northern St. Johns County.

Paired-Testing

Paired-testing of potential discrimination is a very effective tool for determining whether differential treatment is being offered to members of protected classes as compared with members of non-protected classes.⁴ In Phase I of JHRC's housing discrimination study, the comparison is between housing seekers with a disability and seekers without a disability.

In order to determine whether persons with disabilities experience differential treatment in the search for rental housing in Jacksonville, JALA sent out a total of 25 pairs of testers to apartment complexes throughout the Jacksonville area. Potential discriminatory issues examined included:

- Wheelchair accessibility
- Accessibility for hearing-impaired persons
- Accessibility for sight-impaired persons
- The presence of a service animal⁵

Paired-testing was conducted by sending out a person who states that their spouse or other family member for whom they are searching for housing has a disability that will require wheelchair access or adaptations for legally blind or deaf individuals. For those tests where the scenario involves seeking an apartment for someone who is legally blind, the presence of a service animal is also mentioned. Another tester without a disability is also sent to the same properties in search of a rental unit. Field testers were trained by JALA and carefully recorded their experience after each contact with a property so that systematic comparisons could be made based on disability status.

Ground-Floor Rents

One of the most critical issues facing persons with disabilities is the availability and pricing of ground-floor rental units due to the need for physical accessibility. As in most rental markets in the Southeast, Jacksonville's rental housing stock is dominated by walk-up—sometimes known as garden-style—units. This means that units above the ground floor are not accessible to persons with physical disabilities. Thus, not only the availability, but the pricing of these units can be an important factor in determining whether a person with a disability is able to exercise fair housing choice.

JRC, JALA, and other housing experts have heard anecdotal reports (e.g., unsubstantiated by systematic research) in recent years indicating that some properties charge higher rents for ground-floor units than for units on higher floors. This is something of a reversal of rental pricing of previous decades, in that units higher up were typically held to be more desirable—and, therefore, more expensive.

⁴ *Housing Discrimination Against Racial and Ethnic Minorities*, 2012, U.S. Department of Housing and Urban Development, Washington, DC, p. xii.

⁵ Within the service animal category, there will be testing of accommodation of the need for service animals for persons who require such assistance due to sight, hearing, or other physical health issue, as well as those who may require a service animal due for emotional support due to conditions such as Post-Traumatic Stress Disorder (PTSD).

One reason for a change in how the housing market treats ground-floor rents is the aging of America. With record numbers of people reaching age 65 and above—along with record numbers of persons reaching age 85 and above—the number of people who need a ground-floor unit due to accessibility concerns is simply larger than at any time in our history. The heightened desirability may lead to higher charges for ground-floor units. With Florida continuing to be a preferred destination for many retirees, the national phenomenon is likely compounded in Jacksonville and other Florida communities.

Telephone survey research was used to systematically examine the issue of ground-floor rents and the potential for disparate impact experienced by persons with disabilities in need of such units. A random sample of 58 apartment complexes was selected for calls intended to determine whether a premium of \$20 or more per month was being charged for ground-floor units identical in every way to units on higher floors, with the exception of location.

Often, property staff will only provide rent information on units that are currently available or will be coming available within a 60-day window of time. Thus, the telephone surveyor indicated he or she was looking for a 2-bedroom apartment in about 45 days.

Accessibility in Builders' Model Homes

One of the issues brought up by citizens with disabilities and community organization representatives who serve persons with disabilities during the preparation of the City of Jacksonville's *Analysis of Impediments to Fair Housing Choice* in 2011 was the desirability of homeownership for many persons with disabilities. If a person with disabilities is able to buy a home with proper accessibility adaptations or have the modifications made after purchase, they are assured of housing meeting their needs for many years to come. Given the fact that physically accessible units are often unavailable for rental, homeownership may have added appeal to persons in need of accessibility in their home.

In order to find an accessible dwelling for homeownership, however, a person with a disability may face challenges during the search. One of these challenges stems from the potential lack of accessibility in builders' model homes. Such homes are used for the sale of newly constructed units. Units under construction can provide a particularly efficient means for persons with disabilities to find an accessible home, since modern designs are typically more easily adaptable than in older homes. For instance, it is far easier to simply request a roll-in shower when a home is being built than it is to tear out an existing bath arrangement to make the adaptation.

An experienced tester with a disability requiring use of a wheelchair made visits to ten (10) model home sites in Jacksonville. At each site, the tester observed whether wheelchair access was present.

Paired-Testing Results

Paired-testing did not reveal differences in how prospective renters were treated in their search for an apartment. In other words, at the properties visited, property agents did not show a pattern

of discrimination against households that include a person with a disability. These results held constant over testing scenarios that included disabilities where a household member had a physical disability, was legally blind and required a service animal, or was deaf. *These results must be interpreted with care; they relate only to the initial leasing contact.*

Results may indicate that efforts to educate property managers and owners over time about legal prohibitions regarding discrimination against persons with disabilities as a protected class have been successful. Many of these efforts have been conducted by the Jacksonville Human Rights Commission over the years. The knowledge that JHRC exists as an enforcement agency may also motivate legally compliant behavior on the part of property managers and owners.

There are several reasons why it is important to look deeper into these findings:

- Housing discrimination complaints based on disability status are rising, not only in Jacksonville/Duval County, but across the nation. While not all complaints are ultimately judged to be valid, many are.
- While there seems to be no difference in property agents' willingness to rent to households that include someone with a disability, **discrimination may occur in actual treatment once a lease is signed**. For instance, once a lease is signed property managers or owners may be reluctant to follow through on needed adaptations within the apartment or with regard to access to parking and property amenities.
- Despite a lack of difference in how prospective tenants were treated based on disability status of someone in the household, there were a number of instances found where accessibility was an issue with regard to door widths too narrow for wheelchair access, lack of adequate access to the washer/dryer area within an apartment, or lack of access to some mailboxes or other property features. This tends to reinforce the idea that when persons with disabilities rent a home, potential discrimination may be occurring after the lease is signed and deal mainly with requests to make legally required adaptations.

The substance of disability-related housing discrimination complaints received by JHRC for the period September 1, 2012 through August 31, 2015 provide support for the likelihood that persons with disabilities are more likely to experience discrimination **after** they have signed a lease and taken up residence at a property than during their housing search. Table 1 summarizes housing complaints made based on disability between September 1, 2012 and August 31, 2015.

Table 1: Disability-Related Housing Discrimination Complaints,
September 1, 2012 through August 31, 2015

Complaints Closed, 9/1/2012 – 8/31/2015	38
Disability-Based Complaints	19
Allegations:	
Reasonable Accommodation⁶	15
Parking	4
Service/Companion Animal	8
Policy change	3
Reasonable Modification (accessible pathways/entrances, grab bars/toilet)	3
Refusal to Rent	1
Discriminatory Terms and Conditions	2

Table 2 provides information about the types of closure reached for the 19 disability-based housing discrimination complaints for the period September 1, 2012 through August 31, 2015.

Table 2: Closure Types for Disability-Based Housing Complaints,
September 1, 2012 through August 31, 2015

Successful Conciliation	5
Cause Determination (closed as non-judicial dismissals; conciliation failed)	2
Withdrawals with Benefits (complainants accepted a resolution without investigation or conciliation)	4
“No Cause” Determinations	8

The majority of housing discrimination complaints were based on reasonable accommodation or reasonable modification requests. Only one complaint was based on a refusal to rent, while two others dealt with discriminatory terms and conditions.

Requests for reasonable accommodation or modification are often made once the lease is signed. Thus, paired-testing results indicating no differences in treatment between potential tenants with a disability and potential tenants without a disability are not grounds for concluding that housing discrimination against persons with disabilities does not exist.

Ground-Floor Rent Results

Results for ground-floor rent survey calls are presented in Table 3.

⁶ There may be multiple allegations in a single complaint. Thus, the total number of allegations is higher than the total number of complaints.

Table 3: Ground-Floor Rents – Random Sample

Neighborhood	Ground-Floor Premium	No Ground-Floor Premium	Ground-Floor Premiums as a Percent of Total Sample
Arlington	4	8	33%
Downtown	1	13	7%
Mandarin	5	6	45%
Northside	1	11	8%
Southside	1	8	11%
Totals	13	45	22%

Ground-floor rent premiums were found overall in slightly more than one in five Jacksonville apartment complexes (22%). Two suburban locations showed the highest concentration of such premiums. One-third of Arlington apartment properties reported a ground-floor premium of at least \$20 per month, while 45% of properties in Mandarin did so.

Ground-floor premiums in certain suburban locations translates into more constraints in the housing search for persons with disabilities requiring a ground-floor unit for accessibility purposes.

Builders’ Model Homes Results

Research indicates that out of ten builders’ model home sites, only five have sales offices accessible to a wheelchair. Further, only one builder offered a model home accessible to persons with disabilities. This particular builder also had the only sales representative who provided ample discussion of adaptability of their homes for consumer needs. In contrast, most other sales representatives provided no specific discussion of available adaptations for persons with disabilities. At one site, the representative told the tester that adaptations would be “cost prohibitive.”

At a site where there was no access to either office or model home, the sales representative asked the tester whether they travel with a ramp. After receiving a response that the individual did not travel with a ramp, no further assistance in accessing the unit was offered.

At another builders’ new model home location where neither office nor model home were accessible, the sales representative suggested the tester access the model via a sliding glass door. This would have required travel in the wheelchair over landscaping rocks, grass, and up over the rim of a concrete patio. The tester declined this suggestion as infeasible for a wheelchair.

Conclusion and Recommendations

The findings reported here highlight the complexity of housing discrimination experienced by persons with disabilities. While no discrimination was found for rental housing seekers with a disability, ground-floor rents in walk-up apartments—the predominant form found in Jacksonville—are often higher than rents for higher floors. The Arlington and Mandarin neighborhoods are the areas where such ground-floor premiums appear to be most prevalent. Such business practices result in disparate impact on persons whose disabilities require they secure a ground-floor rental unit.

Further, nine out of ten builders' model home sites visited were not accessible to persons requiring the use of a wheel chair for mobility. Given that a home purchase is a means of obtaining an accessible dwelling on a long-term basis (through adaptations made to existing homes or accessible features in new construction), this lack of accessibility severely constrains the home-search process for persons who require the use of a wheelchair.

JHRC is on the forefront of the City of Jacksonville's efforts to affirmatively further fair housing. Affirmatively furthering fair housing requires that the City facilitate fair housing choice. Recommendations for affirmatively furthering fair housing choice for persons with disabilities in Jacksonville/Duval based on this report's findings include:

1. Continue educational outreach for property owners and managers, particularly encouraging them to provide information on how requests for reasonable accommodation and modification will be handled early in the leasing process—not after the lease is signed.
2. Continue educational programs for persons with disabilities and the general public related to fair housing issues most often faced by persons with disabilities.
3. Include information on the potential for disparate impact based on ground-floor rent premiums in educational materials and programs targeting property owners and managers.
4. Consider enforcement activity for properties charging a ground-floor rent premium.
5. Include information on accessibility in model homes in educational materials and programs targeting new home builders.
6. Consider enforcement activity for new home builders whose model home sites are not accessible to persons whose mobility impairment requires the use of a wheelchair.

Looking beyond the scope of this report, it will be important for JHRC and the City of Jacksonville's Housing and Community Development Division to continue to work with public, private, and nonprofit organizations to expand the number of homes available for rent and sale that meet the needs of persons with disabilities.