



Vermont Legal Aid

Working for Justice

HOUSING DISCRIMINATION LAW PROJECT

Rental Discrimination Report

HOUSING DISCRIMINATION IN VERMONT RENTAL MARKETS

MAY 2014

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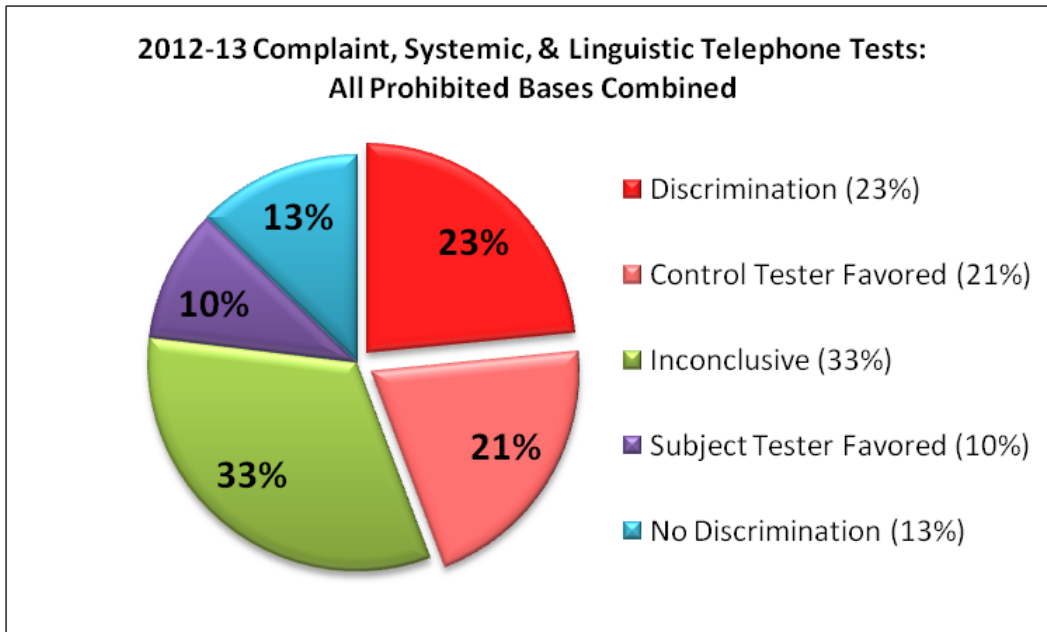
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Executive Summary

Between January 1, 2012, and December 31, 2013, the Housing Discrimination Law Project of Vermont Legal Aid conducted 97 complaint-based and systemic audit tests, 163 linguistic telephone tests, and 10 accessibility audits (measuring compliance with design and construction accessibility standards required under the federal Fair Housing Act). Overall testing results indicate that housing providers generally disfavor African American renters, renters of foreign origin, renters with children, and renters with disabilities. In 44 percent of the tests, housing providers demonstrate either preferential treatment toward the control testers in comparison to the subject testers, or the housing providers evince unambiguous discrimination against the subject testers.



Fair housing tests are simulated housing transactions where two or more testers with similar characteristics (subjects and controls) portray prospective renters or homebuyers to determine whether or not discrimination is occurring during the home-seeking process.

The 2012-2013 testing results demonstrate preferential treatment toward White testers of U.S. origin without children and without an apparent disability. The combined results reflect preferential treatment toward (1) White American renters in 46 percent of the national origin tests and 36 percent of the race-based tests; (2) renters without children in 45 percent of the familial status tests; and (3) renters without apparent disabilities in 22 percent of disability tests. In addition, in 80 percent of the ten accessibility audits conducted on newly-constructed multi-family housing units, test results report some level of noncompliance with FHA design and construction accessibility requirements.

Vermont Legal Aid's Testing Program

Vermont Legal Aid provides free civil legal services to Vermonters, primarily those with low incomes or who meet the income and eligibility guidelines for each of our projects: Disability Law, Elder Law, Health Care Advocate, Housing Discrimination Law, Long Term Care Ombudsman, Mental Health Law, and Poverty Law. Through legal representation, community education, public policy and legislative advocacy, Vermont Legal Aid works on behalf of the social and economic interests of our clients and seeks to address the causes of poverty, discrimination, and inequality. Established in 1968, VLA serves all of Vermont through five offices located in Burlington, Montpelier, Rutland, Springfield, and St. Johnsbury.

The Housing Discrimination Law Project (HDLP) is a project of Vermont Legal Aid. The HDLP educates landlords, tenants, and the community about fair housing law. It also investigates allegations of housing discrimination, counsels individuals and groups about their rights under fair housing laws and helps to enforce these laws. In addition, HDLP conducts both systemic and complaint-based testing to measure the incidence and prevalence of housing discrimination in Vermont. HDLP is funded by a grant from the U.S. Department of Housing and Urban Development (HUD).

From January 1, 2012, through December 31, 2013, the HDLP conducted fair housing testing audits measuring the instances and types of housing discrimination that renters encounter when seeking rental housing in Vermont. Through paired systemic, linguistic telephone, and complaint-based rental inquiry tests, the HDLP measured the differences in renters' preliminary experiences with rental providers throughout the state. The HDLP also conducted accessibility audits on newly constructed multi-family housing units measuring their compliance with design and construction accessibility standards required under the federal Fair Housing Act (FHA). The following is a summary of the HDLP's findings and illustrates that unlawful housing discrimination is occurring in Vermont and that housing providers are demonstrating a general preference against African American renters, renters of foreign origin, and renters with children or disabilities.

Fair Housing Law

Both federal and State law prohibit certain types of housing discrimination. Under the federal Fair Housing Act, it is unlawful for a housing provider to discriminate in the sale or rental of housing on the basis of race, color, religion, national origin, sex, disability or family status (i.e., presence of minor children). The Vermont Fair Housing and Public Accommodations Act also prohibits discrimination on these bases and additionally prohibits discrimination in housing on the basis of marital status, age, gender identity, sexual orientation, or receipt of public assistance (including rental subsidies). Vermont fair housing law precludes discrimination in land use decisions and permitting of housing, as well—this includes discrimination on all of the prohibited bases listed above, as well as income (e.g., denying permitting approval for a housing project because the housing is intended for low-income residents).

Forms of unlawful housing discrimination that housing providers are precluded from engaging in include lying about the availability of housing; steering home-seekers to specific neighborhoods or locations; blockbusting (inducing people to sell or rent based on people in protected classes moving into the neighborhood); refusing to rent or sell; applying different rules or conditions; refusing reasonable accommodations or reasonable modifications for people with disabilities; publishing discriminatory advertisements; or engaging in threats, intimidation, or harassment. It is unlawful for housing providers to engage in these actions because of any one of the statutorily-prohibited bases listed above.

Testing Methodology

Fair housing testing is a technique used to neutrally and objectively measure whether individuals who are trying to obtain or maintain housing have been unlawfully discriminated against. It is a well-accepted and effective means of measuring the scope of housing discrimination in a given market. Due to the often subtle nature of discrimination, testing is frequently a necessary tool for accurately assessing the extent and nature of housing discrimination. The legitimacy of testing has been upheld by the U.S. Supreme Court, and federal agencies such as HUD and the United States Department of Justice approve of, sponsor, and conduct such testing.

Fair housing tests are simulated housing transactions where two or more testers with similar characteristics portray prospective renters or homebuyers to determine whether or not discrimination is occurring during the home-seeking process. The HDLP's rental audits examine housing providers' treatment of prospective renters during the preliminary stages of a rental search prior to the actual application process. In other words, the audits examine the initial contact between housing provider and prospective renter or testers' experiences during site visits; however, the audits do not examine housing providers' treatment of renters through the application process.

In each test, testers are paired based on similarly perceived or matching characteristics such as gender, age, perceived education and social class, overall appearance (e.g., clothing), household size, and income. Other than a slight difference in income favoring the "subject" tester, the only measurable difference between the testers is their representativeness of a specific prohibited basis. "Subject testers" are individuals representative of the prohibited basis being tested (e.g., a person of color, a person with children), and "control testers" are individuals not representative of any prohibited basis. For example, in a test based on physical disability, the subject tester is a person with a physical disability, and the control tester is a person with no apparent disabilities. In all other ways, the two testers are similar. Testers pose as renters seeking housing, and each is assigned employment and income characteristics that reasonably qualify him/her for the rental unit being tested.

Each paired test is designed to measure only one prohibited basis. For example, a single paired test is not designed to test for both race *and* familial status; rather, it is structured to test for one or the other prohibited basis. In some cases, multiple paired tests are conducted of the same housing provider or unit. When evidence warrants, multiple paired tests on one specified unit may be conducted on various prohibited bases (e.g., one pair testing disability and another pair testing national origin) or on one particular basis (e.g., multiple pairs testing disability).

The size and price range of the test units vary greatly: small studio apartments to multi-bedroom units; lower-income housing to high-end rentals. Housing providers include property managers, real estate agencies, landlords who own or operate several rental complexes as well as those who own or maintain only a few rental units; therefore, the HDLP's testing results cover the full spectrum of rental housing available in the Vermont market during the reported testing period.

Before conducting any tests, each tester completes a tester training course which covers testing practices and reporting procedures and emphasizes fair and impartial fact-finding and accurate, detailed, and objective reporting.

After completing his or her test, each tester submits to the Testing Coordinator written reports and provides oral accounts of each test conducted. Trained staff from the HDLP then analyze the information to determine if a difference in treatment occurred between the subject and control testers. If unequal

treatment is found, HDLP staff members then evaluate the cause and basis of the testers' differing experiences and whether or not the inequalities substantiate an allegation of unlawful housing discrimination.

Types of Tests Conducted

The HDLP conducted complaint-based tests, systemic audit tests, and linguistic telephone tests between January 1, 2012, and December 31, 2013.

"Linguistic Telephone" tests consisted of two specific series of universal telephone audits where designated groups of subject testers with perceived foreign accents and control testers with perceived White American accents called all rental advertisements posted on a selected morning and made inquiries into the availability of each advertised rental.¹ The housing providers' response rates to the control and subject testers were then measured and compared for comparable or disparate treatment. Response rates measured the timeliness with which the housing providers called back the respective testers as well as the number of times the housing providers called back each tester. In instances where the testers had actual phone conversations with the housing providers, the housing providers' responses were measured by comparing criteria such as (1) the types and number of questions the housing providers asked each tester; (2) the information the housing providers gave to the testers regarding the availability of the unit(s); and (3) the willingness of housing providers to schedule viewings with the testers.

"Systemic audit" tests are audits in which the test units are chosen at random or because previously obtained evidence indicates that the selected housing provider is possibly engaging in discriminatory behavior. This evidence typically consists of discriminatory or suspicious advertisements posted by the housing provider or previous testing results indicating possible discriminatory conduct on the part of the housing provider. Unlike complaint-based tests, test units in systemic tests are not targeted because of an allegation made by a specific complainant.

"Complaint-based" tests are tailored to specific allegations of discrimination made to the HDLP by actual home-seekers looking for rental housing in Vermont. These tests primarily involve complainants contacting the HDLP alleging that they have been turned down or otherwise discouraged from renting a specific unit because of their membership in one or more protected categories. HDLP staff then structures a test based on the complainant's characteristics (e.g., age, socio-economic standing, and prohibited basis), assigning testers to contact the housing provider and inquire about the unit. The testers' experiences are then analyzed to determine whether or not disparate treatment occurred between the control and subject testers and, if so, whether the differences in treatment are based on the subject tester's status in one or more prohibited bases.

Complaint and systemic tests primarily involve testers conducting actual site visits of the test units; however, some of these tests involve paired telephone inquiries without site visits.

¹ Linguistic telephone tests may be used to measure rates and instances of housing discrimination on various prohibited bases (e.g., race/color, sex, or disability). The 2013 linguistic telephone audits discussed in this report were structured to examine housing providers' treatment of prospective renters based on the perceived nation or region of origin associated with the testers' linguistic characteristics. See section "2013 Linguistic Telephone Audits" on page 8 for further details.

Test Result Findings

For each of the three types of tests—complaint, systemic, and linguistic telephone—the test results are separated into five categories of finding: 1) discrimination; 2) control tester favored; 3) inconclusive; 4) no apparent discrimination; and 5) subject tester favored.

Discrimination: A finding of “discrimination” is made when there are significant, demonstrable differences in how the housing provider treats the subject tester in comparison to how the housing provider treats the control tester, unambiguously demonstrating that the housing provider is actively trying to deter or dissuade the subject tester from renting the test unit or trying to steer the subject tester into other rental units that the housing provider perceives as more suitable for that tester. Behavior in this category includes the following actions: the housing provider making overtly discriminatory statements to one or more testers; the housing provider responding immediately to the control tester and never responding to the subject tester despite multiple attempts by the subject tester; or the housing provider stressing the negative attributes of the apartment to the subject tester but stressing its positive attributes to the control tester.

Control tester favored: A finding of “control tester favored” is made where results suggest unlawful discrimination in that differences in the testers’ experiences indicate favoritism to the control tester, yet reasons for the differing treatment are not definitive. Examples include tests in which both testers contact the housing provider and schedule rental visits, but the subject tester has to be more proactive or aggressive in order to receive a response from the housing provider or to schedule a site visit (e.g., subject tester has to place two or more calls before receiving a response, but the housing provider responds immediately to the control tester’s first voicemail message).

Inconclusive: A finding of “inconclusive” is made where results demonstrate differential treatment that is not clearly connected to unlawful discrimination, for example, where unexpected factors unrelated to the prohibited basis being tested are unintentionally introduced into the test leading to ambiguous results. Examples of this category include tests where 1) the housing provider haphazardly responds to some testers but not to others regardless of the order in which the testers contact the housing provider and irrespective of the testers’ status as either control or subject tester; or 2) one tester arrives significantly late for his or her site visit or has to reschedule his or her a site visit with little advance notice to the housing provider.

No discrimination: A finding of “no discrimination” is made where results indicate that the housing provider treats testers equally, or, if there are differences in treatment, they are inconsequential.

Subject tester favored: A finding of “subject tester favored” is made where the testers’ experiences indicate a housing provider’s favoritism to the subject tester. Results matching this category are only found in the linguistic telephone tests. Although this category of finding was available for the complaint-based and systemic audit tests, no complaint or systemic test resulted in a “subject tester favored” finding; therefore, this category is only discussed in the results for the linguistic telephone tests.

The section immediately below details the results for the 163 linguistic telephone tests conducted in June and July of 2013. Following the summary of findings for the linguistic tests, findings for the 97 complaint-based and systemic audit tests conducted between January 1, 2012, and December 31, 2013, are discussed. Lastly, a synopsis of the 10 accessibility audits conducted during this same time period is provided.

2013 Linguistic Telephone Audits

Two universal linguistic telephone audits were conducted in June and July of 2013 measuring housing providers' treatment of applicants with linguistically identifiable White American, Hispanic, and foreign accents. In total, 163 paired telephone tests were conducted on these bases.

Standard and accepted linguistic profiling testing methodology was used for the linguistic telephone tests. Voice samples of each tester were recorded and played to volunteer survey participants to assess the general public's perceptions of the testers' linguistic characteristics regarding their race/color and nation of origin. Throughout this report, the control and subject testers are referred to in accordance with how the survey participants perceived the testers' linguistic characteristics, specifically, whether the testers' accents were representative of an individual who was (1) White or a person of color, (2) of U.S. or foreign origin, and (3) of a particular nation or region of origin.

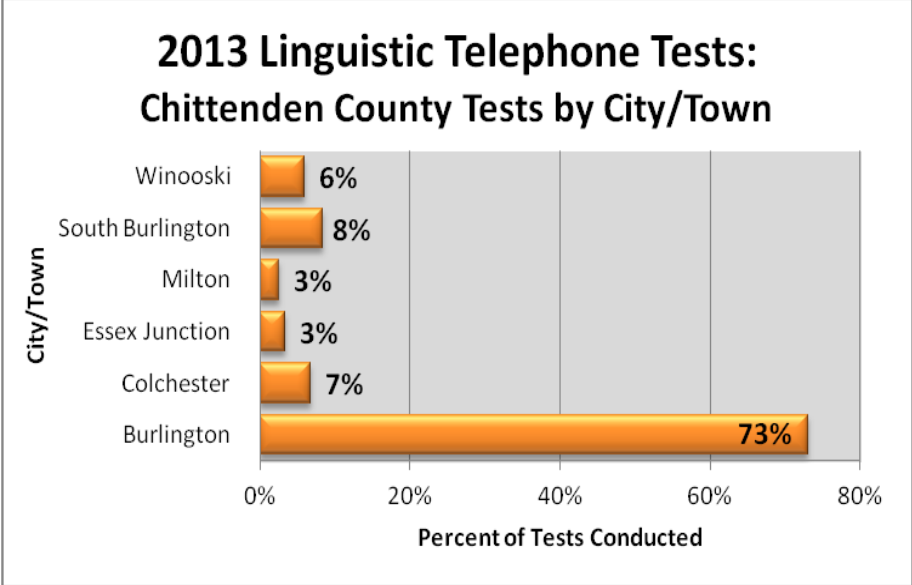
The 2013 linguistic telephone audits were structured to examine housing providers' treatment of prospective renters based on the perceived nation or region of origin associated with the testers' linguistic characteristics. We acknowledge and respect the diversity of the United States and that there are a wide variety of linguistic characteristics that may in fact be categorized as being "American" or "of U.S. origin," "White" or "of color." For example, a person whose accent is generally perceived to be Hispanic/Latino could be a person of U.S. origin, a naturalized U.S. citizen, or a person of foreign citizenry, and may identify themselves or be identified by others as having an "American," "foreign," or "non-U.S." accent. Similarly, a person who is perceived by the general public as being Hispanic/Latino may identify as being a person of color, White, American, Hispanic, or Latino. In this report, the subject testers are referred to as having "foreign accents," and the control testers are referred to as having "White American" accents, based strictly on the perception of those surveyed.

Following standard and accepted linguistic profiling testing protocol, 100 percent of those surveyed identified the control testers as having U.S. accents and the subject testers as having foreign accents. Ninety-six percent of those surveyed identified the control testers as being White Americans. Many participants in the linguistic recognition survey could not linguistically identify the subject testers' accents as being of the testers' respective nation or region of origin but did identify the subject testers as having "foreign" accents. One hundred percent of the surveyed group identified the Hispanic/Latino tester as "foreign." The accuracy with which the survey participants identified the White American control testers, and the inability of listeners to identify the distinct national or regional origin of each subject tester, may reflect the predominantly White population of Vermont, and therefore of the survey participants, and the fact that many Vermonters do not have much exposure to the various linguistic characteristics or accents of other countries. Table 1 on the following page illustrates the averaged rates of linguistic recognition among the testers used.

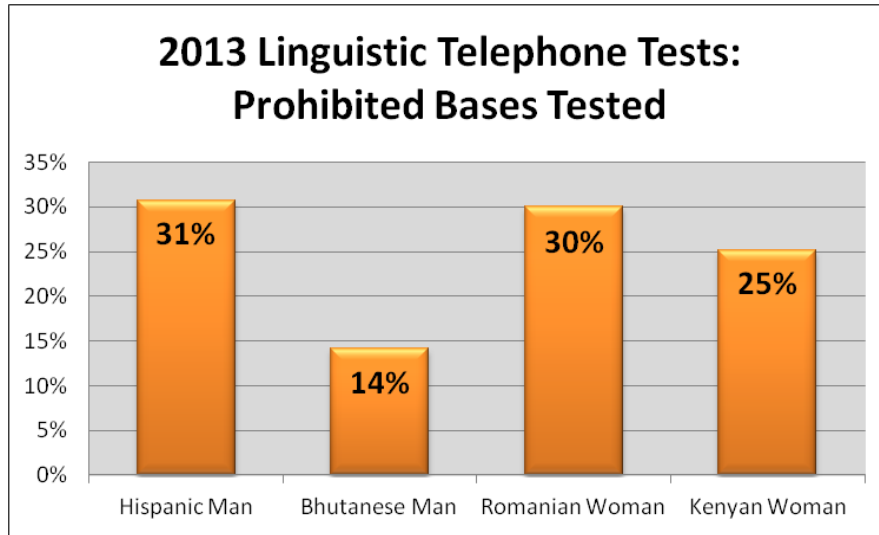
Tester	White / Person of Color	U.S. / Foreign Accent	% surveyed who correctly identified tester's nation/region of origin
White, U.S. Testers	96% White; 4% Unsure	100% U.S.	100% U.S.
Kenyan Woman	11% White; 89% Person of Color	100% Foreign	22% African
Romanian Woman	44% White; 44% Person of Color	100% Foreign	44% Eastern European
Hispanic Man	33% White; 56% Person of Color	100% Foreign	56% Hispanic
Bhutanese Man	22% White; 67% Person of Color	100% Foreign	22% Asian

The testers' names were not provided in the voice recognition survey, but the testers did use ethnically identifiable names during the linguistic telephone tests; therefore, it is likely that there were increased rates of recognition of the subject testers' nations/regions of origin during the actual telephone tests.

For each series of telephone audits, the paired testers called every residential rental unit advertised on the morning of the respective testing date. Each tester placed one phone call per rental advertisement (i.e., each tester called each advertisement once). The scope of testing was limited to rental advertisements posted on popular web-based regional advertising forums such as Craigslist and area newspaper websites. Sixty-three percent of the rental ads tested were for units located in Chittenden County; however, rental units located throughout the state were advertised on these forums and were tested as well. The remaining 37 percent were located in the counties of Addison, Caledonia, Franklin, Lamoille, Rutland, and Windsor. Of those units tested within Chittenden County, 73 percent were located in the City of Burlington. The remaining Chittenden County units were located in Colchester, Essex Junction, Milton, South Burlington, and Winooski.



Fourteen percent of the 163 linguistic tests conducted compared housing provider response rates between a White American man and a Bhutanese man. A White Romanian woman was compared to a White American woman in 30 percent of the telephone tests, and a Black Kenyan woman was compared to a White American woman in 25 percent of the tests. Thirty-one percent of the linguistic tests measured a White American man against a Hispanic Man.

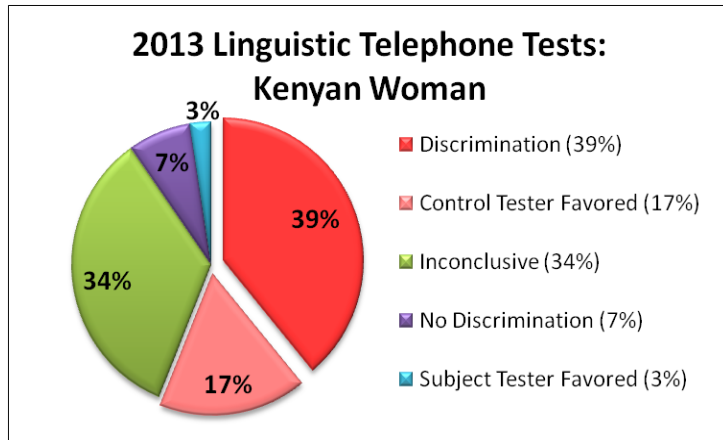


In the majority of paired phone tests, testers left voicemail messages for the housing providers expressing interest in the rental units and requesting return calls; however, on some occasions the testers engaged in actual phone conversations with the housing providers. Where both testers left voicemail messages, the HDLP measured the housing providers' response rates to each tester (i.e., whether or not the housing provider responded to both testers, the date and time of the return calls, and the number of follow-up messages left by the housing provider). When both testers engaged in actual phone conversations with the housing providers, the HDLP measured the housing providers' overall treatment of both testers (e.g., questions asked of the testers, information provided to the testers, whether testers were invited to see the unit or were denied a viewing, whether any directly discriminatory remarks were made by the housing provider). - In a minority of tests, one tester left a voicemail message while the other actually had a phone conversation with the housing provider. These situations were largely deemed "inconclusive" except when the housing providers engaged in openly discriminatory behavior (e.g., discriminatory statements). When openly discriminatory behavior was found in this context, a finding of "discrimination" was reported.

Linguistic Telephone Audit, June 2013

National Origin: Kenyan

Out of the five categories tested in the 2013 linguistic tests, the Black tester of Kenyan origin encountered the highest rate—56 percent—of discrimination. In this series of tests, a Black female tester of Kenyan origin acting as the “subject tester” was paired with a White female tester of U.S. origin

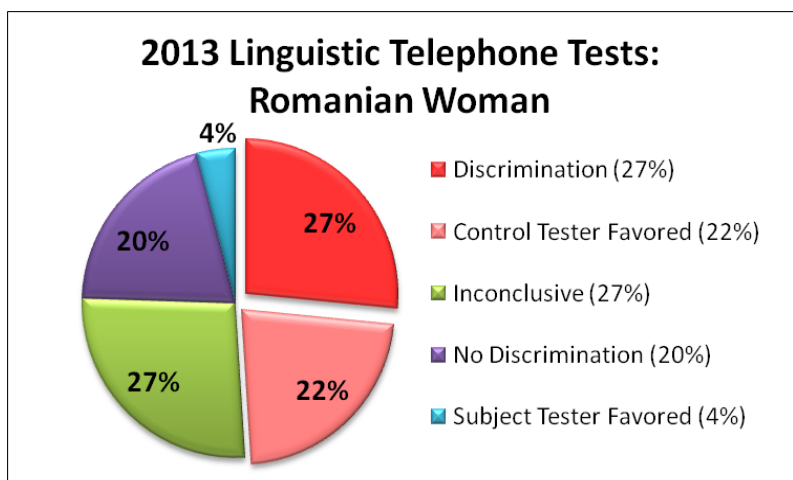


acting as the “control tester.” The results here were particularly stark. Fifty-six percent of the tests indicated discrimination against the woman of Kenyan origin or preferential treatment of the White woman of U.S. origin. In three percent of the tests, results demonstrated preferential treatment to the subject tester. Results from the Linguistic Recognition Survey² indicated that 89 percent of the survey participants perceived the Kenyan woman as being a person of color, and 22 percent

perceived her as being of African origin. These results demonstrated that the Kenyan tester had the highest rates of identification as being Black or a person of color out of all the testers participating in the 2013 linguistic telephone tests. Therefore, the tester of Kenyan origin experienced the highest rates of discriminatory treatment, *and* she was the tester most commonly perceived by survey participants as being Black or a person of color.

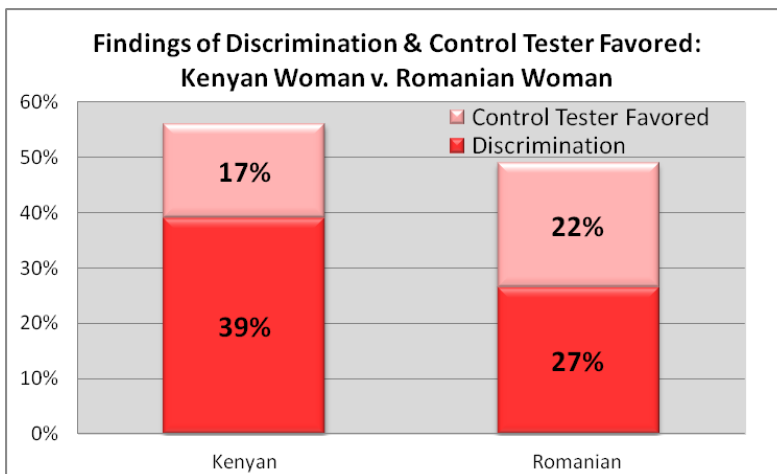
National Origin: Romanian

A series of linguistic tests on the basis of Eastern European origin was conducted concurrently with the Kenyan-origin tests, using the same rental advertisements posted on the same day. Here, a White female tester of Romanian origin was paired with a White female tester of U.S. origin. Nearly half—49 percent—of all tests on this basis indicated discrimination against the subject tester or preferential treatment to the control tester. The Romanian tester encountered slightly more favorable treatment than the Kenyan tester in that 4 percent of test results indicated preferential treatment towards the Romanian female.



² See Table 1: Linguistic Recognition Survey Results, page 9.

The Romanian and Kenyan linguistic testers conducted their respective tests on the same day, calling the same advertised units and being compared against the same White American control testers. Both subject testers encountered high rates of discriminatory treatment—with the Kenyan tester experiencing 7 percent more overall discrimination than the Romanian tester, and the Romanian tester seeing 1 percent more “subject tester favored” findings than the Kenyan tester. Although both the Kenyan and Romanian women had significant rates of overall discrimination—56 percent and 49 percent, respectively—the breakdown of disparate treatment was measurably different. Test results indicate that the Kenyan woman encountered findings of “discrimination” in 39 percent of the calls she placed and findings of “control tester favored” in 17 percent of her calls. In contrast, the Romanian woman had findings of “discrimination” in 27 percent of her calls and “control tester favored” in 22 percent of her calls. In summary, the Kenyan woman experienced 12 percent more “discrimination” findings than the Romanian woman, indicating that housing providers’ discriminatory conduct against the Kenyan woman was more direct than that displayed against the Romanian woman.



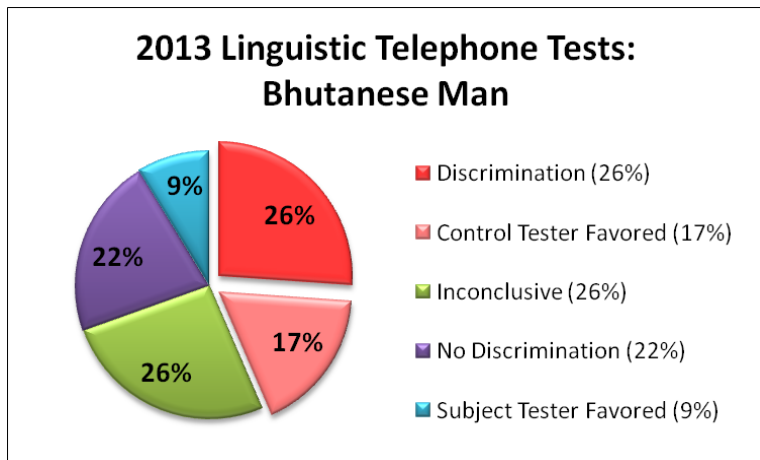
In several of the tests where findings of “discrimination” or “control tester favored” were made, it was the same housing providers who demonstrated discriminatory behavior against the Kenyan and Romanian testers. In other words, if the housing provider was discriminating against one subject tester, he or she was likely to discriminate against the other as well. In looking at both subject testers together, the overall discrimination rate was 52.5%. The Kenyan and Romanian women participating in the June 2013 linguistic tests encountered higher rates of discrimination as compared to the Bhutanese and Hispanic men who participated in the July 2013 linguistic telephone tests, which are reported next.

Linguistic Telephone Audit, July 2013

The Bhutanese and Hispanic linguistic telephone tests used male testers instead of female testers and were conducted on a separate day from the Kenyan and Romanian linguistic telephone tests. Although the rates of discrimination were high for the Bhutanese and Hispanic men, they encountered measurably less discrimination than the Kenyan and Romanian women. It is unclear whether the testers’ sex played a role in the differing rates of discrimination between the first and second rounds of linguistic tests. The Bhutanese and Hispanic linguistic tests were conducted concurrently, using the same rental advertisements.

National Origin: Bhutanese

A man of Bhutanese origin with a Bhutanese accent was paired against a man of U.S. origin with a White American accent. In 43 percent of the tests conducted, the Bhutanese man encountered clear discrimination or the housing provider acted more favorably to the control tester. While high, this is a

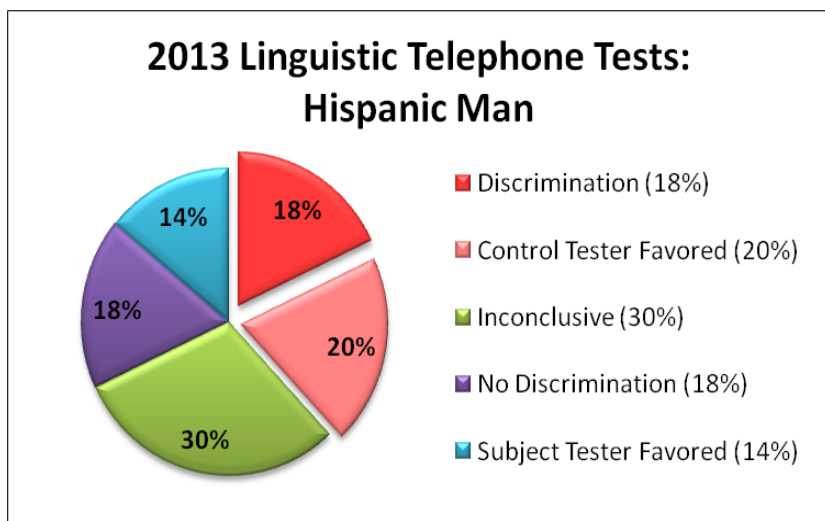


13 percent lower rate of discrimination than the Kenyan tester and 6 percent lower than the Romanian tester. The Bhutanese man also received more findings of “subject tester favored” compared to the Kenyan and Romanian women. In 9 percent of the tests, he was favored over his control tester counterpart. This is a 5 percent and 6 percent increase in favorable treatment compared to the Romanian and Kenyan testers, respectively.

Although the Bhutanese man encountered lower rates of discriminatory treatment in comparison to the Kenyan and Romanian women, the Bhutanese man encountered higher rates of discrimination and lower rates of “subject tester favored” treatment in comparison to the Hispanic tester.

National Origin: Hispanic

The Hispanic man encountered discrimination in 38 percent of the tests, including instances where there was clear discrimination and those where the housing provider favored the control tester. Fourteen

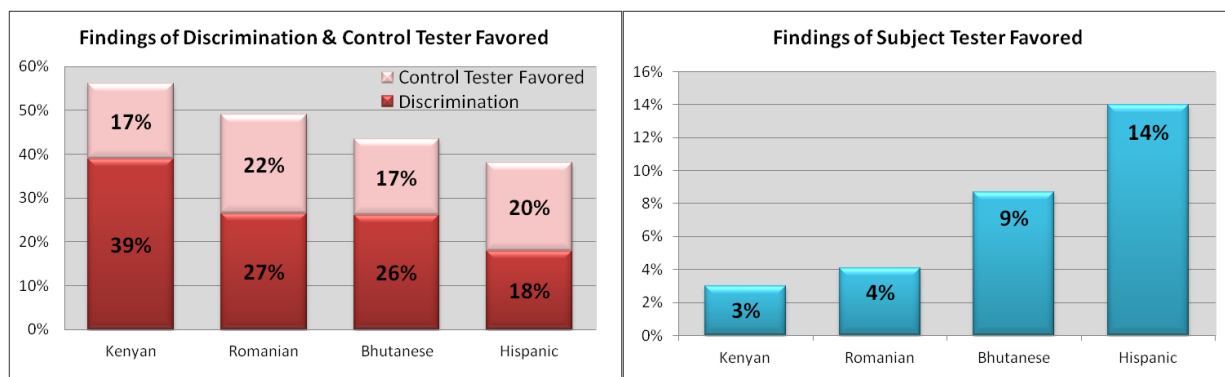


percent of the tests indicated preferential treatment towards the subject tester in comparison to the control tester. In comparison to the Bhutanese man, the Hispanic man encountered 5 percent less overall discriminatory treatment and 5 percent more “subject tester favored” findings. Therefore, out of the four subject testers, the Hispanic man experienced the lowest rates of discrimination and the highest rates of favorable treatment.

As with the first round of tests conducted in June 2013, the July 2013 tests indicated that if a housing provider was discriminatory on one prohibited basis, he or she was likely to be discriminatory on the other prohibited bases as well. If discrimination was shown against the Bhutanese man, it was likely that the same housing provider demonstrated discriminatory behavior against the Hispanic man.

Summary of 2013 Linguistic Telephone Tests

Overall, each of the four foreign accents tested in the 2013 linguistic tests demonstrated significant levels of discrimination against the subject testers, with the Hispanic tests indicating the lowest rates of discrimination and the highest rates of favorable treatment out of the four accents tested. As illustrated in the charts below, the testers who encountered the highest rates of discrimination were also least likely to receive “subject tester favored” treatment.



Out of the four subject testers, the Hispanic man had the most subtle accent, encountered the lowest rate of discriminatory treatment, and experienced the highest rate of preferential treatment. This dynamic suggests that housing providers may be more likely to discriminate where they readily recognize the presence of more pronounced foreign accents in callers’ speech patterns.

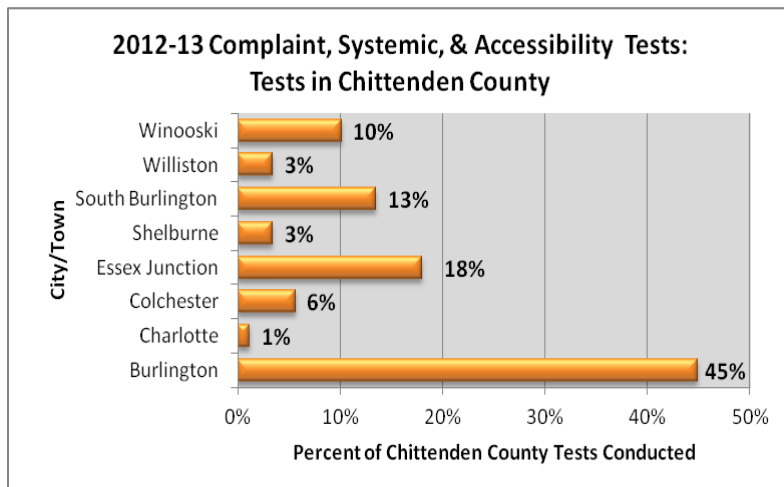
Furthermore, although the Linguistic Recognition Survey³ showed that survey participants were typically unable to consciously link a specific foreign accent to its nation or region of origin, the differences in discrimination rates among the subject testers in the linguistic telephone tests suggest that housing providers or the general public may have innate assumptions or prejudices against certain foreign accents over others regardless of whether they, as listeners, can readily identify the specific origin of the foreign accent.

National origin testers also experienced significant rates of discrimination in the complaint-based and systemic audit tests conducted between January 1, 2012 and December 31, 2013, which are summarized below. In comparison to the other prohibited bases tested in the complaint and systemic tests, the national origin tests indicated the highest levels of overall discrimination. The other prohibited bases—familial status, race/color, and disability—demonstrated concerning rates of discrimination as well.

³ See Table 1: Linguistic Recognition Survey, page 9

Complaint & Systemic Tests: 2012-2013

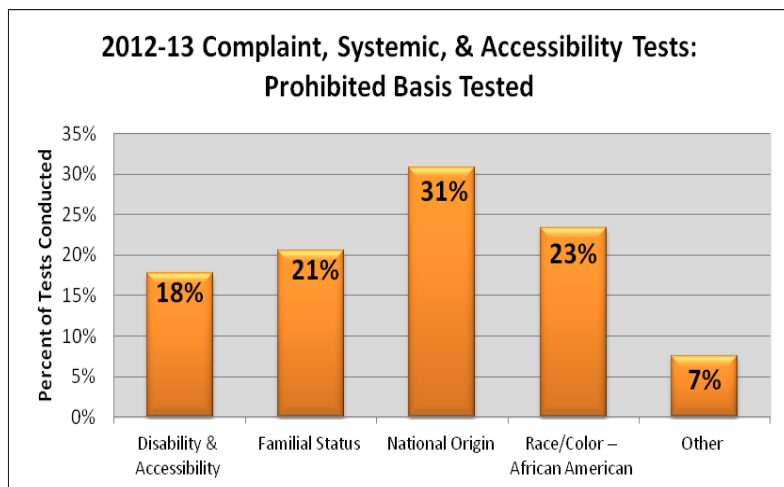
In addition to the linguistic telephone tests conducted in 2013, the HDLP conducted 97 paired complaint and systemic rental tests and ten accessibility audits between January 1, 2012, and December 31, 2013. The results of these tests consistently demonstrated that Vermont housing providers prefer White renters of U.S. origin who do not have minor children or apparent disabilities. Unlike the linguistic telephone tests, the majority of complaint and systemic tests involved testers conducting actual site visits of the advertised units. The testers here would contact the housing provider and try to schedule a time to view the unit. For the most part, each tester would attend a private showing, but occasionally testers would attend group showings. Testers would not be told what prohibited basis was being tested, and they would not know the other testers against whom they were paired. Upon completion of their respective site visits, testers would submit reports and meet with the HDLP Test Coordinator to summarize their home-seeking experience. Trained HDLP staff would then analyze the testers' respective rental experiences to determine whether disparate treatment occurred against the subject tester, and if so, whether the difference in treatment was because of unlawful discrimination.



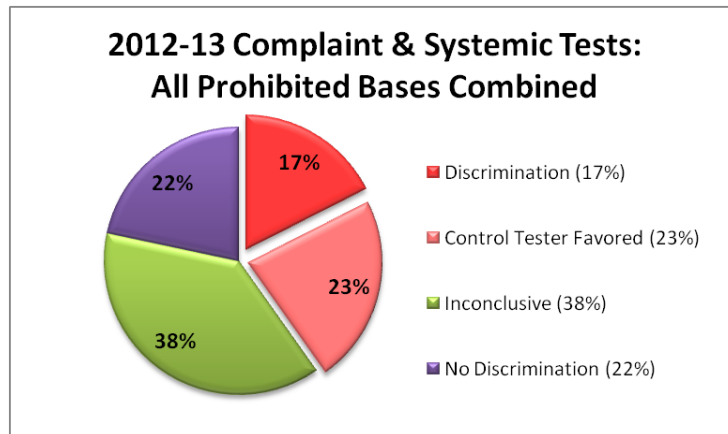
The complaint and systemic tests were conducted throughout Vermont; however, 83 percent of the test units were located within Chittenden County. The remaining 17 percent were conducted in the counties of Addison, Franklin, Orleans, Rutland, Washington, Windham, and Windsor. Out of the tests conducted in Chittenden County, 45 percent of the test units were located in the City of Burlington. Of the complaint and systemic tests performed between

2012 and 2013, 72 percent were systemic audit tests, and 28 percent were complaint-based tests.

The primary prohibited bases tested in the complaint and systemic tests were disability, familial status, national origin, and race/color (African American). A small minority of tests, categorized as "Other," was comprised of additional race-based tests (e.g., Asian) as well as tests conducted on other State-prohibited or federally-prohibited bases (e.g., sex and receipt of public assistance); however, the number of tests conducted on these miscellaneous bases was insufficient to analyze meaningfully.



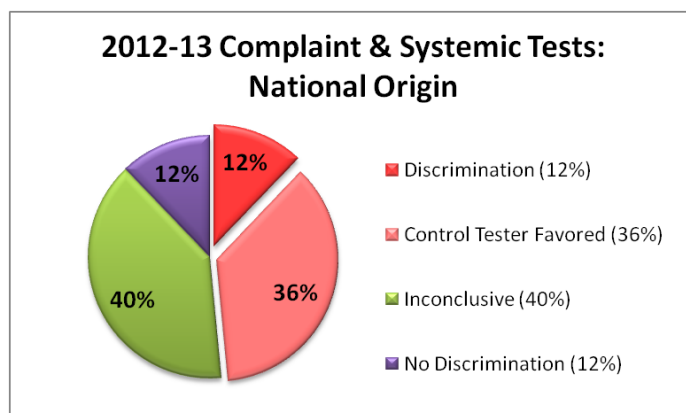
Of the 97 complaint and systemic tests conducted, 40 percent demonstrated discrimination against the subject tester or generally displayed preferential treatment toward the control tester. The remaining 60 percent illustrated no discrimination or were inconclusive. Results of preferential treatment towards the subject testers were not found in any of the complaint-based or systemic audit tests.



Tests examining treatment on the bases of national origin and familial status encountered the highest rates of “discrimination” and “control tester favored” findings. Although tests conducted on the bases of race/color and disability also encountered substantial rates of discrimination, they were measurably lower than the national origin and familial status tests. The results for each individual basis follow.

National Origin

The complaint and systemic tests conducted on the basis of national origin indicated the highest rates of discrimination and disparate treatment as compared to the other prohibited bases tested. Forty-eight percent of the results on this basis indicated either discrimination against the tester of foreign origin or favorable treatment towards the White tester of U.S. origin.⁴ Several national origins were tested; therefore, the results represent an overall comparison in treatment between the two groups of testers rather than specific outcomes for any particular national origin. Generally speaking, the national origin testers in this set of tests were individuals of African, Asian, Hispanic/Latino, Middle Eastern, or Eastern European origins. The linguistic identity and the data pool were not large enough to accurately report each national origin subcategory.



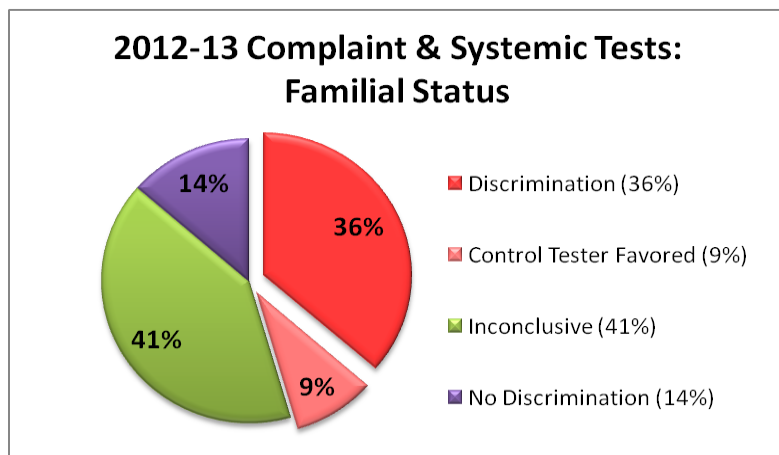
⁴ Refer to section “2013 Linguistic Telephone Audits”, page 8, for general explanation regarding categorizations of “U.S. origin,” “American,” “foreign origin,” “White,” “Hispanic/Latino” and “of color.”

In the national origin tests where disparate treatment was found favoring the control tester, the discrimination tended to be very subtle, and the subject testers very rarely knew or suspected that the housing provider had discriminated against them. For example, housing providers tended to be polite and courteous to both testers; however, within the same paired test the housing providers informed the control tester of other available units that were within the tester’s price range while they would not inform the subject tester of other available units, or if the housing provider did inform the subject tester of other available units, the units mentioned were well outside of the subject testers’ price range.

Another example of this less discernible discrimination arose in situations where the housing providers had already shown the test unit to actual rental applicants before the testers made contact. Under these circumstances, the housing providers said in some instances that they would contact the testers if none of the preceding applicants decided to take the unit. Frequently in tests falling under this category, the housing providers called back the control testers to schedule a viewing but never called back the subject testers. This happened regardless of the fact that the control testers never made follow-up calls to the housing providers, but the subject testers left additional voicemails (after the housing providers had placed their follow-up calls to the control testers) expressing that they were still interested in the apartments if the units were still available. The subject testers in these tests concluded their test assignments believing that the units had been rented and that no discrimination occurred when, in fact, evidence to the contrary demonstrated that the units were still available because they were offered to the control testers.

Familial Status

Familial status (presence of minor children) testing also demonstrated high rates of discrimination and differential treatment. In this series of tests, subject testers portraying prospective renters with young

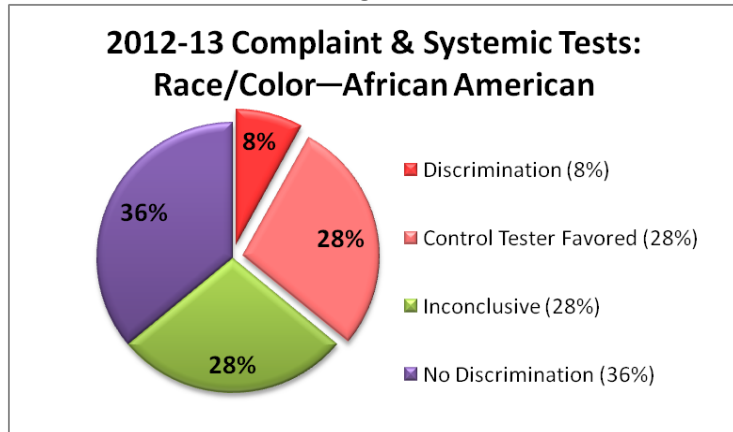


children were paired against testers portraying renters who had no children. Forty-five percent of the tests indicated discrimination against the tester with children or treatment favorable to the testers without children. Out of all the prohibited bases tested, the familial status testers most frequently encountered housing providers making overtly discriminatory remarks. This is why this basis has the largest percentage of tests—36

percent—with findings denoting unambiguous discrimination. Because the housing providers’ treatment was more overt, both the control and subject testers were more likely to know or suspect that discrimination was occurring in the familial status tests than in the national origin or race/color tests.

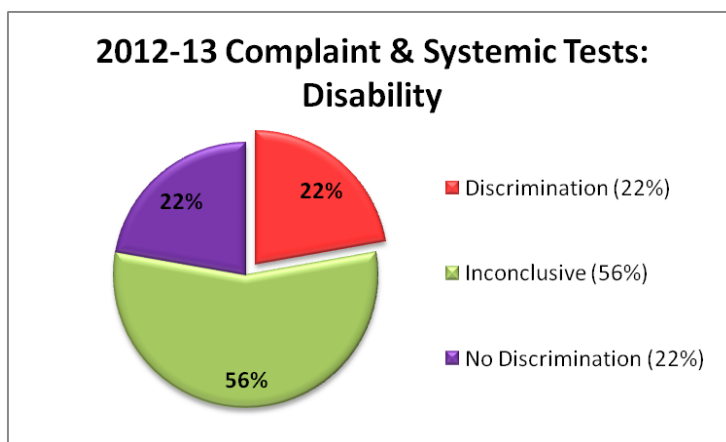
Race and Color: African American

Complaint and systemic tests on the basis of race and color compared housing providers' treatment of African American renters to the housing providers' treatment of White American renters. In 36 percent of these tests, the testers' rental experiences indicated discrimination against the African American tester or preferential treatment toward the White testers. No overtly discriminatory statements were made in any of the race based tests. Similar to the national origin tests, the discrimination occurring in the race based tests tended to be subtle, and the African American testers were frequently unaware that disparate treatment had occurred against them. The subject testers here were more likely to be asked about household composition and employment status in comparison to their control tester counterparts. Additionally, like the subject testers in the national origin tests, the African American testers were less likely to be told about other available units within their price range.



Disability

Tests were also conducted on the basis of disability. These tests either involved standard paired tests checking whether discrimination was occurring against the tester with a disability, or the tests involved subject testers requesting reasonable modifications or reasonable accommodations (e.g., request to install an accessible ramp, request to be allowed to have a service or support animal). Twenty-two percent of the rental visit tests conducted on this basis indicated discrimination against the tester with a disability.



Similar to the familial status tests, discrimination in the disability tests tended to be more blatant in comparison to the discrimination found in the national origin and race/color tests. In the tests receiving a finding of "discrimination," the housing provider unambiguously refused to rent to the subject tester because of the tester's disability, or the housing provider unmistakably denied the tester's request for a reasonable modification or reasonable accommodation. For

example, one tester was denied an available rental unit because he used an assistive device for walking. The reason provided to the tester was that the housing provider was concerned that the tester might fall down the stairs in the unit and then sue the housing provider for injuries sustained in the fall. In another test, a tester was denied a reasonable modification to install an accessible ramp at the tester's

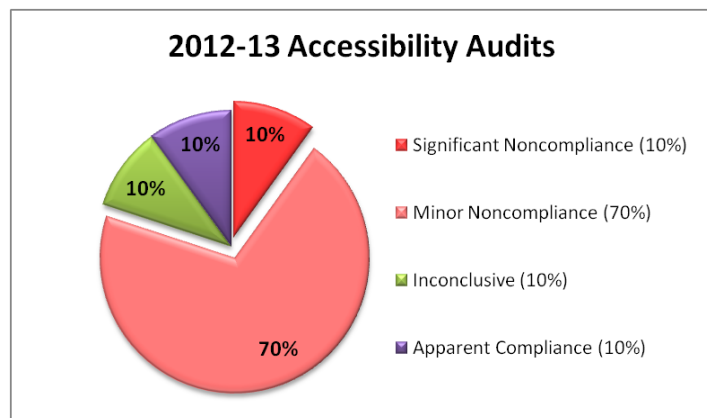
own expense because the housing provider didn't want a ramp on the property. In addition to the disability tests reported in this section, 10 accessibility audits were also conducted and are reported separately below.

Accessibility Audits on Newly Constructed Multi-Family Dwellings

The Federal Fair Housing Act (FHA) establishes accessibility requirements for newly designed and constructed multi-family dwellings. Most multi-family units built for occupancy after March 31, 1991 must comply with these requirements. HDLP accessibility audits were limited to multi-family units constructed within two years of the date on which HDLP testers examined the units. The HDLP conducted ten accessibility audits between January 1, 2012, and December 31, 2013. Unlike the complaint, systemic and linguistic telephone tests, accessibility audits only require one tester specially trained in FHA accessibility requirements to view the selected test property. While conducting their audits, accessibility testers examined the apartment complexes as a whole, as well as individual rental units, to measure overall compliance with FHA accessibility requirements.

FHA requirements include: 1) accessible entrances on an accessible route (including accessible parking); 2) accessible public and common-use areas, such as lobbies and laundry rooms; 3) accessible and usable doors; 4) accessible route into and through the housing unit; 5) accessible light switches, outlets, and environmental controls; 6) reinforced walls in bathrooms (to accommodate grab bars near toilets or in showers/tubs); and 7) accessible and usable kitchens and bathrooms. These FHA accessibility requirements are separate from those mandated under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973. HDLP testing only examined compliance with FHA standards.

As illustrated in the chart below, a very large percentage of newly-constructed, multi-family buildings failed to meet FHA accessibility requirements. Issues of noncompliance typically involved lack of requisite clear floor space in kitchens and bathrooms, inaccessible entry thresholds into buildings or individual units, noncompliant parking areas, and inaccessible positioning of interior controls (e.g.,

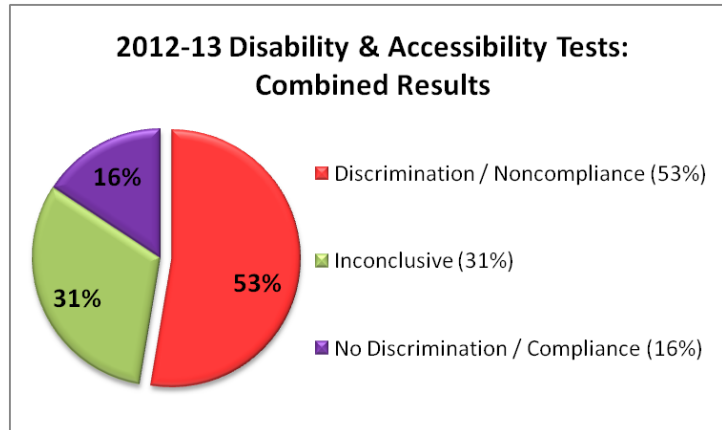


outlets and thermostats). Findings of "minor noncompliance" included tests where a few, minor issues of noncompliance were found such as (1) a few noncompliant interior controls; (2) an entry-threshold having a raised lip that was a little too high; or (3) some of the accessible aisles in the parking area lacking sufficient width. These inaccessible features are reported as "minor noncompliance" because they can be remedied relatively inexpensively. Findings

of "significant noncompliance" included tests where the noncompliance would be expensive or difficult to fix (e.g., unit lacked requisite clear floor space in bathroom, kitchen, or common laundry room; complex lacked accessible route from parking lot into building or complex), or there were numerous minor issues of noncompliance to an extent that it would pose significant expense or effort to fix.

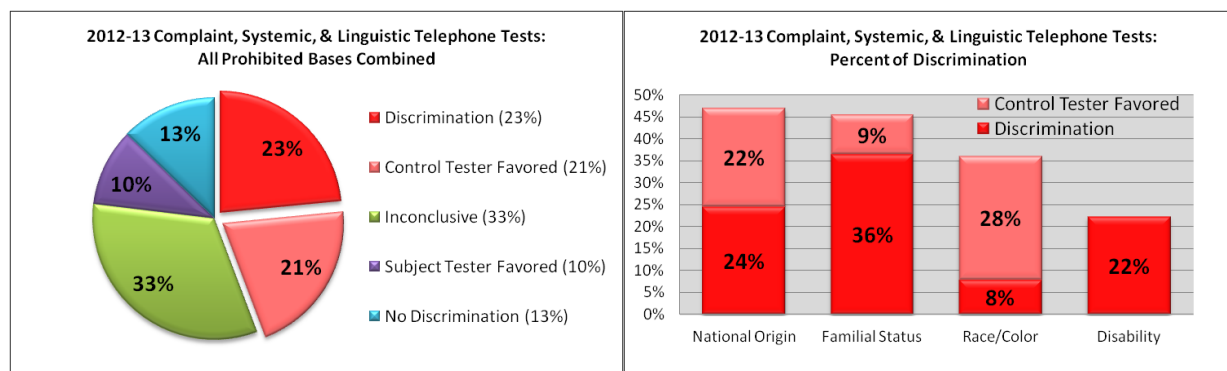
It is concerning to see such a high rate of noncompliance in newly-constructed, multi-family dwellings designed and built in 2009 or later, considering that the design and construction standards of the federal Fair Housing Act have been in effect for 23 years. The lack of compliance demonstrates a need for increased education of Vermont’s builders, architects, and other housing providers to learn about their duties under the FHA, particularly compliance with the Act’s design and construction standards.

In total, 19 tests were conducted either on the basis of disability or as an accessibility audit of newly-constructed, multi-family housing. When combining test results for the accessibility audits with the complaint and systemic tests performed on the basis of disability, it is clear that renters with disabilities encounter significant discriminatory barriers to rental housing. In 53 percent of the tests conducted on these bases, testers encountered some level of noncompliance with FHA design and construction accessibility requirements or experienced disability discrimination in the form of refusal of reasonable accommodation or reasonable modification or direct refusal to rent to person with a disability.



Conclusion

The HDLP conducted 97 complaint and systemic tests and 163 linguistic telephone tests between January 1, 2012, and December 1, 2013. Forty-four percent of the tests conducted either demonstrated overt discrimination against the subject tester or otherwise showed preferential treatment toward the control tester. In looking at the four most commonly tested bases during this period, there were significant rates of disparate treatment against the subject testers in 46 percent of the national origin tests, 45 percent of the familial status tests, 36 percent of the African American race/color tests, and 22 percent of the disability tests. These findings indicate that housing discrimination poses significant barriers to equal housing opportunity for renters in Vermont who are individuals of foreign origin, families with children, African American, and people with disabilities.



As mentioned above in the accessibility findings, the 2012-2013 audits also show significant noncompliance with accessibility standards in newly designed and constructed multi-family dwelling complexes. Given the fact that the FHA's design and construction standards have been in effect since 1991, builders, contractors, developers, and architects should be well familiarized with these standards by now.

In looking at all of the tests conducted, few housing providers made overtly discriminatory statements to testers. Even in tests clearly denoting discrimination, the housing provider rarely made directly discriminatory comments or engaged in openly discriminatory behavior that would be obvious to a tester. The majority of paired tests indicating discrimination against the subject tester or preferential treatment toward the control tester involved subtle behaviors such as delayed response times to the subject tester; positive attributes of the rental unit emphasized to the control tester but negative attributes emphasized to the subject tester; or more probing questions asked of the subject tester in comparison to the control tester. These differences in treatment would have been difficult to recognize absent this comparative analysis of testing results. In many situations, subject testers experiencing unfavorable treatment were not aware that they had been discriminated against. It was only by comparing treatment with the control that different treatment was evident.

Both the prevalence of unlawful discrimination occurring in Vermont's rental market and the subtle ways in which housing discrimination manifests highlight the need for continued fair housing testing as well as expanded educational efforts of housing providers—including builders, architects, and developers—throughout Vermont about their duties under the Fair Housing Act. Additionally, education and outreach efforts should be targeted to renters in Vermont, informing renters of their rights under the State and federal Fair Housing Acts as well as educating renters on the subtle ways in which unlawful discrimination may manifest throughout the stages of the rental experience.

Acknowledgements

The HDLP would like to provide a special thanks to all of the dedicated individuals acting as testers under this project. Many HDLP testers have full time careers, are college students, or have several other volunteer commitments.

Thank you, testers!

For more information on housing discrimination, please visit
<http://www.vtlawhelp.org/discriminationfair-housing>



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