

**Summary of Findings**  
**Senior Housing Research Project**  
**The John Marshall Law School Fair Housing Legal Support Center**

The John Marshall Law School Fair Housing Legal Support Center and Clinic (“JMLS”), through a one-year grant from the Retirement Research Foundation, has initiated a Senior Housing Discrimination Research Project (“Project”) to research problems involving the right of seniors to be free from discrimination in housing, particularly regarding race, national origin, and disability. That grant ends on September 30, 2007, and the final report is due on November 1, 2007. This presentation will provide some of the results of the Project and identify areas where further study, outreach and education, and enforcement are warranted. The Project sought to identify significant issues that seniors face as they attempt to access and/or “age in place” in communities marketed specifically to seniors. As part of the study, the Project reviewed relevant Illinois and federal statutory provisions; conducted surveys of seniors and senior organizations in the Chicago Metropolitan area, and of commissioners with state and local human relations commissions nationwide; conducted matched tests of senior housing providers in the Chicago Metropolitan area; and reviewed the senior housing providers’ marketing materials.

**Methodology**

As previously noted, the Project consisted of five principle parts.

First, the Project conducted a review of Illinois statutes and regulations relative to senior housing providers, as well as any pertinent Chicago ordinances. Of course, the federal Fair Housing Act and relevant case law was reviewed. The Project did not review any of the surrounding suburbs’ ordinances.

Second, the Center developed a senior survey to ask seniors what they want and look for in housing and their general awareness of the fair housing laws. The survey was completed by 360 senior citizens. The surveys were disseminated through group facilitations and mailings to senior centers in the City of Chicago, Suburban Cook County, Lake County and Northwest Indiana. Eleven senior centers participated with four of the senior centers taking the survey via on site facilitations and seven senior centers receiving the surveys via the mail. A representative of the Project went to the four senior centers and provided a brief overview of the project to the seniors for the on site facilitations. The Project sent surveys to seven senior centers.

Third, the Project has also developed a senior organization survey. Nine senior organizations in the Chicago Metropolitan area participated in this survey and 33 individuals from those organizations completed the survey. The Project sought to obtain these individuals' knowledge and observations of what they think seniors feel about issues related to living in the Chicago area; to better assess what seniors want and prefer in housing alternatives; and to allow the United States the opportunity to adequately prepare for the current and future senior population as it inevitably becomes a larger and more influential part of our society

Fourth, the Project conducted 60 matched tests at senior housing facilities without services, assisted living facilities, and continuing care retirement communities focusing on race, but also testing on disability. The testers were paired according to either race or disability. For racial tests, one Caucasian tester was paired with one African-American tester, keeping gender constant. For disability, one non-disabled individual was paired with a disabled individual, keeping race and gender constant. HUD testing guidelines provide suggestions about inserting disability into testing. As such, this Project provided an opportunity for the Clinic to develop a better model for disability testing.

Fifth, the Project reviewed printed and online advertising materials from senior housing providers in order to determine whether the facilities advertising materials complies with 42 USC 3604(c).

The Project was an ambitious undertaking. As such, we acknowledge that there were a number of lessons learned along the way. All of the components were administered concurrently for the most part. The Project was operating under a relatively short timeframe with finite resources. In retrospect, some of the Project's components should have been staggered. It might have been better to conduct the statutory survey first, followed by the senior survey, and then followed by the matched tests. Had the testing been deferred, the Project would have had a better grasp of the specific issues to be focused on in testing for discrimination against persons with disabilities. However, the Project is now poised to develop a better model for disability testing based on the results of the several components in this study.

#### **Findings on discrimination against persons with disabilities in senior housing**

The Project conducted seven matched tests for disability discrimination. Four of the matched tests demonstrated some preference for the nondisabled tester. There were five tests where both tester met with the same agent. There were two senior housing facilities without services, where the testers met the same agent; and at one of these facilities, there was some

evidence of preference for the nondisabled tester. There were three assisted living facilities, where the testers met the same agent; and at two of these facilities, there was some evidence of preference for the nondisabled tester. None of the continuing care retirement community testers met the same agent.

We also note that approximately 25 percent of the respondents to the senior survey indicated that they had been the victims of some form of housing discrimination. Approximately 15 percent of these affirmative responses indicated that they suffered housing discrimination based on disability. An interesting finding was that the survey revealed that roughly 25 percent of respondents indicated that they had a disability and around 17 percent of respondents indicated that someone in their household had a disability. This finding led the Project to ask two questions about potential discrimination based on disability: 1) would disabled seniors who do not consider themselves disabled feel welcome at a senior facility that advertised for “active seniors,” and 2) even if seniors are aware of their disabilities, do they still consider themselves to be “active”? The senior survey did not address these questions, but the Project would address these questions in future surveys.

With respect to the senior organization survey, accessibility was a prevalent answer given by respondents to the open ended survey questions: “What do you perceive are the major issues that seniors face as a result of aging in our society?” and “What do you perceive are the two most important housing related issues for Chicago-area seniors?” One-third of respondents perceived seniors with a physical or mental disability were less than 50 percent of the population. Two-thirds of respondents perceived that more than 50 percent of seniors had a mental or physical disability.

The advertising survey provided some interesting results with respect to bias against disabled individuals. Approximately 18 percent of the printed materials contained an improper residency requirement, and approximately 13 percent of the websites contained an improper residency requirement. Typically, this was some sort of independent living requirement or a required physical (or mental) examination. We did not consider that the use of the words “independent” and “active” alone was illegal. The context of the communication was important. For example, there is a distinction in saying that “this is an independent living facility,” and that “you must be able to live independently.” In terms of the survey, it might have been interesting to have structured some multiple choice questions to see how seniors interpret these terms and to

determine if seniors with disabilities are deterred from housing developments that advertise “active” or “independent” living environments.

Approximately 63 percent of the printed materials and 79 percent of the websites failed to include any disabled human models, as well as referred to “active lifestyles,” which could well be interpreted as a preference for nondisabled individuals.

### **Findings on discrimination on the basis of race and national origin in senior housing**

Overall, 49 percent of the facilities demonstrated some preference for the Caucasian tester. Our conclusions on preferences were based on HUD’s “Checklist of Indicators for Unequal Treatment.” Significantly, testers were given tours by the same agent at 19 of the senior housing providers. There were six senior housing facilities without services, where the testers met the same agent; and at four of these facilities, there was some evidence of preference for the Caucasian tester. There were seven assisted living facilities, where the testers met the same agent; and at five of these facilities, there was some evidence of preference for the Caucasian tester. There were six continuing care retirement communities, where the testers met the same agent; and at two of these facilities, there was some evidence of preference for the Caucasian tester.

As previously mentioned, approximately 25 percent of respondents to the senior survey indicated that they were the victims of some form of housing discrimination. The most prevalent type of housing discrimination indicated by respondents was race. Approximately 25 percent of affirmative respondents indicated that they had suffered housing discrimination based on race. Most male respondents complained of race (36 percent), while most female respondents complained of discrimination on the basis of having children less than 18 years of age (30 percent). Approximately 14 percent of those affirmative respondents indicated that they had suffered housing discrimination on the basis of national origin.

None of the senior organization respondents listed race or national origin discrimination to the open ended survey questions: “What do you perceive are the major issues that seniors face as a result of aging in our society?” and “What do you perceive are the two most important housing related issues for Chicago-area seniors?” with one respondent answering “discrimination in housing” to the first question. Approximately 12 percent of respondents indicated that they believed that discrimination was a primary issue in senior housing.

Approximately 22 percent of the printed materials used all (or nearly all) white human models, and approximately 39 percent of the websites used all (or almost all) white human models.

### **Enforcement of the fair housing laws as they relate to seniors**

Approximately nine percent of seniors, who indicated in the senior survey that they had suffered housing discrimination, took some action to address it. With respect to age, no respondents over the age of 75 took any action (two age sub-categories). However, 15 percent of respondents aged 55-64 and 16 percent of respondents aged 65-74 indicated that they took some kind of action. Male respondents (11 percent) were more likely than female respondents (five percent) to take some kind of action. Approximately 12 percent of white respondents and 11 percent of Hispanic respondents indicated that they took some kind of action. Around five percent of black respondents took some kind of action in response to alleged discriminatory conduct involving housing.

Approximately 83% of respondents indicated that they were aware that a landlord must make changes in its rules and policies when necessary for a disabled tenant to fully enjoy the residence, which correctly states the law. However, around 66 percent indicated that they thought a landlord did not have to allow structural changes for a disabled tenant if the tenant paid for the changes, which is not the correct legal rule and the misinformation could seriously impact on the quality of housing for seniors with disabilities.

Approximately, 60 percent of respondents indicated that they would file a housing discrimination complaint while the remaining 40% indicated that they would not file a complaint because of perceived costs, lack of result, fear of reprisal, or length of litigation. Around 76 percent of respondents indicated that they believed that it is somewhat costly or costly to file a housing discrimination complaint.

With respect to the senior organization survey, approximately 85 percent of respondents believed that less than 25 percent of seniors have a general knowledge of fair housing laws with 94 percent of respondents indicating that less than 50 percent of seniors have a general knowledge of fair housing laws. Approximately 94 percent of respondents believed that less than 25 percent of seniors are aware that they can file a fair housing complaint with HUD. Approximately 10 percent of the respondents indicated that their agencies participate in regular fair housing educational programs and around 91 percent of respondents indicated that their agencies would be interested in having a presenter on fair housing issues facing seniors.

One agency representative indicated that seniors may not file complaints because if they are denied housing based on discrimination the need to find alternative housing outweighs the need to pursue a discrimination complaint, assuming that the senior is aware they have been discriminated in the first instance. Another agency representative indicated that their agency recently settled a case with an independent living facility because certain common areas were not accessible. The case involved an establishment that offered fishing access for its residents. However, there were no concrete paths or landings for disabled tenants to gain access to the lake in order to be able to fish. The case was settled and the facility did extend sidewalks and provide landing areas so all residents could equally enjoy the fishing privileges.

### **The Statutory Survey**

The survey of Illinois statutes and Chicago ordinances show very little emphasis on the fair housing laws, and some of the statutes, particularly those related to assisted living and nursing facilities, have provisions that are directly contradicted by the fair housing laws. This is especially true of the provisions that allow housing providers to ask potential applicants about their disabilities and of the provisions that set forth the grounds that allow a facility to deny residency to persons with multiple disabilities. Despite the fact that much senior housing is regulated and inspected by the state, these inspections do not include inquiry about compliance with the fair housing laws. The survey shows that the Illinois legislature as well as the Chicago City Council could be more aggressive in taking affirmative steps to see that fair housing becomes a reality for many seniors.

### **Recommendations**

The Center has requested a two-year extension to continue the Senior Housing Research Project. Our results demonstrate compelling information that identifies areas where further study, outreach and education, and enforcement are warranted. The preliminary findings demonstrate the following:

A significant number of seniors are unaware of their fair housing rights;

A significant number of counselors, social workers, and other providers of assistance to seniors are receptive to receiving information and training on the fair housing laws so that they can assist seniors in protecting their fair housing rights;

Senior housing providers should use diverse models in their advertising and affirmatively market to minorities and disabled individuals;

There is a difference of treatment accorded seniors in senior housing based primarily on race and disability;

State and local laws and regulations should be revised or rewritten affirmatively to further fair housing.

As a result, further testing, enforcement, education, and advocacy are all warranted.