

# The State of Fair Housing in the Commonwealth of PA



Fair Housing & Commercial Property Division

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## Message from Executive Director, Chad Dion Lassiter, MSW



In Maslow's Hierarchy of needs, housing sits at the base of the pyramid, just one step above physiological needs. Having a place to live is a basic human necessity and a right for everyone. However, in the United States there is a long history of discriminatory practices in housing. In 1968, with the passing of the Fair Housing Act, discrimination in housing became illegal, but historic patterns of disinvestment, gentrification and redlining persist today. Here in Pennsylvania, divisions can be seen within each county, city and municipality. These divisions impact how communities are funded and they create disparities that typically have a larger impact on lower income communities and communities of color. Where a person lives can sometimes determine what kind of opportunities are available.

If the guiding principle of the Fair Housing Act is that housing is a right for all, then we must go beyond just providing access to housing. We must provide equitable and safe housing, with access to working amenities, transportation, and education. It is also important for us to focus on the second part of the Fair Housing Act, a section sometimes overlooked, the Affirmatively Furthering Fair Housing mandate. This part of the Act requires municipalities to look at their policies and take meaningful actions to overcome barriers and combat discrimination. This means regulating and legislating, if necessary, to guarantee equitable housing.

Access to housing should come without artificial impediments and unwarranted bias based on race, religion, national origin, sex, handicap or family status. When someone is unfairly treated, it is important to speak up and speak out. The Fair Housing Act is the mechanism to report inequities and challenges. The courage to speak out can help smooth their pathway and alleviate others from experiencing the same discrimination and hardships. This white paper will discuss the state of fair housing in Pennsylvania and what the commonwealth can do to truly provide equitable housing for all.

Sincerely,

A handwritten signature in black ink that reads "Chad Dion Lassiter, MSW". The signature is written in a cursive style and is set against a light gray rectangular background.

Chad Dion Lassiter, MSW  
Pennsylvania Human Relations Commission Executive Director

## Executive Summary

The PA Human Relations Commission (PHRC) has a history of forward-thinking leadership in protecting civil rights for Pennsylvania residents. As the commonwealth's leading civil rights agency, it has repeatedly shown foresight in protecting housing rights before federal efforts were mobilized. This is shown in the adoption of the PA Fair Employment Practices Act in 1955, now titled the PA Human Relations Act (PHRA), 13 years before the enactment of the Fair Housing Act (FHA). Adding to this history the PHRA protected the rights of individuals with disabilities in 1967, a year before the FHA was passed and 21 years before the federal government offered such protection, by adding the prohibition of discrimination in the leasing of housing to persons using guide dogs because of the blindness of the user. Today, the PHRC leads the way again in establishing regulations that protect the LGBTQ+ community from discrimination under the category of sex which is defined in the proposed regulation as including pregnancy, childbirth, breastfeeding, sex assigned at birth, gender identity or expression, affectional or sexual orientation, and differences in sex development.

It is, therefore, timely to continue this path of leadership in civil rights to examine the effectiveness of the Commonwealth of Pennsylvania's housing protections today. Do all Pennsylvanians have equal opportunity to housing, a right that is critical to the well-being of the citizens of the commonwealth, as described in Section 2 of the PHRA? Is there more that can and should be done to ensure housing justice for all? To answer these questions, this report will summarize research on current housing conditions and protections, as well as recommendations on needed improvements.

This paper has been developed by staff in the Fair Housing and Commercial Property Division of the PHRC to clearly outline the challenges that Pennsylvanians face in exercising their rights to choose where they would like to live. To accomplish this goal, this white paper will first review the topic of fair housing choice. This paper will provide a brief historical account for context, then explore the housing disparities that exist due to housing policies that fall short of the goal of housing equality. This paper will also provide a clear definition of what housing choice means, as well as provide a breakdown and explanation of the housing choices across the commonwealth and the varying ways to access housing. This paper will also examine housing conditions and those who are affected by substandard housing conditions.

This document will conclude by making actionable recommendations for PHRC staff, commissioners, legislators, and fair housing partners.

### Key Recommendations:

1. PHRC Commissioners should pursue implementing source of income protections through regulatory process.
2. State legislators should improve housing condition protections for tenants through strengthening the Landlord-Tenant Act of 1951 to include statewide code enforcement.
3. State legislators should improve housing access for Pennsylvanians by increasing funding for affordable and middle-market housing.
4. PHRC should actively monitor housing situations for issues impacting fair housing choice; identifying issues through advisory councils and local partners and pursuing agency-initiated complaints when merited.

The path forward is clear, and the timing is ideal for the PHRC to lead and collaborate with Commonwealth stakeholders on actions that make an impact on Affirmatively Furthering Fair Housing (AFFH). Enforcement of the PHRA is a core responsibility of the PHRC, but AFFH is a responsibility of the Commonwealth as a whole.

## Introduction: Ensuring Housing Equality for All

The PA Human Relations Commission (PHRC) is the leading civil rights enforcement entity in the Commonwealth of PA, empowered since 1955 to prevent discrimination, foster equal opportunity, and address incidents of bias that may lead to tension between racial, ethnic, and other groups. As stated in Section 2 of the PHRA, discrimination denies families the earnings necessary for maintaining a decent standard of living and increases dependency on public welfare. It increases school dropout rates and juvenile delinquency. It intensifies group conflict and robs individuals of productivity and self-esteem (Pennsylvania Human Relations Act, 1955). The damaging effects of discrimination are far-reaching and passed from generation to generation. Now more than ever, the PHRC must continue its leadership role in ensuring true equality in housing.

In 1968, the Fair Housing Act was signed into law. Also known as Title VIII of the Civil Rights Act of 1968, the law prohibited discrimination in the sale, rental, and financing of housing related transactions because of race, color, national origin, and religion. In 1974, sex was added as a protected class. In 1988 the enactment of the Fair Housing Amendments Act added familial status and disability as protected classes. The Commonwealth of Pennsylvania's Human Relations Act mirrors Title VIII by providing the same protections to additional classes which include religious creed, ancestry, age (40 and above), and the use of a guide or support animal because of the blindness, deafness, or physical handicap of the user. While having these legal protections has offered redress to people who experience housing discrimination, it has not fundamentally corrected the fundamental inequalities that were the reason for putting these protections into place. The Fair Housing Act has two goals: it goes beyond simply seeking to end housing discrimination. It also has an active mandate to promote diverse, inclusive communities by reversing patterns of segregation, which is known as Affirmatively Furthering Fair Housing (AFFH).

In Pennsylvania, deep housing inequalities and active acts of discrimination exist. This report will focus on data that show the impact of historic patterns of segregation, exclusion, disinvestment, and gentrification. Through an analysis of this data, this paper will provide recommendations for meaningful actions to truly put fair housing into action through AFFH.

## Where We Stand as a Commonwealth

Pennsylvania's legacy of discriminatory housing practices is not unique from other areas of the United States. The history of redlining, exclusionary zoning, deed restrictions, racially-restrictive covenants, inaccessible housing, and unequal access to financial services is one that has been enabled and perpetuated by governmental institutions, private industries, and individual actors. These are policies and practices that were developed with the intent of creating stable, wealth-generating neighborhoods that provided returns to homeowners as well as the mortgage-lenders and realtors that served them. These homes and neighborhoods increased in value through exclusivity, and on an explicit basis of excluding others based on race, color, religion, and national origin.

While many of these practices have been outlawed today, including redlining, deed restrictions, segregated housing, inaccessible housing, and racially-restrictive covenants, deep housing inequalities exist that have not been addressed by fair housing laws and protections. There are continued practices that have the appearance of neutrality but have a disparate impact on households of color and others in protected classes. This can be seen in prevalent exclusionary zoning practices: minimum lot sizes, expensive building codes, single family zoning, and more that restrict the building of multi-family housing, which is often more affordable than single family housing, and can expand housing opportunities to households in protected classes, outside of areas that are racially and ethnically concentrated areas of poverty (Rigsby, 2016). The data in this report will show the impact of continuing to pursue these policies at the expense of equitable housing.

Yet the legal and regulatory framework exists to enable fair housing choice through taking decisive action to Affirmatively Furthering Fair Housing. As outlined in 24 CFR § 5.151, to effectively have fair housing choice, three components must exist: actual choice, protected choice, and enabled choice (Affirmatively Furthering Fair Housing, 1996).

Actual choice is defined as “the existence of realistic housing options” (Affirmatively Furthering Fair Housing, 1996). This report will explore the supply and affordability of housing, rental assistance programs and the habitability of housing stock in Pennsylvania.

Protected choice is defined as “housing that can be accessed without discrimination” (Affirmatively Furthering Fair Housing, 1996). This report will review housing cases submitted to PHRC and other relevant housing discrimination information.

Enabled Choice is defined as “realistic access to sufficient information regarding options, so that any choice is informed,” (Affirmatively Furthering Fair Housing, 1996) specifically highlighting the need for access to accessible housing for individuals with disabilities. This report will explore the availability of fair housing education to key stakeholders, and gaps that exist in such service provision.

### Actual Choice

In Pennsylvania, there is not enough housing affordable to individuals with income that is below average in the area they live in. This lack of affordable housing supply has been worsening over the past decades, due to increases in housing supply not keeping up with population growth, and household income not keeping up with housing costs (Shaeffer, 2022).

According to the National Low Income Housing Coalition’s Housing Needs in Pennsylvania, 27% of households in PA are extremely low-income, accounting for 436,857 households statewide. A household’s income bracket is determined by the number of people living in a household. To qualify as an extremely low-income household with 4 people, the total household income cannot exceed \$26,200. Of these extremely low-income households, 30% are in the labor force, 22% are disabled, 30% are seniors, 4% are in school, 3% are single caregivers, and 11% have other situations. (National Low Income Housing Coalition, 2022)

Income Bracket	% of Area Median Income (AMI)
<b>Extremely Low-Income</b>	0-30% AMI
<b>Very Low Income</b>	30-50% AMI
<b>Low Income</b>	50-80% AMI
<b>Moderate Income</b>	80-100% AMI
<b>High Income</b>	100%+ AMI

### Affordability measures

Common measures of cost-burdening or assessing the affordability of housing, is looking at what proportion of a household’s income is spent on housing costs. When a household spends a large portion of their income on housing, that can be detrimental to household stability, because fewer household funds are available to spend on household essentials like food, medicine, transportation, and clothing. Households are often not able to save emergency funds to address unexpected expenses or disruptions to income. Housing cost-burdened households often face eviction, utility shut-offs, foreclosure, and other events that threaten housing stability (Airgood-Obrycki, W, Herman, A, & Wedeen S., 2021).

	Percentage of Income spent on housing costs
<b>Not Cost Burdened</b>	0-30%
<b>Cost Burdened</b>	31-50%
<b>Extremely Cost Burdened</b>	51%+

In Pennsylvania, the minimum wage is \$7.25 per hour. (PA Minimum Wage Law, 2022). Assuming a 40-hour work week, and assuming that a household can pay up to 30% of their income towards housing, a household would need to work 115 hours per week to comfortably afford a 2-bedroom at the statewide fair market rent (FMR), which is \$1,087. This equates to working 2.9 full-time jobs (National Low-Income Housing Coalition, 2022).

In Pennsylvania, most workers earn more than minimum wage. The average renter wage is \$19.25, which is still lower than \$20.90, the wage that would be needed to support a 2-bedroom rental without cost burdening (National Low Income Housing Coalition, 2022).

What housing is affordable depends significantly on the amount of household income. For a worker earning minimum wage, housing should cost less than \$377/month. For a household at 30% of the average AMI for Pennsylvania, housing should cost less than \$692/month. For a household earning the average renter wage, housing should cost less than \$854/month. All of these figures are less than \$1,087, which is the 2-Bedroom Fair Market Rent (FMR)(National Low Income Housing Coalition, 2022).



Cost-burdening does not impact households equally across demographic groups. According to the Housing Alliance of Pennsylvania, Latino and Black households are more likely to experience cost-burdening than white households, with 55% of Latino renters paying more than 30% of their income on rent (Pennsylvania Housing Needs Snapshot, 2022). It is well-documented the racial wealth gap, in which Black and Latino households only have 15-20% of the household wealth of White households. A portion of this wealth gap is due to a homeownership gap, which has persisted over time, despite programs to increase first-time homebuyers, with 73.7% of White households owning their own home, in comparison to 44% of Black households and 48.1% of Hispanic households in 2019 (Aladangady & Forde, 2021). For middle-income Americans, home equity comprises 50-70% of a household's wealth, representing the largest financial asset (Schuetz, 2020). The majority of homes increase in equity over time, providing a reliable source of wealth that can span generations. For those shut out of homeownership opportunities over decades, the impact in household wealth, credit, and other housing and financial opportunities is significant, leaving fewer options for pursuing quality housing today.

Another segment of households that is disproportionately impacted by limited affordable housing availability is those on fixed incomes, which typically include older adults and individuals with disabilities, who are less able to absorb increased housing costs. Individuals that receive Social Security Income, which is set at \$783 monthly, are only able to afford to pay \$259/month without incurring cost-burdening, which significantly limits housing options (National Low Income Housing Coalition, 2022).

#### *Needs of Extremely- and Very- Low-Income Households*

While households with moderate and high income typically are able to access quality housing that is affordable and available, households that are extremely and very-low income both experience a lack of affordable housing options. They often pay a much higher percentage of their income on housing, because the housing they are able to secure is not affordable at their income level. There is not a sufficient amount of housing that is affordable at these incomes. For every 100 extremely low-income renter households in Pennsylvania, there are only 39 affordable and available homes. For every 100 very low-income households in Pennsylvania, there are only 69 affordable and available units. Statewide, this translates to over 266,000 housing units that are needed to adequately meet the needs of extremely low-income households (National Low Income Housing Coalition, 2022).

Because of this lack of affordable housing, many households pay a large percentage of their income for housing. 85% of extremely low-income households are cost-burdened, with 70% of extremely low-income households being severely cost-burdened. For very low-income households, 72% are cost burdened and 25% are severely cost-burdened (National Low Income Housing Coalition, 2022). This is a problem that has worsened in recent years. From 2001-2019, median rental costs increased 16%, whereas rental household incomes only increased 5% (Center for Budget and Policy Priorities, 2022).

#### *Housing Assistance Programs*

To address the housing needs of households with low incomes, a variety of public and private housing assistance programs have been put into place. These assistance programs are vital to ensuring that households can access quality housing. 403,400 people in 216,000 households in Pennsylvania rely on federal rental assistance. The largest number of publicly supported rental units are through the Housing Choice Voucher (HCV), often known as the Section 8, program. These vouchers are rental payments that subsidize housing that would otherwise be unaffordable to program participants. This program is funded

through the U.S. Department of Housing and Urban Development (HUD). There are 66,941 participants in this program, statewide (Center for Budget and Policy Priorities, 2022).

The next largest type of housing assistance is public housing. This is housing that is owned and operated by Public Housing Authorities and funded through HUD. Pennsylvania has 58,025 units of public housing, which includes both project-based (a building or complex that specifically provides public housing) and scattered sites (housing that is distributed throughout the community) (Center for Budget and Policy Priorities, 2022).

LIHTC, or Low-Income Housing Tax Credit housing is developed and owned by private housing companies, with units made affordable through tax credits provided to the developer to reduce the costs of development. This housing is typically required to be affordable for a certain number of years, often 30, which means affordability will likely expire after a period of time if the developer chooses to exit the program. Pennsylvania has 46,061 units of LIHTC housing (Center for Budget and Policy Priorities, 2022).

HOME funds are distributed by HUD to states and counties. These funds are flexible and used to support homeownership, development, or purchase of rental housing to support a locality's affordable housing needs. Pennsylvania has 12,880 rental homes funded through the HOME program (Center for Budget and Policy Priorities, 2022).

The USDA supports affordable rental housing in rural areas. In Pennsylvania, USDA supported rental units account for 9,740 affordable housing units. Lastly, HUD has several other programs, including Section 202 direct loans and Section 236, which account for 6,606 affordable housing units (Center for Budget and Policy Priorities, 2022).

In total, federal rental assistance programs provided Pennsylvanians with \$1.8 billion in assistance in 2020. These housing programs provided support for a wide spectrum of communities, with 354,000 people in cities and suburbs, and 49,400 people in rural areas and small towns. While these 173,637 units of housing do provide substantial opportunities for Pennsylvania's low-income households, they are not sufficient to meet the state's affordable housing needs. (Center for Budget and Policy Priorities, 2022).

Additionally, over the next ten years, at least 10% of existing affordable housing may transition to market-based housing, due to expiring tax credits. This will lead to deepening need for housing that is affordable to the full range of household incomes that are present in the Commonwealth of Pennsylvania. The affordable housing most at risk of being converted into market-rate housing is complexes that are located in strong housing markets, where there would be financial incentive for owners to non-renew their rental assistance contracts (Picture of Preservation, 2021).

Privately funded and local housing assistance programs are available throughout Pennsylvania, but these programs are often targeted to specific populations, such as those currently experiencing homelessness, families, individuals who have experienced domestic violence, veterans, and more. Religious communities and faith-based non-profits often seek to meet the community needs that federal programs are not able to fund. However, there is a lack of uniformity in who qualifies for assistance, what the process is to obtain it, how much assistance can be obtained, and for how long. Typically, these

programs work to meet urgent, temporary needs, not provide extended housing affordability in ways like the HCV program, public housing, and LIHTC properties are set up to do.

### *HCV Program barriers*

The HCV program is the largest source of affordable housing in Pennsylvania, with significant opportunities for moving to where a household wants to live, but there are many households who are unable to access this assistance. Three out of four households eligible for the HCV program do not receive assistance (Acosta & Gartland, 2021). Barriers that this report identifies include closed wait lists to apply for a voucher, the wait time to receive a voucher once put onto the waiting list, and the difficulty of securing housing once a voucher has been issued.

The first step to getting assistance through the HCV program is to apply to get onto a waitlist at a local Public Housing Authority (U.S. Department of Housing and Urban Development, n.d.). Getting on a waitlist is not accessible in most areas of the country, including many areas in Pennsylvania, due to limited program funding that caps the number of households served. According to the National Low Income Housing Coalition's report, "The Long Wait for A Home," 53% of waitlists were closed, which means that applications cannot be put in until the waitlist has been re-opened. Of those waitlists that were closed, 65% had been closed for over 1 year. Even getting the opportunity to submit an application to the waitlist is not a guarantee for households to receive a voucher. Some waitlists operate by lottery after accepting new submissions, only offering vouchers to a limited number of applicants as they become available (National Low Income Housing Coalition, 2016).

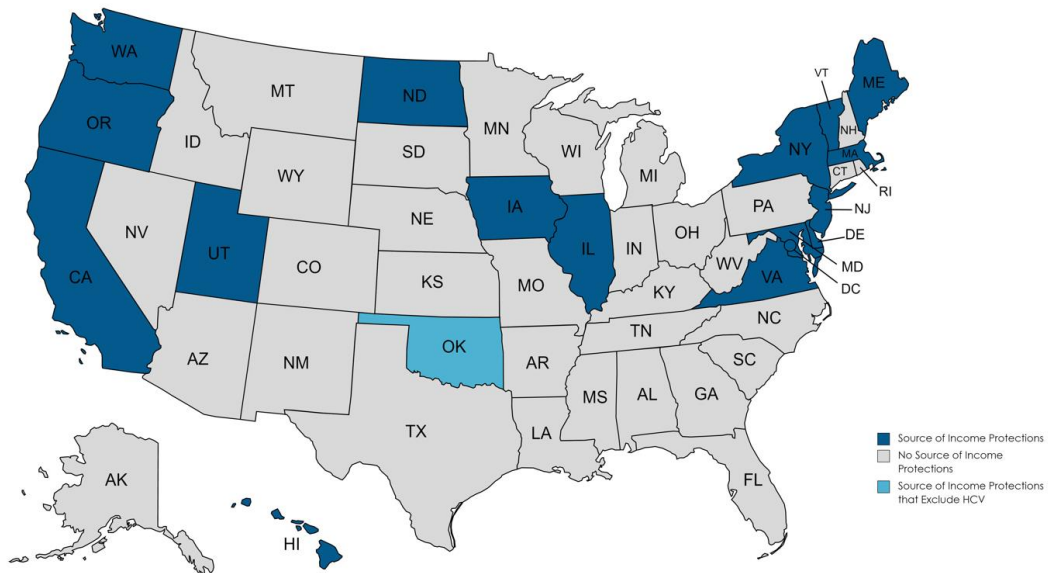
According to the Center for Budget and Policy Priorities, many households wait years before being able to access needed assistance. In a study of 500 of the largest PHAs in the United States, 20 are located in Pennsylvania. This study of HUD data found that the shortest average wait time to use a voucher was 17 months, in the County of Butler. The longest wait time was over 4 years, at 51 months in the City of York. The state average is 23 months, just shy of 2 years. This is slightly less than the national average of 28 months (Acosta & Gartland, 2021). While households are on these waiting lists or waiting to get on these waitlists, they often experience housing instability because they are unable to get affordable housing. This housing instability may include cost-burdening, evictions, homelessness, and frequent moves, leading to increased challenges to health and well-being for household members. Some households end up staying "doubled-up" with friends and family, staying in extended stay motels, in shelter or in campgrounds (Acosta & Gartland, 2021). While a household is on a waiting list, they must keep the PHA informed of their current contact information. If they do not complete annual recertifications, they will be removed from the waiting list.

Lastly, once a voucher is issued, there may be multiple barriers to being able to utilize it to participate in the program. Tenants must meet the housing providers' tenant selection criteria. Housing providers must agree to participate in the HCV program, which includes signing an agreement with the PHA and the property passing an inspection to ensure that the housing is habitable. Some landlords are reluctant to participate in the HCV program, citing programmatic requirements, frustrations with program communication, delays and issues in inspections, payment standards, and administrative issues (U.S. Department of Housing and Urban Development, 2020)

In Pennsylvania, there is no statewide source of income protection that mandates that landlords take HCVs or other rental assistance vouchers as payment. There are 18 other states throughout the United States who have enacted source of income protection, as seen in Figure 1. The City of Philadelphia and

State College Borough have enacted source of income protections, meaning that landlords cannot advertise units as not eligible for the program. (Poverty and Race Research Action Council, 2020). This does not mean that housing providers automatically need to accept potential applicants who have a voucher, but it substantially decreases the barriers for individuals who have vouchers in being able to locate units to rent. The rental unit also must be within the payment standards set by the PHAs. Typically, PHAs give voucher-holders 60 days to secure rental housing through their voucher. Given tight rental market conditions throughout the state, limited landlord participation in the program, and some housing being priced out of the program, it can be challenging for households to be able to effectively lease up, even after obtaining the voucher (Acosta & Gartland, 2021).

Figure 1: Map of Statewide Source of Income Protections



Data Source: National Multifamily Housing Council, 2022

The challenges to successfully obtaining housing through this program have substantial fair housing implications, given that this program serves significant percentages of households in protected classes, both in Pennsylvania and nationally.

	Voucher Holders	General PA Population
<b>White Only</b>	64%	81%
<b>African American Only</b>	34%	12%
<b>Multi-Racial or Other Racial Groups</b>	2%	7%
<b>Hispanic/Latino</b>	13%	8%
<b>Persons with disabilities</b>	50%	9.8%

### *Rental Conditions*

An additional challenge in accessing choice of housing is that there is no uniform property maintenance code throughout Pennsylvania that ensures that the quality of housing is safe and livable. In Pennsylvania, decisions regarding property maintenance codes are made at the municipal level. There are 2560 municipalities, within 67 counties (PA Municipalities List, n.d.), leading to significant variation in rental protections. Consequently, larger cities with higher populations of renters more often have tools to address poor property conditions, such as a registry for the municipality to track who owns and manages rental units, annual inspections for code issues, and complaint-based inspections for urgent and emerging habitability issues. Of the 1,592 rural municipalities, 89% have not adopted property maintenance codes. (Yang, Y, Jantz, C, and Price A, 2022).

Property maintenance codes allow municipal workers or contracted firms to address health and safety issues that can compromise the well-being of renters that live there. This is particularly important in older housing stock that is more prone to habitability issues, many of which are preventable with appropriate maintenance. Pennsylvania has older housing stock than much of the country, with 25.9% of all housing built before 1939, compared to the nationwide average of 12.4%. In Pennsylvania, the median year a structure was built is 1963, compared with 1978 nationwide (U.S. Census Bureau, 2020).

Most residents spend the vast majority of their time in their home, so housing quality issues can have a significant impact on health and well-being (DeLong & Schilling, 2017). Common residential housing quality issues include:

- **Lead:** Lead can be found in paint in older homes. Lead-based paint was outlawed in 1978, because consuming lead can damage developing brains, particularly impacting children age 0-6. Children are also more likely to ingest the paint. Paint that is chipping and peeling is more likely to have health impacts than paint that is intact and in good condition.
- **Radon:** 40% of homes in Pennsylvania that have had radon levels above EPA's action level. (Pennsylvania Healthy Housing Fact Sheet, 2020). Radon is an odorless gas that elevates risk of lung cancer (Agency for Toxic Substances and Disease Registry, 2013).
- **Pests:** Pests such as bedbugs, cockroaches, other insects, and rodents can spread allergens and exacerbate respiratory conditions. 10% of both adults and children have asthma in Pennsylvania, which can worsen with pests in the home (Pennsylvania Healthy Housing Fact Sheet, 2020).
- **Mold:** Mold can also worsen respiratory health.
- **Housing Adequacy:** Housing adequacy is a measure assessed by the 2021 American Housing Survey, and looks at issues in plumbing, heating, electric, wiring, upkeep, and other issues.

### **Pennsylvania Housing Adequacy - 2021**

<b>Total housing units in Pennsylvania</b>	<b>5,309,000</b>
<b>Severely Inadequate</b>	69,100
<b>Moderately Inadequate</b>	234,700
<b>Toilets not working (last 3 months)</b>	72,600
<b>Uncomfortably cold for 24+ hours</b>	270,300
<b>Water supply stoppage (last 3 months)</b>	98,900
<b>Housing Units with Mold (past 12 months)</b>	183,700

**Source: American Housing Survey, 2021**

These housing quality issues have fair housing impacts because these conditions are more prevalent in households with members of protected classes. Low-income households and African Americans are 2.2 and 1.7 times more likely to live in homes with significant habitability issues than the general population. Additionally, substandard conditions impact long-term learning of children (De Long & Schilling, 2017), which has significant implications for households under the protected class of familial status.

All tenants in Pennsylvania do have recourse against their housing provider if that provider is not completing needed repairs in a timely manner through the Implied Warranty of Habitability, established in 1979 through Pugh v. Holmes (Pugh v. Holmes, 1979). However, the remedies that this case law establishes are often out of reach for those most often affected by uninhabitable conditions. Through the Implied Warranty of Habitability, a tenant can choose to terminate their lease and move, repair, and deduct the cost of the repair from their rent, withhold part of their rent, or sue their landlord for damages. But many of these remedies require money, legal assistance, alternative places to live, and/or a confidence that a landlord will not retaliate by terminating their lease. Typically, habitability issues occur for households who cannot afford newer, better maintained housing, and who may not feel that they can address an issue when it occurs because of a lack of resources or alternative housing. The reciprocal and cyclical impacts of poverty and poor housing conditions are documented in Matthew Desmond’s work, *Evicted*, citing the many financial, social, and systemic barriers that prevent households from effectively addressing poor living conditions (Desmond, 2016). While this study is located in Milwaukee, the barriers cited equally apply in Pennsylvania.

Having a statewide property maintenance code with provisions that allow tenants to easily address critical habitability issues, regardless of their municipality, would protect the health and safety of Pennsylvania residents and provide a clear standard of expectations and accountability for housing providers.

### Protected Choice

In Fiscal Year 2020-2021, which spanned from July 1, 2020 to June 30, 2021, PHRC received and docketed 402 Fair Housing complaints. The complaint bases for these docketed complaints are listed below. Please note that some complaints were submitted under multiple protected classes, so the total adds up to higher than the total number of complaints received.

<b>Age</b>	<b>16</b>
<b>Ancestry</b>	11
<b>Color</b>	4
<b>Disability – Has a Disability</b>	209
<b>Disability – Has a Record of Disability</b>	2
<b>Disability – Is Regarded as Having a Disability</b>	1
<b>Disability – Is Related to Someone Who Has a Disability</b>	9
<b>Familial Status</b>	28
<b>Multiple Class</b>	4
<b>National Origin</b>	21
<b>Other</b>	3
<b>Race</b>	96

<b>Religious Creed</b>	13
<b>Retaliation</b>	75
<b>Sex</b>	36
<b>Use of Guide/Support Animal</b>	1
<b>Subject Area Total</b>	<b>529</b>

*Source: Pennsylvania Human Relations Commission, 2022*

It is well-documented that private fair housing organizations receive far more complaints than governmental enforcement agencies such as PHRC. According to the National Fair Housing Alliance (NFHA), in 2020, while governmental enforcement agencies received 5,883 complaints nationwide, private fair housing members received 21,089 complaints (Augustine et. al., 2021), over three times as many complaints.

However, it is likely that the actual number of incidences of housing discrimination are significantly undercounted. Many individuals do not know about their fair housing rights, lack the resources to file, do not believe that filing a complaint will lead to change, or fear that they may be retaliated against for filing a complaint. NFHA estimates that nationwide, 4 million households experience housing discrimination each year (Augustine et. al., 2021) .

### Enabled Choice

It's not enough to simply have the inventory of housing, the programs in place, and a lack of discriminatory actions. There must be sufficient information about how to access programs, services, and housing opportunities to allow for more equitable housing opportunities.

Individuals with disabilities face substantial barriers to achieving fair housing choice. Many individuals need reasonable accommodations, such as reserved parking, a support animal, or the ability to have a live-in caregiver. This requires individuals with disabilities to fully understand their rights to accommodation in housing, have the confidence to advocate for themselves, the knowledge of what resources are available to them to address housing discrimination if it does occur, and realistic alternative housing options to pursue while a housing complaint is being processed.

Similarly, individuals who need reasonable modifications to the structure of their housing face substantial challenges in accessing those changes. They both need approval of the request, as well as the funds to make the change, which could include adding a ramp to access the building, installing a visual doorbell, lowering countertops, installing grab bars and more. Programs to fund and complete modifications do exist in Pennsylvania including through Self Determination in Housing Project, the Assistive Technology Foundation, United Disability Services and others, but it can take time and know-how to navigate application and program processes in a timely manner to secure the financing for needed changes. It is also critical for housing providers to have a good understanding of how disability is defined under state and federal fair housing laws, and how to appropriately handle reasonable accommodation and modification requests.

Additionally, if an individual with a disability seeks to move from a congregate care setting, such as a nursing home, group home, or institutional setting, to a more independent living environment, it can be quite challenging to navigate.

Fair Housing educational resources exist, through the PHRC and Fair Housing Initiatives Program partners. Regionally and statewide, there are virtual and in-person fair housing training opportunities, fair housing rights information shared via social media, advertisements, written books and brochures, and short video clips. Some of this information has been translated into languages other than English. This information is made available both to community members who may experience housing discrimination, as well as to housing providers, realtors, lenders, municipal officials, and others who make decisions that impact fair housing. However, fair housing education does not always reach those who need it most, and community members may be unlikely to seek out that information unless they are personally being impacted by discrimination. Additional work needs to be done to leverage relationships with community partners to enhance awareness of fair housing rights and how individuals can access remedies when issues occur.

## Proposed Housing Solutions

### Source of Income Protection

Source of income laws and ordinances provide protection against housing discrimination based on where someone's income or rental assistance is coming from. Source of income protections are not currently in place at the federal level, although there was a recent bill introduced to both the U.S. House and the U.S. Senate proposing the inclusion source of income as a protected class (Source of Income Discrimination, n.d.).

While source of income protections applies to approximately 1 in 3 households nationwide (Bell & Koepnik, 2018), there are only three localities in Pennsylvania which have passed source of income protections: Philadelphia, Pittsburgh, and State College Borough. Pittsburgh's ordinance has since been challenged in court and struck down, leaving just the other two in place. Source of income ordinances and laws vary, with some specifically including the Housing Choice Voucher program and others excluding it. Source of income can include Housing Choice Vouchers, other housing vouchers, SSI, SSDI, veterans benefits, child support and other sources of income that households rely on to be able to afford housing.

Below is a brief breakdown on the demographics of the recipients that use rental assistance programs in PA. Housing provider policies that require a person to make 2.5 or 3 times the amount of monthly rent, or advertise "no rental subsidies" do have a disparate impact against certain protected classes more than others.



Source of Income Protections

<b>Recommendation:</b>	<b>Implement Statewide Source of Income Protections</b>	<b>Timeline</b>
<b>Finding 1</b>	<p>23% of Rental Assistance recipients in PA are seniors</p> <p>27% of Rental Assistance recipients in PA have a disability</p> <p>56% of Rental Assistance Recipients in PA are families with children</p> <p>(Center on Budget and Policy Priorities, 2022)</p> <p>Blanket denial of rental due to source of impacts individuals in the protected classes of <b>AGE, DISABILITY, &amp; FAMILIAL STATUS</b> under the PHRA.</p>	
<b>Finding 2</b>	Allowing housing providers to refuse rentals based on rental assistance removes actual housing choice from individuals in these protected classes, causing a disparate impact.	
<b>Finding 3</b>	Pennsylvania needs to implement source of income protections in order to preserve fair housing choice.	
<b>Action Step 1</b>	Director of Fair Housing & Commercial Property will work with Chief Counsel, Executive Director, and Commission Chair to begin process to develop a Source of Income Guidance to eliminate Disparate Impact to the protected classes named above.	May 2023
<b>Action Step 2</b>	PHRC Director of Policy, Mediation, & Intergovernmental Affairs will engage lawmakers to build legislative support for statewide source of income protection.	May 2023
<b>Action Step 3</b>	Language will be finalized to develop Source of Income Guidance	June 2024

The benefits of source of income protection are that studies have shown it to increase housing voucher acceptance (Cunningham et.al, 2018). Currently, many housing providers in high opportunity neighborhoods are unwilling to accept vouchers, leading to more concentrated areas of segregation and poverty. While housing provider associations point to challenges within the Housing Choice Voucher program, rather than discriminatory intent (Source of Income- Fair Housing: Policy Issue, n.d.); (Fair Housing: Source of Income Discrimination, 2019), these challenges can be effectively addressed through proposed landlord engagement strategies, program streamlining, and tailoring rental payments to census tracts or zip code to ensure the program is attractive to landlords (PD&R Edge, 2021). It is clear that housing vouchers provide vital opportunities for many families, individuals with disabilities, older adults, people of color, and other individuals in protected classes to enjoy safe, healthy, affordable

housing. Measures to support housing providers’ acceptance of these vouchers through both program improvements and source of income protections will support fair housing choice.

### Increased Consistency in Code Enforcement

<b>Recommendation:</b>	<b>Pursue consistent code enforcement protections throughout the Commonwealth</b>	<b>Timeline</b>
<b>Finding 1</b>	Poor housing conditions impact the health and well-being of residents	
<b>Finding 2</b>	Poor housing conditions impact people in protected classes disparately	
<b>Finding 3</b>	This disparate impact is a significant fair housing issue	
<b>Finding 4</b>	Some municipalities in Pennsylvania have code enforcement that ensures landlord accountability to provide habitable living conditions to tenants	
<b>Finding 5</b>	Many tenants without code enforcement are unable to effectively secure safe housing through the current Implied Warranty of Habitability.	
<b>Action Step 1</b>	PHRC Director of Fair Housing & Commercial Property will present proposal to PHRC Director of Policy, Mediation, & Intergovernmental Affairs for consideration	May 2023
<b>Action Step 2</b>	PHRC Director of Policy, Mediation, & Intergovernmental Affairs will engage lawmakers to build legislative support for statewide code enforcement	June 2023

In Pennsylvania, municipalities have the authority to establish property maintenance codes for their residents. While this offers the ability to establish ordinances that are responsive to local needs and conditions, it allows a scattered framework of protections, with many areas lacking protections entirely. This report is proposing standardizing a minimum of code enforcement protections. Not every township and borough has the ability to perform annual inspections, but the General Assembly can revise the Landlord & Tenant Act of 1955 and/or the Pennsylvania Construction Code Act (Act 45 of 1999) to set out clearer standards and accountability for habitable rental spaces. This would mitigate significant health hazards that are related to environmental conditions in the home. A resource that is available for implementation is the National Healthy Housing Standard (National Center for Health Housing, 2014).

## Increased funding and Supports for Housing

<b>Recommendation:</b>	<b>Increase statewide funding &amp; supports for housing and housing programs</b>	<b>Timeline</b>
<b>Finding 1</b>	There is a lack of affordable housing in Pennsylvania	
<b>Finding 2</b>	This lack disparately impacts Pennsylvanians in protected classes	
<b>Finding 3</b>	This disparate impact is a significant fair housing issue	
<b>Finding 4</b>	Increased state and federal funding is needed to make up for gaps in affordability for new housing construction and housing programs to increase affordability.	
<b>Action Step 1</b>	PHRC Director of Policy, Mediation, & Intergovernmental Affairs will work to build legislative support for increasing state housing programs	May 2023

With the significant deficit of affordable housing, and the disparate impact that is felt among individuals in protected classes, it is clear that a fair housing priority must be increasing the supply of housing that is available. It is unlikely that tightening housing markets will prioritize building and offering affordable housing without financial incentive, so it is incumbent on federal, state, and local governments to provide funding to support this vital need.

LIHTC is one of the primary sources of federal funding to build and preserve affordable housing, but the process is quite competitive. The federal government should increase funding to this program, and seek ways to extend program participation, ensuring that affordable housing does not expire, leaving long-term residents displaced and unable to find replacement housing. Additionally, LIHTC projects that provide affordable housing in neighborhoods of opportunity should be prioritized for funding support, to ensure that the AFFH goal of reducing segregation and fostering inclusive communities free from barriers that restrict access is fulfilled.

The HCV program has provided funding to thousands of households across the commonwealth, but as discussed above, many households that are income-qualified are unable to access these needed housing supports. Funding for this program should be increased to support additional vouchers, and program guidelines should be examined to ensure that the program remains attractive to landlords in a wide range of markets, and easily navigable by all parties involved in the program.

The Pennsylvania Housing Affordability and Rehabilitation Enhancement (PHARE) is a state funding source that supports innovative housing projects that allow non-profits to meet emerging community housing and social-service needs. However, most programs that submit proposals are under-funded or not funded, due to high demand for this flexible funding source. Increasing these funds, and prioritizing projects that impact housing inequalities among members of protected classes is a priority for the Commonwealth. This fund is financed through fees generated by the Realty Transfer Tax and the Marcellus Shale Impact Fee. These funding sources generate more funds than the funding cap allows to be distributed by the PHARE program. While recent advocacy efforts have increased the funding cap several times over the past few years, the cap should be raised further to provide these vital supports.

## Greater AFFH Accountability

<b>Recommendation:</b>	<b>Increasing Accountability for fulfilling Affirmatively Furthering Fair Housing mandate</b>	<b>Timeline</b>
<b>Finding 1</b>	Housing equity has not made significant advances since the federal Fair Housing Act was passed in 1968	
<b>Finding 2</b>	The Fair Housing Act requires recipients of federal funds to take meaningful actions to AFFH	
<b>Finding 3</b>	To date, planning requirements have been the most significant steps towards AFFH, but there has not been meaningful action to hold entities accountable to advancing meaningful plans.	
<b>Finding 4</b>	It is the US Department of Housing & Urban Development's responsibility to enforce the Fair Housing Act, but PHRC can act as an active partner to identify AFFH issues and to enforce the PHRA when AFFH issues violate the PHRA.	
<b>Finding 5</b>	PHRC has housing partners and advisory councils in communities throughout Pennsylvania that can actively report on AFFH issues.	
<b>Action Step 1</b>	The PHRC Fair Housing Training and Outreach Coordinator will work with Advisory Councils and the AFFH Taskforce to identify AFFH issues throughout Pennsylvania.	July 2023
<b>Action Step 2</b>	Identified AFFH issues will be brought to the PHRC Fair Housing Social Justice Committee on a bi-monthly basis.	September 2023
<b>Action Step 3</b>	The PHRC Director of Fair Housing & Commercial Property will make recommendations to the Executive Director and PHRC Legal Division regarding potential for agency-initiated complaints under the PHRA.	On-going
<b>Action Step 4</b>	The PHRC Director of Fair Housing & Commercial Property will establish a meaningful relationship with the US Department of Housing & Urban Development to refer and address AFFH issues that are not addressable under the PHRA.	On-going

While AFFH has been law for over 50 years, there has been little improvement in desegregating neighborhoods and investment in communities of color throughout Pennsylvania. While proactive education by PHRC will certainly raise awareness of this issue, particularly amongst individuals and organizations working for housing justice, the system will likely not change without sustained enforcement actions and consequences for individuals, organizations, agencies, and governments who do not take seriously the mandate to take meaningful action on this issue.

While it would be ideal for this enforcement to happen on a federal level, through tying funds to specific metrics, it can also happen at the state level as well. Several states have taken substantive action to require accountability with municipal and county plans to address affordable housing shortfalls and areas of racial and ethnic concentration of poverty. Potential options include prohibiting exclusionary zoning, mandating fair allocation of affordable housing resources across communities, instituting state-

level AFFH plans, and allocating significant amounts of funding to developing affordable housing projects. There have also been programs to increase tenant stability while in housing through eviction prevention and provision of counsel to tenants. Lastly, state-supported programs supporting homeownership that lead to wealth-building provide crucial support to communities with less access to financial knowledge and capital. Examples of these programs have been successfully implemented in states throughout the country (Poverty & Race Research Action Council, 2020). However, it would take significant political will to pass legislation with effective consequences to ensure communities are prioritize equitable housing opportunity.

## What Next?

Pennsylvania has a strong foundation of civil rights leadership in housing that has continued to the present day. Many individuals and organizations across a wide spectrum of industries that are working hard meeting current and emerging community housing needs. There are innovative programs that being piloted, evaluated, and expanded. And throughout the pandemic, there has been a growing public acknowledgement of the impact of PA's housing needs across the commonwealth.

But now is the time for coordinated action, to ensure that the inequities that spurred the civil rights movement and have continued to this day do not shape Pennsylvania's future. Housing and other forms of discrimination have held back the commonwealth for far too long, limiting potential for diverse and inclusive communities. PHRC is uniquely positioned to lead the way on this issue, empowered by the PHRA and the FHA and the importance of ensuring that one's skin color, who one worships, or loves, or what supports one needs to live independently do not limit housing opportunities. PHRC can facilitate connections, training resources, and coordination to state-wide and local efforts, building coalitions to take on this challenging, but important work.

But it cannot do so alone, and it does not do so in a vacuum. Historically, Pennsylvania's attempts to increase and strengthen laws that protect renters, homebuyers, and victims of hate and bias have not gained much traction. State agencies and the General Assembly must jointly marshal resources effectively to support communities working to Affirmatively Further Fair Housing. PHRC is committed to reaching across agency lines to support the work of other state government efforts, connecting and empowering local leaders, and leading conversations on the importance of investing in our housing in an equitable manner so that our next generation does not repeat the same patterns of exclusionary housing and finance, as we have seen from the New Deal to the Civil Rights movement to the present. The patterns are the same, but the presentation is different. Today much of the inequality that is faced does not always appear like hatred and bigotry, but rather policies and programs that lack the financing and enforcement to meaningfully address change. Now is the time to act to support quality homes for all Pennsylvanians throughout the commonwealth.

## Get Involved:

If you would like more information about joining PHRC's efforts to eradicate housing discrimination and foster housing opportunities for Pennsylvanians, you can get connected in the following ways:

**Email:** Adrian Garcia, Director of Fair Housing & Commercial Property – [adrgarcia@pa.gov](mailto:adrgarcia@pa.gov)

**Phone:** Pennsylvania Fair Housing Line - (855) 866-5718

**Mail:** PHRC Central Office – 333 Market Street, 8<sup>th</sup> Floor, Harrisburg, PA 17101

**Social Media:** PHRC is active on the following platforms: [Facebook](#), [LinkedIn](#), [twitter](#), and [Instagram](#).



[https://www.urban.org/sites/default/files/publication/89491/2017.04.03\\_urban\\_blight\\_and\\_public\\_health\\_vprn\\_report\\_finalized.pdf](https://www.urban.org/sites/default/files/publication/89491/2017.04.03_urban_blight_and_public_health_vprn_report_finalized.pdf)

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