

HOUSING DISCRIMINATION COMPLAINT

1. Complainant:

Open Communities Alliance
75 Charter Oak Avenue, Suite 1-210
Hartford, CT 06106

2. Complainant Representative:

Diane L Houk, Esq.
Emery Celli Brinckerhoff Abady Ward & Maazel LLP
600 Fifth Ave, 10th Floor
New York, NY 10020
212-763-5000
dhoulk@ecbawm.com

3. Other Aggrieved Parties:

None.

4. The following is alleged to have occurred or is about to occur:

- **Section 3604(a)** – Otherwise make unavailable or deny dwellings
- **24 C.F.R. Section 100.70(a)** – Restricting housing choices in connection with seeking or renting a dwelling so as to perpetuate or tend to perpetuate segregated housing patterns, or to discourage or obstruct choice in a community

5. The alleged violation occurred because of:

- Race
- National Origin

6. Address and location of the property in question:

N/A

7. Respondents:

1. State of Connecticut
210 Capitol Avenue
Hartford, CT 06106

2. Connecticut Department of Housing
505 Hudson Street
Hartford, CT 06106
3. Ned Lamont, in his official capacity as Governor of the State of Connecticut
210 Capitol Avenue
Hartford, CT 06106

8. The following is a brief and concise statement of the facts regarding the alleged violation:

Introduction

1. Since 1949, the State of Connecticut has restricted local public housing agency (“PHA”) areas of operation to the municipality in which the PHA is created, unless the neighboring municipality agrees by resolution to permit the PHA to extend its jurisdiction beyond its own municipal boundaries. Section 8-39(a), Conn. Gen. Stat. (“the Restricted PHA Jurisdiction Law” or “the Law”). For those PHAs in municipalities with a substantial Black and Latino population and whose program participants are predominantly people of color, this mandatory requirement bars those PHAs from administering housing programs throughout a County or metropolitan area that may provide greater access to less segregated housing opportunities. The Law requires these PHAs to ask neighboring predominantly white communities for permission before they can administer their clients’ vouchers or project base housing vouchers even if within the same county or in an adjacent municipality.
2. In compliance with the Law, PHAs across the State of Connecticut have limited their areas of operation to the municipality in which they are located. These state-mandated restricted areas of jurisdiction have reinforced patterns of residential segregation based on race and national origin across the state, as described in greater detail below, in violation of the Fair Housing Act.
3. Respondents are the State of Connecticut which enacted the Law, the Governor of Connecticut, in his official capacity as chief officer of the State, and the State Department of Housing, the state agency that has the continued statutory authority and responsibility for enforcement of the Law.

Open Communities Alliance

4. Open Communities Alliance (“OCA”) is a non-profit organization whose mission is to promote equitable access to housing across Connecticut by working with an urban-suburban interracial coalition to promote access to opportunity for all people through education, advocacy, research, and

partnerships. OCA focuses on ensuring that low-income families of color have access to the wealth of opportunities available in Connecticut through a balanced approach to creating affordable housing opportunities. OCA carries out its mission by researching and sharing data; conducting outreach and community organizing; and engaging in legal advocacy.

5. In response to the state Restricted PHA Jurisdiction Law, OCA has diverted resources away from its other activities to identify and try to remove the segregative impact of the Law. For example, OCA researched and drafted a report entitled *A Case for Broadening Housing Authority Jurisdiction in Connecticut* in 2018 (updated in 2019). OCA has prepared and provided public testimony regarding the Law in March 2018 and February 2019 before the Housing Committee of the Connecticut General Assembly (“Legislature”) and in December 2017 to the Legislature’s Fair Housing Working Group. OCA also has engaged in public policy advocacy activities in 2020 when the Legislature’s Housing Committee continued to consider amendments to the Law expanding PHA jurisdiction and has posted information about the Law and proposed amendments on its website continuing through to the present. OCA has written fact sheets, developed maps, and created a PowerPoint presentation for public presentations that have been given by OCA starting in 2017 and continuing through the present.

Public Housing Agency Jurisdiction Definition

6. The United States Department of Housing and Urban Development (“HUD”) defines a public housing agency (“PHA”) as “any state, county, municipality, or other governmental entity or public body which is authorized to administer [HUD] program[s].” 24 C.F.R. § 982.4 (1). Pursuant to this authority, PHAs may administer HUD housing programs such as the Housing Choice Voucher (“HCV” or “Section 8”) program within a wide range of geographical areas such as towns, cities, counties and even state-wide.
7. For operation of an HCV program by a PHA, HUD regulations define a PHA’s jurisdiction as “the area in which the PHA has authority under state and local law to administer the [HCV] program.” 24 C.F.R. § 982.4(b). The same jurisdiction definition applies to project-based voucher programs. 24 C.F.R. § 983.2 and 983.3. These federal definitions give state and local governments discretion to define a PHA’s jurisdiction or area of operation within a state subject to compliance with the Fair Housing Act. And they enable PHAs to operate within a wide range of types of geographic areas.
8. However, in Connecticut, state law imposes extreme limitations on the geographical area in which a PHA may operate. These limitations are not required by HUD and they violate the Fair Housing Act. Specifically, Section 8-39(a), Conn. Gen. Stat., defines a PHA’s “area of operation” as “the

municipality in which a housing authority is created.” According to Connecticut state law, the only way that a PHA may administer a housing program outside its municipal boundaries is with the consent of the governing body of a neighboring municipality permitting the PHA to extend its jurisdiction into the neighboring municipality. Section 8-39(a), Conn. Gen. Stat.

9. For those PHAs whose program participants are predominantly Black and Latino households, this mandatory requirement prevents the PHAs from administering Section 8 vouchers in predominantly white neighboring areas unless the PHA asks the neighboring white community for, and is granted, permission by the governing body of the local municipality, not by the PHA. The notion that, except in very limited circumstances, PHAs cannot make affordable housing opportunities, either tenant- or project-based, available to Black and Latino families unless white municipalities consent to their presence is a fundamental affront to the very principles and goals of the Fair Housing Act.

Impact of PHA Jurisdiction Limitation in Connecticut

10. In compliance with the Law, PHAs across the State of Connecticut have limited their areas of operation to the municipality in which they are located. For example, the HCV Administrative Plan for the City of New Haven Housing Authority states that the program is operated only within the jurisdiction of the City of New Haven. Part 1-1.B Organization and Structure of the PHA. Consistent with the Law, the Bridgeport Housing Authority d/b/a Park City Communities limits its housing programs to serving families in Bridgeport. 2016 PHA 5-Year and Annual Plan, 5.1 Mission. Similarly, the Hartford PHA defines its jurisdiction as the area where it has authority under state and local law, i.e the City of Hartford, to administer its housing programs. 2020 Administrative Plan, Glossary, p. 14.
11. Each of these three PHAs are located within municipalities with a substantially larger Black and Latino population than almost all of the other municipalities located within the same County as the PHA. For example, the City of Hartford has a 39% Black population and 43% Latino population (of any race) compared to the County which is only 13% Black and 15% Latino (of any race). The same pattern exists for the City of New Haven and New Haven County, and the Town of Bridgeport and Fairfield County. See Attached Demographic Chart.
12. Most of the State’s housing vouchers (68%) are administered by PHAs located within municipalities with a high percentage of non-white low-income residents and concentrated poverty. And most of the State’s HCV program participants are Black or Latino households - as of 2017, more than 75% of Section 8 voucher holders in Connecticut were Black or Latino households. Although the

State of Connecticut operates its own HCV program throughout the state, only 20% of voucher holders in the State participate in the State-wide program.

13. The Law precludes PHAs from administering vouchers in physically adjacent higher opportunity communities with good jobs, quality education, lower crime rates, and access to health care. Consequently, the Law prevents PHAs from making housing available to Black and Latino program participants outside its own municipality, even though in the same County or metropolitan area.
14. Even though not required by HUD to do so, most PHAs in Connecticut require HCV program participants to reside in the PHA's jurisdiction for their first year in the program where the PHA is allowed by state law to administer the voucher. Because of the Restricted PHA Jurisdiction Law, PHAs may not assist voucher holders or administer their vouchers in any area outside of the PHA's municipality. Thus, if a PHA allows HCV program participants to use their voucher outside the PHA's jurisdiction, even if in a physically adjacent community, the PHA loses a portion of their administrative fee from HUD. By restricting the program participants to using their vouchers in the PHA's jurisdiction during the first year, the PHA is able to assist the family with its search for housing, enter into a Housing Assistance Payment contract with the landlord, and administer the voucher. HUD provides an administrative fee to the PHA for this work. However, if after the first year (or if a PHA does not restrict where a program participant can live in the first year), a voucher holder chooses to leave the municipality where they received the voucher, the PHA loses either 20% or 80% of its administrative fees – at the discretion of the *receiving PHA*. Since the Law prohibits PHAs from providing HCV program services, for which it would otherwise receive an administrative fee from HUD, outside its municipality, PHAs are unlikely to encourage program participants to explore housing options outside its jurisdictional borders after the initial year.
15. In addition to tenant-based HCVs, a PHA may use Project-Based Vouchers (PBVs) to attach Section 8 rental subsidies to certain physical units rather than to individual households. HUD currently permits PHAs to use up to 20% of their HCV program funding for PBVs and, in general, may use those funds for up to 25% of rental units located in a particular housing developments. 42 U.S.C. Sec. 1437f (o)(13); 24 C.F.R. Part 983. Like HCVs, a PHA may only issue project-based vouchers within its geographic jurisdiction. But due to Connecticut state law, a PHA is limited to using PBVs to subsidize rental units that are located within its municipal borders. If the PHA's jurisdiction is limited to a municipality where affordable rental housing opportunities are located primarily in non-white areas and the PHA's HCV program participants are predominantly Black and Latino, then the Restricted PHA Jurisdiction Law perpetuates residential segregation and restricts housing choices based on race and national origin for project-based HCV program participants.

16. The Restricted PHA Jurisdiction Law also limits the geographic area in which PHAs may engage in affordable housing development activities. Thus, PHAs, on their own, may not engage directly in affordable housing development work outside of their municipal boundaries without first obtaining permission from the neighboring municipality, a restriction that Connecticut state law does not impose on private affordable housing developers.

Maintaining Residential Segregation in Connecticut

17. The Restricted PHA Jurisdiction Law, as described above, maintains and perpetuates segregated housing patterns in Connecticut. The “option” of obtaining consent from a neighboring municipality to expand a PHA’s program beyond its own municipality is an illusion that is actually used to create partnerships between PHAs that further residential segregation.
18. Currently there are only two partnerships among Connecticut PHAs to operate housing programs across municipal boundaries. These partnerships are between predominantly white communities and only serve to further racial segregation in the local towns and the broader metropolitan areas where the partnerships are located. One such partnership operates an HCV program, administered by the Ansonia Housing Authority, for three predominantly white municipalities - Ansonia (78% White), Shelton (94% White), and Seymour (95% White). The other partnership, administered by the Mansfield Housing Authority, operates an HCV program in five predominantly white municipalities – Ashford (94% White), Chaplin (97% White), Coventry (94% White), Mansfield (84% White), and Willington (94% White). See Attached Demographic Chart.
19. Historically in Connecticut, under the Restricted PHA Jurisdiction Law, white communities have partnered with other white communities to operate HCV programs. For example, up through 2013, the Winsted Housing Authority in Winchester, CT operated an HCV program in partnership with 16 other predominantly white Litchfield County towns. The program was discontinued by settlement agreement only after a lawsuit was filed alleging that the partnership’s waiting list was only open to residents of the 17 partner towns who were predominantly white. *Carter et al. v. Housing Authority of the Town of Winchester*, Case No. 2012-cv-1108 (D. Conn.).
20. No partnerships exist between PHAs located in predominantly non-white areas and PHAs located in predominantly white areas in Connecticut. Thus, all local Connecticut PHAs are operating HCV tenant and project-based programs, as well as developing affordable housing opportunities, in a manner that perpetuates racial segregation as a direct consequence of the state Restricted PHA Jurisdiction Law.

Conclusion

21. The Respondents' jurisdictional restrictions have serious adverse implications for the ability of housing authorities to provide their clients with true choice in housing location, especially the option to live in integrated and higher opportunity areas. This, in turn, makes it very difficult for housing authorities, especially those in lower opportunity areas, to affirmatively further fair housing, as required by the Fair Housing Act and the U.S. Department of Housing and Urban Development (HUD).

22. OCA believes that Section 8-39(a), Conn. Gen. Stat. denies housing opportunities to PHA clients; restricts the ability of PHAs to provide housing in a manner that is not racially segregated; and perpetuates residential segregation in Connecticut on the basis of race and national origin in violation of the Fair Housing Act, Section 3604(a)

9. The most recent date on which the alleged discrimination occurred:

Continuing violation.

10. Types of federal funding identified:

The State of Connecticut receives federal financial assistance from HUD housing programs, including Community Development Block Grants, HOME funds, the Housing Choice Voucher (Section 8) Program, and other housing related program funding.

11. The acts alleged in this complaint, if proven, may constitute a violation of the following laws:

Fair Housing Act, 42 U.S.C. Sec. 3604(a)

I declare under penalty of perjury that I have read this complaint (including any attachments) and that it is true and correct.



Erin Boggs, Executive Director
Open Communities Alliance

August 3, 2020

Date

County and Town Demographics - 2010 U.S. Census

County	Town	% White	% Black	% Other	% Hispanic Any Race
Hartford		72%	13%	15%	15%
	Hartford	30%	39%	31%	43%
New Haven		75%	13%	12%	15%
	New Haven	43%	35%	22%	27%
	Ansonia	78%	12%	10%	17%
	Seymour	95%	2%	3%	3%
Fairfield		75%	11%	14%	17%
	Bridgeport	40%	35%	25%	38%
	Shelton	94%	2%	4%	4%
Tolland		90%	3%	7%	4%
	Mansfield	84%	5%	11%	4%
	Chaplin	97%	1%	2%	2%
	Willington	94%	1%	5%	2%
	Coventry	94%	1%	5%	3%
Windham		90%	2%	8%	10%
	Ashford	94%	1%	5%	4%