

## **AD REVIEW FINAL REPORT FOR THE FAIR HOUSING INITIATIVES GRANT FH400G07014**

September 15, 2008

### **OVERVIEW**

The Iowa Civil Rights Commission (the Commission) received a Fair Housing Initiative grant (FH400G07014) from the US Department of Housing and Urban Development to conduct a review of housing advertisements in newspapers and online publications in Iowa. The Commission selected publications from the cities of Ames, Cedar Rapids, Council Bluffs, Davenport, Des Moines, Dubuque, Iowa City, Mason City / Fort Dodge, Ottumwa, and Sioux City for review. In April 2008, the Commission issued a Preliminary Report, which lays out the background, goals, and methodology for the study. It also provides a discussion of the discriminatory advertising provisions of the Iowa Civil Rights Act, Iowa Code § 216.8(3), the Fair Housing Act, 42 U.S.C. § 3604(c), and case law interpreting these statutes.<sup>1</sup>

### **LAW**

Federal and state fair housing laws prohibit the making of any housing-related notice, statement, or advertisement that indicates any preference, limitation, or discrimination based on a protected characteristic.<sup>2</sup> Under federal fair housing law, the protected characteristics include race, color, sex, religion, national origin, disability, and familial status.<sup>3</sup> In addition to these characteristics, Iowa fair housing law also protects people from discrimination based on sexual orientation, gender identity, and creed.<sup>4</sup>

In order to avoid discriminatory advertising, a housing provider should focus on the property, not on the characteristics of people (desired applicants, current tenants, or the housing provider). Advertisements which do not specifically mention a protected characteristic may still be discriminatory if they indicate applicants who are protected are discouraged from applying. For instance, advertisements which are targeted toward students, adults, or which specify occupancy limits could all indicate to an ordinary reader families with children are discouraged from applying. Advertisements which do not discuss characteristics of people will both comply with the law and expand the range of potential tenants who feel welcome to apply. For more details about fair housing law and to learn about advertisements which were identified as potentially discriminatory during the study, please see the Summary of Advertisement Analyses - <http://www.state.ia.us/government/crc/docs/SummaryofAdvertisementAnalyses2.pdf>.

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<sup>1</sup> Preliminary Report: Discriminatory Advertising in the Rental or Sale of Residential Property. A Publication of the Iowa Civil Rights Commission prepared by Jaimie Mancham-Case, a student at the University of Iowa College of Law, and Jordan Roling, a student at Drake University Law School.

<sup>2</sup> Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3)

<sup>3</sup> Fair Housing Act, 42 U.S.C. § 3604(c)

<sup>4</sup> Iowa Civil Rights Act, Iowa Code § 216.8(3)

## METHODS

### Newspapers and Dates Reviewed

From April 15, 2008 through June 30, 2008, the following publications were reviewed: in Ames, the *Iowa State Daily* and *The Daily Tribune*; in Cedar Rapids, the *Cedar Rapids Gazette*; in Council Bluffs, *The Daily Nonpareil*; in Davenport, the *Quad City Times*; in Des Moines, the *Des Moines Register*; in Dubuque, the *Telegraph Herald*; in Iowa City, *The Press Citizen*; in Mason City / Fort Dodge, the *Globe-Gazette* and *The Messenger*; in Ottumwa, the *Ottumwa Courier*; and in Sioux City, the *Sioux City Journal*. Additionally, *Craig's List* was reviewed for the cities of Ames, Cedar Rapids, Council Bluffs, Davenport, Des Moines, Dubuque, Iowa City, and Sioux City. [www.craigslist.org](http://www.craigslist.org).

### Initial Analysis

Advertisements were collected daily, and then analyzed weekly.<sup>5</sup> During the initial analysis, advertisements were flagged as possibly discriminatory if they indicated a preference or limitation based on any personal characteristic of an individual.

By June 21, 2008, 9,646 advertisements had been reviewed. Of these, 76 (0.79%) advertisements were deemed possibly discriminatory and were flagged for further analysis.

Of the 76 advertisements flagged as possibly discriminatory, 65 (86%) were found on Craig's List, the other 11 (14%) were found in various printed publications. No more than 4 (5%) possibly discriminatory advertisements were found in any single print publication. See the Initial Analysis Chart at the end of this report for more details.

### Secondary Analysis

A secondary analysis was conducted to narrow the possibly discriminatory advertisements to those likely to constitute discrimination under the Fair Housing Act, 42 U.S.C. §3604(c) and the Iowa Civil Rights Act, §216.8(3).<sup>6</sup> This analysis included a review of the applicable statutes, HUD guidance, and case law. A one-page memo was created for each advertisement which appears to violate the Fair Housing Act or the Iowa Civil Rights Act. Each memo includes a discussion of the applicable law and an analysis of the advertisement's compliance with the law. See the Summary of Advertisement Analyses - <http://www.state.ia.us/government/crc/docs/SummaryofAdvertisementAnalyses2.pdf> for a list of the phrases identified as likely discriminatory and the legal analysis and suggestions for non-discriminatory phrasing for each.

Of the 76 possibly discriminatory advertisements reviewed in the secondary analysis, 40 were identified as "likely" discriminatory. Of those 40, 34 (85%) were found on Craig's List, the other 6 (15%) were found in various printed publications. No more than 3 (8%) likely

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<sup>5</sup> Collection and initial analysis were performed by Jaimie Macham-Case, a student at the University of Iowa College of Law.

<sup>6</sup> The secondary analysis and memos were completed by Jessica Maffitt, a student at Drake University Law School.

discriminatory advertisements were found in any single print publication. *See* Secondary Analysis Chart at the end of this report for more details.

### Contacting Advertisers and Housing Providers

After the likely discriminatory advertisements were identified, the analyses were presented to management<sup>7</sup> and legal<sup>8</sup> for review. The Commission contacted those advertisers and housing providers who appeared to have engaged in discriminatory advertising. The Commission requested an explanation or justification for the apparently discriminatory advertisement. If the advertisement fell into one of the exceptions in the Fair Housing Act and the Iowa Civil Rights Act, then the advertisement was legally compliant and no further action was needed. If no justification was given, the Commission continued with the counseling, publication review, and follow-up process.

The Commission educated and counseled the advertisers and housing providers and worked with them to address the identified advertisements and prevent similar advertisements from appearing in the future. The Commission also invited each of the advertisers and housing providers to attend one of the 12 Fair Housing Training Workshops being conducted at different locations throughout the State of Iowa.

The Commission was able to contact 25 of the 40 housing providers (63%). Two housing providers were left voicemail messages, but never responded. No other contact information was available for these housing providers, and reverse look-ups were unsuccessful because the numbers provided were unlisted cell phone numbers. Thirteen housing providers were not contacted because they had already removed their advertisements and contact information was no longer available. Contacting these housing providers was only possible through links to an e-mail set up by Craig's List to forward to the housing provider. Once the advertisement was removed the e-mail was shut down. The Commission was unable to contact these individuals without subpoenaing contact information from Craig's List. The Commission decided not to issue subpoenas because the advertisements had been removed and no similar advertisements for the same properties had been posted.

Two housing providers had independently removed the likely discriminatory wording and reposted advertisements which fully complied with fair housing law before the Commission made contact with them. One housing provider removed references to characteristics of a person. The other housing provider added inclusive language and clarified that there was no surcharge for children. The Commission contacted these housing providers to praise them for revising their advertisements and to educate and counsel regarding the likely discriminatory advertisement and to answer any questions the housing providers had.

The Commission also contacted the three advertisers who printed likely discriminatory advertisements in their publications. Advertisements in two other publications were identified as likely discriminatory, but the advertisers were not contacted because the advertisements could have fallen under the exception for housing for older persons, so the advertiser had not engaged in discrimination by printing the advertisements.

### Follow-up

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<sup>7</sup> Don Grove, Intake, Screening & Housing Supervisor

<sup>8</sup> Don Grove, Intake, Screening & Housing Supervisor, and Teresa Baustian, Assistant Attorney General

If the advertiser or housing provider did not provide a sufficient justification for the

advertisement, one week publication reviews were conducted to ensure compliance with fair housing law had been achieved. For those individual housing providers who had already removed their advertisements prior to this phase of the project, the Commission conducted publication reviews or follow-ups only to ensure there were no reposted advertisements or new advertisements which contained possibly discriminatory language.

One week after the initial contact, only one housing provider had neither removed the advertisement nor rephrased the advertisement to avoid likely discriminatory language. This housing provider was sent a second notice informing him of the likely discriminatory content of his advertisement and the requirements of fair housing law. At the second one week follow-up, this housing provider had removed his advertisement.

## RESULTS

### Discrimination by Protected Personal Characteristic

Basis	Number	Percentage <sup>9</sup>
Disability	1	2.5%
Familial Status	36	90%
National Origin	1	2.5%
Race	1	2.5%
Sex	1	2.5%
Sexual Orientation	1	2.5%

### Sex Discrimination and Solicitation

Although only one advertisement was identified as likely discriminatory on the basis of sex, four other advertisements solicited prostitution in violation of Iowa criminal law. These advertisements were referred to management and legal to determine whether referral to the Iowa Attorney General is appropriate.

### Familial Status and Targeting Students

Of the 40 likely discriminatory advertisements, 36 were discriminatory based on familial status. Of these, 25 specifically targeted student applicants. Housing providers expressed confusion over how to avoid discriminatory advertising on the basis of familial status, especially in communities near universities. The Commission answered specific questions and referred housing providers to the following resources: [ICRC Fair Housing for Families with Children](#); [ICRC Fair Housing Guide - 2008](#); [ICRC Fair Housing Q & A](#); [HUD Occupancy Memo](#); and [Craig's List Fair Housing Guidelines](#).<sup>10</sup>

<sup>9</sup> Percentages do not equal 100% because one advertisement discriminated on the basis of both familial status and sex.

<sup>10</sup> These publications provide general guidance for complying with fair housing law in advertising, but do not specifically address student advertising issues. There are few available resources which specifically address student advertisements and familial status discrimination.

## Discrimination by City

City	Number	Percentage
Ames	5	12.5%
Cedar Rapids	2	5%
Council Bluffs	0	0%
Davenport	0	0%
Des Moines	19	47.5%
Dubuque	2	5%
Iowa City	10	25%
Mason City / Fort Dodge	1	2.5%
Ottumwa	0	0%
Sioux City	1	2.5%

## ANALYSIS

The only basis which had more than a single likely discriminatory advertisement during the study was familial status. The responses of housing providers indicated that they were uncertain of the law regarding discriminatory advertising on the basis of familial status. More education regarding this basis would likely decrease the number of advertisements placed which indicate discrimination on the basis of familial status.

Sixty-three percent of advertisements indicating a preference based on familial status involved advertising targeted at students. This trend is also reflected in the higher percentage of likely discriminatory advertisements found in Des Moines, Iowa City, and Ames; each of which has at least one university. More education regarding discrimination based on familial status, specifically addressing advertisements targeting students, in communities with colleges and universities may also reduce the number of discriminatory advertisements placed in these communities. There are also very few resources which address student advertisements specifically. Development and dissemination of new resources providing guidance on how to advertise to attract students while complying with fair housing law would likely reduce the number of advertisements discriminating against families by targeting students.

## DIRECTIONS FOR FUTURE RESEARCH

Thirteen housing providers (33%) could not be contacted because they had already removed their advertisements before efforts were made to contact them. Another two housing providers (5%) did not respond to phone messages, perhaps because the housing unit was already rented or sold. In future studies, if housing providers were contacted each week, rather than after all the data collection had been completed, most housing providers would still be available to be contacted before their advertisements had been deleted. This would allow the Commission to educate more members of the public and counsel housing providers about appropriate advertising before their advertisements had run their full course.



ATTACHMENT A  
Initial Analysis Chart

Housing Advertisements	4/17/2008		4/27/2008		5/9/2008		5/15/2008
	Reviewed	Flagged	Reviewed	Flagged	Reviewed	Flagged	Reviewed
<b>Ames</b>							
Iowa State Daily	68	0	69	0	78	1	45
The Daily Tribune	63	0	32	0	11	0	14
Craig's List	0	0	0	0	200	2	33
<b>Total Reviewed</b>	<b>131</b>		<b>101</b>		<b>289</b>		<b>92</b>
<b>Cedar Rapids</b>							
Cedar Rapids Gazette	50	0	63	0	110	1	39
Craig's List	0	0	0	0	50	1	19
<b>Total Reviewed</b>	<b>50</b>		<b>63</b>		<b>160</b>		<b>58</b>
<b>Council Bluffs</b>							
The Daily Nonpareil	23	0	21	0	15	0	50
Craig's List	0	0	0	0	31	0	35
<b>Total Reviewed</b>	<b>23</b>		<b>21</b>		<b>46</b>		<b>85</b>
<b>Davenport</b>							
Quad City Times	23	0	21	0	13	0	15
Craig's List	0	0	0	0	11	0	7
<b>Total Reviewed</b>	<b>23</b>		<b>21</b>		<b>24</b>		<b>22</b>

Secondary Analysis Chart

	Initial Analysis	Secondary Analysis
<b>Ames</b>		
Iowa State Daily	3	1
The Daily Tribune	1	0
Craig's List	8	4
<b>Cedar Rapids</b>		
Cedar Rapids Gazette	1	0
Craig's List	11	2
<b>Council Bluffs</b>		
The Daily Nonpareil	0	0
Craig's List	0	0
<b>Davenport</b>		
Quad City Times	0	0
Craig's List	0	0
<b>Des Moines</b>		
Des Moines Register	0	0

Discover Norwalk Iowa <sup>11</sup>	0	1
Craig's List	30	18
<b>Dubuque</b>		
Telegraph Herald	0	0
Craig's List	3	2
<b>Iowa City</b>		
The Press Citizen	4	3
Craig's List	12	7
<b>Mason City / Ft. Dodge</b>		
Globe Gazette	1	1
The Messenger	0	0
<b>Ottumwa</b>		
The Ottumwa Courier	0	0
<b>Sioux City</b>		
Sioux City Journal	0	0
Craig's List	2	1
<b>Subtotal Craig's List</b>	<b>65</b>	<b>34</b>
<b>Subtotal Print publications</b>	<b>11</b>	<b>6</b>
<b>Total</b>	<b>76</b>	<b>40</b>

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<sup>11</sup> This advertisement was referred to the project supervisor, Don Grove, during the secondary analysis stage.