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**AN ANALYSIS OF IMPEDIMENTS TO
FAIR HOUSING CHOICE**

GUAM, 2011

PREPARED FOR

**GUAM HOUSING AND URBAN RENEWAL AUTHORITY
117 BIEN VENIDA AVENUE
SINAJANA, GUAM**

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Beyond Information. Intelligence.

July 7, 2011

Mr. Marcel Camacho
Executive Director
Guam Housing and Urban Renewal Authority
117 Bien Venida Avenue
Sinajana, Guam 96910

Dear Mr. Camacho:

We are pleased to present this report on the Guam Analysis of Impediments to Fair Housing Choice 2011. The study is an exhaustive one. It covers all of the required areas of investigation and provides a summary of fair housing issues as they relate to policy development for Guam.

This report also differs from past AI studies conducted for Guam. Within our comprehensive approach we have concentrated on the fundamentals of Fair Housing infrastructure on Guam. We hope our comments are useful to GHURA.

In addition to documenting impediments to Fair Housing on Guam, this report also summarizes the GHURA's plans for improving the fair housing outlook on Guam and for monitoring progress in the next five years.

We look forward to working with you in the future.

Sincerely,

James E. Dannemiller
President

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I. INTRODUCTION

BACKGROUND

The Government of Guam shares with the U.S. Department of Housing and Urban Development (HUD) its longstanding commitment to support the principles of Fair Housing Law. The Guam Housing and Urban Renewal Authority (GHURA) was established to carry out the Guam Government's housing programs and has honored fair housing principles since its inception. Because GHURA receives federal funding from Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), and Emergency Shelter Grant (ESG) programs the Authority works actively to furthering fair housing throughout Guam.

As part of its Consolidated Plan (ConPlan), GHURA periodically conducts an Analysis of Impediments to Fair Housing (AI) to identify impediments and design activities to overcome them. In years following the ConPlan, GHURA monitors and evaluates activities undertaken to overcome the identified impediments in the AI.

The Analysis of Impediments (AI) identifies existing barriers to fair housing and outlines a process for addressing those issues. It consists of five basic components:

1. An overview of the demographic and housing market conditions in the area with particular attention devoted to the relevance of these topics to housing choice;
2. A profile of fair housing in the area, including current laws, policies and practices, as well as any fair housing complaints filed;
3. An assessment of public and private fair housing programs and activities;
4. An overview of any market and public policy impediments to fair housing, and
5. A summary of actions, planned or recently undertaken, designed to eliminate identified impediments.

The HUD Fair Housing Planning Guide defines impediments to fair housing as¹:

Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices, and

Any actions, omissions, or decision which have the effect of restricting housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin.

HUD tells us those impediments may be found in either public or private sector housing markets, throughout the geographic area under the HUD agency's jurisdiction.

¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide Volume 1*. Prepared by: Fair Housing Information Clearinghouse.

The most recent AI for Guam was conducted in 2005² and has been referenced in GHURA's Consolidated Plans, Consolidated Annual Performance Evaluation Reports (CAPERs), and other documents since that time³. This report presents the results of the Guam Analysis of Impediments to Fair Housing Choice, 2011.

METHODS

The data collection and analysis procedures conducted for this study are described below.

Stakeholder Interviews and Roundtable Discussion

We conducted interviews with 24 people who have a stake in fair housing issues on Guam, including housing agents, advocates for protected classes, bankers and property managers, attorneys and insurance agents, and public officials with responsibilities related to housing. After the interviews, we called them all back to discuss the issues and help identify the key impediments to fair housing on Guam today.

Data Profiles

We collected and analyzed data on the environment for fair housing on Guam. That included population, economic, and housing market trends that describe the background against which fair housing activities are played out on Guam.

Fair Housing Laws

We compiled and assessed the laws, policies, procedures, and regulations shaping fair housing policy and practice in the Territory of Guam. We also completed a search for fair housing complaints, lawsuits, and testing.

Monitoring Data

We looked at GHURA's current housing programs and procedures and assessed their contribution to fair housing on Guam. We also reviewed six years of program documents to identify trends in fair housing procedures and evidence of success in those efforts, especially training and education efforts.

Public Awareness Survey

SMS and PCR conducted surveys of Guam residents to measure awareness of Fair Housing Laws and resident experience of discrimination on Guam. Survey was based on the User Survey⁴ initially developed by the U.S. HUD's Office of Policy Development and Research (PD&R).

² Captain Company. *Analysis of Impediments to Fair Housing Choice: Island of Guam*, 2005.

³ Documents may be found at www.ghura.org.

⁴ U.S. Department of Housing and Urban Development, Office of Policy Development and Research. *How Much Do We Know?; Public Awareness of the Nation's Fair Housing Laws*, April 2002. See also HUD's website at www.huduser.org.

II. GUAM FAIR HOUSING ACTION PLAN: 2011-2016

Based on the results of the Guam Analysis of Impediments to Fair Housing Choice 2011, and in consultation with GHURA, the consultant team has developed a fair housing Action Plan for the next five years. The action plan is intended to be incorporated as the Fair Housing component of the Guam Consolidated Housing Plan.

The five major elements of the Action Plan are described below. Impediments one through four are part of Guam's effort to improve enforcement of fair housing law, including revising the landlord tenant code, revising Guam Fair Housing Law, developing a fair housing enforcement organization, and refining the complaints system. They are interrelated and intended to support the creation of a comprehensive and coordinated fair housing enforcement system for the Territory.

IMPEDIMENT ONE: DIFFICULTY ENFORCING FAIR HOUSING LAWS DUE TO GUAM'S LANDLORD AND TENANT CODE

Revising Guam's landlord and tenant laws will require the cooperative effort of many different agencies on Guam. GHURA has been involved with an attempt to change fair housing laws in general, and the landlord and tenant law in particular for at least five years. Their experience and their role in promoting fair housing on Guam qualify them as a leader in future movement toward revision. While several past efforts to revise the laws have failed, the current atmosphere may be more favorable for the review and revision of housing laws. The mistakes in procedure have been made and noted so that future reformers can avoid them. The current administration has taken an aggressive stand for real improvement in the lives of Guam's people. The Town Hall Meeting and stakeholder interviews provide evidence of a fair housing network that can be tapped to support revision. Finally, the recent adoption of the International Building Code (IBC) as Guam's building code suggests that the legislative and administrative atmosphere on Guam may be favorable to this effort.

ACTION PLAN: GHURA will take the initiative and play a leadership role in coordinating the effort to bring about a comprehensive revision of Guam's landlord and tenant code by 2016. Only the first step has been formalized at this point in time. In the next seven months, GHURA will produce a work plan and time schedule for completing this task. When that plan is in place, the measures of effectiveness will be attached and the Fair Housing component of the Consolidated Plan will be updated.

OUTCOME MEASURES: By February 28, 2012, GHURA will publish a work plan for developing a revised landlord and tenant code for the Territory of Guam.

- A. The work plan will be incorporated in an updated Guam Consolidated Housing Plan
- B. Outcome measures will be developed for each step in the work plan, incorporated in Guam's fair housing plan, and evaluated with each edition of the Guam Consolidated Performance and Evaluation Report.

IMPEDIMENT TWO: GUAM'S FAIR HOUSING LAW NOT SUBSTANTIALLY EQUIVALENT TO FEDERAL FAIR HOUSING LAW

As with impediment one, this impediment involves the legislative process. The issues involved here, however, may be even more complex. HUD's requirements for a substantially equivalent fair housing law are set forth in HUD documents and the appropriate Federal Register sections⁵. No comprehensive uniform code exists for Fair Housing. Most states have, however, adopted fair housing laws that have resulted in certification by HUD. One example is California Fair Housing Law⁶. Changing Guam's Fair Housing Law will be a challenging task. It will require the same cooperative effort of all three branches of government and the same attention to proper administrative procedures and public involvement.

ACTION PLAN: GHURA will take the initiative and play a leadership role in coordinating the effort to bring about a comprehensive revision of Guam's fair housing law by 2016. Only the first step has been formalized at this point in time. In the next seven months, GHURA will produce a work plan and time schedule for completing this task. When that plan is in place, the measures of effectiveness will be attached and the Fair Housing component of the Consolidated Plan will be updated.

OUTCOME MEASURES: By February 28, 2012, GHURA will publish a work plan for developing a revised fair housing law for the Territory of Guam.

- A. The work plan will be incorporated in an updated Guam Consolidated Housing Plan
- B. Outcome measures will be developed for each step in the work plan, incorporated in Guam's fair housing plan, and evaluated with each edition of the Guam Consolidated Performance and Evaluation Report.

IMPEDIMENT THREE: THE LACK OF A FAIR HOUSING ENFORCEMENT ORGANIZATION ON GUAM

Developing a local Qualified Federal Housing Enforcement Organization (QFHEO) will require substantial effort. The fundamental requirements for the organization are outlined in HUD documents previously cited⁷. There are, however, many ways to accomplish the task. GHURA has noted that Guam's Commission on Community Reintegration, originally established in response to issues surrounding the application of the Olmstead Act on Guam, may provide a model for a QFHEO. The past Chairperson of the Commission might be asked to participate in the effort. Guam might also choose to develop its own Civil Rights Commission. This strategy has many side benefits because Civil Rights Commissions also deal with violations of employment and access to public services as well as fair housing issues. Or a plan may be developed to house the enforcement organization within the Guam Attorney General's office. The first task in dealing with impediment three will be to identify the most effective and efficient strategy for Guam.

⁵ Substantial equivalence certification is authorized by Sections 810(f) and 817 of the Federal Fair Housing Act. The regulations governing substantial equivalence are located at 24 CFR Part 115.

⁶ California Fair Employment and Housing Act - FEHA - Government Code 12900 – 12996.

⁷ See Section VII.

ACTION PLAN: GHURA will take the initiative in identifying the most appropriate format for a local fair housing enforcement organization and encouraging its development and certification. The first step, identifying the most appropriate format for Guam, will take about seven months. GHURA will produce a work plan and time schedule for completing this task. When that plan is in place, the measures of effectiveness will be attached and the Fair Housing component of the Consolidated Plan will be updated.

OUTCOME MEASURES: By February 28, 2012, GHURA will publish a strategy and work plan for developing a qualified fair housing organization for the Territory of Guam.

- A. The work plans will be incorporated in an updated Guam Consolidated Housing Plan.
- B. Outcome measures will be developed for each step in the work plan, incorporated in Guam's fair housing plan, and evaluated with each edition of the Guam Consolidated Performance and Evaluation Report.

IMPEDIMENT FOUR: THE PUBLIC DOES NOT UNDERSTAND THE COMPLAINTS SYSTEM

If the first three impediments were eliminated the problems with the complaints system would be solved. The documentation review showed no other strategies for dealing with the problems of the complaints system. Our stakeholders, while adamant that the complaints system was not working, offered no other suggestions for improving the system.

As we have noted, the solutions to the first three impediments will take time. If it takes five years to realize a substantially equivalent certification, set up a QFHCO, and develop an appropriate complaints system, persons who feel they have experienced housing discrimination on Guam will have to wait five years for redress. There is room for interim solutions and some of the suggestions for improving the current complaints system may be useful in that effort.

The most common request was for more aggressive enforcement in general. Without a QFHCO in Guam, that may not be possible. We also heard the call to move the complaints information responsibility from GHURA to HUD's office on Guam. The intent was to move the task to a more neutral location and to bring the process one step closer to San Francisco. There was also a request to streamline the handling of complaints at the Attorney General's Office and that may be useful. Streamlining might include trainings and or signage to make the fair housing complaints process more familiar to staff and public, treatment of fair housing complaints as a separate system from consumer protection complaints, and keeping detailed records on applications for housing discrimination cases. Finally, the most common request was for increased publicity for the complaints system. Some felt that by advertising to the general public and including the complaints process in trainings more people may become familiar with the process and perhaps to use it more often.

ACTION PLAN: GHURA will undertake three tasks in the next year to improve the fair housing complaints system on Guam.

1. GHURA will formally request that the information and assistance functions related to facilitating the HUD complaints system be transferred to the local HUD office on Guam. This task will be completed on or before October 1, 2011.
2. GHURA will hold formal discussions with the Guam Office of the Attorney General to streamline or otherwise improve the local fair housing complaints system with the intent to produce meaningful and effective change to current procedures. This task will be completed on or before October 1, 2011.
3. GHURA will ensure that procedures for filing fair housing complaints on Guam are part of all literature and training materials prepared and distributed by the Authority and that the complaints system is prominently set forth in all advertising produced or coordinated by the Authority. This task will begin no later than July 10, 2011 and will continue through June 30, 2016.

OUTCOME MEASURES: Outcomes measures for the three tasks related to impediment four are:

- A. On or before October 1, 2011, GHURA will obtain from HUD a written agreement that its current task related to the fair housing complaints system be transferred to the HUD office on Guam. By the publication date of the next Guam AI, the number of fair housing complaints filed on Guam will increase by at least one hundred percent.
- B. On or before October 1, 2011, GHURA will obtain a written agreement with the Guam Office of the Attorney General detailing the specific changes to the handling of local fair housing complaints on Guam. By the publication date of the next Guam AI, the number of fair housing complaints handled by the Office of the Attorney General will increase to at least five, and the statistics regarding filings and case dispositions will be available for review.
- C. By the publication date of the next Guam AI, all fair housing related advertising copy, brochures and posters, and training agenda will be in one file and a description of the fair housing complaints system will have been included in each. The stakeholder interviews in the next AI will not show a felt need for improving the visibility of the fair housing complaints system.

IMPEDIMENT FIVE: DIFFICULTY UNDERSTANDING FAIR HOUSING LAWS, RIGHTS AND RESOURCES

This impediment is usually addressed through sound and effective efforts to improve fair housing education, outreach, and training. GHURA has always taken the lead in providing those services in support of affirmatively further fair housing. Now they are called upon by the stakeholders in fair housing activity on Guam, to upgrade their efforts. In particular, they are asked to be responsible for liaison with HUD and other federal agencies to gather and distribute the most up-to-date information on fair housing law. It is not unusual for a culturally diverse place like Guam to ask the lead agency to take responsibility for translating important fair housing documents and information into languages used by the protected classes. With those demands in mind, GHURA has produced the following action plan.

ACTION PLAN: GHURA will undertake three tasks to improve the quality of fair housing education, outreach, and training on Guam.

1. GHURA will continue to sponsor an annual conference on fair housing law, featuring the latest information as it affects the Territory of Guam. The conference will be similar in format to those of the past and GHURA will invite HUD to provide trainers for that event.
2. GHURA will continue to create and distribute collateral material for fair housing education, outreach, and training on Guam and to maintain records of materials produced and distributed as well as other activities in support of education, outreach, and training for fair housing on Guam.
3. GHURA will continue to provide translated versions of education, outreach, and training materials as needed. GHURA will translate public housing contracts, eviction notices, and rules and regulations over the next twelve months. Translations will be made from English to Japanese, Tagalog, Ilocano, Chuukese, Marshallese, and Palauan languages. In the current year, other languages for which translations might be needed will be identified for action next year.

OUTCOME MEASURES: Outcome measures for three tasks related to impediment five are:

- A. Each year, GHURA will report on the agenda of the most recent fair housing conference and the participant evaluation of that event. By the publication date of the next Guam AI, stakeholder interviews will show not more than one person requesting a regular islandwide fair housing training session.
- B. GHURA will report the level of activity and results of its efforts to support education, outreach, and training, in each new edition of the Guam Consolidated Performance and Evaluation Report. By the publication date of the next Guam AI, the number of stakeholder complaints about the availability of fair housing education, outreach, and training support materials will be no greater than two.
- C. By June 30, 2012, translations of public housing contracts, evictions notices, and rules and regulations will be on file at GHURA. By the same date, a report on additional languages for documents translations will be on file at GHURA. Stakeholder interviews in the next AI will not show a need for translated documents.

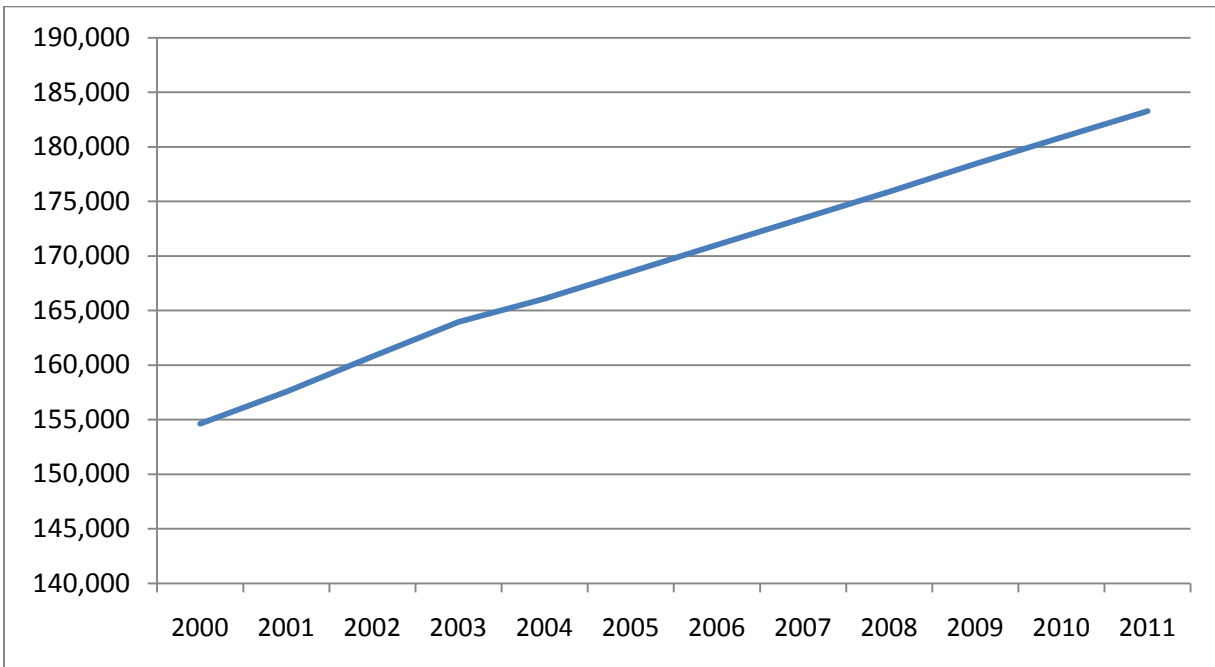
III. THE FAIR HOUSING ENVIRONMENT ON GUAM

DEMOGRAPHICS

Guam's Population

The 2000 Census sets the population of Guam at 154,805 persons residing in 38,769 households in the year 2000. The most current estimate is for 2010, and shows 183,286⁸ persons residing in 46,204 households. The population growth pattern over the last decade has been very steady over time as can be seen in Figure 1.

Figure 1: Resident Population of Guam, 2000 to 2011.



Sources, U.S. Census, CIA World Factbook, 2011.

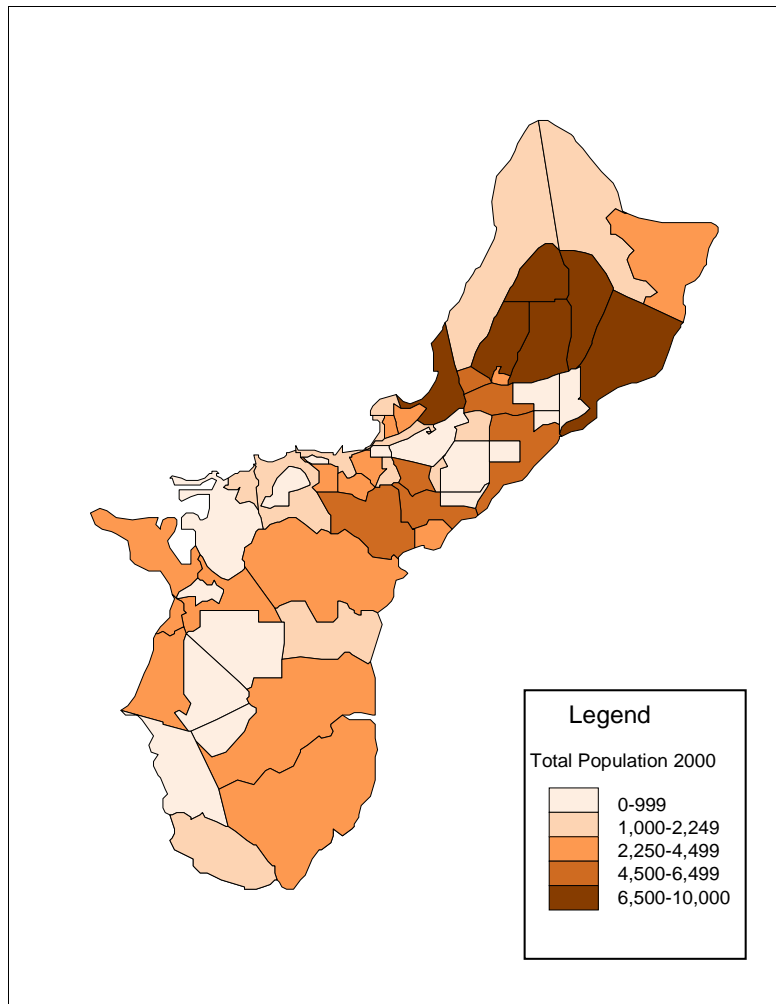
Guam's population grew by 26 percent between 1980 and 1990, and then grew by 16 percent in the next decade. In the last decade it grew by 16 percent again. Housing stock (occupied housing units) more than kept pace. The number of occupied housing units grew by 44 percent in the eighties, 24 percent in the nineties, and 19 percent between 2000 and 2010. Consistent with the population and housing stock growth patterns, the average household size on Guam has been decreasing as well. In 1970 the average household size was 4.8. It decreased to 3.5 in 2008, which is still larger than the average American household of 2.6 persons⁹.

⁸ CIA World Factbook, 2011

⁹ U.S. Census Bureau, 2005-2009 American Community

Guam's population is concentrated in the north and central regions of the island as seen in Figure 2. About 67 percent of the people live in the villages of Dededo, Yigo, Tamuning, Barrigada, and Mangilao (see Appendix Exhibit A5 for population breakdown by village).

Figure 2: Population Density of Guam, 2000



With few exceptions, the growth of the villages has also been steady over the last several decades. Tamuning surpassed Yigo's population during a growth spurt just before 2000, and Santa Rita's population declined dramatically after the Defense Base Closure and Realignment Commission's base closings in the nineties.

Like other Pacific Islands, Guam's multi-ethnic population results from waves of migration over hundreds of years. Before 1960, Chamorro people made up a large majority of the population. Over the last 50 years Guam's population has become increasingly diversified. Today its largest ethnic components are the indigenous Chamorro (37%), Filipino (26%), other Pacific

Islanders (11%), Caucasians (7%), other Asians (6%), other ethnic groups (2%), and mixed (10%)¹⁰.

Unlike much of the United States, Guam villages are neither racially nor economically segregated. Some areas like Yigo and Santa Rita with more military housing have larger White populations. Many Asians, especially Filipinos, live in Yigo, Dededo, and the eastern part of Tamuning. But all villages are characterized first by the heterogeneity of their populations. Similarly, although median incomes differ to some extent across villages, the distinguishing characteristic of Guam neighborhoods is diversity. Tracts of similar homes are rare, and mixtures of housing types, ages, and size are found within neighborhoods.

In 2000, 97 percent of Guam's population lived in households and 83 percent of those were family households (married couples, nuclear families, extended families or single-parent households). Guam is a family-oriented place.

All of these factors show that Guam's recent population growth is significant and related to the need for access to adequate housing.

Freely Associated States Population

In recent years, Guam's most notable in-migrants are Micronesian¹¹. A surge of in-migration occurred when the Compact of Free Association Act (COFA) of 1985 was renewed in 2003¹². Starting in 2004, the members of the Compact of Free Association grew to 10.4 percent of the total population by 2008¹³.

COFA migration has had adverse effects on all of the recipient governments in the Pacific, putting pressure on infrastructure and budgets for health care, education, public housing, and other social services. Guam, with a healthy economy and close proximity to COFA States drew a disproportionate share of the migration¹⁴. Heavy inflow has continued through this year and environmental Impact Statement¹⁵ predicts it will increase even more once the military build-up begins.

The characteristics of Micronesian in-migrants changed after 2004 as well. Recent migration is characterized by people who are less educated and less skilled¹⁶, thus less ready for employment. Their numbers include fewer students and more families and so more are living in single-family units and fewer in apartments. But after six years, relatively few (9%) have become homeowners and most are renters. This has placed considerable pressure on Guam's housing market, particularly the affordable rental market.

¹⁰ U.S. Census Bureau 2000 (a sample of 10 percent of Guam's population and housing were recorded).

¹¹ Specifically, this includes people arriving from the Freely Associated States (FAS): The Federated States of Micronesia, The Republic of the Marshall Islands, and The Republic of Palau.

¹² U.S. Public Law 108-188, Compact of Free Association Amendments Act of 2003.

¹³ Immigrants from the Federated States of Micronesia (FSM) made up 85 percent of all FAS migration during that period.

¹⁴ The Guam Comprehensive Housing Study 2009 noted that, of the 17,286 FAS migrants in 2003, 53 percent arrived in Guam, 29 percent arrived in Hawaii, and 18 percent arrived in the Commonwealth of the Northern Mariana Islands.

¹⁵ Guam and CNMI Military Relocation, Final Environmental Impact Statement, Volume 7: Proposed Mitigation Measures, 3-74, U.S. Department of the Navy, July 2010.

¹⁶ Compact of Free Association: Micronesia Faces Challenges to Achieving Compact Goals. United States Government Accountability Office www.gao.gov.

FAS immigrants are high on the priority list to receive housing benefits; second only to Guam's U.S. citizens. Yet, in 2009, GHURA reported that 208 FAS households (1,040 residents) were living in assisted housing. This amounted to about a third of all assisted housing families. Another 631 FAS households with 3,014 residents were receiving Housing Choice Vouchers (HCV), comprising over a quarter of all HCV recipients. In all, 4,054 of Guam's 18,305 FAS immigrants (22%) were receiving some form of housing assistance in 2009. Based on GHURA reports, FAS immigrants are almost three times as likely to require housing assistance, as are Guam families in general.

As the number of FAS immigrants grows, and the number lacking in education and job skills increases¹⁷, more FSM-born citizens on Guam fall below the poverty line¹⁸. The problems related to housing those immigrants go beyond the need for additional housing units and rent support program funding. Micronesians who migrate to Guam are susceptible to exploitation due language barriers and lack of cultural assimilation. They are less likely to understand laws, rules, and regulations, less able to read contracts, and less likely to seek protection or redress if housing discrimination befalls them.

Military Population

The U.S. military population has a central presence on Guam. In addition to its contribution to national security, the military contributes substantially to Guam's economy, provides employment, and is an integral part of the social fabric of the island. There were about 11,153 military personnel and their dependents on Guam in 2001, about six percent of the population. By 2005, that number had grown to 12,702 or about 7.5 percent of the population¹⁹. In 2009, personnel and dependents amounted to about 16,400²⁰ or about nine percent of Guam's population.

Changes in the number of military personnel on Guam have been notable over the years. The Vietnam era witnessed major increases. The post-war years and Clinton administration saw equally dramatic downsizing of the military. At present, Guam is preparing for another increase when U.S. troops arrive from Okinawa.

The U.S. Census projection for Guam's population in 2030 was about 222,000. That suggested a 21 percent growth in population between 2011 and 2030. With the military build-up, the population projection for 2030 is 253,000, a 38 percent increase from the 2009 population.

More important, the projected growth will occur over a relatively short period of time. The original figures for the short-term growth rate have been revised after publication of the Guam and CNMI Military Relocation FEIS²¹ (FEIS) and the Record of Decision (ROD) in 2010. The new numbers reflect substantial efforts to reduce the impact of short-range and substantial increases in population. They are summed up as the military's implementation of Force Flow Reduction and a process called Adaptive Program Management (APM)²² which will be implemented by a Civil-Military Coordination Council (CMCC).

¹⁷ FSM migrants who graduated high school: 59.7% in 1990, 47.8% in 1997, 40.2% in 2003 (Guam statistical yearbook, 2008).

¹⁸ FSM migrants below poverty line: 34.3% in 1990, 67.3% in 1997, 45.2% in 2003 (Guam statistical yearbook 2008).

¹⁹ COMNAVIMAR as of September 30, 2005.

²⁰ Guam Strategic Development Regional Center, 2005 at www.guameb5.com/businessenvironment.asp.

²¹ Environmental Impact Statement Volume 1: Overview ES-42 July 2010.

²² Guam and CNMI Military Relocation Final Environmental Impact Statement, Section 2.4, Vol. 7.

Even with these substantial efforts, civilian population growth will reach 41,178 at the 2014-2015 peak of the build-up²³. That's down from 46,300 in the original EIS. The population will then decrease by 32,248 in 2017²⁴. The impact on housing will be significant. Choosing how to respond to that kind of change will be a challenge to any society. Authors of the ROD agree that not all developers will be willing to build in the face of predictable decreases in demand.

Much of the expected growth will occur in Northern and Central Guam and especially in the three villages of Dededo, Yigo, and Santa Rita. Thus growth will occur in the more populated areas of the island. For a map of locations planned for military occupancy, see Exhibit A-6 in the Appendix.

Guam's military housing market is generally thought to be independent of the local housing market. Barracks populations are not part of the household population and on-base military households live in units that are not available to civilian households. Some military personnel choose to live off base, but those usually tend to occupy the top end of Guam's rental market, taking units that are often priced far above the median rents on Guam. It is expected that most of the temporary construction workers will be housed in temporary accommodations constructed specifically for that purpose. Housing for long-range civilian workers may cause significant problems.

Some suggest that the rapid onset of new demand generated by the military build-up will draw housing development resources to high-end units, thus depressing the market for affordable housing, especially for affordable rentals on Guam. That, in turn might result in additional discrimination targeted at lower income people, of whom the protected classes comprise a major part. This important and broadly held concern has not been empirically verified, however.

Protected Classes

An Analysis of Impediments identifies barriers that restrict or have the effect of restricting housing choice among groups who are protected by Federal and local anti-discrimination laws. Those laws prohibit housing discrimination, intended or unintended, personal or structural. Persons affected by those laws are referred to as "protected classes".

The Fair Housing Act, 42 U.S.C. 36001 et seq., prohibits discrimination by direct providers of housing such as landlords and real estate companies as well as other entities, such as municipalities, banks or other lending institutions and homeowners insurance companies whose discriminatory practices make housing unavailable to persons because of: race or color, religion, sex, national origin, familial status, or disability.²⁵

The Age Discrimination Act of 1975 also protects individuals participating in any federally funded program or activity from discrimination based on age²⁶.

The AI report usually includes descriptive statistics on protected classes. In the case of Guam in 2011, this has been a challenge. The most recent official data are taken from the 2000

²³ Record of Decision for Guam and CNMI Military Relocation, Department of the Navy and Department of the Army, September 2010, p. 66.

²⁴ Ibid, p. 67.

²⁵ The Fair Housing Act. 42 U.S.C. 3601 et seq.

²⁶ Age Discrimination Act of 1975. 42 U.S.C. Sections 6101-6107.

Census and are usually thought of as outdated and misleading by observers on Guam. There have been some reliable surveys in recent years and where available those data have been incorporated in this report²⁷. Guam is not included in the American Community Survey which has become an important component of the Consolidated Housing Plan in other States. The 2010 Census data are scheduled for release in June of 2011, just before the delivery date for this report.

²⁷ We are waiting on the latest population figures from the Guam Behavioral Risk Factors Surveillance System.

Elderly

The 2009 Guam Comprehensive Housing Study (GCHS) estimated 5,950 households headed by persons 62 years of age or older. That was notably fewer than in the 2000 Census, indicating that Guam's population growth in the last decade favored younger residents and Guam's elderly population has been decreasing slightly as a percentage of the whole. The total number of elderly households is remaining stable, and their fixed incomes and higher medical expenses make them vulnerable to even minor changes in housing markets. Even in public housing situations, elderly sometimes find that their financial and medical problems are not taken into account when deciding the amount of vouchers or other financial assistance.

The GCHS also measured housing demand among Guam's elderly population in 2009 and identified an unmet demand for 287 housing units suited for use by qualified elderly-headed households.

Disability

The disabled population²⁸ in Guam made up 18 percent of the total population in 2000, exceeding the national average of 12 percent. Disabilities are more common among older adults and we find that among Guam's seniors (persons 65 and older), 45 were disabled in 2000. While disability is among the protected classes in federal law, it is not included in Guam's local fair housing law.

Interviews with experts on Guam suggest that disabled residents have the most limited Fair Housing Choices, largely due to a lack of ADA-compliant housing. Their opinions have been undocumented to this point, but HUD's most recent study²⁹ supports their case. HUD states clearly that: (1) people with disabilities are more likely than any other group to experience housing discrimination; (2) that complaints involving disabilities have been the most common types of fair housing complaints received by HUD in recent years; and (3) that persons with disabilities have the added problem of finding accessible units. They note that one in six requests for reasonable modifications were denied in 2005.

The GCHS measured housing demand among qualified disabled persons and identified an unmet demand for 1,670 housing units for use by households with at least one member reported to have a disability that restricts mobility. Considering that the elderly have an unmet demand of 287 and that disabled persons, in this study, did not include the mentally disabled, it does appear as though disabled persons have the most difficulty finding housing units.

Gender

In 2011, Guam's resident population was an estimated 49 percent female³⁰. However, according to data obtained from GHURA in December 2010, female-headed households occupy 81 percent of Section 8 public housing units. The average monthly rent paid is 34 percent less

²⁸ Persons who have a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment, 42 U.S.C. Section 12102(2) Definition of Disability Statute.

²⁹ HUD, 2009 Worst Case Housing Needs of People with Disabilities: Supplemental Findings of the worst case Housing Needs 2009: Report to Congress, March 2011.

³⁰ CIA World Factbook.

for female headed households than male headed households, along with a 26 percent lower monthly income on average.

As of the year 2000, 16 percent of all households on Guam were headed by females with no husbands present and 10 percent of female headed households with no husband present had children under the age of 18. The latter group tends to have the most difficulty finding housing units.

Familial Status

Protected under the federal Fair Housing Act, familial status includes children under age 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18. However, familial status is not a protected class in the Guam Code Annotated (GCA). As of the year 2000, 84 percent of households were family households and 60 percent of those households included children under the age of 18 years. Interestingly, only 50 percent of households were families living with their own children under 18 years, leaving the remaining 10 percent of individuals under 18 living in households without their parents.

Families with children under 18 years of age tend to have more difficulty finding units as landlords are often concerned about the wear and tear children may cause on the rental unit. Another issue is children under 18 who are in the care of a grandparent or other elderly individual living in a designated senior community. Many times such communities do not allow children, even if the elderly person is a legal guardian.

Marital Status

As of the year 2000, 35 percent of individuals over the age of 15 had never been married and 53 percent were married. Including those who have been divorced, widowed, and separated, 47 percent of Guam's population was single in 2000. According to the 2010 tenant statistics from GHURA, 92 percent of Section 8 tenants were family households. As was mentioned before, unmarried (single) females with children under the age of 18 tend to have the most trouble finding affordable housing units.

Background: Race, Color, National Origin

The 2000 Census survey reported that 37 percent of Guam's population is Chamorro, 26 percent are Filipino, 11 percent are other Pacific Islanders, 7 percent are White, 6 percent are other Asian, and 2 percent are other races. GHURA's tenant statistics indicate that 89 percent of Section 8 housing units are occupied by Pacific Islanders. Many sources say that Micronesians tend to be the most likely to require public housing assistance, and are most frequently subjected to racial discrimination.

Religion

Data on the religion of Guam's people and households is largely unavailable. There was a study conducted in 1999 that reported that 85 percent of Guam's people were Roman Catholic. Virtually all reports on Guam's religious preferences we have seen cite that particular statistic and source.

ECONOMY

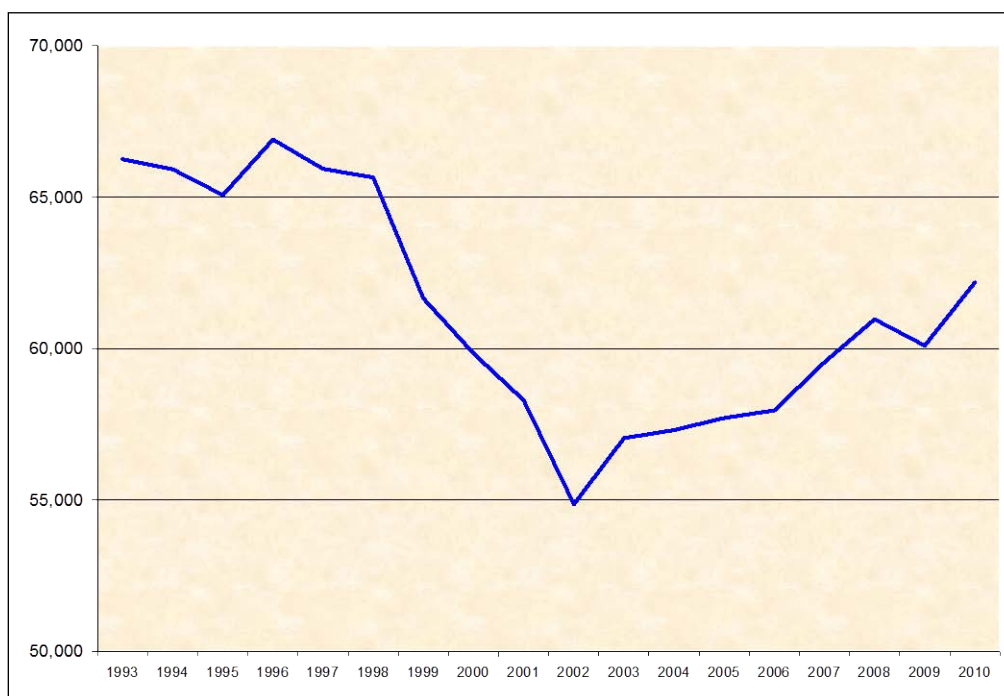
The most important economic sectors in Guam's economy are the visitor industry, federal contracts, and the military. Historically the economy has been periodically disrupted by natural disasters including typhoons and earthquakes. Otherwise, the major impacts on economic welfare are associated with events related to its two major industries. During the eighties, the economy was fueled by a rise in Japanese tourism. It fell when the Japanese bubble burst in 1991. During the nineties, a series of events affected Guam's economy, including the Asian economic crisis and the Korean Airlines crash. The recession of the 1990s was also fueled by two rounds of military base closings. The international tourism market and the Guam economy were hit hard during the present decade by the events of September 11, 2001, the SAARs outbreak in 2003, wars in the Middle East, and most recently by a worldwide recession. It was revived again in 2005 with the announcement of military plans to increase personnel and activity for Marines, Air Force, and Navy on Guam.

Employment

Employment is an important factor in determining the state of Guam's economy along with housing need. Most income and jobs are generated by military spending and tourism revenue, with the Government of Guam being the largest employer on the island. The military presence provides some stability in the economy; tourism is a more volatile sector to be dependent upon. Both change in response to international economies, deployment of military personnel, and natural disasters; creating fluctuations in Guam's overall economy and job market.

Since 2002, Guam's economy has been recovering in both its military and tourism sectors and employment has risen slowly but steadily as seen in Figure 3. According to the 2007 Economic Census, Guam's economy grew by 36 percent in sales between the years of 2002 and 2007. As one might expect, this growth is reflected in the increase in employment Guam experienced during that time. In 2007, Guam had 3,143 businesses employing 52,394 people, compared to the 2,926 businesses with 43,104 employees in 2002. Business and employment particularly boomed in the village of Tamuning, which accounted for over 57 percent of the total sales in 2007.

Figure 3: Employment on Guam, 1993 to 2010



Source: U.S. Census Bureau

According to the Department of Labor's Current Employment Report, jobs have increased by 2,080 or 3.5 percent over the last year. The increasing presence of military personnel in Guam is expected to create even more jobs and a greater push for construction of new housing. At the same time the employment rate drives housing demand, increasing it as employment goes up and decreasing it when the number of jobs stops growing or shrinks.

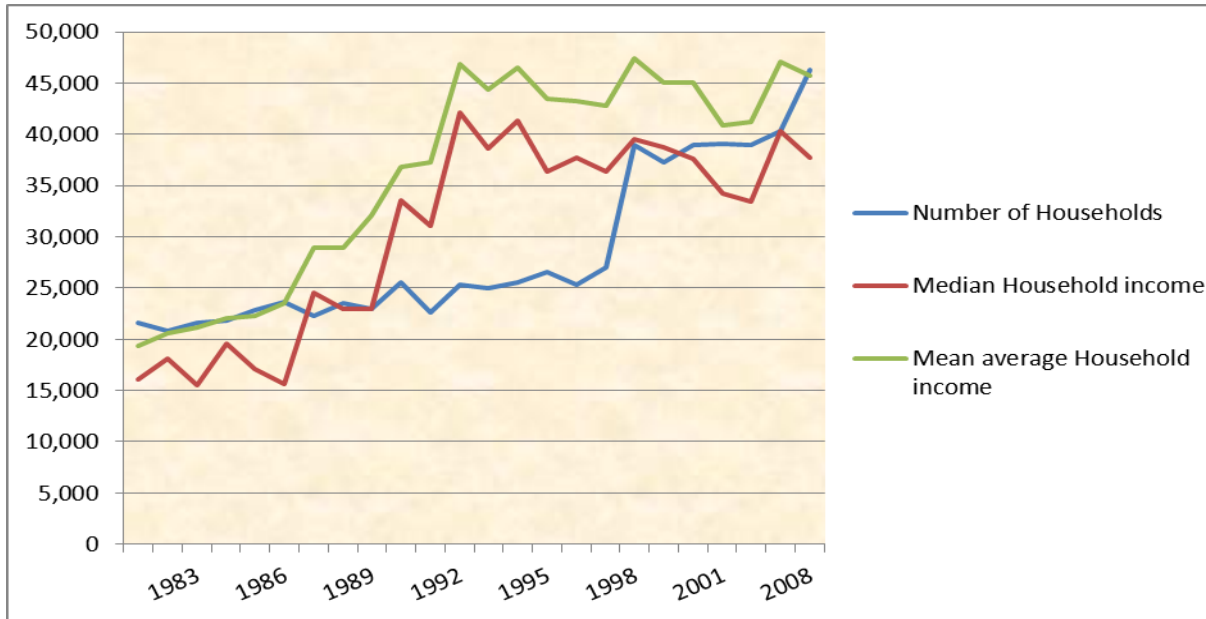
Income

In 2008, Guam had fewer earners per household, on average, than in 2005. Accompanying this shift was 2.7 percent decrease in average household income from 2005 (\$47,062) to 2008 (\$45,786)³¹. In addition to this, approximately 41 percent of the households in Guam was classified as low or very low income in 2008; having an annual household income of 50 percent or less than the mean. This number is also up since 2005, when the low or very low income households comprised 35 percent of the households on Guam. Since GHURA is required by law to award at least 75 percent of their housing vouchers to households of very low income³², there is additional demand for the Housing Choice Voucher Program (formerly Section 8) funding; reflected in the closure of GHURA's Housing Choice Voucher Program (HCVP) wait list.

³¹ Bureau of Labor Statistics – Department of Labor.

³² U.S. Department of Housing and Urban Development Housing Choice Fact Sheet: portal.hud.gov

Figure 4: Household Income 1981 to 2008



Guam Comprehensive Housing Study, 2009.

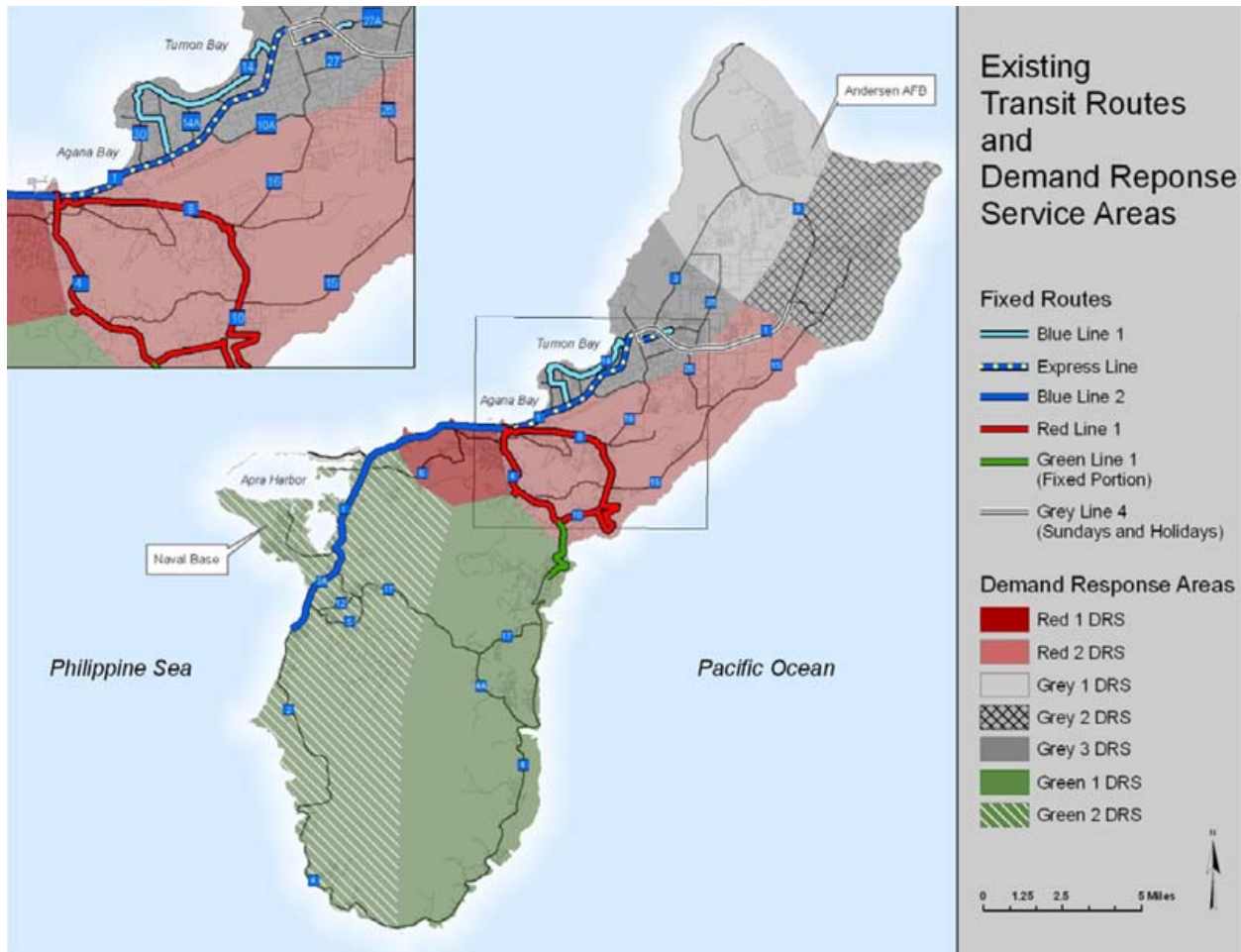
TRANSPORTATION

Guam's Department of Transportation has plans set in motion to create safe, efficient, and sustainable transportation systems for residents, visitors, and military personnel. The proposed system also aims to diffuse an estimated 44 percent increase in traffic congestion following the military build-up. The plans include repairing and resurfacing older roads, constructing "haul roads"³³, widening roads, improving bridges, improving signage, and mass transit.

Of the most relevance to fair housing is public transportation since recipients of public housing often cannot afford to own a car. Currently, there are three types of bus routes: Fixed Route, Demand Response, and Paratransit (transportation for physically disabled persons). The Guam Transportation Program reports that the bus system is in fact not comprehensive, nor is it predictable or reliable. The vehicles themselves are said to be old, expensive to operate, and often times not ADA compliant. The Guam Transportation Program intends to incorporate more vehicles and five additional fixed routes to improve high-capacity transit for visitors, residents, and military personnel.

³³ "The concept of a 'Haul Road Network' grew from identifying the routes most likely to be used by the military connecting known origins and destinations. In this fashion, routes used by the military would be pre-determined, impacts localized to those roadways, restricting the haul road related improvements to the identified network. <http://www.guamtransportationprogram.com/guam-transportation-plan-2030/haul-road-network>

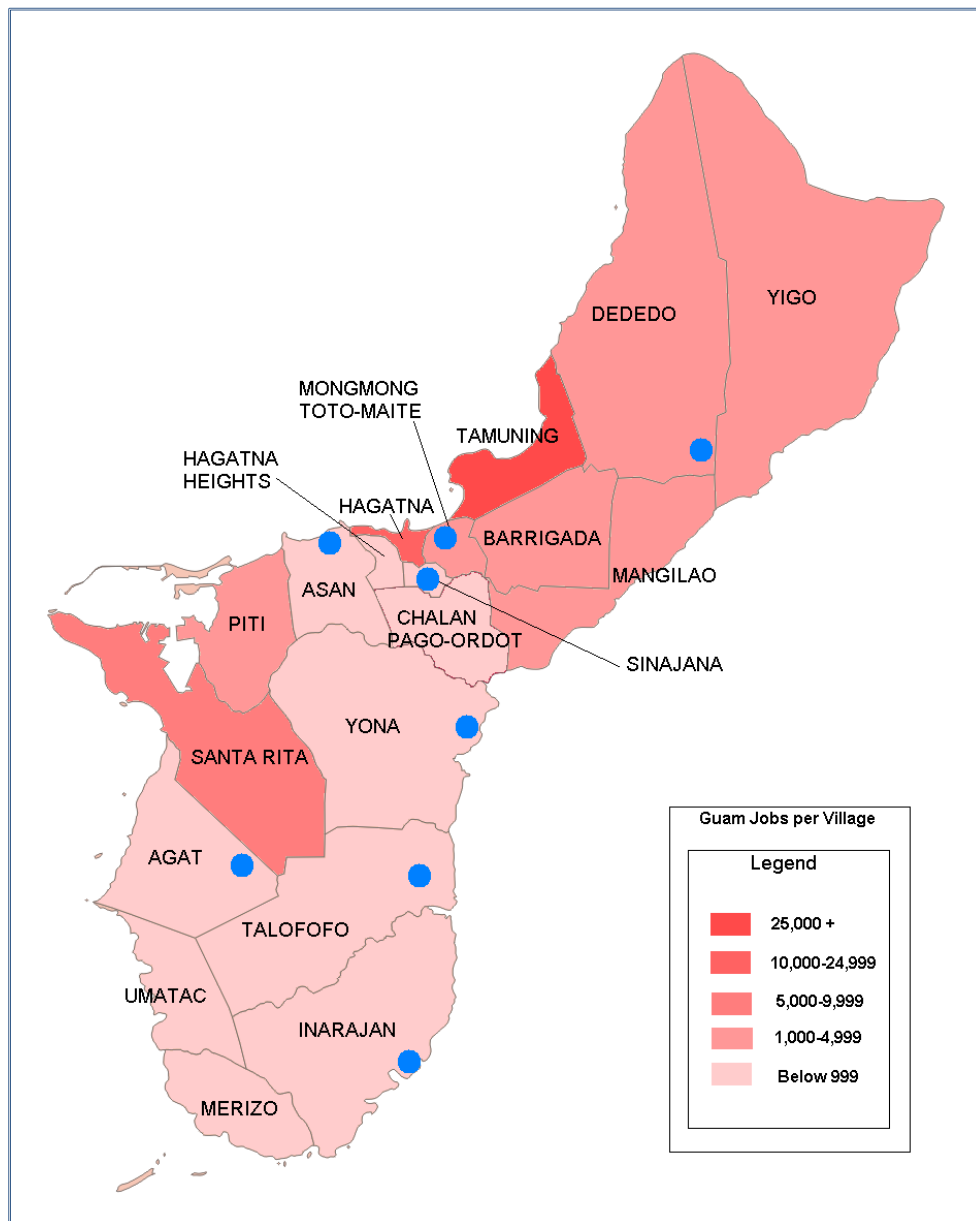
Figure 5: Guam Public Transit System



Guam Transportation Plan 2010

The highest concentration of jobs on Guam exist in Tamuning, with 28,611 jobs, and Hagatna, with 10,104 jobs, (see Exhibit A-5) of which Tamuning is largely tourism based and Hagatna jobs are largely corporate. Eligible recipients of public housing are often under financial constraints and need to have easy access to their jobs without having the additional cost of a car, especially since they need to keep up with their bills in order to keep their housing assistance. Other eligible recipients, such as elderly, need to be able to access medical facilities and basic needs from their homes. Public housing ought to be near reliable, accessible, and inexpensive transportation; or such transportation ought to be available from public housing to metropolitan areas. Poor location of public housing is a deterrent for recipients of housing assistance and thus may impede fair housing choice.

Figure 6: Jobs per Village and Public Housing Locations



Source: SMS Research

A quick comparison of Figures 5 and 6 demonstrates the need for expanded public transit in Guam, especially for the southern public housing projects.

GUAM'S HOUSING MARKET

Housing Inventory

The 2000 Census reported that Guam had 47,677 housing units, of which 38,769 were occupied and 8,908 were vacant. Of the vacant units, 5,429 (61%) were available for use.

In 2009, there were an estimated 53,673 housing units in Guam, of which 44,548 were occupied and 9,125 were vacant³⁴. About half of the vacant units (52%) were vacant and available for sale or rent. The remaining units were being used for other purposes. A windshield survey of Guam housing stock suggested that as many as 46 percent of the vacant units on Guam were in very poor condition. At best those units will require substantial investment for refurbishing.

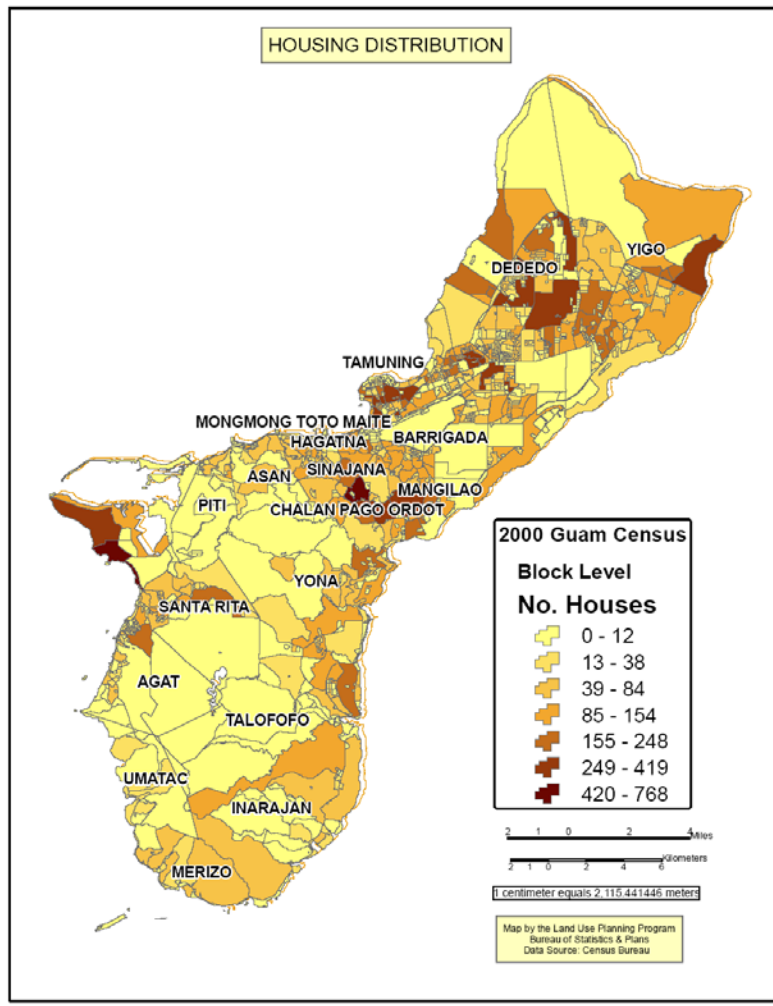
It would appear that Guam's population grew by about 16 percent during the last nine years and total housing stock grew by about 13 percent. Occupied housing units, on the other hand grew by 15 percent and the available housing stock³⁵ grew by about 11.7 percent. That is because the total number of vacant units declined as the housing boom absorbed the overbuilding of the nineties. We eagerly await the Census 2010 data to sort out this complicated issue.

Majority of Guam's housing units are in Dededo, Tamuning, and Yigo. While Tamuning and Yigo have represented about the same percentage of Guam's housing over the last 40 years, the percentage of units existing in Dededo has rapidly increased to double the number of units recorded in the 1970s. This drastic increase mirrors the increase in the number of people living in Dededo; 26 percent of Guam's housing units to house 28 percent of Guam's population.

³⁴ Guam Comprehensive Housing Study, 2009, p. 21.

³⁵ Available housing stock = occupied housing units plus vacant units available for sale or rent.

Figure 7: Guam's Housing Distribution, 2000



While there is an abundance of vacant units on Guam, they are of not necessarily available for use by persons with low and moderate incomes. The number of vacant units has decreased since 2000, and as much as 46 percent the remaining units may require significant investment before they can be used. In addition, we have been told frequently by developers that large numbers of housing units in need of minor refurbishing are being held from the market for refurbishing and reintroduction as the military build-up increase demand on Guam. We would not expect that those units would be available at rents affordable to low and moderate income families.

Housing Costs and Affordability

Over the last decade or so, Guam's housing costs have been high relative to the rest of the nation. More important, housing prices and rents have been erratic during the last ten years. A very rapid run-up before 2007 caused prices to nearly double in three or four years. Then a dramatic downturn in the market caused very slow sales and lower prices. The historical pattern is similar to that experienced in other housing markets in the last decade. In particular Guam's housing market mirrored results the highly regulated, high cost, low supply markets on the west coast, and the eastern seaboard, although not necessarily for the same reasons.

It is certain however, that Guam's housing market is an unaffordable market. That is, there exists an imbalance in price and supply that differs by market segment. For instance, in 2009, 29 percent of the housing demand on Guam was felt among families with very low incomes (less than 40% of area median income). However, less than three percent of the housing units on Guam were affordably priced for very low income families. Households with incomes between 31 and 50 percent of the Guam median accounted for 11 percent of the demand and only 7.4 percent of the available housing was affordably priced for them. The same was true for

families with incomes between 51 and 80 percent of the median. They accounted for 19 percent of demand and were looking at 15.7 percent of available units. On the other hand, people with incomes between 120 and 180 percent of the Guam median accounted for 10.5 percent of demand and had available to them 28.5 percent of the units on the market.

Military Effect on Inventory

The impending military build-up is expected to generate more jobs, more people to house, high temporary housing demand, and rising housing costs. The exact impact on Guam's housing market is unknown. The Military Build-up EIS predicts two scenarios³⁶. One predicts an oversupply of housing, where enough housing is constructed to meet demand during military construction. It will create a surplus in housing once the population begins to decline. The other scenario is for an undersupply of housing, during military construction, resulting in overpriced housing for several years.

The Navy's EIS³⁷ has noted that the Department of Defense will provide on-base housing for all new military personnel and dependents, and contractors will provide temporary workforce housing. Residential housing for civilian military workers, non H2B³⁸ construction workers, and all other workers employed in jobs generated by the economic activity related to the military build-up will be provided by Guam's housing producers. The EIS estimates that by the year 2014, about 46,300 of these new residents will require housing. They go on to estimate that there will be a peak demand of 9,000 additional housing units. After the population peaks, it will adjust until it reaches a steady state. Once the population reaches that steady state, the expected incremental demand will be 272 units per year.

Again, the impact on Guam's very low income families and on Fair Housing protected classes is unknown. Some of our local informants, as we shall see in Section VII, remain deeply concerned about the possible impact of the military build-up on fair housing.

³⁶ Environmental Impact Statement: Guam and CNMI Military Relocation, Volume 9: Socioeconomic Impact Assessment Study and Land Acquisition.

³⁷ Environmental Impact Statement, Volume 9: Socioeconomic Impact Assessment Study, 4-25. July 2010.

³⁸ H2B is a type of visa available for skilled and unskilled, temporary, non-agricultural workers.

IV. GUAM'S CURRENT FAIR HOUSING LEGAL STATUS

REVIEW OF LAWS AND REGULATIONS

Fair Housing law is made up of Federal law and local (state and municipal) law. Local laws may be more or less stringent than the Federal Law. In cases where the local law is more stringent, enforcement agencies will concentrate on infractions of local statutes. In cases where the local law is less stringent than the Federal Law, the Federal law will supersede local law.

Federal Fair Housing Law

At the national level, the following Fair Housing Laws and Presidential Executive Orders³⁹ comprise the Fair Housing Law.

- *Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended* – Prohibits discrimination in the sale, rent, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under age 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).
- *Title VI of the Civil Rights Act of 1964* – Prohibits discrimination based on race, color, or national origin in programs receiving federal financial assistance.
- *Section 504 of the Rehabilitation Act of 1973* – Prohibits discrimination based on disability in any program or activity receiving federal financial assistance.
- *Section 109 of Title I of the Housing and Community Development Act of 1974* – Prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant Programs.
- *Title II of the Americans with Disabilities Act of 1990* – Prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities.
- *Architectural Barriers Act of 1968* – Requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.
- *Age Discrimination Act of 1975* – Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- *Title IX of the Education Amendments Act of 1972* – Prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

³⁹ http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws.

The Presidential Executive Orders relating to Fair Housing include:

- Executive Order 11063 – prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.
- Executive Order 11246, as amended – bars discrimination in federal employment because of race, color, religion, sex, or national origin.
- Executive Order 12892, as amended – requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The Order also establishes the President's Fair Housing Council, which will be chaired by the Secretary of HUD.
- Executive Order 12898 – requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment such that it does not exclude persons based on race, color, or national origin.
- Executive Order 13166 – eliminated, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.
- Executive Order 13217 – requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.
- The full versions of Fair Housing laws and more detailed descriptions can be found on HUD's website⁴⁰.

Local Fair Housing Law

HUD provides funding and assistance to local public housing authorities based on the approval of their Consolidated Housing Plan. The Plan includes a section on Fair Housing that describes the current AFFH situation in the jurisdiction, identifies impediments to Fair Housing and sets forth plans for reducing impediments. Progress toward AFFH goals are measured in future AI studies and in the CAPER⁴¹ where appropriate.

A jurisdiction with a local fair housing law that is substantially equivalent to the federal Fair Housing Act may apply for Substantial Equivalence Certification⁴². A State or local organization with this certification can receive significant benefits. Most important, the certified organization can investigate, conciliate, and enforce local complaints of discrimination or barriers to Fair Housing. Local handling of these cases is more effective because the local investigators know the local housing stock, rules and regulations, and cultural mores that govern housing transactions at home. Local handling is more efficient because it eliminates the need for lengthy and costly actions that must originate thousands of miles away. HUD reimburses the

⁴⁰ http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws.

⁴¹ CAPER is an acronym for Consolidated Annual Performance and Evaluation Report.

⁴² See U.S. Department of Housing and Urban Development, Substantial Equivalence Certification at <http://portal.hud.gov>.

cost of local processing, making funds available through the Fair Housing Assistance Program (FHAP). Finally, the certified organization has access to partnership and funding to develop effective Fair Housing monitoring and training systems through grants from the Fair Housing Information Program (FHIP).

A state or local organization can become HUD certified if they enforce a local fair housing law “that provides substantive rights, procedures, remedies, and judicial review provisions that are substantially equivalent to the federal Fair Housing Act⁴³”.

Guam does not currently have substantial equivalence certification, nor do they have a Fair Housing Enforcement Organization which is essential for substantial equivalency certification. Guam Fair Housing law is generally superseded by federal fair housing law and Guam files fair housing complaints through HUD. GHURA has been interested in adopting an equivalent Fair Housing law for several years now. They included it in their action plans and reported in previous CAPERs and Consolidated Plans that “Guam ... continues to struggle to meet the goal of ensuring or improving fair housing implementation”⁴⁴. There was an attempt in 2004 to pass Bill No. 389 “The Guam Fair Housing and Civil Rights Act of 2004” but it did not pass.

There are many differences between Guam’s housing law and federal fair housing laws but few are substantial. The most significant one is the list of protected classes. The federal Fair Housing Act bars discrimination based on disability and familial status and the GCA does not. That would have to change if Guam is to acquire substantial equivalence certification.

Landlord Tenant Law

The statute that functions as Guam’s Landlord Tenant Law⁴⁵ is thought by some observers on Guam to be outdated, lacking in specificity, and to offer little protection to lessors and lessees. The Law itself is brief - less than four pages long - in comparison to the 39 pages of the Uniform Residential Landlord and Tenant Act⁴⁶ which is approved and recommended for enactment by the American Bar Association. The problem with the current Landlord and Tenant Law lies primarily in the types of protection that are omitted.

The Guam Legislature has tried several times to pass an updated Landlord Tenant Law. In 1997 a bill was introduced to add a new chapter 48 to title 21 of the GCA, which mirrored the Uniform Residential Landlord and Tenant Act. The bill was passed by the Legislature, taking it further than the attempts that followed. The bill, however, was vetoed on June 25, 1997 due to lack of public input.

Another attempt was made in 2005 to introduce Bill No. 173 adding a new chapter 48 and Title 21 to the GCA while removing sections 21101 through 21121 in Title 21. The 2005 version was similar in content to the 1997 attempt, but different in format. This bill died in committee.

⁴³ Substantial Equivalence Certification, p.1.

⁴⁴ Guam Action Plan, Program Year 2009.

⁴⁵ 18 GCA Business Structure & Function Ch. 51 Hiring of Real Property (Landlord & Tenant).

⁴⁶ Uniform Residential Landlord and Tenant Act, drafted by the National Conference of Commissioners on Uniform State Law, with amendments approved August 1974.

International Building Code

Guam's most recent successful attempt at updating housing-related law was with the International Building Code⁴⁷ (IBC). Unlike the experience with fair housing law and the Landlord Tenant Code, Guam's Legislature rather quickly modernized the building code. One notable difference was that the requirement for public hearings was waived. Some residents were upset by this, not necessarily because they opposed the IBC, but because they felt they did not have sufficient input to the decision making process, either as a community or as property owners. Nevertheless, the old Guam building codes were successfully repealed and replaced by the 2009 International Building Code in a relatively short period of time.

COMPLAINTS

Fair Housing complaints on Guam are filed directly through HUD since Guam does not have a local Fair Housing Enforcement Organization (FHEO). A resident who wishes to file a complaint must fill out the required forms and submit them to the HUD office in San Francisco. If HUD decides that the complaint is valid, a representative from the San Francisco office travels to Guam to conduct an investigation. The HUD office in Guam does not partake in the complaint filing process, but GHURA provides complaint forms to those who wish to file.

At our request HUD reviewed Fair Housing Complaints filed for Guam from January 1, 2005 through March 23, 2011. A total of three complaints were filed during that period: one for discrimination on the basis of disability in 2007, one on the basis of race in 2009, and another one based on race in 2010.

In the author's experience with AI studies three complaints in six years seemed unusually low. HUD's staff agreed with that assessment. It is difficult to determine, however, whether the low filing rate was due to a near lack of housing discrimination and structural barriers to Fair Housing on Guam, or to the difficulty of filing complaints on Guam.

⁴⁷ 2009 International Building Code by the International Code Council

AUDITING

There is no formal auditing or testing program for housing discrimination on Guam. That is a task usually undertaken by the local fair housing enforcement organization (FHEO). Auditing or testing is a process in which testers approach landlords posing as a member of a protected class. If they are turned away by a landlord or property manager, a second tester who is not a member of the protected class is dispatched to try to rent the same unit. Testing may be either random or prompted by a discrimination claim. Auditing is usually done by an organization that is independent of the local public housing authority, perhaps a non-profit agency (legal aid or legal services agencies) or a government agency (civil rights commissions attached to judicial departments of government). We did find one local advocate organization that had made an informal attempt to audit landlords in order to confirm their suspicions of discrimination against Micronesians.

DISCRIMINATION SUITS

Residents in Guam who feel as though they have been discriminated against have the option of taking the matter to the local court system or filing a fair housing complaint with HUD. After some investigation of the validity of the complaint and attempted mediation, HUD may hold a hearing before a HUD administrative judge. The complainant or respondent may choose to escalate the complaint to Federal Court at which point it is taken over by the U.S. Department of Justice. In February of 2011 a search of Lexus/Nexus for Fair Housing-related court actions produced zero hits. Once again, we cannot be certain that failure to file lawsuits was due to a lack of housing discrimination or the difficulty, real or perceived, of filing a housing discrimination change in Guam.

V. CURRENT HOUSING PROGRAMS AND ACTIVITIES

FAIR HOUSING GRANTS AND PROGRAMS

Currently Participating

Guam uses the Community Development Block Grant (CDBG) to fund programs or initiatives related to fair housing. In addition, GHURA is the recipient of HUD entitlement grants and two competitive grants. GHURA acts as the lead agency responsible for administering the grant money and meeting. In order to receive the CDBG grant every year, GHURA must submit a Consolidated Plan detailing goals for their programs. GHURA allocates about 70 percent of its \$3 million in CDBG funds to activities that benefit low and moderate-income persons, and also uses funds to Affirmatively Further Fair Housing.

The other entitlement grants received through HUD are the Home Investment Partnership Grant (HOME) and Emergency Shelter Grant funds (ESG). The two competitive grants received by Guam are the Supportive Housing Program Grant (SHP) and Shelter Plus Care Program Grant (S+C). Guam does not participate in the Housing Opportunities for Persons with AIDS (HOPWA) program but is considering the program for the near future.

GUAM GOALS TO AFFIRMATIVELY FURTHER FAIR HOUSING

We have gathered GHURA's goals and objectives related to fair housing since the last Analysis of Impediments Study in 2005. Most of them came from the Consolidated Plan, but we also include entries from the Admissions and Continued Occupation Policy (ACOP), Action Plans, and CAPER, focusing on the years 2005 through 2010. The plans formed by GHURA since the last Analysis of Impediments include those shown in Figure 8.

The list of objectives is a long one. In general, Guam's Fair Housing policy actions and resources have been aimed at three goals: First, GHURA has had a concern with education and training. They have consistently devoted time and resources to produce materials and training events, to translate materials to languages used by Guam; and develop the media and communications recourses they need to get the Fair housing message out.

Second, GHURA has dedicated itself to improving enforcement of fair housing law in Guam. In recent years their actions have centered on the first step in bringing enforcement under their control – securing a substantially equivalent fair housing law for Guam.

Third, they have devoted time and effort to compliance, monitoring, and administration activities required for an effective fair housing program. In addition to the many steps taken to comply with HUD regulations for Fair Housing, GHURA has shown an interest in monitoring for compliance.

Figure 8: GHURA Fair Housing Objectives, 2005 to 2010

- **EDUCATION AND TRAINING**
 - Provide fair housing training to agencies, advocates, and protected classes
 - Translate fair housing materials
 - Make available fair housing materials, posters, logos, complaint forms, and reasonable accommodations forms
 - Expand media sources and affirmative marketing
 - Strengthen communication and data collection among housing assistance and supportive assistance providers
 - Universal Design elements in Affordable Housing

- **ENFORCEMENT**
 - Adopt a local fair housing law substantially equivalent to the federal Fair Housing Act (obtain substantial equivalency certification)
 - Change local statutes impacting fair housing
 - Revise fair housing investigation

- **MONITORING AND ADMINISTRATION**
 - Produce updated Consolidated Plans, Action Plans, and CAPERs
 - Implement recommendations from the 2005 Analysis of Impediments
 - Conduct an updated Analysis of Impediments
 - Implement activities to affirmatively further fair housing
 - Monitor activities for compliance
 - Collaborate with the public health department and advocates for persons living with HIV/AIDS to submit an application for the competitive HOPWA grant funds to provide housing and related supportive services for low-income persons living with HIV/AIDS

GHURA's internal evaluation of Fair Housing programs is usually reported in the CAPER and is also covered in the Annual Plan. The items in Figure 8 are a summary of internal evaluation from 2005 through 2010.

GHURA reported many incidents of education and training efforts and events over the six years since the last AI. We note, that while education and training is a continuous process on Guam (something is always being done) programs are not continuous and do not reflect any long-range education strategy. We have not seen for instance systematic evaluation of training and education programs designed for program accountability and continuous improvement.

Figure 9: GHURA Fair Housing Accomplishments, 2005 to 2010

➤ **EDUCATION AND TRAINING**

- Offered fair housing training to agencies, advocates, and protected classes
- Advertised for fair housing (formerly in TV commercials and radio ads, currently in newspaper ads in the real estate section)
- Conducted fair housing education and outreach workshops
- Participated in annual conferences and training for fair housing education
- Partnered with entities promoting fair housing
- Listed the Fair Housing Coordinator in the Yellow Pages
- Distributed fair housing booklets and materials (In English as well as Chamorro, Filipino, and Micronesian)
- Provided tenants and landlords with education on rights for fair housing

➤ **ENFORCEMENT**

➤ **MONITORING AND ADMINISTRATION**

- Produce updated Consolidated Plans, Action Plans and CAPERs
- Implement recommendations from the 2005 Analysis of Impediments
- Conduct an updated Analysis of Impediments
- Implement activities to affirmatively further fair housing
- Monitor activities for compliance
- Collaborate with the public health department and advocates for persons living with HIV/AIDS to submit an application for the competitive HOPWA grant funds to provide housing and related supportive services for low-income persons living with HIV/AIDS

The monitoring and administrative objectives appear to be matched closely with reports and accomplishments that demonstrate success. Responsibilities are accepted, the work gets done, and the program moves ahead.

As we have noted several times thus far, the major problem encountered in meeting annual objectives is the lack of progress on developing a substantially equivalent fair housing law for Guam. Without that law, GHURA cannot adequately handle current enforcement issues, cannot move ahead to improve enforcement procedures, cannot establish a Fair Housing Enforcement Office for Guam, and must forfeit substantial support and funding from HUD, and cannot adequately protect the people of Guam from housing discrimination and other barriers to access to fair housing.

VI. FAIR HOUSING AWARENESS

PUBLIC AWARENESS SURVEY

In order to evaluate the understanding of Fair Housing laws among Guam residents, a survey of 400 households was conducted between January 20 and February 11, 2011. Respondents were selected using a Random Digit Dialing (RDD) method and consisted of landline phone calls to Guam residents age 18 or older. The survey instrument used was originally developed for the U.S. Department of Housing and Urban Development's Office of Policy Development and Research (see Appendix A). It was revised to measure the level of awareness and nature of understanding of impediments to fair housing in Guam.

Survey Scenarios

Survey respondents were presented with nine scenarios involving various impediments to fair housing. Once the survey participants were familiar with each hypothetical situation, they were asked whether they thought each decision *should be* allowed, and whether they believed such a decision was currently permissible under federal law. The nine scenarios are stated below.

Item	Scenario	Description
A	OK to assign families with children to one segregated building	An apartment owner who rents to people of all age groups decides that families with younger children can only rent in one particular building, and not in others, because younger children tend to make lots of noise and may bother other tenants.
B	OK to reject applicant if they are poor housekeepers	In checking references on an application to rent a home, a homeowner learns that an applicant does not have the best housekeeping habits; they do not always keep their current home neat or clean. The owner does not want to rent to such a person.
C	OK to refuse to allow wheelchair ramp construction	A homeowner is renting to a tenant who uses a wheelchair. The building is old and does not have a wheelchair ramp, and the tenant wants a small wooden ramp constructed at the building door to more easily access the building. He asks the owner if it is okay to build the ramp. The tenant says he will pay all the costs, and agrees to have the ramp removed at his own expense when he leaves. The owner, however, believes that such a ramp will not look good on his building, and decides he does not want it constructed on his property.
D	OK to advertise for "Christians preferred"	A homeowner places a notice on a community bulletin board to find a tenant for a vacant apartment. The notice says, "Christians preferred."

(Continued)

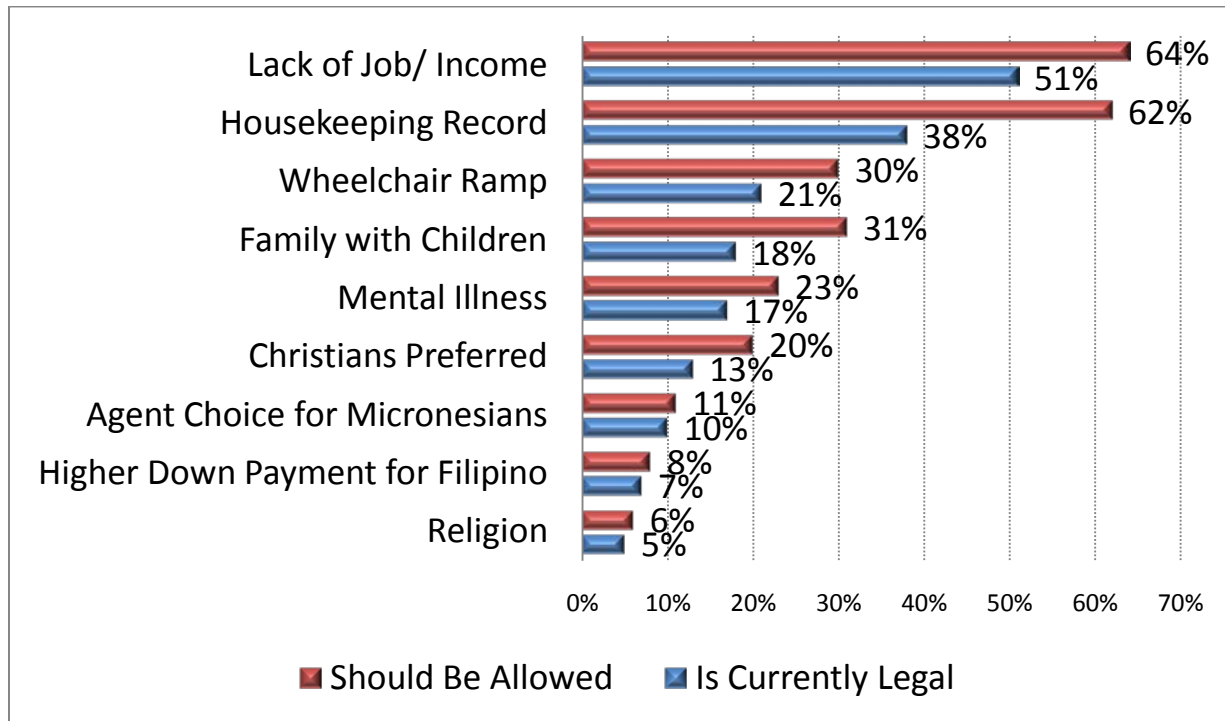
Item	Scenario	Description
E	OK to reject applicant for mental illness	In checking references on an application for a rental unit, a homeowner learns that the applicant has a history of mental illness. Although the applicant is not a danger to anyone, the owner does not want to rent to such a person.
F	OK to reject an applicant because of religion	An apartment owner learns that an applicant for a vacant unit has a different religion than all the other tenants in the building. Believing that other tenants would object, the owner does not want to rent to such a person.
G	OK to show Micronesians only homes in Micronesian areas (steering)	A Micronesian family looking to buy a house goes to a real estate agent and asks about the availability of houses within their price range. Assuming the family would only want to buy in areas where Micronesians live, the agent decides to show them only houses in Micronesian neighborhoods, even though there are many houses in their price range that are in other parts of the community.
H	OK to reject loan applicant because of lack of steady income	A Chamorro person applies to a bank for a home mortgage. He does not have a steady job or enough income to pay a monthly mortgage payment. When the applicant did work, the job did not pay very much. Because of the lack of a steady job and insufficient income, the loan officer decides not to give this person a mortgage.
I	OK to require higher down payment for a Filipino family	A Filipino family goes to a bank to apply for a home mortgage. The family qualifies for a mortgage but, in the bank's experience, Filipino borrowers have been less likely than others to repay loans. For that reason, the loan officer requires that the family make a higher down payment than would be required of other borrowers before agreeing to give the mortgage.

For all scenarios, there was some disparity between what people felt should be permissible and what they believed was allowed under federal law. Respondents consistently rated the hypothetical situations as more acceptable than what the law would allow.

The bars in Figure 10 show the affirmative responses to whether each scenario *should* be allowed (red) and whether the choice is legal at this time. Nearly two-thirds (64%) of respondents believed that not having a job was sufficient reason to deny a mortgage loan and 62 percent thought poor housekeeping could be used against someone trying to rent an apartment. More important, 51 percent said it was indeed legal to deny a mortgage to someone without a job and 38 percent felt it was legal to refuse to rent to a bad housekeeper.

On the other hand, almost everyone felt it was wrong to deny access to housing based on religion, race, and national origin, and they knew that to be against the law. When it comes to discrimination based on family status, disability, and reasonable accommodations, about 30 percent of Guam residents think it should be OK, and 20 percent think it's currently legal. That suggests the need for some public education on Guam.

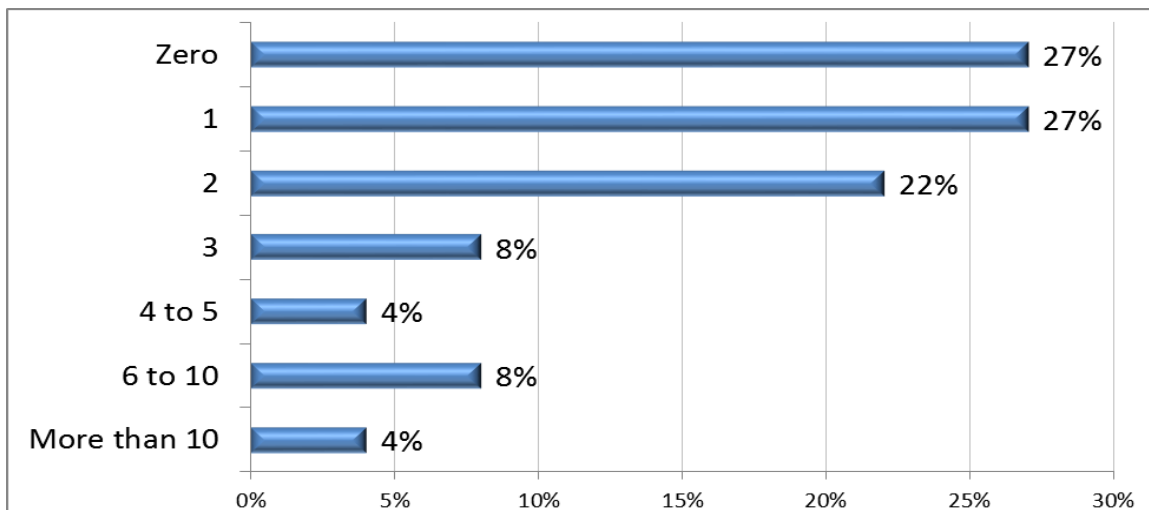
Figure 10: Survey Respondents' Perceptions of Impediment Scenarios



Personal Discrimination

About twelve percent of Guam residents report that they have experienced housing discrimination at some time in their lives. Of those, 73 percent experienced discrimination in the last five years, and 63 percent (about 5.5% of Guam's adult residents) experienced it more than once.

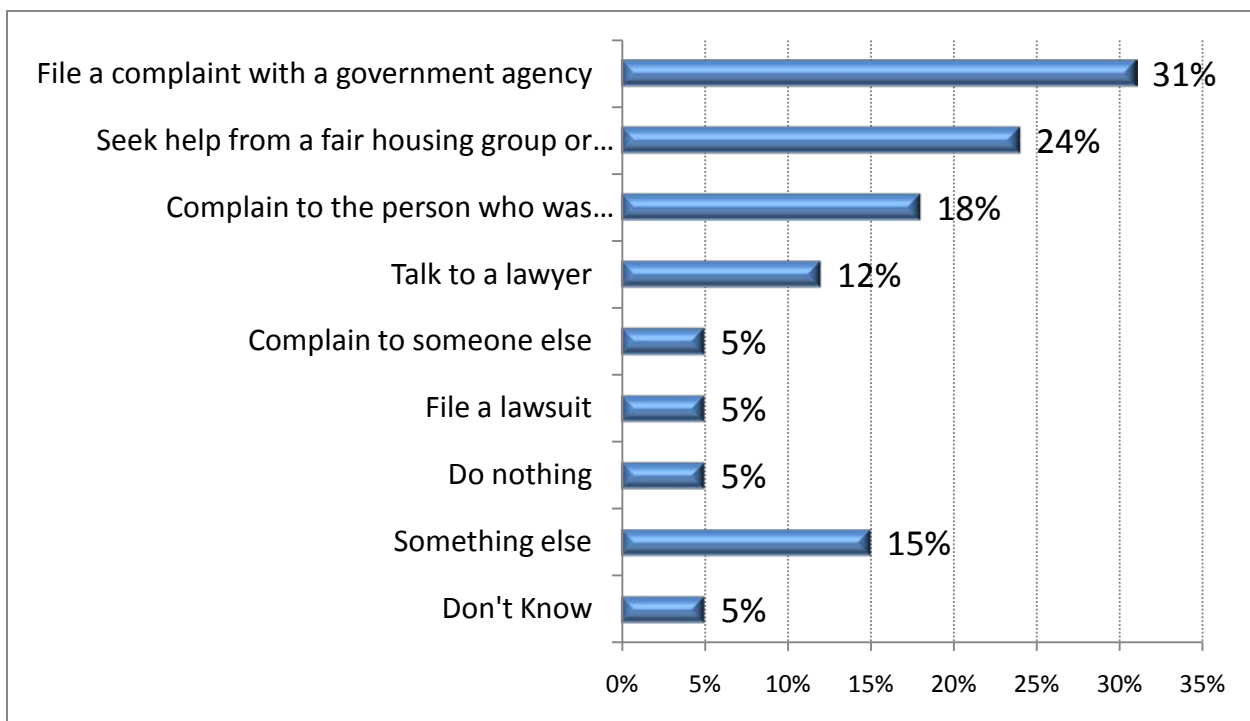
Figure 11: Number of Discrimination Incidents during Past Five Years



People who reported having encountered discrimination during a rental process were asked whether they chose to take any action with regard to what they perceived as discriminatory practices. Three quarters (75 percent) reported they did not do anything about it. The reasons for not taking action were many, but most often people either said they felt it would be too difficult to prove or that they were unwilling to go through the hassle of filing a complaint.

Figure 12, shows what actions were taken by people who experienced housing discrimination. The results are interesting. According to their recall, about 78 percent of them complained to someone and 54 percent complained to a housing organization or a government agency. An additional five percent claimed to have filed a lawsuit.

Figure 12: Respondents Anticipated Responses to Discrimination



Note: Multiple responses were permitted.

Now recall, twelve percent said they had experienced housing discrimination on Guam. Based on about 44,000 households, that would be about 5,280 householders. About three quarters of them experienced discrimination in the last five years, and 25 percent did something about it. Even allowing for substantial overlap in responses, the 31 percent who filed a complaint and the five percent who filed a lawsuit would have generated considerably more action than the three complaints and no court actions we located in the last five years.

Advertising and Training

In order to determine the current respondents' degree of exposure to information regarding impediments to fair housing, interviewers asked whether they had seen or heard any advertising within the past three months that pertained to fair housing. About a quarter (24%) indicated that they had been exposed to such advertising recently. Of those very few had seen or heard advertising in traditional media (radio, TV, and newspapers). Most reported hearing about fair housing from friends or coworkers, from GHURA, or on the Internet.

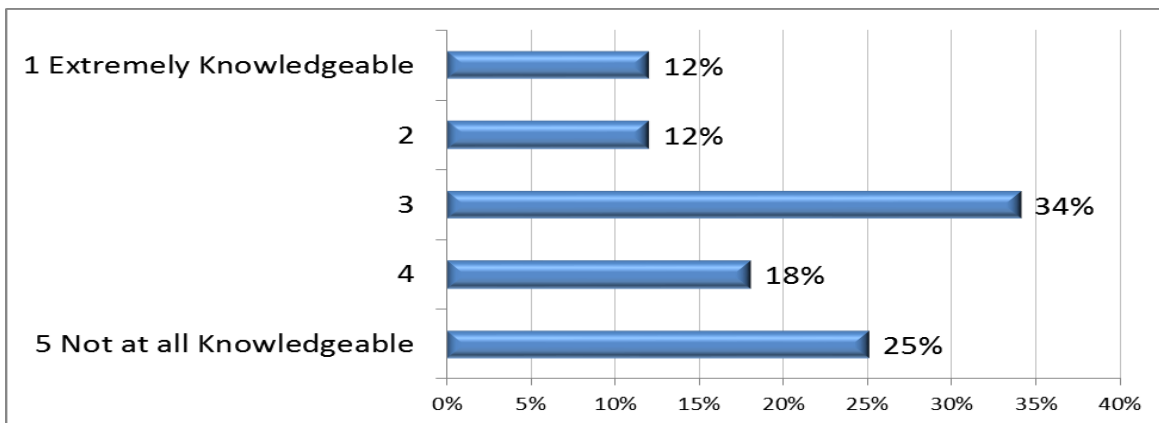
Asked if anyone in their household attended Fair Housing training within the past year, only eight percent indicated they had attended some sort of training. They told us they heard about that training through the newspaper or through other traditional media. That would indicate that more than 3,000 people had some exposure to fair housing training in the last five years.

Fair Housing Knowledge

Seventy-two percent of all respondents reported that they had never been told or read about their rights under the Fair Housing Act. We asked the 28 percent who were informed where they got their information. The answers were widely dispersed. The highest single percentage was 28 percent who got their information from the housing provider (landlord or real estate agent). The others got their information from books or pamphlets, Internet, lending institutions, family, friends, and the police department.

Regardless of their response to the former questions, all respondents were asked how well they understood the fair housing law in Guam. Results are shown in Figure 13. Just over one out of ten (12%) indicated they were extremely knowledgeable in understanding the Fair Housing laws and a quarter (25%) acknowledged that they were not at all knowledgeable.

Figure 13: Level of Understanding of Guam's Fair Housing Laws



Overall, 51 percent of our survey respondents were homeowners and 49 percent were renters or people who occupied their units without payment of cash rent. About 17 percent of them owned Guam real property other than their current homes. Nine percent of those (10% of Guam's total household population) currently rent or lease real property to others.

VII. STAKEHOLDER INTERVIEWS

We conducted a set of interviews with stakeholders in the Guam housing arena. The list shown in Figure 14 includes staff members at housing agencies, government offices, lending institutions, elected representatives, advocacy groups, and other experts familiar with fair housing issues on Guam. PCR Environmental and SMS Research conducted interviews with staff members at agencies across Guam and in Hawaii to determine what stakeholders perceived to be the major impediments to fair housing in Guam.

Figure 14: Fair Housing Stakeholders, 2011

<ul style="list-style-type: none"> ➤ Senator's Office, Policy Director ➤ Catholic Social Services ➤ Today's Realty ➤ Department of Integrated Services for Individuals with Disabilities (DISID) ➤ Mental Health ➤ Senior Citizen Lawyer ➤ Center for Excellence in Developmental Disabilities Education, Research, and Services (CEDDERS) ➤ Guam Legal Services ➤ Guma Mami ➤ HUD Honolulu 	<ul style="list-style-type: none"> ➤ Guam Housing Corporation ➤ Guam Legal Services Corporation ➤ Guma San Jose ➤ Remax ➤ Public Guardian (Public Auditor) ➤ Guam Developmental Disabilities Council ➤ Mayor's Office of Dededo ➤ Center for Micronesian Empowerment ➤ GHURA HCVP ➤ Oasis Empowerment Center ➤ Mayor's Office of Sinajana ➤ Salvation Army - Guam
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An open-ended, semi-structured protocol was developed to guide the interviews. A copy is attached in Appendix B. The conversations focused on identifying impediments to housing choice for the protected classes. Experts were also asked to identify complaints, violations, or civil actions against public or private housing providers and to explain the nature, extent, and disposition of housing discrimination they have witnessed in Guam. Afterwards, experts reported any recommendations that might help overcome the impediments.

IMPEDIMENTS IDENTIFIED

During the course of the interviews, every expert mentioned three to five impediments to fair housing on Guam. Those impediments are presented in order of the frequency with which we encountered them. The five major classifications were discrimination, access to affordable housing, availability compliant homes for persons with disabilities, elderly financial limitations, and access to public transportation.

Discrimination

Unlike the 2005 Analysis of Impediments, the 2011 stakeholders disagreed about whether or not there was housing discrimination on Guam. Some echoed the 2005 experts in the claim that Guam's multi-ethnic population and tolerant social norms virtually rules out discrimination

based on race or national origin, family status or disability, gender or age. Others reported that discrimination was always there, though perhaps at a consistently low level. But two or three used words like “rampant” and “pervasive” to describe the situation.

Some felt that discrimination itself was present, but never documented because Guam did not have a strong landlord tenant law, any means of enforcement, or a working complaints system. Among those who were frequently mistreated were individuals who do not speak English, do not understand the lease agreements or their rights. Some told us that many landlords have been exploiting Guam’s lack of protection for tenants by discriminating against individuals, especially those in the Housing Choice Voucher Program. Some experts told stories about landlords who have evicted tenants without any notice even if rent was paid.

Some stakeholders were concerned that landlords give preference to the military and U.S. Citizens and discriminate against some ethnicities, particularly Micronesians. A few felt that discrimination against Micronesians was especially prevalent among landlords who take HCVP vouchers. One advocate performed his own audit operation mounted against a real estate agency. A Micronesian applicant was turned away and told that the type of unit they were seeking was unavailable. On the same day a Caucasian applicant seeking a similar unit from the same agent was offered several units.

Access to Affordable Housing

Several stakeholders told us that enough housing was available if people had the money. The real issue is a shortage in affordable housing. Many individuals with low income try to access units through GHURA HCVP, Guam’s only source for low cost housing and assistance, but find themselves waitlisted for as long as a year. We note that this finding is consistent with HUD’s recent report on the state of housing availability for very low income families⁴⁸. It is often the case that the problem for families in the lowest income bracket cannot be solved by providing units. If you build more units they still can’t afford them. But in today’s housing market, even those with money (in the form of Housing Vouchers), cannot find a unit to rent.

Some stakeholders took issue with GHURA’s communications procedures. People on the HCVP waitlist were confused with the process. Some did not know if they were being advanced on the list or were being taken off. Others noted that individuals who had secured units under the HCVP voucher program continued to have problems with eviction because of GHURA’s strict rules. Tenants with minor infractions or a missed utility payment are immediately evicted (we were told), causing them to be homeless or placed back on the waitlist.

⁴⁸ HUD, 2009 Worst Case Housing Needs: Findings of the Worst Case Housing Needs 2009: Report to Congress, March 2011.

Availability of Compliant Homes for Individuals with Disabilities

Many stakeholders noted frequent and significant impediments for people with disabilities. There were, however, conflicting views on whether or not there were enough units available for disabled persons. Units suited to the needs of disabled persons must comply with American Disabilities Act (ADA) standards relating to physical accessibility. Some stakeholders told us there were not enough compliant units on Guam to handle current demand and it was unlikely that new compliant units would be built in the current market. Others claimed unit accessibility was not an issue but that affordability was the problem. Many told us that GHURA was particularly effective in finding compliant units for disabled persons. Others told us that GHURA makes 75 vouchers available for persons with disabilities⁴⁹ and that, they felt, was too few for needs of their charges. A disabled person could be ready to move into a suitable unit but unable to fulfill the financial obligation. It was generally agreed that persons with mental disabilities were much more likely to experience discrimination than were persons with physical disabilities. One case was cited in which a landlord immediately evicted an individual who had a delusional episode.

Elderly Financial Limitations

Most stakeholders felt that housing for elderly persons is more widely available than for the disabled. They are certainly less likely to face open discrimination based on their age. That does not mean they don't have housing problems. Once placed, many elderly find it difficult to make payments due to their fixed incomes and medical expenses. The elderly are required to do community service as part of their housing agreement and many have difficulty doing that due to the physical limitations and medical problems that come with age.

Access to Public Transportation

A smaller number of stakeholders listed lack of transportation as a lower priority issue. Many affordable homes are located too far away from shopping, medical services, schools, and jobs. Since many low income individuals cannot afford cars, they need a reliable way to get to their jobs if they are to become financially stable.

IMPROVEMENTS TO FAIR HOUSING

All of our stakeholders had suggestions for how to improve access to suitable housing for protected classes on Guam. Many of their suggestions were associated with improving Guam's Fair Housing law, establishing enforcement, and increasing education and training.

Laws and Enforcement

Another departure from the 2005 AI was noted in the frequent mention among the 2011 stakeholders of problems with Guam's fair housing law. Most if not all of them felt that Guam's Fair Housing Law was outdated or in some way insufficient for dealing with the real problems of equal access to suitable housing on Guam. One told us that Guam's law was modeled after California's laws in the mid 1940's, and nothing has been changed since. While stakeholders

⁴⁹ Norma San Nicholas, Section 8 Administrator for Guam confirms that there are 175 mainstream vouchers set aside for persons with disabilities. All of the vouchers are currently in use and are redistributed as current users move out of Section 8 properties.

did not have concrete ideas on how to fix the law, they were in agreement that it needed to be fixed. They did understand that the existing law does not cover all protected classes recognized by the federal government.

They also felt that Guam's Landlord Tenant Law was insufficient for today's world. We have already noted that several stakeholders told us stories about low-income families who were evicted without notice with no recourse under the law. More than one reasoned that the ability to file claims in Guam would depend on having a law that had been violated. Some of those interviewed recalled decades old attempts in creating a law. In the past, Senators Fernandez, Won Pat, and Guthertz have all worked to revise and update landlord tenant laws to no avail.

Most of our stakeholders were not attorneys and had no particular expertise in legal matters. Their understanding of Guam's Fair Housing Law and Landlord Tenant Code may be unsophisticated or even inaccurate. Some admitted they had no idea which laws were involved in providing fair housing for the protected classes. We were nevertheless surprised to find such widespread concern with the need to revise Guam's laws in order to develop a working fair housing system.

Virtually all of our stakeholders agreed that, on Guam, fair housing happens at GHURA. If people want to know about fair housing issues on Guam they go to GHURA. If they had a client who needed help with a fair housing issue they would send them to GHURA. If a resident wanted to file a fair housing complaint they would need to go to GHURA to do that. Not everyone thought that was appropriate, but all agreed it was the case.

Nearly all stakeholders agreed there is no enforcement organization to protect Guam's tenants. Some felt HUD should be more active in enforcing fair housing laws and others thought the Office of the Attorney General should be more involved. Others told us that HUD can provide assistance with filings, but it takes too long and involves too much hassle to bring a complaint to a final decision. The Attorney General's Office is responsible for enforcing Guam's housing law, but no cases have been processed through that venue. Experts recommended that Guam establish a commission on fair housing that would be tasked with fielding complaints and enforcing fair housing laws. Others felt there should be a standardized appeals process established under the new landlord-tenant law.

Increasing Education and Training Programs

Stakeholders also agreed that there was education and training be done, regardless of whether or not the enforcement issues were solved. Some experts believed the lack of Fair Housing educational programs was an impediment in itself. They told us that training and education was needed for landlords and real estate personnel, for current and prospective buyers and renters, for the protected classes, advocates for protected classes, and staff at public housing programs. Perhaps most telling, several of our stakeholders admitted that they needed the training themselves. Many stakeholders knew where to find fair housing education and training on Guam. Many provide some form of training themselves. But they felt that the reach of those programs was insufficient. The sessions were generally small, infrequent, and at times advertised only to certain types of people. A broader, more organized, and well-grounded training effort was needed. GHURA was recognized for their efforts to educate the housing community, but some felt that training activity had decreased over the last two years. Others said that the level of training needed to be improved and they were concerned that HUD has not sent trainers to upgrade local training efforts. GHURA reported that they too would appreciate more assistance from HUD in providing trainings on Guam.

A few stakeholders reported that they had seen advertising for fair housing in local media in the last 12 months. One person interviewed remembered materials being distributed years ago that were accompanied by ads in which “Fair Housing Freddie” extolled the virtues of fair housing. Stakeholders were somewhat interested in increasing fair housing advertising. If it is done, they told us, make sure: (1) advertising is available in several languages; (2) it uses a targeted approach; and (3) ad content is specifically designed for Guam’s population.

Another suggestion was to create cultural assimilation programs, which may decrease certain types of discrimination.

Develop a Complaints System

Most stakeholders knew that the fair housing complaints system was not working. One even knew that only three complaints had been filed in the last six years. They had several explanations for the failure of the complaints system. First, many tenants do not know their rights under the Fair Housing Law, so they do not know they have recourse under the law. Second, the people of Guam fear backlash or reprisal from their landlords and do not believe that can be prevented under current Guam law. Third, there is no commonly understood process for filing a complaint and people are not sure what to do when they encounter discrimination. Fourth, even among those who may know that they can file a complaint with HUD, few have seen resolution of fair housing cases. So there may be little faith in the efficacy of the complaints system. Fifth, some felt that a complaint system that must be resolved by San Francisco is not really a feasible solution for Guam.

A related problem may exist, some told us, because few complaints are filed on Guam. It may appear to HUD that there is no fair housing enforcement problem on Guam and that could lead to decreased funding. This brings many stakeholders to recommend that Guam create a formal complaints system that will operate at home and provide training and encourage Guam’s protected classes to defend their interests.

HUD Funding

It was stated in many of the expert interviews that there should be more federal involvement in Guam as well as an increase in HUD funding. One person interviewed explained that there are problems with the way Federal grants are issued to Guam. They perceived a disparity between the way the money was distributed between the States and Guam saying that Guam’s level of funding did not reach the level of demand. Others, as we have noted felt that HUD’s involvement in Guam’s fair housing program should go beyond funding and assist GHURA in providing effective training, education, and complaints systems.

Increase HVCP Funding

Many experts believed that the key solution to the problem of affordable housing is to increase the awards for HVCP housing. It was agreed by many that if someone has the credit, credentials, and capabilities to rent or buy a unit, there will be homes available for them on the market. One expert recalled that there are currently 175 mainstream vouchers available through GHURA, but there are well over 200 individuals who qualify for those vouchers on the waitlist. By increasing the number of vouchers, it will enable more people to gain access to homes just above their level of affordability. Furthermore, in a few interviews, it was said that

landlords tend to scrutinize HVCP renters more carefully but have a high inclination to rent to them because their payments are more secure.

Improve Rental Units

Stakeholders had some additional suggestions for improving the condition of rental units available to low-income families and the protected classes. Several people suggested that GHURA ramp up inspection standards on HVCP units. One person suggested that the standards should be raised to improve the quality of the HCVP rental experience. That person believed that some units provide inadequate living conditions. Other stakeholders felt inspections should be made more frequently. In this case the intention was to promote better treatment of the units by HVCP tenants. The result would be to involve GHURA in maintaining the property and keeping units on the list through partnership with landlords.

Still other suggestions covered incentives for or requirements on landlords to prompt them to refurbish units. Some felt that landlords should be required to refurbish units in order to qualify for HVCP services.

Finally, incentives should be awarded for creating ADA-compliant homes for the disabled. There are tax exemptions for individuals who make modifications to their own homes, but those are not extended to builders or landlords.

Another person we interviewed suggested that lending institutions should do more to support fair housing. Specifically, they should assure that all home buyers have thorough inspections before making a purchase. We should note that stakeholders once again agreed that lenders and insurance agents were not the cause of fair housing issues in Guam.

No one mentioned discrimination in lending or insuring as a problem on Guam. Nor did anyone bring up easy credit or predatory lending of the mid-decade, nor the arbitrary foreclosures of the last part of the decade, as impediments or fair housing issues on Guam.

Military Build-up

Looking past the current state of impediments on Guam, many stakeholders saw the military build-up as a problem for fair housing. They believe that the build-up will dramatically increase rental prices and thereby limit access to housing for lower-income people. Since the protected classes include disproportionately more persons with low-incomes the effect will be to provide differential access for the protected classes. Stakeholders believe that landlords are already demonstrating discrimination in their preference for military tenants whose housing choices are “limitless” due to housing allowances. Realtors and property managers are quick to point out that the preference for military tenants is revenue driven and falls short of discrimination against protected classes. In fact, to attract military renters, it is usually necessary to invest in physical improvements. Further, it is often argued that military dependents include substantial numbers of persons in the protected classes and landlords will be willing to accept them. Nevertheless, it is likely that the buildup will increase rents and remove units from the low end of the housing stock. It may even be true that it will draw housing development resources away from the lower end of the market and ADA compliant units for disabled persons. And that will swell the ranks of those who depend on public and assisted housing and place greater burden on rent subsidies and the HVCP. One stakeholder noted that Guam’s HVCP strategy might have to shift to a more project-based system in order to fulfill demand for low-income housing.

VIII. IMPEDIMENTS TO FAIR HOUSING CHOICE

During the course of the Analysis of Impediments study we discussed many fair housing related issues with GHURA and other local stakeholders. Some of those were of minor importance and some were of concern to very few people. But, throughout the study and at the Town Hall Meeting we identified five issues on which there was a consensus of opinion among all or nearly all participants. It was generally agreed that these five impediments should be the focus of attention for furthering affirmative fair housing for the next five years.

IMPEDIMENT ONE: DIFFICULTY ENFORCING FAIR HOUSING LAWS DUE TO GUAM'S LANDLORD AND TENANT CODE

The need for a revised landlord and tenant code has been noted in GHURA fair housing documents for the last five years. The AI 2011 review of laws, rules, and regulations noted that current Guam Landlord and Tenant laws fall short of HUD expectations in several ways. Interviews with stakeholders in Guam's housing community found an unusually large number of people who felt that local landlord and tenant laws were an impediment to furthering fair housing on Guam. Finally, the Town Hall Meeting participants placed revision of landlord and tenant laws as the number one priority for action in the next five years.

The revision of the landlord and tenant code can only be accomplished through legislative action. As GHURA has noted in the past, this is a difficult task for any organization outside of the legislature. It requires that the housing agency work closely with the Housing Committee of the Legislature to decide the content of the new code, where it should be placed within the GCA and whether some elements of the current law must first be repealed. The legislative procedures set forth in the Administrative Adjudication Laws of Guam require transparency and public discussion. The many constituencies with a stake in the landlord and tenant code must be involved in the legislative process. The exact tenets of the new law have not been identified here, but a useful example exists in the Uniform Residential Landlord and Tenant Act⁵⁰ (URLTA) that underlies the laws of most other States at this time. The prospects for success in this endeavor are also more positive than at some times in the past because of the new administration, the past efforts of GHURA, and the recent adoptions of the International Building Code (IBC)⁵¹.

⁵⁰ Uniform Residential Landlord and Tenant Act (URLTA) drafted by the National Conference of Commissioners on Uniform State Laws as approved and recommended for enactment in all the states at the Annual Conference Meeting in its 81st year at San Francisco, California, August 4-11, 1972 with amendments approved August 1974.

⁵¹ I Mina'trenta Na Liheslaturan Huahan, 2009 (FIRST) Regular Session, Bill No. 22 (LS), An Act to repeal and re-enact 67101 and to repeal 67102, 67104, 67105 of Article 1; and to repeal Article 4, all of Chapter 67 of Title 21, Guam Code Annotated, relative to adopting the International Building Code as the Building Code of Guam.

IMPEDIMENT TWO: GUAM'S FAIR HOUSING LAW NOT SUBSTANTIALLY EQUIVALENT TO FEDERAL FAIR HOUSING LAW

The review of laws, rules and regulations affecting fair housing on Guam found that the local fair housing law is not equivalent to federal fair housing law. Federal law covers several more protected classes than does Guam law. It covers more specific incidences of unfair housing practices than Guam law. Federal statutes are notably more detailed in their treatment of enforcement procedures and the characteristics of the local enforcement organization. Our review of GHURA's internal documentation showed that developing an equivalent fair housing law has been one of GHURA'S Consolidated Plan objectives for several years. Stakeholders could easily identify the problems associated with this issue, but were unaware of the complexities of HUD regulations and requirements for local enforcement. For example, few if any volunteered any comment on "substantially equivalent certification", but many noted problems that occur when the federal and local housing laws are so dissimilar.

IMPEDIMENT THREE: THE LACK OF A FAIR HOUSING ENFORCEMENT ORGANIZATION ON GUAM

The need for an effective fair housing enforcement organization on Guam was clearly indicated in the Guam AI 2011. The initial review of the fair housing enforcement system showed that Guam had no official fair housing enforcement organization. Guam has no Civil Rights Commission or equivalent private sector organization. Although GHURA seemed to be the *de facto* agency responsible for fair housing complaints, they have no enforcement authority and would not be an appropriate enforcement organization. The local HUD office does not handle complaints, and although Guam law sets the Attorney General's office as the place to take housing complaints, that Office is currently unable to process fair housing complaints according to HUD requirements. The investigation of laws rules and regulations corroborated those findings and showed no enforcement capacity on Guam. The resident survey found discrimination and noted that people did not know where to go to handle discrimination when it occurred. Some knew they could go to GHURA, but didn't know that GHURA could only direct them to HUD's San Francisco office. The stakeholder interviews found that most of the experts engaged in fair housing for Guam understood that enforcement was not easy to find and more difficult to accomplish. They also told us that as a result of the lack of enforcement on Guam, very few if any complaints would be filed. Investigation of local and federal complaints logs found that to be the case.

In the absence of a local QFHCO enforcement of the federal fair housing law is left to HUD's San Francisco office. HUD is aware that enforcing the law over such great distances is ineffective. A local enforcement organization will be more visible, more experienced with local ordinances, more familiar with local housing markets and housing conditions, and more familiar with the problems of local protected classes and social mores. That is precisely the rationale behind the establishment of HUD efforts to promote local enforcement over the last two decades.

A centralized, local QFHCO – often a civil rights commission – can act in HUD's stead as the organization people turn to when they believe they have been a victim of unlawful discrimination. HUD requires that the organization be a government entity and suggests that it be independent of the local housing agency. A QFHCO must be authorized to detect noncompliance, remedy it, and if necessary to prosecute egregious violations of the law (see

Federal Register vol. 71 no. 72). The lack of a QFHEO renders the local jurisdiction incapable of local enforcement and is, as we have noted, a central issue in substantially equivalent fair housing law certification.

IMPEDIMENT FOUR: THE PUBLIC DOES NOT UNDERSTAND THE COMPLAINTS SYSTEM

One difficulty with the current complaints system is that it is not a local complaints system. The review of GHURA documents and laws showed clearly that the complaints system does not offer Guam's protected classes an appropriate means to contest or redress housing discrimination or administrative barriers to access to housing. Complaints stemming from violations of federal law must be handled through San Francisco and complaints stemming from violations of local law are filed at the Attorney General's Office as consumer protection complaints. The review of complaints records and logs shows that very few complaints are filed. The survey suggests that housing discrimination affected as many as nine percent of Guam's households since the last AI, that few choose to file complaints, and that many do not know how to file. Guam stakeholder interviews showed that nearly all of the persons interviewed witness housing discrimination or administrative barriers on a regular basis. They also told us that the complaints system was not well suited to Guam's culture, housing markets, or the needs of its protected classes. To them, the absence of complaints didn't mean there was no discrimination on Guam. It occurred because the complaints process is "too much of a hassle" is contrary to local culture, or was prompted by fear of retaliatory eviction. Town Hall Meeting participants ranked the complaints system behind the other impediments discussed here, but spoke with the greatest passion about the human suffering that resulted from barriers to fair housing and the inability to redress that suffering.

Fair housing complaints are a crucial component of fair housing enforcement and a central requirement of substantial equivalency certification. Only a functioning complaints system can reliably measure housing discrimination on Guam, verify its existence, and provide redress for the victims. The absence of a workable complaints system is directly related to the lack of a QFHEO and substantially equivalent local fair housing law, and makes it difficult to qualify for HUD's local enforcement assistance.

IMPEDIMENT FIVE: DIFFICULTY UNDERSTANDING FAIR HOUSING LAWS, RIGHTS AND RESOURCES

Among the responsibilities of a fair housing officer, education, outreach and training are recognized as being crucial to the success of the program and a never-ending responsibility. Awareness of the law is required for compliance and there are always new entrants to the fair housing area who need to be informed and trained. This is clearly recognized on Guam. The resident survey tells us that the people are often unaware of the law or misinterpret it. The stakeholder interviews told us that nearly everyone connected to fair housing law on Guam feels the need for more and better education and training. In the Town Hall Meeting, participants rated this impediment to fair housing as number two on the list of priorities for action.

GHURA offers education, outreach, and training but most of our sources were not aware of it. Many other organizations offer training in some aspect of fair housing law, but it is usually neither standardized nor comprehensive. The fair housing community feels that there should be more training, and better standardized training, delivered to a wide array of audiences. The overall fair housing training program on Guam should include a single annual large-scale gathering of stakeholders to discuss the law and its application on Guam. Other training should be provided on an as needed basis, but linked to a common set of principles and materials provided by a central organization. Among some stakeholders there was also a concern that local trainers may not be adequately prepared to deliver the most timely and best informed trainings. They requested that highly experienced and informed trainers from outside of Guam be brought in for major meetings. Several suggested that HUD provide training and new materials at that time.

Training should make use of translated documents whenever possible. Guam has a linguistically and culturally diverse population continuously infused with new in-migrants. Consequently, there is a strong need for fair housing materials to appear in several languages. GHURA has always been aware of the requirement. In addition to documents associated with education, outreach and training, there is a need for translations of public housing documents including contracts, eviction notices, and rules and regulations.

IX. APPENDIX

APPENDIX A: ANALYSIS OF IMPEDIMENTS TELEPHONE SURVEY, 2011

Guam

Q.1 Hello, I'm _____ from SMS, a Hawai'i research company. We are conducting a survey for the Guam Housing and Urban Renewal Authority about housing issues on Guam. May I speak to a head of household 18 years or older?

100% Yes, I am 18 years or older
No, He/She is...
No: Terminate

Q.2 [REINTRODUCE] Hello, I'm _____ from SMS, a Hawai'i research company. We're conducting a survey about housing issues for the Guam Housing and Urban Renewal Authority about housing issues on Guam. I understand that you are the head of the household 18 years or older. [IF YES, ENTER (1) TO START]

100% Yes
No, no such person

Q.3 Please be advised that my supervisor may be monitoring this conversation for internal quality control purposes.

1 ENTER [1] TO CONTINUE

Q.4 I'm going to tell you about some decisions made by owners of rental apartment buildings. For each decision, I'd like your opinion about whether the owner should or should not be allowed to make that decision. Second, I'd like to know whether you think the decision is legal or not legal under federal law. If you're not sure, just say so.

Q.5 In the first situation, an apartment owner who rents to people of all age groups decides that families with younger children can only rent in one particular building, and not in others, because young children tend to make lots of noise and may bother other tenants.

Q.6 Regardless of what the law says, do you think the owner of the apartments should be able to assign families with younger children to one particular apartment?

31.0% Yes
35.0%
28.0%
6.0% Don't know

Q.7 Under federal law, is it currently legal for an apartment building owner to assign families with younger children to one particular building?

17.9% Yes
36.2% No
24.6% Depends
21.3% Don't know

Q.8 Here's another situation. In checking references on an application to rent a home, a homeowner learns that an applicant does not have the best housekeeping habits because they do not always keep their current home neat or clean. The owner does not want to rent to such a person.

Q.9 Regardless of what the law says, do you think the homeowner should be able to reject this applicant because of his/her housekeeping habits?

62.0% Yes
18.6% No
17.4% Depends
2.0% Don't know

Q.10 Under federal law, is it currently legal for a homeowner to reject the applicant because of housekeeping habits?

37.5% Yes
25.3% No
21.1% Depends
16.1% Don't know

Q.11 A homeowner is renting to a tenant who uses a wheelchair. The building is old and does not have a wheelchair ramp, and the tenant wants a small wooden ramp constructed at the building door to more easily access the building. He asks the owner if it is okay to build a ramp. The tenant says he'll pay all the costs and agrees to have the ramp removed at his expense when he leaves. The owner, however, believes that the ramp will not look good at his building, and decides he does not want it constructed on his property.

Q.12 Regardless of what the law says, do you think the homeowner should be able to decide not to allow a wheelchair ramp to be constructed on the owner's property? Depends

30.0% Yes
45.4% No
22.6% Depends
2.0% Don't know

Q.13 Under federal law, is it currently legal for a homeowner to decide not to allow a wheelchair ramp to be constructed on the owner's property?

- 21.1% Yes
- 38.7% No
- 23.8% Depends
- 16.4% Don't Know

Q.14 A homeowner places a notice on a community bulletin board to find a tenant for a vacant apartment. The notice says "Christians preferred."

Q.15 Regardless of what the law says, do you think the homeowner should be able to advertise an available apartment using the phrase "Christians preferred?"

- 19.6% Yes
- 61.5% No
- 15.9% Depends
- 3.0% Don't Know

Q.16 Under federal law, is it currently legal for a homeowner to indicate a preference based on religion in advertising an available unit?

- 12.9% Yes
- 64.8% No
- 14.6% Depends
- 7.7% Don't Know

Q.17 In checking references on an application for a rental unit, a homeowner learns that the applicant has a history of mental illness. Although the applicant is not a danger to anyone, the owner does not want to rent to them.

Q.18 Regardless of what the law says, do you think the homeowner should be able to reject this application because of the applicant's mental illness?

- 23.3% Yes
- 46.9% No
- 26.1% Depends
- 3.7% Don't Know

Q.19 Under federal law, is it currently legal for a homeowner to reject this application because of the applicant's mental illness?

- 17.1% Yes
- 47.6% No
- 22.8% Depends
- 12.4% Don't Know

Q.20 An apartment owner learns that an applicant for a vacant unit has a different religion than all the other tenants in the building. Believing that other tenants would object, the owner does not want to rent to them.

Q.21 Regardless of what the law says, do you think the apartment owner should be able to reject this application because of the applicant's religion?

- 6.0% Yes
- 81.9% No
- 10.7% Depends
- 1.5% Don't Know

Q.22 Under federal law, is it currently legal for an apartment owner to reject this application because of the applicant's religion?

- 4.5% Yes
- 76.7% No
- 11.4% Depends
- 7.4% Don't Know

Q.23 Here's another. A Micronesian family looking to buy a house goes to a real estate agent and asks to see houses in their price range. The agent decides to show them only houses in Micronesian neighborhoods assuming they would only want to live near other Micronesians even though there are many houses in the buyer's price range in other parts of Guam.

Q.24 Regardless of what the law says, should the real estate agent be able to decide to focus the home search in areas with mostly Micronesians?

- 10.7% Yes
- 65.0% No
- 22.1% Depends
- 2.2% Don't Know

Q.25 Under federal law, is it currently legal for a real estate agent to decide to focus the home search in areas with mostly Micronesians?

- 10.4% Yes
- 62.5% No
- 18.9% Depends
- 8.2% Don't Know

Q.26 Here's another: A Chamorro person applies to a bank for a home mortgage. They do not have a steady job or enough income to pay a monthly mortgage payment. When the applicant did work, the job didn't pay very much. Because of the lack of a steady job and insufficient income, the loan officer decides not to give this person a mortgage.

Q.27 Regardless of what the law says, do you think the loan officer should be able to turn down the Chamorro applicant because of the applicant's lack of a steady job and income?

- 64.3% Yes
- 11.7% No
- 21.6% Depends
- 2.5% Don't Know

Q.28 Under federal law, is it currently legal for a loan officer to turn down the Chamorro applicant because they lack a steady job and income?

- 51.4% Yes
- 16.6% No
- 22.8% Depends
- 9.2% Don't Know

Q.29 A Filipino family goes to a bank to apply for a home mortgage. The family qualifies for a mortgage but, in the bank's experience, Filipino borrowers have been less likely than others to repay loans. For that reason, the loan officer requires the family to make a higher down payment than would be required of other borrowers.

Q.30 Regardless of what the law says, do you think the loan officer should be able to require higher down payments by Filipino families in order to get a mortgage?

- 7.9% Yes
- 71.0% No
- 17.6% Depends
- 3.5% Don't Know

Q.31 Under federal law, is it currently legal for the loan officer to require higher down payments from Filipino families in order to get a mortgage?

- 7.2% yes
- 66.7% No
- 16.6% Depends
- 9.4% Don't Know

Q.32 Next, we'll ask some questions about your own experience. Do you think you have ever been discriminated against when you were trying to buy or rent a house or apartment?

- 12.2% Yes
- 80.6% No (SKIP TO Q38)
- 6.5% Have not tried to buy or rent a house or apartment
- 7.0% Don't know

Q.33 How many times in the last five years were you discriminated against while trying to buy or rent a house or apartment?

- 26.5% 0
- 26.5% 1
- 22.4% 2
- 8.2% 3
- 4.1% 4 to 5
- 8.2% 6 to 10
- 4.1% more than 10
- 0.0% [Haven't tried to buy or rent and apartment in the last 5 years]
- 0.0% DON'T KNOW/REFUSED

Q.34 Did you do anything about it?

- 25.0% Yes
- 75.0% No
- 0.0% Don't know

Q.35 What did you do about it? Did you...[READ ANSWERS]

- 44.4% Complain to the person who was discriminating
- 22.2% Complain to someone else
- 11.1% File a complaint
- 11.1% File a lawsuit
- 0.0% Sought help from a fair housing group or other organization
- 11.1% Something else
- 0.0% DON'T KNOW

Q.36 Please specify.

Q.37 Why did you not do anything about it?

Q.38 Suppose you believed you were being discriminated against when you went to buy or rent a house or apartment. What do you think you would do? Would you...[READ LIST]

- 4.5% Do nothing
- 18.4% Complain to the person who was discriminating
- 4.8% Complain to someone else
- 31.1% File a complaint with a government agency
- 12.1% Talk to a lawyer
- 4.5% File a lawsuit
- 24.3% Seek help from a fair housing group or other organization
- 15.0% Something else
- 5.1% DON'T KNOW

Q.39 Please specify.

Q.40 Why would you not do anything about it?

Q.41 Have you or anyone in your household attended Fair Housing training within the past year?

- 8.4%** yes
- 89.6%** No
- 2.4%** DON'T KNOW/REFUSED

Q.42 (If Yes to q41) Where did you learn about the Fair Housing training?

- 67.4%** Newspaper
- 9.5%** Magazines
- 9.5%** Radio
- 16.8%** Television
- 21.1%** Other
- 3.2%** DON'T KNOW/REFUSED

Q.43 Please specify.

Q.44 Have you ever been informed of your rights under the Fair Housing Act?

- 27.5%** Yes
- 72.5%** No

Q.45 (If Yes to q44) Who or where were you informed of your rights under the Fair Housing Act? *(Select all that apply)*

- 27.9%** Housing Provider
- 18.9%** Booklet / Distributed Materials
- 11.7%** internet
- 50.5%** Other
- 1.8%** DON'T KNOW/REFUSED

Q.46 Please specify.

Q.47 Have you heard or seen advertising about Fair Housing in the last three months?

- 23.6%** Yes
- 73.9%** No
- 2.5%** DON'T KNOW/REFUSED

Q.48 (If Yes to q47) Where did you see or hear the advertising pertaining to fair housing law?

- 15.2%** Newspaper
- 0.0%** Magazines
- 3.5%** Radio
- 12.4%** Television
- 71.1%** Other
- 3.2%** DON'T KNOW/REFUSED

Q.49 On a 5-point scale where 5 is "Extremely Knowledgeable" and 1 is "Not at All Knowledgeable," how would you rate your level of understanding on Guam's Fair Housing laws?

- 18.9%** Not at All Knowledgeable
- 17.6%**
- 34.0%**
- 11.9%**
- 11.9%** Extremely Knowledgeable
- 5.7%** DON'T KNOW/REFUSED

Q.50 We have a few Census type questions for classification purposes.

Q.51 What is your age?

- 12.9%** 18-24
- 17.6%** 25-34
- 21.8%** 35-44
- 19.6%** 45-54
- 14.1%** 55-64
- 13.2%** 65 and over
- 0.7%** DON'T KNOW/REFUSED

Q.52 How many people live in your household?

- 6.0%** 1
- 17.6%** 2
- 21.1%** 3
- 19.6%** 4
- 15.1%** 5
- 7.9%** 6
- 6.7%** 7
- 8.2%** 8 or more
- 0.7%** DON'T KNOW/REFUSED

Q.53 Do you own or rent your home or apartment?

- 50.4%** Own
- 38.0%** Rent
- 11.2%** Occupy with no payment
- 0.5%** DON'T KNOW/REFUSED

Q.54 How many bedrooms are in your house or apartment?

- 0.5% Studio
- 5.2% 1 bedroom
- 25.8% 2 bedrooms
- 38.5% 3 bedrooms
- 21.8% 4 bedrooms
- 7.2% 5 or more bedrooms
- 1.0% DON'T KNOW/REFUSED

Q.55 How many years have you lived there?

- 12.2% Less than 1 year
- 14.1% 1 to 2 years
- 16.9% 3 to 5 years
- 15.6% 6 to 10 years
- 17.1% 11 to 20 years
- 24.1% More than 20 years
- 0.0% DON'T KNOW/REFUSED

Q.56 Do you own any other real estate on Guam?

- 16.9% Yes
- 83.1% No
- 0.0% DON'T KNOW/REFUSED

Q.57 Do you rent or lease out other property?

- 5.2% Rent
- 2.0% Lease
- 1.5% Rent and lease
- 90.6% Neither rent nor lease
- 0.7% DON'T KNOW/REFUSED

Q.58 What is your employment status?

- 43.9% Employed full time [35+ hours/week]
- 9.4% Employed part time
- 13.9% Unemployed
- 4.5% Student
- 10.9% Housewife
- 17.1% Retired
- 0.2% DON'T KNOW/REFUSED

Q.59 What is your ethnicity?

- 13.9% Caucasian
- 39.7% Chamorro
- 29.5% Filipino
- 3.2% Asian
- 8.2% Pacific Islander
- 8.7% Other (specify)
- 5.0% Mixed (specify)
- 0.2% DON'T KNOW/REFUSED

Q.60 Please specify.

Q.61 Do you or anyone your household speak a language other than English as their primary language?

- 56.3% Yes
- 43.7% No

Q.62 (If yes) What is their primary spoken language?
Please select all that apply.

- 39.6% Chamorro
- 1.8% Chinese
- 34.4% Tagalog or Ilocano
- 4.4% Japanese
- 2.6% Korean
- 23.3% Other
- .9% DON'T KNOW/REFUSED

Q.63 Please specify.

Q.64 What was your household income last year, before taxes?

- 22.3% less than \$20,000
- 14.1% \$20,000 to \$29,999
- 11.2% \$30,000 to \$39,999
- 6.2% \$40,000 to \$49,000
- 12.2% \$50,000 to \$74,999
- 6.2% \$75,000 to \$99,999
- 5.0% \$100,000 to \$149,999
- 3.5% \$150,000 or more
- 19.4% DON'T NOW/REFUSED

Q.65 RECORD GENDER [DO NOT ASK]

- 44.9% Male
- 55.1% Female

APPENDIX B: GUAM IMPEDIMENTS TO FAIR HOUSING SURVEY
Interviewer Protocol, 2011

These questions will get the interview started. All of these issues are to be covered. The primary purpose of the interview is to get the informant to tell us what kind of impediments are at work in Guam today and what might be done to promote Fair Housing on Guam.

Identify respondent and get experience relevant to Fair Housing:

1. How is your agency affiliated with housing in Guam? What does your agency do?
2. Please describe your main job function with the agency:
3. How long have you been involved with housing in Guam?
4. How familiar are you with the Fair Housing Law in Guam?

Get respondent's view of impediments on Guam

5. Do you believe there are impediments to fair housing at work in Guam today; issues that should be acted on right now? (a. Is there discrimination? b. Is there limited access to housing? c. Are there rules and regulations that are conflicting or limit access to housing among the protected classes?)
6. What are the most important things that should be done to further Fair Housing on Guam?
[Probe and follow up diligently. List them all.]

Identify respondent's views on specific issues in Fair Housing

7. Do you think that training and education are needed? Do you think that enforcement is needed? Which one is more important, if either?
If it's not already clear, who needs to be trained?
If it's not already clear, Do you (does your program) do any training or public education?
8. If you wanted to find out how well we were doing in terms of removing barriers to Fair Housing in Guam, whom would you ask? Where would you look?
9. If you wanted to find out what the official Fair Housing policy was on in Guam or look up the most recent Fair Housing Plan, who would you ask or where would you look?
10. Do we have enough of the right kind of training for Fair Housing in Guam today?
11. In the last 12 months, have you seen or heard any advertising for Fair Housing in Guam?

What kind and where? Do you (your program) do any advertising? What kind, where?

Please provide your e-mail address so that once we collect everyone's ideas, we can send them to you for your review.

e-mail: _____

Anything else you think we should know about Fair Housing in Guam?

Thank you for your time and participation!

APPENDIX C: WORKSHEETS, TABULATIONS, AND EXHIBITS

Exhibit A1: Population in Guam by Ethnic Origin or Race

ETHNIC ORIGIN OR RACE	% of Population 2010	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000
ONE ETHNICITY OR RACE	86.08%	155,535	153,465	151,390	149,306	147,209	145,095	142,966	140,817	138,634	136,286	133,252
Native Hawaii and Other Pacific Islander	44.60%	80,584	79,512	78,437	77,357	76,270	75,175	74,072	72,959	71,827	70,611	69,039
Carolinian	0.08%	144	142	140	138	136	134	132	130	128	126	123
Chamorro	37.01%	66,879	65,988	65,096	64,200	63,298	62,390	61,474	60,550	59,611	58,602	57,297
Chuukese	4.02%	7,271	7,174	7,077	6,979	6,881	6,783	6,683	6,583	6,481	6,371	6,229
Kosraean	0.19%	341	336	332	327	323	318	313	309	304	299	292
Marshallese	0.17%	300	296	292	288	284	280	276	272	267	263	257
Palauan	1.38%	2,499	2,466	2,432	2,399	2,365	2,331	2,297	2,263	2,227	2,190	2,141
Pohnpeian	0.88%	1,594	1,573	1,552	1,531	1,509	1,487	1,466	1,444	1,421	1,397	1,366
Yapese	0.44%	801	790	779	769	758	747	736	725	714	702	686
Other Pacific Islander	0.42%	755	747	737	726	716	705	695	683	674	661	648
Asian	32.51%	58,746	57,963	57,180	56,392	55,601	54,802	53,998	53,185	52,362	51,475	50,329
Chinese	1.75%	3,160	3,118	3,075	3,033	2,991	2,948	2,904	2,861	2,816	2,769	2,707
Filipino	26.31%	47,540	46,907	46,273	45,636	44,995	44,349	43,698	43,041	42,374	41,656	40,729
Japanese	1.35%	2,435	2,402	2,370	2,337	2,304	2,271	2,238	2,204	2,170	2,133	2,086
Korean	2.46%	4,454	4,395	4,335	4,276	4,216	4,155	4,094	4,033	3,970	3,903	3,816
Other Asian	0.64%	1,157	1,141	1,127	1,110	1,095	1,079	1,064	1,046	1,032	1,014	991
White	6.79%	12,266	12,103	11,940	11,775	11,610	11,443	11,275	11,106	10,933	10,748	10,509
Black or African American	1.01%	1,830	1,806	1,781	1,757	1,732	1,707	1,682	1,657	1,631	1,604	1,568
Some other Race or Ethnic Group	1.17%	2,109	2,081	2,052	2,025	1,996	1,968	1,939	1,910	1,881	1,848	1,807
TWO OR MORE RACES OR ETHNICITIES	13.92%	25,157	24,822	24,487	24,150	23,810	23,469	23,124	22,776	22,423	22,044	21,553
Chamorro and other group(s)	5.13%	9,275	9,151	9,028	8,903	8,778	8,652	8,525	8,397	8,267	8,127	7,946
Asian and other group(s)	7.01%	12,668	12,499	12,330	12,161	11,990	11,818	11,644	11,469	11,291	11,100	10,853
Other two or more group(s)	1.78%	3,214	3,172	3,129	3,086	3,042	2,999	2,955	2,910	2,865	2,817	2,754
TOTAL POPULATION	100.00%	180,692	178,287	175,877	173,456	171,019	168,564	166,090	163,593	161,057	158,330	154,805

Exhibit A2: Population in Guam by Area

AREA	POPULATION				Change From	
	2000 Number	2000 Percent	1990 Number	1990 Percent	Number	Percent
Guam	154,805		133,152		21,653	16%
Agana Heights District	3,940	2.5%	3,646	2.7%	294	8%
Agat District	5,656	3.7%	4,960	3.7%	696	14%
Asan District	2,090	1.4%	2,070	1.6%	20	1%
Barrigada District	8,652	5.6%	8,846	6.6%	-194	-2%
Chalan Pago-Ordod District	5,923	3.8%	4,451	3.3%	1,472	33%
Dededo District	42,980	27.8%	31,728	23.8%	11,252	35%
Hagatña District	1,100	0.7%	1,139	0.9%	-39	-3%
Inarajan District	3,052	2.0%	2,469	1.9%	583	24%
Mangilao District	13,313	8.6%	10,483	7.9%	2,830	27%
Merizo County	2,163	1.4%	1,742	1.3%	421	24%
Mongmong-Toto-Maite District	5,845	3.8%	5,845	4.4%	0	0%
Piti District	1,666	1.1%	1,827	1.4%	-161	-9%
Santa Rita District	7,500	4.8%	11,857	8.9%	-4,357	-37%
Sinajana District	2,853	1.8%	2,658	2.0%	195	7%
Talofofo District	3,215	2.1%	2,310	1.7%	905	39%
Tamuning District	18,012	11.6%	16,673	12.5%	1,339	8%
Umatac District	887	0.6%	897	0.7%	-10	-1%
Yigo District	19,474	12.6%	14,213	10.7%	5,261	37%
Yona District	6,484	4.2%	5,338	4.0%	1,146	21%

* Hagatña district is the current name for the Agana District in the 1990 data.

US Census Bureau 2000

Exhibit A3: Condition of Housing Units 2009

Vacancy Status	Condition of Unit									
	Sound		Deteriorated		Dilapidated		Unable to Determine		Total	
	number	percent	number	percent	number	percent	number	percent	number	percent
Occupied	28,952	94.8%	13,701	88.4%	5,169	70.0%	234	96.6%	48,044	89.6%
Vacant	938	3.1%	1,536	9.9%	2,166	29.3%	5	2.0%	4,645	8.7%
Unknown	79	0.3%	4	0.0%	0	0.0%	0	0.0%	83	0.2%
Not Determined	566	1.9%	258	1.7%	50	0.7%	28	1.5%	901	1.6%
Total	30,536	100.0%	15,499	100.0%	7,384	100.0%	266	100.0%	53,673	100.0%

Exhibit A4: Households by Village 1970-2009

Village	2009		2000		1990		1980		1970	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Agana Heights	1,244	2.8%	1,058	2.7%	939	3.0%	827	3.3%	625	4.0%
Agat	1,512	3.4%	1,298	3.3%	1,135	3.6%	853	3.4%	780	5.0%
Asan-Maina	622	1.4%	552	1.4%	565	1.8%	526	2.1%	552	3.5%
Barrigada	2,447	5.5%	2,097	5.4%	1,975	6.3%	747	3.0%	1,230	7.9%
Chalan Pago- Ordot	1,780	4.0%	1,573	4.1%	953	3.0%	660	2.7%	512	3.3%
Dededo	11,622	26.1%	10,016	25.8%	6,963	22.2%	5,104	20.6%	2,067	13.3%
Hagatna	310	0.7%	268	0.7%	367	1.2%	294	1.2%	453	2.9%
Inarajan	755	1.7%	644	1.7%	488	1.6%	392	1.6%	307	2.0%
Mangilao	3,695	8.3%	3,190	8.2%	2,427	7.7%	1,709	6.9%	667	4.3%
Merizo	533	1.2%	471	1.2%	390	1.2%	351	1.4%	266	1.7%
Mongmong- Toto-Maite	1,869	4.2%	1,633	4.2%	1,573	5.0%	1,312	5.3%	843	5.4%
Piti	533	1.2%	474	1.2%	480	1.5%	422	1.7%	236	1.5%
Santa Rita	1,958	4.4%	1,780	4.6%	2,287	7.3%	2,131	8.6%	1,529	9.8%
Sinajana	844	1.9%	742	1.9%	641	2.0%	573	2.3%	633	4.1%
Talofofu	844	1.9%	738	1.9%	521	1.7%	398	1.6%	322	2.1%
Tamuning	6,724	15.1%	5,953	15.4%	4,982	15.9%	4,067	16.4%	2,039	13.1%
Umatac	176	0.4%	162	0.4%	162	0.5%	130	0.5%	130	0.8%
Yigo	5,344	12.0%	3,370	12.0%	3,370	10.7%	2,424	9.8%	1,946	12.5%
Yona	1,735	3.9%	1,155	3.8%	1,155	3.7%	914	3.7%	432	2.8%
Total Occupied	44,547		37,174		31,373		23,834		15,569	

Exhibit A5: Village Population and Jobs

Village	Population	Jobs	Jobs per Household
Hagatna	1,164	10,104	35.6
Tamuning	20,471	28,611	5.7
Santa Rita	8,522	6,505	3.1
Piti	1,893	1,258	2.7
Barrigada	9,332	2,833	1.2
Asan	2,351	598	1.0
Yigo	22,128	4,111	0.8
Mangilao	15,319	2,946	0.8
Mongmong-Toto-Maite	6,642	1,142	0.7
Agana Heights	4,477	732	0.7
Yona	7,563	696	0.4
Sinajana	3,242	302	0.4
Dededo	49,137	3,502	0.3
Chalan Pago-Ordot	6,535	244	0.2
Talofofu	3,635	134	0.2
Inarajan	3,469	146	0.2
Umatac	1,009	47	0.2
Agat	6,426	267	0.2
Merizo	2,457	81	0.1
All Villages	175,790	64,259	1.5

Exhibit A7: Substantial Equivalency

The following are areas the federal Fair Housing Act addresses that the GCA Discrimination in Housing Accommodations Article does not substantially address:

1. Section 802 [42 U.S.C. 3602] Definitions: Definitions of family, person, to rent, discriminatory housing practice, state, handicap, aggrieved person, complainant, familial status, conciliation, conciliation agreement, and prevailing party.
2. Section 803. [42 U.S.C. 3603] Effective dates of certain prohibitions: parts (a)(c)
3. Section 804 [42 U.S.C. 3604] Discrimination in sale or rental of housing and other prohibited practices: protected classes and other portions of (a)(b)(c)(d)(e) and all of (f)
4. Section 805 [42 U.S.C. 3605] Discrimination in Residential Real Estate-Related Transactions: et al.
5. Section 807 [42 U.S.C. 3607] Religious organization or private club exemption: part (b)
6. Section 808 [42 U.S.C. 3608] Administration: et al
7. Section 808a [42 U.S.C. 3608a] Collection of certain data: et al
8. Section 809 [42 U.S.C. 3609] Education and conciliation; conferences and consultation; reports: et al
9. Section 810 [42 U.S.C. 3610] Administrative Enforcement; Preliminary Matters: et al
10. Section 811 [42 U.S.C. 3611] Subpoenas; Giving of Evidence: et al
11. Section 812 [42 U.S.C. 3612] Enforcement by Secretary: et al
12. Section 813 [42 U.S.C. 3613] Enforcement by Private Persons: et al
13. Section 814 [42 U.S.C. 3614] Enforcement by the Attorney General: et al
14. Section 814a Incentives for Self-Testing and Self-Correction: et al
15. Section 815 [42 U.S.C. 3614a] Rules to Implement Title: et al
16. Section 816 [42 U.S.C. 3615] Effect on State laws et al
17. Section 817 [42 U.S.C. 3616] Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in Federal Register: et al
18. Section 818 [42 U.S.C. 3617] Interference, coercion, or intimidation; enforcement by civil action: et al
19. Section 819 [42 U.S.C. 3618] Authorization or appropriations: et al
20. Section 820 [42 U.S.C. 3619] Separability of provisions: et al
21. Section 901 (Title IX as Amended) [42 U.S.C. 3631] Violations; bodily injury; death; penalties: et al.

Exhibit A8: Guam Landlord Tenant Law

18 GCA BUSINESS STRUCTURE &FUNCTION
CH. 51 HIRING OF REAL PROPERTY
(LANDLORD &TENANT)

CHAPTER 51
HIRING OF REAL PROPERTY
(LANDLORD &TENANT)

- § 51101. Lessor to Make Dwelling Habitable.
- § 51102. Lessee Repairs.
- § 51103. Hiring without Time Limit.
- § 51104. Hiring, Indefinite Term.
- § 51105. Renewal, Continued Possession.
- § 51106. Notice to Quit.
- § 51107. When Rent is Payable.
- § 51108. Attornment to Stranger.
- § 51109. Tenant to Deliver Notices.
- § 51110. Partial Room Leasing Forbidden.
- § 51111. Oral Leases; Limitation on Raising Rents.

§ 51101. Lessor to Make Dwelling Habitable.

The lessor of a building intended for the occupation of human beings must, in the absence of an agreement to the contrary, put it into a condition fit for such occupation, and repair all subsequent dilapidations thereof, which render it untenable, except such as are mentioned in § 51105 of this Part. **SOURCE:** CC § 1941.

§ 51102. Lessee Repairs.

If within a reasonable time after notice to the lessor, of dilapidations which he ought to repair, he neglects to do so, the lessee may repair the same himself, where the cost of such repairs does not require an expenditure greater than one month's rent of the premises, and deduct the expenses of such repairs from the rent, or the lessee may vacate the premises, in which case he shall be discharged from further payment of rent, or performance of other conditions. **SOURCE:** CC § 1942.

§ 51103. Hiring without Time Limit.

A hiring of real property, other than lodgings and dwelling houses, in places where there is no usage on the subject, is presumed to be for one year from its commencement, unless otherwise expressed in the hiring. **SOURCE:** CC § 1943.

§ 51104. Hiring, Indefinite Term.

A hiring of lodgings or a dwelling house for an unspecified term is presumed to have been made for such length of time as the parties adopt for the estimation of rent. Thus a hiring at a monthly rate of rent is presumed to be for one month. In the absence of any agreement respecting the length of time or the rent, the hiring is presumed to be monthly. **SOURCE:** CC § 1944.

§ 51105. Renewal, Continued Possession.

If a lessee of real property remains in possession thereof after the expiration of the hiring, and the lessor accepts rent from him, the parties are presumed to have renewed the hiring on the same terms and for the same time, not exceeding one month when the rent is payable monthly, not in any case one year. **SOURCE:** CC § 1945.

§ 51106. Notice to Quit.

A hiring of real property, for a term not specified by the parties, is deemed to be renewed as stated in the last section, at the end of the term implied by law, unless one of the parties gives notice to the other of his intention to terminate the same, at least as long before the expiration thereof as the term of the hiring itself, not exceeding one month. **SOURCE:** CC § 1946.

§ 51107. When Rent is Payable.

When there is no usage or contract to the contrary, rents are payable at the termination of the holding, when it does not exceed one year. If the holding is by the day, week, month, quarter, or year, rent is payable at the termination of the respective periods, as it successively becomes due. **SOURCE:** CC § 1947.

§ 51108. Attornment to Stranger.

The attornment of a tenant to a stranger is void, unless it is made with the consent of the landlord, or in consequence of a judgment in a court of competent jurisdiction. **SOURCE:** CC § 1948.

§ 51109. Tenant to Deliver Notices.

Every tenant who receives notice of any proceeding to recover the real property occupied by him, or the possession thereof, must immediately inform his landlord of the same, and also deliver to the landlord the notice, if in writing, and is responsible to the landlord for all damages which he may sustain by reason of any omission to inform him of the notice, or to deliver it to him if in writing. **SOURCE:** CC § 1949.

§ 51110. Partial Room Leasing Forbidden.

One who hires part of a room for a dwelling is entitled to the whole of the room, notwithstanding any agreement to the contrary; and if a landlord lets a room as a dwelling for more than one family, the person to whom he first lets any part of it is entitled to possession of the whole room for the term agreed upon, and every tenant in the building, under the same landlord, is relieved of all obligation to pay rent to him while such double letting of any room continues. **SOURCE:** CC § 1950.

NOTE: CC § 1951, dealing with recording leases of real property, was repealed by P.L. 3-76 (6/28/56).

§ 51111. Oral Leases; Limitation on Raising Rents.

Notwithstanding and other provision of law, no landlord may raise the monthly rental of any tenant who occupies a residential unit used as a primary residence which is held pursuant to a verbal or oral lease or oral or verbal rental agreement by more than five percent (5%) per annum. Any such verbal agreement or lease shall be for an initial period of one year, and during such period, the tenant may not be evicted except for nonpayment of rent or for damage or destruction of the rented premises. At the expiration of such one year period and thereafter, the landlord shall give the tenant 90days notice of eviction, except in cases of nonpayment of rent or damage or destruction of the rental premises by the tenant. In such cases, the landlord may not increase the rent by more than five percent (5%) per annum, and may not evict a tenant or terminate an oral or verbal lease or rental agreement in such case for the sole purpose of increasing the rent on a premises which has been rented pursuant to an oral or verbal lease or rental agreement. It is the position of the Legislature that all residential rental agreements and leases should be in writing signed by both parties. Therefore, this Section shall not apply to written leases or rental agreements signed by both parties, nor shall it apply to the rental of residential or other property pursuant to a written lease or rental agreement. This Section shall apply only to verbal leases or verbal rental agreements entered into after January1, 1988.**SOURCE:** New section added by Compiler. Originally, this section was an uncodified section enacted by P.L. 19-10:XI:29 (11/14/87).

NOTE: No 1970 Civil Code '§ 1950-1954 existed.

Exhibit A9: HUD Grants Programs to Assist Local Housing Agencies

Additional Fair Housing grants and programs are available through HUD; however some require additional certifications and conditions.

Fair Housing Initiatives Program

The Fair Housing Initiatives Program (FHIP) is designed to provide support in developing programs to eliminate and prevent discriminatory housing practices. The following grant opportunities are part of the program, each with their own eligibility requirements⁵²:

- Education and Outreach Initiative (EOI) – offers a comprehensive range of support for fair housing activities, providing funding to State and local government agencies and non-profit organizations for initiatives that explain to the general public and housing providers what equal opportunity in housing means and what housing providers need to do to comply with the Fair Housing Act.
- Private Enforcement Initiative (PEI) – offers a range of assistance to the nationwide network of fair housing groups. This initiative funds non-profit fair housing organizations to carry out testing and enforcement activities to prevent or eliminate discriminatory housing practices.
- Fair Housing Organization Initiative (FHOI) – provides funding that builds the capacity and effectiveness of non-profit fair housing organizations by providing funds to handle fair housing enforcement and education initiatives more effectively. FHOI also strengthens the fair housing movement nationally by encouraging the creation and growth of organizations that focus on the rights and needs of underserved groups, particularly persons with disabilities.
- Administrative Enforcement Initiative (AEI) – helps the State and local governments who administer laws that include rights and remedies similar to those in the Fair Housing Act implement specialized projects that broaden an agency's range of enforcement and compliance activities. (No funds are available currently for this program).

In order for an organization to qualify, Guam would have to meet different requirements depending on which grant they pursue within the program. Organizations on Guam that represent persons protected by the Fair Housing Act may qualify to apply for EOI funding. However there are currently no organizations who qualify for the PEI grant on Guam, since there is no Qualified Fair Housing Enforcement Organization (QFHEO) or Fair Housing Enforcement Organization (FHO) such as the Hawaii Civil Rights Commission in Honolulu. Guam organizations are also not yet eligible for FHOI, since it requires applicants to have two years of experience in complaint intake and investigation, testing for fair housing violations, and meritorious claims three years prior to processing their application. There is currently no funding available for AEI, but to meet the requirements a substantially equivalent local fair housing law would be needed. FHIP funding is intended to improve compliance with both the Fair Housing act and local housing laws.

⁵² http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/partners/FHIP/fhip

Fair Housing Assistance Program (FHAP)

Another such program is the Fair Housing Assistance Program (FHAP) which provides assistance to state and local agencies in administering their own fair housing laws. As part of the program, the local fair housing laws will be analyzed for consistency with the federal Fair Housing Act. The governmental agency will also receive assistance with complaint processing, training, technical assistance, data and information systems, and other fair housing projects. Ultimately FHAP aims to coordinate enforcement within the government help local governmental agencies function independently.

There is somewhat less competition for FHAP since it is geared more towards organizational assistance and capacity building. The first requirement is that the jurisdiction administers a local fair housing law substantially equivalent to the federal Fair Housing Act and obtains substantial equivalency certification from HUD. Next the agency would need to have a “Memorandum of Understanding” or “Interim Agreement” with HUD to describe the relationship between the agency and HUD. Agencies that are designated as troubled⁵³ are already required to enter a Memorandum of Agreement, sometimes referred to as a Memorandum of Understanding, with HUD.

For a state or local law to be certified as “substantially equivalent,” the Assistant Secretary for Fair Housing and Equal Opportunity must determine that it provides substantive rights, procedures, remedies, and the availability of judicial review comparable to the federal law. In addition, the agency’s performance must meet specific criteria established under the Fair Housing Act and the regulations set forth at 24 CFR part 115.

Substantial equivalence certification presents numerous advantages to State and local governments, parties to housing discrimination complaints and the general public. The advantages include funding availability, local complaint processing under a substantially equivalent law, and opportunities for partnership that affirmatively further fair housing⁵⁴.

⁵³ As defined at 24 CFR Section 902.67(c)

⁵⁴ US Department of Housing and Urban Development, Fair Housing Assistance Program
<http://portal.hud.gov/hudportal/HUD?src=/hudprograms/fhap>

Exhibit A10: Uniform Residential Landlord and Tenant Act
(Without Comments)

ARTICLE I
GENERAL PROVISIONS AND DEFINITIONS
PART I
SHORT TITLE, CONSTRUCTION, APPLICATION AND
SUBJECT MATTER OF THE ACT

§ 1.101. [Short Title] This Act shall be known and may be cited as the "Uniform Residential Landlord and Tenant Act."

§ 1.102. [Purposes; Rules of Construction]

(a) This Act shall be liberally construed and applied to promote its underlying purposes and policies.

(b) Underlying purposes and policies of this Act are

(1) to simplify, clarify, modernize, and revise the law governing the rental of dwelling units and the rights and obligations of landlords and tenants;

(2) to encourage landlords and tenants to maintain and improve the quality of housing; and

(3) to make uniform the law with respect to the subject of this Act among those states which enact it.

§ 1.103. [Supplementary Principles of Law Applicable] Unless displaced by the provisions of this Act, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause supplement its provisions.

§ 1.104. [Construction Against Implicit Repeal] This Act being a general act intended as a unified coverage of its subject matter, no part of it is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

§ 1.105. [Administration of Remedies; Enforcement]

(a) The remedies provided by this Act shall be so administered that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(b) Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

§ 1.106. [Settlement of Disputed Claim or Right] A claim or right arising under this Act or on a rental agreement, if disputed in good faith, may be settled by agreement.

PART II
SCOPE AND JURISDICTION

§ 1.201. [Territorial Application] This Act applies to, regulates, and determines rights, obligations, and remedies under a rental agreement, wherever made, for a dwelling unit located within this state.

§ 1.202. [Exclusions from Application of Act] Unless created to avoid the application of this Act, the following arrangements are not governed by this Act:

- (1) residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service;
- (2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest;
- (3) occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;
- (4) transient occupancy in a hotel, or motel [or lodgings [subject to cite state transient lodgings or room occupancy excise tax act]];
- (5) occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises;
- (6) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;
- (7) occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

[§ 1.203. [Jurisdiction and Service of Process]

(a) The [] court of this state may exercise jurisdiction over any landlord with respect to any conduct in this state governed by this Act or with respect to any claim arising from a transaction subject to this Act. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this section.

(b) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this Act, or engages in a transaction subject to this Act, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the [Secretary of State]. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the [Secretary of State], but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of

the court on or before the return day of the process, if any, or within any further time the court allows.]

PART III
GENERAL DEFINITIONS AND
PRINCIPLES OF INTERPRETATION: NOTICE

§ 1.301. [General Definitions] Subject to additional definitions contained in subsequent Articles of this Act which apply to specific Articles or Parts thereof, and unless the context otherwise requires, in this Act

(1) "action" includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined, including an action for possession;

(2) "building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises, or dwelling unit;

(3) "dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by 2 or more persons who maintain a common household;

(4) "good faith" means honesty in fact in the conduct of the transaction concerned;

(5) "landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by Section 2.102;

(6) "organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common interest, and any other legal or commercial entity;

(7) "owner" means one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title to property or (ii) all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession;

(8) "person" includes an individual or organization;

(9) "premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant;

(10) "rent" means all payments to be made to or for the benefit of the landlord under the rental agreement;

(11) "rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under Section 3.102 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises;

(12) "roomer" means a person occupying a dwelling unit that does not include a toilet and either a bath tub or a shower and a refrigerator, stove, and kitchen sink, all provided by the landlord, and where one or more of these facilities are used in common by occupants in the structure;

(13) "single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit;

(14) "tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

§ 1.302. [Obligation of Good Faith] Every duty under this Act and every act which must be performed as a condition precedent to the exercise of a right or remedy under this Act imposes an obligation of good faith in its performance or enforcement.

§ 1.303. [Unconscionability]

(a) If the court, as a matter of law, finds

(1) a rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(2) a settlement in which a party waives or agrees to forego a claim or right under this Act or under a rental agreement was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

(b) If unconscionability is put into issue by a party or by the court upon its own motion the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

§ 1.304. [Notice]

(a) A person has notice of a fact if

(1) he has actual knowledge of it,

(2) he has received a notice or notification of it, or

(3) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or "has knowledge" of a fact if he has actual knowledge of it.

(b) A person "notifies" or "gives" a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when

(1) it comes to his attention; or

(2) in the case of the landlord, it is delivered at the place of business of the landlord through which the rental agreement was made or at any place held out by him as the place for receipt of the communication; or

(3) in the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to him at the place held out by him as the place for receipt of the communication, or in the absence of such designation, to his last known place of residence.

(c) "Notice," knowledge of a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to his attention if the organization had exercised reasonable diligence.

PART IV GENERAL PROVISIONS

§ 1.401. [Terms and Conditions of Rental Agreement]

(a) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this Act or other rule of law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

(b) In absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

(c) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent is uniformly apportionable from day-to-day.

(d) Unless the rental agreement fixes a definite term, the tenancy is week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

§ 1.402. [Effect of Unsigned or Undelivered Rental Agreement]

(a) If the landlord does not sign and deliver a written rental agreement signed and delivered to him by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord.

(b) If the tenant does not sign and deliver a written rental agreement signed and delivered to him by the landlord, acceptance of possession and payment of rent without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.

(c) If a rental agreement given effect by the operation of this section provides for a term longer than one year, it is effective for only one year.

§ 1.403. [Prohibited Provisions in Rental Agreements]

(a) A rental agreement may not provide that the tenant:

(1) agrees to waive or forego rights or remedies under this Act;

(2) authorizes any person to confess judgment on a claim arising out of the rental agreement;

(3) agrees to pay the landlord's attorney's fees; or

(4) agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith.

(b) A provision prohibited by subsection (a) included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him to be prohibited, the tenant may recover in addition to his actual damages an amount up to [3] months' periodic rent and reasonable attorney's fees.

§ 1.404. [Separation of Rents and Obligations to Maintain Property Forbidden] A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with Section 2.104(a).

ARTICLE II
LANDLORD OBLIGATIONS

§ 2.101. [Security Deposits; Prepaid Rent]

(a) A landlord may not demand or receive security, however denominated, in an amount or value in excess of [1] month[s] periodic rent.

(b) Upon termination of the tenancy property or money held by the landlord as security may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with Section 3.101 all as itemized by the landlord in a written notice delivered to the tenant together with the amount due [14] days after termination of the tenancy and delivery of possession and demand by the tenant.

(c) If the landlord fails to comply with subsection (b) or if he fails to return any prepaid rent required to be paid to the tenants under this Act the tenant may recover the property and money due him together with damages in an amount equal to [twice] the amount wrongfully withheld and reasonable attorney's fees.

(d) This section does not preclude the landlord or tenant from recovering other damages to which he may be entitled under this Act.

(e) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section.

§ 2.102. [Disclosure]

(a) A landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of

(1) the person authorized to manage the premises; and

(2) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for notices and demands.

(b) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner, or manager.

(c) A person who fails to comply with subsection (a) becomes an agent of each person who is a landlord for:

(1) service of process and receiving and receipting for notices and demands; and

(2) performing the obligations of the landlord under this Act and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

§ 2.103. [Landlord to Deliver Possession of Dwelling Unit] At the commencement of the term a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and Section 2.104. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in Section 4.301(c).

§ 2.104. [Landlord to Maintain Premises]

(a) A landlord shall

(1) comply with the requirements of applicable building and housing codes materially affecting health and safety;

(2) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(3) keep all common areas of the premises in a clean and safe condition;

(4) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him;

(5) provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal; and

(6) supply running water and reasonable amounts of hot water at all times and reasonable heat [between [October 1] and [May 1]] except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

(b) If the duty imposed by paragraph (1) of subsection (a) is greater than any duty imposed by any other paragraph of that subsection, the landlord's duty shall be determined by reference to paragraph (1) of subsection (a).

(c) The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraphs (5) and (6) of subsection (a) and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith.

(d) The landlord and tenant of any dwelling unit other than a single family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if

(1) the agreement of the parties is entered into in good faith and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(2) the work is not necessary to cure noncompliance with subsection (a)(1) of this section; and

(3) the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

(e) The landlord may not treat performance of the separate agreement described in subsection (d) as a condition to any obligation or performance of any rental agreement.

§ 2.105. [Limitation of Liability]

(a) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the conveyance. However, he remains liable to the tenant for all security recoverable by the tenant under Section 2.101 and all prepaid rent.

(b) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the termination of his management.

ARTICLE III TENANT OBLIGATIONS

§ 3.101. [Tenant to Maintain Dwelling Unit] A tenant shall

(1) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(2) keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

(3) dispose from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;

(4) keep all plumbing fixtures in the dwelling unit or used by the tenant as clear as their condition permits;

(5) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances including elevators in the premises;

(6) not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so; and

(7) conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises.

§ 3.102. [Rules and Regulations]

(a) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if

(1) its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(2) it is reasonably related to the purpose of which it is adopted;

(3) it applies to all tenants in the premises in a fair manner;

(4) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(5) it is not for the purpose of evading the obligations of the landlord; and

(6) the tenant has notice of it at the time he enters into the rental agreement, or when it is adopted.

(b) If a rule or regulation is adopted after the tenant enters into the rental agreement that works a substantial modification of his bargain it is not valid unless the tenant consents to it in writing.

§ 3.103. [Access]

(a) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(b) A landlord may enter the dwelling unit without consent of the tenant in case of emergency.

(c) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least [2] days' notice of his intent to enter and may enter only at reasonable times.

(d) A landlord has no other right of access except

(1) pursuant to court order;

(2) as permitted by Sections 4.202 and 4.203(b); or

(3) unless the tenant has abandoned or surrendered the premises.

§ 3.104. [Tenant to Use and Occupy] Unless otherwise agreed, a tenant shall occupy his dwelling unit only as a dwelling unit. The rental agreement may require that the tenant notify the landlord of any anticipated extended absence from the premises [in excess of [7] days] no later than the first day of the extended absence.

ARTICLE IV
REMEDIES
PART I
TENANT REMEDIES

§ 4.101. [Noncompliance by the Landlord - In General]

(a) Except as provided in this Act, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with Section 2.104 materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than [30] days after receipt of the notice if the breach is not remedied in [14] days, and the rental agreement shall terminate as provided in the notice subject to the following:

(1) If the breach is remedial by repairs, the payment of damages or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate by reason of the breach.

(2) If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within [6] months, the tenant may terminate the rental agreement upon at least [14 days'] written notice specifying the breach and the date of termination of the rental agreement.

(3) The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

(b) Except as provided in this Act, the tenant may recover actual damages and obtain injunctive relief for noncompliance by the landlord with the rental agreement or Section 2.104. If the landlord's noncompliance is willful the tenant may recover reasonable attorney's fees.

(c) The remedy provided in subsection (b) is in addition to any right of the tenant arising under Section 4.101(a).

(d) If the rental agreement is terminated, the landlord shall return all security recoverable by the tenant under Section 2.101 and all prepaid rent.

§ 4.102. [Failure to Deliver Possession]

(a) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in Section 2.103, rent abates until possession is delivered and the tenant may

(1) terminate the rental agreement upon at least [5] days' written notice to the landlord and upon termination the landlord shall return all prepaid rent and security; or

(2) demand performance of the rental agreement by the landlord and, if the tenant elects, obtain possession of the dwelling unit from the landlord or any person wrongfully in possession and recover the actual damages sustained by him.

(b) If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than [3] months' periodic rent or [threefold] the actual damages sustained, whichever is greater, and reasonable attorney's fees.

§ 4.103. [Self-Help for Minor Defects]

(a) If the landlord fails to comply with the rental agreement or Section 2.104, and the reasonable cost of compliance is less than [\$100], or an amount equal to [one-half] the periodic rent, whichever amount is greater, the tenant may recover damages for the breach under Section 4.101(b) or may notify the landlord of his intention to correct the condition at the landlord's expense. If the landlord fails to comply within [14] days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may cause the work to be done in a workmanlike manner and, after submitting to the landlord an itemized statement, deduct from his rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection.

(b) A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

§ 4.104. [Wrongful Failure to Supply Heat, Water, Hot Water, or Essential Services]

(a) If contrary to the rental agreement or Section 2.104 the landlord willfully or negligently fails to supply heat, running water, hot water, electric, gas, or other essential service, the tenant may give written notice to the landlord specifying the breach and may

(1) take reasonable and appropriate measures to secure reasonable amounts of heat, hot water, running water, electric, gas, and other essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent; or

(2) recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(3) procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(b) In addition to the remedy provided in paragraph (3) of subsection (a) the tenant may recover the actual and reasonable cost or fair and reasonable value of the substitute housing not in excess of an amount equal to the periodic rent, and in any case under subsection (a) reasonable attorney's fees.

(c) If the tenant proceeds under this section, he may not proceed under Section 4.101 or Section 4.103 as to that breach.

(d) Rights of the tenant under this section do not arise until he has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

§ 4.105. [Landlord's Noncompliance as Defense to Action for Possession or Rent]

(a) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may [counterclaim] for any amount he may recover under the rental agreement or this Act. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith, the landlord may recover reasonable attorney's fees.

(b) In an action for rent when the tenant is not in possession, he may [counterclaim] as provided in subsection (a) but is not required to pay any rent into court.

Article II defines the obligations of the landlord which the tenant may enforce against him (Section 1.105). While *Lindsey v. Normet* (405 U.S. 56) holds no principle of constitutional law requires the admission of the habitability defense in a summary proceeding maintained by the landlord against the tenant, Section 4.105 is consistent with modern procedure reform in permitting the tenant to file a counterclaim or other appropriate pleading in the summary proceeding to the end that all issues between the parties may be disposed of in one proceeding. It is anticipated that upon filing of the counterclaim the court will enter the order deemed appropriate by him concerning the payment of rent in order to protect the interests of the parties. See cases in comment to Section 2.104(e).

§ 4.106. [Fire or Casualty Damage]

(a) If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may

(1) immediately vacate the premises and notify the landlord in writing within [14] days thereafter of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(2) if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(b) If the rental agreement is terminated the landlord shall return all security recoverable under Section 2.101 and all prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the fire or casualty.

§ 4.107. [Tenant's Remedies for Landlord's Unlawful Ouster, Exclusion, or Diminution of Service] If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than [3] months' periodic rent or [threefold] the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the rental agreement is terminated the landlord shall return all security recoverable under Section 2.101 and all prepaid rent.

PART II LANDLORD REMEDIES

§ 4.201. [Noncompliance with Rental Agreement; Failure to Pay Rent]

(a) Except as provided in this Act, if there is a material noncompliance by the tenant with the rental agreement or a noncompliance with Section 3.101 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than [30] days after receipt of the notice. If the breach is not remedied in [14] days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within [6] months, the landlord may terminate the rental agreement upon at least [14] days' written notice specifying the breach and the date of termination of the rental agreement.

(b) If rent is unpaid when due and the tenant fails to pay rent within [14] days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(c) Except as provided in this Act, the landlord may recover actual damages and obtain injunctive relief for noncompliance by the tenant with the rental agreement or Section 3.101. If the tenant's noncompliance is willful the landlord may recover reasonable attorney's fees.

§ 4.202. [Failure to Maintain] If there is noncompliance by the tenant with Section 3.101 materially affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within [14] days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized

bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

§ 4.203. [Remedies for Absence, Nonuse and Abandonment]

(a) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence [in excess of [7] days] pursuant to Section 3.104 and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(b) During any absence of the tenant in excess of [7] days, the landlord may enter the dwelling unit at times reasonably necessary.

(c) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, it terminates as of the date of the new tenancy. If the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

§ 4.204. [Waiver of Landlord's Right to Terminate] Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by him that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

§ 4.205. [Landlord Liens; Distress for Rent]

(a) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before the effective date of this Act.

(b) Distraint for rent is abolished.

§ 4.206. [Remedy after Termination] If the rental agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in Section 4.201(c).

§ 4.207. [Recovery of Possession Limited] A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this Act.

PART III
PERIODIC TENANCY; HOLDOVER; ABUSE OF ACCESS

§ 4.301. [Periodic Tenancy; Holdover Remedies]

(a) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least [10] days before the termination date specified in the notice.

(b) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least [60] days before the periodic rental date specified in the notice.

(c) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than [3] month's periodic rent or [threefold] the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, Section 1.401(d) applies.

§ 4.302. [Landlord and Tenant Remedies for Abuse of Access]

(a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney's fees.

(b) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages [not less than an amount equal

ARTICLE V RETLIATORY CONDUCT

§ 5.101. [Retaliatory Conduct Prohibited]

(a) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

(1) the tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety; or

(2) the tenant has complained to the landlord of a violation under Section 2.104; or

(3) the tenant has organized or become a member of a tenant's union or similar organization.

(b) If the landlord acts in violation of subsection (a), the tenant is entitled to the remedies provided in Section 4.107 and has a defense in any retaliatory action against him for possession. In an action by or against the tenant, evidence of a complaint within [1] year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(c) Notwithstanding subsections (a) and (b), a landlord may bring an action for possession if:

(1) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of his family, or other person on the premises with his consent; or

(2) the tenant is in default in rent; or

(3) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(d) The maintenance of an action under subsection (c) does not release the landlord from liability under Section 4.101(b).

ARTICLE VI
EFFECTIVE DATE AND REPEALER

§ 6.101. [Effective Date] This Act shall become effective on [.....]. It applies to rental agreements entered into or extended or renewed on and after that date.

§ 6.102. [Specific Repealer] The following Acts and parts of Acts are hereby repealed: [List appropriate Acts]

§ 6.103. [Savings Clause] Transactions entered into before the effective date of this Act, and not extended or renewed on and after that date, and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this Act as though the repeal or amendment had not occurred.

§ 6.104. [Severability] If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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42 U.S.C Sections 12131-12165 *Americans with Disabilities Act of 1990, as amended*

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21 GCA CH 67 Sections 67101-67126 *The Building Code*

9 GCA CH 70 Sections 70.45-70.51 Article 2 *Discrimination in Housing Accommodations*

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