



**FHCSP Testing Audit:**

**Housing Discrimination Trends  
in the Philadelphia Region**

**2009**

The mission of the Fair Housing Council of Suburban Philadelphia (FHCSP) is to educate and advocate for equal access to quality, affordable housing for everyone in Southeast Pennsylvania. Founded in 1956, FHCSP is the oldest fair housing agency in the United States. FHCSP is dedicated to the idea that all people have a right to housing restricted only by their desires and what they can afford. Through FHCSP's efforts 46,576 housing units in Bucks, Chester, Delaware, Montgomery Counties and the City of Philadelphia have been made available to members of protected classes.

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## I. Summary

The need for a strong organization that helps assure fair access to quality housing for everyone remains as pressing today as it was in the 1950's when the Fair Housing Council of Suburban Philadelphia (FHCSP) was founded. Housing discrimination limits freedom of choice and perpetuates segregation, denying individuals and families the opportunity to live in diverse and open communities. Housing consumers are generally unaware of their protected rights under fair housing laws - they simply desire a decent place to live to be close to schools, employment and other quality of life needs.

The FHCSP Testing Audit reports the shared experiences of families with children, individuals with disabilities and African American home seekers exposing the continued prevalence of housing discrimination in the greater Philadelphia market. Despite enactment of fair housing laws over 41 years ago, the audit shows that discrimination continues to limit housing choice in the Philadelphia region. FHCSP presents an evaluation of the experiences of prospective tenants and homebuyers in the Philadelphia region obtained through "testing." Testing is a controlled process designed to identify differences in treatment accorded to testers who are similar in every significant respect except the variable being tested (e.g. race, households with children, disability). Testing measures differences in the quality, content, and quantity of information and services provided.

The 2009 FHCSP Testing Audit consists of 237 tests completed between January 2006 and December 2008 in Bucks, Chester, Delaware, Montgomery Counties and the City of Philadelphia. Tests were designed to uncover differences in treatment on the basis of race, disability and familial status. FHCSP also evaluated the data from its Voice Profiling Project to interpret the extent and nature of housing discrimination experienced by African American homeseekers when they inquire about housing over the phone. For many of the testers, housing opportunities were immediately limited simply because they sounded African American. The report found that:

- ♦ 54% of testers sounding African American were treated less favorably than testers sounding white
- ♦ 33% of new construction communities violated the design and construction requirements of the Fair Housing Act
- ♦ 29% of tests showed preferential treatment favoring white testers over African American testers
- ♦ 27% of tests showed that individuals with disabilities were denied reasonable accommodation or modification requests
- ♦ 19% of tests showed preferential treatment favoring households without children over households with children

Testing evidence often serves as a critical piece of evidence in allegations of housing discrimination and is the most effective way to study the nature of housing discrimination. FHCSP recognizes education as a means to prevent housing discrimination and presents this testing audit as a tool for communities and advocates combating this complex problem. While significant progress has been made, there is much to be done as older, stubborn problems such as racial discrimination persist and new challenges arise as the demographics of the region evolve.

## II. Background

Every resident of the United States has a fundamental right to fair housing, and their choice of housing should be limited only by their desires and what they can afford. Homeseekers expect equal access to housing on a non-discriminatory basis, but research suggests that this is not the experience of a large number of Americans. The national results of the 2000 Housing Discrimination Study reported instances of discrimination against African Americans 22% of the time.<sup>1</sup> A 2006 report released by the Department of Housing and Urban Development found that one in every five African American adults reported being discriminated against in their housing search at one point in their life.<sup>2</sup>

Housing discrimination has evolved since passage of the Fair Housing Act 41 years ago to include more subtle and institutional practices. Many individuals seeking housing are unaware of their protected rights under federal fair housing laws or are unlikely to report discrimination when they encounter it for fear of retaliation or budget/time constraints. When presented with a blatant act of discrimination, only 40% of consumers indicate that they would be likely to report the matter.<sup>3</sup> However, systemic methods of excluding prospective tenants are often more difficult for consumers to self identify much less correct. Subsequently, the majority of discrimination remains unreported. As forms of discrimination have evolved, the methodologies that are employed to identify and address housing discrimination have similarly evolved.

## III. Fair Housing Laws

The law protecting consumers against housing discrimination is Title VIII of the Civil Rights Act of 1968, commonly referred to as the Fair Housing Act. It prohibits discrimination on the basis of race, color, religion, national origin, and sex. In 1988, the Fair Housing Amendments Act expanded coverage to prohibit discrimination based on disability and familial status (the presence in the household of children under age 18). Fair housing laws protect the right of each home seeker to equal opportunity in the sale, rental, leasing, financing, insuring and advertising of housing.

Founded in 1956, the mission of FHCSP is to educate and advocate for equal access to quality and affordable housing for everyone in Southeast Pennsylvania. FHCSP investigates complaints of housing discrimination and evaluates systemic rental, sales, insurance and mortgage lending practices utilizing a unique blend of enforcement strategies. To complement its enforcement investigations, FHCSP has comprehensive education programming designed to inform both consumers and housing providers about their rights and responsibilities under fair housing laws.

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<sup>1</sup> Turner, Margery, Stephen Ross, George Galster, and John Yinger. 2002. *Discrimination in Metropolitan Housing Markets: National Results from Phase I of HDS2000*. Washington, D.C.

<sup>2</sup> Abravanel, Martin D. *Do We Know More Now? Trends in Public Knowledge, Support and Use of Fair Housing Law*. (Washington, DC: U.S. Department of Housing and Urban Development, 2006).

<sup>3</sup> Abravanel, Martin D. *Do We Know More Now? Trends in Public Knowledge, Support and Use of Fair Housing Law*. (Washington, DC: U.S. Department of Housing and Urban Development, 2006).

Of the 141 complaints of housing discrimination received by FHCSP in 2008, over 90% reported discrimination on the basis of disability, race or familial status.<sup>4</sup> This audit seeks to understand the experiences of these three protected classes and the extent that discrimination persists within the rental and sales housing markets in the Philadelphia region utilizing data gathered through FHCSP's enforcement program. In addition, the report includes a detailed analysis of the Voice Profiling Project, which was designed in 2005 to evaluate discrimination at the point of initial contact using testers with racially identifiable voices.

#### **IV. FHCSP Testing Methodology**

In 2005, FHCSP was one of thirteen national fair housing organizations awarded a performance based funding grant through the Fair Housing Initiatives Program of the Department of Housing and Urban Development to monitor and investigate housing discrimination. Over a three-year period, FHCSP conducted hundreds of tests, consisting of over a thousand site visits and contacts with a myriad of housing providers in Bucks, Chester, Delaware, Montgomery Counties and the City of Philadelphia. 52 trained testers participated in FHCSP testing efforts. FHCSP conducted 232 tests in response to complaints of housing discrimination, but for purposes of this evaluation, complaint-based testing will be excluded.

Testing consists of two testers contacting a housing provider to obtain information about available housing services. Testers assume an identity to collect various measurable and subjective data, which is then compared to information obtained by another tester. Personal characteristics like household income, employment history and number of occupants are carefully controlled by FHCSP so that both testers appear equally qualified as homeseekers. The only difference between the two prospective tenants is that one tester is a member of a protected class (e.g. minority, individual with disability, household with children) while the other tester serves as a control. Without the control tester to compare an experience, the subtle nature of the housing discrimination would not be as clear as the data suggests. For housing discrimination victims, testing has the ability to support their allegations and reveal systemic patterns and practices. Testing evidence often serves as a critical piece of evidence in allegations of housing discrimination and has been unanimously affirmed by the Supreme Court as a legal and necessary means for investigating housing discrimination.<sup>5</sup>

Prior to conducting audit testing, all FHCSP testers complete a training course that includes an extensive review of the testing process and FHCSP documentation procedures. FHCSP testers are trained to report their experiences objectively and to avoid drawing conclusions about the treatment they received while on a test. At no time did testers receive information about the experiences of their testing counterpart.

Selection of sites was limited to Bucks, Chester, Delaware, Montgomery Counties and the City of Philadelphia. A total of 237 sites were tested representing a diverse pool of housing providers including apartment complexes, real estate agents, property management companies, homebuilders and private landlords. Available housing was selected at random using regional newspapers,

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<sup>4</sup> FHCSP 2008 Annual Report

<sup>5</sup> *Havens Realty Corp. v. Coleman*. 455 USS 363 (1982)

housing publications and online housing resources. Considering the stock of housing opportunities within this broad geographical region, this evaluation is intended solely as a preliminary examination and requires considerably more testing to strengthen the results.

## V. Audit Results

### A. Voice Profiling Project

Through a 2001 audit, FHCSP found that housing discrimination against racial/ethnic minorities strongly persists.<sup>6</sup> These findings are bolstered by Dr. John Baugh, a professor at Washington University in St. Louis who has conducted extensive voice-based discrimination research. In telephone tests using various ethnic dialects, Baugh found that landlords often discriminate against prospective minority tenants, based solely on the sound of their voice.<sup>7</sup> Linguistic research indicates that it is both predictable and normal to make inferences about people we speak with over the phone. However, housing providers who engage in over the phone discrimination based simply on the sound of a prospective tenant's voice violate fair housing laws.

A Philadelphia area academic study conducted in 1999 found similar results for low income African American renters. University of Pennsylvania sociologist, Dr. Douglas Massey and postdoctoral fellow Garvey Lundy used testing methodology to evaluate how race, gender and class interact to influence rental outcomes. Utilizing linguistic profiling techniques, testing showed that African Americans experienced limited access to housing when compared to whites. In addition, lower class African Americans had less access to rental housing than middle class African Americans, with poor African American women experiencing the highest levels of discrimination.<sup>8</sup>

Between 2006 and 2008, FHCSP conducted random testing with testers whose voices were analyzed and determined to be racially identifiable by linguistic expert, Dr. John Baugh. FHCSP provided voice recordings of 23 testers which were analyzed by Dr. Baugh. Five testers were determined to sound African American, eight testers were classified as sounding white and one tester was identified as sounding Hispanic. Utilizing Dr. Baugh's analysis, FHCSP conducted 73 paired systemic monitoring tests using testers who were identified linguistically as sounding either African American or white.

FHCSP conducted initial investigations of each housing provider to confirm the availability of housing immediately prior to tester contacts. A racially identifiable African American tester and a racially identifiable white tester contacted the same housing provider within hours of each other on the same day and obtained specific information about the availability of advertised housing. The only difference between the testers was the sound of their voice, while other factors, such as gender, marital status, income, and employment remained similar.

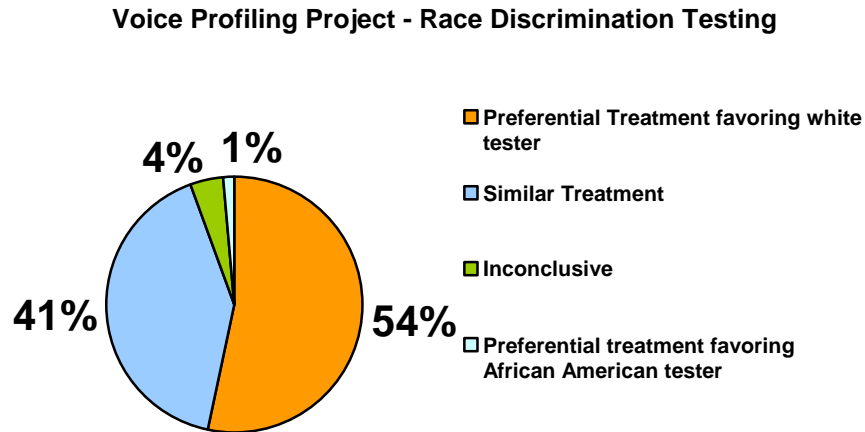
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<sup>6</sup> FHCSP Rental Audit 2001

<sup>7</sup> Thomas Purnell, William Isardi, and John Baugh. 1999. *Perceptual and Phonetic Experiments in American English Dialect Identification*. Journal of Language and Social Psychology. 18:1: pp10-30.

<sup>8</sup> Massey, Douglas S., and Garvey Lundy. 2001. 'Use of Black English and Racial Discrimination in Urban Housing Markets: New Methods and Findings.' *Urban Affairs Review* 36: 452-69.

The collected data showed that African American homeseekers were more likely to experience discrimination when calling to request information about available housing. Of the 73 paired tests completed between November 2006 and December 2008, 39 tests (54%) showed preferential treatment favoring white testers. Testers received similar treatment 41% of the time (30 tests). There was one test (1%) that showed preferential treatment favoring the African American tester and 3 tests (4%) were inconclusive (e.g. the unit was no longer available).



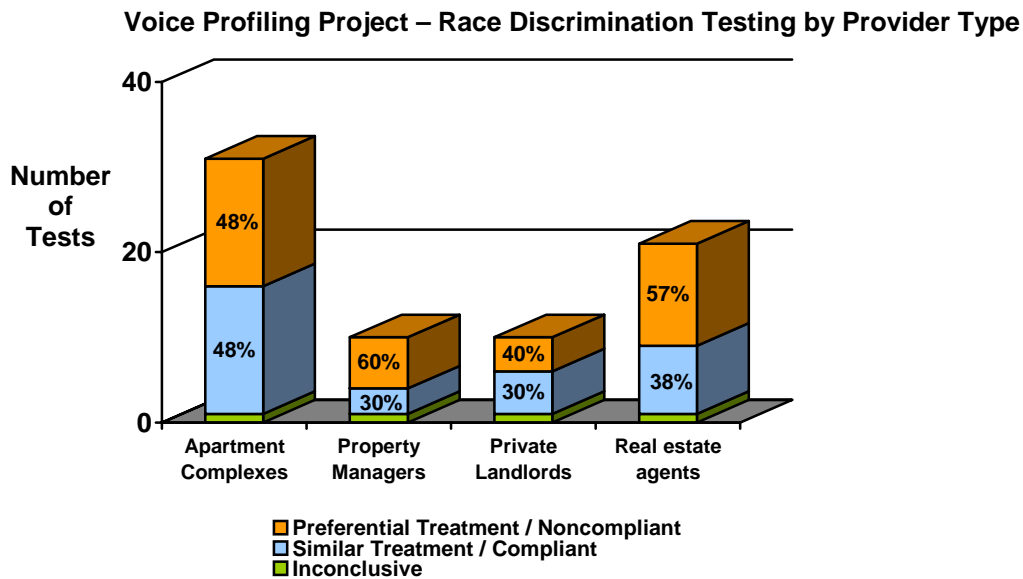
Housing discrimination is typically expressed in terms of individual experiences and difference in treatment was identified based on a variety of factors ranging from the terms of rental to level of service. The descriptive evaluation of any test site is extracted directly from the tester's objective documentation and used to compliment the quantitative data. The following patterns and practices emerged when evaluating the conclusions for the 73 tests:

- In 45% of tests, African American testers received different terms & conditions
- ♦ White testers told about incentives not offered to African American testers (15 tests)
  - ♦ Rental rate on similar unit cheaper for white tester (7 tests)
  - ♦ Security deposit less for white testers (6 tests)
  - ♦ Application fee cheaper for white tester (3 tests)
  - ♦ Utilities not included for African American tester (2 tests)

- In 23% of tests, African American testers experienced screening or inferior service
- ♦ White tester received considerably more detail (9 tests)
  - ♦ African American tester did not receive a return call from the provider (6 tests)
  - ♦ African American tester discouraged from property (2 tests)

- In 22% of tests, African American testers were steered to apartments or communities
- ♦ White tester told about additional units available within the community (12 tests)
  - ♦ African American tester steered to different communities (4 tests)

The highest difference in treatment indicators pertained to different terms and screening/level of service. During one paired test, two testers spoke with the same provider and received the same information about an upcoming apartment. At face value, it appears as though the testers are treated similarly. However, qualitative data reveals that the provider hung up on the African American tester after a rushed conversation. The same provider offered the white tester very detailed specifics on the rental and offered her an appointment for the following day. In another test, both testers were told that there were no longer any units available at an advertised community. However, only the white tester was told about a nearby complex managed by the company that had availability and received detailed information about that availability.

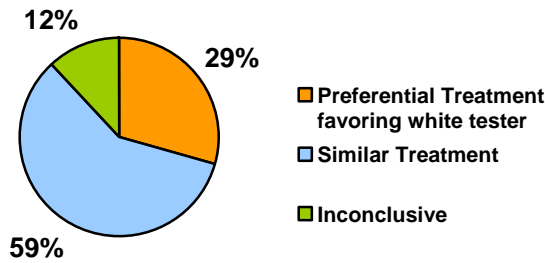


The data on the type of housing provider tested showed that property managers and real estate agents were more likely to engage in discrimination than private landlords. These figures were surprising to FHCSP because property managers and real estate agents are trained frequently on fair housing laws while private landlords typically have little to no knowledge of their fair housing responsibilities.

**B. Race Discrimination**

Between January 2006 and December 2008, FHCSP conducted 92 random race based tests. Simulated housing inquiries included 47 rental tests and 45 sales tests. Of the 92 random tests, 27 tests (29%) showed preferential treatment for white testers. 54 tests (59%) resulted in similar treatment and 11 tests (12%) were inconclusive (e.g. unit no longer available when both or one tester called).

FHCSP Race Discrimination Testing - Site Visit



Difference in treatment included higher security deposit for African American testers; steering testers to different buildings/communities; higher rental rates for African American testers; additional housing/services offered to white testers; specials/incentives only offered to white testers; and applications offered solely to white testers.

One apartment complex tested told an African American tester that there were no units available to view while a white tester viewed an available unit and was encouraged to submit an application. Another apartment complex failed to meet an African American tester for a scheduled appointment. When the African American tester rescheduled, he was offered one available unit for rent. A white tester met with the same agent later that day and viewed three available units. In addition, the white tester was offered an application and community materials that were not available for the African American tester.

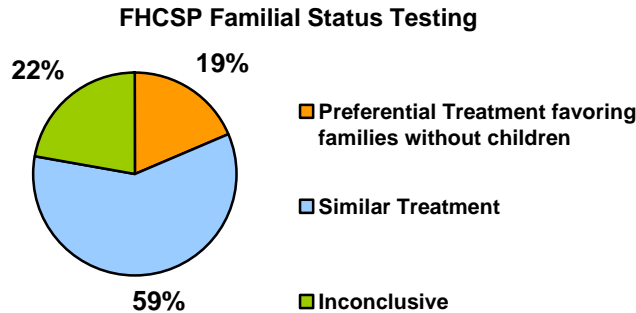
Steering testers to different communities continues to be a problem with individual real estate agents. FHCSP tested a sales office where testers were steered to different communities - the white testers to a predominantly white neighborhood in Philadelphia and the African American tester to a predominantly African American neighborhood in Philadelphia. When requesting information about homes for purchase, African American testers were offered fewer homes in a more limited price range while white testers were offered a broader range of communities and considerably more homes.

Several new construction active adult communities requested that white testers complete guest cards, something that was not requested of African American testers. At one community, an African American tester was discouraged from completing a visitor card providing her contact information. Subsequently, only white testers received follow up information from the communities and information about additional financial incentives.

When inquiring about a specific community for sale, an African American tester was told that she could not view properties without signing a contract with the sales agent. The tester was told that the property owner required the signed contract as a result of the troubled housing market. The white tester met with one of the property owners and viewed several homes for purchase within the community without being asked to sign a contract.

### C. Familial Status Discrimination

Families with children were added as a protected class in 1988 but they continue to face discrimination due to a lack of awareness by landlords, lower incomes among many female-headed households, and limited housing affordability. Between February 2006 and November 2008, FHCSP tested 27 housing providers on the basis of familial status. In five of the 27 random tests, preferential treatment was given for families without children. 16 tests were determined to receive similar treatment and six tests were inconclusive (e.g. unit no longer available when both or one tester called).



Individual instances of preferential treatment included waiving community fees for families without children, overly restrictive occupancy policies and steering families with children to first floor units or “family” sections of a community. One apartment complex tested offered the tester with children one non-renovated apartment, while several renovated units were offered to the tester without children. FHCSP observed numerous potentially discriminatory policies which restrict household occupancy to less than two people per bedroom, severely limiting affordable housing choices for families with multiple children.

### D. Disability Discrimination

There were two types of housing discrimination evaluated by FHCSP which impact equal access to housing for individuals with disabilities – compliance with design and construction requirements and reasonable accommodation/ modification requests. Unfortunately, FHCSP audit results show that housing providers are often unaware of their responsibilities and deny reasonable accommodation and modification requests for people with disabilities. Developers also continue to ignore their legal responsibility to construct properties with the seven design and construction guidelines set forth by fair housing laws.

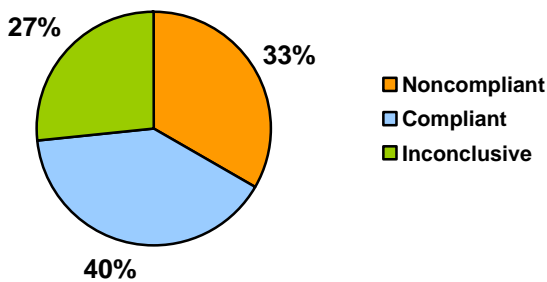
#### *Design & Construction*

According to the Fair Housing Amendments Act, the design and construction requirements apply to “covered multifamily dwellings” designed and constructed for first occupancy after March 13, 1991. Covered multifamily dwellings include all dwelling units in buildings containing four or more units with an elevator, and all ground floor units in buildings containing four or more units without an elevator. Covered dwelling units must be accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Buildings covered by the law must comply with the following requirements:

- the building entrance must be on an accessible route
- all public and common use areas of the building must be accessible
- all the doors must be designed with sufficient width to allow passage by wheelchair users into and within the premises
- there must be an accessible route into and through the dwelling unit
- light switches and other environmental controls must be located in accessible locations
- reinforcements in bathroom walls are required to allow later installation of grab bars
- kitchen and bathrooms must be designed so that an individual in a wheelchair can maneuver about the space

Design and construction testing evaluates the physical features of a newly constructed apartment complex or condominium community to ensure that there is compliance with the Fair Housing Act requirements. Between February 2006 and November 2008, FHCSP evaluated 15 new construction projects consisting of 3,618 housing units. Due to the small number of housing sites surveyed, additional testing is recommended to strengthen the results.

**FHCSP Design & Construction Testing**



FHCSP found that 33% of the housing communities tested were noncompliant, some with extensive interior and exterior violations. Six of the communities were compliant and four tests yielded inconclusive results (e.g. access to construction site limited).

Interior violations included doorways and hallways measuring less than the minimal requirements, environmental controls above 48 inches and obstructions making a path of travel for an individual with a wheelchair impossible. Exterior violations included steps leading into first floor units, inaccessible trash facilities and inaccessible mailboxes. One tester observed a new construction apartment complex with a step at the end of a handicapped ramp preventing access to the leasing office. Another condominium site contained no marked handicapped parking spaces, no curb cuts and steps leading into the sales office.

### *Reasonable Accommodations & Modifications*

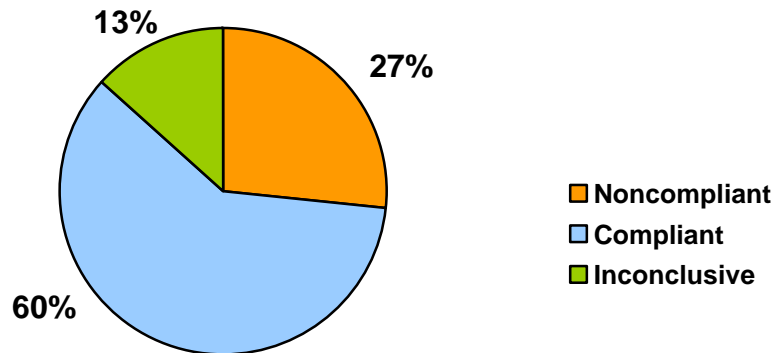
FHCSP also regularly conducts random testing to determine housing providers' willingness to grant reasonable accommodation and modification requests for prospective tenants with disabilities. A reasonable accommodation in housing is a change in rules, policies or practices so that a person

with a disability will have equal opportunity to use and enjoy a dwelling or common space. Reasonable accommodation requests made by FHCSP testers participating in the audit included requesting a reserved handicapped parking space or permitting an extended lease term.

Reasonable modifications are physical changes to the interior and exterior of a building or a unit, including public and common-use areas. While a housing provider may have no obligation to provide accessible housing, the provider must permit a tenant with a disability to make reasonable modifications enabling the tenant to live in a dwelling that they would be otherwise unable to live in. Reasonable modification requests made by FHCSP testers included installation of an exterior ramp, installation of grab bars in the bathroom, and widening of bathroom and entrance doorways.

Between August 2006 and December 2008, FHCSP tested 30 apartment complexes and condominiums throughout the Philadelphia region to determine compliance in responding to reasonable accommodation and modification requests made by prospective tenants.

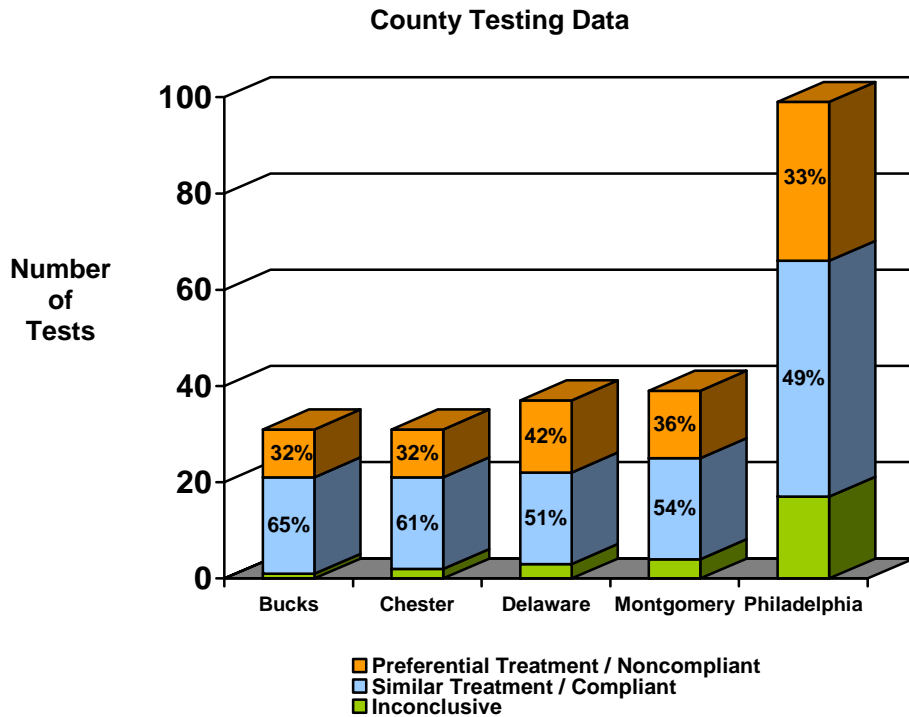
**FHCSP Reasonable Accommodation & Modification Testing**



In 27% of the tests conducted, agents stated that they would refuse to grant specific modification requests, most commonly the widening of doorways to individual units at the tenants expense to allow access for a wheelchair. One apartment complex refused to provide a reserved marked handicapped parking space for prospective tenants with disabilities and another complex said that a handicapped parking spot could be reserved by paying an additional \$15 a month.

#### E. County Data

FHCSP conducted testing within all the Counties, but focused considerably more audit efforts within the City of Philadelphia where a larger portion of the region's residents live. Of the 237 sites tested, 99 were located in Philadelphia County, 39 in Delaware County, 37 in Montgomery, 31 were located in Bucks County and 31 in Chester County. While discrimination exists within each of the counties, Delaware (42%) and Montgomery Counties (36%) revealed the highest rates of discrimination in the region.



## V. Recommendations

### Additional testing to strengthen future auditing efforts

The data from this report is preliminary and would need considerably more test results to understand the prevalence and nature of housing discrimination in the different communities in Southeast Pennsylvania. The evaluation of audit testing data for the region (including individual County reports, insurance testing, national origin testing, mortgage testing, etc.) is essential and necessary in targeting consumer and provider education campaigns.

### A consistent education campaign designed to inform homeseekers about their rights

Educating the general public through media campaigns about the nature of housing discrimination and the process of reporting it is central to combating this problem. The foundation for a comprehensive education campaign requires a network of regional social service providers and housing counselors, who are likely to recognize discrimination early in the process and refer clients with fair housing issues to FHCSP or HUD for assistance.

### Access to compliance education for housing providers

In addition to individual consumers, housing providers require additional training to operate their businesses and offer housing on a non-discriminatory basis. The development and internal distribution of written policies promoting consistency in the application process can help housing providers to remain compliant with fair housing laws. By promoting transparency in operations, housing providers can often avoid complaints. All employees who have contact with tenants or prospective homebuyers should have access to fair housing training and understand their responsibilities to conduct business in a non-discriminatory manner.

Increase regional compliance with design and construction requirements

While compliance with fair housing design and construction requirements has increased in the region over the last nine years, FHCSP continues to observe blatant violations. In an effort to prevent future noncompliance, there is a continued need to support comprehensive education efforts targeting builders, developers, architects and code officials. In addition, housing providers should avail themselves to training opportunities which provide information about the Fair Housing Act's accessibility requirements (e.g. Fair Housing Accessibility FIRST).

Inclusion of report findings in Analysis of Impediments to Fair Housing Choice

Community Development Block Grant (CDBG) entitlement jurisdictions in Southeast Pennsylvania are required to affirmatively further fair housing in order to comply with federal regulations. CDBG entitlement jurisdictions should consider the findings of this report in the development of their Analysis of Impediment to Fair Housing Choice.

Support for fair housing enforcement

FHCSP is in the process of conducting detailed investigations on dozens of housing providers identified through the auditing activities described within this report. Effective enforcement is essential to guarantee all residents of Bucks, Chester, Delaware, Montgomery Counties and the City of Philadelphia the protection of the laws to which they are entitled. While significant progress has been made, there is much to be done as older, stubborn problems such as racial discrimination persist and new challenges arise as the demographics of the region evolve. The need for a strong organization that helps assure fair access to quality housing for everyone remains as pressing today as it was in the 1950's when FHCSP was founded.