

Analysis of Impediments to Fair Housing: Phase 1 Report

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Prepared for:
Hawaii Housing and Finance Development Corporation

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Preface

This report was solicited from staff at the University of Hawai‘i at Mānoa to fulfill the requirement of the Department of Housing and Urban Development (HUD) that all agencies receiving federal housing funds conduct an Analysis of Impediments to Fair Housing every five years. This report was commissioned by and its scope pertains to the following agencies: The Hawaii Public Housing Authority (HPHA); The Department of Human Services’ Benefits, Employment and Support Services Division (DHS-BESSD); The Department of Hawaiian Home Lands (DHHL); The Hawai‘i Housing Finance and Development Corporation (HHFDC); The City and County of Honolulu’s Department of Community Services (DCS); The County of Hawai‘i’s Office of Housing and Community Development (OHCD); The County of Maui’s Department of Housing and Human Concerns (DHHC); The Kauai County Housing Agency (KCHA).

Based on consultation with HUD representatives, this report focuses on two primary impediments: 1) agency staff knowledge of fair housing law; 2) the degree to which agency policies and procedures (legal, regulatory, and administrative) align with fair housing law and affirmatively promote equal access to housing for all Hawai‘i’s residents.

Given the tight timeline of this report (commissioned per MOA on October 1, 2019), it will be limited to the issues indicated above. A follow up report, scheduled for completion December 2020, will take a wider view of the Hawai‘i’s fair housing issues, engaging stakeholders across the state and conducting targeted analyses designed to help agencies further their goals of promoting equal opportunity.

All the authors would like to thank each of the agencies involved in this process for their assistance in the preparation of this report. Your dedication to fair housing and the well-being of your clients, often in the face of severe resource constraints, is truly inspiring.

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Introduction: About the Fair Housing Act and the Analysis of Impediments Report

The Fair Housing Act was signed into law by President Lyndon Johnson. Encompassing Title VIII through Title IX of the Civil Rights Act of 1968, it explicitly outlawed discrimination based on religion, race, color, and national origin as it relates to the rental, sale, or financing of housing. In 1974, discrimination based on sex also became illegal and has since come to encompass protection against sexual harassment. The Fair Housing Amendments Act was signed in 1988 and was implemented in March of the following year. This amendment added persons with disabilities and mandated accessibility features for multi-family residences of four or more units built for occupancy on or after March 13, 1991. Families with children also became a protected class, with protection extending to pregnant women.

Today, the Fair Housing Act (FHA) prohibits housing discrimination on the basis of the following protected classes:

- Race
- Color (including ethnic background)
- Ancestry or National Origin
- Religion
- Sex (including protections for victims of domestic violence and gender performance)
- Familial Status (including family composition, pregnancy, and the presence of children)
- Disability (both physical and mental)

The State of Hawaii additionally prohibits discrimination based on:

- Marital status
- HIV status
- Sexual Orientation (including transgender)
- Age

The Fair Housing Act has three objectives. The first goal concerns equal opportunity and access to housing. Second, the Act seeks to remedy discriminatory practices in mortgage lending and property appraisal. And third, it seeks to eliminate preferential treatment as well as threats to all individuals' fair housing rights. While designed to cover all forms of housing, there are few situations in which a person or group might be exempt from the Act, such as 1) owner-occupied homes with no more than four units, 2) rentals or sales of single-family homes without a broker, and 3) private clubs or organizations that require membership.

The Fair Housing Act covers not only direct incidents of discrimination (such as a property manager refusing to rent to a particular racial group) but also policies and procedures that may have a *disparate impact* on a particular group. In other words, even if a policy is not written as discriminatory, it can still be in violation of the FHA if it has a disproportionate impact on a protected class. As with all FHA rules, this applies to both private firms and government agencies. To make a disparate impact claim, a plaintiff must show that a particular policy 1) has a causal effect that disadvantages a protected class; 2) does not serve any necessary business purpose that could not be achieved in a different manner.

In 1994, President Clinton issued Executive Order No. 12892 that affirmed the Secretary of Housing and Urban Development as the primary authority on leading fair housing initiatives and

established the Secretary as the chair of the President's Fair Housing Council. This council reviews existing programs and designs new ones to promote the advancement of fair housing activities.

The Department of Housing and Urban Development (HUD) is tasked with enforcement of the Fair Housing Act. Victims of unlawful discrimination may seek reparations by filing complaints with the Secretary of HUD within 180 days of the incident. Remediation may also be sought by filing a lawsuit in state or federal court. When a violation has been established, redress may come in the form of compensatory damages, charges for corrective action, as well as awards for punitive damages and/or civil penalties.

The Fair Housing Review Criteria was established in 1988 by HUD. It includes the regulatory framework for an Analysis of Impediments to Fair Housing in both the private and public sectors. The analysis includes four components. First is a comprehensive review of jurisdictional laws, administrative policies, procedures, and practices for states or entitlements. Then an assessment of housing availability and how the aforementioned regulations impact housing availability. Next, conditions affecting fair housing choice for protected classes are analyzed. The final step is an evaluation of the availability of accessible and affordable housing in various unit sizes. HUD recommends an Analysis of Impediments be conducted every 3-5 years. In the event of identified impediments, the jurisdiction should detail a list of actions for remedy, create a timetable to track progress, and involve the community in finding solutions. The Analysis of Impediments serves as the basis for monitoring and managing Fair Housing Planning.

Data and Methods for this Report

Analysis of Impediments Reports have historically focused on multiple issues related to fair housing. Based on consultation with representatives from the Department of Housing and Urban Development, we have focused on two issues: 1) agency staff's knowledge of fair housing law; 2) alignment of agency policies and procedures with the Fair Housing Act. In this section, we briefly describe the methods employed in these analyses.

Staff Fair Housing Survey

The research team developed the "Hawai'i Housing Employee Anonymous Survey" designed to estimate agency staff members' knowledge of fair housing law. The survey was designed to be consistent across all partner agencies and the bulk of the questions focused on issues relevant to individuals working in public agencies tasked with administering subsidized housing programs. We are grateful to lead representatives from each participating agency who were invited to make comments on the draft survey. Some basic yes/no questions were asked, but the bulk of the evaluation hinged on a series of Fair Housing Scenarios designed to incorporate the complexity of fair housing law. Staff were asked to assess whether or not each scenario was likely an example of a fair housing violation and the degree to which they believed such violations occurred frequently in Hawai'i. The survey also collected demographic information on all agency staff.

For the full survey instrument, see Appendix A.

The survey was administered online through a University enterprise account with SurveyMonkey.com. Each agency provided a list of all staff members, who were then sent invitations to participate in the survey in the first week of December. Staff who wished to do so could provide their email address to be entered into a gift card drawing. Subsequent email reminders were sent to each staff member over the first half of December 2019. Overall, the survey completion was highly successful: over 70% of agency staff completed the survey – a remarkably high response rate. Specific agency response rates are found later in the report. We are extremely grateful for the assistance of our agency partners and staff members who ensured the success of the survey.

Document Review

Each agency provided a set of documents that summarized their agency’s policies, procedures, and training related to fair housing. The list of policy documents requested from each agency was as follows:

Policy Manuals, Rules, and Regulations

We would like to review all policy manuals (including rules and regulations) used by your staff for each of the housing programs you administer. These may include, but are not necessarily limited to: 1) Housing Choice Voucher Program; 2) Public Housing; 3) Project Based Section 8; 4) the federal and state LIHTC programs; 5) other supply-side housing programs (202, 203b, 811, etc.); 6) the Rental Assistance Payment (RAP); 7) rental housing revolving funds (state or local); 8) VASH; 9) CBGB; 10) HOME; 11) other homelessness programs; 12) TBRA; 13) Hawaiian Homelands.

Agency Reports

All plans and reports produced by your agency (annual reports, 5-year plans, previous consolidated reports).

State and Local Policies under Your Purview

If there are relevant pieces of legislation that have not yet been consolidated into your internal rules and regulations, please share those as well.

Scoring and Ranking Systems

If not included in the Policy Manuals, please submit all scoring and ranking systems. These can include project evaluation criteria (QAP, for example), information on the waitlist management and scoring, rent reasonableness determination processes, and so forth.

Training Materials

We would like to review and materials used to onboard new employees related to fair housing (or offered to existing employees).

Each agency provided a different document set. The full set of documents provided for this report can be found in Appendix B.

The documents were then carefully reviewed by staff and faculty of the William S. Richardson School of Law. The analysis was designed to answer two questions: 1) do the documents comply with current interpretation of fair housing law; and 2) are the policies and procedures adequate to the task of affirmatively furthering equal housing access for disadvantaged communities in Hawai‘i.

State of Hawai‘i Demographic Profile

This section provides an overview of population characteristics of the State of Hawai‘i, paying specific attention to protected classes of people and population groups most likely to struggle to find adequate housing. It begins with individual-level demographic data related to age, sex, race, national origin, and disability status. The remainder of the section focuses on household- and family-level demographics, including household composition, income, and poverty status. All data are U.S. Census American Community Survey 5-year estimates.

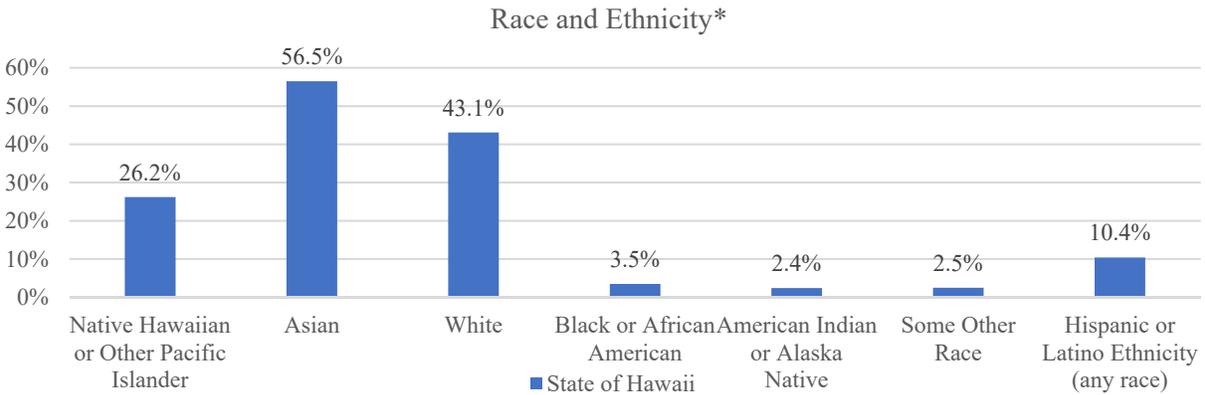
	State of Hawaii	Hawai'i County	Honolulu County	Kauai County	Maui County
Total Population	1,422,029	197,658	987,638	71,377	165,281
Percent Male	50.2%	49.7%	50.4%	49.6%	49.9%
Percent Female	49.8%	50.3%	49.6%	50.4%	50.1%
Median Age	38.9	42.3	37.6	42.4	41.1
Percent Below 18	21.6%	21.9%	21.4%	22.0%	22.1%
Percent Over 65	17.3%	19.3%	16.9%	18.8%	16.9%
Percent with a disability	11.2%	13.7%	10.9%	9.9%	10.8%

Source: ACS 5-Year, 2018

The total population of the state is just under 1.5 million. The majority of this population (69.5 percent) is located in Honolulu County. Therefore, state-level demographics are disproportionately driven by those of Honolulu County. However, there is relative consistency across the counties on many basic indicators. The entire state has nearly equal numbers of males and females. The median age for the state is 38.9; however, this is driven by the relatively low median age of Honolulu. The remainder of the counties have older populations, with median ages of over 40. Hawai‘i and Kauai counties have notably older populations, with median ages of over 42 and higher percentages of people over the age of 65 (19.3 percent and 18.8 percent, respectively). Hawai‘i County also has the highest percentage of people living with a disability, at 13.7 percent, compared to a statewide rate of 11.2 percent.

Place of Origin	Born in U.S.	Born in Hawaii	Born in another state in the U.S.	Foreign Born	Speaks language other than English at home	Speaks English less than “very well”
State of Hawaii	81.7%	53.3%	25.3%	18.3%	26.1%	12.1%

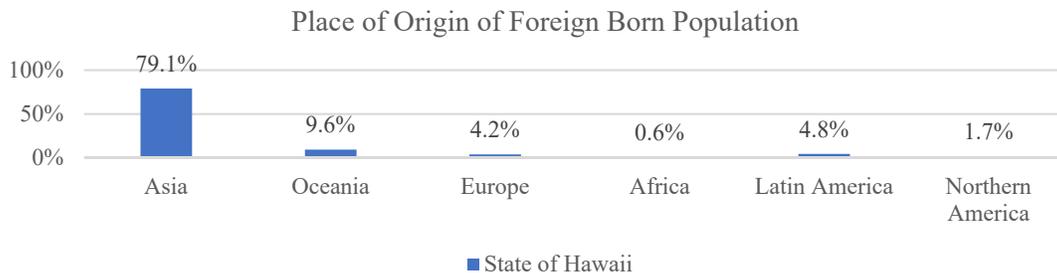
Source: ACS 5-Year, 2018



*Races are reported alone or in combination. Therefore, percentages amount to more than 100%

Hawai’i is a racially and ethnically diverse state. Twenty-four percent of people identify as two or more races. People identifying as Asian make up the majority of the population at 56.5 percent, followed by White (43.1 percent) and Native Hawaiian or Pacific Islander (26.2 percent). Just 10.4 percent of people report being of Hispanic or Latino ethnicity.

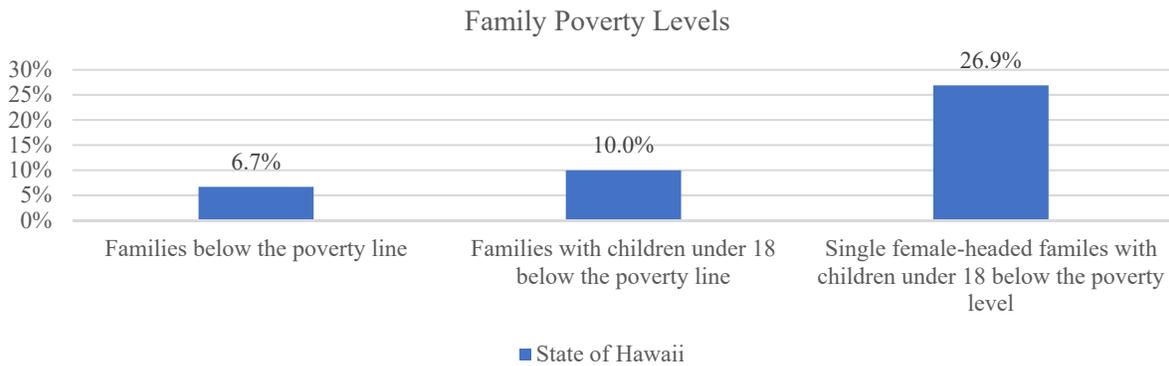
Hawai’i is also diverse in terms of place of origin and languages spoken. A slim majority of the population of the state was born in the State of Hawai’i (53.5 percent). Another quarter of the population was born in another U.S. state, and 18.3 percent were born outside the U.S. and its territories. Of those born outside the U.S., the vast majority hail from Asia (79.1 percent), followed by Oceania (9.6 percent). All other regions of origin total just over 10 percent. The diversity of the state extends to languages spoken, with 26.1 percent of the population speaking a language other than English at home and 12.1 percent of people speaking English less than “very well.”



Household-Level Demographics	Total Housing Units	Total Households	Average Household Size	Median Household Income	At least 1 person under the age of 18	At least 1 person over the age of 65	Grandparents living with grandchildren
State of Hawaii	539,053	456,782	3.02	\$78,084	32.4%	36.0%	12.2%

Source: ACS 5-Year, 2018

Many households and families face barriers to accessing housing. Income and family composition can also contribute to a household's inability to access housing. Just under one third of households have at least one person under 18, and just over one third have at least one person over 65. In 12.2 percent of households, grandparents live with grandchildren. While Hawai'i has a relatively high median income of \$78,084, residents must contend with a high cost of living. Because of high incomes, a relatively low percentage of families fall below the federal poverty line. However, the federal poverty line does not take into account for local costs of living. Given this, it is even more notable that over one quarter of single female-headed households with children live below the poverty level.



PART 1
Assessing Staff Knowledge of Fair Housing

In this section, we describe results from our survey of agency staff related to their familiarity with fair housing law.

The survey was administered to all of the eight agencies participating in the study. Part 1, below, reports the findings for the Hawaii Housing Finance and Development Corporation (HHFDC).

1.1 Response Rate & Respondent Demographics

As of January 3rd, 2020, out of 56 total invitations sent to individual agency staff, there were 46 completed and 3 partially completed for a total response rate of 88%. This is an exceptional response rate, which strengthens the reliability of our survey results. It is important to note that HHFDC does not have client facing staff and thus must consider fair housing issues in light of housing development and finance.

Table 1.1 below shows the demographics of the staff member respondents who completed the survey. We encourage agencies to compare this information to their understanding of their staff's overall characteristics to identify any potential bias in who completed the survey.

[See Table 1.1 at End of Section]

The respondents were 59% Japanese, 17% Filipino, 11% Chinese, with other ethnic groups falling below 5%. Over half the respondents were female, a quarter were male, with the remainder non-binary or preferring not to answer. Over half the respondents were over the age of 50, and fewer than 20 percent were under 40 (with 10 percent declining to answer). Almost all respondents had a post-secondary degree, with at least 67% having a graduate degree. None stated they were disabled, although 17% declined to answer that question. Three quarters were born in Hawai'i and the vast majority of respondents have lived in the state for at least 20 years.

Given the challenges associated with serving Hawaii's multilingual population, we have summarized the languages in which agency staff respondents stated they were comfortable conversing. Due to confidentiality we cannot, of course, assess whether these language competencies are employed in client-facing roles at the agency. However, these language skills represent potential agency resources to advance fair housing access for language minorities or Limited English Proficiency individuals.

Reflecting their ethnic breakdown, at least one respondent spoke Cantonese, Japanese, Ilocano, Tagalog, and Samoan. One spoke Spanish. Local languages not represented include Hawaiian, Mandarin, Visayan, Korean, Thai, Vietnamese, Palauan, Chamorro, Chuukese, Kosraean, Marshallese, Pohnpeian, Tongan, Yapese, and American Sign Language. Because few employees at HHFDC have direct interaction with clients, these language assets and gaps are somewhat less salient.

1.2 Respondent Training Needs

In addition to assessing staff competency with fair housing, we also asked respondents directly whether or not they have received training in fair housing and what additional training they would like to have. The latter was asked after the substantive questions in hopes that gaps and limitations would be more apparent after respondents were confronted with a slate of fair housing questions.

Table 1.2: Fair Housing Training : HHFDC

Have you ever received training?	
None	59.2%
Yes, In Workplace	18.4%
Yes, Outside Workplace	8.2%
Both In and Outside	14.3%

How important is fair housing for your job?	
Not At All	12.2%
Mildly	20.4%
Moderately	6.1%
Very	30.6%
Extremely	30.6%



As shown in Table 1.2, over half of respondents have never received training in fair housing law. Again, this likely reflects the limited amount of direct contact that HHFDC staff has with subsidized housing clients. However, it is important to note that over 60% of respondents stated that fair housing was “very” or “extremely” important, suggesting that many agency staff would value more information on fair housing law. It is worth noting that almost half of the staff had worked at this agency for a decade or more, over 40% for more than a year to 9 years, and only 12% had worked at this agency less than a year.

Unfortunately, 61.2% of respondents stated that they did not know who to contact at their agency about potential fair housing violations. Respondents were asked to list these contacts; to protect staff privacy, this list will be provided to each agency directly for evaluation.

When asked, respondents listed the following topics as potentially useful training (note, beyond adjustments to spelling and grammar and any edits to preserve confidentiality, this list is taken verbatim from the survey):

Table 1.3: Training Requests: HHFDC

Everything
Fair housing obligations of private landlords
Gender, sexual orientation, language, and family laws
Rules and Regulations of Housing Law, possibly using your examples
What to do if an inquiry or a situation arises regarding fair housing and where to refer the person to seek assistance
Whatever information is available.
To start, an overview of all aspects would be helpful
FHA as it applies to homeless.
My position in the organization does not deal with fair housing law.
More fair housing in the office type of training vs leasing/rentals.
A regular cycle of training once every five years. The last minimal training I had was almost 20 years ago.
Protected classes of persons, regulations specific to native Hawaiians.
I would like to learn more about whether the situations used in this survey really are violations or not. It would be good to have an overall understanding of what would be considered discriminatory and in violation, vs. what is acceptable.
Cases out of the ordinary obvious situations
Those which apply to multifamily and for-sale housing development (as opposed to the parts pertaining to individual homeowners or small landlords).

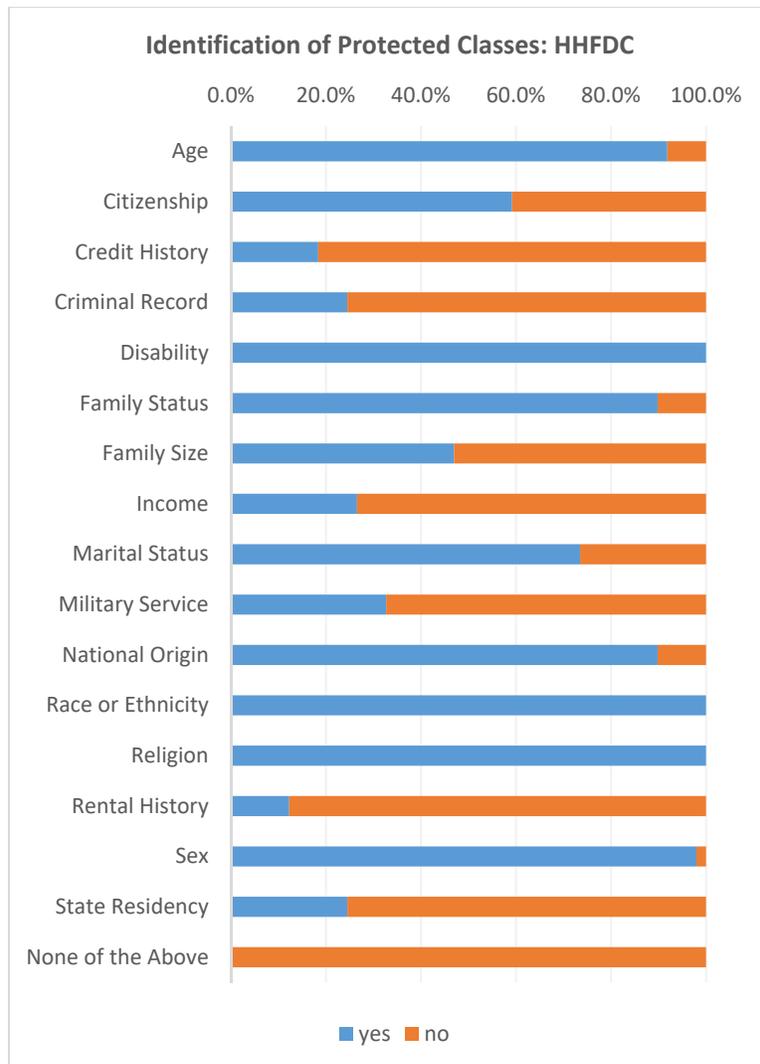
1.3 Response to Simple Fair Housing Questions

For the evaluation of substantive knowledge about fair housing, we first asked respondents to identify the classes of people protected by the fair housing act. These results are shown in the figure below:

The proper list of protected classes is: age, disability, familial status, marital status, national origin, race/ethnicity, religion, and sex.

As is clear, respondents by and large identified the protected classes correctly. However, many also identified groups not protected by fair housing law as being covered under the act. For example, over 20 percent stated that it was a violation to discriminate on the basis of Income and Criminal Records. While there are many nuances in fair housing, these factors represent core mechanisms by which landlords and housing agencies can legally screen clients. Similarly, there appears that many respondents felt that Veteran status is a protected class. While many protections exist for veterans, the fact that it does not represent a protected class under fair housing laws, means that landlords and housing agencies are allowed to use veteran status as an inclusive criteria in screening (such as the VASH program).

Beyond this question, we also asked a series of straightforward questions related to fair housing the answers to which are presented in Table 1.4.



[see Table 1.4 at end of Section]

Respondents scored well on questions related to religion (91% correct), retaliation against a tenant making a fair housing complaint (88% correct), and reasonable accommodations for people with disabilities (88% correct). As with the protected bases, respondents were more likely to consider behavior discriminatory when it was not, than vice versa. For example, many respondents incorrectly stated that source of income discrimination was illegal (39%), that gender discrimination was illegal when applied to roommate selection (39%), or that incentives for military members were discriminatory (35%).

1.4 Response to Fair Housing Scenarios

In addition to assessing respondents’ basic familiarity with fair housing law, the bulk of the survey assessed the full range of respondents’ comprehension of fair housing through questions about fictional fair housing scenarios. These scenarios were intentionally designed to be nuanced, in order to reflect the complexity of fair housing issues, in practice. Respondents were asked whether each scenario was likely “illegal discrimination in Hawai‘i” (with optional answers: Yes, No, Don’t know). In addition, we asked each respondent to offer their opinion about how often the issues raised in each scenario occur. Answers to these questions provide an indirect way to assess how often the specific fair housing issues come up, in practice. Therefore, while the number of agency employees who identified the correct answer is an important metric, we also encourage agencies to review the prevalence of each scenario as estimated by their staff, which will present important information on what types of issues are more prevalent and therefore what types of training would be most beneficial for staff.

For each scenario, we provide the correct answer along with a legal explanation for that answer.

Scenario 1: Kevin is the landlord of a kupuna apartment complex for elderly tenants. He avoids selecting applicants who have young children because he wants it to remain a quiet place.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
12.5%	29.2%	58.3%	4.3%	10.6%	57.4%	27.7%

Correct Answer: **No**, it is unlikely that this scenario represents discrimination.

Legal Explanation: Normally, familial status is an illegal basis of discrimination. However, here, Kevin is the landlord of an "apartment complex for elderly tenants." The provisions against familial status discrimination do not "apply with respect to housing for older persons." Under the law, however, these provisions related to housing for older tenants apply only apartment complexes adhering to the specific definitions indicated here: they would need to be "(A) provided under any State or Federal program that the Secretary [HUD] determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or (B) intended for, and solely occupied by, persons 62 years of age or older; or (C) intended and operated for occupancy by persons 55 years of age or older, and— (i) at least 80 percent of the

occupied units are occupied by at least one person who is 55 years of age or older; (ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and (iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall— (I) provide for verification by reliable surveys and affidavits; and (II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification." (42 U.S.C. § 3607)

Scenario 2. When Rumika, an employee at a housing agency, receives a phone message from a local 808 area code that asks about Section 8 (or Housing Choice) vouchers, she calls them back first. Rumika has seen data that shows that many vouchers in her program are assigned to people not from Hawai‘i. Her county demographics do not reflect that large of a percentage, so Rumika feels it is her duty to try to make sure that the public housing goes to those that reflect the demographics from the local community in Hawai‘i.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
29.2%	14.6%	56.3%	4.3%	34.0%	34.0%	27.7%

Correct Answer: No, it is unlikely that this scenario represents discrimination.

Legal Explanation: State residency or state origin are not protected classes according to fair housing law (H.R.S. § 515-3). However, there are complicated developments in the law regarding this issue. Additionally, agencies should make sure other constitutional protections are not triggered, or ‘local’ is used as a proxy for race or ancestry discrimination. Agencies should remain vigilant to track and address new legal or regulatory determinations.

Scenario 3. Tia is an employee at a housing agency and she thinks that many of the vacant units in public housing are going to Micronesian families in Hawai‘i. She meets a Micronesian family that needs to take action to continue their program eligibility, but the family needs an interpreter. Tia sends a written letter in English to them that has a phone number at the bottom that tells them how to get an interpreter.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
27.7%	27.7%	44.7%	6.5%	15.2%	50.0%	28.3%

Correct Answer: Yes, it is likely that this scenario represents illegal discrimination.

Legal Explanation: The law requires “meaningful access” to housing for individuals with Limited English Proficiency (LEP), and the factors for determining if an agency is taking appropriate action to provide some access are as follows: 1) The number of LEP persons from a

particular language group to be served or encountered; 2) The frequency of contact with LEP persons; 3) The nature and importance of the program; and 4) The resources available, including costs, to provide LEP services (Department of Justice, *Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Policy Guidance*, 65 FR 50123–01 (Aug. 16, 2000); H.R.S § 321-C3). Here, the agency has identified that a high number of individuals with origins the region of Micronesia (including speakers of various Micronesian languages such as Chuukese and Marshallese), have a high frequency of contact with agencies. Given the importance of housing as a resource, and the risk that this family, per this notice, could lose access to this fundamental need, this scenario raises the risk of fair housing violations. The resources required to translate a letter should not outweigh the needs for housing of LEP individuals.

Scenario 4. Roman is an employee at a housing agency and will be meeting with some tenants to discuss maintenance repairs to their unit. Roman is aware that a Chuukese/English translator was needed for the meeting. Roman tells the tenants to bring their son, who is able to speak both English and Chuukese, rather than hiring an interpreter.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
37.0%	30.4%	32.6%	4.4%	6.7%	60.0%	28.9%

Correct Answer: **Yes**, it is likely that this scenario represents illegal discrimination.

Legal Explanation: The law requires “meaningful access” to housing for individuals with Limited English Proficiency (LEP), and the factors for determining if an agency is taking appropriate action to provide some access are as follows: 1) The number of LEP persons from a particular language group to be served or encountered; 2) The frequency of contact with LEP persons; 3) The nature and importance of the program; and 4) The resources available, including costs, to provide LEP services (Department of Justice, *Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Policy Guidance*, 65 FR 50123–01 (Aug. 16, 2000); H.R.S § 321-C3). Here, the agency has already identified the need for an interpreter for this important conversation. Asking for assistance from a family member of a tenant or potential tenant does not replace the agency’s legal requirement to offer their own interpreter.

Scenario 5: Aiko is a manager of an apartment building. Many of her previous tenants have been Marshallese, they often had extended family that would regularly have gatherings at their apartment or come to live with them. This frequently led to excess wear and tear, so Aiko charges a higher security deposit for Marshallese families.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
10.9%	4.3%	84.8%	4.4%	20.0%	51.1%	24.4%

Correct Answer: **Yes**, it is likely that this scenario represents illegal discrimination.

Legal Explanation: It is discrimination, on the basis of national origin, "[t]o discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction." (H.R.S. § 515-3)

Scenario 6: Kal is a landlord who receives several requests for repairs to apartment units. He recognizes one address because he has made several repairs to the same unit. Last time Kal went to repair the unit, the tenant was talking to herself and her behavior seemed agitated. Kal avoids making the repairs to the unit because he believes the tenant caused the damage. Instead, he prioritizes other tenants' maintenance requests.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
13.0%	6.5%	80.4%	6.7%	17.8%	64.4%	11.1%

Correct Answer: **Yes**, it is likely that this scenario represents illegal discrimination.

Legal Explanation: It is discrimination, on the basis of disability, "[t]o discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction" (H.R.S. § 515-3; *see also* 42 U.S.C. § 3604(f)(1)). Disability "means having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment. The term does not include current illegal use of or addiction to a controlled substance or alcohol or drug abuse that threatens the property or safety of others" (H.R.S. § 515-2; *see also* 42 U.S.C. § 3602(h)). Here, the maintenance would be a service in connection with the real estate transaction. There is no indication of a safety issue or "direct threat" here (*See* 42 USC § 3604(f)(9)).

Scenario 7. Lilly is a property manager for housing subsidized through the federal low-income housing tax credit (LIHTC). She refuses the reasonable accommodation to build a wheelchair ramp to the first floor rental apartment of a tenant with a disability. Lilly was told by her other tenants that they would not like how it looks.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
2.2%	2.2%	95.7%	4.4%	33.3%	48.9%	13.3%

Correct Answer: **Yes**, it is likely that this scenario represents illegal discrimination.

Legal Explanation: It is discrimination "To refuse to permit, at the expense of a person with a disability, reasonable modifications to existing premises occupied or to be occupied by the person if modifications may be necessary to afford the person full enjoyment of the premises; provided that a real estate broker or salesperson, where it is reasonable to do so, may condition permission for a modification on the person agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted." (H.R.S. § 515-3(8)).

Scenario 8. Lisa is a landlord of an apartment building. She refuses to renew Bob's lease because other tenants have complained that Bob seems to have a mental illness and damaged some chairs by the pool.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
20.0%	26.7%	53.3%	4.4%	17.8%	64.4%	13.3%

Correct Answer: **Yes**, it is likely that this scenario represents illegal discrimination.

Legal Explanation: It is illegal to discriminate based on disability, including mental health disability (H.R.S. § 515-3; *see also* 42 U.S.C. § 3604(f)(1)). Although, "[n]othing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others," that must be an individual determination not based on stereotypes (42 U.S.C. § 3604(f)(9)). There is no information here to show that there is such an issue here, other than neighbors blaming Bob for the damage to some chairs by the pool.

Scenario 9. Susan has a diagnosed mental illness that makes it difficult for her to keep her apartment clean and organized. In the past few months, her unit has gotten very dirty and has been overrun with cockroaches. She asks her landlord, Ronald, to hire an exterminator. Ronald says the reason for the cockroach problem is that Susan does not keep her unit clean enough and is therefore in violation of her lease, so he sends her a notice of eviction.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
30.4%	37.0%	32.6%	2.3%	20.5%	47.7%	29.5%

Correct Answer: **No**, it is unlikely that this scenario represents discrimination.

Legal Explanation: It is illegal to discriminate based on disability, including mental health disability. However, "[n]othing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other

individuals or whose tenancy would result in substantial physical damage to the property of others" (42 U.S.C. § 3604(f)(9)) That must be an individual determination. Here, because of the wording "overrun with cockroaches," there may be a "direct threat" to health and safety.

Scenario 10: Keola is a director of an emergency shelter for those who are homeless. When people come to the shelter, he asks them if they have any physical disabilities because he wants to screen them to select those who can lift their mattress off the floor for cleaning.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
23.9%	15.2%	60.9%	2.2%	24.4%	62.2%	11.1%

Correct Answer: Yes, it is likely that this scenario represents illegal discrimination.

Legal Explanation: It is illegal to discriminate based on disability for a housing accommodation. A "housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one or more individuals" (H.R.S. § 515-2; *see also* H.R.S. § 515-3). The shelter would likely be considered a "housing accommodation," although the determination would be fact-specific.

Scenario 11: Lori has a service dog that notifies her when she has to take her insulin. The landlord tells Lori that she will be evicted if she keeps the dog because she never disclosed that she had a service animal prior to signing the lease and there are no pets allowed in the apartment complex.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
17.4%	10.9%	71.7%	4.4%	22.2%	60.0%	13.3%

Correct Answer: Yes, it is likely that this scenario represents illegal discrimination.

Legal Explanation: The service dog would be considered a reasonable accommodation. It is discrimination "To refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a housing accommodation; provided that if reasonable accommodations include the use of an animal, reasonable restrictions may be imposed" (H.R.S. §515-3(9)). Even if there are no pets allowed here, the service dog would be considered a reasonable accommodation. Here, there is a tricky wrinkle in that Lori did not disclose the dog at first. However, the service dog would likely still be considered a reasonable accommodation. Lori would be subject to the "reasonable restrictions" imposed by her landlord.

Scenario 12. Rissa lives alone in an apartment. When her boyfriend visits, the couple frequently argues and the neighbors have had to call the police several times because of domestic violence. The property manager tells Rissa that her boyfriend is making trouble and is not allowed in the

apartment complex. The boyfriend returns to Rissa's apartment, her neighbors make a noise complaint, and later Rissa receives an eviction notice.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
30.4%	63.0%	6.5%	2.2%	6.7%	62.2%	28.9%

Correct Answer: **Yes**, it is likely that this scenario represents illegal discrimination.

Legal Explanation: Rissa is a victim of domestic violence. HUD has clarified, "A local government's policies and practices to address nuisances, including enactment or enforcement of a nuisance or crime-free housing ordinance, violate the Fair Housing Act when they have an unjustified discriminatory effect, even when the local government had no intent to discriminate" (HUD, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services* (Sept. 13, 2016)¹), Here, there is a less discriminatory alternative of enforcing the ban on the boyfriend without evicting Rissa.

Scenario 13. Charmaine has been diagnosed with cancer and requires a caregiver while she undergoes treatment and recovers from her surgery. Charmaine's daughter moves in as a caregiver, along with her husband and two young children. Charmaine receives a notice of eviction from her landlord stating that she is violating the rules of her lease by having more than one occupant in her apartment.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
39.1%	34.8%	26.1%	2.2%	17.8%	68.9%	11.1%

Correct Answer: **No**, it is unlikely that this scenario represents discrimination.

Legal Explanation: A live-in aide is considered an appropriate accommodation, which is legally required. "Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) Is determined to be essential to the care and well-being of the persons; (2) Is not obligated for the support of the persons; and (3) Would not be living in the unit except to provide the necessary supportive services" (24 C.F.R. § 5.403). The live-in aide requirement does not include the daughter's husband and two young children. Because of that, there is no violation for the eviction notice. However, it would be more likely to be discrimination if the landlord were evicting a single live-in aide.

¹ <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>

Scenario 14. Christina is transgender (male to female), wearing a dress, and selects “female” on the application form for a rental apartment. The property manager asks to see a photo identification, which is his standard practice. Christina's driver's license still lists her as a “male” (her sex at birth) named Christopher (her birth name). Because the property manager cannot verify the applicant’s identity, he refuses to accept the application.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
26.1%	23.9%	50.0%	4.4%	37.8%	48.9%	8.9%

Correct Answer: Yes, it is likely that this scenario represents illegal discrimination.

Legal Explanation: "It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesperson, because of race, sex, including gender identity or expression, sexual orientation, color, religion, marital status, familial status, ancestry, disability, age, or human immunodeficiency virus infection: (1) To refuse to engage in a real estate transaction with a person" (H.R.S. § 515-3). Hawaii has explicitly defined sex to include "gender identity or expression" so transgender individuals are a protected class. If Christina presents the ID as her own identification and requests to be recognized as "female" and "Christina" rather than "male" and "Christopher," that would not be an allowable basis for rejection of the application. If the property manager is unable to verify the identity because he suspects that the "Christopher" ID is a fake ID and not Christina's real ID, then that would be different. Based on the wording of this questions, however, that does not seem to be the case.

Scenario 15: James is a realtor with a client looking to purchase a 3-bedroom 2-bath single family home. Because the family is White/Caucasian, James chooses to only show them homes in neighborhoods where he believes they will be safer and more accepted. He avoids showing them homes in neighborhoods where he believes "haoles" will not be welcomed.

Is this a fair housing violation...			How frequently do you think this occurs...			
Don't Know	Unlikely	Likely	Never	Rarely	Occasionally	Regularly
13.0%	19.6%	67.4%	6.7%	11.1%	60.0%	22.2%

Correct Answer: Yes, it is likely that this scenario represents illegal discrimination.

Legal Explanation: It is discrimination to "steer a person seeking to engage in a real estate transaction" on the basis of race" (H.R.S. § 515-3). "Steering" includes the practice of directing persons who seek to enter into a real estate transaction toward or away from real property in order to deprive them of the benefits of living in a discrimination-free environment" (H.R.S. § 515-2).

1.5 Summary and Recommendations

HHFDC is in an interesting position related to fair housing. On the one hand, none of its staffers interact with clients on a daily basis, making their knowledge of fair housing less immediately relevant to their daily work. On the other hand, by virtue of its ability to support affordable housing development throughout the state, HHFDC is in a unique position to ensure that housing access is equitable across all protected bases. The agency's policies related to accessibility, siting, and so forth, have a multiplier impact on fair housing across the state.

Thus, it is important that HHFDC employees understand the nuances of fair housing not at the individual level (although that is always helpful), but at the macro level, carefully adjudicating concerns around the disparate impacts of its policies and affirmatively promoting access to groups that have traditionally been discriminated against.

The findings in this section suggest that HHFDC employees would benefit from additional training on fair housing, particularly given how few have received explicit fair housing training (or remember it if they have) and how many believe it to be essential to their work.

Table 1.1: Demographics: HHFDC

<i>Race/Ethnicity</i>	
African American/Black	0.0%
Chinese	10.9%
Filipino	17.4%
Japanese	58.7%
Korean	2.2%
Latino/Hispanic	2.2%
Native American	2.2%
Native Hawaiian	4.4%
White/Caucasian	4.4%
Other	13.0%
<i>Gender</i>	
Male	26.1%
Female	54.4%
Non-binary	2.2%
Prefer to self-describe	2.2%
Prefer not to answer	15.2%
<i>Age</i>	
18-29	6.5%
30-39	8.7%
40-49	15.2%
50-59	28.3%
60-69	26.1%
70+	4.4%
Prefer not to answer	10.9%
<i>Highest Level of Schooling</i>	
Less than high school	0.0%
High school diploma	2.2%
GED	0.0%
Associate Degree	10.9%
Bachelor Degree	4.4%
Master Degree	52.2%
Doctorate	15.2%
Law Degree	0.0%
Other Professional Degree	8.7%
Other (Please specify)	0.0%
<i>Disability</i>	
Yes	0.0%
No	82.6%
Prefer not to answer	17.4%
Born in Hawaii	73.9%

How Long Lived in Hawaii

less than 1 yr	2.3%
1-5years	2.3%
6-10years	0.0%
11-20years	4.6%
21-30years	13.6%
31-40years	20.5%
41-50years	20.5%
51 or more years	36.4%

Marital Status

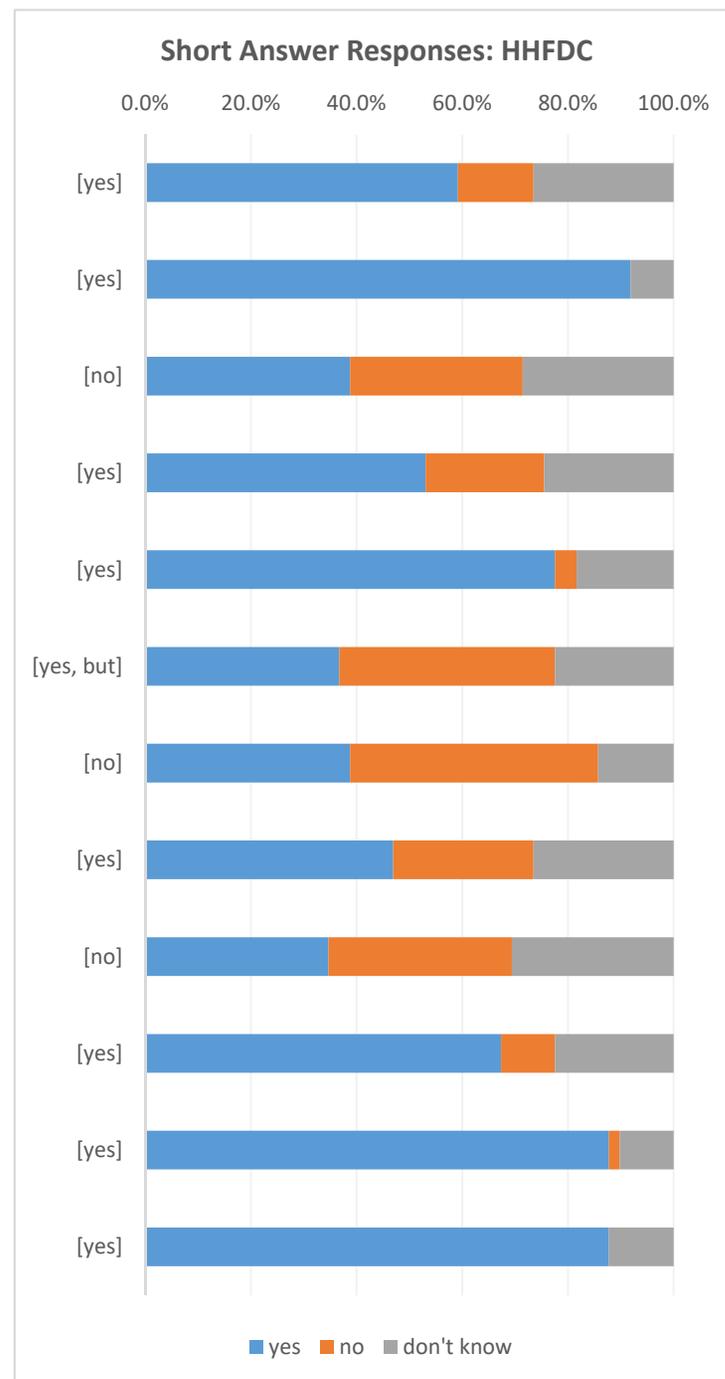
Single	21.7%
Married	58.7%
Cohabiting	0.0%
Widowed	0.0%
Divorced	2.2%
Separated	0.0%
Prefer not to answer	17.4%

Number of Children

Zero	30.4%
One	8.7%
Two	30.4%
Three	6.5%
Four	4.4%
5+	2.2%
Prefer not to answer	17.4%

Table 1.4: Responses to Short Questions: HHFDC

[Answer]	Question	yes	no	don't know
[yes]	According to fair housing law, is it illegal discrimination if a landlord refuses to rent a unit to an applicant because her references say she has a history of mental illness?	59.2%	14.3%	26.5%
[yes]	Is it illegal discrimination if a landlord falsely informs an applicant that a rental apartment is no longer available because the applicant is a Jehovah's Witness and the landlord thinks other tenants in that building would not want to be contacted by Jehovah's Witnesses to become members of that religious group?	91.8%	0.0%	8.2%
[no]	Is it illegal discrimination in Hawaii to make, print or publish any notice, statement or advertisement with respect to the rental of an apartment that indicates Section 8 or Housing Choice voucher holders should not apply?	38.8%	32.7%	28.6%
[yes]	Is it illegal discrimination to use different credit rating standards for a married couple than a single woman when selecting tenants?	53.1%	22.4%	24.5%
[yes]	Is it illegal discrimination to discourage the purchase of a dwelling for someone who is from another country?	77.6%	4.1%	18.4%
[yes, but]	Does fair housing law in Hawaii apply to a private landlord who is selecting tenants for a room in his or her own house?	36.7%	40.8%	22.4%
[no]	Is it illegal discrimination to select roommates based on their gender when renting an apartment?	38.8%	46.9%	14.3%
[yes]	Is it illegal discrimination to only place families with children in the section of the building without outdoor balconies because the balconies in the other section are unsafe for children?	46.9%	26.5%	26.5%
[no]	Is it illegal discrimination when a landlord in Hawaii waives the security deposits for military members because the landlord believes they are reliable tenants, but the apartments were advertised to the general public and non-military members would need to pay a security deposit?	34.7%	34.7%	30.6%
[yes]	Does it violate fair housing requirements to fail to provide an interpreter to non-English or limited-English speaking applicants, who have difficulty reading, writing, speaking or understanding English, at the time of renewing their lease in a public housing development?	67.3%	10.2%	22.4%
[yes]	Does it violate fair housing requirements if a landlord delays repairs for a tenant's apartment because that tenant has an ongoing fair housing complaint (unrelated to the repairs needed) filed against the landlord?	87.8%	2.0%	10.2%
[yes]	Must housing providers make reasonable accommodations and allow reasonable modifications to be made in a timely manner for tenants with disabilities?	87.8%	0.0%	12.2%



PART 2
Review of Policies and Procedures

In this section we present the legal team's review of the policy and procedures submitted by the agency.

1. Overview

A review of submitted documents was undertaken to assess “the degree to which agency policies and procedures (legal, regulatory, and administrative) align with fair housing law and affirmatively promote equal access to housing for all Hawai‘i’s residents.” In particular, this analysis focused on two questions: 1) do the documents comply with current interpretation of fair housing law; and 2) are the policies and procedures adequate to the task of affirmatively furthering equal housing access for disadvantaged communities in Hawai‘i.

Hawai‘i Housing Finance and Development Corporation (HHFDC) is the state’s affordable housing development and management agency placed in the Department of Business, Economic Development and Tourism (DBEDT) for administrative purposes only. HHFDC is governed by a board of nine members, six of whom are public appointees, along with the Director of Finance, the Director of DBEDT, and a representative from the Governor’s Office. HHFDC’s statutory powers range from: housing advocacy and information system; housing research; housing counseling; acquisition, use, and disposition of property; cooperative agreements with other governmental agencies; development of property; eminent domain, exchange or use of public property; and other governmental contracts and housing management. In practice, however, the bulk of the agencies’ activities are focused on affordable housing development and finance. As such, it is an important agency for the development and management of affordable housing, and state advocacy for affordable housing.

2. Agency Policies

Agencies were asked to submit all documentation of policies relating to their housing programs, as well as documentation to demonstrate agency steps taken to affirmatively further fair housing. The documents reviewed were submitted by HHFDC to demonstrate current policies regarding fair housing laws.

2.1 Compliance

Overall, HHFDC appears to have policies for minimum compliance with federal fair housing laws, however, there is some question as to whether the standard information provided to the public as well as agency employees is up to date and includes state laws. Additionally as discussed in Section 2.3, HHFDC has demonstrated leadership through development of housing action plans to review and analyze systemic impediments to housing development. As such, the agency is well positioned take their systemic review to a higher-level, arguably required by law. Such a higher-level review could assess patterns of segregation, poverty, and lack of access to housing. Evidence submitted that suggests HHFDC has taken steps to collect and review demographic data, but there is limited evidence of whether or not HHFCD has evaluated whether their housing development efforts support equal, fair, and inclusive communities.

2.2 Policy Documents and Forms for Individuals

HHFDC as a development agency has limited interaction with public, but instead interfaces with housing development professionals. The agency submitted basic policy documents to

demonstrate the existence of policies relating to fair housing. The majority of documents submitted and reviewed relate to internal agency employee understanding of fair housing laws.

2.3 Policy Document Discussion

The only specific policy documents the agency submitted directly related to fair housing rights and responsibilities were the Administrative Directive 12-06 (Dec. 2012); Fair Housing Laws and Section 504/Americans with Disabilities Act (ADA) Certification Procedures (Dec. 1998); Admin Memo 07 Reasonable Accommodation and Modification Procedures for HCDCH (Oct. 2001); and the HRD Form 613, Discrimination Complaint Form. The Administrative Directive 12-06 specifically notes that it is updating six different Administrative Directives related to the ADA, and supersedes and consolidates these other guidance documents. While there have been new changes with Fair Housing rules, such as the Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices Under the Fair Housing Act in 2016, as well as Violence Against Women Act in 2005, there are no corresponding administrative directives updating guidance for these authorities. Additionally, the forms signed by employees to indicate they have received information on Fair Housing laws are attached to outdated memos.

The policy documents themselves are from a time when HHFDC did not exist as currently structured. The agency at that time was called the Housing and Community Development Corporation of Hawai'i (HCDCH), which also included the agency now known as HPHA. In 2005, the agencies were separated. Given the different duties of HPHA and HHFDC now, it is important that the fair housing duties of each agency—with their now separate charges—are updated and made current.

The policy documents submitted are dated. For example, HHFDC is referred to as HCDCH in the documents; the important numbers on who to contact in case of discriminatory behavior as well as the associated divisions then may also be outdated. Documents do not let individuals know of their right to contact state agencies such the Hawai'i Civil Rights Commission, neither do they give local information for how to file a HUD complaint, but instead directs complaints to Washington D.C. The policy documents do not appear to be user-friendly and do not serve as reference points for current new staff or program participants about fair housing rights and procedures. Updated documents with, at minimum, corrected agency divisions and contact information, as well as appropriate state agency counterparts, would make the information more accessible.

There is some question regarding the sufficiency of the agency's language access plan in regards to access to services for persons with limited English proficiency (LEP). The agency submitted two different Language Access Plans- one for the Judiciary, and one for the State Department of Business, Economic Development and Tourism (DBEDT). As HHFDC is an affiliated agency of DBEDT, this review analyzes that plan.

First, the DBEDT plan used by HHFDC does not cite or review applicable legal authority. There is a typo in the Language Access Plan indicating that the state regulations are found in 312C, rather than Hawai'i Revised Statutes 321C-3. As such, the agency's Procedures dictating when

written interpretation is to be provided do not seem to adhere to state law requirements. The plan is missing the important trigger found in state law. The plan uses the federal analysis, indicating:

To determine if language access services must be provided, and if so, the extent of those services, requires an individualized analysis that balances the following 4 factors.

- 1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;*
- 2. The frequency with which LEP persons come into contact with the program;*
- 3. The nature and importance of the program, activity, or service provided by the program to LEP persons; and*
- 4. The resources available to the program and the costs of providing interpretation/translation services.*

The touchstone of this four-factor analysis is reasonableness, measured by balancing:

- 1. The size, needs, and the nature of assistance to the LEP population served; and*
- 2. DBEDT's capacity and available resources.*

Hawai'i State Law passed in 2006 requires the creation of language access plans. In addition to this federally required four factor analysis, state law codifies a specific standard for when services are to be provided, which is missing in the agency's Language Access Plan. Hawai'i State Law indicates the need to specifically record encounters and population served, stating:

(b) Subject to subsection (a), each state agency and covered entity shall provide competent, timely oral language services to limited English proficient persons who seek to access services, programs, or activities.

(c) Subject to subsection (a), each state agency and covered entity shall provide written translations of vital documents to limited English proficient persons who seek to access services, programs, or activities, as follows

:

(1) Written translations of vital documents for each eligible limited English proficient group that constitutes five per cent or one thousand, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered; or

(2) If there are fewer than fifty persons in a limited English proficient group that reaches the five per cent threshold in paragraph (1), written notice in the primary language to the limited English proficient language group of the right to receive competent oral interpretation of those written materials, free of cost. (HRS 321C-3(C))

As such, the LEP plan provided does not appear to meet the minimum requirements for assisting LEP individuals.

State law hinges on an accurate record of the encounters with LEP individuals, or percentage of persons eligible to be served. The agency submits a blank form for recording encounters, but

there is no evidence showing this is used or relied upon during program administration. While the organization does not interface with tenants to the level of other agencies, they may interface with buyers or other individuals who are LEP. Based on the data submitted in other documentations, HHFDC's own calculation of populations served shows a high number of Native Hawaiian/ Pacific Islander individuals and families. (See CAPER) Based on local knowledge, which HUD encourages agencies to use when evaluating if they are affirmatively furthering fair housing, many Pacific Islander families are likely to be LEP individuals. Therefore, a high population of those served may have rights to better language services than being provided. Additionally, Native Hawaiians are entitled to language access if they prefer. Evidence submitted does not indicate any documents or language services have been provided.

Finally, HHFDC may improve the clarity of its policy guide to aid in training its employees as appropriate to the nature of their specific role in providing housing. As discussed above, the outdated nature of the references in the policy guide could be remedied by robust and frequent training, or easy-to-digest procedure guides relevant to agency work. It is a positive indicator if the agency is collaborating with many other agencies and organizations in its efforts to affirmatively further fair housing. However, most of HHFDC's policies are from the State Department of Human Resources, (DHRD) or HHFDC's affiliated Department of Business Economic Development, and Tourism. (DBEDT). They also submitted a language access plan from the Judiciary. However, it is unclear how the policies of other agencies are used by HHFDC. Does the agency provide them to potential applicants of housing programs? Does the agency place them in their offices? The use and context of these documents would be helpful in assessing their effectiveness in affirmatively furthering fair housing.

Rather than using policies from the larger state entities, policies specific to how HHFDC frames fair housing would also better assist the agency in affirmatively furthering fair housing and using the agency's expertise as a housing funder and developer to complete the systemic analysis that other agencies more burdened with direct service may not have the resources to take on. HHFDC is already uniquely taking on some of these policy evaluations to assist with housing development, as evidenced by the numerous Housing Action Plans, which the agency submitted and has taken leadership in developing.

Other policy documents indicate that HHFDC has made a commitment to specifically address housing for those with special needs and in need of accessible units. Review of the Low Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP) scoring specifically indicates that the agency is attempting to better support the development of accessible housing for individuals with disabilities. This theme is further discussed below in the agency reflection.

2.4 Agency Reflection

HHFDC submitted relevant parts of its CAPER over the past five years. It submitted CAPERs for the period of July 1, 2013 to June 30, 2014; the period of July 1, 2014 to June 30, 2015; the period of July 1, 2015 to June 30, 2016; the period of July 1, 2017 to June 30, 2018; and the period of July 1, 2018 to June 30, 2019. These self-reflective reports are helpful in achieving agency goals to affirmatively further fair housing. HHFDC specifically identified the following challenges in affirmatively furthering fair housing:

- (1) There is a lack of knowledge of legal requirements for fair housing (FH) choice and available resources and programs that can support people with disabilities obtain and retain suitable housing
- (2) People with disabilities at low-income levels have tremendous difficulties obtaining affordable housing that is accessible;
- (3) Many personnel lack attitudes, skills, and knowledge to serve and support people with disabilities in the housing, social service, medical, caretaking, and related fields; and
- (4) Service systems are not well-coordinated with regard to supporting people with disabilities to obtain and retain suitable housing, particularly those with serious cognitive disabilities.

The self-reflection of the CAPER positively indicates that the agency seriously considered the Analysis of Impediments to Fair Housing previously completed that specifically discussed the need to assist individuals with disabilities. To remove these impediments, the agency seeks to collaborate with other agencies to increase awareness of housing rights by hosting trainings on fair housing law with all four County housing agencies, HUD, the Hawai'i Civil Rights Commission, and the Legal Aid Society of Hawai'i. The need for larger capacity rooms and upward trends of attendance show positive results. A disaggregation of the positions for the attendees was not available—it would be instructive to know the breakdown between tenants, landlords, and others.

To address systemic mechanisms that may impede fair housing for individuals with disabilities, HHFDC noted collaboration with the Pacific Rim International Conference on Disability and Diversity. The conference and resulting body of work from the Hawai'i Center on Disability studies looks to shift principles of design: from those that set accommodation percentages for only those with disabilities, to policies that are always inclusive and that reflect mandated design that is accessible to all.

In addition to these specifically enumerated issues, the most recent CAPER reports discuss several challenges, however, that suggest barriers to affirmatively further fair housing. One challenge HHFDC identifies in its most recent CAPER is the limited number of Community Housing Development Organizations (CHDOs) statewide. It also notes the need for non-profit developers to become qualified as a Community Housing Development Organization (CHDO). The agency identifies this need and indicates they provide information to nonprofit developers on becoming a CHDO.

Another theme present in the agency reflection relating to systemic challenges to housing provision is the lack of administrative capabilities, particularly by the City and County of Honolulu, to expend funds and protect them from recapture. The agency identifies steps to provide more training and support to assist in the funding disbursement.

Overall, these continued self-reflection efforts are helpful for the agency to affirmatively further fair housing, as they help pinpoint the progress and shortcomings of the agency in achieving its goals.

2.5 Policy Accessibility

As discussed previously, HHFDC does not provide the same level of individual aid that other agencies may provide. As such, the agency has the unique position as a developer and funder of housing. Currently, the HHFDC Fair Housing resource page only includes links to external partners. While the links are not agency specific, their usability is better than the outdated policy documents provided, in that they present current procedural info that can direct individuals to appropriate agencies.

The agency did not submit any forms regarding requests for reasonable accommodation, so there is no evaluation as to their usability and if language may be a barrier to access for certain members of the target population.

3. Affirmatively Furthering Fair Housing

The duty of agencies as outlined in federal regulations to affirmatively further fair housing goes beyond communication of fair housing laws. According to regulations,

“affirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development. “ CFR 24 CFR § 5.152

While HHFDC may not have specific voucher programs or provide the same level of individual aid that other counties may provide, as the major funder of housing programs in the state, the agency is uniquely situated to provide systemic review of housing development as a fair housing concern. HHFDC did take some steps to analyze some impediments to fair housing. The agency submitted important demographic data in the Hawai'i Housing Planning Study, and has also made available on their website resources and systemic reviews of housing development policies completed by other entities. The agency, however, did not submit evidence of their own review of housing development mechanisms to affirmatively further fair housing and develop inclusive communities. The agency submitted documents that focus on development: no evidence was submitted that showed an evaluation of social benefits that many of the polices could and can have to meeting the requirement to affirmatively further fair housing. Evidence does not indicate initiative taken by the agency to take meaningful actions to analyze, review, and then work to challenge patterns of segregation or review and address the presence of areas of concentrated poverty. Instead, policies appear to be confined to basic minimum compliance with fair housing laws and access for protected classes.

HHFDC does show some evidence to indicate concerns for accessible housing for individuals with specific disabilities. However, solutions for providing units included in housing projects do not specifically demonstrate meaningful actions that intend to disrupt segregation patterns or analyze if such patterns exist.

Overall, there is limited evidence to suggest that HHFDC has engaged with an analysis on the level that federal regulations contemplate in order to take meaningful action to address disparities. The absence of evidence of any review of demographic or neighborhood living patterns or analysis of policies that promote inclusive communities indicate that HHFDC has not been able to take meaningful actions to affirmatively further fair housing, but instead has demonstrated minimum compliance.

4. Agency Recommendations

After reviewing the adequacy of documents, the following are recommendations or next steps that could be taken by the agency to demonstrate that their documentation includes a commitment to fair housing. The recommendations are designed to 1) provide recommendations to ensure that documents meet minimum compliance; 2) provide recommendations on how agency documentation can better demonstrate the agency's commitment to affirmatively furthering fair housing. These recommendations are confined specifically to address the documentation and dissemination of written policies

4.1 Fair Housing Rules Policy Document Recommendations:

Develop updated program rules and policies.

HHFDC policy documents should have the current agency name, divisions, powers and roles, and contact information. Updated policy documents should serve as reference points for current new staff or program participants about fair housing rights and procedures.

4.2 Policy Communication and Dissemination

Develop and/or disseminate resources for the staff and the public that specifically discuss HHFDC programs and fair housing

Rather than using policies from the larger state entities, policies specific to how HHFDC frames fair housing would also better assist the agency in affirmatively furthering fair housing and using the agency's expertise as a housing funder and developer to complete the systemic analysis that other agencies more burdened with direct service may not have the time or expertise to take on.

Continue successful trainings to landlords, tenants, agencies and general public, including targeted trainings for groups from protected classes.

HHFDC documented successful collaboration with other agencies providing trainings. The training materials were then subsequently useful as resources to be disseminated and used by agency staff and the public. Continued trainings, including specific trainings tailored to the unique agency powers of HHFDC would continue to build on agency success.

4.3 Language Access

Create a Language Access Implementation Plan specific to agency needs.

HHFDC would benefit as an agency to have a specific language access plan, rather than submitting or using plans used by agencies with differing duties and roles.

Ensure that the Language Access Reporting Tool is used, and that its use is documented.

Written documentation is needed to demonstrate that HHFDC uses the Language Access Tool and collects data on encounters with limited English proficiency individuals. Dissemination, training, and use of the Language Access Reporting tool is critical for state agencies to use to show the extent of their encounters with LEP individuals. Absent documentation of the use of this reporting tool, it is difficult to assess whether an agency has completed the analysis required under state laws.

Consider providing translations of forms or documentation after using reporting tool.

Translated forms will further assist the agency in furthering fair housing, particularly after use of the reporting tool or systemic analysis demonstrates a need for a particular language or over-representation of a specific group utilizing agency services.

4.4 Affirmatively Furthering Fair Housing

Provide documentation of systemic analysis completed in accordance with federal law.

Documentation should demonstrate compliance with the federal mandate and show that the agency has evaluated patterns of segregation or areas of concentrated poverty.

Provide documentation and communication around affirmatively furthering fair housing rather than only fair housing compliance.

The goal of affirmatively furthering fair housing creates a lens for which housing is evaluated by the agency. Documenting this required level of policy review is important to ensure that the agency knows that part the federal mandate is to take this affirmative step. Policy documents that focus solely on rights and responsibilities to meet minimum compliance should also include documentation of the agency's commitment to a systemic review to address social equity.

APPENDIX A:
Fair Housing Assessment Survey Instrument

December 6, 2019 (emailed to 6 agencies)
Hawai'i Housing Employee Anonymous Survey

This survey was sent to you because you are employed at or affiliated with an agency that receives federal funding from the Department of Housing and Urban Development. Your employer has a contract with the University of Hawai'i at Mānoa to create this survey as part of the state's, "Analysis of Impediments to Fair Housing." Your participation is important because the results of this survey will help to improve access to housing throughout Hawai'i. This survey evaluates your knowledge of fair housing law in order to inform future workplace training programs.

Project Description – Activities and Time Commitment: Participants will answer the survey online using SurveyMonkey. Survey questions are multiple-choice and fill in the blank. Completion of the survey will take approximately 10-20 minutes. It is recommended that you complete the survey in one session if possible, but if you cannot you can return to complete the survey within the deadline. The deadline to complete this survey is midnight Friday December 13th, 2019.

Confidentiality and Privacy: This survey is anonymous. We will not ask you to provide any personal information that could be used to identify you. Likewise, please do not include any personal information, such as your name, in your survey responses.

Benefits and Risks: When you complete the survey, you will be eligible to win an AMEX gift card (\$50) by random drawing. Entry to win will be optional at the end of the survey and that information will be stored separately to protect your anonymity. Although you may not be compensated for your participation, your answers to the survey questions and knowledge will contribute to a better understanding of access to housing in Hawai'i. There is little risk to you in participating in this project because it is anonymous. No responses will be attributed to you personally.

Voluntary Participation: Participation in this project is highly recommended for all employees and it is voluntary. You can freely choose to participate or not to participate in this survey, and there will be no penalty or loss of benefits for either decision.

Questions: If you have any questions about this survey, you can contact the Principal Investigator, Dr. Philip Garboden at 808-956-7383 or pgarbod@hawaii.edu. If you have any questions about your rights as a participant, you can contact the UH Committee on Human Studies at 808-956-5007 or uhirb@hawaii.edu.

I consent to participate in this survey.

OK

Part A: The survey questions in this section will provide information for future training in your workplace about fair housing law and discrimination.

A1. How long have you worked in your current position?

- a) Less than a year
- b) 1 to 2 years
- c) 3 to 5 years
- d) 6 to 9 years
- e) 10 to 14 years
- f) 15 to 19 years
- g) 20 to 24 years
- h) 25 to 29 years
- i) 30 to 34 years
- j) 35 to 39 years
- k) 40 or more years

A2. How long have you worked for your agency?

- a) Less than a year
- b) 1 to 2 years
- c) 3 to 5 years
- d) 6 to 9 years
- e) 10 to 14 years
- f) 15 to 19 years
- g) 20 to 24 years
- h) 25 to 29 years
- i) 30 to 34 years
- j) 35 to 39 years
- k) 40 or more years

A3. Select ALL the languages that you speak fluently or can use to have a conversation?

- a) English
- b) Hawaiian
- c) Chinese (Cantonese)
- d) Chinese (Mandarin)
- e) Japanese
- f) Ilocano
- g) Tagalog
- h) Visayan (Cebuano)
- i) Korean
- j) Thai
- k) Vietnamese
- l) Palauan
- m) Chamorro

- n) Chuukese
- o) Kosraean
- p) Marshallese
- q) Pohnpeian
- r) Samoan
- s) Tongan
- t) Yapese
- u) French
- v) Spanish
- w) German
- x) Russian
- y) American Sign Language
- z) Other language(s) (specify): _____

A4. Have you ever received training about fair housing policies?

- a) Yes, I received training in my current workplace
- b) Yes, I received training outside of my current workplace
- c) All of the above
- d) No

A5. How important is fair housing law for your everyday duties at work?

- a) Extremely important
- b) Very important
- c) Moderately important
- d) Not at all important

A6. Do you know the office or person to contact if you hear about or receive a complaint about a fair housing violation or illegal discrimination?

- a) Yes
- b) No

Please name the person or office you should contact: _____

A7. Define discrimination in your own words: _____

This section of Part A presents some questions related to fair housing laws. Fair housing can be open to interpretation, so please give us what you believe is the best answer for the information provided.

A8. Housing discrimination is illegal and prohibited when it is based on (select ALL that apply):

- a) Age
- b) Citizenship
- c) Credit History
- d) Criminal Record
- e) Disability
- f) Familial Status
- g) Family Size

- h) Income
- i) Marital Status
- j) Military Service
- k) National Origin
- l) Race/Ethnicity
- m) Religion
- n) Rental History
- o) Sex
- p) State Residency
- q) None of the above

A9. According to fair housing law, is it illegal discrimination if a landlord refuses to rent a unit to an applicant because her references say she has a history of mental illness?

- a) Yes b) No c) Don't know

A10. Is it illegal discrimination if a landlord falsely informs an applicant that a rental apartment is no longer available because the applicant is a Jehovah's Witness and the landlord thinks other tenants in that building would not want to be contacted by Jehovah's Witnesses to become members of that religious group?

- a) Yes b) No c) Don't know

A11. Is it illegal discrimination in Hawaii to make, print or publish any notice, statement or advertisement with respect to the rental of an apartment that indicates Section 8 or Housing Choice voucher holders should not apply?

- a) Yes b) No c) Don't know

A12. Is it illegal discrimination to use different credit rating standards for a married couple than a single woman when selecting tenants?

- a) Yes b) No c) Don't know

A13. Is it illegal discrimination to discourage the purchase of a dwelling for someone who is from another country?

- a) Yes b) No c) Don't know

A14. Does fair housing law in Hawaii apply to a private landlord who is selecting tenants for a room in his or her own house?

- a) Yes b) No c) Don't know

A15. Is it illegal discrimination to select roommates based on their gender when renting an apartment?

- a) Yes b) No c) Don't know

A16. Is it illegal discrimination to only place families with children in the section of the building without outdoor balconies because the balconies in the other section are unsafe for children?

- a) Yes b) No c) Don't know

A17. Is it illegal discrimination when a landlord in Hawaii waives the security deposits for military members because the landlord believes they are reliable tenants, but the apartments were advertised to the general public and non-military members would need to pay a security deposit?

- a) Yes b) No c) Don't know

A18. Does it violate fair housing requirements to fail to provide an interpreter to non-English or limited-English speaking applicants, who have difficulty reading, writing, speaking or understanding English, at the time of renewing their lease in a public housing development?

- a) Yes, the interpreter should be paid for by the tenant
b) Yes, the interpreter should be provided by the public housing agency at no cost to the tenants
c) No
d) Don't know

A19. Does it violate fair housing requirements if a landlord delays repairs for a tenant's apartment because that tenant has an ongoing fair housing complaint (unrelated to the repairs needed) filed against the landlord?

- a) Yes, it could be retaliation b) No c) Don't know

A20. Must housing providers make reasonable accommodations and allow reasonable modifications to be made in a timely manner for tenants with disabilities?

- a) Yes b) No c) Don't know

A21. Are you aware of any fair housing complaints or lawsuits in Hawai'i in the past 5 years?

- a) Don't know
b) Yes. Please specify and how you heard about it/them (optional):

Part B has scenarios for you to read and evaluate regarding both their legality and how often they occur. Some scenarios may not be relevant to your work, but test general knowledge of fair housing law. Fair housing violations are not always obvious, so please give your best answer for the information provided and there is space for you to add optional comments. The names in the scenarios were chosen at random and any similarity to real people is purely coincidental.

Scenario 1: Kevin is the landlord of a Kupuna apartment complex for elderly tenants. He avoids selecting applicants who have young children because he wants it to remain a quiet place.

B1i. Did Kevin violate fair housing law in Hawai'i?

- a) Yes, it is likely
b) No, it is unlikely

c) Don't know

B1ii. How often do you think this scenario happens in Hawai'i?

a) Regularly b) Occasionally c) Rarely d) Never

Scenario 2. When Rumika, an employee at a housing agency, receives a phone message from a local 808 area code that asks about Section 8 (or Housing Choice) vouchers, she calls them back first. Rumika has seen data that shows that many vouchers in her program are assigned to people not from Hawai'i. Her county demographics do not reflect that large of a percentage, so Rumika feels it is her duty to try to make sure that the public housing goes to those that reflect the demographics from the local community in Hawai'i.

B2i. Did Rumika violate fair housing law in Hawai'i?

a) Yes, it is likely

b) No, it is unlikely

c) Don't know

B2ii. How often do you think this scenario happens in Hawai'i?

a) Regularly b) Occasionally c) Rarely d) Never

Scenario 3. Tia is an employee at a housing agency and she thinks that many of the vacant units in public housing are going to Micronesian families in Hawai'i. She meets a Micronesian family that needs to take action to continue their program eligibility, but the family needs an interpreter. Tia sends a written letter in English to them that has a phone number at the bottom that tells them how to get an interpreter.

B3i. Did Tia violate fair housing law in Hawai'i?

a) Yes, it is likely

b) No, it is unlikely

c) Don't know

B3ii. How often do you think this scenario happens in Hawai'i?

a) Regularly b) Occasionally c) Rarely d) Never

B3iii. How often do you think that private landlords in Hawai'i provide interpreters when tenants who have limited English fluency need to sign a lease agreement?

a) Regularly b) Occasionally c) Rarely d) Never

Scenario 4. Roman is an employee at a housing agency and will be meeting with some tenants to discuss maintenance repairs to their unit. Roman is aware that a Chuukese/English translator was needed for the meeting. Roman tells the tenants to bring their son, who is able to speak both English and Chuukese, rather than hiring an interpreter.

B4i. Did Roman violate fair housing law in Hawai'i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don't know

B4ii. How often do you think this scenario happens in Hawai'i?

- a) Regularly b) Occasionally c) Rarely d) Never

Scenario 5: Aiko is a manager of an apartment building. Many of her previous tenants have been Marshallese, they often had extended family that would regularly have gatherings at their apartment or come to live with them. This frequently led to excess wear and tear, so Aiko charges a higher security deposit for Marshallese families.

B5i. Did Aiko violate fair housing law in Hawai'i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don't know

B5ii. How often do you think this scenario happens in Hawai'i?

- a) Regularly b) Occasionally c) Rarely d) Never

Scenario 6: Kal is a landlord who receives several requests for repairs to apartment units. He recognizes one address because he has made several repairs to the same unit. Last time Kal went to repair the unit, the tenant was talking to herself and her behavior seemed agitated. Kal avoids making the repairs to the unit because he believes the tenant caused the damage. Instead, he prioritizes other tenants' maintenance requests.

B6i. Did Kal violate fair housing law in Hawai'i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don't know

B6ii. How often do you think this scenario happens in Hawai'i?

- a) Regularly b) Occasionally c) Rarely d) Never

Scenario 7: Lilly is a property manager for housing subsidized through the federal low-income housing tax credit (LIHTC). She refuses the reasonable accommodation to build a wheelchair ramp to the first floor rental apartment of a tenant with a disability. Lilly was told by her other tenants that they would not like how it looks.

B7i. Did Lilly violate fair housing law in Hawai'i?

- a) Yes, it is likely
- b) No, it is unlikely

c) Don't know

B7ii. How often do you think this scenario happens in Hawai'i?

a) Regularly b) Occasionally c) Rarely d) Never

B7iii. Who is responsible to pay for the wheelchair ramp and then remove it when the tenant with a disability moves out of the rental apartment?

a) The tenant with a disability b) The property owner c) A state housing agency d) Don't know

Scenario 8. Lisa is a landlord of an apartment building. She refuses to renew Bob's lease because other tenants have complained that Bob seems to have a mental illness and damaged some chairs by the pool.

B8i. Did Lisa violate fair housing law in Hawai'i?

a) Yes, it is likely

b) No, it is unlikely

c) Don't know

B8ii. How often do you think this scenario happens in Hawai'i?

a) Regularly b) Occasionally c) Rarely d) Never

Scenario 9. Susan has a diagnosed mental illness that makes it difficult for her to keep her apartment clean and organized. In the past few months, her unit has gotten very dirty and has been overrun with cockroaches. She asks her landlord, Ronald, to hire an exterminator. Ronald says the reason for the cockroach problem is that Susan does not keep her unit clean enough and is therefore in violation of her lease, so he sends her a notice of eviction.

B9i. Did Ronald violate fair housing law in Hawai'i?

a) Yes, it is likely

b) No, it is unlikely

c) Don't know

B9ii. Would allowing a resident to maintain a dirty apartment be considered a "reasonable accommodation" of a disability, even if it causes damage to the unit?

a) Yes b) No c) Don't know

B9iii. How often do you think this scenario happens in Hawai'i?

a) Regularly b) Occasionally c) Rarely d) Never

Scenario 10: Keola is a director of an emergency shelter for those who are homeless. When people come to the shelter, he asks them if they have any physical disabilities because he wants to screen them to select those who can lift their mattress off the floor for cleaning.

B10i. Did Keola violate fair housing law in Hawai‘i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don’t know

B10ii. How often do you think this scenario happens in Hawai‘i?

- a) Regularly b) Occasionally c) Rarely d) Never

Scenario 11: Lori has a service dog that notifies her when she has to take her insulin. The landlord tells Lori that she will be evicted if she keeps the dog because she never disclosed that she had a service animal prior to signing the lease and there are no pets allowed in the apartment complex.

B11i. Did Lori’s landlord violate fair housing law in Hawai‘i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don’t know

B11ii. How often do you think this scenario happens in Hawai‘i?

- a) Regularly b) Occasionally c) Rarely d) Never

Scenario 12. Rissa lives alone in an apartment. When her boyfriend visits, the couple frequently argues and the neighbors have had to call the police several times because of domestic violence. The property manager tells Rissa that her boyfriend is making trouble and is not allowed in the apartment complex. The boyfriend returns to Rissa’s apartment, her neighbors make a noise complaint, and later Rissa receives an eviction notice.

B12i. Did Rissa’s property manager violate fair housing law in Hawai‘i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don’t know

B12ii. How often do you think this happens scenario in Hawai‘i?

- a) Regularly b) Occasionally c) Rarely d) Never

Scenario 13. Charmaine has been diagnosed with cancer and requires a caregiver while she undergoes treatment and recovers from her surgery. Charmaine’s daughter moves in as a caregiver, along with her husband and two young children. Charmaine receives a notice of eviction from her landlord stating that she is violating the rules of her lease by having more than one occupant in her apartment.

B13i. Did Charmaine’s landlord violate fair housing law in Hawai‘i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don't know

B13ii. How often do you think this scenario happens in Hawai'i?

- a) Regularly b) Occasionally c) Rarely d) Never

Scenario 14. Christina is transgender (male to female), wearing a dress, and selects "female" on the application form for a rental apartment. The property manager asks to see a photo identification, which is his standard practice. Christina's driver's license still lists her as a "male" (her sex at birth) named Christopher (her birth name). Because the property manager cannot verify the applicant's identity, he refuses to accept the application.

B14i. Did the property manager violate fair housing law in Hawai'i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don't know

B14ii. How often do you think this scenario happens in Hawai'i?

- a) Regularly b) Occasionally c) Rarely d) Never

Scenario 15: James is a realtor with a client looking to purchase a 3-bedroom 2-bath single family home. Because the family is White/Caucasian, James chooses to only show them homes in neighborhoods where he believes they will be safer and more accepted. He avoids showing them homes in neighborhoods where he believes "haoles" will not be welcomed.

B15i. Did James violate fair housing law in Hawai'i?

- a) Yes, it is likely
- b) No, it is unlikely
- c) Don't know

B15ii. How often do you think this scenario happens to racial/ethnic groups in Hawai'i?

- a) Regularly b) Occasionally c) Rarely d) Never

B16. What aspects of fair housing law would you like to learn more about in a workplace training program? Please specify: _____

B17. What are other scenarios you believe regularly occur in Hawai'i that violate fair housing laws that were not in this survey? Please describe:

Part C. This final section (Part C) has survey questions about your sociodemographic background and asks for your feedback. These questions are important for us to know the protected classes represented at different agencies. Even if a question is unique to you at

your agency, your anonymity will be protected. We will never report any information that could be linked back to you or any specific individuals.

C1. What is your age?

- a) 18 – 29 years
- b) 30 – 39 years
- c) 40 – 49 years
- d) 50 – 59 years
- e) 60 – 69 years
- f) 70 + years
- g) Prefer not to answer

C2. What is your gender?

- a) Male
- b) Female
- c) Non-binary/third gender
- d) Prefer not to answer
- e) Prefer to self-describe (specify): _____

C3. What is your race/ethnicity? For those who are multiracial, please select ALL that apply and type a specific response if applicable.

- a) Black or African American
- b) Chinese
- c) Filipino
- d) Japanese
- e) Korean
- f) Latino/Hispanic
- g) Native American/American Indian or Alaska Native
- h) Native Hawaiian
- i) White/Caucasian
- j) Other (specify): _____

C4. What is the highest degree or level of schooling that you have completed? Specify type of degree.

- a) Less than a high school diploma

- b) High School Diploma
- c) GED (General Equivalency) or High School Proficiency Exit Exam
- d) Associate Degree (e.g., A.A.) (specify): _____
- e) Some College (no degree)
- f) Bachelor's Degree (e.g., B.A., B.S.) (specify): _____
- g) Master's Degree (e.g., M.A., M.S.) (specify): _____
- h) Doctorate Degree (e.g., Ph.D., Ed.D.) (specify): _____
- i) Law Degree (e.g., J.D.)
- j) Other Professional Degree (e.g., M.D., D.D.S) (specify):

C6. Do you have a disability?

- a) Yes
- b) No
- c) Prefer not to answer
- d) (Optional) Specify disability: _____

C6. What country were you born in? _____

C7. Were you born in Hawaii?

- a) Yes b) No

C8. How long have you lived in Hawaii?

- a) Less than a year
- b) 1 to 5 years
- c) 6 to 10 years
- d) 11 to 20 years
- e) 21 to 30 years
- f) 31 to 40 years
- g) 41 to 50 years
- h) 51 or more years

C10. What is your marital status?

- a) Single (never married)
- b) Married
- c) Cohabiting, Domestic Partnership or Civil Union
- d) Widowed
- e) Divorced

- f) Separated
- g) Prefer not to answer

C12. How many children do you have?

- a) 0
- b) 1
- c) 2
- d) 3
- e) 4
- f) 5
- g) 5 or more
- h) Prefer not to answer

C11. What is your annual household income?

- a) Less than \$20,000
- b) \$20,000 to \$34,999
- c) \$35,000 to \$49,999
- d) \$50,000 to \$74,999
- e) \$75,000 to \$99,999
- f) \$100,000 or more
- g) Don't know
- h) Prefer not to answer

C13. Is there anything else that you would like to give us feedback about (your thoughts, comments, or concerns)? _____

Thank you very much for completing this survey! Are you interested in being eligible for the random drawing to win a \$50 American Express (AMEX) gift card (the anonymity of your responses will remain protected)? A) Yes (provide your email address):

APPENDIX B:
List of Documents Reviewed

Housing Action Plan

Final Report to the Hawaii State Legislature prepared by the Hawaii Institute for Public Affairs.

Consolidated Plan, Five-Year Period:

The State Consolidated Plan provides a market analysis, housing needs discussion and five-year strategy to address the housing needs of Hawaii's citizens through State administration of the Home Investment Partnerships (HOME), National Housing Trust Fund (HTF), Emergency Solutions Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA) programs.

Consolidated Plan, Annual Action Plan:

The Annual Action Plan of the Consolidated Plan describes the State's funding plans for the coming program year and certifies program compliance with the Consolidated Plan, HOME, HTF, ESG, and HOPWA programs.

Consolidated Annual Performance and Evaluation Report (CAPER):

An Annual performance report to HUD on the formula grant housing activities. These include HOME funds for affordable for-sale and rental housing, HTF funds for affordable rental housing, Emergency Solutions Grant funds through Homeless Programs, and HOPWA (Housing Opportunities for Persons with AIDS).

LIHTC Administrative Rules

Low Income Housing Tax Credit Program, Dept of Business, Economic Development, and Tourism – Amendments to and Compilation of Chapter 15-313, Hawaii Administrative Rules

Rental Housing Trust/Revolving Fund Administrative Rules

2010. Chapter 15-311, Hawaii Administrative Rules, entitled "Rental Housing Trust Fund Program" is adopted. Chapter 15-180, Hawaii Administrative Rules, entitled "Rental Housing Trust Fund Program" is repealed.

Rental Assistance Program Administrative Rules

1999. The purpose of the program is to increase the number of safe and sanitary rental housing accommodations available at affordable rents in the state.

Hula Mae Multi-family Rental Housing Program Administrative Rules

2010. HMMFRHP approved and repealed.

Governor's Directive on Accessibility

2012. From Dept of Health Disability Communication and access board.

<https://health.hawaii.gov/dcab/governors-directive/>

Discrimination Complaint Form HRD613

From State of Hawaii Dept of Human resources Development

DHF Workplace Acknowledgement

Discrimination & Harassment-Free Workplace Policy Acknowledgement Form

State Language Access Plan

Hawai'i State Judiciary Language Access Plan for Persons with Limited English Proficiency 2017-2018

DBEDT Workplace Violence Plan

Dept of Human resources Development Workplace Violence Action Plan (January 2016)

HCRC Sexual Harassment

Hawai'i Civil Rights Commission Sexual harassment in the workplace factsheet

LIHTC Program

Low-income housing tax credit program 2019-2020 qualified allocation plan

HHFDC-2019-Consolidated-Application

2019 consolidated application financing programs: application cover letter, solar letter, schedule of important events, fee schedule, application overview, instructions, app input, A-sources, B-budget, B1-rehab, B2-bond fin, B3-devel fee, B4-bgt thres, C-Disb&Fund, D2-op budget, E-multi year budget, F-LIHTC Chk, G-project sale revenues, certification & assurances, credit authorization, LIHTC threshold certifications, LIHTC program certification, Questions, HMMF section, RHRF section, Ex. 8 & 9, Environmental questionnaire, market analyst affidavit, OwnerDeveloper Affidavit, Exhibit 34, Exhibit 35

Form G-37

General Excise/Use Tax Exemption For Certified or Approved Housing Projects

Form G-37 Schedule A

General Excise/Use Tax Exemption For Certified or Approved Housing Projects Schedule A – List of Unlicensed Suppliers and Subcontractors

CAPER 2018-2019

Consolidated Annual Performance and Evaluation Report (CAPER) Fourth Program Year 2018 – 2019 (Concentrating on the Counties of Hawaii, Kauai, and Maui)

Consolidated Plan 2020-2025

Consolidate plan informational packet for 5-year consolidated plan 2020-2025

CP NOPH

Consolidated Plan notice of public hearing for consultation on housing needs

MFHRB NOPH QET

Notice of public hearing regarding issuance of multi-family housing revenue bonds, June 5 2019, Queen Emma Tower

2019 Consolidated Apps 1

List of 2019 Consolidated Applicants round 1

MFHRB NOPH HSR

Notice of public hearing regarding issuance of multi-family housing revenue bonds, April 17 2019, Halewai'olu Senior Residences

2019 NOFA

Rental Housing Revolving Fund, notice of funding availability for project awards (~\$161,432,929)

Waiahole Valley CSP App A

Waiahole Valley Community Strategic Plan appendices, board draft

NOS Hilo

Notice of Sale, public sale of leasehold government land to affordable purchaser, vacant house lot at mohouli subdivision, section 1, waiakea, South Hilo, HI

PIC 2019 Oahu PIT Count Report – FINAL

Oahu point in time count comprehensive report on homelessness prepared by Partners in Care