

FAIR HOUSING NEWS

QUARTERLY NEWSLETTER FOCUSING ON FAIR HOUSING ISSUES

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THIS ISSUE

RENTAL BURDENS P.1
RECENT DEVELOPMENTS P.2
CIVIL RIGHTS ORGS CHALLENGE HUD P.2
FAIR HOUSING TESTING P.3

Rental Burdens: Rethinking Affordability Measures

Article originally appeared in HUD's PD&R's online magazine, *The Edge*:

How much of your income should you set aside for rent? With the cost of housing on the rise, researchers are reexamining the 30-percent rule of thumb for measuring rental burden.

In July 2014, the Joint Center for Housing Studies of Harvard University released a study finding that nearly half of all renter households in the United States were cost burdened in 2012. [This interactive map](#) shows that people living along the east and west coasts and in urban areas bear the greatest cost burdens. HUD defines cost-burdened families as those “who pay more than 30 percent of their income for housing” and “may have difficulty affording necessities such as food, clothing, transportation, and medical care.” Severe rent burden is defined as paying more than 50 percent of one’s income on rent.

The 30-percent rule — that a household should spend no more than 30 percent of its income on housing costs — has long been accepted in academic circles and is often included in blogs and websites on family budgeting. A recent *Business Week* article, however, argues that the 30-percent rule is “nearly useless.” The authors suggest that calculating housing cost burden using only income ratios oversimplifies the issue of housing affordability. Frank Nothaft, chief economist at Freddie Mac, is quoted in the article as saying, “If your income is \$500,000 a year, you can pay 40 percent and still have money left. But if your income is \$20,000 a year, it will be hard to make ends meet if you’re paying 30 percent of your income on rent.”

As living costs increase, does the 30 percent rule accurately measure rental affordability?

Continued on Page 4

Recent Developments

JUSTICE DEPARTMENT REACHES SETTLEMENT WITH MINNESOTA BANK TO RESOLVE ALLEGATIONS OF LENDING DISCRIMINATION

The Justice Department recently settled its suit against KleinBank, resolving allegations that the bank engaged in lending discrimination by “redlining” predominantly minority neighborhoods in and around the Twin Cities of Minneapolis-St. Paul, Minnesota. “Redlining” is a term describing the illegal practice in which lenders intentionally avoid providing services to individuals living in predominantly minority neighborhoods because of the race or national origin of the residents of those neighborhoods.

As part of the settlement, the parties have agreed to jointly seek dismissal of the lawsuit, which the Department filed in the U.S. District Court for the District of Minnesota in 2017. The Department’s complaint alleged that KleinBank violated the Fair Housing Act and the Equal Credit Opportunity Act, which prohibit financial institutions from discriminating on the basis of race and national origin in their mortgage lending services. The lawsuit alleged that, from 2010 to at least 2015, KleinBank engaged in unlawful redlining in the Twin Cities area by intentionally avoiding providing lending services to residents of predominantly minority neighborhoods because of the race or national origin of the people living in those neighborhoods.

KleinBank is the largest family-owned bank in Minnesota with 19 branch offices in the Minneapolis-St. Paul area and assets of more than \$1.9 billion. Under the settlement, KleinBank will take a number of steps to remedy the harm alleged in the complaint and to ensure that its mortgage lending services are made available on a non-discriminatory basis. The bank will expand its banking services in predominantly minority neighborhoods in the Minneapolis area in a variety of ways. For example, it will invest \$300,000 in a loan subsidy fund to increase the amount of credit that KleinBank extends to residents of predominantly minority neighborhoods, and another \$300,000 in advertising, outreach, financial education, and credit repair in order to improve the bank’s visibility in, and successful expansion into, its new service area. The bank will employ a community development officer to oversee the development of the bank’s lending in predominantly minority neighborhoods, and will conduct fair lending training, including training on redlining, for its employees and officers.

[CLICK HERE](#) to view the Settlement Agreement

FACEBOOK SUED BY CIVIL RIGHTS GROUPS FOR DISCRIMINATION IN ONLINE HOUSING ADVERTISEMENTS

On March 27, 2018, the National Fair Housing Alliance (“NFHA”) and three of its member organizations filed a lawsuit against Facebook, Inc. in federal court in New York City, alleging that Facebook’s advertising platform enables landlords and real estate brokers to exclude families with children, women, and other protected classes of people from receiving housing ads. With almost 2 billion users, Facebook customizes the audience for its millions of advertisers based on its vast trove of personalized user data. After being warned repeatedly about its discriminatory advertising practices, Facebook continues to use this data to deny people access to rental housing and real estate sales ads because of their sex and family status.

The lawsuit alleges that Facebook has created pre-populated lists that make it possible for its housing advertisers to “exclude” (in Facebook terminology) home seekers from viewing or receiving rental or sales ads because of protected characteristics, including family status and sex. Plaintiffs conducted investigations in each of their respective housing markets that confirmed Facebook’s discriminatory practices.

Plaintiffs created a non-existent realty firm and then prepared dozens of housing advertisements that they submitted to Facebook for review. Facebook provided Plaintiffs with specific lists of groups they could exclude from receiving the ads, including families with children, moms with children of certain ages, women or men, and other categories based on sex or family status. The investigations also revealed that Facebook provides housing advertisers with the ability to exclude certain “interest” categories from receiving ads that are disability-based (e.g., people who are interested in disabled veterans or disabled parking permits) or national origin-based (e.g., people who are interested in English as a second language). Starting in 2016, an investigation by the news organization ProPublica found that Facebook’s ad platform permitted advertisers for a variety of goods and services, including housing, to exclude African Americans, Latinos, and Asian Americans from receiving ads. As the Complaint explains, while Facebook has recently removed some of these options, it continues to violate fair housing laws that prohibit discrimination in other ways.

[CLICK HERE](#) to view the Complaint.



Civil Rights Organizations Challenge HUD’s New Attempt to Suspend AFFH Rule

The National Fair Housing Alliance (NFHA), Texas Appleseed, and Texas Low Income Housing Information Service (Texas Housers) have asked a federal court in Washington, D.C., to order the U.S. Department of Housing and Urban Development (HUD) to reinstate a federal requirement that local and state governments address segregated housing patterns as a condition of receiving HUD funding. The complaint alleges that HUD unlawfully suspended the requirement in January 2018, effectively removing civil rights oversight of as much as \$5.5 billion per year until 2024 or later for almost 1,000 jurisdictions. In its place, HUD proposes that funding recipients revert to a fair housing planning process that HUD itself and the Government Accountability Office (GAO) have found is ineffective.

In their lawsuit, the plaintiffs allege that HUD’s attempt to delay and dilute the AFFH Rule violates the Administrative Procedure Act, which sets out procedural and substantive requirements for the adoption and modification of federal regulations. HUD failed to provide advance notice or opportunity to comment on the suspension and failed to articulate any plausible reason for the suspension. Plaintiffs also allege that HUD’s action violates HUD’s own AFFH duty. The plaintiffs seek a court order requiring HUD to restart the implementation of the AFFH Rule immediately.

[CLICK HERE](#) to read the recently filed Amended Complaint.



Fair Housing Testing

TESTERS WANTED

Fair Housing Law Center, in conjunction with HUD, is looking for individuals to conduct fair housing investigations. This is a great opportunity to play a key part in fighting discrimination in Western and Central Pennsylvania and the West Virginia Panhandle.

Please contact us at 724-884-2771 or at www.fhlaw.org.

What is Testing?

Fair Housing tests measure the quality, quantity, and content of information provided to potential renters and homebuyers based on protected class under the Fair Housing Act.

The U.S. Supreme Court, Department of Justice, and HUD have all recognized that sometimes unlawful housing practices can only be uncovered through testing. Testers can make the difference when it comes to moving a case forward.

What do Testers do?

Testers pose as renters or homebuyers in order to help collect data for a fair housing investigation. Testers meet with landlords, property managers, and real estate agents. A factual report of the events is then compiled by the Tester. Tests are conducted throughout the 28 county area covered by the Fair Housing Law Center.

The Tester's experience is then compared to the experiences of a partner tester who is alike in every respect, except the protected class: race or color, national origin, religion, gender, familial status, or disability. The reports are analyzed by Fair Housing Law Center staff and the results either support or dispel allegations of discrimination.

Examples of Discrimination Uncovered by Testing

- Failure to waive a "no pets" rule (denial of a request for a reasonable accommodation) for a service or support animal.
- Charging higher rent or security deposit for potential tenants with children.
- Falsely denying availability of an advertised rental unit.
- Failure to comply with the Fair Housing Act's requirements regarding the accessibility of a property.

Who can be a Tester?

Ideal testers are detail oriented, have excellent observational skills, and are comfortable recording their thoughts in writing. Additionally, a potential tester should have access to reliable transportation, telephone, and computer with internet access.

The Fair Housing Law Center is always looking for people who are interested in becoming a tester.

If interested, please contact us at 724-884-2771 or online at www.fhlaw.org.

Education Solutions for Non-Profits

Does your agency need Fair Housing training?

Through a grant from HUD, the Fair Housing Law Center offers free HUD approved fair housing training. If you are interested in having one of our staff members or partners give a free fair housing training, please contact Kristie Horrell at 724-884-2781.





Rental Burdens: Rethinking Affordability Measures

(cont. from pg.1)

Measurement Differences

In discussing the rental affordability measurement to *Business Week*, David Bieri of the University of Michigan states that the 30-percent rule “[is] essentially an arbitrary number.” One of the arguments against the share of income approach is that different households earning the same annual income spend considerably different amounts of money on basic necessities. For example, families with children spend more on clothing, food, and medical bills than do single adults. Thus, a household with children that spends 50 percent of its income on housing might be cost burdened, whereas a single adult who earns the same salary and spends the same percentage of income on housing might not be. In addition, the share of income measure does not consider cost-of-living differences in areas where housing is expensive. Consider a very low-income family in New York City that earns approximately \$22,100 a year, or 30 percent of the area median income according to the Furman Center. If 50 percent of the family’s income is dedicated to rent, the family has only about \$200 per week left to cover all other basic expenditures, including food, clothing, medical costs, and transportation.

Another concern about the share of income measure is that it does not take into account the tradeoffs families make to reduce housing costs. A family may choose to live in a poor-quality home, in a crime-ridden area, or a long distance from work opportunities to reduce housing costs. According to a study by the Joint Center for Housing Studies, “[t]hese added costs [of tradeoffs] are not now captured by the simple approach of measuring only the share of income households spend on their housing.”

Even if percentage of income were considered an adequate means of measuring affordability, the research is inconclusive on which inputs should be used to calculate the affordability ratio. The surveys used for measuring rental burden are often self-reported measures of income and expenses, including rent and utilities. Underreported income, as well as the difference between pretax and post-tax income, can have an adverse impact on the data. In their analysis of American Housing Survey data, Frederick Eggers and Fouad Moumen note, “Low-income households, in particular, often have large year-to-year swings in income.” Without accurate and consistent data on income and expenses, the share of income measure of rental burdens can inadequately represent the problems poor families face.

The Affordability Problem

Regardless of the means of measurement, the rental affordability problem is evident across studies. Wages are not increasing at the same rate as housing costs, and rents continue to increase. *Bloomberg Businessweek* finds that since the recession, affordability has increased for homeowners but not for renters. According to *Governing*, wages have not kept up with increased housing costs in states such as California, Florida, and Michigan. The imbalance between the demand for affordable housing and the supply of low-cost rentals can be seen in metropolitan areas across the United States.

Cities with considerable rental burdens such as New York and San Francisco are also places with a high cost of living. According to the *New York Times*, “someone making \$70,000 a year in other parts of the country would need to make \$166,000 in Manhattan to enjoy the same purchasing power.” Michael Stone of the University of Massachusetts Boston coined the term “shelter poverty” to describe the condition of people who are forced to cut back on basic needs because of the cost of housing. Rather than measuring affordability using a rent-to-income ratio, Stone proposes a residual income approach, which measures cost burden by calculating the money a family has left for housing after other expenditures such as food, clothing, medical costs, and school fees are taken into account.

Data from the American Housing Survey and the American Community Survey indicate that severe rental burdens disproportionately impact poor families. The Worst Case Housing Needs surveys the number of very low-income families (those earning less than 50 percent of the area median income) who pay more than half their income in rent, have substandard housing conditions, or both. In 2011, more than 72 percent of families with severe housing problems and severe rental burdens were in the bottom 30 percent of the median income bracket. Eric Belsky, Jack Goodman, and Rachel Drew compared surveys of affordability and found that “irrespective of the dataset used, renters in the bottom quintiles account for at least 85 percent of severely cost burdened renters.”

The Brooke Amendment, and the 30 percent rule in general, are meant to protect low-income households from extreme rental costs. High housing costs and high prices for basic necessities place a greater burden on poor households living in metropolitan areas. Measures of affordability should be reassessed to ensure that policymakers are decreasing rental burdens for poor households.

Do you qualify as rent-burdened according to the 30-percent rule of thumb? Find out what your monthly rent should be according to the 30 percent rule with the [Housing Connections rental calculator](#).