



Village of Oak Park: Fair Housing Testing Project

For the Period of: August 2023 – January 2024

HOPE Fair Housing Center

202 W. Willow Ave.

Suite 203

Wheaton, IL 60187

630-690-6500

www.hopefair.org

HOPE Fair Housing Center Project Report

Oak Park Testing Project: August 2, 2023 – January 30, 2024

Executive Summary

In 2023 – 2024, HOPE investigated large rental housing providers in Oak Park for compliance with anti-discrimination protections on the basis of Source of Income (SOI) and arrest or conviction records. HOPE performed 13 investigations in total. All investigations revealed noncompliance with fair housing law. Common trends include: noncompliant minimum income policies, discouragement from applying to prospective voucher holders, and lack of transparency of arrest/conviction assessment policies. As a result of investigation results, HOPE recommends (1) transparency of tenant qualification criteria, (2) fair housing education and outreach for housing providers seemingly unaware of their responsibilities, (3) fair housing education and outreach for current prospective tenants, and (4) continuing fair housing enforcement to reveal and take action against more covert forms of housing discrimination.

Scope of Work

Village of Oak Park – Rental Providers Fair Housing Compliance Investigation

Focus: Rental Provider compliance with anti-discrimination protections on the basis of Source of Income (SOI) and arrest or conviction records.

Funding: \$10,000 from the Village

Project Start: 08/02/2023

Project End: 01/30/2024

Scope:

- 1) Thirteen (13) investigations into either SOI or arrest/conviction record compliance
- 2) Remain available to the public to receive allegations of housing discrimination to Oak Park residents, including renters, homebuyers, and homeowners.
- 3) Upon project completion, issue to Village qualitative report on findings, and recommendations to Village. The report will not include the names of rental providers or testers.
- 4) Filing of appropriate formal legal actions if necessary. These legal actions may occur outside the project period.

Activity Report

1) Thirteen (13) investigations into either SOI or arrest/conviction record compliance

During the grant period, HOPE staff initiated thirteen total investigations. Six investigations focused on Source of Income. Seven investigations focused on arrest/conviction record. Housing providers were selected for investigation through an analysis of Oak Park's housing market to identify housing providers with large market shares and whose available listings would qualify for the housing choice voucher (HCV) program.

2) Remain available to the public to receive allegations of housing discrimination from Oak Park residents, including renters, homebuyers, and homeowners.

During the grant period, HOPE received seven intakes from Oak Park. These intakes raised concerns of race, disability, age, and source of income discrimination. None of these intakes led to further investigation based on their specific allegations.

3) Upon project completion, issue to Village qualitative report on findings, and recommendations to Village. The report will not include the names of rental providers or testers.

This document serves as the report described in this project task. A qualitative analysis of the results so far, as well as recommendations for the Village are included below in Appendix A.

4) Filing of appropriate formal legal actions if necessary. These legal actions may occur outside the project period.

Currently, none of the investigations described above have resulted in complaint filing at the time of this report submission.

Appendix A: Investigation Analysis and Recommendations

Source of Income Investigations

Background

The [Illinois Human Rights Act](#) protects against housing discrimination. As of January 1, 2023, the Illinois Human Rights Act 775 ILCS 5/1-103 (O-5) has been [amended to include source of income](#) as a protected class. “Source of income” is defined as the lawful manner by which an individual supports himself/herself and his/her dependents. For renters, this means that any legal and verifiable source of income or housing assistance payment used to pay for rent must be treated the same by landlords as any other type of employment-based income. The law makes housing more accessible to renters by prohibiting landlords from refusing to rent to qualified renters because of the source of their legal income. This is important because housing choice voucher (HCV) holders and other renters with non-wage income are especially susceptible to such discrimination.

Since January 2023, Illinois has seen a proliferation of “second wave” discrimination. Direct denials such as “no Housing Choice Vouchers” are becoming increasingly uncommon as landlords and tenants become aware of their new rights and responsibilities. However, policies such as high minimum income policies, refusal to sign third party contracts or to allow unit inspections, or restrictive credit requirements have emerged in many housing markets. While these policies might look neutral at face value, they can have a discriminatory effect on people using housing choice vouchers or other forms of alternative income. If a landlord says they will accept a voucher, for instance, but then requires that a voucher holder make 2-3 times the full rent in income (knowing that the program is income restricted and that the voucher holder is never directly responsible for the full rent), that policy can effectively deny all voucher holders. Similar impacts can come from refusing to comply with program requirements (such as inspections) or having overly restrictive credit score requirements. Whether the discrimination is overt or through a discriminatory effect, the result is the same: limited housing choice for people using alternative means of income.

In January 2024, the Illinois Department of Human Rights released guidance directing housing providers to ensure their minimum income, credit requirements, and other screening criteria do not pose discriminatory barriers on the basis of a renter’s source of income, especially those utilizing HCVs. According to this guidance, housing providers may only apply minimum income thresholds to the portion of the rent paid directly by the tenant, rather than the full rent amount. This guidance

is in line with previous guidance released by the Cook County Commission on Human Rights which includes the below example explaining the presumable application of minimum income requirements when evaluating a rental application from a subsidized renter. HOPE approached its investigations in Oak Park with knowledge of the different ways Source of Income discrimination may manifest.

HCV is a source of income. Accordingly, a landlord or property manager must include the value of an HCV in any screening or rental application calculation of “income.” To calculate the rent-to-income ratio of a prospective HCV tenant, a landlord should only consider the portion of the rent that the HCV applicant would be directly responsible for. For example, a two-bedroom unit is advertised at a rent of \$1,500 per month. The property manager has a policy that all households must have an income of at least three times the rent to qualify for a unit. A household with an HCV applies for the apartment. The tenant’s portion of the rent is \$500, and the housing authority will pay the additional \$1000. The housing provider is permitted to require that the tenant have an income of at least \$1500 a month (the tenant portion X 3). The housing provider cannot require that the tenant make three times the total rent for the unit (\$4500) as this would include the portion that will be paid by the housing authority.

	Without HCV	With HCV
Rent Due by Tenant:	\$1,500	\$500
Income Minimum:	\$4,500	\$1,500

Source: Cook County Commission on Human Rights and Ethics Memorandum Re: Source of Income Protections Under Cook County Human Rights Ordinance. February 3, 2022 as amended July 21, 2022.

It is important to note, however, that a minimum income requirement should never be the basis of a denial for a voucher holder. This is because a housing choice voucher holder is prescreened by the Public Housing Authority (PHA) to ensure the tenant payment portion of the rent remains affordable to the tenant, therefore the affordability analysis has already been completed. And further, because the voucher holder can request from the PHA a recalculation of their rent portion upon a decrease in income, the rent portion paid by the voucher holder will remain affordable even in the event of a financial catastrophe, therefore offering a guarantee of rent beyond what a market rate renter could provide. The CCCHR affirms this interpretation in their Memorandum Re: Source of Income Protections under the Cook County Human Rights Ordinance from November 20, 2013:

Landlords should not be tempted to introduce a rent-to-income ratio specifically designed to exclude all HCV applicants. First, the Commission will scrutinize any selection criterion that is being used pretextually to achieve an unlawful purpose. Second, under some circumstances, a HCV tenant with no income would not be responsible for any portion of the landlord’s rent under the HCV program rules. Such a tenant would, in effect, have an infinite rent-to-income ratio when compared with that of a market applicant.

SOI Investigation Results: Minimum Income

HOPE investigated six housing providers with a focus on source of income discrimination. These investigations concentrated on the acceptance of housing choice vouchers and related policies, as housing choice vouchers are a common non-wage source of income especially susceptible to housing discrimination. HOPE investigated whether housing providers accept vouchers, whether

they have policies adversely impacting voucher holders (such as incorrectly applied minimum income policies), and whether they imposed other barriers to voucher holders accessing housing. **Notably, each investigation revealed evidence of discrimination.**

While no housing provider outright denied vouchers (an example of “first wave discrimination”), five of the six housing providers referenced some policy or other issue that erects barriers for voucher holders. The sixth investigation did not reveal evidence of source of income discrimination but did reveal evidence of race-based discrimination.

As discussed above, incorrectly applied minimum income policies are a leading form of source of income discrimination. These policies generally erect barriers to voucher holders qualifying and, when improperly applied, can have the illegal discriminatory effect of denying most or all voucher holders. Voucher programs have income eligibility requirements that set an income cap for program participants. This means that for most rentals, voucher holders are categorically incapable of meeting minimum income requirements, or they would not qualify for the voucher program in the first place. The housing choice voucher program functions by subsidizing the rent amount to make it affordable to the voucher holder; program participants will never pay more rent than they can afford to pay each month (typically 30% of their monthly income), and the voucher subsidizes the remaining monthly rent costs. Recognizing the barriers incorrectly applied minimum income policies can pose, HOPE considered minimum income policies in its testing investigations. **Two of the six housing providers had minimum income policies in violation of the law.** Two did not provide enough explanation of their policies to determine if compliant with the CCCHR or IDHR guidance.

Housing Provider Income Policies

Housing Provider ID	Income Policies	Violation
2	<ul style="list-style-type: none"> • 3.5x rent minimum income requirement • Applied to sum of HCV + income 	<ul style="list-style-type: none"> • Income requirement applied to more than just tenant portion in violation of IDHR guidance.
4	<ul style="list-style-type: none"> • 3x rent minimum income requirement • Applied to sum of HCV + income 	<ul style="list-style-type: none"> • Income requirement applied to more than just tenant portion in violation of IDHR guidance.

SOI Investigation Results: Other Issues

Aside from minimum income issues, HOPE’s investigation identified additional issues that were brought up by housing providers that may have been used to discourage voucher holders from applying. After the voucher was brought up, two housing providers expressed concerns about how utilities are handled. Both properties pay the utility companies directly and then charge a fee to each unit. In both instances the agents expressed concern that the housing authority might not allow this, so they discouraged the voucher holders from applying until the voucher holder spoke to the housing authority. Another housing provider refused to answer questions and quickly ended the conversation

once the voucher was brought up. They explained that they do not understand the program, so the voucher holder would need to ask the housing authority if they even qualified to live at the property. Each of these instances has the clear effect of discouraging potential applicants with vouchers from applying, especially considering the costs of application. Further, the lack of familiarity with the eligibility of a voucher holder indicates that these housing providers have likely never meaningfully engaged in a rental application or negotiation with a voucher holder. A final housing provider did not appear to violate source of income protections, but instead demonstrated evidence of racial discrimination.

Housing Provider: Other Issues

Landlord ID	Other Violations, Barriers and Deterrents
1	Shared concerns about how utilities work with voucher program, discouraged caller from applying
2	Told caller to take all questions to the housing authority, discouraged caller from applying
3	Shared concerns about how utilities work with voucher program, discouraged caller from applying
5	HOPE uncovered evidence of race-based discrimination
6	Complained about voucher program, discouraged caller from applying

When taken in total, all six investigations revealed some evidence of discrimination. See below for summary.

Summary: Housing Providers and Issues Posed to HCV Applicants

Landlord ID	Minimum Income Violation	Other Issue
1		X
2	X	X
3		X
4	X	
5		X
6		X

Arrest/Conviction Record Investigations

Background

On April 25, 2019, the Cook County Board of Commissioners passed the Just Housing Amendment (JHA) (Ord. No. 19-2394) to amend § 42-38 of the Cook County Human Rights Ordinance (“Ordinance”) to prohibit housing discrimination based on an individual’s *covered criminal history*.¹ The JHA went into effect January 1, 2020 with enforcement effective February 1, 2020. The JHA provides a critical and groundbreaking protection to curb discrimination impacting a significant portion of the County’s residents. According to the Just Housing Initiative, which advocated for the passage of the JHA²:

1 in 3 Americans has an arrest record by the age of 23, regardless of race or gender. This translates into well over 1 million residents with records in Cook County.

Illinois has large **racial and ethnic disparities** in our prisons and our jails. This affects families and communities of color. Nationally, **63% of Black and Native American adults and 48% of Latinx adults** have had an immediate family member spend at least one night in jail or prison compared to just 42% of white adults.

Almost **two thirds** of people in prison (62%) in Illinois are parents to children under 18. Their ability to build a good, stable home affects their children.

People re-entering communities with stable housing are much less likely to end up back in prison than those facing homelessness. Each event of recidivism in Illinois costs **more than \$150,000**.

Residents who have been incarcerated are almost **10 times** more likely to experience homelessness than the general public. Experiencing homelessness only makes it more difficult to find a job, care for your children, and rebuild your life.

Further, it is well documented that denials based on arrest and conviction records often serve as a proxy for otherwise illegal race-based and other forms of discrimination. The U.S. Department of Housing and Urban Development (HUD) affirms this in their 2016 Office of General Counsel’s Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real-Estate Related Transactions. HUD further underscores this discriminatory effect in its more recent June 10, 2024 Memorandum on the Implementation of the Office of General

¹ <https://www.cookcountyil.gov/content/just-housing-amendment-human-rights-ordinance>

² <https://justhousinginitiative.org/>

Counsel’s Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions:

Housing providers frequently employ policies or practices that exclude individuals with criminal involvement from housing, which should raise red flags for investigators. For example, housing providers commonly use tenant screening companies that provide background check reports that are often inaccurate, incomplete, or have no relationship to whether someone will be a good tenant. This information is then used to deny housing to otherwise qualified applicants. As another example, housing providers sometimes utilize third-party companies to independently screen and reject applicants using algorithms that may contain racial or other prohibited bias in their design. Also at times, some housing providers inform potential tenants that they do not rent to persons with “criminal records,” deterring those with any criminal involvement from applying. On other occasions, housing providers evict individuals based on criminal activity that has no bearing on their tenancy, evict entire families because of criminal activity of one person that has nothing to do with the rest of the household, or evict because a household member was a victim of a crime that occurred at or near their home. These and many other policies and practices frequently result in discrimination against protected class groups, including Blacks, Hispanics, and individuals with disabilities.

In sum, the JHA serves as a local codification of the Guidance HUD has issued over at least the last 8 years. The JHA prohibits landlords from considering juvenile records, or arrest records; prohibits consideration of a conviction greater than 3 years old (from date of conviction); requires the use of an individualized assessment when considering a conviction that is less than 3 years old. This individualized assessment must determine if there is a “demonstrable risk” resulting from a particular conviction record considering factors such as the nature and severity of the offense which resulted in the conviction, the number of convictions, the timing of the conviction, the person’s age at the time, evidence of rehabilitation, their history as a tenant, if the conviction was related to a disability which may allow for a reasonable accommodation to the conviction related screening policy, and other factors. Further, the JHA requires a multi-step application process to protect against discrimination on the basis of a covered criminal history. According to the CCCHR, which enforces the JHA, the application process must³:

Step One: Prequalification

- During this step, a landlord may screen a tenant to determine whether the tenant satisfies all the application criteria such as income, rental history, credit score, pets, etc. Criminal background checks cannot be performed during Step One.
- When this first step is completed, the landlord must either 1) pre-qualify the applicant based on all criteria except those related to criminal history; or 2) deny the application based on failure to satisfy the prequalification criteria.

Step Two: Criminal Background Check

- Only after the landlord prequalifies an applicant may a landlord conduct a criminal background check and individualized assessment.

³ <https://www.cookcountyil.gov/content/just-housing-amendment-human-rights-ordinance>

Step Three: Approval or Denial and Right to Dispute

- The JHA requires the landlord to complete an individualized assessment before denying housing. Landlords cannot consider convictions more than three (3) years old.

JHA Investigation Results

HOPE investigated seven housing providers with a focus on arrest/conviction record policies. HOPE investigated whether housing providers have policies that comply with the Just Housing Amendment (JHA) in how they consider an applicant's conviction record. The JHA provides a great deal of guidance for housing providers to create nondiscriminatory policies. **Notably, HOPE was only able to determine how one housing provider assesses conviction records.** No housing provider could share details about their policy when asked. Two housing providers have policies that violate the JHA. Similarly to the source of income investigations above, while no housing providers explicitly stated a blanket "no convictions" policy, no housing providers were able to specify their policies to potential applicants as required by the JHA. This poses troubling barriers for housing seekers with records, especially in the context of high-cost, non-refundable application fees.

JHA Investigation Results: Lack of Transparency

During these investigations, HOPE consistently found that on-site staff did not know the properties' policies. During phone calls and property tours, housing providers were asked how a specific felony might impact an application or if it would lead to denial. Different levels of detail were shared with each housing provider depending on their initial responses, but the outcome was the same each time. Leasing agents, property managers, and other staff could give no indication of how a conviction might impact an application. Most stated that they worked with a third-party screening company, and some indicated that the screening company sets its own policies and makes its own decisions. Two housing providers shared contact information for the third-party screener to help answer questions. In one investigation, HOPE contacted the screening company. They explained that the property sets the policy, and they simply follow it. This invites skepticism of other housing providers who claimed to have no control over their policies. Two housing providers did encourage moving forward with an application, but they could not indicate whether the application would be denied on the basis of a record.

JHA Investigations Results: Application Reviews

HOPE continued investigating each housing provider by reviewing their application process and searching for any written policies included with the application. One investigated entity acts as an agent connecting applicants with various listings, so it did not have its own application process and is not included in the below analysis. Only two housing providers listed a background check policy prior to applying. Four housing providers did not make their policies available, which is likely a

violation of the JHA. Of the two policies that HOPE uncovered, one was not compliant with the JHA. It only specified the lookback period but did not give any details about how a conviction would be considered or if it would lead to a denial. The second provider's policy appeared compliant by including a lookback period and information about how specific convictions would be considered.

As discussed above, the JHA also requires housing providers to create a bifurcated application process. This means that housing providers must set up a two-step process for screening applicants. During the first step, the applicant is screened for general qualifications (income, credit, rental history, etc.) and pre-approved based on this initial screening. Then a background check can be conducted. During HOPE's investigation, no specific information was found that indicated a bifurcated process. Two applications required disclosure of any convictions and only allowed the applicant to share the year of their conviction with no other details. This is likely a violation of the JHA as it requires background disclosures during the first step.

JHA Investigations Results: Summary

HOPE was only able to determine how one housing provider assesses conviction records. No housing provider could share details about their policy when asked. Two housing providers have policies that violate the JHA. Should a person with a conviction record contact one of these housing providers to inquire about eligibility criteria, they would receive no information at all. Not providing information deters potential applicants and has the effect of discriminating based on conviction record. Considering the prevalence of an arrest or conviction record within Cook County, the lack of awareness the housing providers have about their own policies on arrest/conviction records raises concerns that either those with records have been universally deterred from ever inquiring about eligibility and therefore they have not had to familiarize themselves with their own policy, or the failure to disclose the policy is intended to deter applications.

Summary: Housing Providers and Types of Barriers to HCV Applicants

Landlord ID	Direct Communications	Application review
1	<ul style="list-style-type: none"> • 3rd party screening company • No policy details shared 	<ul style="list-style-type: none"> • No indication of bifurcated process • No background check policy stated in application process
2	<ul style="list-style-type: none"> • 3rd party screening company • No policy details shared 	<ul style="list-style-type: none"> • Required disclosure of convictions with year • No background check policy stated in application process • Link to JHA is provided
3	<ul style="list-style-type: none"> • 3rd party screening company • No policy details shared • Encouraged to apply 	<ul style="list-style-type: none"> • No indication of bifurcated process • Background check policy included with application • Policy appeared compliant with JHA
4	<ul style="list-style-type: none"> • 3rd party screening company • No policy details shared 	<ul style="list-style-type: none"> • Required disclosure of convictions with year • No background check policy stated in application process • Link to JHA is provided
5	<ul style="list-style-type: none"> • 3rd party screening company • No policy details shared 	<ul style="list-style-type: none"> • No indication of bifurcated process • No background check policy stated prior to submission
6	<ul style="list-style-type: none"> • No policy details shared • Encouraged to apply 	<ul style="list-style-type: none"> • N/A (this entity provides listings for various housing providers and does not process its own applications)
7	<ul style="list-style-type: none"> • 3rd party screening company • No policy details shared 	<ul style="list-style-type: none"> • No indication of bifurcated process • Background check policy included with application • Policy not fully compliant with JHA

Conclusion: Recommendations

1. Transparency of Tenant Qualification Criteria.

- a. HOPE consistently found that housing providers could not answer questions about their own tenant qualification criteria. As well as being a bad business practice, this often has a discriminatory effect on those protected by fair housing laws. Those with housing choice vouchers or conviction records would need to apply and pay the often non-refundable application fees without any understanding of the property's policies. These fees have also been increasing in recent years. In HOPE's investigations, properties charge \$50-\$500 in non-refundable application fees. This can discourage members of certain protected classes from applying and may be a violation of fair housing laws. The Village should consider requiring all rental housing providers to post their application criteria on their website, linked in their listings, and in leasing offices.

2. Fair Housing Education and Outreach for Housing Providers.

- a. Housing providers need more training regarding source of income protections, housing choice voucher policies, and the Just Housing Amendment. During HOPE's investigations, most housing providers had knowledge about the voucher process and helped prospective tenants understand the application process. However, some housing providers also had application criteria that contradicted CCCHR and IDHR guidance. Some housing providers also discouraged voucher holders from moving forward because they did not understand the nuances of the voucher program. When it came to arrest/conviction records, housing providers seemed unaware of the Just Housing Amendment or other relevant fair housing protections. Even though housing providers could not cite their own policies, they could have referenced the protections provided by the law, but they did not.
- b. While these are all potential violations of fair housing law, the Village is well situated to create a more inclusive rental housing market and resolve these matters through intentional education and outreach initiatives. These efforts could foster greater understanding of voucher utility allowances and proper use of minimum income requirements. Additionally, the Village should consider adding these as standard topics to its required annual landlord management training session. Finally, the Oak Park Housing Authority should consider developing materials on these specific topics that are provided to all voucher program participants at the time they are provided with a new voucher or moving papers so that they too are armed with information they can use to self-advocate.

3. Fair Housing Education and Outreach for Current and Prospective Residents.

- a. Throughout HOPE's investigations, every housing provider created barriers that affect voucher holders and those with conviction records. It is likely that many housing seekers are prevented from accessing housing in Oak Park due to these barriers. Unfortunately, many people are not familiar with their fair housing rights and do not report these

violations. Current and prospective residents should be further educated on their fair housing rights so they can feel empowered to fight back against discrimination. The Village should consider an affirmative marketing campaign to counter the discriminatory effects of the policies and practices uncovered during HOPE's investigations. This would spread awareness of fair housing rights and encourage Oak Park residents to fight back against illegal discrimination. This would also put housing providers on notice that their policies may be discriminatory.

4. Fair Housing Enforcement.

- a. The final recommendation is for continued investigation and enforcement of fair housing laws. Throughout its investigations, HOPE found evidence that every single housing provider imposed barriers based on source of income and/or conviction record. It is likely that many current and prospective Oak Park residents have faced this discrimination. The Village should help connect these residents to the tools and resources to seek justice for this discrimination.