

CHAPTER 5: HOUSING



INTRODUCTION

Immigrants in Minnesota struggle to find safe and well-maintained housing, a problem fueled by a shortage of affordable housing, restrictions on public benefits, immigration status, exploitation by landlords, and outright discrimination in renting and buying. Lack of housing is not exclusively the problem of a particular immigrant group, but affects all immigrants, regardless of their country of origin, immigration status, place of residence in Minnesota, or ethnicity. Some immigrant populations, however, face added difficulties that complicate the search for affordable housing. The systems that protect people from exploitative and discriminatory landlords, realtors, and mortgage lenders are not working for immigrants. The private market is failing to provide affordable housing, and public housing cannot meet the demand, constrained by a lack of funding and a political environment that views it as acceptable to deny the rights of all people to decent, safe housing.

HUMAN RIGHTS AND HOUSING

The lack of adequate housing violates international human rights standards. “Adequate” in this case means that housing must be safe, structurally sound, affordable, and provide resources such as clean water, heating, lighting, and sanitation.⁸²⁰ All people are entitled to this basic minimum standard without discrimination, including noncitizens, who should have equal access to housing, as well as to any government housing assistance programs.⁸²¹

SHORTAGE OF AFFORDABLE HOUSING

Immigrants have difficulty finding affordable rental housing, whether private or publicly subsidized. Large families in particular have trouble finding units with enough bedrooms to comply with occupancy codes. Some immigrants struggle with homelessness because of this housing shortage. Governments at the federal, state, and local level are failing to fund and support the construction or maintenance of enough affordable housing to meet the needs of Minnesota residents, including immigrants.

The affordability of rental properties heads the list of housing concerns. Nearly half of all Minnesota renters, whether immigrant or citizen, spend at least 30 percent of their income on housing, the level at which housing is considered unaffordable.⁸²² Organizations that work with immigrants

⁸²⁰ International Covenant on Economic, Social, and Cultural Rights (ICESCR) Art. 11(1); UN Committee on Economic, Social and Cultural Rights, General Comment No. 4, The Right to Adequate Housing ¶ 8, UN Doc. E/1992/23 (Dec. 1991).

⁸²¹ UN Committee on Economic, Social and Cultural Rights, General Comment No. 20, Non-Discrimination in Economic, Social and Cultural Rights Art. 2 ¶2, ¶¶24, 30, UN Doc. E/C.12/GC/20 (2009).

⁸²² Minnesota Housing Partnership, “Rental Housing,” (accessed Mar. 21, 2014), <http://www.mhponline.org/publications/reports-and-research/housing-trends/310/310-statewide>.

report problems with finding affordable housing: “Housing is next to impossible; the vacancy rate is so low that it is hard even for the community at large, but for refugees it’s that much harder.”⁸²³ In interview after interview,⁸²⁴ immigrants described their struggles: “It’s not great, but I don’t have money to find another place,”⁸²⁵ or “It has been difficult to find a place to rent that is affordable.”⁸²⁶ The lack of affordable housing is a statewide problem. Of the 87 counties in Minnesota, 84 lack enough affordable housing to serve all of their low-income residents.⁸²⁷

THREE MAIN PUBLIC AND SUBSIDIZED HOUSING PROGRAMS

Public housing

Public housing refers to properties owned and managed by the local Public Housing Authority.

Subsidized housing projects

In subsidized housing projects, a privately owned and managed property receives a subsidy to provide affordable housing. In both public housing and subsidized housing projects, the government assistance is linked to the unit and is not transferable. The renter pays approximately 30 percent of their income towards the rent.

*Section 8 vouchers*⁸²⁸

Section 8 vouchers enable low-income renters to afford private, market-rate rentals. As with public housing and subsidized housing projects, the renter pays approximately 30 percent of their income towards the rent and the local housing agency pays the remaining rent amount directly to the landlord.

The lack of unsubsidized affordable apartments drives immigrants to seek public housing assistance, but the serious shortage of public housing prevents many immigrants from finding housing through this mechanism, as well. Long public housing waiting lists, which affect all low-income renters, were cited again and again as a barrier. As one service provider stated, “there is no availability of low-income housing. You have to wait years for Section 8 housing and that’s the same with public housing.”⁸²⁹ Another reported that in some cities, public housing and Section 8 voucher waiting lists

⁸²³ Interview 115.

⁸²⁴ Interview 7; Interview 15; Interview 25; Interview 31; Interview 33; Interview 44; Interview 52; Interview 69; Interview 78; Interview 145; Conversation 6; Conversation 16.

⁸²⁵ Interview 15.

⁸²⁶ Interview 25.

⁸²⁷ Minnesota Housing Partnership, “County Profiles,” (accessed Mar. 21, 2014), <http://mhponline.org/publications/reports-and-research/county-profiles/410/410-2013>.

⁸²⁸ The Section 8 housing choice voucher program is codified at 42 U.S. Code § 1437f. “Section 8” refers to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974.

⁸²⁹ Interview 89.

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were closed to new applicants.⁸³⁰ In January 2013, 44 percent of public housing agencies in Minnesota reported that their wait lists were over two years; for 16 percent of the agencies, wait times were over six years.⁸³¹ Some cities do not even have certain housing assistance programs available, such as Section 8.⁸³² Even where public assistance is available, landlords may not accept Section 8 housing vouchers, limiting their usefulness.⁸³³

LARGE FAMILIES

Large families, in particular, struggle with finding affordable housing, both privately owned and public. In one city in greater Minnesota, an advocate described the impact of insufficient adequately-sized housing: “Some families rent apartments next to each other so their family members can live close to one another.”⁸³⁴ Even in the Twin Cities, service providers reported that “there are not enough large housing units available for families”⁸³⁵ and families are “forced to split up.”⁸³⁶ Public housing does not have many large units: “People are polite, but the system is not welcoming. Because of refugee family size, they need four or five bedroom affordable housing to accommodate families,”⁸³⁷ increasing wait times. In a 2007 study, the Census found only 17,600 renter-occupied units in the entire Twin Cities metro area that were four bedrooms or larger, out of 321,400 total.⁸³⁸

Some of the increased demand for large apartments stems from different patterns of family life that require larger living spaces: “The occupancy limits on adults especially impacts extended families, because often adult children stay and live in the home.”⁸³⁹ Another service provider reported, “They don’t want individual family housing; they just want a place to eat together and sleep under the same roof [as an extended family].”⁸⁴⁰

⁸³⁰ Interview 109.

⁸³¹ Minnesota Housing Partnership and Minnesota Chapter of National Association of Housing and Redevelopment Officials, *Out in the Cold: Sequestration and Federal Housing Programs in Minnesota*, (Dec. 2013), 7, http://www.mhponline.org/images/stories/docs/research/reports/out_in_the_cold_final_16p.pdf.

⁸³² Conversation 6.

⁸³³ Interview 130.

⁸³⁴ Conversation 17.

⁸³⁵ Conversation 20.

⁸³⁶ Conversation 24.

⁸³⁷ Interview 98.

⁸³⁸ U.S. Census Bureau, *American Housing Survey for Minneapolis Saint Paul Metropolitan Area: 2007.*, (Feb. 2009), 106, 108, Table 4-3 (Size of Unit and Lot -- Renter-Occupied Units).

⁸³⁹ Interview 126.

⁸⁴⁰ Interview 97.

Strictly enforced occupancy limits add to the difficulties large families face finding housing.⁸⁴¹ One organization found it difficult to house large families because “the city is very strict about the number of people in a housing unit.”⁸⁴² Because occupancy codes were historically developed to exclude families with children, the U.S. Department of Housing and Urban Development (HUD) has developed guidelines to protect against discrimination. While the guidelines do not establish rigid occupancy rates based on bedrooms or housing unit size, they provide a framework for analyzing the impact and fairness of occupancy codes.⁸⁴³

A BRIEF HISTORY OF OCCUPANCY CODES

Occupancy codes have a complicated history linked to anti-immigrant movements. San Francisco passed the first occupancy standard in the United States at the request of the Anti-Coolie Association, and the law was disproportionately enforced in Chinatown. Reformers in other parts of the country often promoted occupancy codes not only for sanitary reasons but also to reshape immigrant family living patterns into ways they felt were more “moral.” Modern occupancy codes, while not explicitly anti-immigrant, derive from these early efforts and typically are not based on objective data on health and wellbeing.⁸⁴⁴

HOMELESSNESS

The lack of affordable housing leaves some immigrants homeless. According to one interviewee, “When I first came here, I didn’t know anybody. I ended up in the shelter.”⁸⁴⁵ Even refugees, who have access to public assistance, can end up in homeless shelters because of the housing shortage.⁸⁴⁶ Immigrants can face special complications from homelessness. One service provider described how lack of official identification documents, often a problem for immigrants with complicated legal status or who are newly arrived, hurts homeless immigrants: “Homeless refugees often have no documents. So they end up getting arrested a lot. Especially downtown, businesses put a lot of pressure on the police to deal with the issue. Then immigrants spend more time in detention because of Immigration and Customs Enforcement holds.”⁸⁴⁷ In some communities,

⁸⁴¹ Interview 105.

⁸⁴² Conversation 20.

⁸⁴³ Fair Housing Enforcement—Occupancy Standards Statement of Policy; Notice, 63 Fed. Reg. 70256 (Dec. 18, 1998).

⁸⁴⁴ Ellen Pader, “Housing Occupancy Standards: Inscripting Ethnicity and Family Relations on the Land,” *Journal of Architectural and Planning Research*, (Winter 2002), 308-309.

⁸⁴⁵ Interview 6.

⁸⁴⁶ Interview 115.

⁸⁴⁷ Interview 124.

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homelessness is not recognized as a problem and so there are no shelters at all.⁸⁴⁸ Finally, even when immigrants are able to get into a homeless shelter, they may not receive services that meet their needs. One immigrant with religious dietary restrictions said, “We moved to a shelter for six months. The only thing was we couldn’t eat the food because they served pork. My brother and I relied on the school breakfast and lunch program.”⁸⁴⁹

CAUSES OF AFFORDABLE HOUSING SHORTAGE

Several forces drive a lack of affordable rental housing, both public and private: neighborhood resistance to new affordable housing developments; zoning rules that limit multi-family housing; and lack of government funding for affordable housing.

Several people reported that affordable housing developments met with considerable neighborhood resistance, in some cases preventing the project completely. In one town, “maybe three years ago, they built newer housing, townhomes, and one apartment building, which are now full. There was a big uproar with people selling their homes because they were worried about property values going down.”⁸⁵⁰ In another case, “the neighbors raised a big fuss so the development couldn’t go forward.”⁸⁵¹

Compounding neighborhood resistance, governments in some cities have not zoned neighborhoods in ways that reflect the need for housing in the area. One service provider described her city as having “too much rental zoning in the downtown vicinity, but otherwise not much multi-family zoning and insufficient apartment zoning.”⁸⁵² In a 2001 report by the Office of the Legislative Auditor, builders and developers cited zoning as one of the major factors that limits the construction of affordable housing.⁸⁵³ Minnesota state law gives local governments significant control over zoning decisions and requires supermajorities when city councils seek to change zoning rules. In the case of Minneapolis, St. Paul, and Duluth, state law also requires that the government get the written consent of two-thirds of the property owners within 100 feet of the proposed development for developments of less than 40 acres.⁸⁵⁴ Combining such strict requirements for changing zoning with the likelihood of neighborhood resistance creates a high barrier for developers and builders of affordable housing.

⁸⁴⁸ Interview 78.

⁸⁴⁹ Interview 35.

⁸⁵⁰ Interview 69.

⁸⁵¹ Interview 98.

⁸⁵² Interview 70.

⁸⁵³ Office of the Legislative Auditor, State of Minnesota, *Program Evaluation Report: Affordable Housing*, (Jan. 2001), <http://www.auditor.leg.state.mn.us/ped/2001/pe0103.htm>.

⁸⁵⁴ Minn. Stat. §462.357 subd.5.

In addition to the neighborhood and regulatory barriers to building more rental housing, there is a serious lack of government and private funding for affordable housing. One mayor described his frustrations with the funding available for housing development: “We only get one project a year for the housing tax credit for subsidized low-income housing. We really need workforce housing, for people who could afford some rent, but it is not available, so they go into more affordable housing and bump out people with lower incomes. There is no state assistance for workforce housing.”⁸⁵⁵ Since 2010, federal budget cuts have reduced the funding available for public housing by 25 percent and for Section 8 vouchers by 8 percent. These cuts have led public housing agencies to increase wait times; defer maintenance and major repairs; shift voucher holders into lower-cost apartments or increase their contribution; and cut the number of vouchers provided.⁸⁵⁶

Immigrants who reported positively on their experience in finding housing almost always mentioned a trusted institution or individual who helped them navigate the market. Most stayed with family members or friends until they could afford their own housing; in some cases, even after moving out, they rented or bought from family members. One immigrant reported her positive experience: “Housing has not been a problem. My uncle bought a townhome before we came to America. We rented it from him and then bought it.”⁸⁵⁷ Churches were another common source of housing: “Most of the cases are folks from my church living with other church members.”⁸⁵⁸ In other cases, employers found housing for immigrants coming on work visas.⁸⁵⁹ Often, if one person had a successful experience, other members of their community would follow their path: “A woman who is a realtor in town is now the contact for the Karen community because she sold the first house to a Karen family.”⁸⁶⁰

RESTRICTED ELIGIBILITY AND IMMIGRATION STATUS

Shortages of market-rate and subsidized affordable housing affect all Minnesotans, but some immigrants face additional barriers to finding housing. First, not all immigrants are eligible for public housing assistance. Second, lack of a U.S. credit history, U.S. rental history, Social Security number, or U.S.-issued identification often prevents immigrants from finding an affordable apartment, even though Minnesota law does not require renters to have any of those items to rent.

⁸⁵⁵ Interview 58.

⁸⁵⁶ Minnesota Housing Partnership and Minnesota Chapter of National Association of Housing and Redevelopment Officials, *Out in the Cold: Sequestration and Federal Housing Programs in Minnesota*, (Dec. 2013), 3,5, http://www.mhponline.org/images/stories/docs/research/reports/out_in_the_cold_final_16p.pdf.

⁸⁵⁷ Interview 10.

⁸⁵⁸ Interview 5.

⁸⁵⁹ Interview 77.

⁸⁶⁰ Interview 80.

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ELIGIBILITY LIMITS

Two laws determine eligibility for the most common forms of housing assistance: the Personal Responsibility and Work Opportunity Reconciliation Act of 1996⁸⁶¹ (PRWORA) and Section 214 of the Housing and Community Development Act of 1980.⁸⁶² Both laws prohibit undocumented immigrants and most immigrants on temporary visas from receiving housing benefits. The two laws differ slightly, but neither Congress nor the Department of Housing and Urban Development (HUD) has issued clarifications on how the two laws interact, leaving it unclear whether certain groups are eligible. Other housing benefits, such as emergency shelter and Community Development Block Grants, are not affected by Section 214 limits, but may or may not fall under PRWORA. Again, neither Congress nor HUD has clarified whether the eligibility limits apply to these programs, so undocumented or temporary immigrants may or may not be refused benefits, depending on how the administering agency interprets the statutes.⁸⁶³

Mixed status families are supposed to be eligible for all types of housing assistance, pro-rated by how many family members have an eligible immigration status, although this is not always respected in practice. One service provider told a story of a family looking for an apartment: “A client was trying to get a type of subsidized housing. The client was undocumented but the children were documented. The landlord said the client needed Social Security numbers, even though the landlord could rent the unit at [a pro-rated amount]. It took multiple calls and letters to the landlord, including sending the statute, to get them to accept the renters. I think the landlord just didn’t want to have someone undocumented living there.”⁸⁶⁴

“It’s hard; you are being scrutinized like you are a criminal, they are so suspicious.”

LACK OF CREDIT HISTORY

Immigrants and refugees face additional barriers because of a lack of U.S. credit history or rental history and, in some cases, a lack of accepted identification or Social Security number. One immigrant professional described his experience arriving without a U.S. rental history: “Renting an apartment at first was hard, because I had no credit history, I didn’t have someone who could co-sign with me. It’s hard; you are being scrutinized like you are a criminal, they are so suspicious.”⁸⁶⁵

⁸⁶¹ Pub. Law 104-193, 110 Stat. 2105 (Aug. 22, 1996).

⁸⁶² 42 U.S.C. §1436(a); 24 C.F.R. § 5.506.

⁸⁶³ Congressional Research Service, *Immigration: Noncitizen Eligibility for Needs-Based Housing Programs*, Alison Siskin and Maggie McCarty, (Jan. 23 2012).

⁸⁶⁴ Interview 75.

⁸⁶⁵ Interview 14.

According to another, “when you come from anywhere you stay with your family, but you can’t live with them forever. Once you find a job, you are ready to move and get your own place. The problem is they do not accept rental history from back home. If no one gives you an opportunity to have a rental history how do you do it, how do you move forward?”⁸⁶⁶ When the interviewee tried to co-sign for multiple people, landlords had objected. Minnesota law does not regulate a landlord’s decision to require additional months of rent or a co-signer that meets the landlord’s criteria when a prospective tenant has no credit history or rental history.⁸⁶⁷

In some cases, immigrants have legal permission to live in the United States, but do not have Social Security numbers for landlords to use when running credit checks. One interviewee, here on a student visa, reported, “Because I have no Social Security number, I had to pay three months’ rent as deposit money.”⁸⁶⁸ Requiring large amounts of rent in advance makes it even more difficult for immigrants to find affordable housing. Not having a Social Security number is a barrier, even though landlords do not need one to run background checks. For one person whose husband was an immigrant, “initially it was a challenge to get him on the lease. I had to let them know they can run a background check without a Social Security number.”⁸⁶⁹

UNDOCUMENTED IMMIGRANTS

Undocumented immigrants have even greater difficulties. Many people feel that “without an ID you cannot get an apartment.”⁸⁷⁰ Even looking for an apartment as an undocumented person carries a high risk of arrest and eventual deportation. In one city, reported an attorney, “my client went to rent an apartment, and the manager went to check the application and came back with the police. The management company was using E-Verify to check the status of applicants for rentals,”⁸⁷¹ even though this is not legally required. As a result, undocumented immigrants either live with documented immigrants⁸⁷² or tolerate sub-standard living conditions. Limited choices mean that undocumented immigrants are often in “low-quality apartments that are very expensive.”⁸⁷³

Immigrants without a Social Security number or legal status do not need to face such barriers. Landlords are not required to gather Social Security numbers, screen for immigration status, or ask

⁸⁶⁶ Interview 103.

⁸⁶⁷ Office of the Minnesota Attorney General, “Landlords and Tenants,” (accessed Mar. 21, 2014), <http://www.ag.state.mn.us/Consumer/housing/LT/LT1.asp#EnterAgreement>.

⁸⁶⁸ Interview 27.

⁸⁶⁹ Interview 116.

⁸⁷⁰ Conversation 9.

⁸⁷¹ Interview 112.

⁸⁷² Interview 45.

⁸⁷³ Conversation 9.

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for U.S.-issued identification from applicants or tenants. Minnesota’s law on tenant screening, however, only governs tenant screening services, not landlords, and focuses on providing tenants access to their screening report to ensure accuracy. The law does not prevent a rental property owner from requiring certain forms of identification from prospective tenants, which landlords can use as a proxy for screening for immigration status.⁸⁷⁴ California, in contrast, passed a law in 2007 barring landlords from asking about or requiring information regarding a prospective tenant’s immigration or citizenship status.⁸⁷⁵ In practice, this means that while California landlords can continue to request U.S.-issued identification and Social Security numbers for credit checks, they must provide alternate means of identification and screening for applicants without them.⁸⁷⁶

DISCRIMINATION

Though the shortage of affordable rental housing was the primary concern for immigrants, interviewees also reported instances of discrimination by some landlords that violated their right to housing. Though both federal and state law prohibits rental discrimination, immigrants often did not report these incidents to the authorities.

“I don’t put a sign in my yard because I don’t want to rent to immigrants. I post on Craigslist because immigrants don’t look there.”

One interviewee described the classic pattern of discrimination that immigrants face: “I called to set up an appointment to look at an apartment and the manager told me that he had an opening in a few, and just to come over and look at them. When I arrived at the office during normal business hours, no one would answer the door or the phone.”⁸⁷⁷ According to another, “we were helping a colleague find housing. My partner made the appointment and took us there. We were standing outside and the landlord never came, and then said it had been rented. We suspected he had

⁸⁷⁴ Minn. Stat. § 504B.235 (2011).

⁸⁷⁵ Cal. Civ. Code § 1940.3 (2011) (forbidding landlords from (1) making any inquiry regarding or based on the immigration or citizenship status or (2) requiring any tenant, or prospective tenant, to make any statement concerning his or her immigration or citizenship status); New York City’s Human Rights Law provides a similarly express prohibition on landlord screening. New York City, N.Y., Code § 8-107(5)(a)(1)-(2) (making it “an unlawful discriminatory practice for the owner ... of a housing accommodation ... [t]o refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation or an interest therein because of the actual or perceived ... alienage or citizenship status of such person ... [and to] discriminate against any person because of such person’s actual or perceived ... alienage or citizenship status ... in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation.”).

⁸⁷⁶ Monica Williamson, *How California’s New Immigration Law Affects Screening Policies*, March, 2008, San Francisco Apartment Association, <http://www.sfaa.org/mar2008/0803williamson.html>.

⁸⁷⁷ Interview 37.

driven by and seen us, then claimed it was rented. We had no proof, but how could it have been rented so quickly?”⁸⁷⁸ In other instances, the disparate treatment is obvious: “When another [immigrant] student went alone, there was no availability. Then he went back accompanied by a local and there was availability.”⁸⁷⁹ In another case, a woman reported enlisting her husband to test if the landlord was discriminating. She was helping someone find an apartment, and the landlord claimed it was rented after making an appointment but not showing up. “Then when my husband called, the apartment was still available, and the landlord hung up the phone when confronted.”⁸⁸⁰

Occasionally, landlords are open about their discriminatory practices. A Richfield community member recounted a conversation with a housing development agent in her city: “The new housing development agents [at that building] make it very difficult for ... immigrants to move into them. [The agent] says that the numbers show that there is more criminal activity when these people move in.”⁸⁸¹ In another case, a landlord told one individual, “I don’t put a sign in my yard because I don’t want to rent to [immigrants]. I post on Craigslist because [immigrants] don’t look there.”⁸⁸² In yet another incident, a community leader reported how when she had tried to rent an apartment, “the landlord asked for letters from Immigration and Customs Enforcement”⁸⁸³ based on her ethnic identity.

Minnesota and federal laws offer protection against discrimination in housing. Under Minnesota law, landlords cannot legally refuse to sell, rent, or lease housing to potential tenants, or have different rental terms, on the basis of race, color, creed, religion, national origin, sex, marital status, sexual orientation, disability, or reliance on public assistance.⁸⁸⁴ Similarly, a landlord cannot discriminate against tenants by decreasing services that have been promised in the lease on the basis of race, color, creed, religion, national origin, sex, marital status, sexual orientation, disability, or reliance on public assistance.⁸⁸⁵ Under federal law—in particular the Fair Housing Act—housing discrimination based on race, color, national origin, religion, sex, familial status, or disability is prohibited.⁸⁸⁶ There are no laws requiring that tenants of private, unsubsidized buildings have legal

⁸⁷⁸ Interview 61.

⁸⁷⁹ Conversation 15.

⁸⁸⁰ Interview 61.

⁸⁸¹ Conversation 9.

⁸⁸² Interview 75.

⁸⁸³ Interview 139.

⁸⁸⁴ Minn. Stat. § 363A.09 Subd. 1(1) (2011).

⁸⁸⁵ Minn. Stat. § 363A.09 Subd. 1(2) (2011).

⁸⁸⁶ 42 U.S.C. §§ 3601–3631 (2006); 78 Fed. Reg. 11460-01 (Feb. 15, 2013) (HUD released a Final Rule on Implementation of the Fair Housing Act’s Discriminatory Effects Standards. HUD summarizes the major provisions of the Rule as follows: *This rule formally establishes the three-part burden-shifting test for determining when a practice with a discriminatory effect violates the Fair Housing Act. Under this test, the charging party or plaintiff*

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status.⁸⁸⁷ There are city, state, and federal agencies charged with overseeing discrimination complaints, which can be adjudicated by state or federal courts.

Despite strong legal protections against discrimination, immigrants in general did not report these incidents of discrimination to the authorities. In many of the cases where the landlord claimed an apartment was rented after meeting the immigrant or hearing a foreign accent, the immigrant felt there was no clear proof of discrimination and that they would not be able to bring a case based on the incident.⁸⁸⁸

EXPLOITATION AND SUBSTANDARD HOUSING

According to interviewees, some landlords discriminate not only in choosing who to rent to, but in how they treat tenants once they occupy an apartment. In some cases, landlords reportedly refused to maintain apartments, reported immigrants to the police for minor problems, and unfairly withheld deposits or charged additional fees. Interviewees recounted incidents of both private landlords and public housing managers exploiting immigrant renters who have limited options to find other housing. Though such exploitation is against both state and federal law, immigrants are unlikely to take action. In some cases, immigrants are unaware of their rights as tenants; in others, they fear retaliation or other negative consequences.

Immigrants often report living in poorly maintained apartment buildings. One apartment complex was described as “very run down, with trash everywhere, and gang activity.”⁸⁸⁹ Despite the poor conditions in the complex, “people aren’t reporting problems with the living conditions because if they complain, they fear retaliation.”⁸⁹⁰ In another case involving another poorly maintained apartment complex (with “rats, mice, bedbugs ... and live electrical wires”), “people are reluctant to raise problems with the manager because the rent may be raised or they may be kicked out.”⁸⁹¹ Another service provider reported that case workers “go to people’s homes and find cockroach

first bears the burden of proving its prima facie case that a practice results in, or would predictably result in, a discriminatory effect on the basis of a protected characteristic. If the charging party or plaintiff proves a prima facie case, the burden of proof shifts to the respondent or defendant to prove that the challenged practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. If the respondent or defendant satisfies this burden, then the charging party or plaintiff may still establish liability by proving that the substantial, legitimate, nondiscriminatory interest could be served by a practice that has a less discriminatory effect.)

⁸⁸⁷ See “Restricted Eligibility and Immigration Status” on page 181.

⁸⁸⁸ Interview 61; Interview 74.

⁸⁸⁹ Conversation 9.

⁸⁹⁰ Conversation 9.

⁸⁹¹ Conversation 23.

nests in the corners” and that one family that came in for assistance had “a girl with bites and sores on her arms from bedbugs.”⁸⁹²

When landlords do make repairs to apartments, some try to illegally charge immigrants for the service.⁸⁹³

According to one individual, “we’ve had people who have been charged for bed bugs, and a family was charged for failing to prepare the apartment for the bed bug extermination visit.”⁸⁹⁴ In another case, a “single

mother’s apartment was broken into. The person broke the lock and shouted racial slurs, scaring the family. He left when the police were called. The mother wanted the landlord to pay for the lock, but he refused.”⁸⁹⁵ In yet another case, one school official described how a community liaison had “found out about serious water damage in a place from a flood. The landlord was going to charge the people living there for a replacement apartment while theirs was repaired. That was wrong; they had already paid their monthly rent.”⁸⁹⁶ In these cases, service providers and advocates were able to help immigrants and force the landlords to meet their obligations, but “a lot of people don’t call for help.”⁸⁹⁷

“One apartment complex is “very run down, with trash everywhere, and gang activity.”

Immigrants also reported having security deposits withheld or additional charges imposed without just cause. According to one service provider, “we’ve had families whose deposit was being taken because some family in the building was ruining it for the rest of the tenants.”⁸⁹⁸ One employer helped their immigrant employees deal with discriminatory landlords: “They will not get their security deposit back from their landlord and so I’ll help write letters.”⁸⁹⁹ In some cases, unscrupulous landlords reportedly tried to double-charge immigrants for their rent, taking advantage of their lack of familiarity with the U.S. financial system: “Sometimes I hear that people say they are double-charged. I ask the person if they have a receipt, and they do not. Landlords don’t give out a receipt. You have to ask for that. ... Did you pay cash? Yeah. Did you get a receipt? No. So who saw you give them rent? It was just me and them. ... It is sad when you hear people taking advantage of others.”⁹⁰⁰

⁸⁹² Interview 137.

⁸⁹³ Minn. Stat. § 504B.161 requires the landlord to maintain the property.

⁸⁹⁴ Interview 126.

⁸⁹⁵ Interview 97.

⁸⁹⁶ Interview 79.

⁸⁹⁷ Interview 136.

⁸⁹⁸ Interview 145.

⁸⁹⁹ Interview 77.

⁹⁰⁰ Interview 78.

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Some landlords also impose stricter standards on immigrant renters, reporting them to the police for minor infractions that go unaddressed when committed by others. One attorney had a predatory rental case where “the landlord would rent to immigrants, but then would harass people, wouldn’t let them have guests, would threaten that the police would come, that they would call immigration.”⁹⁰¹ In another apartment complex, one community activist complained that in his view, “the housing office gives more credibility to complaints from white residents than Somalis. White residents threaten Somalis with their dogs and the housing office does nothing.”⁹⁰²

One immigrant advocate reported that some tenants faced eviction because they were Muslim. In one incident, an African American Muslim was harassed and threatened with eviction because of a neighbor who was motivated by religious prejudice.

*The neighbor did not want them next door because she assumed he was Somali. He has two little girls and she would basically swear at them and yell at them whenever they left the house. Every time he opened the door to go to his garage, she would open her window and yell ‘Go back inside, you [bad word]!’ She repeatedly reported him to the homeowners association for minor issues like leaving his trashcan out too long. The association fined his landlord and the fines accumulated, so his landlord started eviction proceedings. Neither the association nor the landlord was aware that the person complaining was also shouting racist slurs at him. We were talking to them about the case, but the man decided to move so he didn’t have to deal with that neighbor anymore.*⁹⁰³

LIMITED ACCESS TO LEGAL REMEDY

Minnesota law lays out the obligations of landlords and tenants in terms of leases, security deposits, maintenance, eviction proceedings, and other areas.⁹⁰⁴ Special housing courts have been established in Ramsey and Hennepin counties to hear and decide criminal and civil cases related to residential rental housing.⁹⁰⁵ The courts hear, for example, claims for rent abatement, rent escrow proceedings, eviction actions and actions for violations of state, county, or city housing codes.⁹⁰⁶

⁹⁰¹ Interview 126.

⁹⁰² Interview 98.

⁹⁰³ Interview 127.

⁹⁰⁴ Minn Stat. §§ 504B et seq. (codifying landlord-tenant law). See: Lawrence McDonough, *Residential Eviction Defense in Minnesota*, (13th Ed., Feb. 4, 2014), http://povertylaw.homestead.com/files/Reading/Residential_Eviction_Defense_in_Minnesota.pdf.

⁹⁰⁵ Minn. Gen. R. Prac. §§601 et seq. (setting forth rules of procedure for housing court in Hennepin and Ramsey Counties and noting that housing courts created by the legislature existing only in Hennepin and Ramsey Counties).

⁹⁰⁶ Office of the Minnesota Attorney General, “Landlords and Tenants: Other Important Laws,” (accessed Mar. 21, 2014), <http://www.ag.state.mn.us/Consumer/Housing/LT/LT4.asp#ProperNotice>.

Despite these protections, and even though individuals felt that landlords were mistreating them, very few reported their case to the authorities. One individual talked about the challenges of bringing cases involving immigrants: “People are afraid to speak up – nothing will happen. We advocated for [our clients], went to court on behalf of [our clients] where the landlord took their deposit but rented to someone else. The case was successful. Many cases we hear about after it is too late to do something. They didn’t know they had rights.”⁹⁰⁷ One legal advocate was troubled by “how many of them happen and aren’t reported. People don’t know their rights, are intimidated, and just move.”⁹⁰⁸

Immigrants have many reasons that they do not report housing law violations, including not knowing their rights and how to claim them, fear of retaliation by landlords, and lack of English proficiency. As one individual stated, “most of the immigrants truly do not know their rights. Because they assume that they don’t have many options, they will accept the mistreatment and stay; most don’t have the means to look elsewhere or move.”⁹⁰⁹ Another contrasted this to the non-immigrant population, which “will dispute charges or deductions from their deposits. Immigrants are more afraid. They are afraid it will wreck their credit or they think they have to pay because the landlord said so.”⁹¹⁰

Immigrants also fear that reporting housing law violations will lead to losing an affordable apartment. Some landlords establish a quid pro quo where immigrant families can exceed apartment occupancy limits with the implicit understanding that they will not report poor housing conditions or unfair charges. “People bring their family and have 20 people in an apartment. The landlord will look the other way. Rent is dirt cheap, but the landlord won’t maintain the house.”⁹¹¹

In some cases, renters are undocumented and are reluctant to contact authorities in any situation: “the main reason people don’t report things is fear.”⁹¹² Some landlords have threatened undocumented tenants that they will report them to immigration if the tenants file complaints or report the landlord for lack of maintenance.⁹¹³ Even if the landlord does not report an undocumented tenant to immigration in retaliation, undocumented immigrants still fear that their status will be exposed during the complaint process. One advocate reported that a judge in housing

⁹⁰⁷ Interview 61.

⁹⁰⁸ Interview 127.

⁹⁰⁹ Interview 133.

⁹¹⁰ Interview 126.

⁹¹¹ Interview 123.

⁹¹² Interview 134.

⁹¹³ Interview 180.

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court checks the immigration status of litigants in his courtroom and that undocumented immigrants know this and stay away.⁹¹⁴

Housing enforcement relies heavily on complaints brought by individuals who are victims of discrimination, exploitation, or other mistreatment. A system that relies on individual complaints does not protect the rights of undocumented immigrants because many undocumented immigrants fear coming into contact with any authority that could report them to immigration officials.

Even when immigrants are documented and in compliance with occupancy standards, they often will not report problems for fear of retaliation by landlords. It is illegal under Minnesota law for landlords to retaliate against tenants who try to

“Nobody Somali works for public housing. You can hear the walls talking to you and saying ‘we’re tired of Somalis.’”

enforce their rights, for instance, by reporting health violations to housing inspectors. Retaliation covers a wide range of adverse actions by landlords, including initiating an eviction action, terminating a lease, raising the rent, or otherwise negatively changing the terms of the lease.⁹¹⁵ Despite this prohibition, retaliation “has always been an issue.”⁹¹⁶ Almost all retaliation claims are brought as a defense to an eviction, because the law prohibiting retaliation in other cases does not lay out a clear legal process for obtaining relief. Because retaliation is only raised as a defense, tenants who pursue a case risk having an eviction on their credit history. Even if a tenant wins their eviction case, the fact that an eviction case was filed remains on their rental history. A tenant must file to have that record expunged, which is not mandatory and is granted at the discretion of the judge.⁹¹⁷ In one case, a tenant who complained about bedbugs had her lease terminated in retaliation. Despite strong evidence that the eviction was retaliatory, she dropped her retaliation case against the landlord because she did not want to risk having an eviction on her rental history.⁹¹⁸

Lack of English proficiency also plays a role in facilitating housing law violations and making it difficult to report problems. In many cases leases, forms, eviction notices, and other important paperwork are in English: “Management doesn’t help people who don’t speak English. They give them eviction letters and warning letters in English, which they do not understand. The housing agency sends people to translate but they are not good. Nobody Somali works for public housing.

⁹¹⁴ Interview 180.

⁹¹⁵ Minn. Stat. §§ 504B.285, subd. 2-3, 504B.441.

⁹¹⁶ Interview 180.

⁹¹⁷ Minnesota Judicial Branch, “Eviction Expungement: FAQ,” (accessed Mar. 21, 2014), <http://www.mncourts.gov/district/50/?page=3524>.

⁹¹⁸ Interview 181.

You can hear the walls talking to you and saying ‘we’re tired of Somalis.’”⁹¹⁹ One service provider offers to translate leases, “but landlords don’t want it. They say this isn’t a requirement....When we see that, we warn people to be careful.”⁹²⁰ Public housing agencies and other organizations receiving federal financial assistance are supposed to provide language access to people with limited English, but no such protection applies to the private market.⁹²¹

HOMEOWNERSHIP OUT OF REACH

Homeownership could potentially solve some of the problems of large families or negligent landlords, but it remains financially out of reach for many immigrants, especially undocumented immigrants. A lack of credit history makes it difficult to buy.⁹²² Undocumented immigrants may have even greater difficulty. One service provider reported, “Occasionally, we see people unable to get a mortgage because they lack permanent status.”⁹²³ Government-sponsored mortgage purchasers Fannie Mae⁹²⁴ and Freddie Mac⁹²⁵ require the mortgage lender to represent and warrant that each mortgage was provided to a person legally in the United States, limiting undocumented immigrants to the much smaller pool of mortgages not backed by Fannie Mae and Freddie Mac. In addition, undocumented immigrants are not always eligible for programs that assist homebuyers and homeowners. One government official recounted the story of a homeowner fined by the housing inspection department who would have been eligible for community development assistance to remedy the problem, except that he did not have a Social Security number and so could not receive a grant.⁹²⁶

⁹¹⁹ Interview 98.

⁹²⁰ Interview 78.

⁹²¹ 42 U.S.C. §2000d et seq.; Exec. Order No. 13,166, 65 Fed. Reg. 50121 (Aug. 16, 2000); 72 Fed. Reg. 2732-2744 (Jan. 22, 2007) (HUD Limited English Proficiency guidance).

⁹²² Interview 49.

⁹²³ Interview 138.

⁹²⁴ Fannie Mae, *Selling Guide: Fannie Mae Single Family*, (Apr. 9, 2013), 250. (Non-U.S. Citizen Borrower Eligibility Requirements: “Fannie Mae purchases and securitizes mortgages made to non-U.S. citizens who are lawful permanent or non-permanent residents of the United States under the same terms that are available to U.S. citizens. . . . The lender must make a determination of the non-U.S. citizen’s status based on the circumstances of the individual case, using documentation it deems appropriate. By delivering the mortgage to Fannie Mae, the lender represents and warrants that the non-U.S. citizen borrower is legally present in this country.”).

⁹²⁵ Freddie Mac, *Single-Family Seller/Service Guide*, (Vol. 1), §17.12, <http://www.freddie.mac.com/sell/guide>. (Section 17.12 requires the lender to report immigration status (Permanent Resident Alien, Nonpermanent Resident Alien or US Citizen) for all loans to individuals.); Freddie Mac, “Loan Prospector – Documenting Lawful Residency Status for Non-U.S. Citizens,” (accessed Mar. 21, 2014), http://www.freddie.mac.com/learn/lo/docres/lo_doc_resid_immigr.html.

⁹²⁶ Interview 128.

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Undocumented immigrants are also afraid that if they can afford to buy a house, they could lose it because of their lack of legal status. One immigrant felt that “it was risky to get a house before I had a green card because the house could be taken from me if I didn’t get a green card.”⁹²⁷ This fear is not unjustified. As a result of the increase in workplace immigration audits and subsequent firing of workers without legal status, many undocumented immigrants have lost their homes: “In 2005, it was rare to hear Latino members who said they did not own their home; now it’s the opposite. People lost jobs in the audits and now 600 out of 1200 are in foreclosure or in fear of foreclosure. Wealth was transferred away from low-income communities. People were proud of owning homes, and now that’s gone.”⁹²⁸ One immigrant, a pastor in his local community, described the struggles immigrant homeowners face: “A lot of people have trouble with mortgages because they get laid off all the time....They have difficulty with government programs, at times they don’t know where to go to get help, they don’t know it’s available, they know it’s available but they’re afraid. Most of the time they’re very afraid.”⁹²⁹

MORTGAGE DISCRIMINATION

Immigrants are also victims of predatory lending and resulting foreclosures, and the federal laws to prevent mortgage discrimination do not provide an effective deterrent or remedy. “I got a mortgage, but I didn’t know what kind – a high interest, bad mortgage,” stated one individual.⁹³⁰ Another claimed that the “mortgage company gave me the run around because of where I came from.”⁹³¹ In one community, residents reported having to go to a neighboring city to get a loan, rather than through their local banks.⁹³²

Immigrants of color and those living in high poverty neighborhoods suffer from the same patterns of discriminatory lending that affect all minorities and low-income people in Minnesota. According to one study, “[mortgage] denial rates are higher for black, Hispanic, and Asian applicants than for whites, *regardless of income*. Very high income black, Hispanic, and Asian applicants (applicants with incomes more than \$157,000 per year) show denial rates higher than whites in the lowest-income category (less than \$39,250 per year).”⁹³³ Not only are minority loan applicants more likely

⁹²⁷ Interview 32.

⁹²⁸ Interview 107.

⁹²⁹ Interview 5.

⁹³⁰ Conversation 16.

⁹³¹ Conversation 21.

⁹³² Conversation 16.

⁹³³ Institute on Race and Poverty, *Communities in Crisis: Race and Mortgage Lending in the Twin Cities*, (Feb. 2009) 14, <http://www.law.umn.edu/uploads/cP/fm/cPfmhP690iKCCQ1OYdGISAg/IRP-mortgage-study-Feb.-11th.pdf>; Jacob Chin, Anissa Hollingshead, Shanae Phillips, *Racial Disparities in Homeownership: A report prepared for the*

to be denied mortgages by any lender, they are also more likely to apply to subprime lenders, because prime lenders do not have branch locations in poor, non-white neighborhoods and are also less likely to approve loans for homes in those neighborhoods. Neighborhoods with high percentages of residents of color and high rates of subprime lending have higher rates of foreclosure, with the rate of foreclosure increasing dramatically in neighborhoods with greater than 50 percent residents of color. North Minneapolis, with its high concentrations of minorities and high subprime mortgage rates, saw more than one in ten owner-occupied homes in foreclosure in 2007.⁹³⁴

Mortgage discrimination is prohibited by the Equal Credit Opportunity Act ("ECOA")⁹³⁵ and the Fair Housing Act.⁹³⁶ Both the ECOA and the Fair Housing Act prohibit discrimination based on race, color, religion, national origin, and sex, while the ECOA also covers marital status, age, and use of public assistance and the Fair Housing Act includes familial status and handicap.⁹³⁷ Mortgage lenders must not discriminate on the basis of any of the characteristics in either statute. Both statutes cover both disparate treatment discrimination, where a lender treats applicants differently on the basis of race, and disparate impact, where a racially neutral policy has a discriminatory effect and is not justified by business necessity. There is no need to prove discriminatory intent when judging whether a lender is engaging in disparate impact discrimination.⁹³⁸

Despite these strong legal protections, mortgage lending continues to show strong patterns of discrimination and the system does not do an adequate job of preventing it. In 2008, the Fair Housing Alliance studied the performance of HUD, the primary enforcer of federal fair housing laws, and found that they investigated, by their own estimation, less than one half of one percent of all housing discrimination cases in the United States.⁹³⁹ Of the cases processed by HUD, the average length of time to close a case was over a year and in only 3.3 percent did they find that

Minneapolis Urban League, (2011),
conservancy.umn.edu/bitstream/11299/107514/1/Chin_Racial%20Disparities%20in%20Homeownership.pdf.

⁹³⁴ Institute on Race and Poverty, *Communities in Crisis: Race and Mortgage Lending in the Twin Cities*, (Feb. 2009) 19-33, <http://www.law.umn.edu/uploads/cP/fm/cPfmhP690iKCQ1OYdGISAg/IRP-mortgage-study-Feb.-11th.pdf>.

⁹³⁵ 15 U.S.C. §§ 1691 et seq.

⁹³⁶ 42 U.S.C. §§ 3601 et seq.

⁹³⁷ 15 U.S.C. § 1691; 42 U.S.C. § 3604.

⁹³⁸ Consumer Compliance Handbook, "Federal Fair Lending Regulations and Statutes: Overview," (accessed Mar. 21, 20140, http://www.federalreserve.gov/boarddocs/supmanual/cch/fair_lend_over.pdf; *Gallagher v. Magner*, 619 F.3d 823, 833 (8th Cir. 2010) (not required to show that a policy or practice was formulated with discriminatory intent).

⁹³⁹ Residential Segregation and Housing Discrimination in the United States, Violations of the Convention on the Elimination of All Forms of Racial Discrimination, 19, <http://www.prrac.org/pdf/FinalCERDHousingDiscriminationReport.pdf>.

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discrimination occurred.⁹⁴⁰ Since 2008, funding and enforcement efforts have increased, with the Department of Justice bringing several disparate impact lawsuits over mortgage discrimination and the predatory lending that contributed to the housing crisis.⁹⁴¹

RESIDENTIAL SEGREGATION

Not only do immigrants struggle to find affordable housing, they reported that the housing they did find was in segregated neighborhoods. Discrimination in renting and home buying plays a major role in furthering segregation, as do government decisions on zoning and where to build subsidized housing.

One result of segregation is that many immigrants reported living in neighborhoods where they did not feel they could walk around safely. In some cases, the violence in their neighborhood reawakened trauma they had experienced in their own country. “I was dropped off in [my neighborhood]. Coming from a country like Sudan full of war, I felt safe at first. Then I heard gunshots and it brought back all my memories. I have heard more gunshots [here] than I did in my own country.”⁹⁴² In one community conversation, immigrants discussed the importance of “being careful about which side of the street to walk on, which people to stay away from, and finding alternate walking and biking routes in the neighborhood to avoid certain people and houses.”⁹⁴³ Immigrants also had stories of intimidation by people in their neighborhoods, ranging from “I’m trying to get out of their way, but they bumped me with their shoulder”⁹⁴⁴ to “one picked up a rock and threw it at [my brother-in-law].”⁹⁴⁵ In a few cases, immigrants were victims of more serious crimes: “Most apartments [in my city] are not as safe as in other places – there are break-ins, a sister was raped and nothing was done. Many people don’t feel secure.”⁹⁴⁶ In general, studies have shown that segregated, high-poverty neighborhoods have disproportionately high crime rates.⁹⁴⁷

⁹⁴⁰ Housing Scholars and Research and Advocacy Organizations, *Residential Segregation and Housing Discrimination in the United States, Violations of the Convention on the Elimination of All Forms of Racial Discrimination*, (Dec. 2007), 20, <http://www2.ohchr.org/english/bodies/cerd/docs/ngos/usa/USHRN27.pdf>.

⁹⁴¹ Christie Thompson, *Disparate Impact and Fair Housing: Seven Cases You Should Know*, Feb. 12, 2013, ProPublica, <http://www.propublica.org/article/disparate-impact-and-fair-housing-seven-cases-you-should-know>.

⁹⁴² Interview 38.

⁹⁴³ Conversation 8.

⁹⁴⁴ Interview 23.

⁹⁴⁵ Conversation 8.

⁹⁴⁶ Interview 5.

⁹⁴⁷ David J. Bjerck, *The Effect of Segregation on Crime Rates*, American Law & Economics Association Annual Meetings, Year 2006, Paper 13, <http://law.bepress.com/cgi/viewcontent.cgi?article=1693&context=alea>; Douglas S. Massey, *Getting Away with Murder: Segregation and Violent Crime in Urban America*, 143 U. Pa. L. Rev. 1203 (1995) (linking high rates of black crime to two features of U.S. urban society: high rates of black poverty and

NEGATIVE IMPACTS OF SEGREGATION

Residential segregation has a negative impact on a range of human rights beyond housing.

Education

Schools in high poverty, segregated neighborhoods tend to be highly segregated, and students at those schools have worse educational outcomes and lower levels of college success than similar students in integrated, economically well off schools.⁹⁴⁸ See “Poverty and Segregation” in Chapter 4: Education, page 129

Health

Where you live can have a dramatic impact on your health. A recent study by the Minnesota Department of Health found that life expectancy can vary by nearly a decade depending on zip code.⁹⁴⁹

Economic Opportunity

A 2006 study found that the fastest growing job centers, which are located in the outer suburbs of the Twin Cities, were also the least accessible to minority renters and affordable housing.⁹⁵⁰

Housing discrimination helps drive residential segregation. One community activist described how discrimination by realtors contributes to the ethnic segregation in his town: “Immigrant communities live in the southeast and people with wealth live in the southwest. ... [Immigrants] with more money still get shown the southeast by realtors.”⁹⁵¹ This behavior, of showing clients certain neighborhoods based on their race, is called “steering” and is prohibited by the same fair

high levels of black segregation); Bernard E. Harcourt, *Reflecting on the Subject: A Critique of the Social Influence Conception of Deterrence, the Broken Windows Theory, and Order-Maintenance Policing New York Style*, 97 Mich. L. Rev. 291 (1998) (Re-affirming the finding that segregation and poverty are associated with high crime rates and offering a strident critique of the leading alternative explanation, the neighborhood disorder, “broken windows” theory. The author’s statistical analysis suggests that disorder may mask the role of neighborhood poverty, stability, and race in relation to crime.)

⁹⁴⁸ Myron Orfield, *A Comprehensive Strategy to Integrate Twin Cities Schools and Neighborhoods*, Institute on Race and Poverty, University of Minnesota Law School, (July 2009), 9-10, <http://www.law.umn.edu/uploads/ec/fd/ecfdc6101486f404170847f46b03a083/1-Comprehensive-Strategy-to-Integrate-Twin-Cities-Schools-and-Neighborhoods.pdf>.

⁹⁴⁹ Minnesota Department of Health, *Advancing Health Equity in Minnesota, Report to the Legislature*, (Feb. 2014), 16, http://www.health.state.mn.us/divs/chs/healthequity/ahe_leg_report_020414.pdf.

⁹⁵⁰ Thomas Luce, Myron Orfield, and Jill Mazullo, “Access to Growing Job Centers in the Twin Cities Metropolitan Area,” *CURA Reporter*, Spring 2006, 10, <http://www.cura.umn.edu/sites/cura.advantagelabs.com/files/publications/36-1-Luce-et-al.pdf>.

⁹⁵¹ Interview 94.

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housing laws, with the same ineffective enforcement system, that prohibit discrimination by landlords and mortgage lenders.⁹⁵²

Government decisions on where to build affordable housing are another major contributor to segregation. A service provider from a different city observed how the location of subsidized apartments results in immigrant segregation: “Where these [immigrant] families live tends to be quite isolated, they live in pockets.... There are two main subsidized units in [this town] where most immigrants live. One is by the mall and one is up north in a more residential area. It makes it challenging for them to integrate in the larger community.”⁹⁵³ The same forces that inhibit the overall construction of affordable housing also lead to segregating affordable housing into low-income neighborhoods: resistance to affordable housing in higher-income neighborhoods; government zoning that restricts multi-family rental units to certain areas; and limited government funding that must be used both to preserve existing affordable housing and to develop new housing (see “Causes of Affordable Housing Shortage” on page 180).

Publically subsidized housing development is subject to the same fair housing laws as all housing. In addition, HUD grantees, including state and local governments, are supposed to comply with an even more exacting standard, that they affirmatively further fair housing through their programs. Though this was a requirement of the Fair Housing Act passed in 1968, HUD only drafted a rule establishing what grantees must do to meet this requirement in 2013.⁹⁵⁴ Building subsidized housing in segregated, economically disadvantaged neighborhoods violates the standard that governments affirmatively further fair housing.

The Low Income Housing Tax Credit (LIHTC) has been the main program for building affordable housing since the 1990s,⁹⁵⁵ but despite the Fair Housing Act requirements, most housing built with LIHTC funds is located in areas with higher minority populations.⁹⁵⁶ Each state sets the criteria by which it awards LIHTC tax credits to projects, and those criteria significantly affect the placement of subsidized housing. In Minnesota, Minneapolis and St. Paul receive a set percentage of LIHTC tax

⁹⁵² See pages 185 and 193.

⁹⁵³ Interview 108.

⁹⁵⁴ 24 C.F.R. §§ 5, 91-92, et al.; Affirmatively Furthering Fair Housing; Proposed Rule. Federal Register citation: Affirmatively Furthering Fair Housing, 78 Fed. Reg. 43710-01 (Jul. 19, 2013)..

⁹⁵⁵ Jill Khadduri, *Creating Balance in the Locations of LIHTC Developments: The Role of Qualified Allocation Plans*, Poverty & Race Research Council (February 2013), 1, http://www.prrac.org/pdf/Balance_in_the_Locations_of_LIHTC_Developments.pdf.

⁹⁵⁶ Lance Freeman, *Siting Affordable Housing: Location and Neighborhood Trends of Low Income Housing Tax Credit Development in the 1990s*, Center On Urban and Metropolitan Policy (March 2004), 1, http://www.brookings.edu/~media/research/files/reports/2004/4/metropolitanpolicy%20freeman/20040405_freeman.pdf.

credits, despite the fact that the majority of LIHTC housing built in the two cities “were in neighborhoods with more than thirty percent minority households and virtually all of the units were in areas with predominantly non-white, high-poverty, low-performing schools.”⁹⁵⁷ Other criteria that seem racially neutral also favor placing LIHTC housing in high poverty, segregated neighborhoods, while Minnesota does not have any criteria that reward developers for building subsidized housing in an integrated or predominantly white neighborhood.⁹⁵⁸

TRANSPORTATION BARRIERS

Compounding the problems of residential segregation that isolates immigrants away from job centers and other opportunities, immigrants often face barriers to accessing transportation. The right to freedom of movement is a fundamental human right.⁹⁵⁹ Access to reliable transportation is necessary to fulfill other basic needs, like going to work, shopping for groceries, and attending school. In community conversations and interviews, people cited the inadequate or absent mass transit options and the inability to get a driver’s license or afford a car as barriers immigrants face in their communities.⁹⁶⁰ Service providers listed transportation as a major barrier facing people in poverty trying to access services including sexual assault counseling, court hearings, English language and GED classes, legal services, and employment counseling, among others.⁹⁶¹

For many people living in communities outside the Twin Cities, there is no transportation alternative to driving, but the limitations on who can obtain a driver’s license severely restricts their ability to move freely in their communities. One advocate said “Having a driver’s license is not a human right but it should be!”⁹⁶² A health worker pointed out, “How do you get to work or school without a driver’s license?”⁹⁶³ An employment counselor in Southern Minnesota cited the lack of reliable transportation as the biggest barrier to employment for all of her clients, regardless of citizenship status.⁹⁶⁴ As detailed on page 57 in Chapter 1: Public Safety, undocumented people in particular struggle with transportation access because they cannot legally get a driver’s license in Minnesota.

⁹⁵⁷ Correspondence 13.

⁹⁵⁸ Correspondence 13.

⁹⁵⁹ UDHR Art. 13.

⁹⁶⁰ Interview 81; Conversation 5; Conversation 12; Conversation 22.

⁹⁶¹ Interview 59; Interview 60; Interview 65; Interview 81; Interview 83; Interview 90; Interview 115; Interview 145.

⁹⁶² Interview 104.

⁹⁶³ Interview 136.

⁹⁶⁴ Interview 81.

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Even in towns where transit systems exist, the hours of service may be inadequate or may not serve major employers, like meat-processing plants, which tend to be on the edges of town.⁹⁶⁵ Within the metro area, buses do not always come regularly to suburban areas, meaning immigrants must drive to get to work.⁹⁶⁶ One woman reported being denied unemployment benefits because she answered “no” to a question about being able to drive to get to work.⁹⁶⁷ As a result of these limitations, people make do by biking or walking, however one person noted this “can make them a victim of a robbery.”⁹⁶⁸ An attorney agreed, citing some clients who were assaulted after leaving work at a meat-processing plant on foot or by bike, “I think the perception is they carry cash.”⁹⁶⁹

RECOMMENDATIONS

Finding: A shortage of public and private affordable housing leaves immigrants struggling to find a decent place to live.

Recommendations

- Increase federal and state funding of affordable housing, whether from public or private sources or in partnership with community groups.
- Encourage more landlords to accept Section 8 housing vouchers, either through education or incentives.
- Change state and local zoning laws to make it easier to build affordable rental housing in higher-income neighborhoods with high-achieving schools, either by expanding the areas zoned for multi-family buildings or by making it easier to waive zoning for affordable housing developments.
- Provide a robust housing referral system so that immigrants can receive assistance at their first point of contact, whether with a government agency, nonprofit service provider, religious or cultural institution, employer, or school.
- Educate residents on the need for, and benefits of, affordable housing in their community to reduce opposition to affordable housing developments.

⁹⁶⁵ Interview 81.

⁹⁶⁶ Interview 105.

⁹⁶⁷ Interview 146.

⁹⁶⁸ Conversation 22.

⁹⁶⁹ Interview 63.

Finding: Immigrants with large or extended families cannot find affordable housing that can accommodate all of their family members.

Recommendations

- Provide incentives to build affordable rental units with four or more bedrooms.
- Cities should evaluate occupancy codes to ensure they adequately balance health and safety concerns with the ability of families, including extended families, to live together.

Finding: Eligibility restrictions and immigrants' lack of rental history, credit history, and Social Security numbers create barriers to finding rental housing and to buying a home.

Recommendations

- Educate landlords and tenants about alternate ways to conduct background checks and verify identity that do not rely on Social Security numbers and U.S.-issued identification.
- Prohibit landlords from requiring or asking for information regarding a prospective tenant's immigration or citizenship status, including requiring a Social Security number from applicants.
- Consider alternate ways for people with no U.S. credit history or rental history to provide other proof of creditworthiness and qualify for an apartment or mortgage.
- Change the law to allow mixed-status families to receive federally subsidized housing assistance at the same rate as fully eligible families.
- Pass a federal law codifying the most expansive interpretation of the eligibility rules for housing assistance to provide clarity to housing agencies charged with enforcing the law and to guarantee access to the broadest possible group of people.
- Remove eligibility restrictions based on immigration status for federal, state, and local housing assistance.

Finding: Immigrants face discrimination by landlords, neighbors, realtors, and mortgage lenders on the basis of race, language, religion, national origin, and immigration status.

Recommendations

- Increase enforcement of federal and state fair housing rules through an efficient, timely complaint process that ensures individuals receive an effective remedy for housing discrimination.
- Fair housing officials and other groups protecting the rights of tenants and homeowners should conduct more independent investigations that allow enforcement of housing laws without relying on individual complaints, especially when groups such as undocumented immigrants face strong incentives to stay quiet no matter what abuse they experience.
- Educate renters and homebuyers about what constitutes illegal discrimination and how to construct a strong case so that people who experience discrimination are better prepared to gather evidence and file a claim.
- Ensure HUD's new disparate impact rule is disseminated and enforced to prevent discriminatory practices even where discriminatory intent is absent or hard to prove.
- Provide incentives for bank lenders to increase access to prime loans in poor, segregated neighborhoods.
- Prosecute subprime lenders for targeting poor, minority communities for predatory loans.

Finding: Immigrants who live in substandard housing or who suffer exploitation by their landlord cannot access an effective remedy because of unfamiliarity with the system, fear of retaliation, and language barriers.

Recommendations

- Educate renters about tenants' rights and responsibilities so they are able to recognize exploitative behavior by landlords and know how to enforce their rights.
- Cities should assume the primary responsibility for uncovering predatory housing practices, so that the burden of preventing landlord exploitation does not depend primarily on individual complaints from tenants who may be reluctant to report because of immigration status, language, or retaliation. As part of this effort, cities should increase funding and staffing of independent housing inspection, especially of multi-family units.

- Agencies should protect undocumented immigrants who have experienced housing law violations from being reported to immigration enforcement to reduce their fear of filing a claim.
- Strengthen legal protections against landlord retaliation by creating a procedure for tenants to bring retaliation claims outside of an eviction action so they can pursue their claim without the risk of having an eviction on their rental history.
- Fully fund the requirement that public housing agencies provide assistance in other languages.
- Encourage partnerships between government agencies, community groups, tenants, and landlords to provide access to free or low-cost interpretation and translation so that immigrants with limited English can understand leases, housing policies, and other important documents.

Finding: Residential segregation isolates immigrants in high-crime, low-opportunity neighborhoods with low-performing schools.

Recommendations

- Rigorously analyze local and state government housing plans against the federal standard of “affirmatively furthering fair housing” and make that a central goal of Minnesota housing agencies.
- Reform the Low Income Housing Tax Credit and other forms of affordable housing subsidies to prioritize integration, access to job centers, and access to high-performing schools in the selection criteria.
- Create public transit that links high economic opportunity areas with affordable housing.