THE EXPECTED COST OF HOUSING DISCRIMINATION

Fair Housing, Ableism, and Policy

DECEMBER 15, 2015
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Expected Cost of Housing Discrimination

**Introduction**

The aim of this research is to increase the understanding regarding discrimination in the home rental market, especially in a way that is applicable to individuals, by constructing a framework with which its expected cost can be found. After estimating an expected cost, this research seeks to use that cost as a platform to explore the ramifications of why housing is such an under addressed issue.

**Background**

Starting with 1988 amendments to the Fair Housing Act, America has made a legal effort to secure fair housing. However, it is estimated that over four million instances of discrimination occur in the rental market alone each year (NFHA). This report aims to examine the expected cost of rental housing discrimination in order to better understand the conditions and circumstances that might bring an individual to committing discrimination.

**Objective**

The objective of this research is to increase the understanding regarding discrimination in the home rental market, especially in a way that is applicable to individuals, using expected cost and analysis.
Methodology

Using data made available by the National Fair Housing Alliance and the United States Department of Housing and Urban Development, a framework to find expected cost can be calculated. While this report did not result in a conclusive expected cost of housing discrimination, this report did establish a framework with which future research can be conducted as well as the expected cost of some outcomes.

This report did not take into account bad publicity which could be received as a result of this discrimination or as a part of a bargaining tactic of a fair housing agency. For this reason this expected cost framework is more accurate for interpersonal housing discrimination than for businesses. Additionally, no accurate way to estimate attorney fees has been established within the scope of this report so cost of attorney fees are also omitted.

When numbers could be tailored to either individuals over systematic discrimination or disability based discrimination over housing discrimination in general, they were.

This does not take into account people who seek help from a fair housing organization, but do not file a report of any kind. Therefore, for the purpose of this research, all people who approach a fair housing organization are assumed to have filed a report. In future research, it may be considered more accurate to assume that the expected cost to the discriminator of someone seeking help from a fair housing agency is $0 and probabilities from HUD, DOJ, and NFHA should be regarded as sub probabilities of Filing a Complaint with A Government Agency.

Discussion of Expected Cost

All possible outcomes were established by using a survey, which was published in the HUD study *How Much Do We Know? Public Awareness of the Nation’s Fair Housing Laws.* For
each possible response on the government survey, there is an assumed or calculated expected cost of each option. The relevant survey information is displayed below with the expected cost assumed for the scope of this research. Each option is discussed in detail following the table.

**Table 1. How People Respond to Housing Discrimination**

<table>
<thead>
<tr>
<th>Actual Responses to Discrimination</th>
<th>Percentage</th>
<th>Expected Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Did Nothing</td>
<td>83</td>
<td>$0</td>
</tr>
<tr>
<td>Complained to person discriminating</td>
<td>6</td>
<td>$0</td>
</tr>
<tr>
<td>Complained to someone else</td>
<td>0</td>
<td>$0</td>
</tr>
<tr>
<td>Sought Help from a fair housing organization</td>
<td>3</td>
<td>$12</td>
</tr>
<tr>
<td>Filed a complaint with a government agency</td>
<td>1</td>
<td>$8</td>
</tr>
<tr>
<td>Talked to a lawyer or filed a lawsuit</td>
<td>1</td>
<td>$0</td>
</tr>
<tr>
<td>Something else</td>
<td>5</td>
<td>$0</td>
</tr>
<tr>
<td>Not Sure/No Answer</td>
<td>1</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$20</strong></td>
</tr>
</tbody>
</table>


The first column displays the survey option displayed to self-reported victims of discrimination. The second column displays the percentage of people that choose that option. The third column shows the expected cost of that outcome for the scope of this research.

**Did Nothing**

“Did Nothing” is the simplest option in terms of cost to the discriminator. As the person being discriminated against took no action indirectly or directly against the discriminator, there is no cost to the discriminator. By knowing that this outcome makes up 83% of all cases of
discrimination, one can also tell that the expected cost will be extraordinarily low. This is because 83% of cases go unreported, which is a lower reporting rate than crimes which are widely regarded to be underreported, such as rape (National Crime Victimization Survey).

**Complained to Person Discriminating**

Six percent of people who experienced discrimination said that they complained to the discriminator. If one could approximate the amount of time spent complaining to a discriminator, then one could make this expected cost a function of the wage rate of the alleged discriminator. However, this data is unavailable and, therefore, this cost cannot be calculated. For the scope of this research, the expected cost of this result is assumed to be $0.

**Complain to Someone Else**

As 0% of people selected this option on the survey, the expected cost is $0. However, even if it had been selected, this option poses no direct cost to the discriminator and would have been likely assumed to be $0.

**Sought Help from A Fair Housing Organization**

Data for this option is available through the annual report of the National Fair Housing Alliance. It gives a series of outcomes and respective probabilities for a given complaint. However, this does not take into account people who seek help from a fair housing organization, but do not file a report of any kind. Therefore, for the purpose of this research, all people who approach a fair housing organization are assumed to have filed a report. The table on the following page displays outcomes given by the NFHA, their probabilities, as well as the expected cost calculated for this report.
Table 2. Fair Housing Outcomes and Expected Costs

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Likelihood of Outcomes</th>
<th>Likelihood of Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Closure</td>
<td>9.47%</td>
<td>$0</td>
</tr>
<tr>
<td>No cause</td>
<td>52.15%</td>
<td>$0</td>
</tr>
<tr>
<td>Conciliation/Settlement</td>
<td>21.16%</td>
<td>$338</td>
</tr>
<tr>
<td>Withdrawn after Resolution</td>
<td>14.13%</td>
<td>$0</td>
</tr>
<tr>
<td>FHAP Judicial Consent Order</td>
<td>1.75%</td>
<td>$0*</td>
</tr>
<tr>
<td>FHAP Judicial Dismissal</td>
<td>0.85%</td>
<td>$0</td>
</tr>
<tr>
<td>Litigation – Discrimination Found</td>
<td>0.13%</td>
<td>$0*</td>
</tr>
<tr>
<td>Litigation – No Discrimination Found</td>
<td>0.04%</td>
<td>$0</td>
</tr>
<tr>
<td>Administrative Hearing Ended – Discrimination Found</td>
<td>0.19%</td>
<td>$55</td>
</tr>
<tr>
<td>Administrative Hearing Ended – No Discrimination Found</td>
<td>0.12%</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$393</strong></td>
</tr>
</tbody>
</table>


The left column of the table displays the possible outcomes given by the NFHA report. The middle column displays the probabilities of those outcomes given by the same report. The right column displays the expected costs calculated by this report rounded to the nearest dollar. However, an “*” Indicates that a significant expected cost exists, but it was not calculated in the scope of this research.
**Administrative Closure**

Administrative closure can occur at any point in the complaint process. However, these closures typically occur at the beginning of the process and occur at no cost to the alleged discriminator, depending on when legal counsel is retained. The table below lists causes of administrative closures by the member of the National Fair Housing Alliance.

**Table 3. Reasons for Administrative Closure**

<table>
<thead>
<tr>
<th>Reason for Admin. Closure</th>
<th>Quantity</th>
<th>% of total admin. closures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Untimely Filed</td>
<td>6</td>
<td>0.93%</td>
</tr>
<tr>
<td>Dismissed for Lack of Jurisdiction</td>
<td>78</td>
<td>12.11%</td>
</tr>
<tr>
<td>Unable to Locate Complainant</td>
<td>51</td>
<td>7.92%</td>
</tr>
<tr>
<td>Complainant Failed to Cooperate</td>
<td>284</td>
<td>44.10%</td>
</tr>
<tr>
<td>Unable to Identify Respondent</td>
<td>1</td>
<td>0.16%</td>
</tr>
<tr>
<td>Complaint Withdrawn by Complainant Without Resolution</td>
<td>213</td>
<td>33.07%</td>
</tr>
<tr>
<td>Unable to Locate Respondent</td>
<td>3</td>
<td>0.47%</td>
</tr>
<tr>
<td>Closed Because Trial Had Begun</td>
<td>8</td>
<td>1.24%</td>
</tr>
<tr>
<td>Untimely Filed</td>
<td>6</td>
<td>0.93%</td>
</tr>
<tr>
<td>Dismissed for Lack of Jurisdiction</td>
<td>78</td>
<td>12.11%</td>
</tr>
</tbody>
</table>


In the left column, this table displays the reasons for administrative closures of discrimination complaints handled by the National Fair Housing Alliance. In the middle column, this table display the quantity of closures that occurred and, in the right column, it displays the percentage of closures that occurred for the reason listed as a percentage of all administrative closures.

In the instance of the National Fair Housing Alliance, all administrative closures can be assumed to occur at no cost to the respondent. For this reason, administrative closures are assumed to have an expected cost of $0.
No Cause

About 52% of National Fair Housing Alliance complaints are closed as the result of a no cause finding. While legal counsel could be retained as soon as a respondent becomes aware of the fact a complaint has been filed against them, a no cause ruling is given at the beginning of the FHAP investigation process and is likely to result in little to no cost to the alleged discriminator. For this reason, complaints closed due to no cause are assumed to have an expected cost of $0.

Conciliation/Settlement

Approximately 21% of FHAP complaints are resolved by a Conciliation or Settlement, which makes this category the largest reason for closure besides No Cause (National Fair Housing Alliance). This settlement can be larger than the maximum allowed under the state judicial process. For example, in Ohio, the maximum amount allowed in the SLJ process is $5,000. It is not uncommon to settle for greater than this amount, especially if damages can be proven by fair housing representatives (Leah Mullen, personal communication, October 30, 2015). This is because, at any point in the process, either party can elect to go to civil court with their case, where there is no limit on damages. However, according to work done by Silverman and Patterson, the average FHAP Conciliation/Settlement from 2005 to 2008 was $1599 (Silverman and Patterson).

Withdrawn after Resolution

Approximately 14% of FHAP complaints are withdrawn after a resolution has been reached (National Fair Housing Alliance). This could be as simple as a concession or compromise between the resident and the housing provider on accommodations for the resident. It is possible
that costs could be incurred here. However, it is the understanding of the author that complaints that are withdrawn after resolution typically occur at low cost to the alleged discriminator.

**FHAP Judicial Consent Order**

A judicial consent order is a mutual agreement between parties that is reached during the HUD administrative law judge hearing. The expected cost could not be calculated for this outcome, due to the inaccessibility of FHAP Judicial Consent Order data. While, for the scope of this research, this cost is considered to be $0, this is certainly not true and would be a prime point for further research.

**FHAP Judicial Dismissal**

A judicial dismissal occurs after both parties agree to have their case heard before an administrative law judge and that judge returns dismisses the case against the alleged discriminator.

**Litigation - Discrimination Found**

This outcome is the result of civil litigation initiated by either party. For the purpose of this report, this cost is assumed to be $0. This is due to the difficulty in creating a sample of litigation outcomes which could be accurately used to measure expected cost. This effort is especially made difficult due to the fact that many civil cases are brought by many parties as the result of systematic discrimination. Therefore, it is quite laborious to determine what the expected cost of any given incident of discrimination is. This legal analysis is outside the scale of this project and is the cause of the incorrect $0 assumption. This would be an excellent starting point for further research.
Litigation - No Discrimination Found

If civil litigation ends and there is no discrimination found, then there are no further costs to the discriminator. It should be noted that litigation results in significant legal fees and this should likely be included in this analysis. However, as previously mentioned, this report does not include legal fees within its scope. Therefore, the expected cost of this outcome is assume to be $0.

Administrative Hearing Ended – Discrimination Found

For this analysis, the expected cost was calculated using HUD Administrative Law Judge data from 1996 to March 2015 (Schwemm). In order to tailor this data to the relevancy of this report, an average cost was created using cases in the rental market with disability as the reason for discrimination. This average was calculated at approximately $29,000, which makes the expected cost for this end result approximately $55.

Administrative Hearing Ended – No Discrimination Found

If an administrative hearing is held and results in a finding of “No Discrimination,” then there are no further costs incurred by the alleged discriminator.

Filed a Complaint with a Government Agency

Data for this option is available through the annual report of the National Fair Housing Alliance, which gives a series of outcomes and their respective probabilities for once a complaint is filed. This data is slightly more accurate than “Sought Help from A Fair Housing Organization,” because all the respondents who selected this option indicated that they did, in fact, file a report.
Table 4. HUD Outcomes and Expected Costs.

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>Likelihood of Outcomes</th>
<th>Expected Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Closure</td>
<td>17.96%</td>
<td>$0</td>
</tr>
<tr>
<td>No cause</td>
<td>36.30%</td>
<td>$0</td>
</tr>
<tr>
<td>Conciliation/Settlement</td>
<td>33.16%</td>
<td>$530</td>
</tr>
<tr>
<td>Withdrawn after Resolution</td>
<td>10.55%</td>
<td>$0</td>
</tr>
<tr>
<td>ALJ Consent Order Entered After Issuance of Charge</td>
<td>0.46%</td>
<td>$0</td>
</tr>
<tr>
<td>Election to Go to Court</td>
<td>1.05%</td>
<td>$0*</td>
</tr>
<tr>
<td>DOJ Dismissal</td>
<td>0.33%</td>
<td>$0</td>
</tr>
<tr>
<td>DOJ Settlement</td>
<td>0.20%</td>
<td>$287</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$817</strong></td>
</tr>
</tbody>
</table>


The left column of the table displays the possible outcomes given by the NFHA report. The middle column displays the probabilities of those outcomes given by the same report. The right column displays the expected costs calculated by this report rounded to the nearest dollar. However, an “*” indicates that a significant expected cost exists, but it was not calculated in the scope of this research.

**Administrative Closure**

Administrative closure can occur at any point in the process. However, these closures typically occur at the beginning of the process and occur at low cost to the alleged discriminator, depending on when legal counsel is retained. The table below lists causes of administrative closures by the Department of Housing and Urban Development.
Table 5. Reasons for the Administrative Closure of HUD Complaints

<table>
<thead>
<tr>
<th>Cause of Admin. Closure</th>
<th>Quantity of Closures by Reason</th>
<th>% of Administrative Closures Occurring for this reason.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Untimely Filed</td>
<td>6</td>
<td>2.19%</td>
</tr>
<tr>
<td>Dismissed for Lack of Jurisdiction</td>
<td>38</td>
<td>13.87%</td>
</tr>
<tr>
<td>Unable to Locate Complainant</td>
<td>14</td>
<td>5.11%</td>
</tr>
<tr>
<td>Complainant Failed to Cooperate</td>
<td>108</td>
<td>39.42%</td>
</tr>
<tr>
<td>Unable to Identify Respondent</td>
<td>5</td>
<td>1.82%</td>
</tr>
<tr>
<td>Complaint Withdrawn by Complainant Without Resolution</td>
<td>102</td>
<td>37.23%</td>
</tr>
<tr>
<td>Unable to Locate Respondent</td>
<td>1</td>
<td>0.36%</td>
</tr>
<tr>
<td>Closed Because Trial Had Begun</td>
<td>--</td>
<td>0%</td>
</tr>
<tr>
<td>Total Administrative Closures</td>
<td>274</td>
<td>----</td>
</tr>
</tbody>
</table>


In the left column, this table displays the reasons for administrative closures of discrimination complaints handled by HUD. In the middle column, this table display the quantity of closures that occurred and, in the right column, it displays the percentage of closures that occurred for the reason listed as a percentage of all administrative closures.

All administrative closures can be assumed to occur at no cost to the respondent.

No Cause

About 36% of HUD complaints are closed as the result of a no cause finding. While legal counsel could be retained as soon as a respondent becomes aware of the fact a complaint has been filed against them and this could incur cost, a no cause ruling is given at the beginning of
the HUD process and is likely to result in little to no cost to the alleged discriminator. For this reason, complaints closed due to no cause are assumed to have an expected cost of $0.

**Conciliation/Settlement**

Approximately 33% of HUD complaints are resolved by a Conciliation or Settlement, which makes this category the largest reason for closure besides No Cause (National Fair Housing Alliance). Unfortunately, no data could be located for settlements for HUD complaints. For the purpose of this report, the similarities of HUD and FHIP outcomes are similar enough that the expected cost of a HUD settlement will be assumed to be equivalent of an FHIP settlement. However, it is like that this is not completely accurate and this should be reevaluated in further research. The average settlement/conciliation is assumed to be $1599.

**ALJ Consent Order Entered After Issuance of Charge**

A judicial consent order is a mutual agreement between parties that is reach during the administrative law judge hearing. The expected cost could not be calculated for this outcome, due to the inaccessibility of Judicial Consent Order data. While, for the scope of this research, this cost is considered to be $0, this is certainly not true and would be a good starting point for further research.

**Election to Go to Court**

While no data is available regarding the results of court cases, the process for HUD is very similar to that followed by FHAP members- so the likelihood of winning a court case can be approximated by looking at data from FHAP cases that elected to go to court. 75% of cases
that elected to go to court after/during the FHAP process were won by the complainant, meaning, that the alleged discriminator has a 75% chance of losing their case (National Fair Housing Alliance).

For the purpose of this report, this cost is assumed to be $0. This is due to the difficulty in creating a sample of litigation outcomes which could be accurately used to measure expected cost. This effort is made especially complex due to the fact that many civil cases are brought by many parties as the result of systematic discrimination. Therefore, it is quite laborious to determine what the expected cost of any given incident of discrimination is. This legal analysis is outside the scale of this project and is the cause of the incorrect $0 assumption. This would be an excellent starting point for further research.

**DOJ Dismissal**

In effect, a dismissal is a favorable finding for the alleged discriminator. This means that there are no further costs to the respondent. The expected cost for this outcome is assumed to be $0.

**Talked to a Lawyer or filed a lawsuit**

While this option, in theory, has a high capacity for damages, the survey does not differentiate from speaking to a lawyer or filing a suit, or any of the possible options in between. With the given information, there is no way to calculate an expected cost for this outcome. This option was selected by 1% of respondents and its expected cost is assumed to be $0.
**Something Else**

With the information provided in this survey, there is simply no way to calculate this. This is unfortunate, because this could include many costly responses such as approaching media representatives. Similarly, it also likely contains many things with no cost to discriminators such as crying and eating ice cream.

This option was selected by 5% of respondents and its expected cost is assumed to be $0.

**Not Sure/No Answer**

Obviously, this does not provide the data necessary to compute an expected cost.

This option was selected by 1% of respondents and its expected cost is assumed to be $0.
Analysis of Expected Cost, Policy Objectives, and Ableism

Expected cost is an important figure, because it demonstrates the costs of committing a crime. This is independent of the number of crimes being committed. While the quantity of crimes being committed alerts society and policy makers that there may be a problem, the expected cost serves to inform them as to how to address that problem. Calculating an expected cost involves a detailed look at many, many factors that contribute to the cost of the crime. For most crimes, this involves factors such as arrest rates, conviction rates, and average penalties for the crime.

In the same way, the estimated four hundred thousand housing discrimination crimes being committed annually should alert us to a problem. We should then look to metrics such as expected cost to find out how it should be best addressed. By looking at the embarrassing low expected cost, currently resting at $20, one can tell that this is almost undoubtedly an issue of enforcement. The question of why enforcement is an issue points to a depressing fact.

The severely low expected cost of committing housing discrimination is indicative of the severely ableist culture in which we live. This is for two reasons. Firstly, simply because the expected cost is so low. Over 50% of reported cases of discrimination occur against people with disabilities, which makes this institutional lack of enforcement especially indicative of ableist tendencies (National Fair Housing Alliance).

Secondly, the fact that people are willing to incur this expected cost in order to discriminate. While this report did not attempt to calculate a benefit associated with discrimination, it has demonstrated that such a benefit does exist, because people would not incur
the cost if the benefit or at least perceived benefit was not greater than the cost.

**Expected Cost: Why so low?**

The reasoning behind the expected cost being so is generally brought back to one central idea: Lack of funding and consistent implementation. Various solutions are proposed by many organizations. However, they all return to the idea that there is a fundamental lack of funding for efforts to further fair housing as well as support from other governmental agencies. This will be addressed in detail in the section on Policy Objectives.

**Expected Cost: An Expressed Willingness to Pay**

While the benefits of discrimination are intangible, the costs have been demonstrated. So, although one does not know what sort of benefits are being derived from committing housing discrimination, it is clear that people express over four hundred thousand times a year that they are willing to pay the costs. This causes one to wonder what the benefits of housing discrimination are. Typically, benefits are considered as two distinct categories: Psychic benefits and monetary benefits. This distinction is succinctly described by Shepherd and Rubin,

Some [benefits] are monetary, such as the gains obtained from theft, robbery, insurance fraud, killing a rival drug dealer, etc. Others are psychic, such as the thrill of danger, peer approval, retribution, sense of accomplishment, or “pure” satisfaction of wants.

When considering the possible monetary benefits to be derived from housing discrimination, not many come to mind, due to the fact that housing discrimination removes the opportunity of renting out one’s property and, therefore, might actually come at a cost to the housing provider.
Perhaps, housing providers perceive benefits in discriminating, because they believe the people with disabilities are more likely to damage their property. Therefore, they reduce the risk to their property by discriminating. However, no empirical data could be found to reinforce this or any other claim for monetary benefits.

If there are no monetary benefits to discriminating, then there must be psychic benefits. While it may seem obvious that ableist influences are at work when people decide to discriminate against people with disabilities, it is especially obvious now. The ramifications of people receiving psychic benefits for discrimination are deeply ableist in nature.

**Policy Objectives: An Overview**

While this research has primarily focused on interpersonal discrimination, these policy objectives will have a significant focus on systematic discrimination and ways to systematically secure funding for fair housing objectives. There are many differing opinion on policies objectives that will adequately further the cause of fair housing. The 2015 National Fair Housing Alliance Annual Report makes a few relatively narrow recommendations, which boil down to

- Align Goals of Programs with the original goals of the Fair Housing Act
- Fully Funding HUD’s Office of Fair Housing and Equal Opportunity
- Increase Credit Access

The general idea of the first recommendation is primarily to address the lack of affirmative furthering requirement in HUD fair housing enforcement. The original language of the Fair Housing Act called many times for “affirmative furthering” of fair housing. However, most
housing advocates feel that this has been inadequately addresses. The NFHA calls for HUD to adequately address this issue.

The second recommendation calls for the funding of the department of HUD which deals with fair housing. The funding that was already said to be needed by them. By people who wish to reform the system, this is simply regarded as the symptom of a broader issue. A congressional report already said this money should be allocated to this department and the NFHA is simply trying to get the money where it is needed.

The call for increased credit accesses includes component recommendations including the evaluation of Fannie Mae and Fannie Mac market penetration levels in underserved communities, the call for lending counseling for first time lenders, as well as creativity in lending programs for lenders of color. The goal to increase credit is to effectively increase the availability of investment spending for underserved communities.

To provide a view of the sweeping reform that is advocated for by some advocates. A study titled, *The Four Horsemen of the Fair Housing Apocalypse* makes its own more dramatic recommendations regarding fair housing policy. Its notable title is acknowledged within the paper, “We adopt this rhetoric in a deliberate effort to punctuate the degree to which fair housing policy has entered a state of crisis in the contemporary period.”

Its recommendations are as follows,

- Establishing an independent fair housing agency.
- The Incorporation of Fair Housing Goals with all Federal Agency Activities
- Increased activism, litigation, and lobbying by community based advocacy organizations
Its first recommendation addresses issues with the Department of Housing and Urban Development being in charge of fair housing operations. This creates a variety of issues including conflicts of interest with the many relationships with builders, lenders, non-profits, and others who may be in violation of the law. Additionally, an independent agency would make funding less susceptible to the ever changing will of the federal government. This agency would be structured just like any other federal agency, such as the National Labor Relations Board or the Federal Trade Commission.

The second recommendation from Silverman and Patterson would, among other things, require inclusionary zoning policy. Such policies have been adopted by cities such as Denver and Boston and help to develop fair housing. Most zoning requirements require 10-15% set aside for the construction and/or furthering of affordable housing (Silverman and Patterson P15). While there are certainly naysayers to inclusive zoning, industry members including the American Planning Association join fair housing advocates in support of inclusive zoning practices (Brunick). The last major component of this recommendation is the amendment of the Fair Housing Act to include income.

Silverman and Patterson’s third recommendation, a call for greater advocacy, acknowledge the role that local fair housing agencies will play in bringing these reforms to bear. Interestingly, it also acknowledges the role the punitive damages play in fueling the fair housing machine. Silverman and Patterson recommend maintaining and increasing lobbying efforts for all groups concerned with fair housing.

**Abelism: Interpersonal Discrimination**

A report prepared for HUD by The Urban Institute titled *AGAINST PERSONS WITH DISABILITIES Barriers at Every Step* detailed the discrimination faced by deaf people using
TTY systems to communicate. According to paired tests performed by researchers, TTY users are FAR less likely to gain access to information from housing providers. Some housing providers even hung up on TTY calls without making an effort to speak to the caller. Examples of responses given by the report include

“I don’t want to accept this call. That person can e-mail me.”

“If she has any other questions, I will give her the fax number.”

“You need to come to see the place and we’ll talk after that...Get all your information together and come and see the apartment.”

These responses reflect an unwillingness or inability to work with deaf or hard of hearing individuals. It is possible that discrimination is occurring or simply that they are seriously perplexed by TTY machines. However, many housing providers who answered the phone also questioned the veracity of the call with responses such as

“How did you get my number anyway?”

“I don’t understand why they are contacting me.”

“Are you being serious? Are you looking for an apartment? I don’t have time for this. I will notify the phone company.”
The response of housing providers to question the veracity of calls has a similar set of possible explanations. It is possible that they were truly unfamiliar with TTY systems. However, the fears of discrimination are best summarized by one provider who answered “I do not speak English,” but provided complete information (in English) to the paired hearing tester.

Following this research, a report was compiled as a practitioner’s guide to encourage testing of this type of discrimination (Carla Herbig, Et. Al).

According to the HUD report, “How much do we know?” approximately 25% of people believe that the landlord should have the right to oppose the construction of a wheelchair ramp and 30% believe the landlord should be able to disapprove of a rental to a mentally disabled tenant (U.S. Department of Housing and Urban Development P15). While this public opinion may not matter in the scope of the law, it is possible that this may affects rights claims made by people with disabilities as described by Engle and Munger. It is possible that issues such as the ones described could be addressed through raising awareness of TTY machines and the law regarding housing discrimination. It is possible that this would operate through the recursive theory of rights and set the United States on a positive path. Some efforts have been made, such as a 2006 HUD memorandum that clarified its stance on discriminatory online advertising (Department of Housing and Urban Development). However, it would seem there quite a distance to go before fair housing is secured.

**Future Research**

Further research could be done by addressing issues in methodology as well as by calculating expected costs for those items that were outside of the scope or scale of this research.
The lack of calculations for attorney fees is a serious hole in this research. Additionally, if the scope were to be expanded to look into more institutional forms of discrimination, it would be feasible to perform case studies on the cost of bad publicity and brand damage.

**Conclusion**

Fair housing should be regarded as a critical issue for disability rights advocates and scholars in America. Over 50% of all complaints filed are on the basis of disability and, by observing the lack of monetary benefits in housing discrimination, scholars can be granted a profound insight into the state of ableism in the United States today. Furthermore, U.S. policy makers should begin to embrace severe reforms to the end of securing fair housing.
Works Cited

Carla Herbig, Diane Levy, Julie Fenderson, Turner, Margery Austin.

"AGAINST PERSONS WITH DISABILITIES Testing Guidance for Practitioners."
(n.d.): n. pag. Department of Housing and Urban Development. The Urban Institute

Department of Housing and Urban Development. Enforcement and Programs. Memorandum for

Engel, David M., and Frank Munger. Rights of Inclusion: Law and Identity in the Life Stories of

Horowitz, John K. and McConnell, Kenneth E., Willingness to Accept, Willingness to Pay and
the Income Effect (March 29, 2001). U Maryland Agricultural & Resource Econ


Schwemm, Robert G. Housing Discrimination: Law and Litigation. St. Paul, MN: West Group,


Turner, Margery Austin, Carla Herbig, Deborah Kaye, Julie Fenderson, and Diane Levy.

