Creating Places
Where All Are Welcome:
A Progress Report

Fair Housing Justice Center
OCTOBER 2012
“Where, after all, do universal human rights begin? In small places, close to home — so close and so small that they cannot be seen on any maps of the world.... Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

–ELEANOR ROOSEVELT
Dear Friends,

It is my distinct pleasure to introduce this report entitled “Creating Places Where All Are Welcome: A Progress Report.” The report details the activities and accomplishments of the Fair Housing Justice Center (FHJC). Since its inception, FHJC’s central mission has been to eliminate housing discrimination; promote open, accessible, and inclusive communities; and strengthen the enforcement of local, state and federal housing laws. While we are a young and relatively small non-profit organization, we have managed to create a meaningful presence and have a significant impact on housing policies and practices in the New York metropolitan region. As you will see in the following pages, we have achieved results by empowering individuals to exercise their fair housing rights, individuals whose only interest is to obtain safe, decent, and affordable housing free from intimidation, harassment, and discriminatory practices. We have also successfully removed discriminatory barriers to housing choice and opened up housing opportunities in many parts of the region.

Members of the FHJC Board are extremely proud of the accomplishments of our staff, including our dedicated testers, and our diligent supporters and partner organizations. Without them, we could not have achieved the significant results that are described in this report. But our work has just begun. In the future, in addition to identifying and rooting out systemic housing discrimination in the region, we will take steps to ensure that future housing policies create neighborhoods and communities that are more inclusive and equitable for all.

I encourage you to read this report and learn more about FHJC’s purpose, program, and accomplishments. With your help and support, we will continue to make a significant difference and ensure fair housing for all New Yorkers.

Sincerely,

Gene A. Capello
FHJC President
Housing discrimination continues to harm individuals and families as well as entire communities. In addition to restricting housing choice, housing discrimination perpetuates residential segregation. The New York City metropolitan area is the 2nd most racially segregated for Latinos and Asians and the 3rd most segregated for African Americans.\textsuperscript{1} Housing discrimination and residential segregation contribute to:

- social and economic inequalities by impeding access to educational, employment, and other opportunities;
- homelessness, neighborhood disinvestment, and concentrated poverty;
- disparities in homeownership and accumulation of personal wealth; and
- stereotypes, fears, prejudices, and perceptions by consumers that certain housing or areas are not open or will not be welcoming.

While reinforcing feelings of privilege and advantage among some, housing discrimination and segregation leaves others to despair that they are relegated to an inherently inferior status in American society.

The persistence of illegal housing discrimination, inadequate enforcement of fair housing laws by government, and deeply embedded patterns of residential segregation are factors that underscored the need for an action program in the New York City region.

The Fair Housing Justice Center (FHJC) was created in 2004 as a program of a national, non-profit organization, HELP USA, based in New York City. By 2009, the FHJC was operating as an independent, non-profit, civil rights organization (see timeline on pages 4–5).

\textsuperscript{1} Rankings based on a dissimilarity index using 2010 Census data applied to the 50 metropolitan areas with the largest African American, Latino, and Asian populations in the United States by John R. Logan at Brown University for the American Communities Project and the Russell Sage Foundation.
“For as long as there is residential segregation, there will be de facto segregation in every area of life. So the challenge is here to develop an action program.”

—DR. MARTIN LUTHER KING JR.
The FHJC promotes fair housing on a regional basis throughout New York City and the seven surrounding New York counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. The FHJC is dedicated to 1) eliminating housing discrimination; 2) promoting open, accessible, and inclusive communities; and 3) strengthening the enforcement of fair housing laws.

Over the past seven years, the FHJC has assisted individuals and organizations with housing discrimination complaints; pro-actively identified and challenged systemic housing discrimination; promoted policies that foster more open, accessible, and inclusive communities; increased public awareness about fair housing rights; and upgraded enforcement of fair housing laws. The following key features help to make the FHJC program particularly effective:

- A partnership with The Actors Fund enabled the FHJC to recruit, hire and maintain a diverse pool of nearly 100 professional actors who participate in fair housing testing investigations.
- In the FHJC’s Acting for Justice testing program, testers pose as renters and home buyers to gather information about housing practices. Testing can often provide vital

**TIMELINE**

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<td>New York Open Housing Center closes</td>
<td>HELP USA hires Fred Freiberg and Diane L. Houk to organize Fair Housing Justice Center (FHJC) program</td>
<td>FHJC program opens doors with funding from U.S. Department of Housing &amp; Urban Development (HUD) and Ford Foundation</td>
<td>FHJC incorporates</td>
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corroborative evidence that enables victims of discrimination to meet their burden of proof. Systemic testing investigations document subtle discriminatory conduct so that action can be taken to stop the discrimination, change housing provider practices, and ensure future compliance with fair housing laws.

- Partnerships with private and public interest law firms enable the FHJC to ensure that clients obtain quality representation to challenge discriminatory housing practices.
- The FHJC’s use of technology enhances the effectiveness of FHJC’s investigative activities. A customized mapping application aids with targeting systemic testing investigations, software tools assist with the assignment of tester characteristics, and stereo digital recorders are used by testers to document test experiences.

The FHJC action program combines education and outreach activities, direct assistance to victims of discriminatory housing practices, pro-active investigations to identify and eliminate systemic discrimination, and policy initiatives to expand housing choice and further fair housing. FHJC is working to create a region of open, accessible, and inclusive communities where all New Yorkers enjoy equal access to housing opportunities and communities without having to endure the insult and injury that results from housing discrimination. That is our vision.

FHJC obtains 501 (c) (3) status as tax exempt non-profit organization

FHJC assumes governance and financial control over operation of program activities
“We must remember that any oppression, any injustice, any hatred is a wedge designed to attack our civilization.”

—President Franklin Delano Roosevelt
Rights only have meaning when they are effectively exercised. The FHJC empowers individuals to assert their fair housing rights. Hundreds of individuals and organizations have turned to the FHJC for assistance with allegations of housing discrimination. Acts of housing discrimination can inflict economic hardship and enormous pain and suffering on the individuals and families who are directly hurt by these insidious practices.

Local, state, and federal fair housing laws make it unlawful to discriminate in housing based on race, religion, color, sex, national origin, family status, disability, age, marital status, sexual orientation, military status, lawful occupation, citizenship/alienage status, domestic partnership status, gender identity, and source of income (including housing subsidies). Despite these prohibitions, illegal housing discrimination still occurs.

The FHJC provides fair housing counseling, investigative assistance (including testing), and legal referrals to individuals and organizations with housing discrimination complaints. All of these services are free and there are no income limits imposed on persons seeking assistance.

Consider a few examples of outcomes that FHJC clients have achieved:

- A Brooklyn real estate firm refused to rent an apartment to an African American woman. FHJC testing confirmed the company was refusing to provide service to African American prospective renters. The FHJC assisted the woman to obtain legal counsel. After filing a federal lawsuit alleging race discrimination, she obtained a settlement which included a monetary recovery of $50,000 and extensive injunctive relief.

- A single woman who relocated to New York City, inquired about rooms for rent and the Manhattan landlord proposed a “quid pro quo” of sexual favors in return for rent reductions. The FHJC assisted her to document her sexual harassment complaint and obtain legal counsel. After filing a federal lawsuit, a confidential settlement was reached.
• After waiting twelve years for federal rent assistance, a woman finally obtained a Section 8 housing voucher. Her Brooklyn landlord repeatedly refused to accept the housing subsidy and she ended up losing the voucher. The FHJC assisted her to obtain legal counsel and she filed a lawsuit alleging source of income discrimination. She accepted a settlement of $105,000 which included the value of the rent assistance over the next ten years.

• An older woman with an adult son who has developmental disabilities inquired about renting an apartment in the Bronx. When the management company learned that she had an adult son living with her who had disabilities, she was asked if he was “dangerous.” When she said he was not, no apartments were made available to her. The FHJC conducted a testing investigation and assisted the complainant to obtain legal counsel. After filing an administrative complaint and going through an administrative hearing, the landlord agreed to rent her a rent-stabilized apartment at a reduced rent in the building where she was initially rejected.

• Four formerly homeless African American and Latino tenants placed their names on a waiting list for federal rental assistance in a Suffolk County suburb. An FHJC investigation disclosed that the predominately white Town was operating a residency preference in a discriminatory manner. The tenants were assisted to obtain legal counsel. A class action lawsuit alleging race, color, and national origin discrimination was filed against the Town. A settlement was reached that included $925,000 in damages and attorneys fees, reordering of the waiting list, and extensive injunctive relief.

• A grandmother and her grandson, both persons with disabilities, applied for an affordable housing unit in a new mixed-income rental development in Manhattan. When they learned that they had not been accepted for reasons related to their disabilities, they requested a reasonable accommodation and reconsideration. They were denied. The FHJC assisted the complainants to obtain legal counsel and a lawsuit was filed alleging disability discrimination. The lawsuit was resolved with a settlement that included an affordable apartment for the complainants.

• When a couple with children called a real estate broker about an apartment for rent in Brooklyn, the broker indicated that the landlord would not rent to children because they make too much noise. The FHJC conducted a testing investigation, corroborated the complaint, and assisted the couple to obtain legal counsel. A federal lawsuit was filed and a settlement resulted in a monetary recovery of $10,000.

• A woman with disabilities who uses a wheelchair attempted to rent a home in Staten Island. After negotiating for the rental of the home and tendering a deposit, the owner backed out of the deal stating that he was “too nervous” to rent to her. The
FHJC assisted her to obtain legal counsel and file a federal lawsuit alleging disability discrimination. A confidential settlement was reached in the case.

• An African American woman with a child inquired about renting an apartment in a Nassau County suburb. The agent for the landlord refused to rent to her. The FHJC conducted a testing investigation that corroborated both race and family status discrimination, and subsequently assisted her to obtain legal counsel. A federal lawsuit was filed that resulted in a confidential settlement.

• A woman with disabilities who uses a wheelchair attempted to purchase a Bronx condominium unit. After requesting approval to make some modifications that would enable her to use the housing, her offer was rejected. The FHJC assisted her to obtain legal counsel and a federal lawsuit was filed alleging disability discrimination. Her complaint was settled for $37,500.

The formula for effective fair housing enforcement is not complicated. When people have access to reliable and complete information about rights and options under fair housing laws; when testing is effectively used as an investigative tool; and when victims can obtain quality legal representation, they are not only empowered to act, but they are much more likely to prevail. Fair housing is a civil right and the FHJC will continue to assist and support individuals who seek to exercise their rights.
While many government agencies take a passive and purely complaint-responsive approach to enforcing fair housing laws, the FHJC understands that complaints are probably the least reliable indicator of the extent of illegal discrimination in the housing market. The subtle and stealth nature of most housing discrimination makes it impossible for ordinary housing consumers to detect. When housing discrimination is not detected, it is not reported. Yet, subtle discriminatory practices can be just as effective in limiting housing choice. As long as housing providers believe that they can elude detection and avoid facing consequences for their harmful actions, illegal discrimination will continue.

This is why testing is a vital investigative tool in the enforcement of fair housing laws. The FHJC conducts pro-active testing investigations in order to identify and document discriminatory housing practices. “By documenting systemic discrimination in housing through testing, the FHJC and other enforcement agencies can take action to remove barriers to housing choice, change housing policies and practices, and expand opportunities for all housing consumers.”

Consider these examples of outcomes from recent FHJC systemic testing investigations:

- FHJC testing documented discrimination against African American home buyers by a real estate broker and a large housing cooperative in the Bronx. After the FHJC filed a lawsuit, a settlement was reached with the co-op that included elimination of a discriminatory admissions policy, fair housing training, and a monetary recovery of $115,000. The broker also agreed to surrender her real estate license.

- While assisting a formerly homeless man with disabilities and a rental subsidy, FHJC testing uncovered systemic discrimination based on disability and source of income. After filing a lawsuit against several real estate companies, the complainant obtained a rent-stabilized apartment and money damages. The FHJC secured changes in policies and practices, training for agents, and a total monetary recovery of over $270,000.
“Institutional practices, it seems, perpetuate themselves mostly by their invisibility.”

~James Farmer
• FHJC testing yielded evidence of racial discrimination against African American prospective renters at an apartment building in Astoria, Queens. A lawsuit was subsequently settled for changes in management company policies and practices affecting 30 rental buildings, fair housing training, and a monetary recovery of $341,000.

• The FHJC investigated a suburban housing authority in Westchester County that was using residency preferences to discriminate against African Americans and Latinos on a waiting list for federal rental assistance. The FHJC settled a lawsuit which reordered the waiting list, implemented new policies and procedures, required fair housing training, and included a monetary recovery of $165,000.

• FHJC testing disclosed that developers of new rental buildings in Manhattan were not designing and constructing their buildings to be accessible for persons with disabilities as required by fair housing laws. The FHJC turned the testing evidence over to the U.S. Attorney’s Office (SDNY) and lawsuits were filed against owners, developers, and architects. The lawsuits were resolved with settlements covering more than 3,000 rental units. The consent decrees required the retrofitting of units, extensive injunctive relief, and a monetary recovery of approximately $3 million in victim funds, an accessibility fund, and civil penalties.

• FHJC testing yielded evidence that a landlord in Brooklyn was only renting to Russians. A lawsuit alleging race and national origin discrimination was filed and a subsequent settlement included adoption of new rental policies, fair housing training, and a monetary recovery of $100,000.

• FHJC testing conducted at the request of the U.S. Attorney’s Office (SDNY) led to the filing of two lawsuits against landlords in Rockland County. The lawsuits alleged a pattern and practice of discrimination against African American renters. Subsequent settlements included extensive injunctive relief, with fair housing training, and a total monetary recovery of over $180,000.

Structural and systemic housing discrimination persists throughout the New York City region. The FHJC is proving that the strategic and effective use of testing can document and eliminate these invisible and invidious practices. To date, FHJC testing investigations have led to enforcement actions that have opened up thousands of housing units to populations previously excluded, changed policies and practices, and resulted in the recovery of millions of dollars in damages, penalties, attorney’s fees, and costs.

Using the comparative lens of testing improves our vision of fair housing law enforcement. By exposing and more systematically removing impediments to housing choice, the FHJC continues to expand opportunities for all New Yorkers.
“I believe a strong society is an inclusive society. If we want to win big then we’d better include everybody because we need everybody.”

—Cyndi Lauper
Creating a more just, open, and inclusive society will require new local, state, and federal housing policies that move us in that direction. In order to counteract the effects of past and current discriminatory housing practices and break the cycle of inequality in our metropolitan regions, policies and programs must be explicitly tailored to increase housing choice and expand opportunities for all populations.

In the New York region, the FHJC has advocated for programs and policies that support the development of more open, accessible, and inclusive communities. The FHJC has also engaged in education and outreach activities to promote this vision.

Consider these initiatives and activities:

• FHJC’s C.H.O.I.C.E. Initiative (Creating Hope for Open and Inclusive Communities Everywhere) was developed to promote the development of mixed-income and racially diverse housing in low-poverty areas. Too often affordable housing has been built in or near high poverty neighborhoods leading to economic and racial segregation, as well as high levels of poverty concentration. The C.H.O.I.C.E. Initiative promotes a more balanced approach to affordable housing development. In June 2007, the FHJC produced a report entitled “Increasing Access to Low Poverty Areas by Creating Mixed-Income Housing.” The report details examples of mixed-income developments that have been built across the country. A supplement to this report entitled Living in Mixed-Income Housing: Profiles and Future Directions was produced by the FHJC in April 2008.

• In 2007, the FHJC worked with several other non-profit organizations in New York City to support the passage of an amendment to the New York City Human Rights Law that would prohibit housing discrimination based on source of income. The law was passed in 2008 and the FHJC has been active in aiding with the enforcement of the new law by assisting lower income households and persons with rental subsidies to exercise their fair housing rights.
• In 2008, the FHJC published a report entitled “No License to Discriminate: Real Estate Advertising, Source of Income Discrimination, and Homelessness in New York City.” The report analyzed the advertising practices of real estate licensees against the requirements of the newly passed source of income law. The report documented widespread discriminatory advertising practices and prescribed a number of policy recommendations.

• In 2012, the FHJC sponsored a free workshop for developers, architects, disability rights advocates, and others entitled “Accessible Housing: A Civil Right” in order to promote greater compliance with the accessibility requirements contained in the federal Fair Housing Act.

• In 2012, the FHJC published and distributed a Fair Housing Guide to organizations and government agencies that operate housing programs in the New York region. The Guide is designed to equip professional staff to better assist clients with their housing search and to exercise their fair housing rights. The Guide also contains suggestions on how groups can incorporate fair housing principles into their housing programs in order to affirmatively further fair housing. In 2008, the FHJC published a similar Fair Housing Guide for HomeBase Programs and distributed it to housing counselors working in homeless prevention programs in New York City.

• In 2012, the FHJC published a Rental Search Log in English and Spanish for use by people who are searching for rental housing in the New York region. The Log permits renters to keep track of their housing search and it also contains vital information on fair housing rights. The FHJC is making the Rental Search Log available to housing programs operated by government agencies and non-profit organizations.

Over the past seven years, the FHJC staff made numerous presentations to increase public awareness about fair housing in the New York region. Also, the FHJC has started production of a video documentary on fair housing that will be unveiled in 2013. The documentary will feature interviews with FHJC clients and detail the work of the FHJC.

The FHJC continues to develop initiatives, advocate policies, and implement programs that foster open and welcoming communities throughout the New York region.
“Law without enforcement is merely good advice.”

-PRESIDENT ABRAHAM LINCOLN
Since the passage of fair housing laws, enforcement of these laws by most agencies of government has been, at best, uneven and inadequate. Vigorous, sustained, and effective enforcement of fair housing laws requires resources, expertise, and political will. For example, non-profit fair housing organizations, like the FHJC, have amply demonstrated why testing is a potent investigative tool that often provides the vital evidence needed to document discriminatory housing practices. Courts have also uniformly recognized the value of testing evidence. Yet, most government enforcement agencies still do not utilize testing to investigate housing discrimination. Non-profit and government agencies that have testing programs do not always use testing as strategically, creatively, or effectively as they could to ferret out systemic housing discrimination.

The FHJC works at the local and national level to upgrade and strengthen fair housing law enforcement. The FHJC contracts with local, state, and federal enforcement agencies and non-profit civil rights organizations to provide technical assistance, training, and other resources to these organizations. In the New York region, the FHJC has also contracted to provide testing services.

Over the past seven years, the FHJC has provided assistance under contract to a variety of fair housing enforcement agencies and civil rights organizations. Here is a partial list:

- Central Alabama Fair Housing Center, Montgomery AL
- Southwest Fair Housing Council, Tucson AZ
- Fair Housing Council of San Diego, San Diego CA
- Region VIII, Department of Housing & Urban Development (HUD), Denver CO
- Equal Rights Center, Washington DC
- Civil Rights Division, U.S. Department of Justice, Washington DC
- National Lawyers Committee for Civil Rights Under Law, Washington DC
• Intermountain Fair Housing Council, Boise ID
• Fair Housing Center of Metropolitan Detroit, Detroit MI
• Division of Civil Rights, Office of the New Jersey Attorney General, Newark NJ
• Civil Rights Bureau, Office of the New York Attorney General, New York NY
• Offices of the U.S. Attorney, New York NY
• Legal Assistance of Western New York, Rochester NY
• Inclusive Communities Project, Dallas TX
• Metropolitan Milwaukee Fair Housing Council, Milwaukee WI

In 2012, the FHJC contracted with the Metropolitan Milwaukee Fair Housing Council to assist with the implementation of a national demonstration project. The two-year project, Investigative Support for Testing and Enforcement Programs (ISTEP), is sponsored by HUD and designed to provide training, technical assistance, and resources to test coordinators working in eight private fair housing organizations located in different parts of the country.

The FHJC continues to provide training, technical assistance, and other resources to organizations and agencies involved in fair housing enforcement in order to:

• Expand the use of testing as an investigative tool to gather evidence in response to housing discrimination complaints;
• Elevate systemic testing as the highest priority in fair housing law enforcement;
• Promote a more creative, strategic, and resourceful use of testing; and
• Advocate vigorous, coordinated, and sustained fair housing enforcement activity in all of our nation’s metropolitan regions.
The FHJC creates communities that are more open, accessible, and inclusive. We endeavor to build a region that offers all New Yorkers greater opportunities, increased housing choice, and a better future for our children and grandchildren. We believe, as Dr. Martin Luther King Jr. so eloquently stated, that “we are tied in a garment of mutuality.” Housing discrimination remains a stain on the fabric of our pluralistic society, a stain that can and must be removed.

In most metropolitan regions, partnerships are being developed and planning is underway to address issues of sustainability in an attempt to integrate economic development, land use, and transportation investments. Issues of smart growth, energy conservation, green development, and other environmental concerns are some of the vital issues being discussed. This planning process, however, must be infused with the guiding principles of equity, fairness, and inclusion. A better future means reducing racial isolation and concentrated poverty, eliminating discriminatory barriers to housing choice, ensuring that housing is accessible for persons with disabilities, promoting the development of mixed-income housing, and expanding opportunities for all in our region.

The New York region has one of the most diverse populations in the United States. Our futures are intertwined and our communities are stronger when we embrace and celebrate our differences. We progress as a community when we replace hate, intolerance, and discrimination with compassion, respect, and inclusion.

As Dr. King stated “Human progress is neither automatic nor inevitable... Every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concern of dedicated individuals.” The FHJC has demonstrated that a dedicated volunteer Board, supported by funding from private and public sources, armed with the appropriate technology, aided by an effective testing program, and staffed by a small, talented group of professionals can break down existing barriers of discrimination, empower people to exercise their fair housing rights, and promote more open, accessible, and inclusive communities. In the 21st Century, the FHJC vows to carry on the struggle for fair housing in the New York region and create places where all are welcome.”
“Our expanding ethnic diversity of this century, a time when we will all be minorities, offers us an invitation to create a larger memory of who we are as Americans and to re-affirm our founding principle of equality.”

—RONALD TAKAKI
The work of the Fair Housing Justice Center would not be possible without the tireless efforts and numerous contributions of our staff and board of directors.

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