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The cover photograph was contributed by Bernard J. Kleina, whose thoughtful images and videos are an inspiration to all fair housing advocates. Sidley Austin Brown & Wood copied and bound the report.

This project is dedicated to the many Housing Choice Voucher holders whose efforts to live and bring up their children in healthy, stable environments are too often thwarted by landlords who illegally discriminate against them. It is our hope that this report will contribute to the housing policy dialogue and lead to an equal opportunity for families with a housing voucher to live in the home of their choice.

Copies of this report are available from
Lawyers' Committee for Better Housing, Inc.
220 S. State, Suite 1700
Chicago, IL 60604
312 347-7600
lcbh@enteract.com

The report is also available on line at www.lcbh.org.

LOCKED OUT: BARRIERS TO CHOICE FOR HOUSING VOUCHER HOLDERS

Report on Section 8 Housing Choice Voucher Discrimination

INTRODUCTION

For over 20 years, the Lawyers' Committee for Better Housing, Inc. (LCBH) has been the premier public interest law firm specializing in housing law and policy in Chicago. LCBH's mission is to increase the availability of safe, decent, and affordable housing for people of low and moderate income in the City of Chicago through legal and public advocacy and community education. Two programs – the Attorney of the Day Eviction Defense Program (AOD) and the Affordable Housing Conservation Program – assist low-income tenants faced with eviction or problems with dangerous or deteriorating buildings. Throughout its history LCBH has advocated on behalf of tenants and has made significant contributions to tenants' rights and affordable housing initiatives, through research and studies, fair housing testing, and policy reports. A new Social Services Department aids LCBH clients who face problems beyond their immediate housing crisis.

This LCBH report is based on testing of Chicago landlords to determine the extent of illegal discrimination against tenants who pay rent with Section 8 Vouchers (now known as Housing Choice Vouchers). Significant discrimination has implications for tenants displaced by the demolition of public housing projects who wish to relocate into the private sector. Based on the test findings, recommendations for reducing discrimination and improving the odds that these families can find suitable housing are made.

Test Example #1. 2BR Garden Apt. Lincoln Park. The landlord told the white tester about the apartment, including that it was in a courtyard building and available right away. When the tester informed the landlord that she had a Section 8 voucher, the landlord told her that she should tell landlords at the beginning of the conversation, so that she "didn't waste their time." 2/8/02

Overview of the Problem: Landlord Discrimination Undermining the Housing Choice Voucher Program

The Housing Choice Voucher Program is a federally funded program that provides certain low-income families with vouchers they can use to obtain housing in the private market. In keeping with the overall trend of seeking private, market-based approaches to traditional public welfare programs, the U.S. Department of Housing and Urban Development (HUD) and the Chicago Housing Authority (CHA) have aggressively moved away from subsidized public housing. Instead, they are opting to give eligible families vouchers to be used in the private market.

The ongoing demolition of many CHA developments will displace thousands of families in the coming years, many of whom will receive housing vouchers. While Chicago clearly has a lot riding on the success of the voucher program, there are several warning signs that indicate that the voucher program is struggling, and that low-income families are not getting the protection and support that the program is intended to give them.

In theory, the voucher program is sound policy. It gives low-income families the freedom to choose where they will live, and avoids much of the stigma traditionally associated with public housing. However, numerous published studies question whether the supply of affordable apartments in the city is sufficient to meet the demand of low-income residents.

What has not been examined before is the number of units that are unavailable to tenants with vouchers due to landlord refusal to accept the voucher as rent payment. Voucher holders have long complained of discrimination, and many studies have cited anecdotal evidence of discrimination.

Our study shows that discrimination is a far larger problem than previously imagined and that even if there appear to be enough affordable apartments to go around, the available rental pool for voucher holders is drastically reduced by systemic and illegal discrimination.

Test Example #2. 1BR, \$625, Forest Glen. Landlord was willing to rent to white female with one child until she learned that tester would pay with Section 8 voucher. She then said that two people could not live in the same apartment. She further stated that she would not accept Sec. 8 because she “didn’t want trouble.”
2/2/02

Discrimination Against Voucher Holders Prohibited in Chicago

The City of Chicago Fair Housing Ordinance,¹ amended in July of 1998, makes it illegal to discriminate against an individual in the housing market “because of his race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or **source of income.**” (Section 5-8-020, emphasis added.)

On April 19, 1999, the Chicago Commission on Human Relations issued an order that the Ordinance’s prohibition of “source of income” discrimination covers Section 8 vouchers and certificates.² This legal protection was deemed “timely and necessary” by Chairman Clarence N.

¹ Chicago Fair Housing Ordinance information was obtained from the City of Chicago website at <http://www.cityofchicago.org/humanrelations/discrimination/fairhousingordinances.html>.

² The order was issued in the joined cases of Smith et al. V. Wilmette Real Estate & Mgt. Co. (CCHR Nos. 95-H-159, 98-H-44, and 98-H-63). The order found that Section 8 is a lawful source of income. It rejected a pre-emption argument that a voluntary federal program can not be turned into a mandatory one. Also rejected was the defendants’ argument that requiring the acceptance of Section 8 violates the property owner’s due process rights and constitutes a government “taking” without due compensation.

Wood, who cited the increasing displacement of low-income families through public housing demolition and gentrifying of neighborhoods.

Therefore, it is illegal in the City of Chicago to either refuse to accept housing vouchers or to discriminate in any way against tenants based on the fact that they are participating in the voucher program. A landlord is not required to accept a Housing Voucher applicant if he or she does not meet the landlord's usual rental criteria. However, the rental criteria must be the same for all applicants. Thus, a landlord may refuse to rent to an applicant if the applicant has bad credit or does not have enough income, as long as the voucher payment is considered.

Test Example #3. 1 BR \$825, Lakeview. Landlord told white tester that they had never worked with Section 8 and were not interested in working with Section 8. 2/1/02

The Housing Choice Voucher Program

The Housing Choice Voucher Program³ is federally funded and provides a housing subsidy to low-income families. Participants include displaced public housing families as well as low-income families that qualify. Local housing authorities administer the program. Previously referred to as "Section 8," the program was restructured in 1999 to merge the certificate and voucher programs. Now, once a tenant is awarded a voucher, he/she can move from one jurisdiction to another and still maintain the housing subsidy. The subsidy covers the difference between the approved market rent of a rental property and 30% to 40% of the tenant's income.

The Chicago Housing Authority is responsible for overseeing the Housing Choice Voucher Program for the City of Chicago. CHAC, Inc. (not an acronym) is administering the program for displaced public housing residents.

Description of Voucher Holders

To qualify for the Housing Choice Voucher Program, a household must earn below 50% of the Area Median Income. In the Chicago region, in 1999, a family of four earning below \$30,000 was eligible.⁴ Depending on family size, families with higher incomes might also qualify. More than 500,000 households in the Chicago area qualify for Housing Choice Vouchers, but this program is not an entitlement. In 2000, about 41,000 of those families received the voucher with another 60,000 on waiting lists.⁵ Only 3,500 vouchers are available through normal turnover per year.⁶

³ Information about the Section 8 Housing Choice Voucher Program was obtained from CHA and CHAC via CHA's website at <http://www.thecha.org>.

⁴ Chicago 1999 Median Family Income was \$63,800- data taken from National Low Income Housing Coalition, *Out of Reach 1999: America's Growing Wage-Rate Disparity*.

⁵ *Increasing Access to the Rental Market through Housing Choice Vouchers*, Metropolitan Planning Council, March 2000.

⁶ *For Rent: Housing Options in the Chicago Region*, "Factors Shaping Rental Housing Demand and Supply" p. 4, Metropolitan Planning Council, November 1999.

At the unveiling of its Plan for Transformation, CHA promised to provide housing to all 15,000 families and 10,000 seniors living in public housing as of October 1999.⁷ To accommodate such a large number of displaced people, CHA is relying on the success of Housing Choice Vouchers to allow many of those households the opportunity to move into the private market. One ingredient in successfully transforming public housing is the integration of low-income families into mixed-income communities.⁸ CHA and other civic leaders have advocated for this objective in order to break up pockets of poverty, integrate low-income families and public housing families into mixed-income communities, and improve the quality-of-life for these families.

To assist in achieving this objective, CHA has targeted communities as “exception rent areas.” These designated areas have been determined to be optimal areas for the relocation and integration of Housing Choice Voucher families. The exception rent areas are allowed an increased rental subsidy to offset the higher rental rate in the given community. The areas include Edison Park, Forest Glen, Lincoln Park, Loop, Near North, and O’Hare.⁹

Market Conditions for Affordable Housing and Housing Choice Vouchers

Demand for affordable housing in Chicago for the lowest-income families exceeds the supply. According to the Metropolitan Planning Council (MPC) November 1999 data,¹⁰ 38,000 apartments out of the region’s 1,024,000 apartments are available to those families whose income is less than 30% of the Area Median (less than \$20,000 annually for a family of four). The data also show that the housing market demands approximately 40,000 new affordable units per year, while only 31,000 units are supplied. In 1995, the Center for Budget and Policy Priorities examined the Chicago housing market and found there were 245,000 very low-income renter households (income below \$12,000) and only 115,000 affordable rental units (below 30 percent income) available -- a shortage of 130,000 units.¹¹ Other factors are exacerbating the shortage of affordable housing. Increasing rental rates are outpacing many families’ income. According to the MPC, from 1995-1998 rents increased 19%, compared to an 11 % increase in the Consumer Price Index (CPI). In addition, from 1990-1999, the Chicago region lost over 50,000 rental units, while the overall population increased by more than 500,000.

The MPC analysis, the most comprehensive analysis of the Chicago area rental market, shows that the rental unit market is strained. In fact, in 1999, the Chicago rental market had a 4.2% vacancy rate: the U.S. Department of Housing and Urban Development considers a ‘tight’ housing market to be a 6% vacancy rate. A tight rental market leads to market conditions where those with less income and resources are crowded out. MPC data seems to indicate that the low-income population is indeed being crowded out of the affordable housing market.

⁷ Chicago Tribune Magazine, *Where is Everyone Going?* Alex Kotlowitz, March 10, 2002.

⁸ Information taken from CHA Plan for Transformation Summary of Goals and Principles, January 6, 2000.

⁹ “Exception rent areas” information was obtained from CHAC, Inc.

¹⁰ All data cited for Market Conditions for Affordable Housing section were obtained from the Metropolitan Planning Council, *For Rent: Housing Options in the Chicago Region*, November 1999.

¹¹ Center for Budget and Policy Priorities data is contained in, *For Rent: Housing Options in the Chicago Region*, “Demand for Rental Housing,” p. 7, Metropolitan Planning Council.

Housing Choice Vouchers are designed to correct these deficiencies in the affordable housing market by providing a family with the ability to utilize the voucher to pay market rate rents. This presumably opens up a wider spectrum of housing to these households, decreasing the difficulty of competing for apartments with the lowest rent. But voucher holders are having difficulty moving into mixed-income private market housing. A study commissioned by CHAC shows that most families using voucher subsidies end up back in areas that are racially segregated with high poverty levels. In fact, almost 80% of displaced public housing households are living in areas that are over 90% black and over 90% high poverty.¹²

Description of the Problem

There are huge obstacles to achieving the objective of racial, ethnic, and economic integration throughout Chicago neighborhoods and avoiding concentrations of voucher holders in urban ghettos. This problem is well supported by Metropolitan Planning Council research and through other studies. Clearly, decent affordable housing is very scarce in the Chicago area and cannot fully supply all those low-income families seeking it. This situation is further exacerbated by the actual decline in available affordable units over the last decade. Coupled with an increase in population, the squeeze on low-income families for affordable housing is evident.

If, in addition to these well-documented barriers, discrimination against voucher holders locks them out of a significant portion of the rental market in which the voucher allows them to pay market rent, then the problem is much worse for these families than has been previously recognized. Significant discrimination against families based on their source of income, i.e. Housing Choice Vouchers, would drastically reduce the available housing market for these households. Discrimination based on the voucher, though known anecdotally to housing agencies, has not previously been studied.

In order to more adequately assess and determine whether discrimination against Housing Choice Voucher holders is widespread and frequently occurring, the Lawyers' Committee for Better Housing, Inc. commissioned testing of Chicago area landlords. The tests were designed to document whether a voucher holder faces discrimination because of the Housing Choice Voucher. Whether the race or ethnicity of a voucher holder is a further source of illegal discrimination was also examined, as were the differences between the general Chicago rental market and "exception rent areas."

Test Example #4. Studio, \$475. Jefferson Park. Told white tester Section 8 was accepted. Lower level apartment available & also had apartments available in a unit across the street. 95 minutes later told black tester, apartment no longer available because too many other people interested & wanted to choose from that pool of people. 2/2/02

¹² *Section 8 and The Public Housing Revolution: Where Will the Families Go?* Paul B. Fischer, June 3, 1999.

METHODOLOGY

Protocol

LCBH contracted two experienced fair housing centers to conduct source of income and racial discrimination phone tests: HOPE Fair Housing Center¹³ and the South Suburban Housing Center.¹⁴ Each organization operates a well-respected fair housing testing program to discern discrimination. The protocol for the testing of Chicago landlords included the following:

- a. A white phone tester, posing as a potential renter with a Housing Choice Voucher, made telephone contact with the assigned landlord.
- b. If the white tester was told that the housing voucher would not be accepted, the test ended.
- c. If the white tester was positively invited to continue after revealing that he/she was a voucher holder ('yes') or that there was no clear positive or negative response ('other'), a second match test was conducted. This test, usually the same day, was by a Black or Latino tester, also posing as a potential renter with a Housing Choice Voucher.

Sample

Two samples were utilized in testing for Housing Choice Voucher discrimination:

1. A random sample of Chicago area landlords actively pursuing renters through print ads; and
2. A targeted sample of CHA exception rent areas and neighborhoods immediately adjacent to these areas, also advertised in the print media.

A total of 207 landlords were tested: 59 were a random sample of Chicago area landlords and 148 were landlords from the targeted areas.

To select the testing sample, HOPE and SSHC used current classified rental ads from The Reader, Chicago Tribune, Chicago Sun-Times, and other print media outlets. The individuals used to conduct the tests are all experienced and trained fair housing phone testers.

Case Identification

¹³ HOPE Fair Housing Center, founded in 1968, received a 1999 HUD Best Practices Award for fair housing enforcement activities. Its mission is to eliminate housing discrimination and ensure equal housing opportunity. HOPE has produced tester training material and award-winning fair housing videos that are utilized by fair housing agencies throughout the U.S. HOPE conducts an average of 30 fair housing tests per month.

¹⁴ South Suburban Housing Center, founded in 1975, has had a fair housing testing program for 25 years. In addition to investigating and testing fair housing complaints that are received by the agency, SSHC has conducted testing for the National Fair Housing Alliance, U.S. Justice Department, Chicago Area Fair Housing Alliance, and the U. S. Comptroller of the Currency.

HOPE Fair Housing Center conducted tests in June 2001 and in February 2002. SSCH conducted tests throughout the month of February 2002. The total number of initial tests (i.e., white tester posing as a potential renter with a voucher) with successful contact amounted to a sample size of 207 different landlords. The landlords' responses were categorized by 'yes,' 'no,' and 'other.'

1. 'Yes' Category- the landlord explicitly communicated to the tester that Housing Choice Vouchers were accepted as suitable payment for rent.
2. 'No' Category- the landlord explicitly communicated to the tester that Housing Choice Vouchers were not accepted as payment for rent.
3. 'Other' Category- there was no clear indication that the landlord either accepted or did not accept Housing Choice Vouchers as payment for rent. Responses in this category included "I don't know," "Call back tomorrow," "I have to check with my husband/wife/manager," etc.

Test Example #5. *1BR, \$685. Uptown. White tester was told that the voucher was accepted and two one-bedroom apts. were available for March 1st. Black tester was told that the voucher was OK, but no apartments were available for March and wouldn't know about April until February 15th. 2/7/02*

FINDINGS

The testing commissioned by LCBH indicates:

- **Housing Choice Voucher holders routinely face source of income discrimination from Chicago landlords.**
- **Evidence exists of increased discrimination and difficulty for voucher holders attempting to seek housing in CHA's targeted areas.**
- **Testing reveals that there is evidence Housing Choice Voucher holders face additional illegal discrimination based on race or ethnicity.¹⁵**

Telephone tests of each sample –1) random sample of Chicago area and 2) CHA exception rent areas -- from protocol (a) (see previous page) were conducted.

Random Sample

¹⁵ Research has indicated that the ability to discern one's voice through telephone conversation is means enough to determine a speaker's race or ethnicity, and an individual may suffer discrimination based on his or her speech. See Purnell, Idsardi, and Baugh "Perceptual and Phonetic Experiments on American English Dialect Identification," Journal of Language and Social Psychology, Volume 18, pp.11-30, 1999.

In the random sample, 59 landlords were contacted, with the following results:

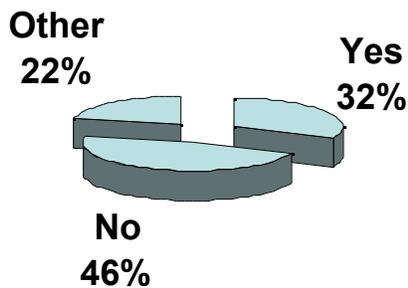
- 1) 32% (19) of the sampled landlords responded to a white Housing Choice Voucher tester with 'yes';
- 2) 46% (27) of the sampled landlords responded with 'no'; and
- 3) 22% (13) of the sampled landlords responded with 'other'.

Targeted Sample

In the targeted sample that focused on CHA exception rent areas and adjacent neighborhoods, 148 landlords were contacted, with the following results:

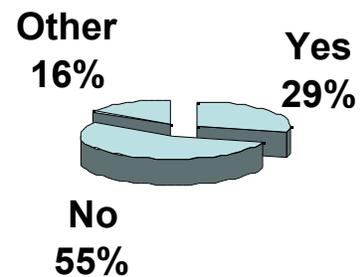
- 1) 29% (43) of the sampled landlords responded to a white Housing Choice Voucher holder tester with "yes;"
- 2) 55% (82) of the sampled landlords responded with "no;" and
- 3) 16% (23) of the sampled landlords responded with "other."

White Tester Random Sample



N = 59

White Tester Targeted Sample



N = 148

Minority Testing

In following protocol (c), the potential sample of landlords for both the random sample of available rental units and the targeted sample included the 'yes' category plus the 'other' category from the initial call by white testers. For the random sample, 25 landlords were reached in the follow-up calls, and in the targeted sample, 58 landlords were reached. Both samples decreased slightly from the initial combined "yes" and "other" group because of inability to make contact with some landlords for the second test.

In follow-up tests with 25 landlords in the random sample of Chicago, results were:

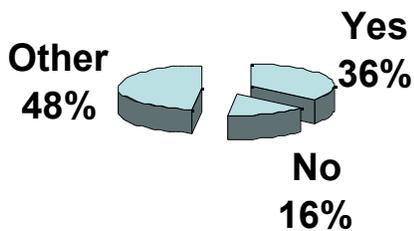
- 1) 36 % responded to a minority tester in the second match test with 'yes';
- 2) 16 % responded with 'no' to a minority tester; and
- 3) 48 % of the sampled landlords in the second match test responded with 'other'.

In the targeted rental sample, the results were:

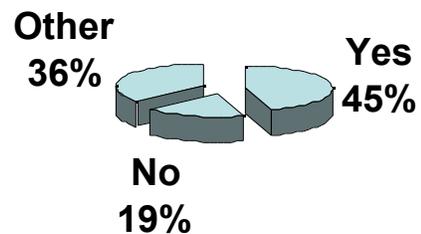
- 1) 45% of the sampled landlords in the first match test responded to a minority test in the second match test with 'yes';
- 2) 19% responded to a minority tester with 'no'; and
- 3) 36 % responded with 'other'

Minority Tester Random Sample

Minority Tester Targeted Sample



N = 25



N = 58

Test Example #6. 2BR \$780/mo. Portage Park. Female landlord told white tester that she had never taken Section 8 before, but she doesn't see why not. During the follow-up call by Hispanic tester, the landlord did not state whether or not she would accept the voucher, rather she said that the caller needed to fill out an application and then she would decide. 2/6/02

CONCLUSIONS

Housing Choice Voucher holders face multi-level barriers of discrimination based on source of income, race, and ethnicity. Furthermore, testing reveals that Housing Choice Voucher holders face increased discrimination and more difficulty obtaining a unit in CHA exception rent areas than in the general Chicago rental market.

According to tests conducted in CHA exception rent areas, 55% of landlords refused to accept Housing Choice Vouchers as suitable rental payment, regardless of the caller's race or ethnicity. An additional 16% of sampled landlords equivocate about accepting the Housing Choice Voucher as a means of rental payment. In practical terms, these units are also not available to voucher holders who are searching for a place to rent. Alternatively, in the general Chicago market testing, 46% of landlords refused to accept Housing Choice Vouchers (exception rent

areas is 55 %-- a difference of almost 10%) and 22% of landlords equivocate as to accepting the Housing Choice Voucher as a means of rental payment.

The testing results indicate that while the Housing Choice Voucher is intended to open up market rate units, households with the voucher are locked out of the majority of these rental units due to illegal discrimination. Voucher holders are denied access to approximately 70% of the market rate units that are supposedly available to them. In other words, Housing Choice Voucher holders must choose from a pool of only about 30% of the available housing units that are within CHA rental payment guidelines in Chicago.¹⁶ Moreover, once ethnicity is accounted for, the Housing Choice Voucher holder who is African-American or Hispanic has an even smaller opportunity or probability of locating suitable housing.

If the available market rate housing market throughout the City is only 30% accessible to tenants with vouchers, and even less to minorities who make up a majority of voucher holders in Chicago, the Plan for Transformation may not succeed. Testing revealed that CHA's plan to open up mixed-income communities to voucher holders in targeted areas will be more difficult than in the general Chicago area -- with nearly 10% more voucher holders being denied housing. Voucher families are thus more likely to finding housing in areas of high poverty and minority-majority segregated areas. This supposition is already being borne out, as indicated by Paul Fischer's study: the majority of voucher families relocate in highly impoverished neighborhoods where the population is primarily African-American.

Policy Implications

These results provide evidence that illegal discrimination against voucher holders, and minority voucher holders in particular, presents a formidable barrier to the success of the Plan for Transformation. Discrimination essentially shrinks the available pool of rental units by nearly 70% to voucher holders and even more for minority voucher holders.

A strategy to reduce discrimination could greatly increase the supply of quality affordable housing units available to voucher holders, allowing them real choice in selecting a quality home and neighborhood in which to live.

Reducing discrimination is potentially a cost effective and efficient means of increasing the supply of housing available to voucher holders. Tangible savings could result from a reduced need for CHA to build replacement housing. And a truly open housing market will allow households with vouchers access to quality schools and quality housing in neighborhoods of their choice. Instead of voucher holders overwhelmingly relocating to other segregated and impoverished areas, a reduction in discrimination can open access to all areas of the City.

RECOMMENDATIONS

¹⁶ As of 10/01/01, CHAC, Inc. had a Voucher Payment Standard of \$980 for a 2-bedroom apartment for all administered areas and \$992 for a 2-bedroom apartment in exception rent areas (Edison Park, Forest Glen, Lincoln Park, Loop, Near North, and O'Hare). CHAC, Inc. sometimes negotiates with landlords who advertise higher rents.

The Lawyers' Committee for Better Housing, Inc. recommends ongoing study and testing to better understand the scope of this illegal discrimination. This problem is something that will plague not only the Housing Choice Voucher program but most likely many more affordable housing policies in the future. LCBH's testing shows that significant discrimination exists and is a formidable barrier to entry to the quality affordable housing marketplace for voucher holders.

Based on these findings of discrimination against voucher holders, LCBH makes the following recommendations to reduce illegal discrimination against voucher holders:

- 1) Mandatory education for landlords and housing management companies on fair housing generally and specifically on the Chicago Fair Housing Ordinance's prohibition of discrimination based on the use of the housing voucher.
- 2) Education for families with the Housing Choice Vouchers, so that they may better understand their housing rights and know who to call and consult for remedies if they believe those rights are violated.
- 3) Increased enforcement of the Fair Housing Ordinance.
- 4) Increased monitoring and testing of Chicago landlords and housing management companies for compliance with fair housing laws.
- 5) Inclusion of the housing voucher as a protected category in fair housing laws throughout the county and/or state.
- 6) A media campaign aimed at landlords publicizing the realities and advantages of renting to tenants with Housing Vouchers.

The consequences of illegal voucher discrimination are staggering. Public housing and Housing Choice Vouchers are the housing options of last resort for low-income families, but when housing of last resort is demolished and a family cannot find suitable housing because of discrimination, what options are left? The most likely answer is living on the street, in shelters, or doubled up with relatives. Unless the private market is truly open to voucher holders, the CHA Plan for Transformation is headed for trouble. Our testing indicates that discrimination is a systemic problem within the rental housing market and must be addressed to assure that households with vouchers truly have a choice to live in the community of their choice.

The Lawyers' Committee for Better Housing intends to assist in implementing the above recommendations. We hope to support CHA, CHAC, landlords, and the families with Housing Choice Vouchers through increased education and understanding of the voucher process, advocating for protection based on the voucher outside the City of Chicago, and, when necessary, increased enforcement of Chicago's fair housing ordinance. Private organizations and advocates must join with public entities to help transition families from public housing projects to the private housing market.