



COMMENTARY

The Greater New Orleans Fair Housing Action Center: Promoting Fair Housing Choice in Southeast Louisiana through Education, Investigation, and Enforcement

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Imagine searching for a home and coming across the following advertisements: “I would love to house a single mom with one child, not racist but white only,” or “We are [a] white couple and prefer a white family *due to the neighborhood we live in.*” These advertisements for housing are unfortunately not made up, nor are they relics from a previous generation. They were posted as recently as 2006 on housing websites supposedly established to assist people affected by Hurricane Katrina in finding a home after the storm.

The Greater New Orleans Fair Housing Action Center (GNOFHAC) was established in the summer of 1995 to eradicate housing discrimination throughout greater New Orleans. Since its inception, GNOFHAC has built a solid record of advocating for the fair housing rights of New Orleans consumers through enforcement, education, policy advocacy, and homeownership protection. Hurricane Katrina laid bare the continued need for GNOFHAC’s services in the region when community members encountered egregious discrimination while struggling to return home after the storm.

GNOFHAC has grown considerably in recent years in order to meet the changing needs of the greater New Orleans community; it remains the only full-service fair housing center in Louisiana. The organization currently employs a staff of seventeen and is broken up into several departments: (1) education and outreach, which teaches consumers, housing providers, and other stakeholders about their rights and obligations under

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the federal Fair Housing Act through training, seminars, public media campaigns, and special events; (2) policy, which promotes laws and regulations that ensure equal housing opportunities at the local, state, and federal levels; (3) homeownership protection, which provides housing counseling and foreclosure prevention assistance for individuals facing foreclosure; and (4) enforcement, which investigates complaints of housing discrimination, conducts regular audits of the region to assess discrimination rates, and files enforcement actions against individuals and entities caught discriminating.

GNOFHAC's enforcement team includes a coordinator of investigations, legal director, three staff attorneys, and a legal fellow. The organization also hosts a number of law student interns throughout the year and maintains relationships with cooperating attorneys.

GNOFHAC's Work

Since Hurricane Katrina, GNOFHAC has led the way in filing high-impact, innovative litigation to ensure that all former residents of New Orleans who want to return home are able to do so. Unfortunately, after the storm, many housing providers and even government entities took steps to inhibit the ability of certain groups protected by the Fair Housing Act, especially people of color, to return to particular neighborhoods. In many instances, GNOFHAC has been the primary advocate for those whose rights to fair housing were violated after the storm. GNOFHAC's ongoing work over the past eight years has helped to ensure that everyone seeking to make a home in southeast Louisiana has an equal opportunity to do so. Some highlights include:

Battling Racially Discriminatory Land-Use Policies in St. Bernard Parish

GNOFHAC has worked diligently since 2006 to counteract the racially discriminatory policies and zoning regulations enacted by the neighboring St. Bernard Parish Council in the wake of Hurricane Katrina. Shortly after the storm, the Parish passed a "blood relative ordinance," which prohibited property owners who had not rented out single-family residences before Katrina from doing so unless the renter was a "blood relative." At the time, whites owned an estimated 93 percent of owner-occupied housing in the area; thus, the ordinance had the effect of barring virtually any non-white persons from renting single-family homes in St. Bernard Parish. Notably, St. Bernard passed the restrictive ordinance at a time when many people were attempting to return home to the area, but were prevented from doing so by widespread destruction of housing and a lack of affordable housing options.

GNOFHAC filed suit against St. Bernard Parish in October 2006 on the grounds that the Fair Housing Act prohibits municipalities from using their zoning powers in a manner that excludes housing for a group of people on the basis of their membership in one of the seven protected classes. The Act is violated when zoning policies disproportionately affect a

particular protected class and cause harm to a community by perpetuating segregation, even when the policies in question are facially neutral.

As a result of the suit, the Parish was enjoined from enforcing its blood relative ordinance. The case was settled and the ordinance repealed in early 2008. However, GNOFHAC continued to monitor the actions of the Parish due to its passage of the "permissive use permit" ordinance, which required homeowners to obtain special permits to rent out their homes. Meanwhile, a group of twenty-five investors who had purchased and renovated eighty flood-damaged homes in St. Bernard Parish filed a lawsuit against the Parish on the grounds that its permissive use permits ordinance violated property owners' right to due process with an application process that was "intimidating, irrational, oppressive, and indefensible." The permissive use ordinance called for fines for both the property owners and the tenants living in the properties in question and gave Parish officials the authority to shut off all utilities to the properties within thirty days. Again, there were obvious racial undertones to the statute: the overwhelming majority of the tenants who were now being threatened with eviction by the Parish were African American.

Just seven months after entering into a consent decree with the GNOFHAC, St. Bernard Parish officials made another thinly veiled attempt to restrict the ability of African Americans to move into the Parish, this time by enacting a moratorium on multifamily housing. The Parish's restrictive zoning measure had the obvious intent and effect of discriminating against minorities and choked off rental housing that was desperately needed in the wake of the storm. At the time the moratorium was passed, racial minorities were disproportionately in need of available rental homes in the area; in St. Bernard Parish, only 20 percent of whites were renters before the storm, while the figure was 45 percent for Blacks and 31 percent for Hispanics. Nearly 4,000 units of affordable rental housing in St. Bernard Parish had been severely damaged by the storm, and placing additional restrictions on rental housing, especially affordable rental housing, disproportionately hindered minorities and perpetuated the Parish's history as a segregated, predominantly white community.

In March 2009, a federal court ruled that St. Bernard's moratorium on multi-family housing was in violation of the Fair Housing Act, that the similarities between the 2008 moratorium and the 2006 blood relative ordinance were "striking," and that the "Parish and Council's intent in enacting and continuing the moratorium is and was racially discriminatory."

Litigation between St. Bernard Parish and GNOFHAC regarding the Parish's repeated attempts to block racial minorities from settling in the area dragged on until May of 2013. On May 10, GNOFHAC and nine individual plaintiffs agreed to settle a federal lawsuit against St. Bernard alleging that the permit process adopted by the Parish in 2007 was racially discriminatory and in violation of the Fair Housing Act. As part of the settlement, St. Bernard Parish agreed to pay \$900,000 to GNOFHAC, nine individual property owners, and their attorneys.

That same day, the United States Department of Justice (USDOJ) announced its own settlement with the Parish in regards to a separate lawsuit alleging that the Parish “violated the Fair Housing Act by engaging in a multi-year campaign to limit rental housing opportunities for African-Americans in the Parish.” The USDOJ settlement requires Parish officials to undergo comprehensive fair housing training, establish a Parish-wide Office of Fair Housing staffed by at least one full-time Fair Housing Coordinator, engage in affirmative marketing to both developers of rental housing and renters interested in living in the Parish, and finally, to establish a rental land grant program to facilitate the development of rental housing throughout the Parish.

The terms of the agreements that the Parish entered into—valued at over \$2.5 million—indicate that Parish attitudes towards fair housing responsibilities have changed drastically as a result of GNOFHAC’s ongoing work over the course of the last seven years. The comprehensive USDOJ settlement agreement with the Parish is incredibly detailed and has the potential to make great strides in ensuring that everyone seeking to make a home in St. Bernard will have an equal opportunity to do so.

*Addressing Inherent Discrimination in Louisiana’s
Road Home Program*

In November 2008, GNOFHAC partnered with other civil rights and fair housing groups to file a lawsuit against the U.S. Department of Housing & Urban Development and the Louisiana Recovery Authority. The suit alleged that the Road Home Program, Louisiana’s Hurricane Katrina recovery program, had a discriminatory effect on African American homeowners in New Orleans.

The Road Home Program, an \$11 billion federally funded program with 150,000 participants, is the largest single instance housing redevelopment program in U.S. history. The program was designed to provide compensation to Louisiana homeowners affected by Hurricanes Katrina or Rita to enable them to rebuild their homes.

The discriminatory effect of the Road Home Program was the result of the formula used to determine Program grants. Grant awards were calculated based on the lower of two values: either the pre-storm value of the house, or the cost to repair the damage and return the home to habitability. Home values in predominantly African American neighborhoods in the region are significantly lower than the values of similar homes in white neighborhoods due to decades of institutionalized housing discrimination; thus, the grants for African American homeowners were far more likely to be based upon the pre-storm value of their damaged homes, leaving many homeowners without enough money to rebuild.

In contrast, white homeowners were much more likely to receive grants based on the actual cost of repairs, thereby enabling them to get back in their homes more quickly, while African American homeowners were left stranded. Instead of offering equitable assistance to all homeowners

struggling to rebuild, the Road Home Program continued the area's long history of discrimination and glaring racial disparities by linking assistance not to the real cost of reconstruction, but to the depressed property values of pre-storm, segregated housing. The differences in relief awarded to African American and white homeowners were stark: GNOFHAC staff saw that homeowners in predominantly white neighborhoods generally received much higher grant awards than homeowners in predominantly African American neighborhoods, despite owning houses that were similar in structure, condition, and levels of damage (in some cases, homeowners in white neighborhoods received awards up to *one hundred times larger* than those given to homeowners in African American neighborhoods).

In 2008, GNOFHAC and the National Fair Housing Alliance filed suit against the U.S. Department of Housing and Urban Development and the Louisiana Recovery Authority in the U.S. District Court for the District of Columbia on behalf of five individuals representing a class of more than 20,000 African American homeowners in order to address the discrimination inherent to the program.

In August 2010, a federal judge ruled that the Road Home Program was likely discriminatory, and enjoined the program from continuing to use its inequitable formula. The decision ensured the fair treatment of all future grant recipients under the program; however, it did not address how much, if any, relief would be provided for the thousands of families who had received inadequate assistance prior to summer 2010.

Finally, in July 2011, GNOFHAC, the National Fair Housing Alliance, and five individual African American homeowners reached a settlement with the State of Louisiana and the U.S. Department of Housing and Urban Development (HUD) and, in doing so, instituted much needed amendments to the Road Home Program. Details of the settlement included the provision of full relief to more than 13,000 homeowners, additional supplemental rebuilding grants for several thousand homeowners whose initial Road Home grants were based on the pre-storm market value of their homes, and yearlong extensions to the time allowed for grant recipients to build and re-occupy their homes. GNOFHAC's work to make the Road Home Program fairer gave homeowners the ability to access half a billion dollars more in order to rebuild their homes.

Individual Client Assistance

In addition to working systemically and initiating large-scale litigation to eradicate housing discrimination, GNOFHAC also takes on a number of cases based on individual complaints of discrimination. Most of GNOFHAC's fair housing complaints are based on race, disability, or family status, though the organization has also noted a recent uptick in complaints based on sex.

For example, in 2012, GNOFHAC advocated on behalf of a client who was evicted from a homeless shelter during the holiday season for being

“too pregnant” (at the time, the shelter had an established policy of refusing housing to women who were six or more months pregnant). After nearly a year of negotiations, GNOFHAC was finally able to convince the shelter to commit to adhering to a policy of nondiscrimination, to undergo fair housing training, and to provide financial restitution to GNOFHAC’s client. Under the shelter’s new policy, families with children and pregnant women struggling with homelessness in New Orleans will now be able to find shelter within the city limits.

Community Collaborations

In June 2013, GNOFHAC, the National Fair Housing Alliance, and Wells Fargo Bank, N.A. announced a ground-breaking fair housing partnership that will provide funds in 19 U.S. cities to foster homeownership, assist with the rebuilding of neighborhoods of color injured by the foreclosure crisis, and promote diverse, inclusive communities. This is the first-ever agreement regarding the equal maintenance and marketing of Real Estate Owned (REO) homes. Real Estate Owned properties are homes that have gone through foreclosure and are now owned by banks, investors, Fannie Mae, Freddie Mac, the Federal Housing Administration, or Veterans Affairs.

The agreement is the result of a federal housing discrimination complaint filed in April 2012 with the U.S. Department of Housing and Urban Development (HUD), which alleged that Wells Fargo’s bank-owned properties in white areas were much better maintained and marketed by Wells Fargo than REO homes in African American and Latino neighborhoods. In order to assess and document the disparities in maintenance, GNOFHAC staff and community partners conducted an in-depth investigation to examine the properties in person, photograph what they saw, and interview neighborhood residents about the state of the REO homes in their neighborhoods.

Under the agreement, GNOFHAC will administer a \$1.4 million fund to increase homeownership and neighborhood stabilization in communities of color in the Baton Rouge and New Orleans areas. Nationwide, Wells Fargo will provide a total of \$27 million to NFHA and the 13 local nonprofit fair housing organizations to benefit 19 cities and promote home ownership, neighborhood stabilization, property rehabilitation, and development in communities of color.

The agreement calls for a number of improvements to the processes in place for maintaining REO properties. For instance, a third party will monitor Wells Fargo’s portfolio of REO properties to ensure that Wells Fargo maintains and markets its REO properties according to agreed upon standards. Wells Fargo will also enhance its Homeowner Priority program to give owner-occupants higher priority over investors in purchasing REOs, and will develop a fair housing training program on REO issues for its employees who work on REO issues, as well as for agents who sell Wells Fargo REO properties.

Conclusion

All work undertaken by the Greater New Orleans Fair Housing Action Center is carried out with the intent of eradicating all forms of housing discrimination in southeast Louisiana. GNOFHAC takes on housing discrimination at all levels—whether perpetuated by individuals, agencies, or even government entities—in order to ensure that anyone seeking to make a home in the region is given a fair opportunity to do so. In the wake of Hurricane Katrina, GNOFHAC has been involved in high profile, groundbreaking litigation that has directly countered discriminatory impediments to fair housing choice throughout southeast Louisiana.