



**Still No Home for the Holidays:
A Report on the State of Housing
and Housing Discrimination
in the Gulf Coast Region**

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National Fair Housing Alliance
1212 New York Avenue, NW
Suite 525
Washington, DC 20005
(202) 898-1661

www.nationalfairhousing.org

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About the National Fair Housing Alliance

Founded in 1988 and headquartered in Washington, DC, the National Fair Housing Alliance is a consortium of more than 220 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. Through comprehensive education, advocacy and enforcement programs, NFHA protects and promotes equal access to apartments, houses, mortgage loans and insurance policies for all residents of the nation.

INTRODUCTION

Over a year has elapsed since the hurricanes of 2005 wrought destruction and devastation on the Gulf Coast, yet countless numbers of evacuees remain unable to return home. Today, the region continues to undergo extensive repair and rebuilding but many people remain displaced, without stable long-term housing and usually struggling to make mortgage or homeowners insurance payments. To exacerbate matters, housing discrimination continues to play a role in steering African-Americans away from housing opportunities. All told, circumstances on the Gulf Coast have precluded the return of many evacuees to their homes and livelihoods.

In December 2005, the National Fair Housing Alliance (NFHA) issued *No Home for the Holidays*, a report describing a 66 percent rate of discrimination against African-American hurricane evacuees. In an investigation conducted soon after Hurricane Katrina, NFHA uncovered differential treatment between White and African-American homeseekers, including quoting higher rent prices or security deposits to African-American testers and offering special inducements or discounts to White renters. Under the federal Fair Housing Act, it is illegal to discriminate on the basis of membership in any of the seven protected classes: race, national origin, color, religion, sex, disability, or family status.

In response to these troubling findings, NFHA initiated an investigation of housing discrimination on the Gulf Coast in an effort to monitor whether hurricane evacuees were receiving fair and equitable access to housing. As outlined below, NFHA continued to find race discrimination in Florida and Texas, and two complaints have been filed with the U.S. Department of Housing and Urban Development (HUD) against Governors Gate Apartment Homes in Pensacola, FL and Crestbrook Apartments in Burleson, TX.

Unfortunately, federal, state and local governments in the Gulf Coast region have not made fair housing a priority in the rebuilding of the Coast. This report details the damaging effects of FEMA, HUD, and local policies on Gulf Coast residents, especially people of color, families with children, and people with disabilities. NFHA's Hurricane Relief Project was created in collaboration with NFHA's member agencies in the region to ensure fair access to housing, insurance and mortgage lending and to facilitate the rebuilding of inclusive and integrated communities. The report also highlights the efforts of NFHA's member organizations in Louisiana and Mississippi.

Finally, NFHA offers its recommendations for rebuilding and reconstructing the region in an integrated fashion, which would entail a major commitment by the government and private sector to include fair housing as a vital component of any program implemented in the region, including substantial resources for enforcement.

HOUSING DISCRIMINATION UNCOVERED IN TEXAS AND FLORIDA

In the aftermath of Hurricane Katrina, NFHA began an investigation to determine if those who were forced to relocate would face discrimination. From mid-September through mid-December, 2005, NFHA conducted investigations of rental housing providers in seventeen cities in five states; Alabama, Florida, Georgia, Tennessee and Texas. For these investigations, White and African-American individuals, known as testers, posed as potential renters and hurricane evacuees. NFHA found that White testers were favored over African-American testers in 66 percent of these tests. As a result, NFHA filed five complaints with the U.S. Department of Housing and Urban Development (HUD) against apartment complexes in Birmingham, AL, Dallas, TX, and Florida. Currently, four complaints are pending with HUD regional offices, while the fifth complaint in Florida has settled.

NFHA continues to pursue its ongoing investigation of housing discrimination in hurricane impacted areas, including regions to which many evacuees relocated. In 2006, additional testing revealed race discrimination in two housing complexes in Texas and Florida. As a result, NFHA filed additional complaints with HUD against Crestbrook Apartments in Burleson, Texas, and Governors Gate Apartment Homes in Pensacola, Florida. It is important to gauge levels of housing discrimination in Texas, Florida and other states surrounding the immediately impacted areas because many evacuees fled to and continue to remain in these areas.

Types of Differential Treatment Uncovered

In many tests, White testers were given accurate and comprehensive information about the availability of units or the terms and conditions for securing an apartment, while that information was withheld from, or provided differently to, their African-American counterparts. In 2005, most of the differential treatment revealed in NFHA's testing fell into the following categories: failure to tell African-Americans about available apartments; failure to return telephone messages left by African-Americans; failure to provide information to African-American testers; quoting higher rent prices or security deposits to African-American testers; and offering special inducements or discounts to White renters.

The 2006 tests once again uncovered differential treatment in the following areas:

- failure to tell African-Americans about available apartments;
- failure to return telephone messages left by African-Americans; and
- failure to provide information to African-Americans.

At Governors Gate Apartment Homes in Pensacola, FL, White homeseekers were provided substantially different information about availability and rental rates than were African-American homeseekers. Agents of Governors Gate regularly provided White homeseekers with information about various available units within a flexible rent range, while African-American homeseekers were at different times told no units were available, that some units were available at higher rents than those available to Whites, or that there was a waiting list for apartments. In one instance, an African-American homeseeker was told it was necessary to pay \$300 to get on a waiting list for units as they became available. Less than one hour later, a White homeseeker was given a rental application for available units and was invited to apply with no mention of a waiting list.

At Crestbrook Apartments in Burleson, TX, African-American potential homeseekers did not have their calls returned while White potential homeseekers had their calls returned within hours. Moreover, when African-Americans did speak with agents at this property (after initial phone messages were not returned), they were told substantially different information about

available units. One African-American homeseeker was told that there might be an apartment available in the next few weeks, but the agent did not provide definite information about availability. The agent also told the homeseeker that if she wanted to mail in an application she would need to submit a month of pay stubs to verify that she made three times the monthly rent and qualified for the apartment. A White homeseeker was told that there were apartments currently available and was invited to fax in her application without mention of pay stubs or qualification. In another instance, an African-American homeseeker was told that there would be both a credit check and a criminal background check. White homeseekers were not told of these requirements.

Testing Approach and Methodology

In 2005, NFHA conducted telephone tests of housing providers located in states to which many people had fled following the hurricanes. NFHA continues to investigate rental housing providers in these areas as part of an ongoing investigation into discriminatory rental practices. NFHA utilized “paired” and “sandwich” testing approaches to document the types of discrimination in these markets. Testing is a widely-accepted methodology that has been utilized for decades for both enforcement and research purposes.¹

Fair housing testing is a controlled method for measuring and documenting differences in the quality, quantity and content of information and services offered or given to various homeseekers by housing or housing service providers. Paired testing for racial discrimination, for example, involves sending both an African-American tester and a White tester to an apartment building, in the same general time frame, to inquire about the availability of the same or similar apartments for rent. The African-American tester is better qualified than his or her white counterpart based on income, employment and other factors. A sandwich test is an expansion of a paired test. It involves the same general principles as a paired test, but adds a third tester. The third tester is matched with both of the first two testers, differing only in race, national origin or other protected characteristic from one of the first two testers. Sandwich tests are particularly useful in situations in which the availability of a specific apartment or house is in question. For example, a White tester calls to inquire about an apartment and is told that it is available. An African-American tester calls to inquire about the same apartment and is told the apartment is no longer available. A second White tester calls to inquire about the same apartment and is told the apartment is still available.

Another aspect that comes into play with telephone testing is “linguistic profiling.” Almost all housing transactions begin with a phone call. Many people never even have an opportunity to see an apartment or house because some housing providers identify persons by race or ethnicity over the phone and refuse to do business with the callers. The methodology used in these tests addresses this aspect of the home seeking process. By using groundbreaking research conducted by linguistics expert John Baugh and others,² NFHA’s testing methodology uncovered several examples of “linguistic profiling.”

Linguistic profiling is racial or ethnic identification using speech patterns, including voice inflection, accents and tonality. This is a type of racial profiling, contrasted with the more familiar forms of visual racial profiling. Overall, testers whose voices were identifiable as

¹ The use of fair housing testing evidence has uniformly been accepted by the courts, including the Supreme Court. See e.g. *Havens Realty Corp v. Coleman*, 455 U.S. 363, 373-374 (1982).

² See e.g. Baugh, John, "Perceptual and Phonetic Experiments on American English Dialect Identification," (with Thomas Purnell and William Idsardi). *Journal of Language and Social Psychology*, Vol. 18 No. 1, pp. 10-30 (1999).

belonging to White persons were treated more favorably than testers whose voices were identifiable as belonging to African-Americans.

HARMFUL EFFECTS OF LONG-TERM SEGREGATION

Testing, investigations, research and history have shown that racially segregated housing patterns exist to a large extent as a result of discrimination against communities of color. Housing discrimination is an unfortunate reality that continues to burden society and which contradicts the spirit and intent of the federal Fair Housing Act. The discriminatory practices uncovered by NFHA's 2005 and 2006 Gulf Coast investigations limit housing choices for renters as well as homebuyers, and continue to be a major obstacle confronting African-Americans in their search for housing.³

Where people live has an immediate impact on the most critical aspects of their lives. The quality of education children receive will influence employment opportunities, access to wealth and opportunities to establish and foster diverse social networks.⁴ Segregation also propagates misunderstanding among different racial and ethnic groups and preserves the existence of negative racial stereotypes, fears and attitudes. As this country remains divided along racial lines, segregation produces grim social and economic realities for communities of color.

OVERVIEW OF EXISTING GULF COAST POPULATION

In examining the aftermath of Hurricane Katrina, the Congressional Research Service (CRS) estimates that the parishes of Orleans and St. Bernard were hardest hit, followed by Hancock and Harrison counties in Mississippi. The coastal areas in Mobile and Baldwin Counties in Alabama also suffered significant damage. New Orleans suffered the greatest loss, and because of its social and economic demographic makeup, the storm had a heavy impact on low-income African-Americans. Among the African-American population in Orleans parish, more than one-third was estimated to have been poor.⁵

Prior to Hurricane Katrina, about 1.3 million people resided in the New Orleans metropolitan area and more than 444,000 lived in the city itself. It is unknown how many evacuated before, during and after the storm, but it is estimated that the entire city was evacuated and that more than a million people left the metropolitan area.⁶ To date, more than 1.7 million people affected by the hurricanes of 2005 have registered with the Federal Emergency Management Agency (FEMA) for disaster assistance.⁷

A recent survey of New Orleans alone shows the area has suffered a population loss of over 300,000 residents, with many still displaced from their homes. In Orleans parish, less than a third of African-American residents have returned.

³ See also NFHA's *Housing Segregation Background Report* series at www.nationalfairhousing.org for other 2005 and 2006 investigations.

⁴ Seitles, Marc. "The Perpetuation of Residential Racial Segregation in America: Historical Discrimination, Modern Forms Of Exclusion, and Inclusionary Remedies." 1996, *Journal Of Land Use & Environmental Law*.

⁵ Gabe, T., et al. *Hurricane Katrina: Social-Demographic Characteristics of Impacted Areas*. CRS Report for Congress, November 4, 2005.

⁶ Tanneer, M. "Katrina evacuees weigh possible return." CNN.com, January 11, 2006. Retrieved from <http://www.cnn.com/2006/US/01/10/katrina.evacuees/index.html>.

⁷ http://www.fema.gov/media/archives/2006/recoup_faq.shtm.

Parish	Pre-Katrina Total	African-Americans Pre-Katrina	African-American Percentage of Total	Whites Pre-Katrina	White Percentage of Total
Orleans	444,515	302,041	68%	124,591	28%
St. Bernard	66,441	5,122	8%	59,356	89%
Jefferson	449,288	117,657	26%	303,992	68%
Plaquemines	26,757	6,258	23%	18,668	70%
Total	987,001	431,078	44%	506,507	51%

Parish	Post-Katrina Total	African-Americans Post-Katrina	African-American Percentage of Total	Whites Post-Katrina	White Percentage of Total
Orleans	200,665	89,891	45%	81,557	41%
St. Bernard	25,296	1,857	7%	22,148	88%
Jefferson	434,666	112,401	26%	266,168	61%
Plaquemines	20,024	4,344	22%	13,469	67%
Total	680,651	208,493	31%	383,342	56%

Sources: 2006 Louisiana Health and Population Survey Report (Surveys conducted October through December 2006); Pre-Katrina estimates are based on Census 2000 or 2004 American Community Survey.

The hurricanes had a devastating impact on the economy in the Gulf Coast region. Many homeowners lost their jobs because their workplaces were destroyed or severely damaged. Many remain unemployed, and those who have been able to find work have suffered a significant decrease in income. Public employees and those working in the service sector were particularly hard hit. These homeowners may no longer be able to afford their mortgage payments.

FEDERAL AND STATE HOUSING RESPONSES TO THE HURRICANES

FEMA and HUD necessarily play crucial roles in the rebuilding process. As federal agencies, they have an obligation to "affirmatively further fair housing;"⁸ however, an examination of reconstruction plans and housing decisions made by these agencies shows that they have failed to address this obligation. People with disabilities, families with children, and people of color are disproportionately affected by the lack of action in this area.

FEMA and HUD

FEMA's role is to assist with response and recovery from disasters. It guides the federal response to the nation's disasters, manages the National Flood Insurance Program and helps prepare state and local emergency managers by providing first responder and emergency preparedness training. Following Katrina, FEMA offered housing assistance under two main programs: (1) Section 403 supports emergency sheltering and FEMA directly reimburses states for providing emergency shelter for evacuees; and (2) Section 408 provides rental assistance,

⁸ According to section 104(b)(2) of Title I of the Housing and Community Development Act of 1974 as amended, CDBG entitlement grantees are required to "affirmatively further fair housing."

home repair assistance, home replacement assistance and direct housing assistance to eligible families and individuals.

Recently, FEMA came under fire for denying continued assistance to 11,000 households transferring from Section 403 to the Section 408 program. Following a lawsuit brought by the Association of Community Organizations for Reform Now (ACORN), FEMA was ordered to resume housing payments immediately and to pay families three months of back rent.

FEMA also partnered with HUD through the Katrina Disaster Housing Assistance Program (KDHAP). KDHAP was funded by FEMA and administered by HUD specifically for those disaster victims who were in HUD-assisted housing programs prior to Hurricane Katrina, or otherwise ineligible for FEMA housing assistance. KDHAP provided financial assistance in the form of rent subsidies and utility payments to landlords through public housing authorities.

HUD also involved itself in the rebuilding of hurricane ravaged areas by instituting a series of measures designed to help FHA-insured homeowners in disaster areas who could not pay their mortgages. FHA lenders were instructed to offer: forbearance to borrowers; halt any foreclosures underway and refrain from beginning any new foreclosure actions; refrain from reporting derogatory information to the credit bureaus; and provide substantial flexibility to borrowers seeking to develop plans to bring their delinquent mortgages current. HUD's Office of Fair Housing and Equal Opportunity (FHEO) distributed \$1.2 million to the State of Louisiana Department of Justice to conduct fair housing enforcement, and it launched a public education campaign to inform evacuees of their fair housing rights.

Although these efforts by HUD and FEMA assisted some, the fight for housing integration and fair housing rights faces an uphill battle with both agencies. HUD oversees fair housing for the entire federal government, but there is no written agreement between HUD and FEMA on how to address fair housing complaints that arise in FEMA trailer parks or in any other FEMA housing. The effect in some cases has been that FEMA has removed complainants rather than punish landlords, or has outright refused to provide assistance to complainants or fair housing centers. Simultaneously, HUD has refused to investigate the allegations quickly to avoid evictions and additional discrimination. HUD has made some effort in the area of handicap accessibility, as described below. Unfortunately, its biggest effort in this area occurred once a lawsuit was already decided against FEMA, rather than proactive work that would have avoided the need for a lawsuit.

On a larger scale, as described below, HUD is responsible for administering the funding provided through the Community Development Block Grant program – a total of \$16.7 billion. HUD has not made any requirements that the funds be used to integrate the Gulf Coast and to include the people most affected into the decision-making process. Instead, HUD has waived requirements that funding be used to help those most in need.

Handicap Accessibility Standards

Prior to the hurricanes of 2005, roughly 25 percent of residents of the Gulf Coast area had a disability.⁹ Such a considerable number necessitates a rebuilding strategy that adopts the universal home design requirements for all housing, including federally assisted housing.

⁹ National Council on Disability, *The Impact of Hurricanes Katrina and Rita on People with Disabilities: A Look Back and Remaining Challenges*. Retrieved from http://www.ncd.gov/newsroom/publications/2006/hurricanes_impact.htm.

In the period of recovery and reconstruction, a number of troubling accounts emerged concerning FEMA's response to housing accessibility and assistance services for survivors. Housing provided by FEMA often came in the form of inaccessible trailers lacking wheelchair ramps, grab bars in the bathroom and wheelchair maneuvering room.¹⁰ In February 2006, disability rights, legal and advocacy organizations brought suit in *Brou v. FEMA*, challenging FEMA's failure to provide temporary housing accessible for people with disabilities. A settlement agreement was obtained which required that FEMA reach out to the disability community and release public service announcements to media outlets in Louisiana, Mississippi, and surrounding states. Under the agreement, five percent of trailers at FEMA group trailer sites and common areas of FEMA trailer sites must meet Uniform Federal Accessibility Standards.¹¹

HUD's FHEO promoted accessibility standards through a small series of workshops in the Gulf Coast Region to ensure accessibility in newly built replacement housing. The "Fair Housing Accessibility FIRST" program held technical trainings on the Fair Housing Act's design and construction requirements for state and local officials, the housing industry and housing advocates in Louisiana, Mississippi, Texas and Florida.

Community Development Block Grant Funding and State Programs

In late 2005, President Bush signed the Defense Appropriations Act for FY2006, a part of which provided \$11.5 billion in disaster relief to Gulf Coast states. The emergency funding was provided through HUD's Community Development Block Grant (CDBG) program to specifically address long-term housing and community development needs in Louisiana, Mississippi, Florida, Alabama and Texas with addressing long-term housing and community development needs in the region. A breakdown of the allocation follows:

Louisiana	\$ 6,210,000,000
Mississippi	5,058,185,000
Florida	82,904,000
Texas	74,523,000
Alabama	74,388,000
Total	\$ 11,500,000,000

In summer 2006, Congress approved and HUD allocated additional CDBG supplemental appropriations in the amount of \$5.2 billion to hurricane affected areas, with particular emphasis placed on the repair, rehabilitation and reconstruction of affordable rental housing. Expanding and reopening rental housing units is essential to facilitating the return of former residents to their homes and livelihoods. In Louisiana alone, an estimated 82,000 rental units suffered major to severe damage, presenting a significant obstacle to the return of residents.¹² And due to the enormous impact of the hurricanes, the fair market value of rental units rose by 35 percent in New Orleans and 25 percent in the Baton Rouge area. Given a diminished supply of affordable rental units coupled with a high demand and skyrocketing rents, the importance of affordable rental housing is clear.

¹⁰ http://www.femaanswers.org/images/5/5b/Brou_v_FEMA_complaint.pdf.

¹¹ http://www.fema.gov/pdf/library/brou_fema.pdf.

¹² Louisiana Recovery Authority, *Hurricane Katrina Anniversary Data for Louisiana*.
<http://rememberrebirth.org/documents/LouisianaKatrinaAnniversaryData082106.pdf>.

The approximately \$5.2 billion in additional CDBG funding was allocated as follows:

Louisiana	\$ 4,200,000,000
Texas	428,671,849
Mississippi	423,036,059
Florida	100,066,518
Alabama	21,225,574
Total	\$ 5,173,000,000

The CDBG program also contains a regulatory requirement that cities, counties and states affirmatively further fair housing. However, HUD's failure to promulgate enforceable regulations implementing this provision has undermined the effectiveness of this Congressional mandate. The result is that fair housing is not often included in the comprehensive plans and funding decisions of local jurisdictions that receive CDBG funds. In addition, although standard CDBG program regulations require that a grantee use not less than 70 percent of CDBG funds for activities that benefit low- and moderate-income persons, the statute accompanying HUD's emergency CDBG allocations requires only that 50 percent of the funds benefit low- and moderate-income people. The HUD Secretary has used his further discretion to waive even that low standard. Given the overwhelming evidence of Katrina's toll, the waivers, especially in the Gulf States, have a disparate impact on people of color, families with children, and people with disabilities.

The State of Louisiana utilized CDBG funds to establish the Road Home Program for the Louisiana Rebuilding Authority. The State of Mississippi established the Mississippi Development Authority (MDA)'s Homeowner Assistance Program. Alabama has no state-run program to assist homeowners, and Mobile County is still in the process of designing its housing assistance program, so homeowners there still have no idea what form or amount of assistance they can expect to receive.

Each of these programs poses problems for many homeowners. The Road Home Program has cast a wide net, opening up eligibility to many homeowners. However, the formula for determining the amount of assistance is flawed. It fails to adequately account for the actual cost of rebuilding, and as a result will not plug the resource gap for many homeowners. This is likely to have the most adverse impact on owners of homes with modest values, where the discrepancy between the pre-Katrina value of the home and the cost of rebuilding may be the greatest.

This is illustrated by the case of one homeowner who came to the Hurricane Relief Project for assistance. She was told that the pre-Katrina value of her home was \$74,000 and the cost of repairing her home was estimated at over \$190,000. However, because she had received \$84,000 under her homeowners insurance policy, she was ineligible for a grant under the Road Home Program. Further, there have been a number of problems with program implementation, so that 15 months after Katrina made landfall, fewer than 100 homeowners have actually received checks.¹³

The MDA program has a similar flaw in its formula for determining the amount of assistance to which a homeowner is entitled. In Mississippi, the problem is exacerbated by the narrow standards for eligibility. In Phase I – the only portion of the program that is up and running – eligibility is restricted to those who lived outside the flood plain, had homeowners insurance but not flood insurance, and sustained flood damage. Those inside the flood plain with no flood insurance, and those outside the flood plain with wind damage are not eligible for this pool of

¹³ Warner, Coleman. "Unhappy Endings: Some of Road Home's final letters are sending shock waves," *Times Picayune*. December 14, 2006.

funds. Mississippi has also had problems with program implementation, although it has managed to make payments to some 8,000 homeowners to date.¹⁴ The State is in the process of developing plans for a second phase of assistance to homeowners, but it does not appear that Phase II will provide the assistance that many homeowners so desperately need.

Mortgage and Homeowners Insurance Issues

For a year following the hurricane, the mortgage lending industry offered borrowers a moratorium on loan payments, waived late fees, prepayment penalties and other charges, provided flexibility in loan repayment arrangements, stopped existing foreclosure actions and did not initiate new ones, and refrained from reporting derogatory information to the credit bureaus. Fannie Mae and Freddie Mac provided leadership in this regard, establishing policies that their lenders and servicers were obligated to follow. Many others in the industry followed suit, even though they were not bound by Fannie's and Freddie's policies. These measures took considerable effort to implement, and in many cases the lenders and servicers involved incurred considerable expenses, as well. They are to be commended for stepping up to the plate to provide time for homeowners in the disaster areas to recover.

However, on the one year anniversary of Hurricane Katrina, the blanket loan moratoriums were lifted. As federal funds for rebuilding begin to flow to homeowners, lenders can be expected to press those homeowners to make decisions about whether they will repair, rebuild or relocate and to resolve any mortgage arrearages in the process.

From the homeowner's perspective, this is not a simple decision. Many have reduced incomes, increased housing costs, lingering uncertainty about the viability of their communities, and unresolved questions about how much money they have for rebuilding. Some homeowners are still resolving their insurance claims, and many still do not know whether they will receive assistance under the state plans or how much it will be. The situation is further complicated for those whose homes are uninhabitable. They may be facing dual housing payments: one for the house that was damaged by the hurricane and another for the unit in which they are currently living. One of these payments may be hard enough to sustain; for many, it will be impossible to make both. For those in adjustable rate mortgages that have adjusted or are about to adjust, the payment may be that much farther out of reach.

Homeowners face steep increases in insurance costs, which also threaten their ability to sustain their tenure. Ironically, those who have insurance, even at sharply higher prices, may soon consider themselves lucky. Insurance availability is a growing problem in the Gulf region. Many companies, including Allstate and State Farm, have cut back coverage or stopped writing policies altogether.¹⁵ In Louisiana, a special rule that prohibited insurance companies from non-renewing policyholders is set to expire on December 31, 2006. As a result, when the notification period expires on March 1, 2007, tens of thousands of policies in Louisiana are expected to be non-renewed. Many of these homeowners will have no alternative other than the Louisiana Citizens Property Insurance Corporation, the state-sponsored insurer of last resort also known as the FAIR plan. Its rates, by statute, are set 10 percent higher than the market.

Some homeowners are also facing the need to take on flood insurance. Due to the nature of the flood plain maps, many of which have not been updated since 1982, many residences for which no flood insurance was required previously are now designated as being in special flood hazard zones. Federally regulated mortgage lenders are required to make flood insurance mandatory for their borrowers in these areas (and most other lenders do, as well). Maintaining flood

¹⁴ <http://www.mississippi.org/content.aspx?url=/page/hoassistprogram1&>

¹⁵ Adams, Marilyn. "A Storm of Trouble." *USA Today*. May 24, 2006.

insurance is also a requirement for receiving assistance under both the Mississippi and Louisiana homeowner assistance plans. While flood insurance provides worthwhile benefits in the event of floods, for this group of homeowners it an expense they did not contemplate when they purchased their properties.

FAIR HOUSING PROGRAMS ON THE GROUND

Background on NFHA's Hurricane Relief Project

Following the hurricanes, NFHA created its Hurricane Relief Project in conjunction with its Gulf Coast member organizations. The project seeks to assist individuals in resolving their mortgage delinquency and in obtaining equitable settlements on their homeowners insurance claims. The project also seeks to ensure fair access to insurance and mortgage lending; to reduce mortgage loan default and foreclosure; to prevent construction fraud; to facilitate the rebuilding of inclusive communities; and to ensure equal housing opportunity for all.

Direct services and educational resources are provided by local members in New Orleans, LA (Greater New Orleans Fair Housing Action Center), Biloxi, MS (Gulf Coast Fair Housing Center), Mobile, AL (Mobile Fair Housing Center) and Houston, TX (Greater Houston Fair Housing Center). (For the purposes of this report, the efforts in Mississippi and Louisiana have been highlighted.) The Hurricane Relief Project supplements the fair housing services already provided by these agencies, including: receiving complaints of housing discrimination; educating consumers and the housing industry about fair housing laws; conducting investigations and testing of complaints of housing discrimination; and advocating for individuals and families in settling or pursuing their complaints.

At the local and federal levels, NFHA and its member groups have brought attention to the many fair housing aspects associated with rebuilding as the respective states and localities develop their CDBG plans. NFHA has also testified before Congress to bring attention to the discrimination faced by Katrina victims in housing markets across the U.S. and the need to prevent the re-segregation of Gulf Coast communities.

Mortgage Complaints

The primary problem facing the borrowers that the Hurricane Relief Project has counseled to date is loss of income or reduced income. Many people lost their jobs as the result of the hurricane, and either have not been able to find a new job or have been forced to take a job with lower pay. This has put their mortgage payment out of reach.

Borrowers are also facing problems because:

- they entered into unrealistic repayment plans to bring their mortgages current, and cannot continue to make the payments;
- their lender force-placed expensive insurance when the borrower's own insurance policy had not lapsed;
- they were charged late fees during the moratorium when no late fees were to be imposed;
- they used insurance proceeds to pay down their mortgage balance in the expectation that this would lower their monthly payment, and then not only discovered that this was not the case, but were left with insufficient funds to carry out needed repairs;
- their adjustable rate mortgage hit its adjustment date and their payment went up sharply. Many of these loans will adjust again, most likely upward, every six months.

In some cases, these are borrowers on fixed incomes, whose incomes were never sufficient to afford the loan; and

- they received confusing or contradictory information from their lender or servicer about amounts owed and steps that needed to be taken to address their situation.

Insurance Complaints

Homeowners have been working with their insurance companies for many months to resolve insurance claims arising from the damage caused by the hurricanes. In many cases, however, no final settlement has been reached. The tremendous demand for contractors and building supplies has caused a spike in rebuilding costs, along with long delays in scheduling work. For many, this means that the final price tag for rebuilding their home – and thus the final amount they are due under their insurance policy – has yet to be tabulated. The combination of wind and water damage, and the fact that wind damage is covered under homeowners insurance while flood damage is covered under the federal National Flood Insurance Program, complicates the situation for many.

The policyholders with whom the Hurricane Relief Project has worked have faced a range of problems in resolving their insurance claims. Among these are:

- low-ball estimates of damage sustained, resulting in settlements too low to cover the actual cost of repair;
- difficulty getting information from their insurance companies. Many homeowners never received reports detailing the amount and type of damage found by the adjuster and the estimated cost of repair;
- claims that damage was due to flood (and thus not covered by the homeowners policy) when the home was not flooded;
- refusal to inspect portions of the property and then placing the burden on the homeowner to prove that damage to these areas was not caused by flooding;
- refusal to replace roof with comparable materials.

Mississippi – The Gulf Coast Fair Housing Center

The Gulf Coast Fair Housing Center (GCFHC) was established in 2003 to serve the Gulf Coast region of Mississippi. In addition to the issues for homeowners they have addressed through the Hurricane Relief Project as described above, the center has been involved in a number of issues facing renters in Mississippi. Some of the biggest issues include: the use of Section 8 housing vouchers in an increasingly expensive market; the demolition of public housing projects; discrimination facing renters in FEMA trailers; and other discrimination issues.

Section 8 Housing Voucher Placement

Despite the Mississippi Attorney General's November 21, 2005 opinion stating that any post-Katrina rent increase not directly related to an increased cost to the housing provider would be regarded as price gouging, no action has been taken to stop or even limit rent increases on the Gulf Coast. This has been most damaging to people with lower incomes, a group that is disproportionately comprised of people of color, people with disabilities, and families with children.

In early 2006, the center began to receive complaints from Section 8 housing voucher holders who were either unable to find housing or were being evicted from their apartments due to rent

increases.¹⁶ These increases far exceeded the Rent Reasonableness Standard that the Mississippi Region VIII Housing Authority had in place before the storm. In these cases, voucher holders were able to find non-damaged available rental units whose landlords were accepting Section 8 vouchers. The voucher holders were then told by the Housing Authority that they would be unable to use their vouchers to rent the units because the landlord had raised the rent beyond the housing authority's standard.

One example of these complaints is an African-American single mother of two living in a two bedroom apartment that was renting for \$575 per month before Katrina. Upon lease renewal, post-Katrina, the rent for the same apartment was increased to \$795. Although the housing authority raised the limit it would pay for a two bedroom unit to \$650 on September 27th, it still could not justify the \$795 rent rate for the unit. The housing authority continues to work with the resident and the management company to work out a solution.

Public Housing Elimination

Mississippi Region VIII Housing Authority (MRHA VIII) has applied to HUD to sell eight affordable housing facilities – a total of 713 units – to private owners. Current residents of these facilities have been told, “Due to a lack of insurance proceeds and funding from HUD to repair damages realized by the occurrence of Hurricane Katrina, MRHA VIII is unable to maintain these properties as public housing communities.”¹⁷ Residents were told that they may be eligible for Section 8 Housing Choice Voucher rental assistance. As demonstrated by the stories above, there is nowhere for these residents to go even if they qualify for vouchers to use in the private market, due to price gouging and the general lack of availability of housing stock.

FEMA Trailer Discrimination

Following the hurricane, FEMA created its own “trailer parks” and leased space in existing trailer parks on which to place its trailers. Almost immediately, the fair housing center began receiving calls of discriminatory treatment against African-American FEMA trailer residents. One privately owned trailer park was leased to FEMA in order to house residents displaced after the hurricane. The tenants signed leases with FEMA but were subject to the trailer park management. Four different resident families, either bi-racial or African-American, filed similar complaints of harassment by the park management who had threatened evictions and/or made racist remarks. Pre-Katrina, the trailer park had only White tenants. The center's investigation showed that White tenants were in fact given preference in the park and supported the complainants' allegations of race-based discrimination. The complainants were relocated to a different park by FEMA, and the trailer park is still under investigation.

Discrimination in a Tight Housing Market

As described in *No Home for the Holidays*, under normal market conditions studies have documented high levels of discrimination against people of color. In a tight market, the discrimination tends to be more pronounced. The experience of the past year and a half on the Gulf Coast has borne this out.

¹⁶ Although “income” is not a protected class under the federal Fair Housing Act, fair housing centers often investigate Section 8 complaints because they often have a disparate impact on protected classes, especially people of color, families with children, and people with disabilities. In addition, the local housing authorities referred many of their tenants and Section 8 voucher holders to the fair housing center following the hurricanes, due to the overwhelming need for assistance.

¹⁷ Official Disposition Notice from MRHA VIII dated July 31, 2006.

In one example, an African-American couple and three children had been living in a two bedroom apartment for three years, renting from the same property manager. The family recently took custody of two additional children and began looking for a larger home. The property manager had a three bedroom single family home become available which was affordable for the family and close to the children's schools. It seemed like a good solution.

The couple signed a one-year lease beginning June 1st. On the first day of unpacking, there was a knock on the door and two White women entered the home, one of whom was the owner. The next morning the family received a call from the property manager who said that the owner had called him and demanded he "get those people out before they tear up my home." The property manager was fired by the owner and the owner refused to speak to the couple. The family was forced to move back into the two bedroom apartment. The center filed a complaint with HUD against the owner in September and that complaint is pending.

Louisiana – Greater New Orleans Fair Housing Action Center

The Greater New Orleans Fair Housing Action Center (GNOFHAC), established in 1995, has also been involved in a number of fair housing issues facing Louisiana residents. The center continues to receive numerous race and family status discrimination complaints, as it did before the storm. But now, of course, it is much harder for victims of discrimination to find alternate housing. Some of the other issues they face since the storm include: city zoning that excludes people with disabilities; racist restrictive ordinances; discriminatory advertising over the internet; and public housing unit elimination and demolition.

Exclusionary Zoning – People with Mental Disabilities

In December 2005, GNOFHAC assisted with the filing of a complaint on behalf of Options Foundation in the Middle District of Louisiana, alleging that the City of Denham Springs used its zoning code to discriminate against individuals with disabilities. After Hurricane Katrina, Options Foundation bought a property in Denham Springs to be used as group home for individuals with mental disabilities who were displaced from their group home in New Orleans. Options received notice from the city that it would issue a cease and desist order if the group home continued to operate on the property. The court granted the fair housing center's request for a temporary restraining order, and its subsequent request for a preliminary injunction. The city has filed a motion to dismiss and to dissolve the injunction.

Racist Restrictive Ordinances

In October 2006, GNOFHAC filed a lawsuit against St. Bernard Parish in U.S. District Court, Eastern District of Louisiana in order to prevent the enforcement of its blood relative ordinance. This ordinance required owners of single-family homes, 93 percent of whom are White in St. Bernard Parish, to rent only to blood relatives. In November 2006, GNOFHAC filed a motion for preliminary injunction and an amended complaint, adding Wallace Rodrigue, a property owner in St. Bernard Parish, as a plaintiff. St. Bernard agreed to GNOFHAC's motion for preliminary injunction, and a judge signed the order for the injunction on November 14, 2006.

Discriminatory Advertising Over the Internet

When GNOFHAC saw that five websites advertising housing for evacuees featured discriminatory postings, the center initiated complaint proceedings against the website companies. These websites featured discriminatory postings, including, "I would love to house a single mom with one child, not racist but white only," and, "Not to sound racist but because we want to make things more understandable for our younger child we would like to house white children." These complaints are pending with HUD.

Public Housing Unit Elimination

In December 2006, GNOFHAC filed suit against the Housing Authority of New Orleans (HANO) for breaching a 2003 conciliation agreement with former residents of the St. Thomas housing development. After Hurricane Katrina, HANO leased public housing units at River Garden to non-public housing residents, thereby violating the agreement. As a result of this most recent suit, a former St. Thomas resident has been placed in an apartment at the River Garden complex, and GNOFHAC currently is working on applications of several additional former residents.

Public Housing Demolition¹⁸

Although New Orleans housing is at 100 percent occupancy and the waiting list for public and section 8 housing *before* Katrina was 18,000 people long, HUD has announced plans to demolish 4,534 apartments of public housing garden-style apartments.

HANO's own documents show that these units could be repaired and in many cases completely overhauled for less money than is being spent on demolition and the rebuilding of a smaller number of units. The St. Bernard housing complex, for example, will go from 1400 units to 595 apartments of which 145 will be market rate, 160 low-income public housing, and 160 tax credit (i.e. mixed income) units. CJ Peete housing complex will go from 723 units to 410 units, including 123 market rate, 154 public housing, and 133 tax credit.

The developers of these properties will get federal assistance to demolish habitable affordable housing, including \$97.3 million in CDBG funds and \$34.4 million in tax credits.

John Fernandez, Associate Professor of Architecture at MIT, has inspected 140 of these apartments and has concluded that no structural or nonstructural damage was found that could reasonably warrant any cost-effective building demolition. His general conclusions are that: demolition of any of the buildings of these four projects is not supported by the evidence of the survey; replacement of these buildings with contemporary construction would yield buildings of lower quality and shorter lifetime duration; the original construction methods and materials of these projects are far superior in their resistance to hurricane conditions than typical new construction; and, with renovation and regular maintenance, the lifetimes of the buildings in all four projects promise decades of continued service that may be extended indefinitely.

¹⁸The "Public Housing Demolition" section was adopted from the "Save NOLA Affordable Housing Fact Sheet" by Bill Quigley, Professor of Law at the Loyola University School of Law and Director of the Loyola Law Clinic and the Gillis Long Poverty Law Center.

RECOMMENDATIONS

Because housing is such an important part of local and national economies and because housing discrimination continues to chip away at the dream of equality in this country, the government and private sector should make every effort to include fair housing as a vital component of every program implemented in the Gulf Coast region as well as commit substantial resources to fair housing enforcement.

Make Fair Housing a Primary Component in the Rebuilding Process

Federal, state and local governments should demonstrate their dedication to fair housing by assuring integration in the rebuilding process and implementing fair housing programs. The redevelopment of communities that are integrated in terms of race, national origin, and economic class must be a priority. Municipalities that receive Community Development Block Grant funds are required to affirmatively further fair housing. They should utilize a portion of these funds to fund the education and enforcement programs of local fair housing organizations.

Fund Fair Housing Enforcement

Fair housing enforcement is important for both detecting discrimination and holding accountable those who commit violations. The federal agencies that should enforce the Fair Housing Act include HUD, the Justice Department and the US Department of Agriculture. As the primary agency charged with fair housing enforcement, HUD should fund a national enforcement testing project to uncover the nature and extent of housing discrimination against people displaced by the recent hurricanes and people rebuilding in the Gulf Coast region. It should also take steps to identify predatory lending and home repair schemes. Local fair housing organizations in the Gulf Coast region should receive additional funding from HUD and other entities for their enforcement programs.

Fund Fair Housing Education

Congress should approve funding for a fair housing education campaign, specific to victims of Katrina, to be developed and run in print and electronic media outlets. Resources should be allocated to address the needs of those who respond to the campaign.

Provide Accessible Housing for Persons with Disabilities

In order that they meet accessibility standards and fulfill their obligations to affirmatively further fair housing, FEMA and HUD should incorporate the perspective of disabled citizens in all stages of rebuilding. They should construct shelters and trailers with accessible entrances and place these trailers on pavement easily navigable by standard wheelchairs; train staff on disability rights and assistance in order to more ably provide accommodations such as Braille, closed captioned information and other assistive devices; and assure that FEMA trailers and FEMA and HUD housing be integrated with the larger community.

Government agencies at all levels should ensure that rehabilitated and newly constructed housing meet the highest standards of accessibility.

Hold Federal Agencies Accountable for Upholding the Fair Housing Act

Congress should hold all federal agencies involved in rebuilding, including HUD and FEMA, accountable for meeting the requirements of the Fair Housing Act, the Housing and Community Development Act, and all other civil rights, disability rights and housing laws that apply.

Dedicate Resources to Preserving and Expanding Affordable Rental Housing

The lack of affordable rental housing is acute on the Gulf Coast and prevents many evacuees from returning. Congress and HUD should facilitate their return by providing funds for housing construction and providing rent subsidies in the form of Section 8 vouchers to assist with the high cost of housing. They should increase funding for the Low Income Housing Tax Credit program to induce builders to construct affordable rental units on the Gulf Coast, while requiring that those units help form integrated communities rather than perpetuating segregation. State governments should utilize their funding and target resources to preserve affordable rental housing.