

# NFHA

National Fair Housing Alliance

**FOR RENT: NO KIDS!**

## How Internet Housing Advertisements Perpetuate Discrimination

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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

Every day in the United States, thousands of people view rental advertisements that illegally deny housing to families with children and others protected by the federal Fair Housing Act. Although newspapers have been held liable under the Fair Housing Act for publishing discriminatory housing advertisements with statements such as “no kids,” or “couples only,” the publishers of similar ads on the Internet have not been held to the same legal standard.

In order to address this disparity in the law, which holds print advertisements and online advertisements to separate and unequal standards, the National Fair Housing Alliance (NFHA) urges Congress to amend the Communications Decency Act.

The federal Fair Housing Act makes it illegal to make, print or publish or cause to be made, printed or published housing ads that discriminate, limit or deny equal access to apartments or homes because of race, color, national origin, sex, religion, familial status and disability.

In order to comply with the Fair Housing Act, newspapers utilize screening systems to keep advertisements containing discriminatory statements from being printed. However, a legal interpretation of the Communications Decency Act (CDA) holds that interactive Internet providers, like craigslist, are not publishers and, therefore, are not liable for violating the Fair Housing Act if discriminatory housing ads are published on their sites.

This interpretation has dramatically turned back the progress of the Fair Housing Act. Illegal advertisements are prolific on the Internet, decades after Congress made discriminatory housing ads illegal. More than two million children and their families face foreclosure and will need rental housing, yet their housing options are limited by illegal online housing advertisements with phrases such as “2 bedroom- no kids,” “adults only,” or “no teenagers.”

There is no disagreement that landlords, real estate agents, and others who create and place these discriminatory ads are legally liable for violating the Fair Housing Act. In passing the Fair Housing Act in 1968, Congress wanted to hold publishers responsible for third parties as a way of eliminating the problem most efficiently.

During the past year, NFHA and several of its local fair housing organization members have identified more than 7,500 discriminatory ads placed by housing providers on various websites. Yet, only 1,000 complaints have been filed with U.S. Department of Housing and Urban Development (HUD) because both HUD and private fair housing agencies lack the staff and time to work through the cumbersome process required to identify and bring these landlords to justice.

These advertisements reinforce the message to public readers that refusing to rent to families with children is acceptable and even legal. In order to fulfill the promise of equal housing opportunity for everyone, there must be parity between print and Internet housing advertisements. Websites that publish housing advertisements must be covered by the Fair Housing Act and held to the same standards and responsibilities as newspapers and other print publishers.

The simple and quick remedy to stop these blatant violations of the federal Fair Housing Act is to amend the CDA and hold Internet providers responsible for the content of housing advertisements on their websites. Internet providers can implement filtering systems to prevent individuals from posting illegal discriminatory ads.

## **Publishing Discriminatory Housing Ads Is Illegal**

Since the federal Fair Housing Act passed in 1968, it has been illegal to make, print or publish discriminatory statements related to housing transactions.<sup>1</sup> Initially the law prohibited discrimination on the basis of race, color, national origin, and religion. Discrimination based on sex became illegal in 1974,<sup>2</sup> and in 1988 the Fair Housing Act was amended to increase HUD's enforcement authority and add protections for people with disabilities and families with children.<sup>3</sup>

The Fair Housing Act covers all advertising for the rental of apartments or sale of homes as well as advertising for home loans, homeowners/renters insurance, and any service related to housing. Language in the Fair Housing Act and in the regulations implementing the law makes it clear that the law is also intended to prevent newspapers and other media from publishing advertisements or notices that limit housing to specific individuals or indicate a preference for certain people. The law states:

It shall be unlawful to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.<sup>4</sup> (emphasis added)

Courts have consistently held that individuals who write and place illegal advertisements, as well as the media that publish the ads, are liable for violating the Fair Housing Act.<sup>5</sup> For summaries of notable Fair Housing Act cases involving discriminatory advertising, please see Appendix 3. This means that publishers of discriminatory housing advertisements are legally responsible for content provided by third parties. In *United States v. Hunter*, the United States Fourth Circuit Court of Appeals held:

Widespread appearance of discriminatory advertisements in public or private media may reasonably be thought to have a harmful effect on the general aims of the Act: seeing large numbers of "white only" advertisements in one part of a city may deter

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<sup>1</sup> 42 U.S.C. 3604(c)

<sup>2</sup> Pub. L. 93-383, 808, 88 Stat. 633, 729 (1974).

<sup>3</sup> Fair Housing Amendments Act of 1988, Pub. L. 100-430, 102 Stat. 1619 (1988).

<sup>4</sup> 42 U.S.C. 3604(c)

<sup>5</sup> See e.g. *United States v. Hunter*, 459 F.2d 205 (4th Cir. 1972) cert denied, 409 U.S. 934 (1972), *Ragin v. The New York Times Co.*, 923 F.2d 995 (2d Cir.), cert. denied, 502 U.S. 821 (1991).

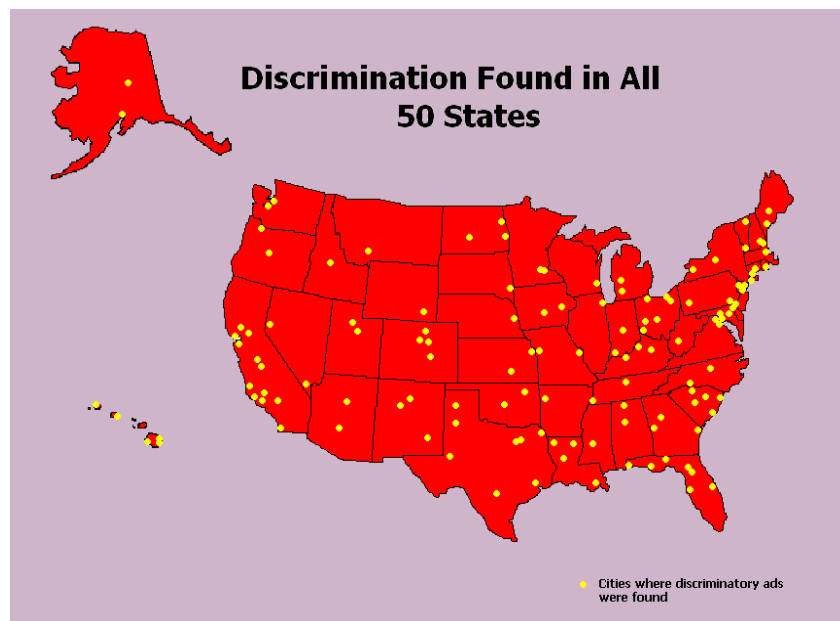
non-whites from venturing to seek homes there, even if other dwellings in the same area must be sold or rented on a non-discriminatory basis.

The Court also held that Congress was justified in applying the advertising provision to newspapers that carry discriminatory ads because publication in newspapers and other mass media would magnify the “already mentioned deleterious effect” of such ads, as it offers “far more widespread coverage than privately circulated advertisements.”<sup>6</sup>

Indeed, *The New York Times* was sued for allowing discriminatory ads to run.<sup>7</sup> Both newspapers signed consent decrees and created systems to stop illegal housing ads from being published.

## Investigation Uncovers Rampant Housing Discrimination Online

Over the past year, NFHA and 27 of its member organizations investigated housing websites and identified thousands of ads that violate the Fair Housing Act—in all 50 states and the District of Columbia. Every two weeks for several months, these agencies reviewed housing advertisement websites in major metropolitan areas, smaller cities, and rural areas throughout the United States. For more information on NFHA’s investigation, please see Appendices 1 and 2. Appendix 1 contains a more detailed list of discriminatory advertisements found during the course of the investigation. Appendix 2 contains a list of cities and localities in which NFHA and its members found discriminatory advertisements.



<sup>6</sup> *Hunter*, 459 F.2d at 215.

<sup>7</sup> *Ragin v. The New York Times Co.*, 923 F.2d 995 (2d Cir.), *cert. denied*, 502 U.S. 821 (1991).

The most common Fair Housing Act violation that NFHA and its members found on the Internet was advertising discriminating against families with children. NFHA found ads stating preferences for tenants who were “single” or “a couple of individuals.” Phrases such as “perfect for young couple” or “three adults” were found in ads for houses or apartments with multiple bedrooms. These ads indicate an illegal preference or limitation and discourage families with children from even considering contacting a landlord.<sup>8</sup>

- 2BR: “No children, pets ok” *Brooklyn, NY*
- 2BR: “Looking for 1-2 quiet adults” *New Haven, CT*
- 2 BR; “English speaking only please” *Las Vegas, NV*

The investigation also found discriminatory ads stating preferences based on national origin, religion and sex.

The investigative methodology used by NFHA and its members to identify discriminatory advertisements is based on the most current guidance provided by HUD regarding discriminatory advertising in violation of the Fair Housing Act.<sup>9</sup> The organizations used the search mechanisms provided by craigslist and similar sites to search for words and phrases recognized by HUD as typifying the most commonly used phrases in housing advertising that convey either overt or tacit discriminatory preferences or limitations, such as “adults,” “couples,” “Christian,” “no kids,” and “singles.” Many of the properties with such discriminatory language have multiple bedrooms, and would be ideal for families with children. Some examples of discriminatory language identified include:

- 2BR: “Mature couple or single with no children” Brooklyn, NY
- 3BR: Duplex: “Christian atmosphere” Evansville, IN
- 2BR: “PERFECT FOR 2 ADULTS....seeking a maximum of 2 tenants” New Haven, CT
- 2BR: “Couples preferred” Chicago, IL
- 4BR: “Looking for responsible adults to enjoy home” Newport, VT

NFHA and local fair housing organizations have filed more than 1,000 administrative complaints with HUD, although **more than 7,500 discriminatory advertisements were identified.**

Though the methodology for finding discriminatory ads is rather simple, the process for screening, cataloging, and filing complaints against the landlords who post these advertisements is extremely time consuming due to the immense volume of ads published on the Internet every day.

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<sup>8</sup> NFHA also recently identified a real estate company that advertises apartments with maximum occupancy limits. This company’s ads state the maximum occupancy for a one bedroom is one person, for a two bedroom is two people and for a three bedroom is three people. These limits are contrary to guidance issued by HUD in the early 1990s stating that two people per bedroom is a reasonable occupancy standard.

<sup>9</sup> 24 CFR Former Part 109.20 and a 1995 HUD Memo authored by the Assistant Secretary for Fair Housing and Equal Opportunity.

## Internet Advertising: Freedom to Discriminate?

Craigslist, the source of the overwhelming majority of housing advertising in today's market, and other Internet sites provide a convenient forum for illegal housing discrimination. Under current court decisions, these websites are not considered to be publishers and thus can neither be held liable under the Fair Housing Act nor be required to screen out illegal housing advertisements. Only the individual landlords who create and post discriminatory ads online can be held responsible.

The Communications Decency Act (CDA) is Title V of the Telecommunications Act of 1996, and was intended to protect families from online pornography and other forms of indecency.<sup>10</sup> It states that operators of Internet services are not to be construed as publishers, and thus are not legally liable for the words of third parties who use their services. The CDA makes exceptions to this rule as it relates to federal criminal statutes and intellectual property law, but does not make explicit exceptions for civil rights laws like the Fair Housing Act.<sup>11</sup>

Private fair housing organizations have brought two lawsuits against online housing advertisers for publishing discriminatory housing advertisements. In each instance, the Court accepted the website's argument that the CDA protected it from liability under the Fair Housing Act to the extent that users provided content.<sup>12</sup>

In reaching these decisions, the Courts relied upon Section 230(c) of the CDA to find that operators of interactive websites are not to be construed as "publishers" of the words posted by users of their websites. This section, entitled *Protection for 'Good Samaritan' Blocking and Screening of Offensive Material*, "aim[s] to protect interactive computer service providers 'who take (steps to screen indecent) and offensive material for their customers.'"<sup>13</sup> Ironically, in refusing to take responsibility for discriminatory advertisements, these websites have screened nothing, opting instead to facilitate widespread distribution of discriminatory ads.

### ***NFHA's Lawsuit Against American Classifieds, LLC***

*The importance of applying the Fair Housing Act to all Internet publishers is demonstrated by the July 2009 lawsuit NFHA filed against American Classifieds, the largest classified advertisement publisher in the country. NFHA filed the lawsuit after a year-long investigation uncovered over 60 discriminatory advertisements in print and online in 17 of the states where American Classifieds does business. American Classifieds is circulated in 79 cities and 23 states, and has even broader distribution through its website. The current interpretation of the CDA would have the illogical result of holding American Classifieds liable for all ads published in its newspaper, but not for those ads published online and directly posted by the landlord or real estate agent.*

<sup>10</sup>Stephen Collins, "Saving Fair Housing on the Internet: The Case for Amending the Communications Decency Act," 102 Northwestern University Law Review 1471 (2008).

<sup>11</sup> *Chicago Lawyers' Committee for Civil Rights Under Law v. Craigslist*, 519 F.3d 666 (7th Cir. 2008), *Fair Housing Council of San Fernando Valley v. Roommates.com*, 521 F.3d 1157 (9th Cir. 2008).

<sup>12</sup> *Ibid.*

<sup>13</sup> Joseph J. Opron III, *License to Kill (the Dream of Fair Housing): How the Seventh Circuit in Craigslist Gave Websites a Free Pass to Publish Discriminatory Housing Advertisements*, 4 SEVENTH CIRCUIT REV. 152 (2008), at <http://www.kentlaw.edu/7cr/v4-1/opron.pdf>. citing 141 CONG. REC. H8469-H8470 (daily ed. Aug. 4, 1995).

## Individual Investigations Are Ineffective and Inefficient

Can enforcing the Fair Housing Act against every landlord posting a discriminatory advertisement be cost effective? In this era of Internet publishing, one court suggested that fair housing advocates pursue complaints against individuals posting illegal housing ads online. Specifically, the Seventh Circuit recognized the illegality of the advertisements found on craigslist by the Chicago Lawyers' Committee for Civil Rights Under Law, but suggested that the group enforce the Fair Housing Act with a different strategy:

“[U]sing the remarkably candid postings on craigslist, the Lawyers' Committee can identify many targets to investigate. It can ... collect damages from any landlord or owner who engages in discrimination. [...] It can assemble a list of names to send to the Attorney General for prosecution.”<sup>14</sup>

Although fair housing advocates, HUD and others are able to file individual complaints or even lawsuits against landlords who post illegal ads, in reality this strategy with regard to the Internet is impractical. It is neither a cost effective nor efficient way to eradicate widespread illegal advertising. As NFHA's investigation has shown, this remedy quickly uses up scarce resources. Although NFHA and its members uncovered more than 7,500 ads, these agencies only had the resources to file just over 1,000 complaints. Moreover, suggesting that state attorneys general focus their limited resources on prosecuting discriminatory rental ads ignores the intent of the Fair Housing Act to swiftly and efficiently end discriminatory advertising by holding publishers liable.

It is impractical to conduct an “ad-by-ad” enforcement strategy. This would require fair housing advocates and the government to track all interactive computer services on which housing is advertised and flag discriminatory ads.<sup>15</sup> Finding the discriminatory ad, flagging it, investigating to determine who placed the ad, filing a written complaint with the appropriate government agency, waiting for the government investigation to conclude where a conciliation is offered or a charge is issued, negotiating a settlement with and educating the landlord, and additional tasks would have to occur for each and every advertisement that violates the law. These advertisements are placed regularly, and often by anonymous posters. By the time a complaint is processed and investigated, the apartment has been rented, and families with children and others protected by the law never had an equal opportunity to rent it.

The government has also had to devote significant tax dollars to processing complaints filed against individuals who have posted discriminatory advertisements. The technology of Internet advertisements makes identifying and enforcing the Fair Housing Act against individual violators difficult. Many interactive websites shield the identity of their users, enabling the users to evade prosecution. In a large percentage of ads, posters only list a publisher-generated email that obscures

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<sup>14</sup> *Chicago Lawyers' Committee for Civil Rights Under Law v. Craigslist*, 519 F.3d at 672.

<sup>15</sup> Websites that advertise housing such as craigslist oftentimes allow users to identify offensive or prohibited advertisements by clicking on a link to “flag” it for review by craigslist staff.



all other personal identifiers and leaves no way of identifying a landlord in an administrative housing discrimination complaint.

HUD is statutorily required to investigate cases of housing discrimination within 100 days and must undergo many cumbersome steps in order to identify the landlord posting the advertisement and meet this obligation. First, HUD must subpoena the website in order to obtain the advertiser's contact information. Once HUD has the landlord's email address, HUD may or may not be able to obtain a name and address to correspond with that address. HUD must either obtain a response from an email it sends to the landlord and/or conduct a search of the Internet and social networking sites to find a name or address to associate with the email address that has been provided in response to the subpoena. Again, by the time this process is completed, the apartment or home is often gone.

After identifying the advertisers who have violated the law, HUD must assign staff to process the complaint – from intake staff who formalize the complaint, to investigators who investigate the complaint, to conciliators who attempt to resolve the complaint. If the investigator completes a final investigative report, HUD's office of general counsel must review the report and issue a charge of discrimination. After a charge is issued, the parties must resolve the complaint in front of a HUD administrative law judge or in a federal district court.

The burdensome process the government and fair housing advocates must go through in order to investigate discriminatory ads on the Internet does nothing to reduce the harm the ads cause. Under this approach, advertisements will not be screened before being posted, but will instead remain online until somebody viewing the ads identifies them as discriminatory. As long as the ads remain online, potentially millions of readers will view them. As other courts have recognized, discriminatory advertisements harm viewers when they are posted.<sup>16</sup> Additionally, the public may see the advertisements and assume that such discriminatory preferences or denials are legal. If the “no kids” ad is seen over and over again, it gives the impression to both apartment seekers and other landlords that it must be legal to deny families with children.

All of these inefficiencies can be remedied with a single change to the Communications Decency Act: a requirement that interactive computer services be defined as publishers when they allow housing, mortgage lending, homeowners/renters insurance or other real estate-related advertisements. This change would force Internet providers to simply place filters or screens on their housing sites—just like newspapers do – to prevent illegal advertisements from appearing.

## **How Discriminatory Ads Interfere with HUD's Education Goals**

In 1990, then-circuit court Judge Ruth Bader Ginsburg held that illegal housing advertisements can foster “a public impression that [discrimination] in housing is legal, thus facilitating discrimination by

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<sup>16</sup> See e.g. *United States v. Hunter*, 459 F.2d 205 (4th Cir. 1972), *Spann v. Colonial Village Inc*, 899 F.2d 24, 30 (D.C. Cir. 1990)

defendants or other property owners and requiring a consequent increase in . . . educational programs on the illegality of housing discrimination.”<sup>17</sup>

The appearance of discriminatory housing advertisements has undone much of the education and outreach activities undertaken by private fair housing groups and HUD, particularly with respect to discrimination against families with children. Millions of dollars and thousands of hours of non-profit and government staff time have been spent since 1988 to educate the public about their fair housing rights and, in particular, about the rights of families with children to secure housing. Thousands of educational programs have been held for members of the housing industry teaching them how to comply with the Fair Housing Act. However, as the table below shows, discrimination against families with children has increased each year since 2006.<sup>18</sup>

#### ANNUAL INCIDENCE OF DISCRIMINATION AGAINST FAMILIES WITH CHILDREN

YEAR	NUMBER OF DISCRIMINATION COMPLAINTS
2008	5,300
2007	3,700
2006	3,500

People generally understand that housing discrimination based on race or national origin is illegal. However, in April, 2002, HUD released a report titled “*How Much Do We Know? Public Awareness of the Nation’s Fair Housing Laws.*” Through public surveys, the researchers found that “[t]here is minimal awareness of the law as it pertains to treatment of families with children.” Specifically, the report noted that only 38 percent of respondents were aware that it is illegal to treat families with children differently from households without children – a misunderstanding of the Fair Housing Act that is reinforced daily by the discrimination found on the Internet. Online discriminatory housing ads work against HUD’s strategic objective of promoting and increasing public awareness of the law.

#### Foreclosures and Internet Advertising: The Impact on Families with Children

Websites, not newspapers, are now the primary place where people search for housing. In the last three years, craigslist alone has grown tremendously. In 2006, craigslist published some 10 million advertisements per month on its entire website; by 2008, it was publishing 30 million advertisements per month.<sup>19</sup>

The dominance of Internet advertising has emerged as the foreclosure crisis has grown more severe. In the midst of this crisis, it is important to keep the Internet free of discriminatory advertisements

<sup>17</sup> *Spann v. Colonial Village Inc*, 899 F.2d 24, 30 (D.C. Cir. 1990).

<sup>18</sup> NFHA’s *Fair Housing Trends Reports, 2007-2009*, available at [www.nationalfairhousing.org](http://www.nationalfairhousing.org).

<sup>19</sup> *Chicago Lawyers’ Committee for Civil Rights Under Law v. Craigslist*, 519 F.3d 666, 669 (7th Cir. 2008).

for rental housing. The National Low Income Housing Coalition reported that, between the end of 2006 and the end of 2008, the number of renters grew by 2.2 million.<sup>20</sup>

The foreclosure crisis has dramatically affected families with children – the group most harmed by discriminatory advertisements. The National Association for the Education of Homeless Children and Youth recently reported a substantial increase in the number of homeless students throughout the country, and news outlets have reported that two million children have become homeless because of the foreclosure crisis.<sup>21</sup> Furthermore, the Center for Responsible Lending projects that 9 million homes will enter foreclosure between 2009 and 2012.<sup>22</sup> As families increasingly depend upon the Internet to locate available housing options, the proliferation of advertisements excluding families with children will only continue to harm this group.

These twin-factors – the prevalence of discriminatory advertising online and the massive numbers of foreclosures – have led to a major increase in housing discrimination complaints. In 2008, private fair housing groups investigated 20,173 fair housing complaints – 17 percent more than in 2007. Nearly 80% of the 20,173 complaints involved discrimination in the rental market.<sup>23</sup>

## **Recommendation: Amend the Communications Decency Act**

The most effective way to stop discrimination in online housing ads is to hold all housing advertisers and publishers to the same standard. In order to hold accountable websites advertising housing, just as newspapers are currently held accountable, the Communications Decency Act of 1996 must be amended.

Specifically, Section 230(c)(1) is the section of the CDA that provides immunity to websites for third party content. 47 U.S.C. § 230(c)(1) currently reads:

“TREATMENT OF PUBLISHER OR SPEAKER- No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”

This section of the CDA should be amended to accommodate the requirements of the Fair Housing Act.

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<sup>20</sup> *Out of Reach 2009*, National Low Income Housing Coalition report, April 14, 2009.

<sup>21</sup> Barbara Duffield and Phillip Lovell, “The Economic Crisis Hits Home, The Unfolding Increase in Child and Youth Homelessness,” December 2008, available at <http://www.naehcy.org/dl/TheEconomicCrisisHitsHome.pdf>

<sup>22</sup> “Soaring Spillover: Accelerating Foreclosures to Cost Neighbors \$502 Billion in 2009 Alone; 69.5 Million Homes Lose \$7,200 on Average; Over Next Four Years, 91.5 Million Families to Lose \$1.9 Trillion in Home Value; \$20,300 on Average,” Center for Responsible Lending, 2009.

<sup>23</sup> National Fair Housing Alliance, “Fair Housing Enforcement: Time for a Change – 2009 Fair Housing Trends Report,” May 2009, available at [www.nationalfairhousing.org](http://www.nationalfairhousing.org).

An exemption could be made specifically for Fair Housing Act claims and amend 42 U.S.C. § 230(c)(1) as follows:

“No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider, except for notices, statements, or advertisements with respect to the sale, rental, financing or insuring, or any other service of a dwelling that violate the Fair Housing Act, 42 U.S.C. § 3601 et seq.”

If the CDA is amended, websites will be responsible for the discriminatory advertisements they publish on the Internet and, therefore, will have an incentive to implement filtering systems to prevent discriminatory advertisements from ever reaching the public. This would allow private fair housing groups and government agencies to devote their scarce resources to investigating and preventing other discriminatory housing practices, including immediately pressing issues such as foreclosure fraud schemes, reverse mortgage scams and other discriminatory lending activities. Just as discriminatory advertisements rarely appear in newspapers, home seekers and the public would rarely see illegal discriminatory housing advertisements on the Internet.

## Conclusion

We must modernize our laws and our approaches to fighting housing discrimination in order to effectively address illegal advertising on the Internet. Although the Internet has opened opportunities for people and industries across the country, it has also illegally closed doors to home seekers.

Discrimination must not remain the status quo. As homes are being foreclosed and families are returning to the rental market, they have been greeted by a wave of advertisements containing phrases such as “no children,” “no kids,” “no teenagers,” “couples only,” “great for adults,” “Christians only,” or “English speakers only.” The message being sent by these advertisements is unambiguous: if you have children, if you are not Christian, or if you were not born here, you are not welcome.

Courts across the country have held that such advertisements violate the Fair Housing Act and have held newspapers liable for printing them. However, housing search websites have not been held to the same standard. Instead, private fair housing groups have had to file complaints against individual landlords who post discriminatory advertisements. This has proven to be an enormous drain on resources – private groups and the government have spent time and money pursuing individuals while the harmful advertisements have remained online and families are denied housing opportunities without consequence.

In order to stop this, once and for all, there is one simple solution: hold websites that advertise housing to the same standard to which newspapers are held. Since the Internet has replaced print media as the preferred way to advertise available apartments and homes, the Internet must also fall under the jurisdiction of the Fair Housing Act. To accomplish this, the Communications Decency

Act must be amended so websites are held responsible for screening out the discriminatory advertisements that currently appear on them every day.

## APPENDIX 1

### Cities in Which Discriminatory Ads Appeared

#### Alabama

- Birmingham
- Huntsville

#### Alaska

- Anchorage
- Fairbanks

#### Arizona

- Flagstaff
- Phoenix

#### Arkansas

- Fort Smith

#### California

- Los Angeles
- San Francisco
- Sacramento
- Santa Barbara
- Visalia
- Fresno
- Napa
- Oakland
- San Diego
- Palm Springs
- San Luis Obispo
- Pasadena

#### Colorado

- Denver
- Fort Collins
- Colorado Springs
- Boulder

#### Connecticut

- Hartford
- Stamford
- Fairfield
- New Haven

#### Delaware

- Newark
- Wilmington

#### District of Columbia

#### Florida

- Ocala
- Merritt Island
- Tampa
- Pensacola
- Tallahassee
- Gainesville
- Panama City

#### Georgia

- Atlanta
- Columbus
- Savannah

#### Hawaii

- Honolulu
- Kailua
- Keaau
- Waialua
- Captain Cook
- Kihei
- Hilo

#### Idaho

- Boise

#### Illinois

- Chicago

#### Indiana

- Indianapolis
- Evansville

#### Iowa

- Cedar Rapids
- Des Moines

#### Kansas

- Kansas City
- Wichita

#### Kentucky

- Lexington
- Owensboro
- Louisville

#### Louisiana

- Alexandria
- New Orleans
- Monroe
- Shreveport

#### Maine

- Portland
- Waterville

#### Maryland

- Baltimore
- Gaithersburg
- Rockville
- Silver Spring
- Bethesda

#### Massachusetts

- Boston

#### Michigan

- Grand Rapids
- Kalamazoo

#### Minnesota

- Minneapolis
- St. Paul

**Mississippi**

- Jackson

**Missouri**

- Kansas City
- St. Louis

**Montana**

- Bozeman

**Nebraska**

- Omaha

**Nevada**

- Las Vegas
- Reno

**New Hampshire**

- Milford
- Londonderry

**New Jersey**

- Newark
- Hackensack
- Jersey City
- Wayne
- Hoboken

**New Mexico**

- Albuquerque
- Santa Fe
- Roswell

**New York**

- New York
- Syracuse
- Buffalo

**North Carolina**

- Greensboro
- Charlotte

**North Dakota**

- Bismarck
- Fargo
- Grand Forks

**Ohio**

- Cincinnati
- Toledo
- Columbus
- Cleveland
- Akron
- Dayton

**Oklahoma**

- Oklahoma City
- Tulsa

**Oregon**

- Portland
- Bend

**Pennsylvania**

- Philadelphia
- Pittsburgh

**Rhode Island**

- Providence

**South Carolina**

- Charleston
- Columbia
- Myrtle Beach
- Spartanburg
- Florence

**South Dakota**

- Sioux Falls

**Tennessee**

- Nashville
- Memphis

**Texas**

- Austin
- Dallas
- Fort Worth
- Houston
- San Antonio
- Amarillo
- Odessa
- Lubbock
- Texarkana
- San Angelo

**Utah**

- Provo
- Salt Lake City

**Vermont**

- Bennington
- Newport

**Virginia**

- Fairfax
- Arlington
- Alexandria

**Washington**

- Seattle
- Tacoma

**West Virginia**

- Charlestown

**Wisconsin**

- Milwaukee

**Wyoming**

- Laramie

## APPENDIX 2

### Examples of Discriminatory Advertisements

The following is a representative sample of advertisements located over the course of its investigation by NFHA and 27 of its member fair housing organizations. The list includes advertisements discriminating based on familial status, religion, disability, and national origin. It is not exhaustive, however. As shown by this list, discriminatory ads make many large apartments with two to four bedrooms – apartments which could easily house families with multiple children – inaccessible to families with children.

#### Discrimination Based on Familial Status

4BR: “Looking for responsible adults to enjoy home” Newport, VT

3BR: “Couples over 55 preferred” Gallatin, TN

3BR: “[N]o small children” New Orleans, LA

3BR: “Looking for a responsible, neat, adult, non-smoker who is respectful of other people’s belongings and can treat antiques with loving care.” Bennington, VT

3BR: “Adults only” Colorado Springs, CO

3BR: “Prefer quiet, respectful professional” MO

3BR: “No kids allowed.” Odessa, TX

3BR: “3 Adults” Keaau, HI

2BR: “Mature couple or single with no children” Brooklyn, NY

2BR: “No children, pets ok” Brooklyn, NY

2BR: “[N]ot suitable for kids” HI

2BR: Duplex: “Ideal for 1-2 adults.” Boston, MA

2BR: “PERFECT FOR 2 ADULTS....seeking a maximum of 2 tenants” New Haven, CT

2BR: “Looking for 1-2 quiet adults” New Haven, CT

2BR: “Looking for retired couple or older person” Tallahassee, FL



2BR: "Couples preferred" Chicago, IL

2BR: "Looking for two responsible adults to take over the apartment" Philadelphia, PA

2BR: "No smoking, kids, pets" Fort Collins, CO

1BR: "Building is a quiet adult 4plex" Plattsburgh, PA

1BR: "[N]o-children building" Florida

1BR: "[A]partment available for a Christian single or couple" AZ

"[Q]uiet complex of responsibles without kids" San Diego, CA

"Looking for a white lady who has a car and that's drawing a check. No Children, teenagers"  
Nashville, TN

"No Kids" Mira Loma, CA

"[N]o couples, working persons only, no pets, no children" Visalia, CA

"No families or anything" Kannapolis, NC

### **Discrimination Based on Religion**

3BR: Duplex: "Christian atmosphere" Evansville, IN

2BR: "Christian landlord is living in one of the units." Chicago, IL

1BR: "Prefer clean Christian" AK

1BR: "[A]partment available for a Christian single or couple" AZ

RV Hookup "Hopefully we can find someone that is a Christian and loves God with all of their hearts" OR

### **Discrimination Based on Disability**

2BR: "We're trying to make cheaper rent available for able bodied people who can do a few things for themselves." Savannah, GA

### **Discrimination Based on National Origin**

2 BR: "English speaking only please" Las Vegas, NV

## APPENDIX 3

### Notable Discriminatory Advertising Court Decisions/Consent Decrees

- 1972: *United States v. Hunter*, 459 F.2d 205 (4th Cir. 1972) cert denied, 409 U.S. 934 (1972): Congress intended for §3604(c) of the Fair Housing Act to apply to publishers for placing discriminatory advertisements, as the widespread appearance of discriminatory advertisements may have a harmful effect on the general aims of the Act.
- 1990: *Spann v. Colonial Village Inc*, 899 F.2d 24 (D.C. Cir. 1990): Illegal housing advertisements foster the impression that discrimination in housing is legal.
- 1991: *Ragin v. The New York Times Co.*, 923 F.2d 995 (2d Cir.), cert. denied, 502 U.S. 821 (1991): A plaintiff alleging discrimination in an advertisement under the Fair Housing Act need not establish that the defendant intended to express a racial preference in the ad.
- 1995: *HUD v. Shuster (Administrative Law Judge)*: It is a violation of the Fair Housing Act to make or publish a statement that indicates a discriminatory preference, whether or not the housing provider actually carries out such a preference.
- 2008: *Chicago Lawyers' Committee for Civil Rights Under Law, Inc. v. Craigslist*, 519 F.3d 666 (7th Cir. 2008): The Communications Decency Act protects online information systems from being treated as the publisher or speaker of any information provided by a third party, including discriminatory housing advertisements.
- 2008: *Fair Housing Council v. Roommates.com*, 521 F.3d 1157 (9th Cir. 2008): A web service operator is provided immunity as a “publisher” within the meaning of the Communications Decency Act, when it publishes the comments as written by a third party.

## APPENDIX 4

### Fair Housing Organizations that Participated in the Investigation with NFHA

Austin Tenants' Council – Austin, Texas

Connecticut Fair Housing Center, Inc. – Hartford, Connecticut

Fair Housing Center of Greater Boston – Boston, Massachusetts

Fair Housing center of Washington – Tacoma, Washington

Fair Housing Center of West Michigan – Grand Rapids, Michigan

Fair Housing Contact Service – Akron, Ohio

Fair Housing Council of Central New York – Syracuse, New York

Fair Housing Council of Northern New Jersey – Hackensack, New Jersey

Fair Housing of the Dakotas – Bismarck, North Dakota

Fair Housing of Northern Alabama – Birmingham, Alabama

Fair Housing Opportunities of Northwest Ohio, Inc. – Toledo, Ohio

Fair Housing Rights Center in Southeastern Pennsylvania – Glenside, Pennsylvania

Greater Houston Fair Housing Center – Houston, Texas

Gulf Coast Fair Housing Center – Gulfport, Mississippi

Heights Community Congress – Cleveland Heights, Ohio

HOPE Fair Housing Center – Wheaton, Illinois

Housing Discrimination Law Project

Housing Opportunities Made Equal – Buffalo, New York

Housing Opportunities Made Equal of Virginia, Inc. – Richmond, Virginia

Housing Opportunities Made Equal, Inc. – Cincinnati, Ohio

Housing Research & Advocacy Center – Cleveland, Ohio

Housing Rights Center – Los Angeles, California

Inland Fair Housing and Mediation Board – Upland, California

Lexington Fair Housing Council – Lexington, Kentucky

Long Island Housing Services, Inc. – Bohemia, New York

Metro Fair Housing Services, Inc. – East Point, Georgia

Miami Valley Fair Housing Center – Dayton, Ohio