

# Puertas Cerradas

Housing Barriers for Hispanics





The National Council of La Raza (NCLR)—the largest national Hispanic civil rights and advocacy organization in the United States—works to improve opportunities for Hispanic Americans. Through its network of nearly 300 affiliated community-based organizations, NCLR reaches millions of Hispanics each year in 41 states, Puerto Rico, and the District of Columbia. To achieve its mission, NCLR conducts applied research, policy analysis, and advocacy, providing a Latino perspective in five key areas—assets/investments, civil rights/immigration, education, employment and economic status, and health. In addition, it provides capacity-building assistance to its Affiliates who work at the state and local level to advance opportunities for individuals and families.

Founded in 1968, NCLR is a private, nonprofit, nonpartisan, tax-exempt organization headquartered in Washington, DC, serving all Hispanic subgroups in all regions of the country. It has state and regional offices in Chicago, Los Angeles, Miami, New York, Phoenix, and San Antonio.

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Originally formed in 1983, the Equal Rights Center is a national non-profit civil rights organization dedicated to promoting equal opportunity in housing, employment, public accommodations, and government services. Based in Washington, D.C., with more than 6,000 members located in all 50 states, Puerto Rico, and the District of Columbia, the ERC works to identify, address, and remedy both individual instances of discrimination, as well as large-scale, systematic discrimination nationwide. The ERC's 30 years of service as a fair housing advocate has opened housing opportunities for tens of thousands of individuals.

At the core of the ERC's success in promoting civil rights is its three decades of experience in civil rights testing. Through a variety of innovative testing techniques, the ERC is a national leader in identifying and documenting differences in the quality, quantity, and content of information and services provided to individuals based on individual factors and characteristics. Through this testing process, the nature and extent of illegal discrimination can be ascertained. The ERC conducts hundreds of civil rights tests each year to educate the public and government officials about the discrimination still faced by many individuals across America.

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## Acknowledgments

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## Executive Summary

In the past few years, the Latino community in the United States has grown dramatically, all the while being subjected to ever-increasing hostility. With the federal government's continuing failure to pass comprehensive immigration reform, states and localities have played a more prominent role in immigration regulation. Various state and local lawmakers have pursued misguided solutions with piecemeal state-level immigration reform, exploiting the public's ambivalence toward immigrants.<sup>1</sup> By purportedly targeting undocumented immigrants, states are inviting discrimination against anyone perceived as being from another country or appearing different or "other." Given that 53% of foreign-born immigrants are Hispanic,<sup>2</sup> this approach has created a dangerous anti-Latino sentiment which contributes to a hostile environment that affects all aspects of community life, particularly the opportunity for equal housing.

The ability to obtain adequate and safe housing of one's choosing dramatically shapes an individual's or family's way of life, affecting all aspects including employment and educational opportunities, proximity to friends and family, access to public transportation, and commercial and government services. As a result, housing discrimination can have a wide-ranging negative and potentially devastating effect on communities that are subject to adverse and differential treatment. Knowing the historic role that institutional racial discrimination has played in segregating U.S. housing markets, new waves of national origin discrimination and intimidation against Hispanic families only serve to perpetuate the country's divisive past. Addressing the housing needs of Latinos will require attention to demographics and the impact that discrimination has on housing choices.

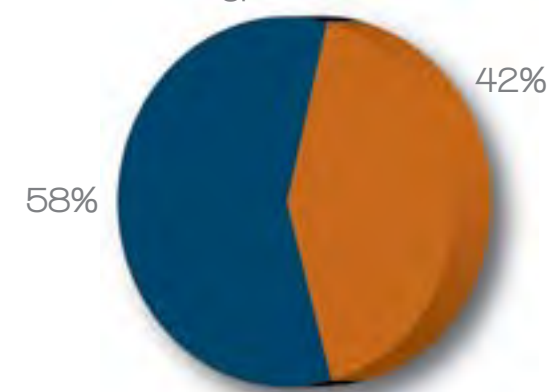
To assess the extent to which Latinos are subject to differential and adverse treatment when trying to secure housing in several Southern cities, National Council of La Raza (NCLR) and the Equal Rights Center (ERC) initiated a testing investigation in Birmingham, Alabama; Atlanta, Georgia; and San Antonio, Texas. A "matched paired" methodology was

used, in which an Hispanic and a White tester with nearly identical profiles in all meaningful respects, aside from their national origin, inquired about the same housing. A full description of the methodology is provided in the Appendix. In both San Antonio and Atlanta, the ERC conducted 50 phone tests and 25 in-person tests, in which trained ERC testers contacted real estate agents about buying a home that had an online listing. In Birmingham, the ERC conducted 75 in-person tests, in which ERC testers contacted housing providers about an apartment listed for rent.

In total, Latino testers experienced at least one type of adverse, differential treatment 42% of the time (95 of the 225 tests conducted), and two or more types of adverse treatment 16% of the time (35 tests) when compared to their White counterparts. Testers in the three cities experienced the following types of adverse, differential treatment:

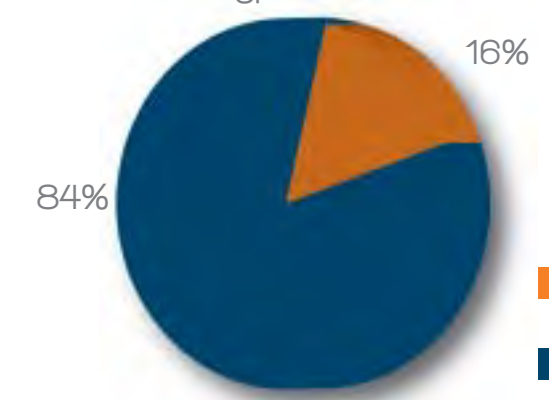
- Housing agents were less willing or receptive to schedule an appointment with Hispanic testers than they were with their matched White testers.
- Agents provided Hispanic testers with fewer options than their matched White testers in terms of other homes for sale or number of units available for rent.
- In sales tests, agents provided White testers with lender recommendations or other advantageous financing information that was not provided to their matched Hispanic testers.
- In rental tests, agents quoted higher fees, costs, and/or more extensive application requirements to Hispanic testers than to their matched White testers.
- Agents more frequently provided follow-up contact via phone or email to the White testers but not to their matched Hispanic testers.

Percentage of Latino testers who experienced at least 1 type of adverse treatment



■ Adverse Latino tester treatment  
■ No noticeable adverse treatment

Percentage of Latino testers who experienced 2 or more types of adverse treatment



■ Adverse Latino tester treatment  
■ No noticeable adverse treatment





## Background

The majority of growth in the U.S. population over the last fifteen years is attributable to racial and ethnic minority groups, including large Latino\* migration to “new gateway states,” such as those in the South and Midwest, and a significant growth in the native-born Hispanic population.<sup>3</sup> The growing presence of Latinos in these states has not only transformed them demographically and economically, but has also brought increased anti-immigrant sentiment, as reflected by the fact that several of the states with the fastest growing Hispanic populations have pursued the harshest anti-immigrant laws—South Carolina, Georgia, and Alabama.

As the debate over immigration reform intensifies, hostility toward Latinos in general has also increased. This hostility manifests itself in many ways, such as a dramatic rise in hate crimes targeting Latinos<sup>4</sup> and sensationalistic campaigns to promulgate anti-immigrant state and local legislation purportedly intended to target undocumented immigrants. Yet anti-immigrant laws affect more than just undocumented immigrants—attacks aimed at immigrants have been laden with racial overtones, and the consequences are felt well beyond those who are foreign-born. This hostility has led to the scapegoating and intimidation of immigrants, affecting many aspects of life—not just equal housing opportunities—and results in discrimination or differential treatment disparately affecting Latinos.

\* The terms “Hispanic” and “Latino” are used interchangeably by the U.S. Census Bureau and throughout this document to refer to people of Mexican, Puerto Rican, Cuban, Central American, South American, Dominican, Spanish and other Hispanic descent; they may be of any race. Further, unless otherwise noted, estimates in this document do not include the 3.7 million residents of Puerto Rico.

## The Rise in Anti-Immigrant Laws

With Congress’ inability to enact immigration reform at the federal level, states and localities have taken matters into their own hands, passing misguided anti-immigrant laws that have led to threats and attacks against Latinos, regardless of their immigration status, and have undermined Latinos’ trust of law enforcement and government.<sup>5</sup> For many Hispanics, discrimination based on national origin has become a common and accepted reality, which negatively impacts the social, cultural, political, and economic aspects of life in the U.S.

In 2006, the towns of Hazelton, Pennsylvania, and Riverside, New Jersey, ignited a trend of anti-immigrant local ordinances that made it illegal to rent to undocumented immigrants. In the five years that followed, more than 100 similar local ordinances sprang up throughout the country.<sup>6</sup> On a state level, Arizona has the unfortunate distinction of being the catalyst for the most recent wave of anti-immigrant state legislation. Arizona’s S.B. 1070 introduced the policy of “attrition through enforcement,”<sup>7</sup> seeking to establish conditions where immigrants would feel so unwelcome that they would “self-deport” or otherwise leave the state. While the Supreme Court struck down some of S.B. 1070’s harshest provisions in 2012,<sup>8</sup> it upheld the “show me your papers” portion, which authorizes law enforcement to demand papers proving immigration status or citizenship from anyone they stop and suspect of being in the U.S. unlawfully. Although this provision has only recently gone into effect, the practice essentially sanctions racial profiling against Latinos presumed to be “foreign” based on their physical appearance or accent.<sup>9</sup>

Arizona’s S.B. 1070 was “not a grassroots effort but a coordinated campaign involving several national organizations and figures in the anti-immigrant movement.”<sup>10</sup> After passage in 2010, S.B. 1070 changed the dialogue within many state legislatures, where a number of other states’ elected officials promised that they would introduce copycat legislation. Five states passed sweeping copycat laws in 2011,<sup>\*</sup> while many others considered or enacted specific state/local anti-immigrant provisions. Alabama, which saw a 145% increase in its Hispanic population from 2000 to 2010,<sup>11</sup> passed what was arguably a more draconian law than S.B. 1070, and Georgia’s state legislation copied Arizona’s “show me your papers” provision, effectively sanctioning racial profiling.

## Federal Fair Housing Act Protections

Counterbalancing the wave of state anti-immigrant measures are the well-established federal, state, and local civil rights laws that protect against discrimination based on national origin. The federal Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, national origin, religion, sex, familial status, or disability—and these statutory rights are available to all regardless of citizenship.<sup>12</sup> Housing

\* Those states include Alabama, Georgia, Indiana, South Carolina, and Utah. In addition to the Arizona case that went before the Supreme Court, the U.S. Department of Justice has challenged the Alabama, Georgia, South Carolina, and Utah laws.



discrimination can range from denying housing outright, to offering different terms or conditions when renting or buying a home, or to providing information that would amount to decreased availability or different terms or conditions. Adverse and differential treatment amounts to national origin discrimination when it is based on someone's actual or perceived birthplace, ancestry, culture, or linguistic characteristics identified as common to a particular group. In some instances, individuals are subject to discrimination based on a combination of categories protected by the Fair Housing Act, such as national origin, race, and color.<sup>13</sup>

All states, including the three tested in this report, have fair housing laws that provide, at a minimum, the same protections as the federal Fair Housing Act.<sup>14</sup> Nonetheless, housing discrimination persists on both individual and systemic levels. In 2012 alone, 28,519 housing discrimination complaints were filed with government agencies or a private fair housing organization, nearly 1,500 more than the number of complaints filed in 2011.<sup>14</sup> This number represents just the tip of the iceberg, as housing discrimination is vastly underreported due to a lack of awareness about fair housing rights and/or distrust in the system. In any given year, an estimated four million fair housing violations occur.<sup>15</sup>

Discrimination against Latinos comprises a significant portion of complaints reported and is believed to encompass a large number of unreported incidents. An investigation initiated by the ERC across the Commonwealth of Virginia found that Hispanic applicants seeking rental housing received more adverse treatment in at least one respect than their White counterparts 55% of the time.<sup>16</sup> This adverse treatment included being quoted higher rents or higher fees than White testers, offered later availability dates or fewer available units than those offered to White testers, told about additional application requirements (such as credit checks and/or providing a social security card) which were not told to White testers, and not being offered incentives and specials that were offered to White testers seeking the same housing, often when working with the same agent.<sup>17</sup> A prior ERC investigation in Frederick County, Maryland, found similar results, with 79% of Latino testers experiencing some type of disparate, adverse treatment when they sought rental housing.<sup>18</sup>

## Background on the Testing Locations

Based on this existing evidence of housing discrimination and anecdotal evidence from its network of affiliated community-based organizations, NCLR sought to learn more about the experience of Latino families when they look for housing in three Southern cities. With respect to the sales testing, NCLR was concerned that real estate agents could be steering Latino clients away from certain types of home financing and therefore sought more robust data on this issue by exploring the differences between a city with an established Hispanic population (San Antonio, Texas) and one with a newer Latino immigrant community (Atlanta, Georgia). NCLR selected Birmingham, Alabama, in part, to explore the impact of the state's notably harsh anti-immigrant law, H.B. 56, on the ability of Latino individu-

\* Some states provide additional protections, such as prohibiting discrimination based on sexual orientation, gender identity, or source of income.

als and families to secure housing. Due to the concern that the language within H.B. 56 explicitly discourages contracts with people who may be perceived as undocumented and would have a negative impact on rental transactions, Birmingham testing focused on rental housing rather than on sale properties.

The fair housing laws for all three states provide the same protections as the federal Fair Housing Act, with no additional protected classes aside from a local ordinance in San Antonio prohibiting housing discrimination based on age.<sup>19</sup> While having some minimal contact with NCLR Affiliates to assist with tester recruitment in the three cities, the ERC conducted the testing without any preconceived expectations regarding these locations.

### Atlanta, Georgia

The Atlanta-Sandy Springs-Marietta metropolitan statistical area (MSA)<sup>\*</sup> is the ninth-largest MSA in the U.S. While the city of Atlanta is a "majority minority" with African Americans constituting 54% of the population, the MSA in focus is 55% White. According to U.S. Census data, Hispanics comprised 5% of the city of Atlanta<sup>20</sup> and 10% of the MSA population in 2010.<sup>21</sup> While still a minority, there has been a notable increase in the percentage of Latinos in the region. Between 2005 and 2010, the Hispanic population in the Atlanta MSA grew 29%,<sup>22</sup> while the total population over the same five year period grew by only 7%. By comparison, the African American population grew by 12% and the White population\*\* decreased by nearly 7%.<sup>23</sup>

Atlanta's growing Latino population is consistent with statewide demographic changes. The Hispanic population in Georgia is the 10<sup>th</sup> largest in the nation, with 1.7% of all Latinos in the U.S. (approximately 856,000 individuals).<sup>24</sup> During a 10-year period, the Latino population in Georgia almost doubled, from just over 5% in 2000 to 8.8% in 2010.<sup>25</sup>

In 2011, Georgia was the first state to follow in Arizona's footsteps by enacting copycat legislation, H.B. 87. In addition to adopting similar provisions as found in S.B. 1070, Georgia's H.B. 87 imposed new hiring requirements for employers, increased penalties for workers convicted of using false identification to obtain work, and mandated criminal penalties for people who transport or harbor immigrants without legal status.<sup>26</sup>

### San Antonio, Texas

The San Antonio MSA is the third largest MSA in Texas, with a total population of 2.1 million according to the 2010 U.S. Census. San Antonio is also a "majority minority" city, with individuals of Latino or Hispanic origin comprising 54% (1.2 million) of the area's residents.<sup>27</sup> Between 2005 and 2010, the Hispanic population grew 17%, while the overall

\* Metropolitan Statistical Area (MSA) is a designation by the U.S. Census Bureau to characterize an urban area with adjacent communities having a high degree of social and economic integration with that core. For example, the Atlanta-Sandy Springs-Marietta MSA consists of 28 counties, with Fulton County (where Atlanta is located) at its center.

\*\* In these statistics, the U.S. Census Bureau recognized that people of Hispanic origin may be of any race. As a result, the White population data includes White Hispanics as well as White non-Hispanics.



population grew 13.4% and the White population shrank by 4.4%.<sup>28</sup>

Latinos have deep historic ties not just to San Antonio but to the entire state of Texas. While Texas has not passed any broad anti-immigrant legislation, the legislature considered an S.B. 1070 copycat as well as other anti-immigrant measures that exacerbate harassment, intimidation, and hostility toward Hispanic residents. At the local level, specific cities have actively pursued anti-immigrant measures, such as Farmers Branch, Texas, where a 2008 measure (which is currently being challenged in federal court) would require the city's building inspector to check the immigration status of any noncitizen seeking to rent an apartment, bar undocumented immigrants from rental housing, and revoke the rental licenses of landlords who knowingly allow undocumented immigrants to rent from them.<sup>29</sup> Hostility toward Latinos, particularly anyone who may be perceived as an undocumented immigrant, also resonates in political and socioeconomic arenas. This past June, an 11-year-old U.S. citizen of Mexican descent was invited by the San Antonio Spurs to sing the national anthem at a home game during the NBA finals. The boy, in homage to his heritage, dressed in a mariachi suit and immediately became the target of a racist barrage on Twitter.<sup>30</sup> Various tweets expressed negative opinions toward Latinos in the U.S., including comments such as, "How you singing the national anthem looking like an illegal immigrant?," "Why is a foreigner singing the national anthem. I realize that's San Antonio but that still ain't Mexico," and, "Who let this illegal alien sing our national anthem?"<sup>31</sup>

### Birmingham, Alabama

Birmingham is the largest city in Alabama. In 2012, the Birmingham-Hoover MSA had 1.1 million residents, 4% (49,000) of whom were of Hispanic or Latino origin.<sup>32</sup> While still a small percentage of the population, the Hispanic population grew by 75% (from 28,000 to 49,000) between 2005 and 2010, while the overall population grew by only 3.5%, the African American population grew by 3%, and the White population decreased by 1%.<sup>33</sup>

In June 2011, Alabama passed what is arguably the strictest anti-immigrant state law, H.B. 56.<sup>34</sup> Alabama's H.B. 56 includes provisions affecting law enforcement, transportation, employment, housing, and education. In addition to requiring police to make a reasonable attempt to determine the legal status of anyone they have "reasonable suspicion" to believe is unlawfully present in the U.S. during any legal stop, detention, or arrest, H.B. 56 makes it a misdemeanor for undocumented immigrants to fail to carry immigration documents and criminalizes business transactions with undocumented immigrants. The law also prohibits undocumented immigrants from receiving state or local public benefits, enrolling in or attending a public college, and seeking or performing work as an employee or independent contractor. Going further than Arizona's S.B. 1070, the law also prohibits landlords from renting property to undocumented immigrants; contracts in which one party is an undocumented immigrant and the other party has direct knowledge of this are deemed null and void in Alabama state court.<sup>35</sup> This last provision is extremely troublesome because it isolates undocumented immigrants from the protection of the state, making them even more vulnerable to exploitation, particularly when seeking employment and housing.

\* San Antonio's small African American population grew 15% this time period, but went from 6.5% to 6% of the MSA's total population.

## Testing Investigaton Results

In matched-pair testing conducted by the ERC in Birmingham, Atlanta, and San Antonio, Latino testers experienced at least one type of adverse, differential treatment in 95 of the 225 tests (42%) that occurred in the three cities.\* In both San Antonio and Atlanta, the ERC conducted 50 phone tests and 25 in-person tests, in which trained ERC testers contacted real estate agents about buying a home that had an online listing. In Birmingham, the ERC conducted 75 in-person tests, in which trained ERC testers contacted housing providers about an apartment listed for rent. Testers in the three cities experienced one or more of the following types of adverse, differential treatment:

- Housing agents were less willing or receptive to schedule an appointment with a Latino tester than they were with the matched White tester.
- Agents provided Latino testers with fewer options than the matched White tester in terms of other homes for sale or number of units available for rent.
- In sales tests, agents provided the White tester with lender recommendations or other advantageous financing information that was not provided to the Latino tester.
- In rental tests, agents quoted higher fees, costs, and/or more extensive application requirements to the Latino tester than to the matched White tester.
- Agents provided follow-up contact via phone or email to the White tester but not to the Latino tester.

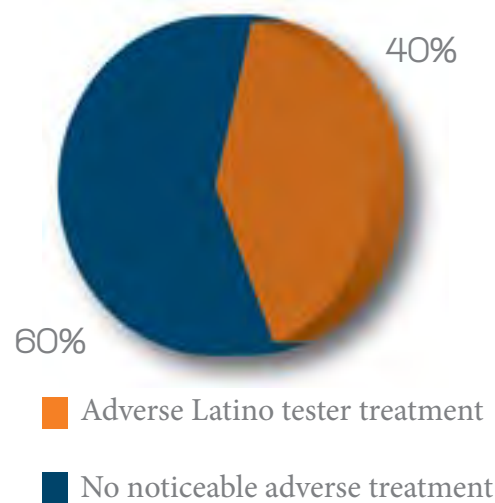
### Birmingham, AL, Rental Tests Results

In 30 of the 75 in-person rental tests (40%) conducted in Birmingham, the Latino tester was treated less favorably than the matched White tester. This disparate treatment included being informed of higher rents, additional fees, fewer available apartments, later apartment availability, and additional application requirements. In 18 tests (24%), the Latino tester experienced two or more forms of less favorable treatment, such as being told of fewer available apartments while also being told that the apartments were available at a later date.

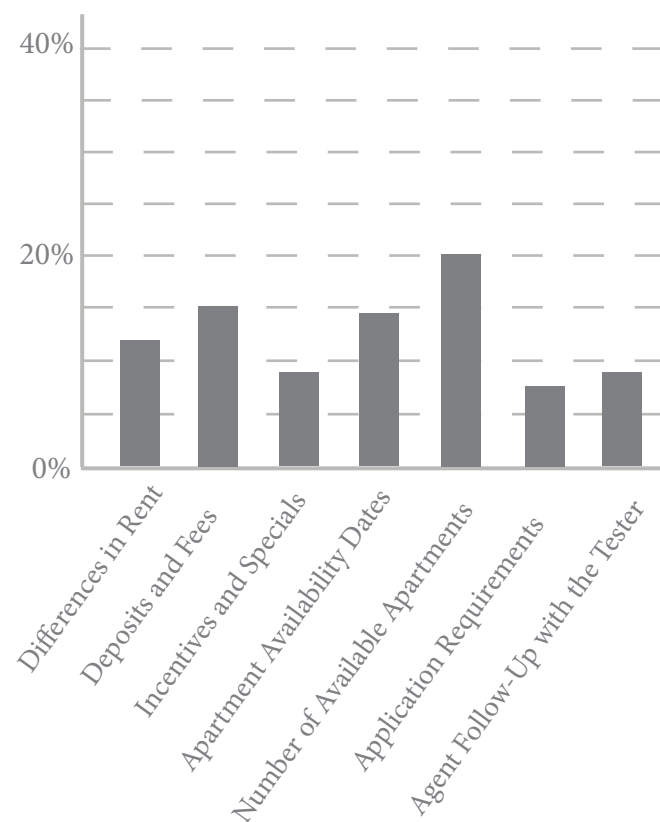
\* In matched-pair testing, the testing methodology was designed to portray the Latino (protected) testers as slightly more favorable potential buyers or tenants than their White (control) counterparts. For example, while trying to keep both testers in the same general financial position, Latino testers were always provided with slightly more favorable financial profiles than their matched White testers. As a result, there were some tests in which the Latino tester did in fact receive more favorable treatment than the matched White tester. For purposes of this report, instances of more favorable treatment of Latino testers were treated the same as instances of equal treatment.



Percentage of Latino testers who experienced at least 1 type of adverse treatment (Birmingham)



Percentage of adverse treatment experienced by type (Birmingham rental tests only)



### A. Differences in Rent

For the majority of prospective tenants, cost is the most decisive factor in determining whether to rent a unit. In nine tests (12%), rental agents quoted a rental amount at least \$10 lower to the White tester than was provided to the matched Latino tester.\* In five of these tests, the lower price was the result of an additional unit being offered to the White tester. In the other three tests, both testers were informed about the same number of units, but at least one was less expensive for the White tester.

### B. Deposits and Fees

Like rent rates, deposits and fees impact the affordability of a unit, and therefore the availability and desirability of the unit to a prospective tenant. In eleven tests (15%), the Latino tester was either told about a deposit or fee that was not required of the matched White tester, or was provided with a higher dollar amount for these costs.\*\* In one of these tests, the Latino tester was quoted a higher security deposit amount. In two tests, the Latino tester was not provided with the option of a cheaper security deposit, which was an option for the matched White tester. In four of these tests, the Latino tester was quoted a higher amount for an application or water fee than was the matched White tester. In the remaining four tests, the Latino tester was told about an application fee or a water fee that was not mentioned to the matched White tester.

### C. Incentives and Specials

Specials and incentives, such as offering a period of free or reduced rent, or waiving otherwise required fees, are often used by housing providers to induce a potential renter to make an immediate decision to

\* Rental cost differences of less than \$10 were not included as they may reflect a practice of daily fluctuating prices, and/or the failure of agents to recall each day's new rental price.

\*\* This calculation does not include tests where only the Latino tester was told about a deposit or fee, but where the matched White tester received written materials confirming the same price for that fee.

rent. In six tests (8%), White testers were informed of rental incentives and special offers that were not offered to the matched Latino testers. These specifically included offers of reductions in rent, waivers or discounts on fees, and shorter lease options.

### D. Apartment Availability Dates

Ensuring that a unit will be available when a prospective tenant needs to move is also a determining factor for applicants. Housing providers are able to subtly dissuade prospective tenants by suggesting that no units will be available in the timeframe requested, thereby encouraging the applicant to look elsewhere. In seven tests (14%), rental agents provided Latino testers with later availability dates than were offered to the matched White testers.

### E. Number of Available Apartments

Equal housing opportunity requires providing each similarly situated prospective tenant with the same number and range of options available for housing. However, in some instances, prospective tenants are only told about certain available units, as a means of “steering” them toward, or away from, certain sections of a building or property or keeping their options within a particular price range. In 15 tests (20%), the White tester was advised of more available units than were mentioned to the matched Latino tester.\* In three of these tests, the additional available units available were available sooner than the units shown or mentioned to the matched Latino tester. In four tests (including one of the three with a unit available earlier), at least one additional available unit mentioned to the White tester had a lower rent cost than the units discussed with the matched Latino tester. In one test, while both testers were told that there were no one-bedroom apartments at that property, only the matched White tester was informed of an available one-bedroom unit at a sister property.

### F. Application Requirements

The imposition of additional application requirements, such as a credit check or payment only by money order (rather than personal check), can be a strong deterrent to renting a particular unit and can act as a barrier to equal housing opportunity. In five tests (7%), the Latino testers were subject to an additional application requirement not required of the matched White tester. In four of these tests, the agent told the Latino tester, but not the matched White tester, that a credit check was required. In one of these tests, only the Latino tester was also told that valid identification was required. In another test, the Latino tester was provided with an additional handout discussing requirements related to citizenship or immigration status information, but this handout was not provided to the matched White tester.

### G. Agent Follow-Up with the Tester

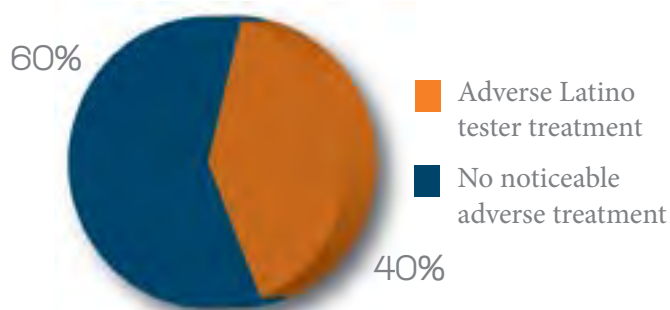
While not universal, some rental agents follow up with prospective tenants after the initial meeting to further encourage them to rent at their property. In six tests (8%), the same

\* Tests conducted with a gap in time of more than one day between the visits by the Latino and White testers were excluded from this category in that such a gap could account for the difference in number of units available.

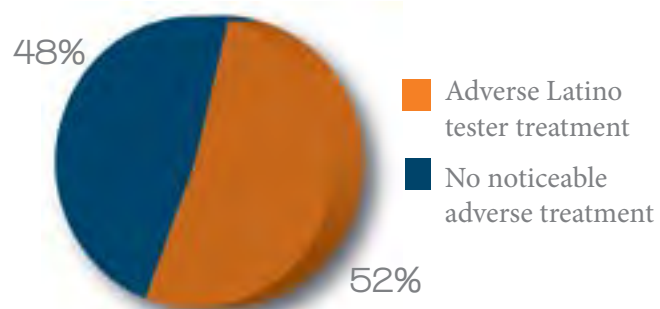




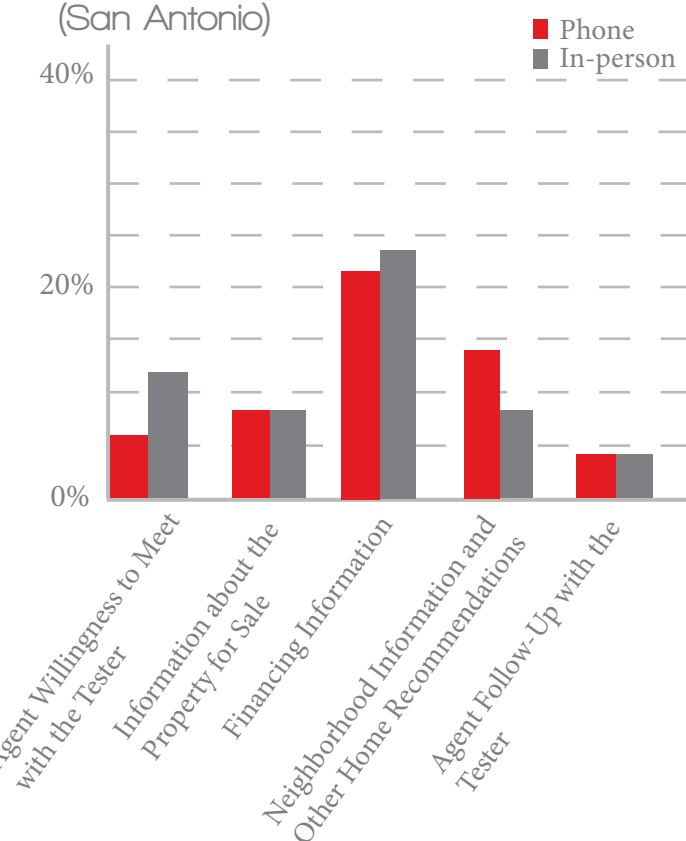
Percentage of Latino phone testers who experienced at least 1 type of adverse treatment (San Antonio)



Percentage of Latino in-person testers who experienced at least 1 type of adverse treatment (San Antonio)



Percentage of adverse treatment experienced by type (San Antonio)



agent followed up with the White tester after their meeting but did not do the same with the matched Latino tester.\*

## San Antonio, TX, Sales Tests Results

The ERC conducted 50 phone and 25 in-person matched-pair tests in San Antonio. In 20 of the phone tests (40%) and 13 of the in-person tests (52%), the Latino tester was treated less favorably than their matched White tester in at least one aspect. In three phone tests (6%) and four in-person tests (16%), the Latino tester experienced two or more forms of less favorable treatment than the matched White tester, such as being told of fewer available homes and being asked to provide more financial information.

### A. Agent Willingness to Meet with the Tester

In three phone tests (6%) and three in-person tests (12%), the Latino tester was subject to adverse, disparate treatment from the moment they sought connection with the agent. In two phone tests and three in-person tests, the Latino tester was referred to a Spanish-speaking agent, who seemed less familiar with the property and unable to provide the level of detailed information (such as the length of time the house had been on the market) provided to the matched White tester who spoke directly with the agent identified with the property. In another phone test, the rental agent offered to meet with the White tester but not the Latino tester, despite being told by both testers that they would “be in town the following week.”

\* This category excludes any test in which the two matched testers met with different rental agents.

### B. Information about the Property for Sale

Providing more information about a home, particularly its history on the market and pricing trends, can be very helpful for a prospective buyer in evaluating the property and encouraging them to make a bid. In four phone tests (8%) and two in-person tests (8%), the same rental agent provided only the White tester with advantageous information for placing a bid on the home.\* In two of the phone tests and in one in-person test, the White tester was told that the price of the home had been reduced to an amount lower than what was listed in the ad that both testers reviewed. This price reduction, however, was not provided to the matched Latino tester. In the remaining three tests, the agent provided the White tester with much more detailed information—the home was about to go into foreclosure, the agent was the owner of the home, and homes a few blocks away were priced substantially lower—which was not provided to the matched Latino tester.

### C. Financing Information

For many homebuyers, especially first-time homebuyers (the profile used in all testing here), financing is a critical factor in determining whether the prospective buyer can afford a specific home. In the San Antonio testing, financing was the most common source of adverse, differential treatment, occurring in 11 phone tests (22%) and six in-person tests (24%). Adverse, differential treatment with respect to financing was observed in the San Antonio testing in two different ways:

- When both testers requested financing information, the White tester received more information and recommendations about the lending process than the matched Latino tester; and
- The agent affirmatively asked the Latino tester more questions about his or her qualifications to purchase the home than were asked of the matched White tester.

In five phone tests (10%) and three in-person tests (12%), the agent provided the White tester with at least one recommended lender but did not provide any recommendations to the matched Latino tester, even when requested.\*\* In two of these phone tests and two in-person tests, the agent told the White tester, but not the matched Latino tester, that the recommended lender (often someone in-house) could help save on closing costs or fees. In another of these phone tests, in addition to providing only the White tester with a recom-

\* In several additional tests, the White tester was provided with additional advantageous information that could be attributable to either the testers meeting with different agents, or the possibility that an intervening price reduction took place between the two test parts. These tests were not included as adverse, disparate treatment, despite being advantageous to the White tester.

\*\* Instances where matched testers dealt with different agents who provided different recommended lenders were not included as adverse treatment here, with two exceptions. In two instances, matched testers spoke with different agents. While the White tester was told that an in-house lender was available, another agent from the same agency did not provide that information to the matched Latino tester even when it was requested.



mended lender, the same agent insisted that the Latino tester get pre-approved for a loan before viewing any homes, something not required of the matched White tester. In one in-person test, both testers disclosed that they would make a 20% down payment, but only the White tester was told about avoiding mortgage insurance with this level of down payment.

In four phone tests (8%) and two in-person tests (8%), the agent asked the Latino testers, but not the matched White testers, if they were “pre-qualified” or “pre-approved” for financing. In two phone tests (4%), the agent asked both testers about pre-approval but further questioned the Latino tester about their pre-approval or credit history, without any such inquiry or scrutiny of the matched White tester.

#### D. Neighborhood Information and Other Home Recommendations

Equal housing opportunity requires providing similarly situated prospective buyers with the same available options to meet their preferences and finances. However, in some instances, prospective buyers are only told about certain available homes as a means of “steering” them toward, or away from, certain homes or neighborhoods, or to limit their options to a particular price range; as a result, accessibility to services and community resources is affected.

In three phone tests (14%) and four in-person tests (8%), the same agent provided the Latino tester with less information about a neighborhood or offered different neighborhood recommendations than was provided to the matched White tester, or asked the White tester for information about neighborhood preferences without seeking this information from the matched Latino tester.\*

In one phone test (2%) and four in-person tests (16%), the same agent followed up with both of the matched testers after their initial contact. However, the agent provided information based on different search parameters, resulting in the Latino tester being provided with either fewer potential properties to review or alternately located properties compared to those provided to the matched White tester. In one phone test (2%), the agent gave unsolicited neighborhood recommendations to the White tester without any such suggestions for the matched Latino tester. In one phone test (2%), the same agent asked the White tester for their neighborhood preferences but did not seek that information from the matched Latino tester.

#### E. Agent Follow-Up with the Tester

In order to foster a relationship with a potential new client, real estate agents sometimes follow-up after an initial meeting by phone or email. In two phone tests (4%) and two

in-person tests (4%), the same agent provided greater follow-up to the White tester than the matched Latino tester.\* In one phone test and one in-person test, the White tester received email follow-up from the agent, but the matched Latino tester did not. In one phone test, the agent provided the White tester with follow-up that included additional property listings while emailing the matched Latino tester advising that it was “important to get prequalified” before they met. In one in-person test, although both testers met with the same agent, the Latino tester received follow-up from a different (Spanish-speaking) agent, while the matched White tester received follow-up from the agent originally met.

## Atlanta, GA, Sales Tests Results

The ERC conducted 50 phone and 25 in-person matched pair tests in Atlanta. In 21 of the phone tests (42%) and 11 of the in-person tests (44%), the Latino tester was treated less favorably than the matched White tester in at least one respect. In six phone tests (12%) and four in-person tests (16%), the Latino tester experienced two or more forms of less favorable treatment, such as being told of fewer available homes and being asked to provide more financial information.

#### A. Agent Willingness to Meet with the Tester

Unlike in San Antonio, Latino testers in Atlanta were not typically referred to Spanish speaking agents. However, in three in-person tests (12%), the initial agent referred the Latino tester to a different agent for the appointment, despite being available to meet with the matched White tester during the same time period. In two of these tests, the agent who subsequently met with the Latino tester only showed the listed property, while the matched White tester was shown additional properties, resulting in appointments that lasted two to three times longer.

#### B. Information about the Property for Sale

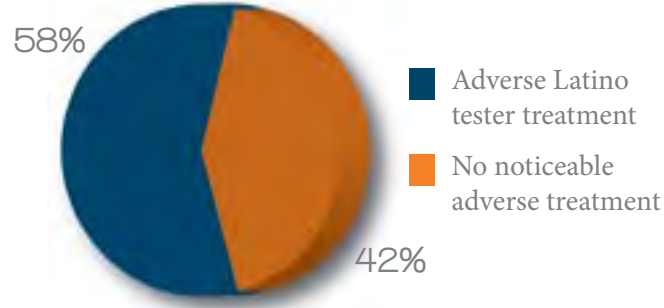
Availability, price, and related costs for a home are arguably the most critical factors weighed by a prospective buyer. In two phone tests (4%) and one in-person test (2%), the White tester was given information about the property availability and costs that was not provided to the matched Latino tester. In one phone test, the White tester was told that the price of the home had been reduced, while the same agent did not provide this information to the matched Latino tester. In another phone test, the agent told the Latino tester that the home was under contract, while a colleague of the first agent confirmed to the matched White tester the following day that the home was still available. In one in-person test, both testers met with the same agent who told the White tester about a homeowners association (HOA) and associated HOA fees, but did not provide this information to the matched Latino tester.

\* Because of variances in neighborhood recommendations that may come from different agents, irrespective of a potential buyer’s national origin, no tests in which the testers ultimately spoke with different agents were included here.

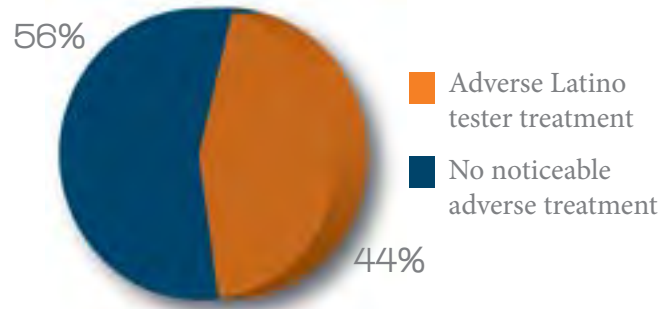
\* In addition to excluding all tests where no follow-up was provided to either tester, only tests in which both testers saw the same real estate agent were included in this category.



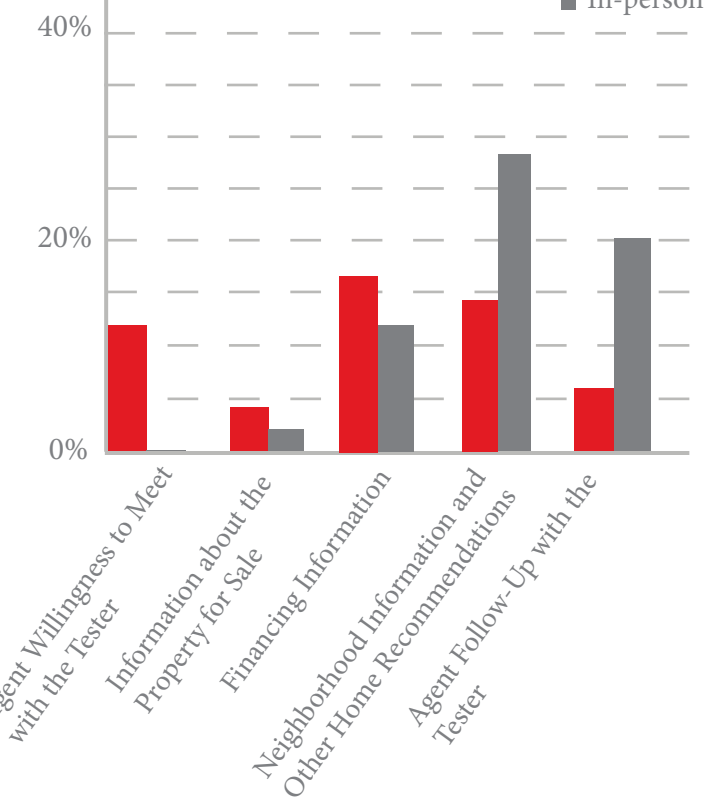
Percentage of Latino phone testers who experienced at least 1 type of adverse treatment (Atlanta)



Percentage of Latino in-person testers who experienced at least 1 type of adverse treatment (Atlanta)



Percentage of adverse treatment experienced by type (Atlanta)



### C. Financing Information

In Atlanta, Latino testers were treated with more skepticism or were subject to greater inquiry with respect to pre-qualification or approval in eight phone tests (16%) and three in-person tests (12%). In four of these phone tests and one of the in-person tests, the Latino tester, but not the matched White tester, was asked if they were “pre-qualified,” “pre-approved,” or had already spoken with a lender. In one phone test, the same agent told the Latino tester that pre-approval was required to see the home, a restriction not placed on the matched White tester. In three phone tests and two in-person tests, the agent inquired of the Latino tester about their credit and/or employment history but did not make such inquiries of the matched White tester. In two phone tests and one in-person test, the agent asked the Latino tester if he/she intended to pay for the home “in cash,” or would be seeking financing. Such inquiries were not made by the same agent of the matched White tester.

Separate from any inquiry by the agent about the testers’ pre-qualification or pre-approval status, the testers did request lending recommendations; the agent provided more information of this type to the White tester than the matched Latino tester in seven phone tests (14%) and four in-person tests (16%). In three of these phone tests and two of the in-person tests, the same agent provided the White tester, but not the matched Latino tester, with a recommended lender, even though both testers asked about the lending process. In one phone test, the agent referred the Latino tester to a lender with a Spanish surname, while the matched White tester was given a different lender contact. In two phone tests and two in-person tests, the agent gave the White tester advice about the lending process, such as when to have his credit score run, what to include with the application, the value of comparing multiple lenders, and alternative financing options. This information was not provided to the matched Latino tester. In one phone test, the Latino tester was told “you are going to be asked to submit your papers and your income and the more honest you are the more chance you will

have to get a loan, you know because sometimes people [are] not completely honest and they do not make what they say the[y] make in terms of money.” This type of admonition was not given to the matched White tester.

### D. Neighborhood Information and Other Home Recommendations

In seven phone tests (14%) and seven in-person tests (28%), the same real estate agent provided more information or otherwise further engaged the White tester on neighborhood and home recommendations than the matched Latino tester. In two of these phone tests and three of the in-person tests, the same agent recommended searching other neighborhoods for a home to the White tester, but did not do so with the matched Latino tester. In five phone tests and in one in-person test, the same agent met with both testers, but only asked the White tester for any neighborhood and/or school district preferences. In three in-person tests, the agent gave the White tester useful information about the neighborhood, information that was not shared with the matched Latino tester.

### E. Agent Follow-Up with the Tester

In three phone tests (6%) and five in-person tests (20%), both testers met with the same agent but only the White tester received email follow-up.\* In two of the phone tests and three in-person tests, the White tester received email follow-up with additional home recommendations, but the matched Hispanic tester was not provided with this information. In one phone test and two in-person tests, only the White tester received email follow-up that included recommendations for lenders.

\* While both testers initially tried to make appointments with the same agent, this category does not include any follow-up from tests where the testers ultimately met with different agents.



## Discussion

Whether trying to rent, buy, lease, sell, or finance a home, Hispanics and other ethnic groups often face obstacles and roadblocks to equal housing. The findings from this testing investigation reinforce much of the existing research on the disparate treatment of Latinos in the rental and sales markets. Because discrimination does not always present itself so maliciously or obviously as it does in the case of restrictive ordinances and state laws, “secret shopper” testing is an important tool to understand if certain protected classes are being subjected to disparate treatment. The ERC’s testing results reveal important trends regarding Latinos’ experience when trying to secure housing in Birmingham, Atlanta, and San Antonio. This section reviews key issues found during the investigation.

- **Potential Hispanic homeowners continue to experience discrimination when looking to buy.** Experts predict that by 2020, nearly half of first time home-buyers will be Latino.<sup>36</sup> According to the U.S. Department of Housing and Urban Development (HUD), an estimated one in four Hispanic renters, and one in five Hispanic homebuyers, is likely to face some type of discrimination in the home search.<sup>37</sup> Our Atlanta and San Antonio testing confirmed that Latino testers were more likely than similarly-situated White testers to experience disparate treatment when trying to buy a home. In many of the tests Hispanic testers did not receive information that could have made their home search easier and more accessible, such as advantageous financing information and information about other potential homes. For example, in the San Antonio sales tests, the Latino tester experienced differential treatment.
- **A tumultuous housing market has led to a destructive rental housing market.** Similar to a 2009 investigation by the Southern Poverty Law Center in which a survey of 500 Latinos in five southern states indicated that 70%



reported experiencing racism when looking for housing,<sup>38</sup> our testing revealed a high rate of disparate treatment in the rental tests. In nearly a quarter (24%) of the rental tests conducted in Birmingham, the Hispanic tester experienced two or more forms of disparate treatment when attempting to secure rental housing. A June 2013 HUD study found that in 8,000 tests, Latino renters learned about 12.5% fewer available properties, and were shown 7.5% fewer housing units than White renters.<sup>39</sup> Given that Latino families comprise 42% of the rental market<sup>40</sup>—a number that has grown dramatically during the foreclosure crisis—the rental market needs to adapt to ensure that Hispanics are not receiving disparate treatment, particularly around availability and desirability of a unit.

- **Longstanding Latino presence in a community is not a certain predictor of equal treatment.** NCLR hypothesized that in an established Hispanic community, disparate treatment by national origin would not be as prevalent. However, this was not the case in San Antonio. Specifically in the in-person tests, Hispanic testers experienced discrimination than in the other two cities—during 52% of the in-person tests in San Antonio, as compared to 44% in Atlanta and 40% in Birmingham. Although Texas has not experienced the same level of statewide anti-immigrant attacks, this disparate treatment suggests that the anti-immigrant environment felt elsewhere is affecting Latino families nationwide.
- **Piecemeal state immigration legislation creates conflict with federal immigration law as well as federal Fair Housing laws.** The Supreme Court ruling in *Arizona v. United States* found that much of S.B. 1070 was pre-empted by federal immigration law. The same is likely true of the rental restrictions in Alabama’s H.B. 56, which are superseded by the national origin discrimination protections in the Fair Housing Act. Landlords are ill-equipped to determine the immigration status of their tenants, and they may simply turn away minority individuals to avoid renting to anyone they believe to be an immigrant and risk being subject to penalties—virtually guaranteeing wholesale discrimination based on national origin.
- **As Congress debates immigration reform, the possibility of national origin housing discrimination is likely to increase.** With the passage of any type of immigration reform, immigrant families will be in transition, and there is likely to be widespread confusion about how to best integrate immigrants and prevent housing and other types of discrimination. Particular attention and scrutiny should be paid to cities and states that have previously launched anti-immigrant initiatives, including those with anti-immigrant rental laws and those that have been hotbeds of hate crimes. These places have already demonstrated anti-immigrant sentiment and may not be prepared to integrate new Americans into their communities, particularly if new federal immigration law is in conflict with existing state laws or local rental ordinances.

## Recommendations

It is critical to protect the rights of all residents under the Fair Housing Act and local fair housing laws, particularly in the wake of changing demographics and while Congress considers significant changes to our federal immigration laws. Our nation requires a just housing system that acknowledges and supports each individual’s right to live where he or she chooses and provides for effective enforcement on behalf of victims of discrimination. When Latinos have fair and equitable access to housing choices, they are able to create wealth and give back to their communities. Despite this truth, there has not been a coordinated fair housing response to the attack on immigrant—and by extension Hispanic—households. An effective response requires contributions from nonprofit organizations at the local, state, and national levels, from the federal government and the various funding streams under its control, and from local government agencies. In particular, the nation’s changing demographics pose new challenges that will require HUD to adapt its fair housing outreach and enforcement models. To foster this change, NCLR and ERC make the following recommendations:

- **Increase funding for public awareness campaigns and immigrant-specific outreach on fair housing issues.** Estimates put the number of fair housing violations at four million annually, yet in 2012, HUD received only 8,803 reported housing discrimination grievances.<sup>41</sup> Members of NCLR’s affiliated community-based network report that many of their clients encounter housing bias but do not recognize it as discrimination and thus are reluctant to report it. As such, fostering a well-informed community is a critical aspect of the broader strategy to defend housing rights. More funding is needed to help Latino-serving organizations develop outreach and awareness campaigns to educate the public about the protections afforded by the Fair Housing Act, information on how to report fair housing violations, and the impact of housing discrimination on communities, particularly those that have experienced anti-immigrant local ordinances or state legislation. In addition, more funding is needed to enable agencies with fair housing expertise to broaden their scope and incorporate immigrant-specific outreach efforts with bilingual and culturally competent staff.
- **Increased partnering with local Latino service-providers that can gather real-time evidence for enforcement in specific high-impact localities.** Hispanic community-based organizations are trusted sources of information that have the cultural competency to reach their community, and HUD should adjust its grant-making approach to be more inclusive of these community-based resources. Based on NCLR’s analysis of fair housing grants made between 2006 and 2010, only 13% of HUD’s enforcement budget is disbursed to organizations that clearly state Latinos or immigrants as a target audience under their grant.<sup>42</sup> In addition, funding directed at Hispanic-serving organizations

through HUD’s Fair Housing Initiatives Program remains disproportionately small, with most of that funding earmarked for outreach and education. HUD should ensure that funding for, and partnerships with, local Hispanic-serving organizations covers not only fair housing outreach but also enforcement activities.

- **Enforce penalties when fair housing discrimination occurs.** Several U.S. government agencies, including HUD and the U.S. Department of Justice (DOJ), have a variety of tools in their arsenals to combat restrictive ordinances that impact Latino families. HUD Secretary-initiated actions are a particularly important tool in this context, especially since effective outreach activities could be undermined by a lack of enforcement. Absent a robust enforcement system, those that violate fair housing laws have little incentive to put fair renting and sales practices in place. A stronger enforcement system would ensure support for rigorous testing initiatives, as well as a national scorecard on the nation’s largest real estate firms, lenders, broker houses, and insurance agencies.
- **Proactively promote fair housing choice.** Under its oversight of federally funded jurisdictions to “affirmatively further fair housing,” HUD should increase targeted outreach to municipalities that pass discriminatory, anti-immigrant ordinances, and assess the extent to which they are in fact “affirmatively furthering fair housing,” including the extent to which they are meeting their obligation to improve language access for Limited English Proficient (LEP) individuals.\*\* Further, actually withdrawing Community Development Block Grant (CDBG) funds in the appropriate circumstances would highlight the importance of the issue and HUD’s commitment to compliance.
- **Build coalitions that include both immigration and fair housing advocates.** The fair housing and immigrant rights movements tended to develop as separate forces. Fair housing organizations have not necessarily done enough to address the needs of immigrants, and immigration advocates have been similarly slow to incorporate fair housing as a tool to fight back against the anti-immigrant movement. By joining forces, we can overcome the discriminatory rhetoric that generally creates a hostile environment for immigrants, and in particular, constructs roadblocks to equal housing opportunities.

\* The Fair Housing Act (42 U.S.C. 3608 (d)) requires executive departments and agencies to “administer their programs and activities relating to housing and urban development (including any federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of [the Fair Housing Act].”

\*\* State and localities that receive federal grants are subject to this requirement, according to Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency” (August 11, 2000).



## Appendix—Testing Methodology

In collaboration with NCLR, the ERC designed and conducted two types of civil rights testing to examine how housing providers and their agents treated Latino home-seekers as compared to their White counterparts. In Birmingham, Alabama, testing focused on the rental housing market; in Atlanta, Georgia, and San Antonio, Texas, testing focused on the home sales market.

In both these types of testing, “matched-pairs” of Latino and White testers were given similar, but not identical, personal and financial profiles including occupation, income, and rental and credit history. All testers were assigned a telephone number and an email address to provide as their contact information to housing providers and real estate agents. To the extent that the testers’ profiles varied (except with respect to national origin), the Latino tester was given more attractive attributes than the White tester, such as a slightly higher annual income, better credit score, or higher rental price range. This was done to maximally reduce the number of potential reasons (actual or perceived), other than national origin, why Latino testers might receive more adverse treatment than their White counterparts.

For all testing, testers were primarily recruited from the tested region, and underwent extensive training in both the classroom and the field. Test pairs were either male or female, with gender consistent within matched pairs; for example, the Latino tester and White tester were both male or were both female within a given test. Each profile was designed to be appropriate for the house listed (tester income met sales requirements).

All testers used in the ERC’s testing—both Latino and White—were lawfully present in the United States at the time of testing. If the immigration status of the Latino tester was questioned during a test, the tester was instructed to confirm his status as a documented resident and/or U.S. citizen.

### Rental Testing Methodology (Birmingham, Alabama)

In order to examine whether housing providers and rental agents in the Birmingham, Alabama, metropolitan area provide equal treatment and information to Latino applicants and their White counterparts, the ERC conducted 75 matched-pair, in-person civil rights tests of multi-family properties that had at least one unit advertised for rent.



Shortly before each rental property was tested, an “advance caller” contacted the property to inquire about the actual availability of apartments for rent, rental prices, and the application process. Testers were each provided with a unique telephone number and email address to provide to agents on their tests. Once availability was confirmed, testers posed as prospective renters using their assigned profiles. The matched-pair testers visited each test site at reasonably spaced intervals to seek information about housing options, cost, terms, and conditions. Testers were instructed to request the agent’s business card and rental application and to retain any promotional materials and handouts provided by the agent.

Testers recorded their experiences on individual report forms immediately after the completion of each test. These forms elicited information about housing availability, cost, application requirements, and specific terms and conditions discussed by the agent and tester. Testers also completed a written narrative of their test experience, which captured information about the test in a chronological fashion and included qualitative details not captured in the test report form. In addition to the report form and a narrative, all handouts provided to testers were also submitted and analyzed by the ERC. The ERC also monitored the testers’ assigned email and voicemail accounts for a minimum of two weeks after each test was completed in order to compare the amount of follow-up a tester received after the initial visit to the property.

## Sales Testing Methodology (Atlanta, Georgia and San Antonio, Texas)

In both Atlanta, Georgia, and San Antonio, Texas, the ERC conducted 25 in-person matched-pair sales tests and 50 telephone tests to investigate the treatment of Latino individuals as they looked to purchase single-family homes in these metropolitan areas. In each city, the ERC conducted demographic research to identify the dominant real estate companies operating in each market, and selected for-sale properties listed by these companies.

### A. In-Person Testing Methodology

In-person tests relied on a “quasi-relocation” methodology. Testers posed as current renters who had relocated to the area from outside the state within the past year and were looking to purchase their first home.\* In all profiles used for sales tests, the tester was married, and in any given test pair, both testers had the same number of children of approximately the same ages.

Testers contacted listing agents who had advertised properties for sale, then attempted to schedule an appointment to view the listed home. Testers presented themselves as willing to reside in any part of the community, and both testers were instructed to state that they worked primarily from home should an agent ask the tester if he or she needed to seek

\* A quasi-relocation methodology allowed for testers to use their actual neighborhood as the current address while still gathering detailed information from real estate agents about the communities in which they seek a home, including recommendations for other neighborhoods.

housing close to work.

During each test, testers sought information about housing availability, cost, terms, and conditions. Testers were instructed to request the agent’s business card and to retain listing and promotional materials for each viewed property, as well as any property the agent suggested. In accordance with the test profile, if asked about loan “prequalification” or “pre-approval,” testers were instructed to say that they were prequalified by a bank designated in their profile, but to ask the agent for other lender recommendations. Before each test concluded, if the agent did not volunteer to show the tester additional houses or to email the tester a list of additional houses, testers were instructed to ask if the agent would email a list of homes similar to the advertised property.

At the conclusion of each test, testers recorded their experiences on individual report forms that elicited information regarding housing options, cost, financing, and other home or neighborhood recommendations. As in the rental testing, the report form was supplemented by a written narrative that documented the test in a chronological fashion and allowed the tester to include qualitative details that may not have been captured in the report form. All promotional materials given to testers were also submitted and analyzed by the ERC. ERC staff monitored testers’ email and voicemail accounts for at least two weeks after each test to measure the level of follow-up provided by the real estate agent after the initial appointment.

### B. Telephone Testing Methodology

Telephone testing in Atlanta and San Antonio also relied on a relocation methodology. Testers posed as renters from outside the metro area being tested, who were moving into the area and looking to purchase their first home. This relocation methodology allowed testers to gather information on the telephone that would generally be provided in person. It also enabled testers to gather more detailed information from real estate agents about the communities where they were seeking a home, allowing the ERC to better assess whether testers were being “steered” into or away from certain properties or neighborhoods.

As in the in-person testing, telephone testers contacted the listing agent for homes advertised for sale through an online site. In addition to inquiring about the availability of the advertised home, telephone testers asked for recommendations of other homes in their stated price range and also for possible lenders. Testers did not express a preference for any neighborhood or area. Testers concluded the call by asking the realtor about next steps to be taken; if an appointment was scheduled, the tester canceled the appointment several days later.

After each telephone call, testers completed a report form and a narrative that included information such as houses suggested by the realtor/listing agent, alternative financing suggested, and a brief account of the tester’s experience. The ERC monitored testers’ email and voicemail accounts for at least two weeks to track follow-up communication from the agent.



# Endnotes

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