



## Introduction

The New York State Fair Housing Network (“the Network”) comprises six full-service fair housing organizations operating in regions across New York State, CNY Fair Housing, Fair Housing Justice Center, Housing Opportunities Made Equal Inc. (Buffalo), Legal Assistance of Western New York Inc., and Westchester Residential Opportunities Inc. see *appendix A* for counties served. These organizations record discrimination complaints, conduct systemic investigations, provide technical assistance, education, and training to individuals and organizations, bring litigation to enforce fair housing laws and advocate for fair housing policies. Collectively the Network services over 92% of New York’s population, which includes the state’s 10 largest cities.

The importance of fair housing cannot be overstated. Housing is a basic human need, and access to safe and affordable inclusive housing is essential for individuals and families to build stable and prosperous lives. Discrimination robs New Yorkers of that opportunity. Fair housing laws on the federal, state, and local levels are in place to ensure everyone has equal access to housing opportunities, regardless of their protected characteristics. Fair housing organizations ensure that fair housing practices are not only a moral imperative but a legal obligation, and we continually work towards ensuring everyone has access to the housing they need and deserve.

The Network appreciates the time and work that Homes and Community Renewal (HCR) has put into creating the Assessment Report Fair Housing Matters NY. We believe that it is a well-researched and thoughtful analysis of the challenges New York faces in its endeavors to address fair housing concerns and the opportunities present to expand and strengthen fair housing practices in the state. However, the Network does not believe that the report includes a complete description and scope of private fair housing organizations’ efforts and services, especially compared to enforcement efforts by state, local, and municipal agencies. While Network members appreciate the funding we currently receive through HCR, we believe that conversations revolving around fair housing matters in New York should include the need for increased funding for fair housing organizations that currently perform the bulk of fair housing work in New York State.



## Fair Housing Data

According to the National Fair Housing Alliance (2022), private fair housing organizations processed 72% more complaints than federal, state, and local agencies combined. The data collected from the Network is illustrative of this national trend.

The intake process is vital as it provides complainants with information about their rights and options and allows the fair housing organization to begin to address the alleged discriminatory conduct. Intake staff collects detailed information to provide accurate referrals and to determine if the case requires additional assistance or investigation. Network members collectively assisted approximately 1000 complainants with concerns of discrimination in the calendar year 2022, significantly more than New York State Division of Human Rights.

Through education, outreach, and training, the Network works to promote awareness of fair housing laws. Despite increasingly robust statutory protections, the efficacy of fair housing laws is limited if individuals aren't empowered to enforce their rights. To fill this need, through varied in-person and remote events, the Network trained over 8,000 individuals across the state on a variety of fair housing topics. This community engagement is critical to ensure renters, homeowners, and housing providers know about fair housing protections and obligations.

## Case Highlights

Our organizations seek to strengthen fair housing laws and remedy discrimination through litigation and administrative complaints. These enforcement actions are most often based on the findings of our systemic and complaint-based investigations; outcomes depend on the specific case and the testing evidence from the investigation. We resolve our cases as public settlements that involve compliance monitoring to make sure discrimination does not continue. Examples of the relief typically obtained in such cases includes injunctive relief to stop continuing discrimination, including compensatory damages for emotional distress and/or out-of-pocket expenses, punitive damages, civil penalties, and attorney fees or costs. Below are a few examples of cases and settlements that cover a diverse range of issues.

### Disability Discrimination:

CNY Fair Housing, Housing Opportunities Made Equal (HOME), and eleven partner fair housing organizations in six different states reached a settlement in a federal lawsuit against a group of developers, owners, investors, and operators of senior housing. The settlement will improve access for persons with disabilities at 50 senior apartment buildings located across the Northeast and Midwest. The settlement agreement requires an estimated \$3 million in retrofits to public and common-use areas at the properties to improve accessibility for individuals with disabilities. These include providing accessible routes around the exterior and common-use areas, adding additional ramps and curb cuts, and replacing sidewalks with excessive slopes. Defendants will also set aside funds



totaling \$3.375 million to pay for modifications to individual units at the request of any resident or applicant at the 50 properties included in the agreement.

Long Island Housing Services is representing an individual who has a disability and requires an emotional support animal before the New York State Division of Human Rights. The individual requested a reasonable accommodation to remain in his unit with the emotional support animal to the owner of the apartment complex, the request was denied, and the individual was steered to a different building where the owner allowed animals. The client and his fiancé were informed that if they did not remove the emotional support animal or transfer to one of their buildings that allows “pets,” they would be evicted.

In 2022, a federal judge approved a settlement agreement between the Fair Housing Justice Center and the owners, developers, and architects responsible for building a 38-story tall residential building. The lawsuit alleged that the Defendants failed to comply with accessibility requirements in the design and construction of a 272-unit rental building built in 2017. The investigation identified numerous non-compliant features in the apartments and common areas of The Forge, including an inaccessible front entrance, apartment hallways, and common area kitchens that were too narrow, had inaccessibly located electrical outlets and thermostats, and an inaccessible garbage door and chute handles. Defendants agreed to numerous retrofits of the areas at issue and will collectively pay \$700,000 for damages, expert fees, and attorney's fees.

In U.S. District Court, Legal Assistance of Western New York, Inc. represents an individual alleging multiple design and construction violations of the Fair Housing Law hampering disabled individuals from fully using and enjoying the large apartment complex. Allegations include issues with mailbox placement, access to the pool area, and the inability to use some doorways.

#### Source of Income Discrimination:

Long Island Housing Services conducted an investigation and testing after receiving allegations that the owner of several multi-family apartment complexes was not accepting the Section 8 Housing Choice Voucher program. Testing demonstrated that the Respondent was implementing income requirements that would be detrimental to many Long Islanders with housing vouchers. The individuals alleged that the Respondents required all applicants, including applicants with housing vouchers, to have an income of 2.75 times the monthly rent. Complaints were filed with the New York State Division of Human Rights and were settled in 2022.

In 2020, Housing Opportunities Made Equal, Inc. was made aware of a housing provider that was advertising properties in a manner that expressed a limitation that could potentially discourage prospective tenants with lawful non-wage sources of income from applying. After becoming aware of the housing provider’s advertisements, HOME conducted a series of tests which confirmed that the housing provider was specifically unwilling to accept security deposit agreements. HOME partnered with a



local law clinic to request that they take remedial measures to rectify their discriminatory practices and policies. The housing provider took action by signing a settlement agreement in which they agreed to comply with fair housing law, implement an equal housing opportunity policy, and pay a settlement fee.

In 2022, Westchester Residential Opportunities (WRO) filed a lawsuit against a Westchester County landlord and property manager, accusing the housing provider of source of income discrimination. WRO's investigation demonstrated that the housing provider had used discriminatory advertisements discouraging Section 8 voucher holders from applying for rentals and then engaged in discriminatory conduct in refusing to rent to testers posing as Section 8 voucher holders. The case is still pending and is based on both testing and non-testing investigative work done by WRO.

### Discrimination Based on History of Domestic Violence:

LawNY is representing an individual in U.S. District Court alleging discrimination on the basis of disability and status of a victim of domestic violence by a landlord. The landlord had been attempting to evict the plaintiff because she had called emergency services during a crisis and was trying to make her apartment into what the landlord termed a "safe haven."

### Discriminatory Blanket Bans Based on Criminal Legal System Interaction:

In May 2022, New York City made changes to its background check policy for city-funded housing following a lawsuit supported by a Fair Housing Justice Center investigation. Previously, the city required all developers participating in its subsidy and loan programs to run criminal background checks on all applicants. With few rules in place for applying such background checks, some buildings enforced arbitrary, extreme, and discriminatory criminal record admission policies, such as rejecting any applicants for housing who had an offense in the past 10 years. As a result of a lawsuit filed by the Legal Aid Society, the City made the following policy changes: (1) Applicants to HPD- and HDC-funded housing may no longer be rejected because of a felony record older than five years or a misdemeanor conviction older than one year; (2) Applicants with a more recent felony or misdemeanor record cannot be rejected without considering the applicant's evidence of rehabilitation including employment history, certificate of relief from disabilities, mitigating factors surrounding the conviction, recommendations, and volunteer or community activities; (3) Offenses not enumerated in Attachment AA-4 provided on HPD's website cannot be considered, and applicants must be notified of their right to present evidence of rehabilitation.

### Race and National Origin Discrimination:

The Fair Housing Justice Center, Long Island Housing Services, the National Fair Housing Alliance, and other fair housing organizations settled a lawsuit with Redfin Corporation, one of the nation's largest real estate services companies, in 2022. This settlement agreement involved Redfin's elimination of its national minimum home price



policy, expansion of real estate services for lower-priced homes in ten metropolitan areas, and payment of \$4 million. Redfin also agreed to make changes that will stand for at least three years after an initial implementation period, implement an outreach and recruiting plan to increase racial diversity in its workforce, advertise its services to reach non-white consumers, and require its agents and local partner realty firms to attend fair housing training.

CNY Fair Housing reached a settlement agreement resolving a federal housing discrimination lawsuit which alleged that the owners and managers of two apartment complexes in DeWitt, New York, refused to rent to individuals with limited English proficiency (LEP). While language is not a protected class under federal and state fair housing laws, CNY Fair Housing alleged that refusing to rent to LEP households has a discriminatory impact on prospective renters based on both national origin and race. Under the settlement, the owners and their leasing agents agreed to rent to qualified LEP applicants and to take additional actions intended to facilitate communications between property management and LEP individuals. Such actions include the translation of application and leasing documents into the four languages most frequently spoken by LEP individuals in the Syracuse area: Spanish, Chinese, Arabic, and Vietnamese. In addition, the apartment complexes will provide oral language interpreters, if needed by LEP tenants, to understand important communications from property management, including lease violation notices and lease termination or non-renewal notices.

#### Familial Status Discrimination:

In 2022, WRO settled a complaint brought against a large national bank for familial status discrimination in its mortgage lending practices, in particular, discrimination against women on or approaching maternity leave. This matter was the third such settlement that WRO achieved in the last several years against a major mortgage bank on the basis of maternity leave discrimination.

### **Policy Recommendations**

Our decades of work in this field give us firsthand experience with how policy can either impede or further the goal of fair housing for all. We support policies and programs that eliminate discrimination, fortify fair housing laws, and cultivate accessible and inclusive communities. The Network recommends the implementation of the policies listed below:

#### *Expand protections for criminal/legal involvement*

There are over 2.3 million New Yorkers with a criminal record who should not be disqualified from obtaining housing. Returning citizens need access to housing in order to successfully reenter society, and policies that bar people with conviction records are often used as a substitute for discrimination based on race or national origin. The



Network urges New York State to expand housing protections for individuals with prior involvement with the criminal legal system.

### Strengthen Source of Income discrimination protections

New York State Human Rights Law protects New Yorkers from housing discrimination based on lawful source of income. However, many housing providers continue to discriminate based on this protected class by imposing background checks and income requirements on potential tenants who are guaranteed to be able to afford rent with income, such as Housing Choice Vouchers. We support legislation to clarify the Human Rights Law's source of income protections and close these loopholes.

### Co-op disclosure

The Network envisions regulation of co-ops through the enforcement of a uniform process for considering applications to purchase or rent cooperative apartments. That process would include a specific timeline for a board's processing of an application and would require housing cooperatives to provide a written reason for rejecting a prospective buyer/renter, with a copy of that written response filed with a public agency for analysis and public access. This policy would ensure that the process of purchasing and renting cooperative housing is fair and transparent and does the utmost to protect against illegal discrimination.

### Vicarious liability

The Network supports clarifying vicarious liability under New York State Human Rights Law; a principal can be held liable for its agent's acts of housing discrimination under the New York State Human Rights Law, N.Y. Exec. Law § 296, if the principal encourages, condones, approves of, or knows or should have known of the agent's discriminatory conduct or fails to correct conduct of which it is aware.

### Statewide Land Use Reform

New York's land use regulatory regime excludes too many families from high-opportunity communities across the state. The Network supports statewide land use reform to tackle this statewide problem and allow more diverse and affordable housing types in every community. This can be accomplished by legalizing certain housing sizes and types (like ADUs) across the state, standardizing zoning regulations around community-connecting infrastructure like public transit and streamlining permitting processes for affordable housing in unaffordable communities.

### Good Cause Eviction

Evictions are a cause—not an effect—of poverty, and because so many housing providers will not rent to tenants with prior evictions, they can restrict a family's future housing opportunities for years to come. We support legislation that prevents evictions or the non-renewal of residential leases without good cause.



## Closing

As organizations at the center of New York’s fight for fair housing, we support the analysis and strategic recommendations advanced in the Fair Housing Matters NY report. We encourage New York State to recognize the unique role the Network serves in the state, prioritize our policy recommendations, and provide the support necessary to build and maintain our capacity. The State has taken initial steps to invest in our work through the Fair Housing Testing program. However, significantly more funding is required to reach and assist more tenants and homeowners. With this support and collaboration on ambitious policy priorities, we can ensure that New York State is truly a leader on the road to affirmatively furthering fair housing.



## Appendix A

Fair Housing Organization	Service Area
<a href="#"><u>CNY Fair Housing</u></a>	Onondaga, Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Oswego, Otsego, St. Lawrence, and Tompkins, Albany, Schenectady, and Montgomery Counties
<a href="#"><u>Fair Housing Justice Center</u></a>	All five boroughs of New York City and Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester Counties
<a href="#"><u>Housing Opportunities Made Equal Inc. (Buffalo)</u></a>	Erie, Niagara, Cattaraugus, Chautauqua, Genesee, Orleans and Wyoming Counties
<a href="#"><u>Legal Assistance Western New York</u></a>	Monroe, Livingston, Ontario, Seneca, Wayne, Yates, Allegany, Chemung, Steuben, and Tioga.
<a href="#"><u>Westchester Residential Opportunities Inc.</u></a>	Lower Hudson Valley region of New York including Westchester, Rockland, Putnam and Dutchess Counties
<a href="#"><u>Long Island Housing Services</u></a>	Nassau and Suffolk Counties