

**Testimony for the New York State Senate and Assembly
Public Joint Legislative Budget Housing Hearing**

**Elizabeth Grossman, Executive Director
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Monday, January 31, 2022

Introduction

My name is Elizabeth Grossman, and I am the Executive Director of the Fair Housing Justice Center (FHJC), a regional civil rights organization. The FHJC serves all five boroughs of New York City and its seven surrounding counties: Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. Our service area contains roughly 65% of New York State's population and 4% of the nation's population. Our mission is to eliminate housing discrimination; promote policies and programs that foster open, accessible, and inclusive communities; and strengthen enforcement of fair housing laws.

FHJC History

The FHJC is a full-service Qualified Fair Housing Organization (QFHO). Among other accomplishments, our unique program has allowed us to achieve the following:

- FHJC investigations have led to over a hundred legal challenges to discriminatory housing policies and practices, changing the way many private housing providers and government agencies conduct business and bringing them into compliance with fair housing laws.
- The FHJC provides counseling and information about fair housing rights, assists individuals with disabilities in making requests for reasonable accommodation and/or modifications, furnishes investigative assistance most often using testing, and refers complainants to administrative enforcement agencies, non-profit organizations, and law firms, to assert their rights and obtain relief.
- We have opened over 70,000 housing units to populations previously excluded.
- Our work has resulted in a total monetary recovery of more than \$50 million in damages and penalties.
- We maintain a trained and diverse pool of nearly 165 part-time testers, most of whom are professional actors, who collectively speak 28 languages.
- The FHJC has provided fair housing legal training to well over 550 attorneys and developed a pool of cooperating attorneys to represent FHJC clients regardless of income.
- The FHJC participated in a 2019 federal lawsuit, which was settled for broad injunctive relief, including mandating that Facebook create a new advertising portal for housing, employment, and credit advertisements as well as provide monetary relief of \$1.25 million.

- The FHJC assisted Newsday in highlighting discrimination through its three-year investigation “Long Island Divided.”
- In March 2021 the FHJC obtained its largest monetary settlement to date in response to disability discrimination allegations, \$2.9 million.

Fair Housing Funding

The FHJC is pleased that \$2 million has been allocated for fair housing testing and education in the 2022 budget, and we believe that this is an important step in New York State’s commitment to ensuring equity in housing. The budget attempts to advance fair housing legislation and funds efforts to address barriers many New Yorkers face when seeking housing. We support the intent to provide increased funding for the New York State Division of Human Rights’ fair housing enforcement activities.

Currently, the FHJC is participating in a two-year, \$4.5 million statewide pilot program aimed at eliminating systemic housing discrimination based on race, national origin, disability, source of income, and other federal, state, and local protected classes.¹ The program funds six QFHOs that are operating as full-service fair housing organizations across New York State. This funding has enhanced systemic testing investigations, fair housing and fair lending enforcement, home modification projects, and expanded our education and outreach efforts. The program has proven highly successful, with QFHOs conducting hundreds of tests, training and educating thousands of individuals about fair housing laws, and filing dozens of enforcement actions against brokers, lenders, and housing providers seeking to end discriminatory practices. In fifteen months, we have collectively completed nearly 600 tests, held 127 training events, hired seventeen new staff, filed fifty enforcement actions, continued service expansion into counties currently not served by a QFHO, and reached millions with social media campaigns. The program also provides a platform for the six organizations to learn from each other, share tips, identify common themes, and communicate regularly with the Office of the Attorney General. While funding expansion of our programs has been successful, we need continuing funding to support our work. We are concerned that the \$2 million is not a recurring item, and therefore will be inadequate to sustain a robust statewide fair housing enforcement program dependent on continual funding. We urge policymakers to consider an annual budget of \$3 million for fair housing activities.

Affirmatively Furthering Fair Housing (AFFH)

The FHJC fully supports New York State in its efforts to ensure fair and equitable housing. The State’s historic “Obligation to Affirmatively Further Fair Housing” legislation (S1353/A5428) requires New York State and all its funded recipients to identify and overcome patterns of residential segregation and housing discrimination, eradicate racially or ethnically concentrated areas of poverty, and reduce disparities in access to opportunity.

Now that New York State explicitly prohibits discriminatory action by state and local public agencies, it is essential that it prioritize its duty to enforce this newly enacted law in all its

¹ <https://ag.ny.gov/press-release/2020/attorney-general-james-announces-45-million-grant-fund-fair-housing-programs>.

housing plans, and to address longstanding patterns of inequity and segregation that remain elusive in New York.

Exclusionary Zoning

Exclusionary zoning goes beyond discrimination to restrict housing choice and affects families, young people, and seniors on fixed incomes, regardless of race, national origin, disability, sexual orientation, or other protected characteristics. Exclusionary zoning maintains segregation and contributes to homelessness. The FHJC commends Governor Hochul for proposing policy solutions aimed at eliminating exclusionary zoning, including fostering transit-oriented development and legalizing accessory dwelling units. These proposals are truly needed to end the housing crisis and to bolster equity and affordability throughout the region. The FHJC, in partnership with Enterprise Community Partners and a coalition of nearly thirty affordable housing, community development, fair housing, and for-profit and nonprofit organizations, developed a shared policy agenda, *Closing the Divide*. Among other topics, this Report promotes housing supply expansion through legalizing basement apartments and increasing accessory dwelling units (ADUs) within suburban areas.²

The FHJC encourages the state to keep the ADU legislation (S4547/A4854) in the final budget, and to ensure that ADUs are not exempted under the New York State Human Rights Law (NYSHRL). According to the Regional Planning Association, over 2.6 million homeowners and renters in New York were paying more than a third of their monthly income towards mortgage and/or maintenance, which qualifies them as being housing cost burdened. The pandemic has only exacerbated housing insecurity and sacristy. These circumstances affect seniors, young adults, and people of color more than any other population.³ The legalization of ADUs will help with affordability and add much needed units to the housing supply.

Protections for Individuals with Arrest or Conviction Records

As the criminal legal system disproportionately incarcerates those who are Black and Latinx, housing policies that ban those with arrest or conviction records unequally exclude Black and Latinx individuals and families. In New York State in 2019, 6,958,700 people had an arrest or conviction record – equivalent to 45% of the population.⁴

We commend Governor Hochul in her support for a “Fair Chance” housing law. However, as part of such reform, we strongly encourage the State to amend the NYSHRL to explicitly include “arrest or conviction record” as a protected characteristic. This change would preclude the use of criminal records as an arbitrary proxy for race or national origin in housing decisions. It would prohibit discriminatory treatment of formerly incarcerated individuals and facilitate their successful re-entry into society.

² <https://wroinc.org/closing-the-divide-creating-equitable-inclusive-and-affordable-communities/>

³ Negret, M. & McNulty, M. New York State Accessory Dwelling Unit Legislation Fact Sheets. (2021), rpa.org.

⁴ Evans, D.& Porter, J. Criminal history and landlord rental decisions: A New York quasi-experimental study. (2015). Journal of Experimental Criminology,11(1),21–42.DOI:10.1007/s11292-014-9217-4.

Conclusion

The FHJC applauds New York State's efforts to promote fair housing, and urges policymakers to accomplish the following:

- 1 Sustain fair housing funding in the final budget and strongly recommend that policymakers consider an annual budget of \$3 million for fair housing activities.
- 2 Prioritize the State's duty to enforce its newly enacted 'affirmatively furthering fair housing' law in all its housing plans, and to address longstanding patterns of inequity and segregation.
- 3 Preserve the ADU legislation in the final budget and ensure that ADUs are not exempted under the NYSHRL.
- 4 Commit to Fair Chance Legislation and amend the NYSHRL to include "arrest or conviction record" as a protected characteristic.

Thank you for the opportunity to submit these comments.