



## Failure to support Fair Housing Act leads to subsidized segregation

June 05, 2012

By Brad Schmidt, The Oregonian



Felicia Marques (right) lives in a three-bedroom unit at the low-income Montebello Apartments in Hillsboro. Erick Moreno, 3, is on the far right. Angel, 12, is next to his mother. Marques' oldest daughter, Neyra, sits on the left. [Thomas Boyd, The Oregonian]

A storm of outrage erupted last year over reports that African Americans and Latinos faced discrimination in Portland's rental market.

How could landlords so frequently violate fair-housing protections? Why weren't they being punished? Legislators called for action, a state agency investigated and Portland Commissioner Nick Fish unveiled a housing plan aimed at making things right.

But the episode only hinted at far more serious problems.

An investigation by The Oregonian has found that leaders across the metro area and beyond are failing to fulfill a fundamental goal of the nation's 44-year-old Fair Housing Act: to give everyone, regardless of color, a fair shot at living in a decent neighborhood.

Taxpayer money meant to help break down segregation and poverty is instead reinforcing it. Agencies and governments are subsidizing housing in the poorest neighborhoods and commonly in areas with above-average minority concentrations. Poor people and people of color are being pushed from desirable areas such as Portland's inner east side. They are all but banished from high-end communities such as Lake Oswego.

Portland prides itself on being progressive -- on pursuing fairness, on welcoming diversity. Yet two generations after Congress approved the Fair Housing Act, a bedrock achievement of the civil rights era pushed through in the days after Martin Luther King Jr. was assassinated, The Oregonian's analysis shows the city and its suburbs are harboring a form of institutionalized racial inequity.

"We seem to see shadows or intimations of progress with this rhetoric toward equity," said Karen J. Gibson, an associate professor at Portland State University's Toulon School of Urban Studies & Planning. "But this segregation and concentration of poverty, this is dismaying. ... In a time of very limited resources, we need to have the guts to be committed to fairness and to enforcing the law."

Agencies and governments serving Multnomah, Washington and Clackamas counties accept about \$170 million a year in federal money for affordable housing. In doing so, under the Fair Housing Act, they are expected to try to spread affordable housing across neighborhoods. They are expected to avoid concentrating poverty or people of color. In taking the money, they explicitly promise to identify and dismantle barriers to those efforts.

That's not happening.

Instead, residents who could most benefit from good schools, safe streets, abundant grocery stores, nearby parks and high-achieving role models are largely locked out of the neighborhoods that have them.

The consequences are far-reaching. Nationally, the U.S. Department of Housing and Urban Development spends nearly \$35 billion a year on low-income rental housing programs. In Multnomah, Washington and Clackamas counties, that money provides housing or assistance to at least 20,000 households.

People of color, because they are overrepresented in subsidized housing, are particularly affected. In Multnomah County, for example, more than 8,800 black residents -- nearly 1 in 5 -- rely on some sort of assistance from the housing authority.

"It's sad," said Myron Orfield, executive director of the Institute on Race & Poverty at the University of Minnesota. "They're not thinking about the Fair Housing Act when they're operating these programs. They're just building the housing where it's easier to build it, which is often in poor neighborhoods."

## "Basic fairness"

### **The Fair Housing Act**

Signed into law in 1968, one week after the assassination of Martin Luther King Jr., the law aims to replace segregated neighborhoods with "truly integrated and balanced living patterns" and to "advance equal opportunity in housing and achieve racial integration." Housing practices, even if there is no discriminatory motive or intent, cannot be maintained if they deny protected groups equal housing opportunity or create, perpetuate or increase segregation without a sufficient legal justification.

**What is prohibited?** The law prohibits housing discrimination based on race, color, national origin, religion, sex, familial status and disability. It covers intentional discrimination and practices that have a discriminatory effect.

**Requirements:** The Fair Housing Act requires governments that accept money from the U.S. Department of Housing and Urban Development to "affirmatively further fair housing." They must conduct an analysis to identify impediments to fair housing choice; take actions to overcome the effects of identified impediments; and maintain records reflecting the analysis and actions taken. Further, HUD says, they must analyze and eliminate housing discrimination; promote fair housing choice for all people; provide opportunities for inclusive patterns of housing occupancy for all; and promote housing that is accessible to all.

**Fair housing vs. affordable housing:** The concepts are different but often intertwined. Governments and agencies receive federal money for affordable housing -- programs for households generally making less than 80 percent of the median income -- and must comply with the Fair Housing Act. HUD notes that the "provision of affordable housing is often important to minority families and to persons with disabilities because they are disproportionately represented among those that would benefit from low-cost housing."

**Discrimination complaints:** Oregonians have filed more than 2,450 complaints out of 193,000 nationally since Congress strengthened the Fair Housing Act in 1988. That puts the state in line with similar-size Connecticut and Oklahoma. About one-fifth of Oregon complaints involve race, compared with a nationwide average, heavily influenced by complaints in the South, exceeding 40 percent. Disability overtook race in 2004 as the most common complaint investigated nationwide. Complaints spiked in Oregon in 1993 at 216 and have stayed near 100 in recent years.

A map of the metro area's affordable housing puts the disparities into sharp focus.

Census tracts in east Portland and Gresham have an abundance of units. Close-in Southeast Portland and Washington County's Sunset Corridor have few. Swaths of Clackamas County have next to none.

It's impossible to know whether affordable housing is being shunned in nicer areas over issues of class, race or both. Residents of Lake Oswego, for example, fought for years to try to keep out a low-income project for seniors but voiced concerns only with traffic and density.

Yet the map makes clear that many people are being cut off from the best the region has to offer.

"As a matter of basic fairness, opening opportunity to people is important, and redressing the active creation of segregation is important," said Craig Gurian, a civil rights attorney whose work led to a landmark 2009 settlement in which wealthy Westchester County, N.Y., agreed to break down stark patterns of segregation. "We think that it's a simple matter of justice."

Portland lacks the entrenched segregation found in Detroit and Chicago. In fact, Portland "has experienced the greatest decline in segregation in the past 30 years of any major city, at least that I'm aware of," said Brown University professor John Logan, who conducted a 2010 study. But that's in part because gentrification has forced thousands of black residents out of Northeast Portland's historically African American neighborhoods.

Residents of subsidized housing interviewed by The Oregonian were far more likely to express gratitude than resentment. Having never lived in a tidy suburban subdivision or a charming cityscape, most were happy to have a park or bus stop nearby. But many expressed concern with neighborhood safety and frustration with limited options.

Amber Canterbury, 31, has a three-bedroom unit in a public housing complex on a dismal stretch of Powell Boulevard east of 122nd Avenue. She counts five taverns between her Hunter's Run apartment and the nearest grocery store. Mold grows on a bedroom windowsill.

She pulled a chair into the parking lot on a recent afternoon to watch her daughter, Yasmine, scramble around a play structure with a white teddy bear. Canterbury won't let the 3-year-old wander to a patch of grass out back, nor will she allow the girl and her two older children to play on grass near Powell.

"Powell is so bad," said Canterbury, who is disabled with hip dysplasia. Without sidewalks, "it's not safe, and when you have kids, it's scary."

Felicia Marques lives in a three-bedroom unit at Hillsboro's low-income Montebello Apartments. A MAX stop is steps away, and computer and English classes are offered onsite. Marques likes the staff and is close to her job at a grocery store restaurant.

Marques, 37, said friends recommended the complex, operated by a nonprofit that serves a population that's 98 percent Latino. Montebello is in a census tract where more than 25 percent of residents live in poverty, according to the latest U.S. Census Bureau estimates, and where nearly 80 percent are nonwhite, the highest in all three counties.

If she could choose, the mother of five said, she would live in Portland or Vancouver. "There's more job opportunities," she said through her daughter, Neyra, 20.

Kathy Moody, 41, usually asks one of her older daughters for a ride to buy groceries at WinCo Foods. From her two-bedroom apartment at Leander Court, on Portland's Southeast 122nd Avenue, she finds it difficult to manage a 20-minute bus ride with her 8- and 2-year-old children.

Moody slept on friends' couches before moving into the complex. "I just need a job now," she said, "and then I'll be set."

### **Troubling patterns**

Moody's optimism belies a system with troubling patterns, according to The Oregonian's investigation.

Tens of thousands of people have found shelter in the region's subsidized units, especially in Multnomah County. The problem is where those units are -- and aren't.

Subsidies for affordable housing come in many forms: Sometimes local housing authorities build whole buildings for the very poor. Sometimes they hold down rents in just some units of a complex. Other times they give people rental vouchers through the Section 8 program -- the vouchers cover all or part of the rent -- and leave it to the resident to find a place where the landlord will take the voucher.

Yet patterns persist across programs.

### **Fair-housing oversight fails at multiple levels**

The Oregonian's investigation found severe gaps in the oversight of fair housing.

Local governments that accept money from the U.S. Department of Housing and Urban Development are required to produce a report called an Analysis of Impediments to Fair Housing Choice. They must show that they are "affirmatively furthering fair housing" by identifying barriers to fair housing and listing plans to dismantle them. HUD recommends updates every five years.

But HUD officials rarely ask for the documents, let alone evaluate them.

Auditors from the U.S. Government Accountability Office in 2010 reviewed a sampling of reports. They found that more than one-quarter were older than five years; some dated to the 1990s. Among updated reports, only one-fifth provided timelines for fixing problems.

"This is basic information that we're saying they should have," said Mathew Scire, a GAO director. "That's not much of a promise without having a time frame."

A 2009 internal HUD study, obtained by The Oregonian through a federal records request, found similar problems. Officials asked 70 governments for their reports. They got 45.

The officials concluded that some reports were "apparently not performed at all." They suggested that HUD's monitoring "perhaps should be strengthened." Of the reports they did get, 22 were rated "Needs Improvement" or "Poor."

A review by The Oregonian found inconsistencies in local reports, too.

Washington County officials produced a 187-page analysis in 2004 that found public housing had been placed in neighborhoods with poor schools and high crime. But the county's 235-page

report this year didn't circle back to see whether any of the earlier recommendations were heeded.

Clackamas County's 2006 report didn't mention the programs offered by the biggest provider of affordable housing there: the Housing Authority of Clackamas County, which serves more than 2,500 households. HUD officials sternly rejected Houston's report last year for ignoring its housing authority, among many other gaps.

A consortium of Portland, Gresham and Multnomah County officials identified areas with no affordable housing in their 2011 Analysis of Impediments. They also noted that neighborhoods with affordable housing have higher minority populations, and that the whitest neighborhoods lack affordable units.

"This shows a clear need to develop affordable housing throughout the county to mitigate this segregation effect," the report said. But it later added that the role of affordable housing was unclear: "More research would be needed to know if any clustering of populations by race or ethnicity was due to reasons other than choice."

"That is outrageous. I want you to quote me on that," said Craig Gurian, a fair housing expert and civil rights attorney. "That is astonishingly disingenuous."

The report also contained no recommendation to build affordable housing in wealthy white neighborhoods.

Gurian said of that gap: "I'd have to give the consortium a double F-minus."

-- Brad Schmidt

Home Forward, the housing authority that serves Multnomah County, increased Section 8 vouchers from 2001 to 2011 by nearly 2,100. A net 93 percent of the new vouchers went to rentals east of 82nd Avenue. That shift helped triple the number of African American voucher-holders in largely low-income east Portland and west Gresham to 1,193.

Affluent and overwhelmingly white Lake Oswego and West Linn have so few affordable options, just 0.1 percent of the three-county total by one tally, that they have nearly five times more million-dollar homes as affordable rentals.

Of 17,000 units in the three counties funded since 1991 through a state-administered federal tax credit program, 55 percent are in "poverty" census tracts and 20 percent are in "minority" tracts. Poverty areas are those where at least 20 percent live below the federal poverty line, according to federal definitions. Minority areas have nonwhite populations that exceed the metro average by at least 20 percentage points; locally, that's nearly 44 percent, a high bar for a metro area that's more than 76 percent white.

The program, which helped pay for the Montebello Apartments and Leander Court, gives developers more money to build in poor areas. Leander Court, like the Montebello, is in a census tract where at least 1 in 4 people are in poverty, according to Census Bureau estimates. More than 40 percent of residents are nonwhite.

"It would appear on the face of it," said Jill Khadduri, who headed HUD's policy development and research division for 16 years, leaving in 2000, "that the state agency that allocates tax credits in Oregon has not taken this as a priority, at least not in the Portland metro area, opening up opportunities for low-income people to live in low-poverty areas."

Similar patterns are found in 4,700 units paid for through a \$29 million state-administered rental program. Of residents, about two-thirds of African Americans and Latinos live in poverty tracts, compared with just over half of whites. Latinos and African Americans are twice as likely as whites to live in minority tracts.

The director of the state agency that oversees the tax-credit and rental programs, Oregon Housing and Community Services, chalked up differences to market forces and individual choice.

"As long as people have choice, I reject the notion that concentrations are always bad," said Margaret Van Vliet, who is also the former director of the Portland Housing Bureau. "If people have choice and they're not trapped, I'm not sure there's an underlying problem."

In Portland, officials have pumped city and federal money into at least 150 projects with more than 7,300 units. Outside downtown, where projects overwhelmingly shelter poor whites, people of color disproportionately live in worse neighborhoods, according to 2009 data.

Of residents in the units, 65 percent of African Americans and 85 percent of Latinos live in poverty tracts, compared with 46 percent of whites. In Southwest Portland -- with just 136 units, all in low-poverty neighborhoods -- whites rent 89 percent of units.

Among all the Portland units, African Americans are five times more likely than whites -- and Latinos six times more likely -- to live in minority tracts. Low-income housing in North and Northeast Portland, where many black residents want to stay, are helping drive those numbers, as is a housing nonprofit in Northeast's Cully neighborhood that serves Latinos.

"It turns out that for all the progress that's been made, residential segregation is the toughest nut to crack," Gurian, the civil rights attorney, said of housing nationwide. "There hasn't been the political will, or frankly the pressure, on local governments to make change," he said. "So the segregated status quo is able to remain in place."

## **Policy dropped**

Portland, where last year's local uproar started, has spent more than \$150 million on affordable housing through its urban renewal areas, which require that 30 percent of the money generated go to such projects. But the city has a history of failing to follow through on other fronts.

In 1992, a Multnomah County task force concluded that extensive housing discrimination persisted. The group called for audit testing, in which whites and people of color pose as renters to look for different treatment. The City Club of Portland also recommended testing.

Portland contracted with the Fair Housing Council of Oregon, a nonprofit that pursues equal access to housing through education and other services, to conduct the testing but set aside no money. The tests didn't happen.

"I'm sorry that 20 years later we're looking at the exact same situation, except that it's probably worse because of the economy," said Judith Kliks, who was part of the City Club committee.

In 1993, the Portland City Council approved a "location policy" that prohibited placing affordable housing in the poorest parts of town unless leaders granted an exception. But city documents obtained by The Oregonian show that in 2003, city leaders realized the exception had "swallowed the rule." Every developer who sought leeway got it. City housing officials dropped the policy last year.

### **HUD money**

How much local governments and agencies receive a year

**\$85 million:** Home Forward (the housing authority that serves Multnomah County)

**\$29 million:** Rent-assistance contracts administered in the metro area by the state

**\$23 million:** Washington County Housing Services

**\$15 million:** Housing Authority of Clackamas County

**\$13 million:** Portland/Multnomah County, Community Development Block Grant (not all CDBG money must go to housing projects) and HOME funds

**\$4 million:** Washington County, CDBG and HOME block grants

**\$3 million:** Clackamas County, CDBG and HOME block grants

Portland officials did hire the Fair Housing Council to conduct audit tests in 2010. In 32 of 50 tests, blacks and Latinos were treated differently from whites, according to results released last year. Legislators demanded action, and the state Bureau of Labor and Industries investigated. Ultimately, the agency found that the testing was too flawed for use in going after landlords.

In June 2011, amid community outrage over the test results, Portland Commissioner Nick Fish unveiled what he billed as the city's first fair housing plan.

"Today with one voice we are here to say we will not tolerate discrimination in housing in Portland or in Oregon," said Fish, son of the late U.S. Rep. Hamilton Fish, who in 1988 helped put teeth in the Fair Housing Act. The plan, Fish said, would "get at the root of persistent problems in our community, which are barriers to housing choice."

Officials listed the steps they planned to take through June 2012 and promised to be accountable.



Last week, city housing officials outlined their progress. But since the steps mostly involve intangibles such as outreach, better communication with other officials, and the adoption of "equity principles" to guide housing decisions, it's tough to see any change on the ground.

Leaders did try to move ahead with one concrete step: to conduct annual audit tests. They set tests for this past April and May, at sites with a history of complaints and violations, not random sites as before. They planned to go after any discriminatory landlords by June 15.

But after three inexperienced companies offered to do the testing, the city postponed plans.

To date, no tests have been done.

-- Brad Schmidt