



## **Equal Rights Center’s Testimony Regarding the FY2024 Performance of the DC Office of Human Rights**

*Testimony Submitted Online on February 4, 2025 and Abridged Version Read at the Public Hearing on February 12, 2025*

The Equal Rights Center (ERC) appreciates the opportunity to testify for the DC Council performance oversight hearing of the Office of Human Rights (OHR).

The ERC is a civil rights organization that identifies and seeks to eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of Greater Washington, D.C. and nationwide. For many years, the ERC has conducted intakes with individuals alleging housing discrimination in DC, investigated individual claims and systemic forms of housing discrimination, pursued enforcement of the Fair Housing Act (FHA), the DC Human Rights Act (HRA), and other local anti-discrimination laws as needed, and conducted education and outreach about fair housing protections and requirements. The ERC, as a complainant or non-attorney representative for individual complainants, has filed more than 50 housing discrimination complaints with OHR in the last three years.

OHR’s administrative complaint process provides DC residents with an opportunity to report and challenge housing discrimination. In theory the administrative complaint process is relatively straightforward—after a complaint is filed, OHR conducts an intake interview and then docketed the Charge of Discrimination. It then holds a mediation session between all parties. If mediation fails, the complaint moves into investigation. At the conclusion of the investigation, OHR issues a Letter of Determination stating whether there is probable cause or no probable cause that discrimination occurred. If OHR finds probable cause, either one further attempt at conciliation is made before the case is forwarded to the Human Rights Commission or a party elects to move the case to DC Superior Court.

*Fair Housing Complaints are on the Rise, but Complaint Process Delays are Worsening*

**The ERC commends OHR on the modest rise in fair housing complaints docketed in recent years.**<sup>1</sup> Since FY2019, OHR has generally docketed about 70 fair housing complaints on an annual basis.<sup>2</sup> However, **delays in the administrative complaint process appear to have considerably worsened in the last year, especially at the intake and mediation stages.** The 24

<sup>1</sup> In FY2016, OHR docketed 41 fair housing complaints. In FY2017, OHR docketed 42 fair housing complaints. In FY2018, OHR docketed 53 fair housing complaints.

OHR, *2018 Annual Report*, 2019, 8,

[ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/OHR\\_AR18\\_062619\\_FINAL.pdf](https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/OHR_AR18_062619_FINAL.pdf).

<sup>2</sup> The exception is FY2021, in which OHR docketed 40 fair housing complaints.

OHR, *FY2021 DC Office of Human Rights Annual Report*, 3 Oct 2022, 17,

[lims.dccouncil.gov/downloads/LIMS/51391/Introduction/RC24-0223-Introduction.pdf](https://lims.dccouncil.gov/downloads/LIMS/51391/Introduction/RC24-0223-Introduction.pdf).

inquiries ERC and its clients filed in FY2024 took, on average, about six months from the date of initial filing to the docketing of the signed charge. Of the 25 charges that were docketed in FY2024, it took an average of four months to schedule a mediation, with the longest still pending scheduling despite the complaint being docketed more than eight months ago.

**While some of the delays are due to limited funding and staff, there are steps OHR could take to improve complaint timelines.** For instance, the ERC has made both the mediation unit and OHR leadership aware of concerns with delays at the mediation stage. On a number of occasions, OHR staff have not included all parties when sending Letters of Notification, which notify the Complainant(s) and Respondent(s) that a complaint has been filed and is scheduled for mediation on a certain date. If OHR fails to serve any of the parties, then the mediation must be rescheduled so the parties can be properly notified. Additionally, OHR frequently fails to follow up with parties once a party requests the rescheduling of mediation, meaning that it can take months to reschedule the mediation. More recently, even once the parties have reached and signed a settlement agreement, it is taking the Office several weeks to sign the agreement and issue Closure Letters.

**The ERC recognizes that OHR lacks the necessary staff needed to fully address the backlog of administrative complaints.** The ERC also appreciates that leadership has been responsive when we have raised concerns and they have worked to quickly move forward complaints that have stalled. Nevertheless, the ERC only assists a small percentage of Complainants filing complaints at OHR and we worry about the broader systemic impact of delays and challenges on Complainants who are navigating the process on their own. **Immediate action, such as additional training and improved communication, could be taken to help address the worsening delays.**

**Given the need for broad scope improvements to the administrative complaint process delays, the ERC applauds OHR for its Attorney-Drafted Charges Pilot Program.** Through the program, attorneys submit draft Charges for their clients and OHR then reviews and finalizes the Charge for the Complainant's signature. This can improve intake processing timelines because OHR staff do not need to conduct an Intake Interview of the Complainant or draft the Charge themselves. The ERC had heard positive feedback from attorneys who have submitted drafted Charges through the program. **The ERC encourages OHR to make the program permanent** after the pilot program ends on March 3, 2025.

On the other hand, **the ERC has some concerns about OHR's proposal to use Fact Finding Conferences during investigations** as a strategy to decrease the growing backlog of complaints.<sup>3</sup> **Fact Finding Conferences could make the complaint process more emotionally draining and difficult to navigate for complainants.** The ERC helps individuals file fair housing complaints at five local, state, and federal government agencies in its service area. Of those, only two agencies have used Fact Finding Conferences. In a Fact Finding Conference, the investigator holds a meeting with both the person who filed the complaint and the housing provider against whom a complaint was filed. The investigator asks questions of and takes statements from both parties while they are together. Our experience has been that victims of

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<sup>3</sup> OHR Director Kenneth Saunders, *Committee on Public Works and Operations Public Roundtable on PR25-0993*, 20 Nov. 2024, 10:04-10:41, [www.youtube.com/watch?v=oRW2-XYMtTM](https://www.youtube.com/watch?v=oRW2-XYMtTM).

discrimination generally find it difficult to clearly articulate their experiences in such a high-stress environment, especially when there can be such a significant power imbalance between them and the housing provider. One ERC client that participated in a Fact Finding Conference called the experience more traumatic than her experience of housing discrimination. We appreciate that OHR has stated Fact Finding Conferences would be voluntary and would further encourage OHR to maintain its current investigation process for all fair housing complaints.

*Disparate Impact is a Critical Tool to Address Discrimination, Yet DCOHR Refuses to Use It*

**The challenges with the complaint process highlight the heavy enforcement burden put onto individual victims of housing discrimination.** With fair housing complaints frequently taking one to three years to reach a resolution, individual complainants are required to relive the discrimination they experienced over and over as their complaints slowly progress through each stage. **As such, it is critical that the District’s civil rights enforcement agencies, including OHR, do everything in their power to fight discrimination at a systemic level.**

The Fair Housing Act and the DC Human Rights Act allow for fair housing claims based on a disparate impact theory. Policies and practices by housing providers that appear neutral could be considered discriminatory under a disparate impact analysis if they have a disproportionate impact on a group of people protected by federal and local fair housing laws. **Disparate impact provides a powerful tool to address systemic forms of discrimination because it makes it possible to identify and challenge more pernicious, difficult to see cases of discrimination.** For example, because over 90% of the city’s voucher holders are Black, discrimination towards voucher holders in DC is also race-based discrimination.<sup>4</sup> Additionally, overly broad criminal record screenings of rental applicants may be discriminatory on the basis of race and/or national origin as the screenings are disproportionately likely to serve as a barrier to renters of color.

Given historic and ongoing discrimination that has yielded stark residential segregation throughout the city, the District should use all the tools at its disposal to promote integration and equity in housing.<sup>5</sup> **Yet OHR does not accept disparate impact claims.**<sup>6</sup> In order to effectively address the systemic discrimination that plagues the District, OHR must take the necessary steps so that the agency can accept fair housing complaints based on a disparate impact analysis. Should OHR need additional resources or staff in order to investigate disparate impact claims, the ERC urges DC Council to address this budgetary gap.

*OHR Should Launch Director’s Inquiries to Confront Systemic Discrimination*

Relatedly, OHR could more proactively address housing discrimination and reduce the burden on victims of discrimination by conducting Director’s Inquiries. OHR did not open any fair housing Director’s Inquiries in FY2024. Yet blatant housing discrimination occurs in the

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<sup>4</sup> Metropolitan Washington Council of Governments, *Metropolitan Washington Regional Fair Housing Plan: District of Columbia*, Nov. 2023, 130, [www.mwcog.org/assets/1/28/DC\\_final\\_withcover1.pdf](http://www.mwcog.org/assets/1/28/DC_final_withcover1.pdf).

<sup>5</sup> Metropolitan Council of Governments, *Metropolitan Washington Regional Fair Housing Plan: District of Columbia*, Nov. 2023, 27-29, [www.mwcog.org/assets/1/28/DC\\_final\\_withcover1.pdf](http://www.mwcog.org/assets/1/28/DC_final_withcover1.pdf).

<sup>6</sup> OHR, “Attorney-Drafted Charges Pilot Program Guidance: July 15, 2024, to December 31, 2024”, July 2024, 3, [ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/Attorney-Drafted%20Charges%20Pilot%20Program%20Guidance\\_July%2015%202024.pdf](http://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/Attorney-Drafted%20Charges%20Pilot%20Program%20Guidance_July%2015%202024.pdf).

District with frequency, especially on the basis of source of income. Discrimination against housing voucher holders is serving as a mechanism of racial segregation in the District and must be stamped out.<sup>7</sup> As a community, we cannot expect voucher holders to shoulder the burden of addressing discrimination on their own and we cannot address a systemic problem through individual complaints. **OHR should fully use its authority to launch Director inquiries in order to respond to rampant source of income discrimination.**

**Recognizing OHR's limited resources, source of income testing serves a critical and immediate opportunity to open Director's Inquiries.** The FY2021 budget included a \$200,000 enhancement for fair housing testing on the basis of source of income. Since 2021, the ERC has conducted source of income testing on an annual basis for OHR. The ERC has provided OHR with the results of all testing under these contracts. **We encourage OHR to file Director's Inquiries for any testing that shows evidence of potential discrimination.** Additionally, OHR could refer such tests to the OAG and collaborate on enforcement efforts.

Lastly, while we have raised several concerns about OHR's performance in today's testimony, we also want to stress the critical role OHR plays in enforcing the District's progressive civil rights laws. We understand that this is a tough budget year, but any budget cuts to OHR would be devastating. The agency has only been funded close to operational levels in the last few years, and would still benefit from additional enforcement staff to help address multi-year complaint backlogs. **Any budget cuts would significantly hinder the agency's mission and make it more difficult for DC residents to meaningfully report housing discrimination.**

Thank you for this opportunity to testify. The ERC welcomes any opportunity to work in collaboration with OHR and DC Council to ensure that victims of discrimination are able to seek relief for the harm they've experienced.

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<sup>7</sup> Adjami, Nick, "Source of Income Discrimination Perpetuates Racial Segregation," 19 Aug. 2020, [www.equalrightscenter.org/voucher-discrimination-perpetuates-segregation/](http://www.equalrightscenter.org/voucher-discrimination-perpetuates-segregation/).