Racial Discrimination

In Residential Care Facilities

For the Elderly

An Audit Report By

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FOREWORD

Discrimination in residential care facilities because of race is illegal in our state and in our nation. This audit was undertaken to gain an indication of whether elderly people of color experience discrimination in seeking residence in residential care facilities in Marin and Sonoma Counties. It is hoped that the results and the recommendations contained herein will stimulate a cooperative effort by all segments of the Marin and Sonoma communities to eliminate racial discrimination in residential care facilities for the elderly in these counties.

The audit was planned and carried out by Caroline Peattie, Housing Director, and Jane Shandler, Training Director, under the direction of Nancy Kenyon, Executive Director of Fair Housing of Marin. Caroline Peattie wrote this report. Special thanks to Pat McGinnis, Executive Director of California Association for Nursing Home Reform as well as others at her organization for their advice on the project.

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Racial Discrimination in Residential Care Facilities
Audit Report

I. INTRODUCTION

This report presents results of an audit and its follow-up for racial discrimination in residential care facilities for the elderly in Marin and Sonoma Counties in California. The audit was conducted from April to July 2001. A follow-up audit was conducted October 2002 to March 2003, after Fair Housing of Marin conducted telephone surveys of all 57 residential care facilities in Marin County, as well as 40 residential care facilities in Sonoma.

A residential care facility, sometimes called a board and care facility, is a community care building where non-medical care and supervision is provided to the elderly. The care services are custodial in nature and do not require the services of skilled medical professionals. Continuing Care Retirement Communities, sometimes called Life Care Communities, combine different levels of care - independent living, assisted living and nursing home care in a single setting. These communities typically have a sizeable entry fee, plus monthly maintenance fees, in exchange for a residential unit, meals and health care coverage up to the nursing home level. Residences can vary from studios and one bedroom to two and three bedrooms, or larger. Some communities allow the purchase of a unit that can be left to heirs, while others provide living arrangements for the duration of time the resident remains in the community. Community care facilities are licensed by the Department of Social Services, Community Care Licensing Division.

Fair Housing of Marin contacted the National Fair Housing Alliance[1] in order to determine what other such audits have been conducted. To date, there have been no responses to their nation-wide inquiry indicating that other audits for race discrimination in residential care facilities for the elderly have been conducted. Such an audit is especially important in counties where the population is rapidly aging and in which there are relatively few people of color.

It is increasingly difficult to find placements for those who are aging, as the waiting lists for facilities are often long and the cost can be extremely high.

[1] The National Fair Housing Alliance is a membership organization advocating for fair housing issues nationwide.

Fair Housing of Marin

Fair Housing of Marin (Fair Housing) is a private nonprofit agency dedicated to assisting individuals experiencing discrimination and educating primarily the Marin community[2], including residents, managers, and property owners as to their rights and responsibilities under State and Federal Fair Housing Laws. Fair Housing provides intake and counseling to discrimination complainants, followed when appropriate by mediation, investigation and referrals to the United States Department of Housing and Urban Development (HUD), the California Department of Fair Employment and Housing (DFEH), or private attorneys.

Fair Housing offers educational programs to housing providers, Marin school children and the general public on human rights and the value of diversity in our neighborhoods. We also advocate for increased affordable housing available equally to all. This includes advocacy for accessible units for persons with disabilities and affirmative marketing.

Background Statistics

Fair Housing of Marin has conducted three previous audits on race discrimination in rental housing, in 1994, 1997, and 2001, as well as a home sales and mortgage lending audit.

During fiscal year 2001, of the total housing discrimination complaints, 13% were for racial discrimination. The following year, 2002, that number held relatively steady at 12%. This represents the fourth highest category of complaints, preceded by disability, family status, and national origin (primarily Latino) complaints, respectively. We believe these statistics are influenced by the relatively low percentage of people of color who live or can afford to live in Marin County, and that they represent only a portion of the incidence of discrimination against people of color in this county, as many persons who experience discrimination:

- do not realize they have experienced discrimination,
- do not know where to seek assistance, or
- do not wish to pursue a complaint.

Population Trends

One of the largest growing populations in our geographic area is people 65 or older. This has far-reaching implications for how fair housing agencies focus their work, especially because as the "baby-boomers" age, an increasing percentage of this population will also have disabilities. The Association of Bay Area Governments' (ABAG) 1998 Regional Projections predicted that:

[2] Some services are provided in Sonoma County.

"The North Bay counties of Solano, Sonoma, Marin and Napa…will consistently constitute the four counties with the highest percentage growth in population, households, and jobs between 1995 and 2020…

"The Bay Area's population is growing larger, older, and more diverse…The most dramatic change will be the sharp increase in the number of people 65 and older. Between 1995 and 2020, this age group will nearly double, growing from 12 percent of the population in 1995 to 20 percent in 2020. But the most startling increase will be in the over-85 age bracket, which will more than double, expanding from 91,600 (or 1.4 percent of the population) in 1995 to more than 223,000 (2.8) in 2020. By 2020, more than 50 percent of the people living in our region will be persons of color, in contrast to 40 percent in the state as a whole."

According to ABAG, Marin County's population aged 60 and older increased by 23% between 1980 and 1990, seven times faster than the county's overall population growth. ABAG projects a 61% increase between 2000-2020 in the County's senior population.

2000 Census figures show that since the 1990 census, the white population of Marin decreased on a percentage basis from 88.7% to 84%. Although the minority component of our population is rising, Marin County still has the lowest representation of minorities of any of the five counties in the San Francisco-Oakland Standard Metropolitan Statistical Area.

Given the current population and projected trends in Marin County, and based on local anecdotes and observations, Fair Housing of Marin chose to conduct an audit of residential care facilities for the elderly to see if those facilities were discriminating against people of color based on their race. In a follow-up audit, Fair Housing conducted five retests of Marin County facilities of those showing differential treatment in the first round, and five Sonoma County facilities.

Legal Background

Federal Fair Housing Laws

Housing discrimination based on race, color, religion, sex (gender), national origin, mental or physical disability and familial status (the presence of minor children in the family) is illegal under provisions of the **Civil Rights Act of 1866** and **Title VIII of the Civil Rights Act of 1968**, as amended in 1988. Title VIII of the Civil Rights Act of 1968, commonly known as the Fair Housing Act (FHA), prohibits discrimination based on race, color, religion or national origin in the sale, rental or financing of housing.

The FHA specifically prohibits the use of a person's race, color, religion, sex, national origin, disability or familial status to:

1. Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling.

2. Discriminate in the terms, conditions, or privileges or sale or rental of a dwelling, or in the provision of services or facilities.

3. Make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates a preference or limitation.

4. Represent that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

California Fair Housing Laws

The two primary State fair housing laws are the **Fair Employment and Housing Act** and the **Unruh Civil Rights Act** which include protection from housing discrimination for the same categories as the federal law, and also prohibit discrimination based on marital status, sexual orientation and other arbitrary forms, such as age and source of income.

II. PRE-AUDIT SURVEY

Facilities Surveyed by Location, Owner, and Size

In preparation for the initial audit, Fair Housing staff telephoned representatives of forty senior residential care facilities in Marin County. A single call was made to each of six facilities which have multiple sites, to gather information on all sites under the same ownership. The facilities surveyed are located throughout Marin County, in seven communities. Over half of the facilities are located in central Marin County, in the city of San Rafael, the county seat, and nearly one-third are located in the second most populated city of Novato in northern Marin County.

Fair Housing's telephone survey in Marin County included care facilities ranging in size from four to 341 beds. Of the 57 total residential care facilities in Marin County, 37, or 65%, are small residential care homes licensed for up to six people. Four facilities, or 7%, are licensed for up to 20 people. Nine facilities, or 16%, are licensed for up to 49 people; six facilities, or 10.5%, are licensed for up to 200 people and one facility, or 1.5%, is licensed for over 200 people.

In the follow-up audit, Fair Housing conducted 40 informational phone inquiries of residential care facilities throughout Sonoma County. A representative of Fair Housing telephoned facilities in 13 cities and unincorporated areas. Fair Housing telephoned at least one facility in all areas of the County, with the exception of the community of Glen Ellen in which both facilities had gone out of business.

Geographically, eighty-nine of the total one hundred forty-two Sonoma County facilities (63%) are in Santa Rosa, the county seat. Windsor and Petaluma, two other cities, have approximately 9% of the residential care facilities. Smaller cities of Sebastopol, Sonoma and Rohnert Park have 3.5% of the facilities. The remaining cities and unincorporated Sonoma county areas have one, two, or three facilities.

Fair Housing's telephone survey of Sonoma County facilities included those ranging in size from six to 430 beds. Sonoma County has 142 residential care facilities in 13 cities/unincorporated areas. One hundred twelve facilities (79%) are small in-home facilities, which house 6 or fewer seniors. Thirteen facilities (9%) house 7-20 seniors, eight facilities (6%) house 21-49 seniors, five facilities (3.5%) house 50-99 seniors, three facilities (2%) house 100-149 seniors and one facility (.5%) houses 150 or more seniors.

Typical Services Provided

From Fair Housing's informational surveys we learned that typical services include assistance with bathing and dressing, supervision of medications, preparation of meals and special services as needed, often with an additional cost. The monthly fee ranged from $1,600 - $5,000 a month, depending on the size of the unit, the level of care needed and the quality of the accommodations. Accommodations vary from shared rooms and

shared baths to private 3-bedroom, 2-bath apartments. Some residential care facilities utilize community resources such as social programs for the elderly and other larger facilities have extensive on-site activities and programs.

Survey Methodology

Agents of Fair Housing represented themselves as calling for information on behalf of an elderly father-in-law who is medically alert and active, although widowed following the death of his long-time spouse. They then completed a 27-question survey form and completed a brief narrative after each call. The information gathered in the survey was beneficial in developing the profile and testing methodology for the on-site tests.

III. AUDIT GOALS AND METHODOLOGY

What is an Audit?

One of the major ways to determine compliance or non-compliance with fair housing laws is through the fair housing audit. A fair housing audit is a controlled measurement of the difference in quality, content and quantity of information and services accorded paired customers (testers) by housing providers. An audit differs from a complaint-driven test in that it gives a "picture" of housing provider behavior in a given market during a certain time period. Public governmental bodies and private agencies throughout the country routinely conduct audits as an educational and enforcement tool.

Audit Goals

This audit attempts to answer the question as to whether senior African-Americans in Marin County experience discrimination in their search for a place in a residential care facility.

The purposes were twofold:

- Factually, to gain an indication of whether people of color experience discrimination in seeking residence for themselves or a relative in residential care facilities in Marin County or Sonoma County.

- Educationally, to use this data to:

    1) Bring violations to the attention of owners and managers of facilities with an end towards elimination of such practices;

    2) Identify facility owners and managers who do not discriminate so that their behavior could serve as a role model for others;

    3) Increase public awareness regarding the degree of discrimination facing elderly people of color looking for housing in residential care facilities in

Marin County; and,

4) Encourage action by all elements of the community to end discriminatory practices.

Audit Scope/Selection of Sites

Based upon the survey results, Fair Housing conducted an initial ten site tests at facilities throughout Marin County and included facilities representative of different sizes. Fair Housing testers visited four smaller facilities which had 8 or fewer beds, three mid-size facilities which had 14 to 26 beds, and three large facilities which had 90 to 320 beds. Two of the ten sites tested were continuing care/life care retirement communities. Because the greatest number of Marin County facilities are in San Rafael and Novato, three of the ten sites chosen were located in San Rafael and two in Novato. Two facilities in Greenbrae were tested. Other cities represented in the testing were Mill Valley, San Anselmo, and Bolinas.

In the follow-up audit, five tests were conducted at Marin County facilities where first-round test results indicated differential treatment favoring the Caucasian tester. Five Sonoma County facilities were selected based on results obtained from the telephone survey. The sites chosen were as follows:

- three six-bed facilities, one in Sebastopol, one in Santa Rosa, and one in Kenwood
- two larger facilities, a 125-bed facility in Santa Rosa, and a life-care community accommodating 430 people, also in Santa Rosa

Audit Methodology

Sampling Techniques

The initial ten sites were chosen based upon location and size of facility, and upon whether comments of the facility representatives during the informational surveys indicated the possibility of discrimination. Testers telephoned sites and made appointments to see the facilities. For the follow-up audit, five were retests from the initial audit, and five were previously untested in Sonoma County. The same rationale used in the initial audit was applied in choosing Sonoma County sites.

Matched Audit Teams

Caucasian and African-American testers conducted the ten on-site visits from April through July 2001 for the first audit, and from October 2002 to March 2003 for the follow-up audit. Testers are trained individuals who simulate the conditions of applicants for a residential care facility by visiting the complex and presenting credentials supplied by the audit supervisors. Testers used in this audit received special training for testing at residential care facilities. All testers of the first audit had conducted previous tests for Fair Housing of Marin or other fair housing agencies. An additional four testers were

trained for the second testing round. Three had conducted previous tests for Fair Housing of Marin, and the fourth had experience with residential care facilities.

Procedure of the Tests

Pairs of testers, one Caucasian and one African-American, made separate on-site visits to the selected sites. Testers made visits at least several days apart in order not to raise suspicion. In all twenty paired tests, the African-American tester visited the site first.

When visiting the site, testers discussed the availability of services for their aging and widowed father or father-in-law, as well as financial and other terms. Testers were asked to report on the services or activities offered to residents. When possible, testers inspected all available rooms. Testers were instructed to pursue the interview to the application stage and collect all application materials offered, but not to complete an application for residency.

After leaving the facility, each tester filled out a Tester Report Form developed specifically for this audit. The form asks for information on the facility, available beds/rooms, prices, terms and conditions, materials given and other information collected during the test. In addition to the written report, the testers wrote a narrative account of their site visit. An audit supervisor debriefed each tester verbally.

Analysis of the Data

Fair Housing of Marin's Housing Director and Training Director analyzed the twenty pairs of tests. The analysts filled out a data analysis and rating chart designed for the audit to determine if discrimination was evident.

In assessing for differential treatment, audit analysts looked at the following areas:

1) Access and availability of beds or rooms (including length of wait for a bed or room)
2) Terms and conditions, including price and services offered
3) Treatment by representative at facility, including information requested or given and encouraging statements made
4) Steering to other facilities
5) Discriminatory statements

IV. AUDIT FINDINGS

Site visits were conducted at twenty locations in six locales representing approximately 1,300 beds throughout Marin and Sonoma Counties. The modest number of properties tested limits the conclusion we may draw. Nevertheless, the findings are significant given the fact that racial discrimination in residential care facilities has not, to our knowledge, been studied in Marin or Sonoma County. It is interesting to note that all the residents the tester reported seeing were Caucasian, and that the only people of color they

sighted were staff – mostly maintenance workers, nursing assistants, kitchen help, and the like.

Summary of Statistics

The following table summarizes the results of the site visits by area, number of beds represented, and whether or not there were incidents of differential treatment favoring the Caucasian tester.

Where facility is located	Number of Beds	Differential Treatment favoring Caucasian tester
Marin County facilities:		
Greenbrae (tested twice)	320	Yes (both)
Mill Valley (tested twice)	22-26	Yes (both)
Novato (tested twice)	6	Yes (both)
San Rafael (tested twice)	8	Yes (both)
San Rafael (tested twice)	90	Yes (both)
San Rafael	224	Yes
Bolinas	6	No
Greenbrae	6	No
Novato	14	No
San Anselmo	25	No
Sonoma County facilities:		
Sebastopol	6	Yes
Santa Rosa	430	Yes
Kenwood	6	Yes
Santa Rosa	6	No
Santa Rosa	125	No

Types of differential treatment

Differential treatment was observed in the following categories - access and availability of beds (including waitlist), terms and conditions, treatment by the facility representative, and steering.

The differential treatment was sometimes subtle, as in fewer or less expensive beds shown to the African-American tester. There were no blatant discriminatory remarks made to testers at any of the twenty site visits. No testers were told outright that African-Americans were unwelcome or refused information on vacancies.

Different terms and conditions included a higher monthly cost and differing application processes for African-Americans. Differential treatment and remarks by representatives of residential care facilities included encouraging comments and offering an application to the Caucasian tester, while remaining neutral with the African-American tester, or withholding an application from the African-American tester. In some cases the agent steered the African-American tester toward a different facility.

Differential treatment towards African-American testers indicated by audit data was exhibited in several ways. In almost all cases of differential treatment, the African-American tester was treated less favorably than the Caucasian tester. It should be noted that while on occasion, African-American testers were shown better treatment than their Caucasian counterparts, this happened for the most part with certain aspects only of a site visit, leading to the conclusion that at times agents were inconsistent in the way in which they gave information about the facility to potential residents.

1. <u>Access and Availability</u>

The number of current and future beds available to an applicant can be an indication of a residential care facility's serious interest in making housing opportunities available. This includes the length of wait for accommodations.

- In one test, the African-American tester was told there might be a vacancy, while the Caucasian tester was told that there definitely would be a vacancy.

- At one facility, the agent told the African-American tester that there was no vacancy or waiting list, and that she was not sure when a vacancy would come up, while the Caucasian tester's name and phone number was added to a waiting list because, as the agent said, "you never know".

- At three sites, testers were given different periods of time for the wait list. At one site, both testers were told over the phone that the waiting list was six months to a year. In person, however, the African-American tester was told the wait was over a year, while the Caucasian tester was told six months to a year. At a continuing care retirement community, the agent told the African-American tester that it would be at least a year before anything came up, but told her Caucasian counterpart that it would be a 3-6 month wait. At another continuing care retirement community, the African-American tester was told that a unit would not come available for a couple of years, although a studio would take less time; the Caucasian tester was told that the studio wait was up to six months, and one year for a one-bedroom.

- At one of the continuing care retirement communities mentioned above, the agent showed the African-American tester the facilities but no actual unit, whereas the Caucasian tester was shown a one-bedroom unit.

2. Terms and Conditions

Differences in terms offered by a residential care facility representative to a potential applicant can indicate that representative's desire to discourage the applicant. This can have a significant financial impact on the applicant's interest and financial ability to be housed at the facility. This category includes such items as cost of residency, deposits, qualification criteria, and services for residents.

- *Price*: At one site, the African-American was quoted a price that was $200/month more than her Caucasian counterpart. At another site, the agent told the African-American tester that a shared room was $1,500, and in a follow-up conversation a few weeks later that it was $1,600, while the agent told the Caucasian tester that a shared room was $1,400. At a third site, the agent told the Caucasian tester that the monthly payment could be lowered, depending on the resident's budget, while no such information was given to the African-American tester. At yet another site, the agent told the African-American tester that the price of the rooms was $1,700 for total independent living, and all independent rooms were private rooms. When the African-American tester specifically asked, "So, you only have privates, no semi-privates?" -- she was told again that there were only privates. The Caucasian tester

was told that the rooms were mostly privates but there were some married couples and a few sets of sisters. (A rate sheet on private and shared rates, given only to the Caucasian tester, confirmed this.)

- *Level of care while at the facility*: At two sites, the agent indicated to the African-American tester that certain health conditions (e.g. incontinence) were problematic, whereas the Caucasian tester was told it would not be a problem. In a third test, shortly after the African-American tester made a site visit with a profile of a father with a pill-controlled diabetes, the Caucasian tester visited the site (with the profile of a father-in-law with high blood pressure) and was told by the agent that people who need extensive help "*like diabetes"* care are not what they are looking for.

- *Special diets*: During one test, the agent told the African-American tester that food was not prepared for specific people, but told the Caucasian tester that they could provide special diets.

- *Activities*: At one site, the agent told the Caucasian tester about many activities available for residents, while the African-American tester was only told about television and sitting in the yard. In another test, the agent told the African-American tester there was no adult day care or senior programs, but told the Caucasian tester that there were many optional programs for the residents to participate in, including inviting friends to lunch on occasion.

- *Transportation*: One representative told the African-American tester that they do not take residents out, but told the Caucasian tester they take walks, go shopping, and visit friends. In the same test, the agent told the African-American tester the facility did not provide transportation, but offered to the Caucasian tester that the facility would take residents to doctor's appointments if they were nearby. At a second test, the agent told the African-American tester that she did not usually provide transportation, though she could coordinate it. She told the Caucasian tester of two transportation options – her friend, who can drive residents when needed, and Health Express, a service used for getting to doctor's appointments. At a third site, an agent told the African-American tester that the owner takes the residents to hair appointments, possibly for an extra charge. The Caucasian tester was told that the contract pays for transportation to medical appointments several times a month, and occasional other rides, and that otherwise residents used a senior paratransit van.

3. Treatment by Residential Care Facility Representative, including information requested or given and encouraging or discouraging statements made

The manner in which a representative shows an applicant the facility, as well as the information she provides or requests, is often an important indication of their interest in the applicant, or conversely, their lack of interest, and can be an attempt to discourage the applicant.

- In one test, the Caucasian tester was told repeatedly of a "good faith" deposit, which would give "high priority" to the application. Only when the African-American tester *asked* about a deposit was she told how much it was, but was told nothing more.

- In eight tests, the agent asked more questions of, was more talkative with, and gave more information and even advice to the Caucasian tester. While it is a minor point, it is interesting to note that at one site, tested twice, the Caucasian tester was offered coffee each test and the African-American tester not.

- In one test, the agent gave her first and last name, a brochure and ten admissions forms to the Caucasian tester, but only gave her first name and the brochure to the African-American tester, refusing to give the application materials to her because the agent inferred the tester was only "looking around." At another site, the Caucasian tester was given a brochure and business card, while the African-American tester was given no materials. At this same site, while both testers were told there was no vacancy and the Caucasian tester only was put on the waiting list and given helpful leads on places to look in the same town and nearby areas. At a third site, the agent gave the African-American tester a business card, but spent significantly more time with and gave the Caucasian tester a card as well as various application forms. At a fourth test, the agent gave the African-American tester nothing, but gave the Caucasian tester a rate sheet, description of levels of care, and general information. At this site, the African-American tester asked to see a room during the tour, was ignored twice, and saw a room only when she peeked through an open door. The Caucasian tester was shown a room without asking.

- In several tests, the agent made more encouraging remarks to the Caucasian tester. At the end of one test, the agent politely asked the African-American if she had any further questions, whereas she told the Caucasian tester that she would love to meet her father-in-law. (It is interesting to note that this was a site where the Caucasian tester was given better treatment in both an initial and follow-up site tests, yet the agent sent only the African-American a thank-you note.) Again, at another site, the agent asked the African-American tester if she had any questions at the end of the visit, but said to the Caucasian tester, "Sounds like [your father-in-law would] fit in well with a lot of the guys here", and invited her back with her father-in-law or any family members to have lunch and meet the residents.

4. Steering of tester to other facilities

When a representative of a residential care facility suggests that a potential applicant go elsewhere despite the fact that there are openings at that facility, this can have the effect of discouraging the applicant from applying.

In three tests, the agent referred the African-American tester to another facility. In at least one instance, the tester expressed the feeling that she felt the agent was turning her away.

- At a site in southern Marin, the agent referred the African-American tester to two other facilities in central Marin, although the tester did not mention where she or her father lived. The agent did not refer the Caucasian tester elsewhere, despite the fact that she mentioned that her father lived in northern Marin.

- At a continuing care retirement community, the African-American tester was referred to three other facilities in Oakland, which was where the tester said she lived, despite the fact that she mentioned that her father lived in central Marin and her sister lived in Marin. She was also referred to a facility in the same city and given a booklet on other residential care facilities in Marin. The agent told only the African-American tester that the facility they were touring had more qualifications than a lot of other facilities, and was stricter in its admittance of applicants. None of the above was mentioned to the Caucasian tester.

- At a life care community in Sonoma County, the facility representative told the African-American tester that they have several facilities, including one in Oakland. The tester was also told about three low-income facilities. It is interesting to note that both testers live in Oakland, but no mention of other sites were made to the Caucasian tester. The Caucasian tester was referred to a nice community in a nearby city in Sonoma County, where the tester had mentioned that her father-in-law lived.

V. CONCLUSIONS

The fact that 60% of such a small sample of tests in the initial audit could show differential treatment is an extremely serious finding. **Furthermore, in all five of the follow-up tests of those tested in Marin County, there were again incidents of differential treatment.** Of the five new sites chosen for testing in Sonoma County, three of those (again, 60%) showed differential treatment.

Race audits Fair Housing has conducted of rental properties in Marin County indicate less egregious results. An audit in 1997 indicated that a prospective tenant of color seeking a rental in Marin could expect to encounter differential treatment 47% of the time. The most recent rental race audit in 2001 indicated that a prospective tenant of color seeking a rental in Marin could expect to encounter differential treatment 33% of the time. Fair housing education combined with testing and enforcement action over the years has apparently had a positive effect as indicated by the audits. There has been

virtually no education or testing of residential care facilities, and the poor showing of this audit points to the seriousness of the problem.

General

- The audit indicates that there are representatives of residential care facilities who are in violation of federal and state fair housing laws.

- The differential treatment encountered would be difficult for the average homeseeker to detect.

Affirmative findings

- In 40% of the sites tested in the initial audit in Marin County, and 40% of those sites in Sonoma County in the follow-up audit, there was no discrimination or differential treatment found at the pre-application stage.

- There were no discriminatory remarks or racial comments made by facility representatives during the audit visits, nor did any agent deny an African-American tester the opportunity to see a room.

Audit limitations may underestimate degree of differential treatment

This audit measured only the degree of differential treatment an individual would encounter at the initial stage of inquiring about placement in a facility. Because testers accepted applications but did not fill them out or complete the application process, facilities that hand out applications freely but discriminate later in the selection process were not identified by this audit.

VI. RECOMMENDATIONS

Fair Housing, and we believe the majority of the Marin and Sonoma communities, feel that there should be 0% discrimination in the legal and moral right to housing choice. Given the results of these two audits, it is clear that some housing providers still do not accord equal treatment to people of color. To this end, they provide different information and services and discourage African-Americans from applying. Education must be combined with a strong public stance and increased enforcement if racial discrimination in these counties is to be eliminated.

Specific recommendations:

1. Disseminate audit results to the media as an important educational tool for the residential care industry, agencies serving seniors, public officials (particularly the Marin County Commission on Aging, and the Marin County Department of Health Services, Division of Aging), and the general public.

2. Offer fair housing education to the owners, their managers and agents of facilities audited in this report, as well as other facilities in these counties and others around the Bay Area. The audit points out the need for education in fair housing laws for all owners and managers of residential care facilities, with an emphasis on the subtleties of differential treatment.

3. As part of the education effort mentioned above, develop at minimum a one-hour fair housing component to be included in either core certification curriculum or continuing education requirements for managers and employees of residential care facilities.

4. Take appropriate legal action where indicated.

5. Local communities and governments should fund further systemic audits for discrimination based on race, national origin, religion, gender, and disability at residential care facilities.

6. Ask the residential care industry to take a positive stance that fair housing is good business and good for business. We recommend they publicly declare their support with a statement on their letterhead, outreach materials and forms.

7. Notify state and federal agencies licensing residential care facilities, as well as other watchdog groups caring for the elderly, of the findings of this report and further investigations.