



NEXT GENERATION SEGREGATION

A Civil Rights Testing Investigation and Report.



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ABOUT THE EQUAL RIGHTS CENTER

The Equal Rights Center 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, DC, and nationwide. The ERC's core strategy for identifying unlawful and unfair discrimination is civil rights testing. When the ERC identifies discrimination, it seeks to eliminate it through the use of testing data to educate the public and business community, support policy advocacy, conduct compliance testing and training, and if necessary, take enforcement action.

The ERC may be able to assist individuals who believe they have experienced housing discrimination in Greater Washington, DC, by:

- Conducting civil rights testing
- Submitting reasonable accommodation and modification requests
- Assisting with filing a housing discrimination complaint
- Providing referrals to other local resources

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The ERC extends sincere gratitude to the testers who participated in this project because without their insights, dedication, and perseverance, the testing and this report could not have occurred. Special thanks is also due to Sara Pratt, Catherine Cone, and the Washington Lawyers' Committee for Civil Rights and Urban Affairs, whose previous work helped ERC staff to develop the intellectual framework for this investigation and report. Finally, a special thanks is due to ERC intern Kathryn Malone.

EXECUTIVE SUMMARY

Over the last two decades, the District of the Columbia (“DC” or “the District”) has experienced radical population shifts that yield wide ranging fair housing implications. Beginning in the early 2000s, young, upwardly mobile whites began moving to the city and eventually this in-migration reversed a decades long trend of white flight and population loss. It appears these relative newcomers are choosing to remain in the District long term, and a “baby boom” has ensued. Meanwhile, however, African American families with children continue to leave DC, a pattern that first began in the 1980s.

These changes, along with related trends in the housing market, appear to be intensifying racial segregation in the District. At issue is a complex combination of familial status, race, and source of income discrimination on multiple levels. The effect is that African American families appear to be increasingly pushed into neighborhoods the U.S. Department of Housing and Urban Development calls “racially or ethnically concentrated areas of poverty,” or leaving DC altogether.

Concerned about the implications of these trends, the ERC developed civil rights testing methodologies to better understand whether some African American families with children experience illegal discrimination in the DC housing market. Through this investigation, the ERC conducted a total of 35 phone and in-person tests designed to help answer two questions:

1. *Do African American families with children trying to rent homes with multiple bedrooms while using Housing Choice Vouchers face discrimination from landlords?*
2. *Do housing providers treat families with children trying to rent small units (given reasonable occupancy standards) differently than they do individual home seekers?*

Fifteen tests were conducted with source of income as the basis of the tests, while 20 tests were conducted with familial status as the basis of the tests. Over half of the source of income based tests revealed concerning discrimination—three tests reflected outright denials of the Voucher, and five tests showed housing providers or property management companies disclosing incorrect or confusing information in response to questions about whether they accepted Vouchers from testers posing as potential applicants.

Six of the familial status based tests revealed differential treatment. However, the differential treatment revealed during the familial status tests did not raise concerns for project staff about illegal discrimination. Other systemic factors may have more to do with the exodus of African American families with children from DC than do individual instances of housing discrimination on the basis of familial status.

Results of this investigation indicate that source of income discrimination plays a clear role in maintaining, if not intensifying, racial segregation within the DC housing market. It also appears to be one piece of a complex confluence of factors that is leading African American families to move out of the District altogether. In order to undo these legacies of segregation and displacement, multiple stakeholders must take decisive action.

To ensure that DC is a city where all of its residents can thrive, the ERC makes a series of targeted recommendations to housing providers, property management companies, single family homeowners renting out their properties, DC government agencies, and local funders.

BACKGROUND

Much attention has been focused on the radical transformation that the District of Columbia has undergone over the past two decades. Once dubbed “Chocolate City,” the District’s African American population has decreased from 70% in 1980 to less than 50% in 2010.¹ Yet the overall population of the city began growing for the first time in decades in the early 2000s. While Black households continue to leave the District, a decline that began in the 1980s, about 50,000 whites moved into the city between 2000-2010.² The in-migration of whites reverses a decades long trend of white flight that began in the 1950s.

Meanwhile, there have been dramatic shifts in the local housing market that have yielded housing stock tailored to meet the needs and interests of young professionals. These changes to the local housing market have made it more difficult for many families to find homes.

The relationship and interactions between population shifts and housing stock are complex. Regardless, racial segregation remains deeply entrenched, and is even intensifying. In its capacity as a civil rights testing organization, the ERC is not well equipped to disentangle how population shifts impact the housing market and vice versa. But we are able to offer insight about the presence of discrimination in the private housing market that may be contributing to or driving these changes.

Recent Shifts in the Population of DC

Since 2000, young whites have been moving to DC: between 2000 and 2010, the number of 18-34 year olds in the District grew by 37,000.³ This is a familiar part of the narrative when it comes to talking about the “new” DC. But in order to get a fuller picture of its recent transformation and ensure that DC is a place where everyone who wants to live here can thrive, it is necessary to dig a little deeper.

Population data between 2000 and 2010 illustrated that families with children were leaving the District. While DC’s population grew overall, 14,000 fewer children under 18 lived in the District in 2010 than in 2000.⁴ In fact, “areas that grew the most also lost the most children, including Columbia Heights–Mt. Pleasant, which had 3,200 fewer kids by 2010, and Shaw–Logan Circle, with 1,000 fewer kids despite an overall increase of 3,000 people.”⁵ Notably, this shift is racialized: over the course of the first decade of the century, young whites without children moved into the District while Black families with children left.

In more recent years, young, white newcomers have settled into the city and initiated a “baby boom,” but indications are that while these families may be staying in the District,⁶ families in historically African American neighborhoods east of the Anacostia River continue to leave.⁷

1. “Our Changing City: Chapter 1 - Demographics.” Urban Institute, 2013, apps.urban.org/features/OurChangingCity/demographics/#race.

2. “Our Changing City: Chapter 1 - Demographics.” Urban Institute, 2013, apps.urban.org/features/OurChangingCity/demographics/#history

3. “Our Changing City: Chapter 1 - Demographics.” Urban Institute, 2013, apps.urban.org/features/OurChangingCity/demographics/#age.

4. Ibid.

5. Ibid.

6. Stein, Perry. “D.C.’s Baby Population Is on the Rise — Thanks to Wealthy Folks.” *Washington Post*, 8 Apr. 2016, www.washingtonpost.com/archive/local/wp/2016/04/08/d-c-s-baby-boom-is-driven-by-wealthy-families/.

7. Sayin Taylor, Yesim. “Kids in the Neighborhood: The District Has More Children, but They Are Not Where They Used to Be.” *District, Measured*, DC Office of Revenue Analysis, 28 Mar. 2016, districtmeasured.com/2016/03/28/kids-in-the-neighborhood-the-district-has-more-children-but-they-are-not-where-they-used-to-be/.

Changes to DC's Housing Stock

About half of households in DC have single occupants, and DC ranks near the top of the list nationally when it comes to the proportion of households that are comprised of a single occupant.⁸ It makes sense that, to a certain extent, housing development trends would scurry to meet the needs of that population. Accordingly, in recent years, there has been a boon in the development of two-bedroom and smaller sized units in large apartment buildings.⁹

However, development of three-bedroom and larger sized units has not kept pace. A combination of factors makes the recent cost of developing such units extremely high in the high-rise buildings that have been at the core of DC housing production.¹⁰ In fact, since 1990, there have only been 507 three-bedroom or larger units built in “institutional quality” complexes throughout *the entire city*.¹¹

Meanwhile, city officials have repeatedly squandered opportunities to preserve larger sized (three, four, and five-bedroom) units. In the context of redeveloping subsidized housing, which has been a parallel trend over the same time period, this has meant not replacing family-sized units that are demolished with the same size or larger units, even in developments where there has been a commitment of one-to-one replacement of units. These actions contradict recommendations made in the District's most recently adopted *Analysis of Impediments to Fair Housing Choice* and have yielded concern from advocates, along with fair housing litigation.¹²

In particular, two redevelopment projects highlight this problem locally: Barry Farm and Brookland Manor. Residents of both Barry Farm and Brookland Manor have filed lawsuits related to the redevelopment plans. The residents allege that they are being discriminated against and forced out from their homes based on the size of their families.

Barry Farm is a public housing community near the Anacostia Metro station in Southeast DC with over 400 units, more than half of which have three or more bedrooms. It is undergoing redevelopment through the city's “New Communities Initiative.” A fair housing lawsuit filed last August alleges that the DC Housing Authority (DCHA) and its private development partners are discriminating against families with children and on the basis of the residents' place of residence (a locally protected category) in the redevelopment process.

The basis of the allegations is two-fold: that the planned redevelopment does not contain a unit mix adequate for many of the current Barry Farm families, and that “DCHA effectively began demolition of Barry Farm... by neglecting maintenance on the property to the point where numerous units became unlivable.”¹³ According to the developer's disclosures cited in the lawsuit, “the original Barry Farm complex included 213 two-bedroom units, 179 three-bedroom units, 49 four-bedroom units, and 10 six-bedroom units,” and DCHA has proposed a unit mix that results in 163 fewer two to six-bedroom units.¹⁴ The larger units at Barry Farm are extremely scarce in DC. In effect, the redevelopment of Barry Farm as currently imagined will force 150 families into a housing market lacking homes that meet their needs.

8 Henderson, Tim. *Growing Number of People Living Solo Can Pose Challenges*. The Pew Charitable Trusts, 11 Sept. 2014, www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2014/09/11/growing-number-of-people-living-solo-can-pose-challenges.

9 Whitehead, David. “This Map Shows That in DC, Family-Sized Rental Homes Are Very Scarce.” *Greater Greater Washington*, 1 Mar. 2017, ggwash.org/view/62190/this-map-shows-that-in-dc-family-sized-rental-homes-are-very-scarce.

10 Chung, Payton. “Most of DC's New Housing Is in High-Rises, Which Most People Can't Afford to Live In.” *Greater Greater Washington*, 9 Sept. 2015, ggwash.org/view/39226/most-of-dcs-new-housing-is-in-high-rises-which-most-people-cant-afford-to-live-in.

11 Whitehead, David. “This Map Shows That in DC, Family-Sized Rental Homes Are Very Scarce.” *Greater Greater Washington*, 1 Mar. 2017, ggwash.org/view/62190/this-map-shows-that-in-dc-family-sized-rental-homes-are-very-scarce.

12 Washington Lawyers Committee for Civil Rights and Urban Affairs, et al. Received by US Department of Housing and Urban Development, Washington Lawyers Committee for Civil Rights and Urban Affairs, 16 Sept. 2016, www.washlaw.org/pdf/challenge_to_cert_9_16_16.PDF.

13 *Barry Farm Tenants and Allies Ass'n Et Al., v. District of Columbia Housing Authority, Et Al. (“Barry Farm”) Fact Sheet*. Washington Lawyers Committee for Civil Rights and Urban Affairs, 29 Aug. 2017, www.washlaw.org/news/627-barry-farm-fact-sheet.

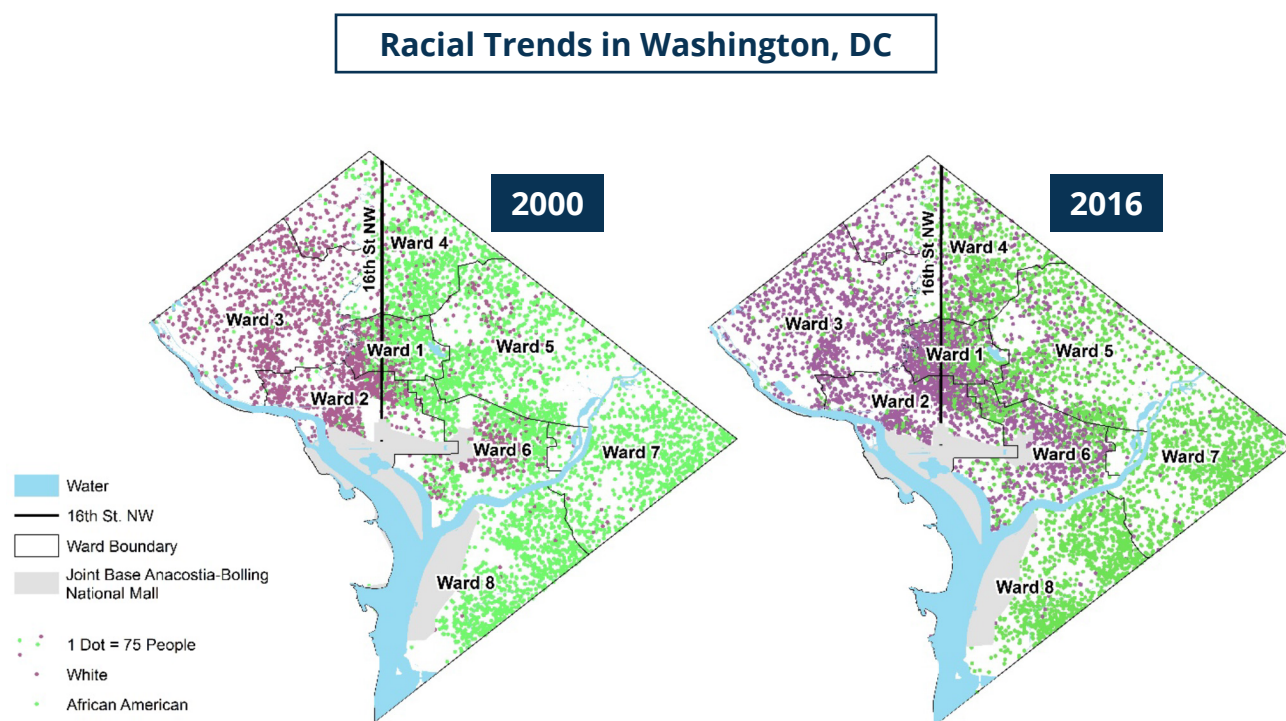
14 Ibid.

There is similar controversy over the redevelopment of the Brookland Manor apartment complex in Northeast DC, which is privately owned and one of few apartment complexes in the city that remain affordable to working class residents without housing subsidies. It also offers a cluster of three, four, and five-bedroom units that are rare in the District. However, if the redevelopment moves ahead as planned, “up to 149 families will likely be forcibly displaced from their homes and offered no adequate replacement housing in the redevelopment.”¹⁵ In the instance of Brookland Manor, the developer has stated that large unit sizes are “not consistent with the creation of a vibrant new community.”¹⁶

In both cases, there is significant concern that the redevelopments, by not replacing larger units currently on site, will permanently displace low-income, predominantly African American families.

Persistent, Possibly Intensifying Racial Segregation in Housing

Meanwhile, it is extremely well documented that racial segregation in housing shapes the local housing market.¹⁷ As the DC population has changed over the last several years, the racialized dividing lines have changed, but the city itself remains profoundly divided geographically. Specifically, while 16th St Northwest used to be a clear divider between Black and white DC, whites have moved progressively eastward over recent years. The following maps display this trend.



Data Provided by the US Census and American Community Survey

Map Created by the Equal Rights Center

¹⁵ *Brookland Manor Litigation Fact Sheet*. Washington Lawyers Committee for Civil Rights and Urban Affairs, 26 Aug. 2016, www.washlaw.org/news-a-media/506-brookland-manor-litigation-fact-sheet#_ftn12.

¹⁶ Ibid.

¹⁷ Planning/Communications, *District of Columbia Analysis of Impediments to Fair Housing Choice 2006–2011* (River Forest, IL: April 2012).

Further, African Americans who remain in the District are increasingly segregated in Wards 7 and 8. The following table displays significant decreases in the Black population of each ward between 2000 and 2016, with the exceptions of Wards 3, 7, and 8. Even though Ward 3 saw a slight increase, African Americans still comprise less than 10% of its residents. Meanwhile, Wards 7 and 8 remain upwards of 90% African American.¹⁸

| | 2000 Population | | 2016 Population | |
|--------|-----------------|-------|-----------------|-------|
| | White | Black | White | Black |
| Ward 1 | 31.7% | 45.7% | 53.5% | 30.1% |
| Ward 2 | 65.4% | 19.9% | 73.9% | 8.8% |
| Ward 3 | 83.6% | 5.8% | 80.7% | 7.0% |
| Ward 4 | 18.7% | 69.9% | 27.1% | 55.3% |
| Ward 5 | 8.2% | 87.8% | 22.0% | 68.0% |
| Ward 6 | 31.6% | 62.7% | 56.8% | 34.1% |
| Ward 7 | 1.4% | 96.8% | 2.4% | 93.8% |
| Ward 8 | 5.3% | 92.4% | 5.6% | 90.9% |

Data Provided by the US Census and American Community Survey

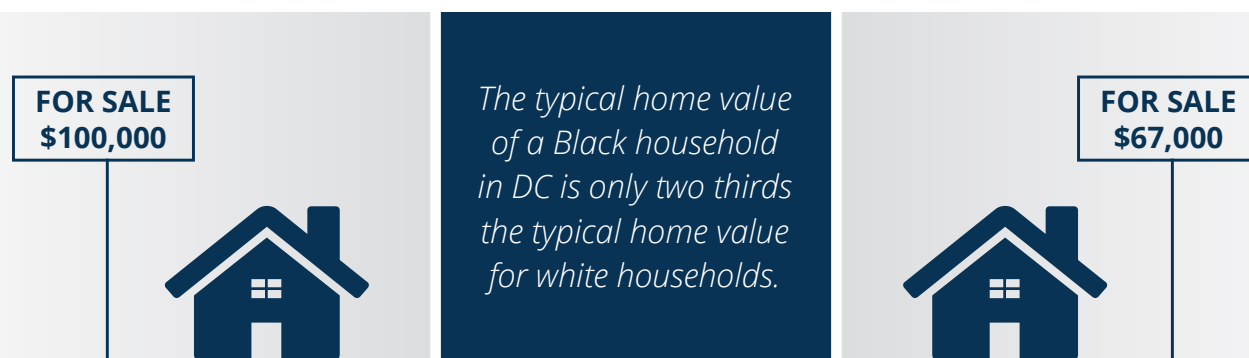
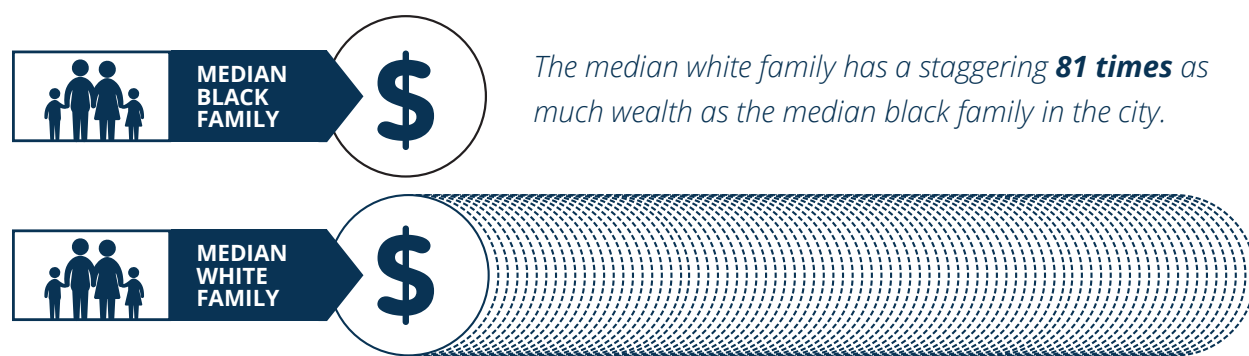
Families are not evenly distributed either—for example, households of four or more individuals make up a tiny percentage of Ward 2, which is 10% African American, but nearly one fifth of Ward 8, which is more than 90% African American.¹⁹ This is related at least in part to the placement of DC housing stock. Due to a confluence of factors, there are more family-sized apartment units in Wards 7 and 8 than west of Rock Creek Park. For example, there are 1,004 three-bedroom or larger apartment units east of the Anacostia River in “institutional quality” buildings, but only 128 apartments of the same size west of Rock Creek Park.²⁰

¹⁸ The ERC would like to note that it is not necessarily problematic in itself that neighborhoods are overwhelmingly African American, but problematic to the extent that there is a corresponding disparity in access to opportunities and resources according to the racial make-up of neighborhoods. The latter phenomenon is what makes persistent racial segregation in the District, and many other cities around the country, so pernicious.

¹⁹ *Brookland Manor Litigation Fact Sheet*. Washington Lawyers Committee for Civil Rights and Urban Affairs, 26 Aug. 2016, www.washlaw.org/news-a-media/506-brookland-manor-litigation-fact-sheet#_ftn12.

²⁰ Whitehead, David. “This Map Shows That in DC, Family-Sized Rental Homes Are Very Scarce.” *Greater Greater Washington*, 1 Mar. 2017, ggwash.org/view/62190/this-map-shows-that-in-dc-family-sized-rental-homes-are-very-scarce.

Also at play is an affordable housing crisis steeped in systemic inequity: as the population of DC shot up, so did housing prices. The 2008 recession intensified this trend, as housing production temporarily stalled.²¹ In recent years, DC has repeatedly landed near the top of lists ranking the most expensive housing markets in the country. Meanwhile, the median white family has a staggering 81 times as much wealth as the median Black family in the city, and, for homeowners, the typical home value of a Black household in DC is only two thirds the typical home value for white households.²²



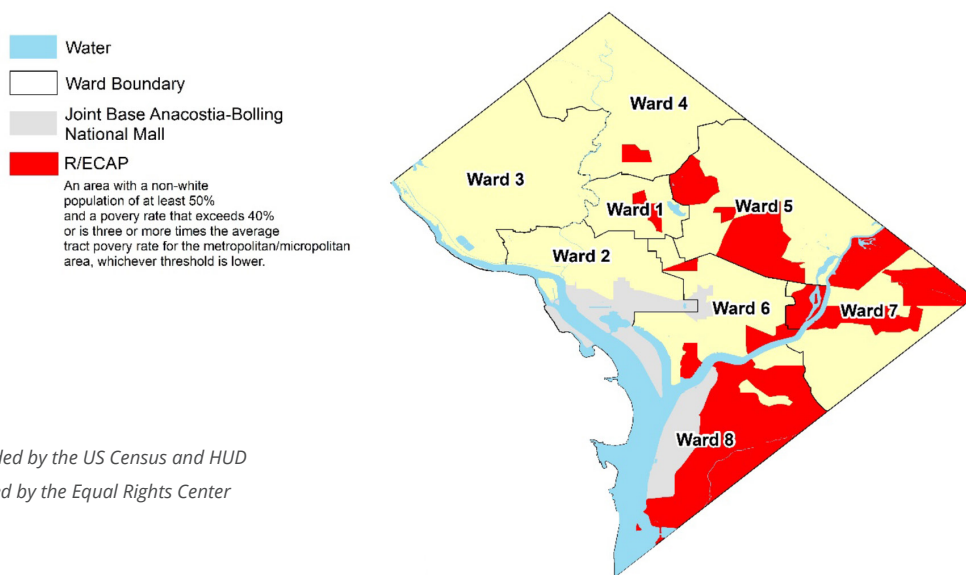
The situation renters face may be even more dire: in 2015, the DC Fiscal Policy Institute found that rents have grown sharply (while incomes have not) and that the number of low cost rental units available in the city has been cut in half since 2002.²³ Simply put: as the cost of housing has skyrocketed, it has become much more difficult for many Black families to afford living in the District. A key point is that remaining affordable units are clustered in areas the U.S. Department of Housing and Urban Development designates as “racially and ethnically concentrated areas of poverty” and, as gentrification continues to creep east, even those units are threatened.

21 Zippel, Claire. “DC’s Housing Affordability Crisis, in 7 Charts.” *Greater Greater Washington*, 30 Apr. 2015, ggwash.org/view/37967/dcs-housing-affordability-crisis-in-7-charts.

22 Kijakazi, Kilolo, et al. *The Color of Wealth in the Nation’s Capital*, Urban Institute, October 2016. www.urban.org/research/publication/color-wealth-nations-capital.

23 Rivers, Wes. *Going, Going, Gone: DC’s Vanishing Affordable Housing*, DC Fiscal Policy Institute, March 2015. www.dcfpi.org/all/going-going-gone-dcs-vanishing-affordable-housing-2/.

Current R/ECAP Status: Washington, DC



Data Provided by the US Census and HUD

Map Created by the Equal Rights Center

It appears Black families with children may not be choosing to leave the District; rather, they are being displaced. Data on DC's family homelessness crisis lends credence to this possibility: from 2007 to 2014 the number of individuals experiencing homelessness in Washington, DC, has remained virtually the same, but "the number of homeless people in families has more than doubled" to almost 4,000 people.²⁴

Stakeholders need to understand how all of the pieces of this puzzle come together in order to effectively intervene. Through civil rights testing, the ERC can contribute important information to the conversation.

Is Discrimination Exacerbating the Displacement of Families from DC?

Systemic factors, like zoning restrictions in the local housing market and how market actors are responding to population shifts, ensure that some residents' choices about where to live are increasingly limited. But is housing discrimination at the individual level also at play?

Civil rights testing is a tool we can use to answer that question. Civil rights testing is an investigative tool used to gather evidence, usually in order to compare conduct or design and construction to legal requirements or a policy or practice. It involves one or more people covertly engaging in an interaction or surveying a physical space.

For the purposes of this investigation, the ERC used civil rights testing to understand whether some African American families with children experience illegal discrimination in the DC housing market.

²⁴ Tatian, Peter, et al. *Affordable Housing Needs Assessment for the District of Columbia*. Urban Institute, May 2015. 3.

STATE OF THE LAW

Congress passed the Fair Housing Act (FHA) in 1968, seven days after the assassination of Dr. Martin Luther King Jr. Initially, the FHA made it illegal to discriminate based on race, color, national origin, and religion in a broad swath of housing related transactions. Sex was added as an FHA protected class in 1974, and the Fair Housing Amendments Act (FHAA) of 1988 added protections on the basis of familial status and disability. The familial status protection specifically protects families with children under the age of 18 against housing discrimination.

When the protection was initially added, discrimination against families with children in the rental market was widespread and extremely blatant. Over time, familial status discrimination in housing has become subtler and often more difficult to detect. For example, rather than blatantly advertising familial status discrimination, housing providers may steer families with children to a particular part of an apartment complex, or place certain restrictions on families with children in regards to the use of shared amenities. Case law and federal guidance since 1988 have made it clear, however, that these various manifestations of familial status discrimination are prohibited.

There is one specific exemption to the familial status protection in the FHA: senior housing communities for people aged 55 and older as defined in the Housing for Older Persons Act of 1995. The U.S. Department of Housing and Urban Development (HUD) has issued regulations and published additional guidance explaining the requirements for obtaining such an exemption.

Finally, the familial status protection does not restrict housing providers from maintaining reasonable occupancy standards, dependent on the size of a housing unit, among other factors. In general, HUD's "Keating Memo," issued in the 1990s, provides guidance for housing providers to consider in enacting occupancy standards that are reasonable in light of the familial status protection offered by the FHAA.

In addition to the federally protected classes, there are additional protected classes in Washington, DC. The DC Human Rights Act (DCHRA) is one of the most comprehensive local human rights ordinances in the country. It prohibits discrimination in housing on the basis of source of income, which includes discrimination against Housing Choice Voucher holders.

Additionally, because of the demographic makeup of the Housing Choice Voucher program in DC, source of income discrimination likely also violates prohibitions on racial discrimination in both the FHA and DCHRA. Statistical analysis indicates that a refusal to rent to Voucher holders in DC is 71 times more likely to exclude African American renters than white renters. Such a disparity indicates an illegal, disproportionate impact on the basis of race when local housing providers enact discriminatory policies on the basis of source of income. Disparate impact based discrimination refers to policies and practices that appear to be facially neutral but result in a disproportionate impact on members of a protected class, such as race. The Supreme Court upheld the principle of disparate impact under the FHA in its 2015 decision in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*

Statistical analysis indicates that a refusal to rent to Voucher holders in DC is 71 times more likely to exclude African-American renters than white renters.

71x

METHODOLOGY

Through this investigation, the ERC used civil rights testing in an attempt to answer the following questions:

1. *Do African American families with children trying to rent homes with multiple bedrooms while using a Housing Choice Voucher face discrimination from landlords?*
2. *Do housing providers treat families with children trying to rent small units differently than they do individual home seekers?*

The project team developed these questions after undertaking an in-depth analysis of the trends discussed in the Background section of this report, along with other related factors. As an initial investigatory step, the project team conducted a survey to determine how many three-bedroom and larger sized apartment units in DC it could identify using search methods that typical homeseekers might use.²⁵

This survey effort was not intended to be exhaustive—there is data already available about housing stock by unit size in the District. It did, however, offer insight to project staff about how to effectively design test methodologies for the investigation.

Over the course of a two-month period, staff conducted the survey by running filtered searches on websites designed to assist homeseekers find housing that meets their needs, like DCHousingSearch.org; looking at housing providers' websites; and perusing advertisements for housing.

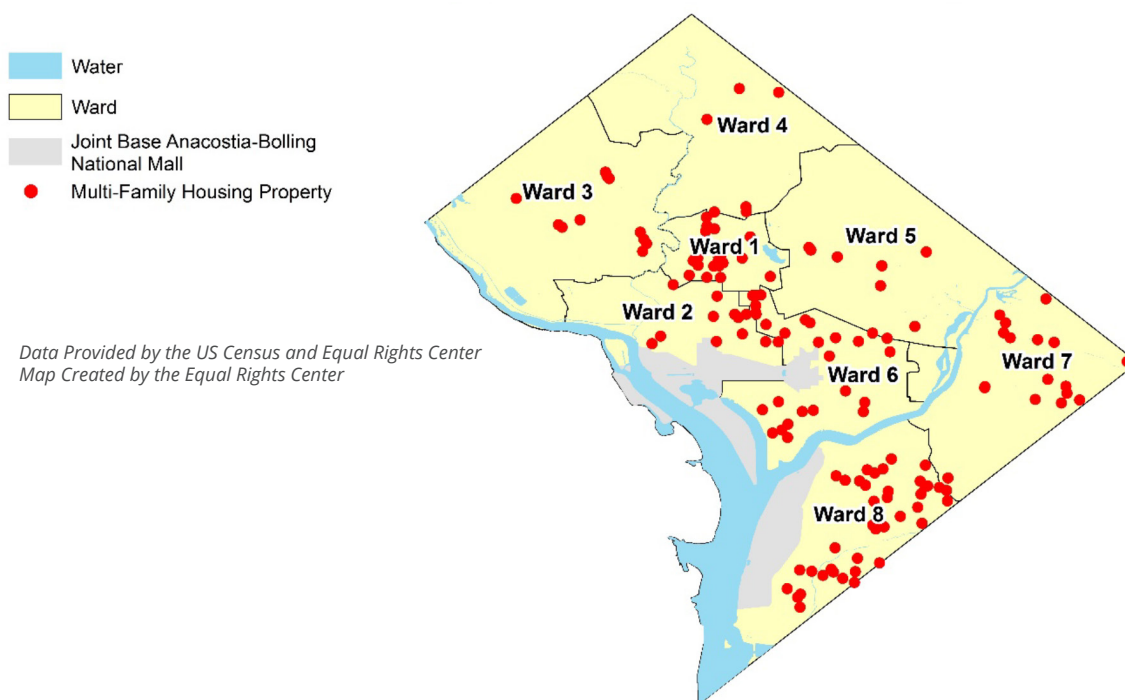
After compiling an initial list, staff further examined the rental rates and availability of the identified units. Specifically, a staff member gathered information online or called housing providers directly to inquire about availability and pricing for three-bedroom and larger sized units. Once the ERC obtained pricing information, a staff member compared it with payment standards for Housing Choice Vouchers as determined by DCHA in order to determine whether Voucher holders would be able to afford the unit.

Through this effort, project staff identified 158 buildings that offered three-bedroom or larger sized units. Of those 158 buildings, 108 offered units below the DCHA payment standard, meaning Voucher holders may be able to afford them.

The map on the following page shows the locations of the properties the ERC identified.

²⁵ This survey was limited to apartments in apartment buildings, not rentals for single family homes.

Multi-Family Housing Properties Three or More Bedrooms



In part due to the affordability crisis discussed in the Background section of this report, project staff decided that building a focus on Voucher holder experiences into the investigation would be critically important. In addition, many families living in apartment complexes that are under redevelopment are given Vouchers to use in the interim period, even in instances where those families maintain a right to return to the property after it is redeveloped.

Accordingly, project staff used this contextual information to develop highly specific research questions and two corresponding test methodologies that probe for discrimination against families with children, particularly African American families with children, in the District.

Civil Rights Testing

Civil rights testing is an investigative tool used to gather evidence, usually in order to compare conduct or design and construction to legal requirements or a policy. It involves one or more people covertly engaging in an interaction or surveying a physical space. Testing has a long history in civil rights related work, and is supported by decades of fair housing-related case law.

All of the testers used in this investigation received both classroom and field training by the ERC. Testers are trained to be observant and objective— their role is to report back about their experiences but not interpret them. To conduct a test, an ERC Test Coordinator provides each tester with a test-specific profile to use. Testers do not know the basis of the test they are asked to conduct. After each test, testers report their experiences both verbally and in writing, back to the Test Coordinator. After a test is completed, the Test Coordinator analyzes it to determine if and how discrimination may have occurred.

Through this investigation, the ERC conducted a total of 35 tests.

Test Methodology 1:

Answering the question “Do African American families with children trying to rent a home with multiple bedrooms while using a Housing Choice Voucher face discrimination from landlords?”

Through this investigation, the ERC used civil rights testing to uncover source of income discrimination that families with children using Vouchers to rent a home may experience. Specifically, the ERC conducted 15 tests to ascertain whether testers posing as Voucher holders looking for multi-bedroom units encountered source of income discrimination.²⁶

Test sites were all two-bedroom units or larger, and were either units in multi-family properties or single family homes managed by a property management company. All test sites fell within the DCHA payment standard for the neighborhood in which they are located.

Since the primary information the ERC sought using this methodology was whether a housing provider would accept a Housing Choice Voucher, the 15 tests conducted using this methodology were single part tests. There was no need for a comparative experience to answer the question posed. All of the testers using this methodology were Black women who were directed to disclose that they were looking for a home for themselves and their children and inquire whether the targeted housing provider would accept a Housing Choice Voucher. All tests using this methodology were conducted by phone.

Methodology 2:

Answering the question “Do housing providers treat families with children trying to rent small units differently than they do individual home seekers?”

Given the affordability crunch and scarcity of larger unit sizes, families with children, in an attempt to remain in the District, may be trying to make do with smaller units. The second test methodology used in this investigation was designed to see if families with children would experience discrimination based on their family size when inquiring about units. The specifics of test assignments were tailored to be realistic in light of reasonable occupancy limits.²⁷

For this portion of the investigation, ERC staff used matched pair testing, in which two testers are assigned profiles that match according to every variable other than the basis of the test. All testers were Black women; during each test, one Black female tester was assigned a profile as a single woman living on her own (the “control” tester) and one Black female tester was assigned a profile that involved at least one child under 18 living with her (the “protected” tester). Both testers were instructed to disclose the details of their household composition during their test. In each matched pair test, both testers inquired about the same sized unit.

The number of children in each assigned profile for protected testers was based on unit availability at the test site. Each protected tester profile included at least one more person than the number of bedrooms in the unit being tested, within reasonable occupancy limits. For example, for an available studio apartment, the tester profile would include one child.

The ERC conducted 20 in-person, matched pair tests using this methodology.

²⁶ Though the basis of each test was source of income, it is critical to note that in DC, due to the demographic makeup of the Voucher program, source of income discrimination is tantamount to race discrimination. Statistical analysis has revealed that a refusal to rent to Housing Choice Voucher holders is 71 times more likely to exclude African American renters than white renters in the District.

²⁷ As outlined, for example, in HUD’s Keating Memo: https://www.hud.gov/sites/documents/DOC_7780.PDF

RESULTS

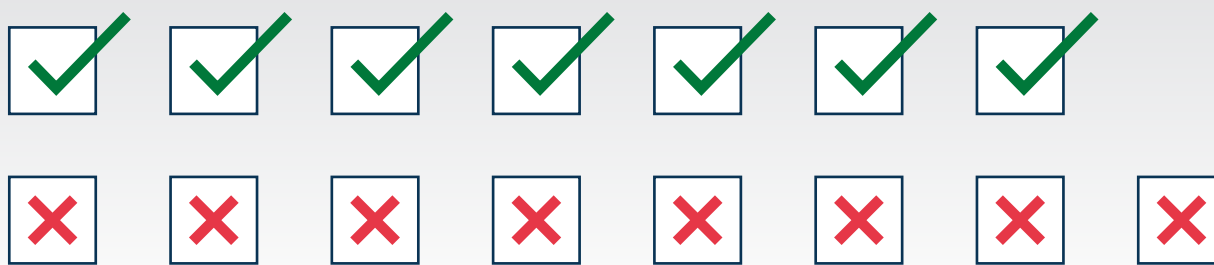
After testing was completed and the Test Coordinator was in possession of all necessary documentation, the tests were analyzed. Project staff focused their analysis on answering the specific research questions that drove the development of the two test methodologies.

Results, Methodology 1:

Do African American families with children trying to rent a home with multiple bedrooms while using a Housing Choice Voucher face discrimination from landlords?

Of the fifteen tests that project staff conducted and analyzed using this methodology, eight—more than half—displayed some form of barrier in regards to the tester’s ability to rent a unit using a Housing Choice Voucher:

More than half the Methodology 1 tests revealed a source of income related barrier.



- Housing providers during three tests told testers blatantly that they would not accept Vouchers;
- In two of the fifteen tests, agents of multi-family housing providers were unsure of how the application process would work for Voucher holders, and could not provide testers as Voucher holders with concrete information about how to apply;
- During two tests, property managers for single family homes told testers that it was the property owner’s decision of whether or not to rent to Voucher holders;
- During one test, a property manager for a single family home told the ERC tester that it was the property owner’s decision but speculated that the property owner would decide not to rent to a Voucher holder.

The remaining seven tests indicated compliance with the District’s prohibition on source of income discrimination (along with federal and local prohibitions on race discrimination).

Results, Methodology 2:

Do housing providers treat families with children trying to rent small units differently than they do individual home seekers?

Six out of twenty matched pair tests conducted using this methodology indicated some form of differential treatment on the basis of familial status. Some tests indicated more than one form of differential treatment. Instances of differential treatment included the following:

- During five tests, the protected tester was shown fewer units or different unit numbers than the control tester. For example, in one test, the same agent on the same day told the protected tester that there was one available unit and told the control tester that there were two available units. In another instance, an agent showed the protected tester and the control tester completely different units on separate floors of the building.
- In three tests, the agent made additional mention of children being present in the unit. This was done through small talk about raising children or pointing out features of the property that children might like. For example, one agent mentioned that they were showing the protected tester a one-bedroom unit that was bigger than other one-bedroom units onsite, and noted that there would be more room in the apartment for the child than in other one-bedroom units. Another agent made mention that a child of a certain age could be difficult, referring to her experience with her own child.
- There was one instance during which an agent responded “Oh, you do?” when the tester disclosed that she had a child, and then appeared to take note of that fact.
- Finally, during one test, an agent gave the protected tester more information about more available units than they provided the control tester with.

The remaining fourteen tests did not display any differential treatment that ERC staff could identify between the protected and control tester on the basis of familial status.

DISCUSSION OF RESULTS

Limitations of the investigation

Before interpreting the results of the testing conducted as part of this investigation, it is important to understand some limitations of the investigation.

Testing can be a resource intensive investigatory method. Accordingly, the number of tests conducted by the ERC and non-randomized selection process make it impossible to ascertain statistical significance based on the test findings. It is important to remember that test results cannot on their own speak to the quantity of discrimination in the DC housing market at large. Rather, test methodologies are designed to answer specific, limited questions.

Further, while civil rights testing is a valuable investigative tool, it can only shine a light on portions of the experiences that families with children may have in finding a home that meets their needs in DC. For example, the extent to which it is possible to factor in systemic disparities like the racial wealth gap or zoning related decisions about housing redevelopment to test methodologies is limited. There are many complex factors to consider in understanding the reasons why African American families continue to move out of DC. Testing provides insight about some of those factors, but it must be interpreted as a part of a larger picture as well.

Methodology 1

Testing using this methodology, while not statistically representative of the entire housing market, supports the conclusion that discrimination against Voucher holders in the District is rampant. Both large scale multi-family housing providers and companies that provide property management services to owners of single family homes appear to be flouting DC's protections for Voucher holders.

Such discrimination has potentially devastating consequences for Voucher holders, as a Voucher holder must find a home to rent in the private market within a certain time period or risk losing their Voucher. Meanwhile, the wait list for a Voucher in the District is years long; in fact, the wait list is so long that it is no longer even possible to get on it. While conducting this investigation, the ERC spoke with multiple Voucher holders who faced losing their Voucher because they could not find a housing provider that would accept it.

Uncovering this level of discrimination on the part of DC housing providers is particularly concerning because DCHA has recently taken steps that should have allowed Voucher holders to rent in areas of the city that were previously unaffordable for them. Laudably, in response to rapid increases in private rents and to promote neighborhood integration, DCHA increased the payment standard for Vouchers in many DC neighborhoods to up to 175% of the Fair Market Rent in early 2017. This change should have made it more feasible for Voucher holders to find housing in neighborhoods across the District. In particular, families with Vouchers for large sized units would, for the first time, have been able to access single family homes that met their needs in many neighborhoods. In a city with such an uneven distribution of housing units in multi-family buildings that meet the needs of larger families, this is a particularly important point.

Unfortunately, by many reports, what Voucher holders have actually encountered is a tsunami of illegal source of income discrimination, which has prevented their ability to find homes across the District. In addition to the testing evidence produced by this investigation, source of income discrimination is widely reported to the ERC by individuals who experience it and other housing advocates whose clients encounter it repeatedly. Additionally, over the last year, the ERC identified dozens of ads for homes in the District blatantly stating that Voucher holders were not welcome to apply.

Testing uncovered three instances of outright denials of Vouchers on the part of housing providers. Other, subtler findings are arguably no less harmful. Not being able to provide clear information to Voucher holders about how to apply for a housing unit because they are renting with a Voucher makes it more difficult for Voucher holders than non-Voucher holding applicants to obtain housing, even if Voucher holding applicants are not ultimately denied the opportunity to rent. Property management company representatives stating to a potential applicant with a Voucher that the decision of whether to accept a Voucher is at the discretion of the property owner is blatantly incorrect. These claims/statements make it more difficult for a Voucher holding applicant to apply for a unit they are interested in, even if the individual doesn't ultimately face an outright denial from the property owner. Speculating that a property owner won't accept a Voucher has an even more discouraging effect. While these acts may seem less pernicious than an outright denial on their faces, the end result is likely the same: Voucher holders are not able to rent homes that meet the needs of their families.

Finally, it is critical to remember that because discrimination against Housing Choice Voucher holders in the District has an illegal disparate impact on the basis of race, source of income discrimination yields race discrimination that is outlawed by federal law. Source of income discrimination plays a clear role in maintaining, if not intensifying, racial segregation within the DC housing market. It also appears to be one piece of the complex puzzle that is leading African American families to move out of the District altogether. In order to undo these legacies of segregation and displacement, multiple stakeholders must take decisive action.

Methodology 2

Conversely, the testing conducted using the second methodology yielded few concerns when it came to the issue of differential treatment from housing providers on the basis of familial status. Merely mentioning the presence of children in a household is not illegal on its face. In fact, some tests indicated housing providers noting features of homes that may work well for children in what appeared to be genuine attempts to market homes to the protected testers.

Again, the small number of tests conducted does not allow for reasonable statistical inferences in regards to discrimination on the basis of familial status in the DC housing market overall. However, tests conducted through this investigation did seem to indicate that housing providers were aware of and acting in accordance with familial status protections under both the FHA and DCHRA.

One possibility is that other systemic factors like those discussed in the Background section of this report have more to do with the exodus of African American families with children from DC than do individual instances of housing discrimination on the basis of familial status. Therefore, a different set of interventions may be necessary if the District wants to retain such families as residents.

RECOMMENDATIONS

This report and underlying civil rights testing investigation have laid bare a number of factors contributing to the displacement of predominantly African American families from DC, along with ongoing racial segregation. In order to reverse these trends and ensure the city is a place where all of its residents can thrive, multiple stakeholders must take decisive action. Though not exhaustive of all actions necessary to meet the aforementioned goal, the ERC makes the following targeted recommendations:

Housing Providers, Property Managers, and Single Family Homeowners:

- ☐ Invest in fair housing training for anyone responsible for leasing rental units. Specifically, it is critical that employees of larger housing providers working in call centers not located in the District nonetheless understand local fair housing protections.
- ☐ Pursue training about how the Housing Choice Voucher program and other housing subsidy programs covered by the DCHRA provision outlawing source of income discrimination work. It may be necessary that anyone responsible for leasing rental units receive this training; alternatively, it may make sense for companies to designate specific employees as “Housing Choice Voucher liaisons” and then direct other employees to them for information as necessary.
- ☐ Implement affirmative marketing initiatives targeted at families with children, particularly families of color.
- ☐ When selecting a property manager as a landlord, make decisions about who to hire based on the firm’s compliance with fair housing requirements. Report any property management companies you encounter who you suspect are not complying to the ERC.

District of Columbia Housing Authority:

- ☐ Educate Voucher holders about source of income protections and provide them with accurate information about what to do if they experience it.
- ☐ Conduct effective mobility counseling with Voucher holders, particularly families that are receiving Vouchers due to the redevelopment of public housing and other forms of subsidized housing. To the extent that mobility counselors encounter source of income discrimination on behalf of clients, report it to OHR or other, private fair housing enforcement entities.

- ☐ Extend the lease up period allowed to Voucher holders that have encountered repeated source of income discrimination in order that these Voucher holders don't lose their vouchers due to discriminatory practices by housing providers.
- ☐ Conduct large scale, comprehensive education programs for housing providers about how the Voucher program works and provide ongoing technical assistance and timely payments to housing providers.
- ☐ Work closely with the DC Office of Human Rights (DCOHR) and other organizations pursuing fair housing to stamp out illegal source of income discrimination against DCHA clients.

Other DC Government Agencies:

- ☐ Encourage a citywide commitment to affirmatively furthering fair housing (AFFH) and implementation of the District's Analysis of Impediments to Fair Housing Choice. While the DC Department of Housing and Community Development may take the lead on the District's work to AFFH, it is critically important to understand that it is not the only DC government entity responsible for AFFH. For example, advocates for the preservation of affordable housing in gentrifying neighborhoods have reported a substantial disconnect between the Office of Planning, the Zoning Commission, and DCHA in terms of following AFFH commitments made by the city. Because the obligation to AFFH applies to private as well as federally funded actions, the Office of Planning should take care that private housing development proposals ensure that strong diverse neighborhoods are created and preserved through investments and affordable housing replacement. In particular, these offices must ensure that the District's commitment to affordable three-bedroom and larger bedroom units is met in zoning and planning decisions, and that exceptions and weakening of the inclusionary zoning ordinance do not occur.
- ☐ Review the zoning code to identify impediments to the development of deeply affordable housing, especially on the west side of the city and work across agencies to remove them. Zoning decisions must consider the obligation to AFFH and seek to ensure that the city's AFFH commitments are met and that segregation and re-segregation are concretely addressed.
- ☐ Fund the DC Office of Human Rights at a level that it can effectively investigate complaints of source of income discrimination and pursue enforcement of the DCHRA in a timely manner.

- ☐ Strengthen the City's inclusionary zoning ordinance to require the set aside of at least 10% of all rental, condominium and other multifamily housing or single family developments with five or more units to be affordable at 30% AMI or below and prohibit the placement of affordable units off site when the location of the proposed housing is in a higher opportunity, gentrifying, or predominantly white area.
- ☐ Require that the proposed loss of any affordable housing considered, reviewed, funded (including use of tax credits) or undertaken by the city, including private development reviewed or approved by the Office of Planning, the Zoning Commission, the Department of Housing and Community Development or the Office of Deputy Mayor for Planning and Economic Development, be approved only if it provides for one for one replacement of all units affordable at 80% of AMI or below, at the existing affordability level and at the existing bedroom size.

Local Funders:

- ☐ Take special care to acknowledge that source of income discrimination in housing is currently, at its core, an issue of racial equity. It is a problem that is difficult to address with a piecemeal approach. Further, those most directly damaged by discriminatory acts—Voucher holders themselves—may find it most difficult to pursue discrimination claims due to a variety of factors, including the demands that any search for housing requires, the nature of the fair housing enforcement process as currently imagined, and common disparities in legal resources between housing providers and victims of discrimination. As such, funders that have recently articulated priorities in regards to racial equity should devote resources to collaborative efforts amongst the various housing advocates working to stem the tide of source of income discrimination in innovative, impactful ways.

Potential Victims of Housing Discrimination:

- ☐ Consider reporting suspicions you have about discrimination to the ERC or DC Office of Human Rights. If you are not interested in being involved with an investigation or enforcement action in relation to your claims, you can report your experiences in the form of a tip to the ERC. You can leave an anonymous tip through the ERC's website, www.equalrightscenter.org.