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ACKNOWLEDGEMENTS

The John Marshall Law School Fair Housing Legal Support Center would like to thank the Retirement Research Foundation for funding this project. The research could not have been done without their help and the able assistance provided by Dr. Julie Kaufman, Senior Program Officer for the Foundation. Frank Young and Joseph Frankus, two recent graduates of The John Marshall Law School, conducted the surveys and the testing and wrote the report. We are very proud of the excellent work that they performed. They were the heart and soul of the project and the project could not have been completed without their concerted efforts. We would also like to thank Lillian Seymore, the Testing Coordinator for The John Marshall Law School Fair Housing Legal Clinic, who coordinated the testing and assembled a first-class team of testers to work on this project. Thanks goes to RoseMarie Knight and Elaine Morey for their administrative and organizational expertise in seeking the grant and doing the necessary accounting and reporting to keep us going. Gayle Nelson-Bloomquist similarly provided us with useful critiques and suggestions.

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Summary of Findings
Senior Housing Research Project
The John Marshall Law School Fair Housing Legal Support Center

The John Marshall Law School Fair Housing Legal Support Center and Clinic (“JMLS”), through a one-year grant from the Retirement Research Foundation, has initiated a Senior Housing Discrimination Research Project (“Project”) to research problems involving the right of seniors to be free from discrimination in housing, particularly regarding race, national origin, and disability. That grant ends on September 30, 2007, and the final report is due on November 1, 2007. This presentation will provide some of the results of the Project and identify areas where further study, outreach and education, and enforcement are warranted. The Project sought to identify significant issues that seniors face as they attempt to access and/or “age in place” in communities marketed specifically to seniors. As part of the study, the Project reviewed relevant Illinois and federal statutory provisions; conducted surveys of seniors and senior organizations in the Chicago Metropolitan area, and of commissioners with state and local human relations commissions nationwide; conducted matched tests of senior housing providers in the Chicago Metropolitan area; and reviewed the senior housing providers’ marketing materials.

Methodology

As previously noted, the Project consisted of five principle parts.

First, the Project conducted a review of Illinois statutes and regulations relative to senior housing providers, as well as any pertinent Chicago ordinances. Of course, the federal Fair Housing Act and relevant case law was reviewed. The Project did not review any of the surrounding suburbs’ ordinances.

Second, the Center developed a senior survey to ask seniors what they want and look for in housing and their general awareness of the fair housing laws. The survey was completed by 360 senior citizens. The surveys were disseminated through group facilitations and mailings to senior centers in the City of Chicago, Suburban Cook County, Lake County and Northwest Indiana. Eleven senior centers participated with four of the senior centers taking the survey via on site facilitations and seven senior centers receiving the surveys via the mail. A representative of the Project went to the four senior centers and provided a brief overview of the project to the seniors for the on site facilitations. The Project sent surveys to seven senior centers.

Third, the Project has also developed a senior organization survey. Nine senior organizations in the Chicago Metropolitan area participated in this survey and 33 individuals from those organizations completed the survey. The Project sought to obtain these individuals' knowledge and observations of what they think seniors feel about issues related to living in the Chicago area; to better assess what seniors want and prefer in housing alternatives; and to allow the United States the opportunity to adequately prepare for the current and future senior population as it inevitably becomes a larger and more influential part of our society

Fourth, the Project conducted 60 matched tests at senior housing facilities without services, assisted living facilities, and continuing care retirement communities focusing on race, but also testing on disability. The testers were paired according to either race or disability. For racial tests, one Caucasian tester was paired with one African-American tester, keeping gender constant. For disability, one non-disabled individual was paired with a disabled individual, keeping race and gender constant. HUD testing guidelines provide suggestions about inserting disability into testing. As such, this Project provided an opportunity for the Clinic to develop a better model for disability testing.

Fifth, the Project reviewed printed and online advertising materials from senior housing providers in order to determine whether the facilities advertising materials complies with 42 USC 3604(c).

The Project was an ambitious undertaking. As such, we acknowledge that there were a number of lessons learned along the way. All of the components were administered concurrently for the most part. The Project was operating under a relatively short timeframe with finite resources. In retrospect, some of the Project's components should have been staggered. It might have been better to conduct the statutory survey first, followed by the senior survey, and then followed by the matched tests. Had the testing been deferred, the Project would have had a better grasp of the specific issues to be focused on in testing for discrimination against persons with disabilities. However, the Project is now poised to develop a better model for disability testing based on the results of the several components in this study.

Findings on discrimination against persons with disabilities in senior housing

The Project conducted seven matched tests for disability discrimination. Four of the matched tests demonstrated some preference for the nondisabled tester. There were five tests where both tester met with the same agent. There were two senior housing facilities without services, where the testers met the same agent; and at one of these facilities, there was some

evidence of preference for the nondisabled tester. There were three assisted living facilities, where the testers met the same agent; and at two of these facilities, there was some evidence of preference for the nondisabled tester. None of the continuing care retirement community testers met the same agent.

We also note that approximately 25 percent of the respondents to the senior survey indicated that they had been the victims of some form of housing discrimination. Approximately 15 percent of these affirmative responses indicated that they suffered housing discrimination based on disability. An interesting finding was that the survey revealed that roughly 25 percent of respondents indicated that they had a disability and around 17 percent of respondents indicated that someone in their household had a disability. This finding led the Project to ask two questions about potential discrimination based on disability: 1) would disabled seniors who do not consider themselves disabled feel welcome at a senior facility that advertised for “active seniors,” and 2) even if seniors are aware of their disabilities, do they still consider themselves to be “active”? The senior survey did not address these questions, but the Project would address these questions in future surveys.

With respect to the senior organization survey, accessibility was a prevalent answer given by respondents to the open ended survey questions: “What do you perceive are the major issues that seniors face as a result of aging in our society?” and “What do you perceive are the two most important housing related issues for Chicago-area seniors?” One-third of respondents perceived seniors with a physical or mental disability were less than 50 percent of the population. Two-thirds of respondents perceived that more than 50 percent of seniors had a mental or physical disability.

The advertising survey provided some interesting results with respect to bias against disabled individuals. Approximately 18 percent of the printed materials contained an improper residency requirement, and approximately 13 percent of the websites contained an improper residency requirement. Typically, this was some sort of independent living requirement or a required physical (or mental) examination. We did not consider that the use of the words “independent” and “active” alone was illegal. The context of the communication was important. For example, there is a distinction in saying that “this is an independent living facility,” and that “you must be able to live independently.” In terms of the survey, it might have been interesting to have structured some multiple choice questions to see how seniors interpret these terms and to

determine if seniors with disabilities are deterred from housing developments that advertise “active” or “independent” living environments.

Approximately 63 percent of the printed materials and 79 percent of the websites failed to include any disabled human models, as well as referred to “active lifestyles,” which could well be interpreted as a preference for nondisabled individuals.

Findings on discrimination on the basis of race and national origin in senior housing

Overall, 49 percent of the facilities demonstrated some preference for the Caucasian tester. Our conclusions on preferences were based on HUD’s “Checklist of Indicators for Unequal Treatment.” Significantly, testers were given tours by the same agent at 19 of the senior housing providers. There were six senior housing facilities without services, where the testers met the same agent; and at four of these facilities, there was some evidence of preference for the Caucasian tester. There were seven assisted living facilities, where the testers met the same agent; and at five of these facilities, there was some evidence of preference for the Caucasian tester. There were six continuing care retirement communities, where the testers met the same agent; and at two of these facilities, there was some evidence of preference for the Caucasian tester.

As previously mentioned, approximately 25 percent of respondents to the senior survey indicated that they were the victims of some form of housing discrimination. The most prevalent type of housing discrimination indicated by respondents was race. Approximately 25 percent of affirmative respondents indicated that they had suffered housing discrimination based on race. Most male respondents complained of race (36 percent), while most female respondents complained of discrimination on the basis of having children less than 18 years of age (30 percent). Approximately 14 percent of those affirmative respondents indicated that they had suffered housing discrimination on the basis of national origin.

None of the senior organization respondents listed race or national origin discrimination to the open ended survey questions: “What do you perceive are the major issues that seniors face as a result of aging in our society?” and “What do you perceive are the two most important housing related issues for Chicago-area seniors?” with one respondent answering “discrimination in housing” to the first question. Approximately 12 percent of respondents indicated that they believed that discrimination was a primary issue in senior housing.

Approximately 22 percent of the printed materials used all (or nearly all) white human models, and approximately 39 percent of the websites used all (or almost all) white human models.

Enforcement of the fair housing laws as they relate to seniors

Approximately nine percent of seniors, who indicated in the senior survey that they had suffered housing discrimination, took some action to address it. With respect to age, no respondents over the age of 75 took any action (two age sub-categories). However, 15 percent of respondents aged 55-64 and 16 percent of respondents aged 65-74 indicated that they took some kind of action. Male respondents (11 percent) were more likely than female respondents (five percent) to take some kind of action. Approximately 12 percent of white respondents and 11 percent of Hispanic respondents indicated that they took some kind of action. Around five percent of black respondents took some kind of action in response to alleged discriminatory conduct involving housing.

Approximately 83% of respondents indicated that they were aware that a landlord must make changes in its rules and policies when necessary for a disabled tenant to fully enjoy the residence, which correctly states the law. However, around 66 percent indicated that they thought a landlord did not have to allow structural changes for a disabled tenant if the tenant paid for the changes, which is not the correct legal rule and the misinformation could seriously impact on the quality of housing for seniors with disabilities.

Approximately, 60 percent of respondents indicated that they would file a housing discrimination complaint while the remaining 40% indicated that they would not file a complaint because of perceived costs, lack of result, fear of reprisal, or length of litigation. Around 76 percent of respondents indicated that they believed that it is somewhat costly or costly to file a housing discrimination complaint.

With respect to the senior organization survey, approximately 85 percent of respondents believed that less than 25 percent of seniors have a general knowledge of fair housing laws with 94 percent of respondents indicating that less than 50 percent of seniors have a general knowledge of fair housing laws. Approximately 94 percent of respondents believed that less than 25 percent of seniors are aware that they can file a fair housing complaint with HUD. Approximately 10 percent of the respondents indicated that their agencies participate in regular fair housing educational programs and around 91 percent of respondents indicated that their agencies would be interested in having a presenter on fair housing issues facing seniors.

One agency representative indicated that seniors may not file complaints because if they are denied housing based on discrimination the need to find alternative housing outweighs the need to pursue a discrimination complaint, assuming that the senior is aware they have been discriminated in the first instance. Another agency representative indicated that their agency recently settled a case with an independent living facility because certain common areas were not accessible. The case involved an establishment that offered fishing access for its residents. However, there were no concrete paths or landings for disabled tenants to gain access to the lake in order to be able to fish. The case was settled and the facility did extend sidewalks and provide landing areas so all residents could equally enjoy the fishing privileges.

The Statutory Survey

The survey of Illinois statutes and Chicago ordinances show very little emphasis on the fair housing laws, and some of the statutes, particularly those related to assisted living and nursing facilities, have provisions that are directly contradicted by the fair housing laws. This is especially true of the provisions that allow housing providers to ask potential applicants about their disabilities and of the provisions that set forth the grounds that allow a facility to deny residency to persons with multiple disabilities. Despite the fact that much senior housing is regulated and inspected by the state, these inspections do not include inquiry about compliance with the fair housing laws. The survey shows that the Illinois legislature as well as the Chicago City Council could be more aggressive in taking affirmative steps to see that fair housing becomes a reality for many seniors.

Recommendations

The Center has requested a two-year extension to continue the Senior Housing Research Project. Our results demonstrate compelling information that identifies areas where further study, outreach and education, and enforcement are warranted. The preliminary findings demonstrate the following:

A significant number of seniors are unaware of their fair housing rights;

A significant number of counselors, social workers, and other providers of assistance to seniors are receptive to receiving information and training on the fair housing laws so that they can assist seniors in protecting their fair housing rights;

Senior housing providers should use diverse models in their advertising and affirmatively market to minorities and disabled individuals;

There is a difference of treatment accorded seniors in senior housing based primarily on race and disability;

State and local laws and regulations should be revised or rewritten affirmatively to further fair housing.

As a result, further testing, enforcement, education, and advocacy are all warranted.

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Senior Housing Research Project Final Report

INTRODUCTION

Thanks to a one year grant from the Retirement Research Foundation, the John Marshall Law School Fair Housing Legal Support Center and Clinic¹ took the initial step of researching and evaluating the landscape surrounding seniors' ability to obtain housing free from discrimination on the basis of race, national origin, and disability. As a result of the grant, the Senior Housing Research Project (Project) commenced on October 1, 2006. The proposal contained three parts: researching the state and federal laws and regulations surrounding fair housing for seniors; preliminary testing of 60 senior communities for signs of discrimination on the basis of national origin, race and disability; and surveying the community to define the need for education and outreach.

The Project sought to identify significant issues that seniors face as they attempt to access and/or "age in place" in communities marketed specifically to seniors. As part of the study, the Project reviewed relevant statutory provisions; conducted surveys of seniors, senior organizations, and commissioners; conducted 60 matched tests of senior housing providers; and surveyed senior housing providers' marketing materials. The purpose of the study was to inform seniors, senior housing providers, and regulators as to the prevalence of housing discrimination in the Chicago metropolitan area. Finally, the Project presented a comprehensive presentation on its findings and conclusions.

¹ For at least 25 years, the John Marshall Law School Fair Housing Legal Support Center and Clinic has been fighting for the housing rights of all citizens. The John Marshall Law School Fair Housing Legal Clinic (Clinic) represents clients in all types of fair housing cases, including race, national origin, and disability cases. It maintains an active caseload of approximately 60 cases. Each semester, the Clinic trains approximately 25 students. In addition, the John Marshall Law School Fair Housing Legal Support Center (Center) regularly conducts conferences and trainings for housing and civil rights advocates, housing providers, and consumers in fair housing law and enforcement. Some of these conferences have particularly focused on housing problems of the elderly and others have focused on problems that particularly affect the elderly such as predatory home lending practices and discrimination on the basis of physical or mental disability.

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Section one of this Report will provide a review of Illinois statutes and regulations relative to senior housing providers. Further, pertinent case law has been reviewed to determine the issues implicated with senior housing providers. Only assisted living facilities are regulated by the state, and the Project reviewed the agency's exit interviews of Cook County assisted living facilities. The Project instituted a statutory survey that reviewed Federal and Illinois laws; housing discrimination regulations; licensing regulations of senior housing providers; and Chicago ordinances. The Federal Fair Housing Act was passed in 1968, and it now outlaws housing discrimination based on race, color, national origin, religion, familial status, disability, and sex. While age is not one of the protected classes under the Act, there is a correlation between age and disability that is unmistakable in a population whose life expectancy has risen dramatically over the past several decades. Significantly, most of the prohibitions of the Act and its state and local counterparts apply to housing for older persons, although providers of such housing often seem oblivious to the mandates of these laws.

In Illinois, only assisted living facilities are regulated and inspected. However, the relevant regulations do not include fair housing principles. In a perfect world, the federal government would enact legislation for senior housing facilities without services, assisted living facilities ("ALFs"), and continuing care retirement communities ("CCRCs") analogous to the Nursing Home Reform Act ("NHRA")² (as well as incorporating by reference existing fair housing laws). The key provisions of NHRA are as follows:

- Freedom of choice
- Freedom from restraints and abuse
- Privacy
- Confidentiality
- Accommodation of individual needs

² 42 USC §§ 1395i-3(c), 1396r(c).

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- Personal items
- Grievances
- Participation in groups and other activities
- Examination of survey results
- Access and visitation rights

The Illinois Assisted Living/Shared Housing Act has many of these provisions.

However, one important provision that the Illinois General Assembly should add to the Act would be the accommodation of individual needs provision. Such a provision gives residents the right to receive services that reasonably accommodate their individual needs and preferences. Moreover, legislation with these protections should be enacted for CCRCs. The Acts should include fair housing protections, whereby residents would be protected from forms of invidious discrimination in senior housing facilities without services, assisted living facilities, and CCRCs.

There seems to be a considerable gap in current regulations where senior housing providers can effectively discriminate against seniors, especially against seniors with disabilities. Under existing federal and state law, there should be no way for senior housing providers to get away with these practices. As stated previously, Illinois regulates only ALFs and offers very little oversight of CCRCs and no oversight of senior housing facilities without services. The Assisted Living and Shared Housing Act, in some ways, enables ALFs to engage in such practices by allowing exclusions of certain disabilities, inquiries into disabilities via physical assessments, and discharge and transfer provisions. Many of these provisions may be in contravention of the Fair Housing Act.

Ultimately, protecting seniors from housing discrimination comes down to individuals asserting and protecting their rights under the Fair Housing Act. Fortunately, courts have been very willing to enforce the Fair Housing Act in favor of seniors and against senior housing

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providers' policies, as well as state regulations. However, many seniors, for a variety of reasons, have been unwilling to litigate their fair housing claims or to file administrative complaints. Further, federal and state agencies do not initiate complaints to investigate and enforce fair housing laws, which they can do. The Project encourages the Illinois legislature to amend and expand the Assisted Living and Shared Housing Act to incorporate fair housing principles and to mandate regulators to inspect for compliance with fair housing laws. The legislature should also provide legislation that will better regulate senior housing facilities without services and CCRCs, where fair housing laws apply.

Section two presents the results of the Project's senior survey, which asked seniors what they want and look for in housing. The anonymous survey enabled the Project to find out what seniors feel is important with regards to housing features, such as fewer stairs, wider doorways and grab bars in bathroom facilities. The survey further addressed housing service alternatives, such as assistance with meals, personal hygiene, housekeeping duties, etc. The survey finally addressed health and physical well-being issues, awareness of the fair housing laws, and whether seniors have had past experiences with housing discrimination.

The Project received 360 completed surveys from seniors residing in Chicago, Suburban Cook County and Lake County in Illinois, and Northwest Indiana. The survey was disseminated through group facilitations. Approximately 29 percent of respondents were between the ages of 55-64; 26 percent were between the ages of 65-74; 32 percent were between the ages of 75-84; and 13 percent were 85 years or older. Approximately 57 percent of respondents were women. Approximately 67 percent of respondents were Caucasian; 15 percent were African-American; and 12 percent were Hispanic.

The Project surveyed seniors to ascertain, among other things:

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1. What seniors desire and expect in housing;
2. Whether seniors have experienced housing discrimination;
3. Seniors willingness to file a discrimination complaint; and
4. Seniors knowledge of the Fair Housing Laws.

The survey results also revealed the following. Approximately 58 percent of respondents resided in single-family homes; this result was almost double to those living in apartments or other multi-family facilities. Approximately 51 percent of those surveyed lived alone. Approximately 16 percent resided in some sort of seniors-only facility. Approximately 61 percent of respondents owned their own residences. Of those surveyed, approximately 76 percent were satisfied with their current living arrangements. Approximately 59 percent of respondents indicated that they probably or definitely would not move.

Approximately 25 percent of respondents indicated that they had some type of disability, while 17 percent indicated that they resided with a disabled individual. Interestingly, approximately 49 percent of respondents indicated that they or someone in their household had some type of disability that was enumerated as part of a follow-up question. Approximately half (90) of the 178 respondents who indicated a disability in that question had previously indicated no disability in the questions that inquired about disabilities. Most of the disabilities involved limited mobility or hearing or vision loss. Accessible housing was a clear preference for a vast number of those surveyed. An interesting result was that of the seniors surveyed, approximately 56 percent indicated that housekeeping assistance was important or very important to them. Approximately 75 percent indicate that assistance with home maintenance was important or very important. Almost 65 percent of seniors indicated that planned social and recreational activities were important to them and the number jumped even higher when it came to medical, transportation, and meal services.

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Approximately 25 percent of respondents indicated that they had suffered some form of discrimination in the past; however, approximately 26 percent of those instances occurred in the past five years. Approximately 25 percent answered that they had been at some time a victim of racial discrimination in housing; 24 percent of source of income discrimination; 23 percent of having children under 18 years of age discrimination; 19 percent of age discrimination; 15 percent of disability discrimination; and 14 percent of national origin discrimination.

[Respondents could respond to more than one form of discrimination for that particular inquiry.]

More than one half of those surveyed expressed unfamiliarity with the fair housing laws and the remedies they afford. Approximately 61 percent of respondents erroneously believed that a senior housing provider could mandate an “independent living” requirement. And in answer to specific questions, many did not know that landlords had to make reasonable accommodations for the disabilities of tenants and allow them to make reasonable modifications, at their own expense, to their units. Furthermore, approximately 40 percent of respondents indicated that they would not take any action if they thought that they were the victims of discrimination.

It was also interesting that a vast majority of those surveyed preferred to live in communities that reflected a great amount of diversity in faith and religion and that was racially and ethnically integrated. But there was also a significant minority of persons who preferred a more restricted environment. The results of this survey were validated by the experiences related by counselors and other persons who work with seniors.

Section three provides the Project’s results from its senior organization survey, fair housing commissioners survey, and interviews with housing enforcement officers. The anonymous senior organization survey was designed for the senior center regional directors and

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other relevant staff, all of which provided the Project with their expertise, knowledge, and insight into senior housing issues. Additionally, the Project conducted a survey of fair housing commissioners and hearing officers to determine if their agencies or organizations have been involved in any actions with senior housing providers. Additional surveys were facilitated to senior organizations and fair housing commissioners and hearing officers to ascertain their observations and opinions on senior housing needs. Additionally, individuals associated with the United States Department of Housing and Urban Development (“HUD”), the Illinois Bureau of Assisted Living; and the Cook County Commission on Human Rights were interviewed about their observations and opinions on the current state of senior housing discrimination and seniors’ knowledge and beliefs on what can be done if housing discrimination occurs to them.

Section four presents the results from the Project’s 60 matched tests at senior housing facilities without services, assisted living facilities, and continuing care retirement communities focusing on race and disability. Senior testers of various ethnic backgrounds, some with disabilities, inspected senior housing providers and allowed the Project to determine what discrimination seniors face in their housing options.

The matched tests results indicated very little steering because of disability. However, testing was not done, and would be difficult to do, to determine whether these facilities were willing to engage in a meaningful discussion with senior housing applicants and residents who require reasonable accommodations or modifications. The Project noted that one facility dissuaded a disabled tester, indicating that there were only six accessible units, which had a 15-year waiting list. There was no discussion of a reasonable modification at this facility.

Complaints by seniors filed with HUD and state and local agencies nationwide indicate problems with reasonable accommodations and modifications.

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The testing results do indicate subtle steering based on race. African-American testers experienced greater difficulty in getting appointments, in getting literature about the project, in being given tours of the projects, in being given information about the waiting list, and in being called back. More than one-half of the facilities that were tested for race demonstrated some preference for the Caucasian tester. Most of the time, the distinctions in treatment were not overt and were not even noticed by the minority tester at the time of the test. It is only in comparing the reports of the Caucasian and the minority testers that these distinctions show up. Sometimes these distinctions might have been because of distractions that occurred at the site; but the sheer volume of these differences is disturbing and indicates a need to focus testing on a few senior housing providers to determine if these differences in treatment are on-going.

Section five highlights the results of the Project's advertising survey. Here, the Project reviewed printed and online marketing materials from a sample of senior housing providers in order to determine whether the facilities advertising materials violates 42 USC § 3604(c). Specifically, the Project highlights any advertising indicating "independent living" requirements or "medical screening" requirements; advertising indicating racial preferences; and advertising indicating disfavor towards disabled individuals. All of the matched test sites marketing materials were reviewed by the Project. The Project notes that there were 68 facilities with printed marketing materials depicting human models, and 15 of which contained no minorities. Further, there were 42 facilities (out of 68) that depicted human models, none of whom had a discernible disability in their printed marketing materials.

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I. STATUTORY SURVEY

This section will review and discuss Illinois laws regarding senior housing facilities without services, assisted living facilities, and continuing care retirement communities. These laws will be discussed in the context of the Fair Housing Act, as well as the Illinois Human Rights Act and applicable Chicago ordinances.

In the past, the public policy of the United States was to isolate and segregate disabled individuals from “normal” society.³ Disabled individuals were placed in large institutions, where experts believed that they would “live under circumstances best suited to make each useful and happy.”⁴ Public policy changed in the 1950s, when “a national policy of community living developed, inspired in part by notions of civil rights and human decency and driven by concern about the huge expense of ware-housing people in large institutions.”⁵ Senior housing issues moved to the forefront as American society began to age. It is estimated that there are 77 million Baby Boomers, those individuals born between 1946 and 1964; and that Baby Boomers will more than double the demand for senior housing during the next 20 years.⁶ In response to this

³ Allen, Michael, Eric Carlson, and Stephanie Edelstein, *Fair Housing Protections for Older Clients*, 17-SPG NAELA Q 37, 37 (Spring 2004) (“Allen I”). This article notes that “people with severe disabilities were considered, in the view of one state agency, ‘a defect ... [that] wounds our citizenry a thousand times more than any plague.’” *Id.* at fn. 1 *citing* Cook, Timothy M., *The Americans with Disabilities Act: The Move to Integration*, 64 Temp L Rev 393, 401 (1991); Drimmer, Jonathan C., *Cripples, Overcomers, and Civil Rights: Tracing the Evolution of Federal Legislation and Social Policy for People with Disabilities*, 40 UCLA L Rev 1341, 1342 (1993). Additionally, the article states that “as a result of Social Darwinism and other forces which led many experts to consider people with mental disabilities as menaces to society, ‘[a] regime of state-mandated segregation and degradation soon emerged that in its virulence and bigotry rivaled, and indeed paralleled, the worst excesses of Jim Crow.’” *Id.* *citing* *City of Cleburne v Cleburne Living Center*, 473 US 432, 462 (1985) (Marshall, J., concurring in part and dissenting in part).

⁴ Cook at 406 *quoting* C.S. Yoakum, *Care of the Feebleminded and Insane in Texas*, Bull U TEX 83 (November 5, 1914).

⁵ Allen I at 37-38.

⁶ Griffith, William C., *Baby boomers want more from senior housing*, <http://library.findlaw.com/2003/Sep/29/133257.html> (last accessed October 3, 2006) (noting this article was originally published in the September 29, 2003 issue of the Minnesota Real Estate Journal).

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demand, the senior housing provider industry has grown rapidly over the last few years.⁷ It should be noted that Baby Boomers at the younger end of the age spectrum are more aware of their civil rights and will likely demand greater options, services, and amenities than their parents' generation.⁸

The Baby Boomers demonstrate the clear fact that America's population has become older.⁹ According to the 2005 American Community Survey, more than 22 percent of the population of the United States is over 55 years old.¹⁰ According to a recent article, "[t]hese figures are expected to grow dramatically in the early decades of the twenty-first century as the 'Baby Boom' generation reaches retirement age and as improvements in health care make it possible for more people to live to an advanced age."¹¹

Lately, "the concepts of 'independent living' and 'consumer direction'¹² have become highly popularized among individuals with disabilities who choose to control their long-term

⁷ *Id.*; another article asserts that the senior housing industry has grown during the past 25 years. Allen, Michael, *We Are Where We Live: Seniors, Housing Choice, and the Fair Housing Act*, 31-Apr Hum Rts 15, 16 (Spring 2004) ("Allen II").

⁸ *Id.*

⁹ Schwemm, Robert G., *For the Rest of Their Lives: Seniors and the Fair Housing Act*, 90 Iowa L Rev 121, 124 (October 2004).

¹⁰ United States Census website, http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2005_EST_G00_S0101&-ds_name=ACS_2005_EST_G00_ (last accessed August 11, 2007).

¹¹ Schwemm at 124.

¹² "Consumer direction" has been defined as "programs that offer maximum choice and control for people who use services or other supports to help with daily activities." Promoting Consumer Direction in Aging Services website, <http://www.consumerdirection.org/> (last accessed September 10, 2007). The website also provided the following:

In consumer directed programs, people with disabilities can choose to select, manage, and dismiss their workers. They can receive services wherever they live. They can decide which services to use, which workers to hire, and what time of day they will come and leave. They can decide whether to hire family members and whether to spend the available funds on things other than services.

Consumer direction may also be called "self determination" or "independent living." When people say they want to be "independent" or they want "autonomy" or "self direction," they are talking about consumer direction too. All of those terms are about individual choice and control. *Id.*

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care and assistance.”¹³ While this emerging trend has enabled disabled individuals “to live independently in their communities,” a recent article noted that “independent living and consumer direction have not been as widespread among elderly people with disabilities.”¹⁴ Another article noted that “[p]roviding housing for this segment of the American population is already a massive industry and one that will certainly grow as the number of older persons increases.”¹⁵ Senior housing providers created a thriving industry now offering hundreds of thousands of units in settings other than the traditional nursing home environment.¹⁶ Units are classified as senior apartments, senior housing facilities without services, assisted living facilities, and continuing care retirement communities.

A. Methodology

In researching this section, the project reviewed federal, state, and local laws and regulations regarding fair housing and senior housing. Further, the Project reviewed and analyzed key decisions that implicated senior housing providers. The Project also reviewed articles from fair housing and senior housing experts and advocates.

B. Terminology: Senior Housing Classifications

This study focuses on senior housing facilities without services, assisted living facilities, and continuing care retirement communities. As a starting point, the City of Chicago Department on Aging also classifies senior housing providers on its website.¹⁷ The City’s

¹³ Batavia, Andrew I, *The Growing Prominence of Independent Living and Consumer Direction as Principles in Long-Term Care: A Content Analysis and Implications for Elderly People with Disabilities*, 10 Elder L J 263, 263 (2002).

¹⁴ *Id.* at 264.

¹⁵ Schwemm at 124 citing Commission on Affordable Housing and Health, *Facility Needs for Seniors in the 21st Century, A Quiet Crisis in America: A Report to Congress*, http://www.seniorscommission.gov/pages/final_report/pdf_Index.html (on file with the Iowa Law Review).

¹⁶ *Id.*

¹⁷ The City provides information for individuals seeking senior housing on its website. City of Chicago Department of Aging,

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website provided the chart on the following page to indicate classification of senior housing based on income levels.¹⁸

Chicago Department of Aging, Senior Housing Resource List, Types of Housing

Independent Living: no meals offered; minimal services (with some exceptions)

Annual Household Income Level:

Below \$15,000	Below \$30,000	Above \$30,000
Chicago Housing Authority Section 202 Section 8	DOH Financed IHDA Financed	Senior Condos

Independent Living: with meals and services; medical assistance not offered

Annual Household Income Level:

Above \$30,000	Above \$60,000
Affordable Full Service	Luxury Full Service

Assisted Living: with meals, services, and limited medical assistance

Annual Household Income Level:

Below \$15,000	Above \$60,000
Supportive Living Facilities	Assisted Living Facilities

Nursing Homes: with medical services (some exceptions)

These classifications will be defined in the following sub-sections.

1. Senior Apartments

Senior apartments are rental units for individuals, who are 55 years or older.¹⁹ Generally, senior apartments have amenities and activities, which appeal to individuals who want to downsize “their housing and related maintenance obligations.”²⁰ Clearly, the Fair Housing Act

http://egov.cityofchicago.org/city/webportal/portalContentItemAction.do?BV_SessionID=@@@@0344078173.1162580659@@@@&BV_EngineID=cccdadjfjmhehecefecelldffhdfn.0&contentOID=536936548&contentTypeName=COC_EDITORIAL&topChannelName=Dept&blockName=Aging%2FSenior+Housing+Options%2FI+Want+To&context=dept&channelId=0&programId=0&entityName=Aging&deptMainCategoryOID=-536886392 (last accessed November 3, 2006).

¹⁸ *Id.*

¹⁹ Allen II at 16.

²⁰ *Id.*

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applies here, prohibiting against discriminatory practices for its enumerated protected classes.²¹

While the Fair Housing Act does not protect against age discrimination, as well as other classes, the Illinois Human Rights Act and Chicago Fair Housing Ordinance fill in the gaps. As a result, in the City of Chicago, the following classes are protected: race, color, religion, national origin, ancestry, sex, disability, familial status, marital status, military status, age, source of income and sexual orientation or unfavorable discharge from military service.

2. Senior Housing Facilities Without Services

The Project notes that the industry term is independent living communities or independent living facilities. Additionally, Chicago Department of Aging references independent living facilities. These facilities are designed for seniors with minimal health or personal care needs. These facilities are not allowed to provide skilled nursing services, so these types of facilities would be regulated as any multi-family dwelling.²² We have chosen to use the term “senior housing facilities without services” in this report. As previously mentioned, the Fair Housing Act, Illinois Human Rights Act, and Chicago Fair Housing Ordinance protect against discriminatory practices for a wide range of protected classes.

3. Assisted Living Facilities

Assisted living facilities (“ALF”) combine “individualized supportive services with modest health care assistance.”²³ According to a recent presentation, there are more than “one

²¹ The Fair Housing Act prohibits discrimination in housing based on race, color, religion, national origin, sex, familial status, and handicap. 42 USC §§ 3603-3607, 3617. Projects for persons 55 and older may establish themselves as “senior” projects so they are exempt from the familial status provisions of the Fair Housing Act. See 42 USC § 3607(b)(2)(B) and (C).

²² Sturm, Lauren R., *Fair Housing Issues in Continuing Care Retirement Communities: Can Residents be Transferred Without Their Consent?* 6 NY City L Rev 119, 124 (Fall 2003).

²³ Frolik, Lawrence A. and Tracy Callahan, *Housing Options for the Older Client*, SL071 ALI-ABA 11, 18 (February 23-24, 2006).

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million adults currently liv[ing] in assisted living facilities.”²⁴ The presentation further noted that “[t]hese facilities provide a level of care between independent living and the institutional care of nursing homes, and such “terms [as] assisted living, board and care homes, personal care homes and retirement homes, reflected marketing strategies and regional usage more than any fundamental differences.”²⁵ It should be noted that “ALFs vary substantially in quality, price, services, and many other features and regulation of these facilities is evolving.”²⁶

Assisted living facilities typically provide the following services: meals; housekeeping; transportation; assistance with eating, bathing, dressing, walking, etc.; access to health and medical services; security and staff availability; emergency call systems in each resident’s unit; health and exercise programs; medication management; laundry; and social and recreational activities.²⁷

While there is no federal regulation, states and municipalities have begun to regulate assisted living facilities.²⁸ A recent article noted that “[a]s of 1998, 22 states regulated assisted living facilities.”²⁹ The State of Illinois has enacted comprehensive legislation, the Assisted Living and Shared Housing Act, regarding assisted living facilities.³⁰ Significantly, the legislation has not incorporated fair housing laws. The Assisted Living and Shared Housing Act will be discussed in detail in the subsequent section.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Krauskopf, Joan M., Robert N. Brown, Karen L. Tokarz, and Allan D. Bogutz, *Elderlaw: Advocacy for the Aging*, § 12:84 (September 2005).

²⁷ Frolik at 18.

²⁸ *Id.* Krauskopf notes that the National Center for Assisted Living (NCAL) prepares an excellent annual review of state regulation of Assisted Living Facilities. Krauskopf at § 12.84. The 2006 edition is available at http://www.ncal.org/about/2006_reg_review.pdf (last accessed December 9, 2006).

²⁹ Sturm at 124.

³⁰ 210 ILCS 9/5 et seq.

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4. Continuing Care Retirement Communities

A continuing care retirement community (CCRC) provides supportive housing with lifetime care for its residents.³¹ The CCRC may offer a wide range of housing options, including independent living, assisted living, and nursing home care; as the CCRC seeks to ensure that the resident will never need to move.³² Fundamentally, a CCRC “provides housing, meals, and other services, including nursing home care, usually in exchange for a one-time capital investment or entrance fees and a monthly service fee.”³³ Another article noted that in 2003, “there were approximately 2,150 CCRCs with about 613,625 beds.”³⁴ CCRCs present unique challenges for the application of fair housing, disability, and other discrimination laws, because CCRCs combine elements of age-restricted housing, activities programs, health services, and often health expense coverages similar to that provided by long-term care insurance carriers. Many CCRC residents may be considered disabled, all are seniors, and many facilities are sponsored by religious, ethnic, or fraternal organizations. As such, CCRCs pose an interesting dilemma in terms of regulation, because CCRCs have several components, i.e., independent living, assisted living, and skilled nursing. Thus, an assisted living component to a CCRC may be regulated by operation of a state law, whereas the same facility’s independent living operation would be unregulated.

There are three kinds of CCRC contracts: extensive, modified, and fee for service.³⁵ A recent article described these contracts in the following excerpt.

³¹ Frolik at 19.

³² *Id.*

³³ Krauskopf at § 12:81. The article notes that “[t]he monthly fee is determined by operating costs and may increase periodically.” *Id.* Additionally, “[t]he resident ordinarily does not acquire any ownership rights in the residential unit.” *Id.* Ultimately, “CCRCs usually are constructed on a village concept, and the individual remains within the community for life, moving from independent housing to nursing home and back as needed.” *Id.*

³⁴ Sturm at 123.

³⁵ Krauskopf at § 12.81.

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First, “extensive” contracts include shelter; residential services and unlimited long term care for an inclusive fee. Second, “modified” contracts include shelter, and residential services. A specified amount of long term nursing care is included in the monthly payments. Any additional required care is paid for on a per diem basis. Finally, “fee for service” contracts include shelter, residential services and emergency and short term nursing costs. Any long-term care that the resident may require is paid for at a per diem rate.³⁶

There is no federal oversight of CCRCs. The statutes vary substantially from state to state, but some common areas of regulation exist.³⁷ Some recent legislation requires retirement communities to permit residents to form associations and hold annual meetings. As of 2005, 34 states, including Illinois, had some kind of CCRC regulation.³⁸ State’s regulation of CCRCs generally concentrates on the financial solvency and disclosure rules for consumers; however,

³⁶ *Id.*

³⁷ *Id.* at § 12.82. Krauskopf noted that

Most states have certification or licensing requirements, including a mandatory annual renewal. To be licensed, the retirement community often must furnish detailed information including recent financial statements, names of parent organizations and subsidiaries, sources of funds and plans for their use, and a statement of fees to be charged. Many states require that all or part of the entrance fee be placed in escrow to ensure that the prospective resident will obtain either a living unit or a refund. Many states require the facility to maintain a cash reserve account to provide necessary funds should operating costs exceed revenue from monthly payments and other sources. Most states require disclosure of financial statements to a state agency upon filing for renewal of a license, and to prospective or current residents. Some states regulate advertisements and solicitation of life care contracts to discourage fraud by continuing care providers. Many states mandate the terms of the life care contract, although in varying degrees. Contract terms frequently regulated include refund of the entrance fee, rights of termination, fee adjustments, dismissal of residents, transfer of residents to a nursing home, services provided by the facility, and the value of the property transferred to the community. *Id.*

³⁸ *Id.* at fn. 1: Arkansas: Ark Stat §§ 23-93-101 to 114 (1989); Arizona: Ariz Rev Stat §§ 20-1801 to 1812 (1990); California: West’s Ann Cal Health & Safety Code §§ 1770-1793 (1991); Colorado: CRSA §§ 12-13-101 to 117 (1985); Connecticut: Conn Gen Stat Ann §§ 17-535 to 550 (1991); Delaware: Del Code Ann tit 18 §§ 4601 to 4605 (1990); Florida: West’s Fla Stat Ann §§ 651-011 to 134 (1991); Idaho: Idaho Code §§ 67-2752 to 2764 (1989); Illinois: 210 ILCS 40/1 to 40/12 (1987); Indiana: Ind Code Ann §§ 23-2-4-1 to 23-2-4-24 (1989); Iowa: Iowa Code Ann §§ 523D.1 to 523D.10 (1991); Kansas: Kan Stat Ann 16-1101 to 1105 (1988); Louisiana: LSA-R.S. 51:2171 to 2188 (1991); Maine: Me Rev Stat Ann tit 24-A, §§ 6201-6226 (1990); Maryland: Md Code, Art 70B, SS7-23 (1990); Massachusetts: Mass Gen Laws Ann ch. 93, § 76 (1985); Michigan: MCL §§ 554.801 to 844 (1988); Minnesota: Minn Stat Ann §§ 80D.01 to 80D.20 (1991); Missouri: Vernon’s Ann Mo Stat §§ 376.900 to 950 (1991); New Hampshire: NH Rev Stat Ann 420-D:1 to 420-D:27 (1990); New Jersey: NJ Stat Ann 52:27D-330 to 52:27D-360 (1991); New Mexico: NM Stat Ann §§ 24-17-1 to 24-17-11 (1978); New York: NY—McKinney’s Pub Health Law §§ 4601 to 4620 (1991); North Carolina: NC Gen Stat §§ 58-64-1 to 58-64-80 (1990); Ohio: Ohio Rev Code Ann § 173.13 (1990); Oregon: Or Rev Stat 101.010 to 160 (1989); Pennsylvania: Pa Stat tit 40, §§ 3201 to 3225 (1990); Rhode Island: RI Gen Laws §§ 23-59-1 to 23-59-17 (1989); South Carolina: Code 1976, §§ 37-11-10-37-11-140; Tennessee: Tenn Code Ann § 4-3-1305 (1990); Texas: VTCA, Health and Safety Code §§ 246.001 to 117 (1991); Vermont: Vt Stat Ann tit 8, §§ 8001 to 8018 (1990); Virginia: Va Code §§ 38.1-4900 to 4917 (1990); Washington: West’s RCWA 70.38.025(3), 70.38.111; Wisconsin: Wis Stat Ann 647.01 to 08 (1990).

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some states have enacted comprehensive CCRC regulations that protect consumers and residents.³⁹ Typically, states “license and regulate the skilled nursing facility and the assisted living facility within a CCRC, but not the independent living units.”⁴⁰ The State of Illinois has a provision within the Nursing Facilities Act covering long-term care facilities;⁴¹ however, that provision protects the parties’ contract rights. This provision will be discussed in the subsequent section.

Significantly, there is “[s]ome self-regulation of CCRCs . . . [t]he Continuing Care Accreditation Commission (CCAC) is a private entity that accredits and evaluates CCRCs on a voluntary basis.”⁴² According to the CCAC Handbook, “[t]he CCAC standards have three major purposes, which are to assist a CCRC in developing, interpreting, improving and evaluating all components of its operation, to provide the basis for accreditation decisions and to assure consumers that the CCRC has met pre-determined standards.”⁴³ One article noted that “[t]he CCAC focuses on assessing facilities’ quality in the following areas: governance and administration, resident life, finance and health care.”⁴⁴ While this article indicated that 22 percent of eligible CCRCs were accredited in 1991, another article noted that “[a]s of 1997, only 207 CCRCs have maintained CCAC accreditation.”⁴⁵ According to the Commission on Accreditation of Rehabilitation Facilities (CARF) website, 325 CCRCs are currently maintaining

³⁹ *Id.*; Maine’s CCRC statute is the one example protecting residents from discharge and transfer; this statute will be discussed in a subsequent section.

⁴⁰ *Id.*

⁴¹ 210 ILCS 40/1 et seq.

⁴² Sturm at 124 *citing* The Continuing Care Accreditation Commission, at <http://www.ccaonline.org>. It should be noted that website is no longer active, and it is now part of the Commission on Accreditation of Rehabilitation Facilities, <http://www.carf.org/> (last accessed December 10, 2006).

⁴³ *Id. citing* Continuing Care Accreditation Commission, Handbook for Candidate CCRCs, at <http://www.ccaonline.org/Downloads/document/handbook.pdf> (on file with the New York City Law Review). The CARF-CCAC web site has moved, but the previously cited report was no longer available online. The CCAC website contains little information at this point, and the materials that Sturm and Krauskopf cited were no longer available online.

⁴⁴ Krauskopf at § 12.81.

⁴⁵ Krauskopf at § 12.81; Sturm at 125.

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accreditation.⁴⁶ However, the CCAC guidelines do not provide any procedural examples for CCRCs or legislative bodies.⁴⁷

The CCAC accreditation process seems rather confusing, as it has been absorbed with the CARF.⁴⁸ Its website described an accredited organization as

[one] trying to continually improve its services must be able to recognize and measure improvement. How can an organization tell if it is improving? The organization's staff members will ask you, the customer. The organization may do surveys asking you to write down your answers. Or they may have someone ask you questions and write down your answers. Through the results you achieve from its services, the organization finds out how well it is doing and where it needs to improve.⁴⁹

According to CARF's website, only 12 CCRCs in Illinois obtained accreditation, one of which was in Chicago, Covenant Methodist Senior Services.⁵⁰

Illinois CCRCs with CCAC accreditation.

Name	Address	City	State	Zip	Website
The Moorings of Arlington Heights	811 E Central Rd	Arlington Heights	IL	60005	www.presbyterianhomes.org
Windsor Park Manor	124 Windsor Park Dr	Carol Stream	IL	60188	www.covenantretirement.org
DeKalb Area Retirement Center	2944 Greenwood Acres Dr	Dekalb	IL	60115	www.oak-crest.com
Fairview Village/Fairview Baptist Home	200 Village Dr	Downers Grove	IL	60516	www.fairview-inc.com
Westminster Place	3200 Grant St	Evanston	IL	60201	www.presbyterianhomes.org
The King Home	1555 Oak Ave	Evanston	IL	60201	www.presbyterianhomes.org
Lake Forest Place	1100 Pembridge Dr	Lake Forest	IL	60045	www.presbyterianhomes.org

⁴⁶ Commission on Accreditation of Rehabilitation Facilities website, <http://www.carf.org/Consumer.aspx?Content=CCACSearch> (last accessed August 11, 2007).

⁴⁷ Sturm at 125 *citing* The Continuing Care Accreditation Commission, Standards of Excellence Required Documents Self-Assessment Questions, 25 (2002), at <http://www.ccaonline.org/Downloads/StandardsAugust2002.htm> (on file with the New York City Law Review).

⁴⁸ See Commission on Accreditation of Rehabilitation Facilities website, <http://www.carf.org> (last accessed December 10, 2006)

⁴⁹ Commission on Accreditation of Rehabilitation Facilities website, <http://www.carf.org/consumer.aspx?Content=Content/ConsumerServices/cs05en.html&ID=5> (last accessed December 10, 2006)

⁵⁰ Commission on Accreditation of Rehabilitation Facilities website, <http://www.carf.org/Consumer.aspx?Content=CCACSearch> (last accessed December 10, 2006).

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Name	Address	City	State	Zip	Website
Beacon Hill	2400 S Finley Rd	Lombard	IL	60148	www.beaconhilllombard.com
Covenant Village of Northbrook	2625 Techny Rd	Northbrook	IL	60062	www.covenantretirement.org
Wesley Willows	4141 N Rockton Ave	Rockford	IL	61103	www.wesleywillows.org
Friendship Village of Schaumburg	350 W Schaumburg Rd	Schaumburg	IL	60194	www.friendshipvillage.net
Wyndemere Retirement Community	200 Wyndemere Circle	Wheaton	IL	60187	www.wyndemere seniorliving.com

CCAC accreditation has increased from approximately 200 CCRCs or so in 1991, to 325 CCRCs in 2007. Nevertheless, approximately 1,800 CCRCs are not participating in CCAC's accreditation program. Based on the relative stagnation of CCAC accreditation between 1991 and 2007, and the lack of information on its website, this writer concludes that the CCAC's attempt at industry-based, self-regulation, while admirable, came up short in instituting any meaningful regulation. Further, it was noted that only 12 CCRCs in Illinois maintain CCAC accreditation; thus, this private regulating body has little impact in this state.

5. Demographic Notes

As a preliminary matter, the Administration on Aging provides that in Illinois, the percentage of persons over the age of 60 is 82 percent Caucasian, 11 percent African-American, four percent Hispanic, two percent Asian and one percent other. Overall, 68 percent of Illinois' population is Caucasian. The Chicago metropolitan area population consists of 8,376,601 people. The statistical breakdown is as follows: 59 percent Caucasian and 41 percent minority. In the City of Chicago, the population is 2,929,000, of which 37 percent are African-American, 32 percent Caucasian, 26 percent Hispanic, and 5 other (including Asians).⁵¹

⁵¹ Statistics received from the Administration on Aging, *A Profile of Older Americans*. United States Department of Health and Human Services (2001).

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There does not appear to be any comprehensive statistical analysis of senior housing by official governmental agencies. In the future, it would be helpful if the Census department or some other governmental agency would commission a study to ascertain where seniors are residing, i.e., houses, apartments, senior housing facilities without services, assisted living facilities, CCRCs, etc. As previously noted there are more than one “million adults currently live in assisted living facilities” in 2006⁵² and “approximately 2,150 CCRCs with about 613,625 beds” in 2003.⁵³

The National Investment Center conducted a national supply estimate of seniors housing and care properties which determined that there were 46,131 seniors housing properties with supportive services in the United States with a capacity to hold more than 3.4 million seniors as of 1999-2000.⁵⁴ Of those properties, the study noted the following:

- 50 percent were assisted living communities
- 34 percent were nursing facilities
- 7 percent were independent living communities
- 4 percent were continuing care retirement communities (CCRCs)
- 5 percent offered a combination of property types⁵⁵

Seniors apartments (that is, seniors housing properties without supportive services) were estimated at 11,726 properties and 821,173 units.⁵⁶ The 2004 Update to the Size, Scope, and Performance of the Seniors Housing & Care Industry estimated 33,000 market rate professionally managed properties (independent living, assisted living, nursing homes, and CCRCs) with a capacity to hold 3,675,000 seniors.⁵⁷

⁵² Frolik at 18.

⁵³ Sturm at 123.

⁵⁴ This information, and what follows, was pulled from the National Investment Center website, <http://www.nic.org/data/faq.asp> (last accessed December 31, 2006).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

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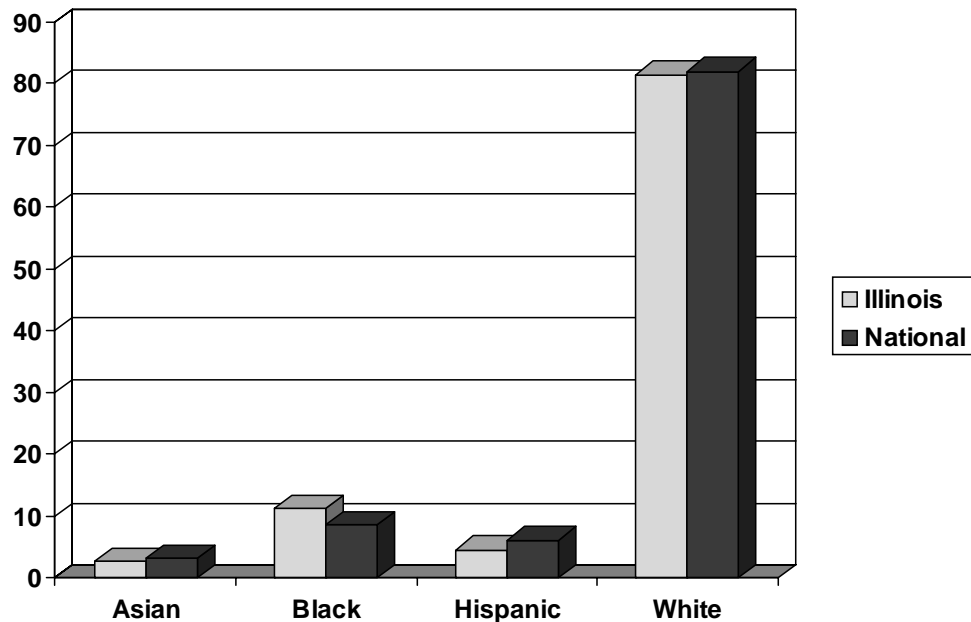
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The AARP recently published a national profile of long-term care and independent living that compares data among the states.⁵⁸ The report indicated the following:

- 16.5 percent of individuals living in Illinois were between 50 and 64, compared to 17 percent as a national average in 2005⁵⁹
- 12 percent of individuals living in Illinois were 65 or older, compared to 12.4 percent as a national average in 2005⁶⁰
- 18.6 percent of individuals, 65 years or older in Illinois, were minorities, compared to 18.5 percent as a national average (the chart on the following page displays that age category by race)⁶¹

The study provided the following with respect to individuals, 65-years or older, by race, as a percent.

Individuals, 65-years or older, by race by percent



The following should be noted:

⁵⁸ Houser, Ari, Wendy Fox-Grage, and Mary Jo Gibson, *Across the States: Profiles of Long-Term and Independent Living*, AARP Public Policy Institute (2006).

⁵⁹ *Id.* at 1.

⁶⁰ *Id.* at 2.

⁶¹ *Id.* at 5-6.

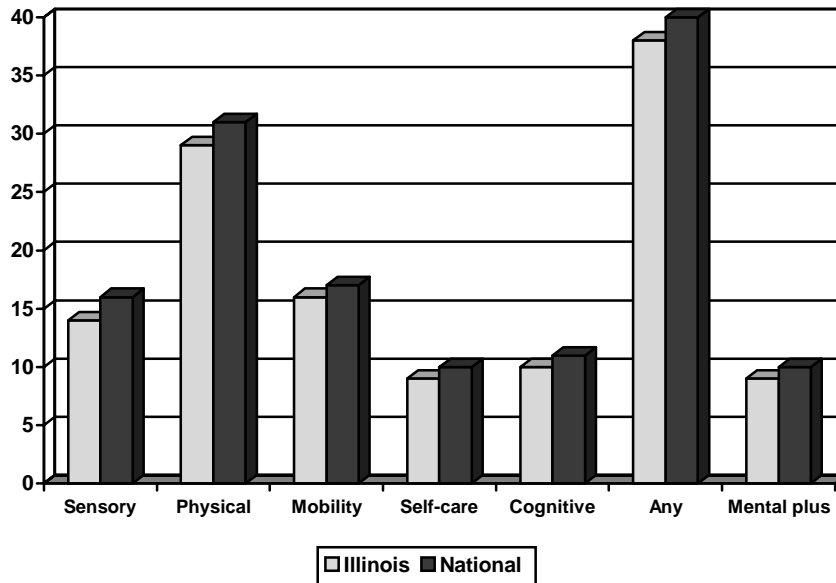
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- The homeownership rate of individuals 65 years or older in Illinois was 79 percent, compared to 79 percent as the national average in 2005⁶²
- 28 percent of homeowners, 65 years or older in Illinois, paid 30 percent of more of their income for housing, compared to 26 percent as a national average in 2005⁶³
- 55 percent of renters, 65 years or older in Illinois, paid 30 percent of more of their income for housing, compared to 54 percent as a national average in 2005⁶⁴
- 8.9 percent of individuals, 65 years or older in Illinois were at or below the poverty level, compared to 9.9 as the national average in 2005⁶⁵
- Of those individuals, 31 percent were at or below 200 percent of the poverty level and 52 percent were at or below 300 percent of the poverty level, compared to 34 and 54 percent as a national averages in 2005⁶⁶

The report included the following information about individuals, 65 years or older, with a disability in 2005 (note: mental plus another disability is also included).⁶⁷ Significantly, approximately 37 percent of seniors, 65 years or older and living in Illinois have some kind of disability.

Individuals, 65-years or older, with a disability and disability type by percent



⁶² *Id.* at 8.

⁶³ *Id.* at 8.

⁶⁴ *Id.* at 8.

⁶⁵ *Id.* at 9.

⁶⁶ *Id.* at 9-10.

⁶⁷ *Id.* at 10-12.

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The following should be noted:

- 16 percent of individuals between 50 and 64 had any type of disability, while 4 percent had a mental plus another disability in 2005 in Illinois; and compared nationally to 19 percent of individuals between 50 and 64 had any type of disability, while 5 had a mental plus another disability at that time⁶⁸
- 210,000 individuals had Alzheimer's in Illinois in 2000, compared to 4.7 million nationally⁶⁹
- There were 282 assisted living and residential care facilities in Illinois, and 36,451 nationally in 2004⁷⁰
- There were 14,406 assisted living and residential care beds in Illinois and 937,601 nationally in 2004⁷¹
- There were nine assisted living and residential care beds per 1,000 age 65 or older in Illinois and 26 nationally⁷²
- Scientists think that as many as 4.5 million Americans suffer from Alzheimer's Disease⁷³

C. The Applicable Laws

1. Fair Housing Act

The Fair Housing Act outlaws discrimination on “the basis of seven criteria in various housing-related practices dealing with every ‘dwelling’ not covered by one of the statute’s exemptions.”⁷⁴ Professor Robert G. Schwemm noted that one of the Act’s “most important prohibition makes it unlawful ‘[t]o refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race [or other prohibited factor].’”⁷⁵

⁶⁸ *Id.* at 12.

⁶⁹ *Id.* at 13.

⁷⁰ *Id.* at 17.

⁷¹ *Id.* at 17.

⁷² *Id.* at 17.

⁷³ Alzheimer's Disease Fact Sheet, <http://www.nia.nih.gov/Alzheimers/Publications/adfact.htm> (last accessed January 15, 2007). “The disease usually begins after age 60, and risk goes up with age. While younger people also may get Alzheimer’s Disease, it is much less common. About five percent of men and women ages 65 to 74 have Alzheimer’s Disease, and nearly half of those age 85 and older may have the disease. It is important to note, however, that Alzheimer’s Disease is not a normal part of aging.” *Id.*

⁷⁴ Schwemm at 143; see 42 USC §§ 3603-3607, 3617.

⁷⁵ *Id.* citing 42 USC § 3604(a).

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Professor Schwemm noted that Congress passed the Fair Housing Act in April 1968, “shortly after the assassination of Dr. Martin Luther King, Jr, and the publication of the Kerner Commission Report with its dramatic conclusion that the Nation was ‘moving toward two societies, one black, one white—separate and unequal.’”⁷⁶ The Act, as passed in 1968,⁷⁷ banned discrimination on the basis of race, color, religion, and national origin, and it was “intended by its proponents to replace residential ghettos ‘by truly integrated and balanced living patterns.’”⁷⁸ Congress added three other protected classes in subsequent amendments, adding “sex” in 1974⁷⁹ and “familial status” and “handicap” in 1988.⁸⁰

Based on the Act’s definition of “dwelling,” it is clear that the Fair Housing Act applies to assisted living facilities and continuing care retirement communities, among other senior housing types.⁸¹ However, in expanding senior housing options, it appears that senior housing providers, as well as state regulators, are ignoring the Fair Housing Act. As previously stated, the 1988 Fair Housing Amendments Act added disability as a protected class, whereby

⁷⁶ Id. at 143 quoting National Advisory Commission on Civil Disorders, *Report of the National Advisory Commission on Civil Disorders*, 1 (1968).

⁷⁷ See 42 USC §§ 3604-3606, 3617.

⁷⁸ *Trafficante v. Metro Life Ins Co*, 409 US 205, 211 (1972) quoting 114 Cong Rec 3422 (1968) (remarks of Senator Mondale).

⁷⁹ See Pub L No 93-383, § 808 (1974).

⁸⁰ See Pub. L No 100-430 (1988). “Familial status” was defined as meaning an individual under the age of 18 years being domiciled with a parent or legal guardian under the Act. 42 USC § 3602(k) (2000). While “handicap” means: a person with the following:

- (1) a physical or mental impairment which substantially limits one or more of such person’s major life activities,
- (2) a record of having such an impairment, or
- (3) being regarded as having such an impairment,

However, “handicap” does not include current, illegal use of or addiction to a controlled substance. 42 USC § 3602(h). In addition to persons who reside and are associated with “handicapped” individuals may bring claims. 42 USC § 3604(f)(1)-(2). Additionally. The Act’s definition of “handicap” is the same as two other federal statutes that ban discrimination based on this protected class. See Rehabilitation Act of 1973, 29 USC § 705(9); Americans with Disabilities Act, 42 USC § 12102(2).

⁸¹ Schwemm at 143.

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“Congress expressed its intent that people with disabilities should have the same rights to use and enjoy housing as do other persons.”⁸² The Congressional Record noted that

The Fair Housing Amendments Act . . . is a clear pronouncement of a national commitment to end the unnecessary exclusion of persons with handicaps from the American mainstream. It repudiates the use of stereotypes and ignorance, and mandates that persons with handicaps be considered as individuals. Generalized perceptions about disabilities and unfounded speculations about threats to safety are specifically rejected as grounds to justify exclusion.⁸³

Fair housing principles include equality, integration, choice, and individuality.⁸⁴

Disabled individuals “should have an equal opportunity to live where they want, and not be subjected to rules or requirements that are different from those applied to people without disabilities.”⁸⁵ Disabled individuals “are entitled to live in communities with their neighbors;” not limited to a mere “physical presence in a neighborhood, but participation in community services and activities.”⁸⁶ Disabled individuals may “choose where they want to live.”⁸⁷ Finally, “housing providers must respect the unique needs and circumstances of individuals with disabilities and offer reasonable accommodations to meet these needs when requested.”⁸⁸

Under the Act, Congress made no exemptions for providers of senior housing that provide additional services such as meals and housekeeping. The Fair Housing Act precludes acts that deny equal terms, conditions, or privileges of housing.⁸⁹ A recent article notes that “an independent living center’s refusal to rent to seniors with disabilities, even when offering

⁸² United States Department of Housing and Urban Development, *Against Persons with Disabilities: Testing Guidance for Practitioners*, 5 (July 2005).

⁸³ 1988 USCCAN 2173, 2179.

⁸⁴ Allen I at 38.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ 42 USC § 3604(f)(2)(A)

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separate housing options at another facility, seems to be in violation of federal law.”⁹⁰ However, there appears to be no cases of a senior citizen filing such an action against a senior housing provider.⁹¹ One article offered some explanations for this lack of litigation:

communities may avoid the risk of embarrassing eviction litigation by settling; seniors are happy with the arrangements as they stand, and take no issue with moving to another facility at the point when they become disabled; or seniors may think that they waived their right to federal protections by signing leases agreeing to the independent living communities’ conditions. Further, the ADA has additional legislative and administrative burdens that create a reluctance in attorneys to take cases, including low damage awards and a backlog of investigations.⁹²

As noted previously, the Fair Housing Act prohibits housing discrimination on the basis of physical and/or mental disability, among other protected classes.⁹³ The Act uses the term “handicap” instead of mental or physical disability, and “handicap” under the Act is defined as follows: “(1) a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment.”⁹⁴ Additionally, HUD’s regulations offer clarification as to what qualifies as a “handicap” under the Act.⁹⁵

⁹⁰ Ziaja, Erin, *Do Independent and Assisted Living Communities Violate the Fair Housing Amendments Act and the Americans with Disabilities Act?* 9 Elder L J 313, 315 (2001). According to Ziaja, approximately 52.5 percent of elderly Americans have at least one disability as defined by the Fair Housing Act. *Id.* at 314.

⁹¹ *Id.* at fn 10. Ziaja notes that “there are no cases of a senior suing an assisted or independent living facility under a theory of housing discrimination. The few examples of suits brought by seniors with disabilities that have alleged housing discrimination have arisen in the nursing home setting. Because nursing homes are designed to accommodate individuals with infirmity and physical disability, rarely do the cases concern removal of a structural barrier. Rather claims arise in a nursing home’s refusals to make reasonable accommodations or denial of admission.” *Id.* citing Elizabeth K. Schneider, *The ADA—A Little Used Tool to Remedy Nursing Home Discrimination*, 28 U Tol L Rev 489, 508-10 (1997).

⁹² *Id.* at 315-316.

⁹³ Under § 42 USC §3604(f)(1)(A), it is unlawful to make a dwelling’s availability contingent upon the absence of disabilities; and under § 3604(f)(2)(A), it is unlawful to discriminate in the terms, conditions, or privileges of sale or rental of a dwelling because of a disability.

⁹⁴ 42 USC §3602(h).

⁹⁵ 24 CFR §100.201(b) defines “handicap” as “a physical or mental impairment which substantially limits one or more major life activities; a record of such impairment; or being regarded as having such impairment.” However, “this term does not include current, illegal use or addiction to a controlled substance.” *Id.* Mental or physical impairment includes the following: blindness, chemical sensitivity, mobility impairment, chronic fatigue, HIV

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As a final note the Act provides narrow exemptions for senior housing providers. First, the “housing for older persons” exemption provides that the Act’s prohibitions against familial status discrimination do not apply to housing for older persons.⁹⁶ In this case, housing for older persons is defined as the following:

- “[H]ousing provided under any state or federal program” that HUD determines to be “specifically designed and operated to assist elderly persons.”⁹⁷
- Housing “intended for, and solely occupied by, persons 62 years of age or older.”⁹⁸
- Housing with at least 80 percent of its units occupied by at least one person more than 55 years old, meeting certain requirements showing that it is “intended and operated for occupancy by persons 55 years of age or older.”⁹⁹

Professor Schwemm noted that this exemption was designed to ensure that the Act’s familial status prohibitions do not unfairly limit the housing choices of older persons.¹⁰⁰ As such, the Act “allows seniors to live in housing communities that are limited to similarly-aged persons, because Congress recognized ‘that some older Americans have chosen to live together with fellow senior citizens in retirement-type communities’ and ‘appreciate[d] the interest and expectation these individuals have in living in environments tailored to their specific needs.’”¹⁰¹ Significantly, it must be noted that this exemption overrides the prohibition to the familial status, so the other protections—race, color, national origin, religion, sex, and handicap—still apply.¹⁰²

infection, learning disability, mental retardation, head injury, alcoholism, psychiatric disability, drug addiction, or deafness. Allen I at 38.

⁹⁶ 42 USC § 3607(b)(1).

⁹⁷ 42 USC § 3607(b)(2)(A).

⁹⁸ 42 USC § 3607(b)(2)(B).

⁹⁹ 42 USC § 3607(b)(2)(C).

¹⁰⁰ See Implementation of the Fair Housing Amendments Act of 1988, 54 Fed Reg 3252 (January 23, 1989) (providing HUD commentary on its FHAA regulations, citing statement of Sen. Karnes at 124 Cong Rec S10465-66 (1988)).

¹⁰¹ Schwemm at 157 citing 1988 House Report at 21.

¹⁰² *Id.* at 158.

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Second, there is an exemption that allows certain religious organizations and related institutions to limit some of their dwellings to persons of the same religion.¹⁰³ With this exemption, Professor Michael Seng notes that “the Act attempts to walk the delicate boundary between not favoring religion and not disadvantaging religion.”¹⁰⁴ This is significant for this study, because many nursing homes, assisted-living facilities, and retirement communities are operated by organizations with a religious affiliation.¹⁰⁵ However, Professor Schwemm noted four reasons why this exemption is also very narrow:

- The exemption extends only to those dwellings that are “owned or operated for other than a commercial purpose,”¹⁰⁶ which means that all religious-affiliated housing operated for a commercial purpose would fail to qualify for this exemption.¹⁰⁷
- This exemption only authorizes a qualifying institution to discriminate in favor of its co-religionists and thus does not authorize racial or other non-religious types of discrimination.¹⁰⁸
- The exemption only allows a religious organization to favor its co-religionists with respect to certain transactions, i.e., “limiting the sale, rental or occupancy” and “giving preference,” so the organization cannot engage in the other types of discriminatory transactions condemned by the FHA.¹⁰⁹
- The Act’s religious exemption is not available unless the particular housing involved is owned or operated by either “a religious organization, association, or society” or a “nonprofit institution or organization operated, supervised or controlled by or in

¹⁰³ 42 USC § 3607(a).

¹⁰⁴ Seng, Michael P., *The Fair Housing Act and Religious Freedom*, 11 Tex J on C L & C R 1, 3 (Fall 2005).

¹⁰⁵ Schwemm at 158.

¹⁰⁶ 42 USC § 3607(a).

¹⁰⁷ Professor Schwemm explained that

The meaning of the “for other than a commercial purpose” phrase in the Fair Housing Act’s religious exemption has never been authoritatively construed, see *Bachman v Saint Monica’s Congregation*, 902 F2d 1259, 1261 (7th Cir 1990), but it must be deemed to be different from “nonprofit,” a term that Congress used elsewhere in this exemption and presumably would have simply repeated had the intention been to include all non-profit housing within the exemption. See *Rusello v United States*, 464 US 16, 23 (1983) (noting that Congress’s use of particular language in one section, but not another, of the same statute generally indicates an intent to convey a different meaning). Thus, the fact that a religious-affiliated housing complex for seniors is a non-profit entity would not, by itself, qualify its dwellings for exemption as being operated “for other than a commercial purpose.” Cf *Presbyterian Residence Ctr Corp v Wagner*, 411 NYS2d 765, 766-67 (NY 1978) (holding that a Presbyterian corporation’s nonprofit apartment building for over-62 residents who paid fees similar to those charged by for-profit rental units is “indistinguishable from a commercial apartment complex” and therefore not entitled to charitable exemption under state tax law). Schwemm at 158, n 198.

¹⁰⁸ 42 USC § 3607(a).

¹⁰⁹ 42 USC § 3607(a).

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conjunction with” such a religious organization, association, or society.¹¹⁰

A final exemption in cases “involving older persons with disabilities provides that nothing in the Act’s key prohibitions against handicap discrimination ‘requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.’”¹¹¹ This provision was enacted with the 1988 amendments, making it clear that “housing need not be made available to persons whose impairments make them dangerous to others.”¹¹² This issue often comes up with individuals with mental disabilities. Misinformation and social stigmas concerning mental illness lead some people to believe that individuals with mental illness are dangerous or more dangerous than others. Professor Schwemm suggests that a “direct threat” defense rarely succeeds in defeating a claim of handicap discrimination under the Act.¹¹³

The legislative history of this provision makes clear that it was not intended to permit housing to be denied based on the presumption that people with disabilities generally pose a greater threat to the health or safety of others than people without disabilities.¹¹⁴ This defense may be invoked only when the defendant proves that the individual complainant does indeed

¹¹⁰ See 42 USC §§ 3604(b), 3604(c), 3604(f)(3).

¹¹¹ Schwemm at 161; 42 USC § 3604(f)(9).

¹¹² Schwemm at 161-162; see 1988 House Report at 28-29. Professor Schwemm noted that the Act’s “direct threat” provision was intended to track the law under section 504 of the 1973 Rehabilitation Act, following the interpretation of the United States Supreme Court in *School Board of Nassau County v Arline*, 480 US 273, 287 n 16 (1987). In that case, the Court held that “[a] person who poses a significant risk of communicating an infectious disease to others in the workplace will not be otherwise qualified for his or her job [and thus not protected by section 504] if reasonable accommodation will not eliminate that risk.” *Id.*

¹¹³ Schwemm at 162.

¹¹⁴ *Id.*; See 1988 House Report at 29 (“Any claim that an individual’s tenancy poses a direct threat and a substantial risk of harm must be established on the basis of a history of overt acts or current conduct. Generalized assumption, subjective fears, and speculation are insufficient to prove the requisite direct threat to others.”); see also *id.* at 18; *HUD v Country Manor Apartments*, 2A FH-FL § 25,156, § 26,253-54 (HUD ALJ September 20, 2001) (holding that senior housing facility failed to justify its policy of requiring residents who used motorized wheelchairs to obtain liability insurance in part because the policy reflected an unfounded stereotypical view that users of such chairs posed a unique risk to the safety and health of other tenants).

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pose such a threat.¹¹⁵ Significantly, housing providers may not ask prospective tenants “blanket questions” about their disabilities. They may only ask questions that “relate directly” to “a prospective tenant’s ability to meet tenancy requirements”, i.e., such as the ability to pay rent or request references, and only ask questions that are asked “of all other applicants”.¹¹⁶ Finally, a housing provider must provide a reasonable accommodation if it would eliminate the risk.¹¹⁷

2. Older Americans Act

The Older Americans Act¹¹⁸ seeks to ensure the dignity and independence of seniors by promoting their full participation in society, and supporting their desire to remain living in their own homes and communities for as long as possible. Other provisions include:

- Enhanced Federal, State, and Local coordination of long-term care services provided in home and community-based settings
- Support for State and community planning to address the long-term care needs of the baby boom generation
- Greater focus on prevention and treatment of mental disorders
- Outreach and service to a broader universe of family caregivers under the National Family Caregiver Support Program
- Increased focus on civic engagement and volunteerism
- Enhanced coordination of programs that protect elders from abuse, neglect and exploitation

3. Illinois Human Rights Act

The Illinois Human Rights Act protects against discrimination in housing based on the following protected classes: “race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap, military status, sexual orientation, or unfavorable discharge from military service.”¹¹⁹ As noted previously, the Illinois Human Rights Act fills in some gaps in the Fair Housing Act, i.e., including age, marital status, military status or discharge, and

¹¹⁵ Schwemm at 162.

¹¹⁶ *Id.* at 162-163 citing 1988 House Report, *supra* note 116, at 30.

¹¹⁷ *Id.* at 163 citing 1988 House Report, *supra* note 116, at 29.

¹¹⁸ 42 USC § 3001 et seq. See also <http://www.aoa.gov> (last accessed October 9, 2007).

¹¹⁹ 775 ILCS 5/1 102(A); see also 775 ILCS 5/3 101 et seq.

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sexual orientation as protected classes. The Illinois Department of Human Rights Fair Housing Division receives and investigates charges of discrimination pertaining to real estate transactions involving residential and commercial real property, as well as conducting education and outreach activities for home seekers, landlords, property owners, advertisers, and community organizations.¹²⁰

4. Assisted Living and Shared Housing Act

The Illinois legislature enacted the Assisted Living and Shared Housing Act, effective as of January 1, 2001.¹²¹ In passing Assisted Living and Shared Housing Act, the legislature sought to:

permit the development and availability of assisted living establishments and shared housing establishments based on a social model that promotes the dignity, individuality, privacy, independence, autonomy, and decision-making ability and the right to negotiated risk of those persons; to provide for the health, safety, and welfare of those residents residing in assisted living and shared housing establishments in this State; to promote continuous quality improvement in assisted living; and to encourage the development of innovative and affordable assisted living establishments and shared housing with service establishments for elderly persons of all income levels. It is the public policy of this State that assisted living is an important part of the continuum of long-term care.¹²²

Significantly, “assisted living and shared housing establishments shall be operated as residential environments with supportive services designed to meet the individual resident’s changing needs and preferences.”¹²³

The act provides a detailed definition of assisted living establishment, as follows:

a home, building, residence, or any other place where sleeping accommodations are provided for at least 3 unrelated adults, at least 80 percent of whom are 55

¹²⁰ Illinois Department of Human Rights website, <http://www.state.il.us/dhr/FH/default.htm> (last accessed December 26, 2006).

¹²¹ 210 ILCS 9/1.

¹²² 210 ILCS 9/5.

¹²³ *Id.*

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years of age or older and where the following are provided consistent with the purposes of this Act:

1. services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home;
2. community-based residential care for persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;
3. mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and
4. a physical environment that is a homelike setting that includes the following and such other elements as established by the Department in conjunction with the Assisted Living and Shared Housing Standards and Quality of Life Advisory Board: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.¹²⁴

Additionally, this Act expressly excludes several types of facilities from the definition of an assisted living establishment. As such assisted living establishment does not include any of the following:

1. A home, institution, or similar place operated by the federal government or the State of Illinois.
2. A long-term care facility licensed under the Nursing Home Care Act. However, a long-term care facility may convert distinct parts of the facility to assisted living. If the long-term care facility elects to do so, the facility shall retain the Certificate of Need for its nursing and sheltered care beds that were converted.
3. A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.
4. A facility for childcare as defined in the Child Care Act of 1969.
5. A community living facility as defined in the Community Living Facilities Licensing Act.
6. A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

¹²⁴ 210 ILCS 9/10.

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7. A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.
8. A supportive residence licensed under the Supportive Residences Licensing Act.
9. A life care facility as defined in the Life Care Facilities Act; a life care facility may apply under this Act to convert sections of the community to assisted living.
10. A freestanding hospice facility licensed under the Hospice Program Licensing Act.
11. A shared housing establishment.
12. A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.¹²⁵

Illinois has a two-tiered licensure system, which are classified as assisted living and shared housing.¹²⁶ “The separate classification is misleading, however, as the only tangible difference between the two is how many people can be cared for in each facility.”¹²⁷

This Act imposes certain residency requirements, which may be contrary to the Fair Housing Act’s prohibition on denying housing to disabled individuals. Illinois establishes “level of care” protections for residents of ALFs or CCRCs.¹²⁸ This Act provides in pertinent part that

[n]o individual shall be accepted for residency or remain in residence if the establishment cannot provide or secure appropriate services, if the individual requires a level of service or type of service for which the establishment is not licensed or which the establishment does not provide, or if the establishment does not have the staff appropriate in numbers and with appropriate skill to provide such services.¹²⁹

¹²⁵ *Id.*

¹²⁶ National Center for Assisted Living (“NACL”), *Assisted Living State Regulatory Review* (2005).

¹²⁷ *Id.* The NCAL defines the two as follows: Assisted Living—“provides community-based residential care for at least three unrelated adults...who need assistance with activities of daily living (“ADLs”), including personal, supportive, and intermittent health-related services available [24] hours per day, if needed to meet the scheduled and unscheduled needs of a resident.” Shared Housing—“provides community based residential care for [twelve] or fewer unrelated adults... who need assistance with housing, ADLs, and personal, supportive, and intermittent health-related services. This care must be available [24] hours per day, if needed, to meet the scheduled and unscheduled needs of a resident.”

¹²⁸ Bazelon Center for Mental Health Law, *The Illegality of “Independent Living” Requirements in Rental Housing, Assisted Living Facilities (ALFs) and Continuing Care Retirement Communities (CCRCs)*, Fact Sheet 5 (March 19, 2004). The fact sheet notes that “level of care” protections bar a facility from accepting people incapable of independent living if it is not licensed to serve such persons. *Id.*

¹²⁹ 210 ILCS 9/75(a).

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The Assisted Living and Shared Housing Act does not provide a definition for “disability.” However, it notes that “total assistance means that staff or another individual performs the entire activity of daily living without participation by the resident.”¹³⁰ While there are no express provisions for reasonable accommodation under this Act, it provides that the “construction of the establishment . . . shall include, at a minimum, compliance with . . . the Americans with Disabilities Act.”¹³¹ Under its Alzheimer’s and dementia programs provision, the Act expressly precludes housing to individuals “the person’s mental or physical condition has so deteriorated to render residency in such a program to be detrimental to the health, welfare or safety of the person or of other residents of the establishment.”¹³² This Act explains that the

Department by rule shall identify a validated dementia-specific standard with inter-rater reliability that will be used to assess individual residents. The assessment must be approved by the resident’s physician and shall occur prior to acceptance for residency, annually, and at such time that a change in the resident’s condition is identified by a family member, staff of the establishment, or the resident’s physician.¹³³

Significantly, this act does not provide a definition of Alzheimer’s or dementia, although the following provides a working definition: “[d]ementia is a brain disorder that seriously affects a person’s ability to carry out daily activities.”¹³⁴ “The most common form of dementia among older people is Alzheimer’s Disease, which initially involves the parts of the brain that control thought, memory, and language.”¹³⁵ The DSM-IV “Dementia” section contains a number of disorders which

are characterized by the development of multiple cognitive deficits (including memory impairment) that are due to the direct physiological effects of a general

¹³⁰ 210 ILCS 9/10.

¹³¹ 210 ILCS 9/20(1).

¹³² 210 ILCS 9/150(b)-(c).

¹³³ 210 ILCS 9/150(c).

¹³⁴ Alzheimer's Disease Fact Sheet, <http://www.nia.nih.gov/Alzheimers/Publications/adfact.htm> (last accessed January 15, 2007).

¹³⁵ *Id.*

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medical condition, to the persisting effects of a substance, or to multiple etiologies (e.g., the combined effects of cerebrovascular disease and Alzheimer's disease).¹³⁶

The diagnostic criteria for dementia of the Alzheimer's type includes memory impairment, i.e., impaired ability to learn new information or to recall previously learned information, as well as one or more of the following cognitive disturbances:

- Aphasia (language disturbance)
- Apraxia (impaired ability to carry out motor activities despite intact motor function)
- Agnosia (failure to recognize or identify objects despite intact sensory function)
- Disturbance in executive functioning (i.e., planning, organizing, sequencing, abstracting)¹³⁷

According to the DSM-IV, the aforementioned cognitive deficits “cause significant impairment in social or occupational functioning and represent a significant decline from a previous level of functioning.”¹³⁸ “The course is characterized by gradual onset and continuing cognitive decline.”¹³⁹ However, the cognitive deficits described above are not caused by any of the following:

- Other central nervous system conditions that cause progressive deficits in memory and cognition (e.g., cerebrovascular disease, Parkinson's disease, Huntington's disease, subdural hematoma, normal-pressure hydrocephalus, brain tumor)
- Systemic conditions that are known to cause dementia (e.g., hypothyroidism, vitamin B-12 or folic acid deficiency, niacin deficiency, hypercalcemia, neurosyphilis, HIV infection)
- Substance-induced conditions¹⁴⁰

Further, “the deficits do not occur exclusively during the course of the delirium” and “[t]he disturbance is not better accounted for by another . . . disorder (e.g., Major Depressive Disorder,

¹³⁶ Diagnostic and Statistical Manual of Mental Disorders DSM-IV, 147 (4th ed)

¹³⁷ *Id.* at 157.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

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Schizophrenia).¹⁴¹ The DSM-IV notes that dementia of the Alzheimer's type may be accompanied with or without behavioral disturbance (e.g., wandering, agitation).¹⁴²

HUD Regulations provide the following definition for disability, although the FHA and HUD use the term "handicap."¹⁴³

Handicap means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance. For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite. As used in this definition:

- (a) Physical or mental impairment includes:
 - (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
 - (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.
- (b) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (c) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (d) Is regarded as having an impairment means:
 - (1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;

¹⁴¹ *Id.*

¹⁴² *Id.* at 157-158.

¹⁴³ See 24 CFR § 100.201.

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- (2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of other toward such impairment; or
- (3) Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment.

Further, under the Assisted Living and Shared Housing Act, individuals with a number of enumerated conditions may be excluded from assisted living facilities. If an individual requires assistance with more than two daily activities, has a mental disability, or has diabetes, then assisted living facility may refuse to admit the individual.¹⁴⁴ The Illinois Administrative Code expands upon the residency requirements.¹⁴⁵

It should be noted that this Act expressly provides that an individual does not waive their rights based on residency at an assisted living facility: “[n]o resident shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of his or her status as a resident of an establishment . . .”¹⁴⁶ That section provided expressly that residents do not forfeit the following rights under this Act:

1. the right to retain and use personal property and a place to store personal items that is locked and secure;
2. the right to refuse services and to be advised of the consequences of that refusal;
3. the right to respect for bodily privacy and dignity at all times, especially during care and treatment;
4. the right to the free exercise of religion;
5. the right to privacy with regard to mail, phone calls, and visitors;
6. the right to uncensored access to the State Ombudsman or his or her designee;
7. the right to be free of retaliation for criticizing the establishment or making complaints to appropriate agencies;
8. the right to be free of chemical and physical restraints;
9. the right to be free of abuse or neglect or to refuse to perform labor;
10. the right to confidentiality of the resident’s medical records;

¹⁴⁴ Appendix A contains 210 ILCS 9/75(c) in its entirety. Additionally, there are residency requirements regarding Alzheimer’s and dementia under 210 ILCS 9/150.

¹⁴⁵ Appendix B contains 77 Ill Adm Code 295.2000 in its entirety.

¹⁴⁶ 210 ILCS 9/95

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11. the right of access and the right to copy the resident's personal files maintained by the establishment;
12. the right to 24 hours access to the establishment;
13. the right to a minimum of 90-days notice of a planned establishment closure;
14. the right to a minimum of 30-days notice of an involuntary residency termination, except where the resident poses a threat to himself or others, or in other emergency situations, and the right to appeal such termination; and the right to a 30-day notice of delinquency and at least 15 days right to cure delinquency.¹⁴⁷

The Illinois Administrative Code provides for specific incorporation of certain federal and state laws, as well as professional standards.¹⁴⁸ Specifically, the Illinois Administrative Code incorporates the Americans with Disabilities Act.¹⁴⁹ However, fair housing laws, federal or state, are not incorporated through this provision in the Assisted Living and Shared Housing Act. While fair housing laws are not expressly incorporated into the Act, there would be no reason to conclude that such laws are excluded by implication.

Under § 95 of the Act, residents do not waive their rights guaranteed by law, the U.S. Constitution, or the Illinois Constitution.¹⁵⁰ Fundamentally, the Fair Housing Act preempts conflicting provisions of state law. However, the Illinois legislature should incorporate the Fair Housing Act so its standards would be enforceable under state law. The clear conflicts between the FHA and the Assisted Living and Shared Housing Act are most evident in the state Act's exclusion, medical screening, and discharge provisions. The case law, discussed in a subsection E of this section, demonstrates that courts are willing to enforce the FHA in favor of conflicting senior housing provider policies, as well as state laws and regulations. Incorporation would also destroy the false impression prevalent among senior housing providers that they are not covered by the Fair Housing Act.

¹⁴⁷ *Id.*

¹⁴⁸ 77 Ill Adm Code 295.300.

¹⁴⁹ *Id.*

¹⁵⁰ 210 ILCS 9/95(a).

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Under the Illinois Administrative Code, the Department of Public Health conducts “an annual unannounced on-site visit at each assisted living and shared housing establishment to determine compliance with the applicable licensure requirements and standards.”¹⁵¹ The Administrative code expressly states “[t]he visit shall focus on solving resident issues and concerns, and the quality improvement process implemented by the establishment to address resident issues.”¹⁵² While the on-site review process does not discuss if inspectors look for compliance with the ADA or other similar issues, inspectors do review grievance procedures and complaints.¹⁵³ A reasonable inference may be drawn that if regulators are not required to look for something, i.e., ADA or FHA compliance, then it would be highly unlikely that the regulators would investigate and enforce any provisions. Again, inspecting for fair housing violations would educate senior housing providers and their residents of their respective rights and duties under the Fair Housing Act.

¹⁵¹ 77 Ill Adm Code 295.1070(a).

¹⁵² 77 Ill Adm Code 295.1070(b).

¹⁵³ 77 Ill Adm Code 295.1070(c). The Administrative Code provides in pertinent part that

The review shall address the following issues:

1. Assessment, service plan and services provided to ensure that resident needs are met;
2. Staff sufficient in numbers and with appropriate skill, education and training to provide services required by the resident population;
3. Compliance with the Health Care Worker Background Check Act;
4. Compliance with service delivery contracts and lease agreements;
5. Grievance procedures;
6. Service plan, negotiated risk, and protection of individual rights and resident’s involvement in directing his or her own care;
7. Quality improvement policies and procedures to determine whether an effective procedure is in place. Quality improvement policies shall not be used as the sole criterion for issuance of a violation;
8. Whether an annual resident satisfaction survey has been conducted;
9. Compliance with physical plant, health and sanitation, and food preparation requirements as set forth in this Part;
10. Any complaints not reviewed through an on-site review; and
11. Incident and accident reports that are required to be submitted to the Department. *Id.*

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5. Life Care Facilities Act

The Life Care Facilities Act was created in relation to facilities providing maintenance and personal care, nursing or medical services under advance payment contracts for life or long term care.¹⁵⁴ This Act provides very little in terms of regulation of CCRCs or protection of CCRC residents, and seems designed for protection of the financial interests and contract rights of the residents. This Act provides for the following: life care provider contracts and necessity of permit¹⁵⁵; qualifications for permit¹⁵⁶; financial disclosure statement and rescission period¹⁵⁷; issuance of permit and contents¹⁵⁸; non-resident accommodations¹⁵⁹; letter of credit or escrow account¹⁶⁰; payment of funds¹⁶¹; danger of insolvency and inability to perform contract obligations¹⁶²; audit¹⁶³; vaccinations¹⁶⁴; and the offense of issuing a contract without a permit.¹⁶⁵ The Illinois legislature should take the lead on a national level in this area and institute a comprehensive CCRC regulatory scheme. The legislation could borrow from and expand upon the Assisted Living and Shared Housing Act, notably adding FHA protections, as well as striking any exclusionary, medical screening, and discharge and transfer provisions.

6. Chicago Fair Housing Ordinance

Under this Ordinance, it is the City's policy "to assure full and equal opportunity to all residents of the city to obtain fair and adequate housing for themselves and their families in the City of Chicago without discrimination against them because of their race, color, sex, gender

¹⁵⁴ 210 ILCS 40/1.

¹⁵⁵ 210 ILCS 40/3.

¹⁵⁶ 210 ILCS 40/4.

¹⁵⁷ 210 ILCS 40/5.

¹⁵⁸ 210 ILCS 40/6.

¹⁵⁹ 210 ILCS 40/6.1.

¹⁶⁰ 210 ILCS 40/7.

¹⁶¹ 210 ILCS 40/8.

¹⁶² 210 ILCS 40/9.

¹⁶³ 210 ILCS 40/10. The audit provisions applies to financial affairs. *Id.*

¹⁶⁴ 210 ILCS 40/10.1.

¹⁶⁵ 210 ILCS 40/12.

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identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income.”¹⁶⁶ The City’s Ordinance provide for more protected classes than the Fair Housing Act, adding gender identity, age, sexual orientation, marital status, military status, and income type.

Significantly, the Regulations apply to “owner, lessee, sublessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent or lease any housing accommodation.”¹⁶⁷ The Regulations prohibit inconsistent prices and terms based on a protected class, discriminatory advertising, refusing to deal with someone because they are a member of a protected class, blockbusting, and interfering with religious practices.¹⁶⁸

7. Chicago’s Long-Term Care Facilities Ordinance

The City requires long-term care facilities to obtain licensing before initiating an operation within the City,¹⁶⁹ defining a long-term facility as the following: “private home, institution, building, residence, or any other place that satisfies the definition of a ‘facility’ or ‘long-term care facility’ as set forth in the Nursing Home Care Act, 210 ILCS 45/1-113.”¹⁷⁰ This ordinance also calls for concurrent licensing with the State of Illinois “in accordance with the Nursing Home Care Act, 210 ILCS 45/1-101, et seq.”¹⁷¹ Nevertheless, it would seem that assisted living facilities would not be subject to this ordinance, because such facilities are not controlled by that section of the Nursing Home Care Act.

The ordinance states that a facility may be subjected to an initial inspection, as well as subsequent inspections at all times, “by the department of health, bureau of fire prevention and

¹⁶⁶ Chicago Municipal Code 5-8-010.

¹⁶⁷ Chicago Municipal Code 5-8-020.

¹⁶⁸ Chicago Municipal Code 5-8-020(A)-(H).

¹⁶⁹ Chicago Municipal Code 4-96-020.

¹⁷⁰ Chicago Municipal Code 4-96-010.

¹⁷¹ Chicago Municipal Code 4-96-055.

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department of buildings . . . to determine that the premises are in compliance with the provisions of this Code and the rules and regulations promulgated thereunder relating to health and sanitation, buildings and fire prevention.”¹⁷² However, there was no provision that expressly requires inspections by the Chicago Commission on Human Relations to investigate compliance with the City’s Fair Housing Regulations. Under the terms of the ordinance, the facilities would not be inspected for compliance with fair housing laws, whether federal, state, or local.

8. Chicago’s Managed Care Consumer Protection Ordinance

Under its consumer protection section of its website, the City includes a Managed Care Consumer Protection Ordinance.¹⁷³ According to an employee in the Office of Health Care Access, there has not been a complaint filed via the ordinance during the past two years. According to the City’s website, this ordinance purports to “gives responsibility to the Chicago Department of Public Health for providing consumers with information on managed care, receiving complaints, and for monitoring the public health impacts of managed care on Chicagoans and the City’s health care delivery system.”

Under this ordinance, City Council purportedly endorsed the following principles:

1. No person shall be denied necessary medical care delivered in a timely manner.
2. No person shall be denied quality health care services because of his or her race, ethnicity, sex, sexual orientation, age, disability status, income, religious belief or citizenship status.
3. No person shall be denied the opportunity to choose his or her primary and specialty health care providers.
4. No person shall be denied immediate emergency medical care; no prior payment authorization shall be required.
5. No person shall be denied health insurance coverage based on any pre-existing condition or on any pre-enrollment health-screening requirement.

¹⁷² Chicago Municipal Code 4-96-030, 070.

¹⁷³ City of Chicago website,

http://egov.cityofchicago.org/city/webportal/portalContentItemAction.do?BV_SessionID=@@@@0130753640.1192593836@@@@&BV_EngineID=cccdaddmfhlgjmdcefecelldffhdfhg.0&contentOID=536920447&contentTypeName=COC_EDITORIAL&topChannelName=Residents&blockName=Promo+Item&channelId=-536879026&programId=8646 (last accessed October 17, 2007).

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6. No person shall be denied the opportunity for a second opinion or a prompt referral to a specialist, nor shall any health care provider be encouraged to make medical decisions based on a system of financial incentives.
7. No person shall be denied information relating to his or her medical condition as a result of any rule restricting the ability of a health care provider to freely communicate with his or her patients.
8. No person shall be denied a plainly worded, concise and accurate statement of his or her health care plan or billing records.
9. No person shall be subjected to any unscheduled solicitation by a representative of a managed health care organization at his or her home, nor denied the timely processing of a disenrollment request.
10. No person shall be denied the right to appeal any decision denying, delaying, reducing or terminating medical care.

According to the Chicago of Chicago Law Librarian, the ordinance was passed by the Chicago City Council in July 1997, effective October 1997. However, it is not codified. The ordinance calls for the Chicago Department of Health to create an Office of Managed Care to handle complaints. That office became the Office of Health Care Access, which incorporated the managed care duties that were created by the ordinance. In 2004, the Office of Health Care Access expanded its services to offer assistance with other health care issues beyond managed care. The Office's expansion was implemented to act on behalf of consumers through education, advocacy and policy in order to allow the consumer to become more knowledgeable about their health care options.

D. Licensing and Other Programs

Illinois regulates the following broad categories of senior housing providers: Adult Day Services, Assisted Living/Shared Housing, Community Living Facility, Home Health Agencies, Hospice, Intermediate Nursing Care, Sheltered Care, and Skilled Nursing Care. This study discussed Assisted Living/Shared Housing in previous sections. However, there are brief descriptions of these housing options in Appendix C on this Study.

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1. Illinois Department of Public Health

The Illinois Department of Public Health's (IDPH) mission is to promote the health of the people of Illinois through the prevention and control of disease and injury.¹⁷⁴ The IDPH purports to be guided by the following principles:

- Prevention of disease and injury
- Protection of food, water, air and environment
- Promotion of safe and healthy communities
- Scientific approaches to analyzing and solving problems
- Partnership and collaboration to achieve coordinated response to community health issues
- Population-based strategies to address public health issues
- Individual responsibility as important to achieving healthy lifestyles
- Advocacy for public health policies to improve the health of populations
- Recognition of the unique value and needs of diverse populations
- Innovation as essential to the practice of public health

IDPH regulates the following facilities, equipment, and providers:

- ambulances and emergency medical services helicopters, fixed wing aircraft, watercraft and off-road vehicles
- ambulatory surgical treatment centers (Asics)
- breath test operators, instruments and laboratories
- certified nurse aides
- emergency medical service providers
- health maintenance organizations (HMOs)
- home health agencies
- hospices
- hospitals
- laboratories - independent, hospital and physician office
- nursing homes
- physical therapists in independent practice
- poison control resource centers
- pregnancy termination centers
- rural health clinics
- sperm and tissue banks
- trauma centers

¹⁷⁴ This and the following information was provided by the IDPH website, <http://www.idph.state.il.us/about/newmision.htm> (last accessed December 9, 2006).

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Significantly, the IDPH allegedly surveys long-term care facilities at least once a year to evaluate their compliance with the laws and regulations.¹⁷⁵ According to the Illinois Department on Aging's website, an annual survey team usually stays in a facility three to four days, and other surveys are done as needed.

2. Illinois Licensing

The State of Illinois issues licenses to the following facilities: assisted living/shared housing and sheltered care. The IDPH defines assisted living as a residential option for seniors who may not be able to live alone but do not need 24-hour care. Conversely, a sheltered care facility provides a supervised setting for individuals who need a protective environment; residents do not require nursing care, but need assistance with meals, dressing, etc.

The IDPH lists licensed facilities online, and in reviewing the IDPH's licensing lists, some senior housing providers were listed as assisted living/shared housing, sheltered care, or both. In a few instances, there are licensed sheltered care facilities included in this list, even though it was unclear if they are truly a senior housing provider. Interestingly, some senior housing providers purport to be assisted living facilities, but they are not licensed as such. Also, some senior housing facilities without services are licensed as assisted living/shared housing facilities. Still, other senior housing providers are licensed as shelter care facilities. Clearly, there is a lot of confusion with the licensing requirements and housing designations.

3. Illinois Department on Aging

The Illinois Department on Aging purports to help older people live independently in their own homes and communities, serving older adults, their families, and teaching younger

¹⁷⁵ Curiously, this note was included on the Illinois Department of Aging's website, http://www.state.il.us/aging/1abuselegal/ombuds_survey.htm (December 9, 2006).

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people about the realities of aging.¹⁷⁶ Additionally, the Department on Aging provides the Long Term Care Ombudsman Program, which protects and promotes the rights and quality of life for people who reside in long-term care facilities. The Department on Aging indicated that this is done through regional ombudsmen who have a hands-on working relationship with the residents and staff of the facilities within their program areas.

This Department developed a “Discrimination is Illegal” brochure, explaining the Civil Rights Program developed by the Department on Aging in cooperation with the Area Agencies on Aging.¹⁷⁷ The website provides information on how to file a discrimination charge. The website informs possible discrimination victims that they can contact the Illinois Department of Human Rights by calling, writing, or appearing in person within 180 days of the date the alleged discrimination took place to file their grievance in all cases except housing discrimination, which has a one-year filing deadline.¹⁷⁸

4. City of Chicago Department on Aging

Through the Long Term Care Ombudsman Program, the Chicago Department on Aging protects the rights of institutionalized older persons in Chicago’s long term care facilities, assisted living, shared housing, and supportive living establishments. The program seeks to do the following.¹⁷⁹

¹⁷⁶ This and the following information were provided by the Department of Illinois website, <http://www.state.il.us/aging/> (last accessed December 9, 2006).

¹⁷⁷ See *Discrimination is Illegal*, http://www.state.il.us/aging/1news_pubs/discrim-illegal_brochure.pdf (last access December 9, 2006).

¹⁷⁸ Illinois Department of Aging website, <http://www.state.il.us/aging/1abuselegal/rights.htm> (last accessed December 9, 2006).

¹⁷⁹ The following information was presented by the City of Chicago website, http://egov.cityofchicago.org/city/webportal/portalContentItemAction.do?BV_SessionID=@@@@0296679816.1165694982@@@@&BV_EngineID=cccdaddjhejjiehfecelldffhdfn.0&contentOID=536898298&contentTypeName=COC_EDITORIAL&topChannelName=Dept&blockName=Aging%2FOmbudsman+Program%2FI+Want+To&cont ext=dept&channelId=0&programId=0&entityName=Aging&deptMainCategoryOID=-536886385 (last accessed December 9, 2006).

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- Maintain regular presence in long-term facilities in the City of Chicago. Community ombudsman makes monthly visits to every nursing home and the ombudsman visitors make weekly visits. During fiscal year 2003, staff and volunteers made 6,738 visits to facilities ensuring that personal contact was made with employees, residents and their family members.
- Receive, investigate, and resolve complaints made by or on behalf of older persons who are residents of long term care facilities. During the 2003 fiscal year, staff and volunteers responded to 2,040 complaints from residents, family members and friends.
- Receive referrals and inquiries, and provide information to assist residents and individuals requesting information concerning the long term care system and the rights and benefits of residents of long term care facilities. The Program provided information to 13,975 inquiries in fiscal year 2003.
- Engage in public education through public speaking engagements, promotion of the development of community organizations to participate in the Ombudsman program, development and distribution of written materials, and promotion of media coverage of long term care issues. In May 2003, the program distributed over 10,000 proclamations and blue and gold ribbons to promote Residents' Rights Week and to encourage visits from community residents.
- Assist in monitoring the development and implementation of Federal, State, and Local laws, regulations and policies that relate to long term care facilities.

5. Illinois Department of Human Rights and Chicago Commission on Human Relations

These agencies investigate claims of housing discrimination and enforce fair housing laws. The Illinois legislature and Chicago's city council should empower these agencies to actively investigate any discriminatory practices by senior housing providers. For example, instead of charging the Illinois Department of Health with investigating claims of discrimination in senior housing providers, it might be more practicable to mandate annual inspections by the Illinois Department of Human Rights in the Assisted Living and Shared Housing Act.

E. Legal Issues

Almost all housing in the United States falls under the Fair Housing Act or a state or local human relations ordinance. While age is not protected by the federal Fair Housing Act,

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there is a close correlation between age and disability.¹⁸⁰ Litigation involving senior housing providers and the Act “will probably involve claims of disability discrimination” in part due to the Act’s broad definition of disability.¹⁸¹ While there are many senior housing options available, the senior housing “industry has paid scant attention to the resulting civil rights concerns.”¹⁸² In responding to consumer demand by bundling housing with healthcare and personal assistance, senior housing providers may be in conflict with existing legal obligations.¹⁸³ In the senior housing context, the following provide examples of practices that may be illegal under fair housing laws: inquiry into disability; excluding certain disabilities; independent living requirements; and discharge and transfer provisions for existing residents.¹⁸⁴ The Illinois Assisted Living and Shared Housing Act clearly conflicts with the Fair Housing Act as it allows ALFs to exclude certain disabilities, make inquiries into disabilities through medical screenings, and provides for discharge and transfer.

1. Inquiry into disability

The Illinois Administrative Code provides for physician’s assessment; significantly,

No more than 120 days prior to admission of a resident to any establishment, a comprehensive assessment that includes an evaluation of the prospective resident’s physical, cognitive, and psychosocial condition shall be completed by a physician. The physician’s assessment shall include documentation of the presence or the absence of tuberculosis infection in accordance with the Control of Tuberculosis Code. At the time of admission, the physician’s assessment must reflect the resident’s current condition.¹⁸⁵

¹⁸⁰ Allen II at 15-16.

¹⁸¹ *Id.* at 16.

¹⁸² *Id.* at 16.

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 16-17.

¹⁸⁵ Ill Adm Code 295.4000(a).

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Further, residents are subject to annual comprehensive physician assessments, as well as additional assessments upon any significant change in a resident's condition.¹⁸⁶ The resident's agreement would be subject to renegotiation subject to the physician's assessment.¹⁸⁷ However, "the establishment shall have policies in place to respond to the gradual deterioration of a resident's ability to carry out the activities of daily living that may accompany the aging process."¹⁸⁸

Even though the Fair Housing Act expressly precludes "inquiries concerning mental or physical disabilities," there may be state and local laws permitting ALFs, CCRCs, and nursing homes to make these kinds of inquiries.¹⁸⁹ In fact, most CCRCs screen applicants for residence before their admission to determine their health status, in order to determine the appropriate level of care for the resident or to determine if the applicant qualifies for health coverage benefits offered by the facility.¹⁹⁰ Clearly, the Supremacy Clause provides that federal law supersedes any and all conflicting state law, "but senior housing providers and their residents face the consequences of this conflict on a daily basis."¹⁹¹ The Assisted Living and Shared Housing Act clearly allows senior housing providers to make inquiries as to disabilities through the physical assessment prior to the admission provision.

¹⁸⁶ Ill Adm Code 295.4000(b)-(c).

¹⁸⁷ Ill Adm Code 295.4000(d).

¹⁸⁸ Ill Adm Code 295.4000(i)

¹⁸⁹ Allen II at 16-17.

¹⁹⁰ Gordon, Paul A., *Fair Housing for CCRCs*, American Association of Homes and Services for the Aging, An AAHSA Technical Assistance Brief (2002). Gordon notes that "It is important to know that the Fair Housing Act requires questions about disability to be asked of all applicants equally; it is impermissible to ask health or functional status questions only of those who appear to be disabled. However, there is an exception to this requirement when determining if an applicant is qualified for a unit specially designed to accommodate people with a particular disability."

¹⁹¹ Allen II at 17.

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In *Robards v Cotton Mill Assoc.*,¹⁹² the plaintiff filed “a complaint with the Maine Human Rights Commission alleging that Cotton Mill, a federally subsidized housing project, engaged in illegal and impermissible inquiries regarding his handicap status.” The court noted that one provision requires a physician to describe the applicant’s medical condition, while the second provision inquires into the applicant’s ability to care for himself and to care for an apartment.¹⁹³

The court held that

A permissible inquiry is therefore one limited to discerning whether an applicant has a handicap. Understandably, a landlord is allowed to request that a physician verify an applicant’s handicap. A landlord is not, however, permitted to require the applicant to provide the landlord with a description of his handicap.¹⁹⁴

2. Excluding certain disabilities

The Assisted Living and Shared Housing Act allow ALFs to exclude certain individuals under the Act’s residency requirements provision.¹⁹⁵ The provisions precludes individuals, if the ALF “cannot provide or secure appropriate services,” including “a level of service or type of service for which the establishment is not licensed or which the establishment does not provide, or if the establishment does not have the staff appropriate in numbers and with appropriate skill to provide such services.”¹⁹⁶ Further, ALFs may deny residency for any of the following enumerated reasons:

1. the person poses a serious threat to himself or herself or to others;
2. the person is not able to communicate his or her needs and has no resident representative residing in the establishment, and with a prior relationship to the person, who has been appointed to direct the provision of services;
3. the person requires total assistance with 2 or more activities of daily living;
4. the person requires the assistance of more than one paid caregiver at any given time with an activity of daily living;

¹⁹² 713 A2d 952, 953 (Me 1998).

¹⁹³ *Id.* at 954.

¹⁹⁴ *Id.*

¹⁹⁵ 210 ILCS 9/75.

¹⁹⁶ 210 ILCS 9/75(a).

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5. the person requires more than minimal assistance in moving to a safe area in an emergency;
6. the person has a severe mental illness, which for the purposes of this Section means a condition that is characterized by the presence of a major mental disorder as classified in the [DSM-IV], where the individual is substantially disabled due to mental illness in the areas of self-maintenance, social functioning, activities of community living and work skills, and the disability specified is expected to be present for a period of not less than one year, but does not mean Alzheimer's disease and other forms of dementia based on organic or physical disorders;
7. the person requires intravenous therapy or intravenous feedings unless self-administered or administered by a qualified, licensed health care professional;
8. the person requires gastrostomy feedings unless self-administered or administered by a licensed health care professional;
9. the person requires insertion, sterile irrigation, and replacement of catheter, except for routine maintenance of urinary catheters, unless the catheter care is self-administered or administered by a licensed health care professional;
10. the person requires sterile wound care unless care is self-administered or administered by a licensed health care professional;
11. the person requires sliding scale insulin administration unless self-performed or administered by a licensed health care professional;
12. the person is a diabetic requiring routine insulin injections unless the injections are self-administered or administered by a licensed health care professional;
13. the person requires treatment of stage 3 or stage 4 decubitus ulcers or exfoliative dermatitis;
14. the person requires 5 or more skilled nursing visits per week for conditions other than those listed in items (13) and (15) of this subsection for a period of 3 consecutive weeks or more except when the course of treatment is expected to extend beyond a 3 week period for rehabilitative purposes and is certified as temporary by a physician; or
15. other reasons prescribed by the Department by rule.¹⁹⁷

It should be noted that the act provides that

Items (3), (4), (5), and (9) of subsection (c) shall not apply to a quadriplegic, paraplegic, or individual with neuro-muscular diseases, such as muscular dystrophy and multiple sclerosis, or other chronic diseases and conditions as defined by rule if the individual is able to communicate his or her needs and does not require assistance with complex medical problems, and the establishment is able to accommodate the individual's needs.¹⁹⁸

¹⁹⁷ 210 ILCS 9/75(c).

¹⁹⁸ 210 ILCS 9/75(g).

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Providers often seek to exclude some mental or physical disabilities from their life care contracts to minimize the costs of providing care to certain residents.¹⁹⁹ These decisions may be appropriate in terms of the providers' business models, but significantly may amount "to intentional discrimination on the basis of disability."²⁰⁰

In *United States v Forest Dale, Inc*,²⁰¹ the defendant, a section 202 housing provider, denied an apartment to a disabled individual. The defendant responded that it had an independent living requirement that HUD approved.²⁰² The HUD provision provided that the defendant accepts elderly, but not disabled individuals.²⁰³ The United States Department of Justice argued that the defendant interpreted the HUD regulation erroneously, as the HUD regulation "did not interpret the Housing Act to condone the categorical exclusion of persons who are both elderly and handicapped from Section 202 projects which were created to serve the elderly."²⁰⁴ Further, the Department of Justice asserted that the defendant was obligated "to alter the terms of the Occupancy Agreement by the enactment of the 1988 amendments to the Fair Housing Act . . . which provide that in the event a person is determined to be handicapped, such person must be provided an opportunity to make reasonable modifications of the premises at his or her own expense."²⁰⁵ The trial court denied the defendant's motion for summary judgment, concluding that the defendant violated the FHA by excluding disabled individuals and refusing to allow reasonable modifications.²⁰⁶

¹⁹⁹ Allen II at 17.

²⁰⁰ *Id.*

²⁰¹ 818 F Supp 954, 957 (ND Tex 1993).

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.* at 960.

²⁰⁵ *Id.* at 961.

²⁰⁶ *Id.* at 964-966.

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In *Baggett v Baird*,²⁰⁷ the plaintiffs argued that the defendants engaged in discrimination based on the plaintiffs' disabilities in violation of the Fair Housing Act. In this case, the defendants' policies discriminated against non-ambulatory individuals, utilizing a state regulation that allowed such exclusionary policies under an immediate threat provision.²⁰⁸ The plaintiffs asserted that the facility's requirement that residents be ambulatory violated the Fair Housing Act Amendments, because the regulation was not necessarily tailored to individual medical health needs.²⁰⁹ The court also noted that the immediate threat provision should be narrowly construed to permit restriction only when there was a justifiable safety concern.²¹⁰ The court concluded that the plaintiffs demonstrated that the regulation violated the FHA. The court held that the plaintiffs were entitled to a declaratory judgment and that the ambulatory resident requirement violated the FHA.²¹¹ The court issued an injunction barring the enforcement of that requirement.²¹²

The following case provided an illustration of the fine line between refusing admission to a disabled individual because a facility was unable to treat a disease and a facility refusing admission because of a disease or disability. In *Wagner v Fair Acres Geriatric Center*,²¹³ the Third Circuit addressed whether the defendant, a county-operated intermediate nursing care facility, violated the Rehabilitation Act, when it denied admission to the plaintiff, a 65 year old woman afflicted with Alzheimer's Disease. Although the defendant admitted Alzheimer's patients, it denied admission to the plaintiff because it determined that its facility and staff could

²⁰⁷ 1997 WL 151544, *1 (ND Ga February 18, 1997).

²⁰⁸ *Id.* at *3-4.

²⁰⁹ *Id.* at *14.

²¹⁰ *Id.* at *6.

²¹¹ *Id.* at *17-18.

²¹² *Id.*

²¹³ 49 F3d 1002, 1004 (3rd Cir 1995).

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not accommodate the behavioral manifestations of her disease.²¹⁴ The jury found for the plaintiff in this case, but the trial court granted the defendant's motion for judgment as a matter of law, and its motion for a new trial.²¹⁵ The Third Circuit concluded that there was sufficient evidence to sustain the jury verdict, and also noted that the trial court used the incorrect legal standard in granting the defendant's motions.²¹⁶ A key consideration was that there was ample evidence that the plaintiff's aggressive behaviors associated with her Alzheimer's disease clearly rendered her "a challenging and demanding patient."²¹⁷ The Third Circuit found that this fact alone could not justify her exclusion from a nursing home, receiving federal funds.²¹⁸ The Court concluded "[o]therwise nursing homes would be free to 'pick and choose' among patients, accepting and admitting only the easiest patients to care for, leaving the more challenging and demanding patients with no place to turn for care."²¹⁹ While this was a nursing home case, it would be likely that courts would draw from this analysis in the context of senior housing facilities without services, as well as assisted living facilities.

Recently, the United States Department of Justice filed a lawsuit alleging that the Sayville Commons (Sayville, New York) adult housing complex violates the accessibility provisions of the Fair Housing Act by failing to meet the standards proscribed by the Act.²²⁰ It is a rental community for those aged 55 and older with 342-unit complex with 171 ground floor units.²²¹ Some of the areas within Sayville Commons have doors on ground floor units, which

²¹⁴ *Id.* at 1005.

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.* at 1015.

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ Mason, Bill, *New York News Day, Sayville complex violates rights of disabled* (August 28, 2007).

²²¹ *Id.*

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are not wide enough for individuals in wheelchairs.²²² Moreover, the ground floor units with kitchens and bathrooms are not usable by individuals in wheelchairs.²²³ According to United States Attorney Roslynn Mauskopf, “[p]ersons with disabilities and those who are confined to wheelchairs are entitled to the protections of the Fair Housing Act, including readily accessible common and public area, access into and through their units and usable facilities.”²²⁴ The Justice Department seeks injunctive relief that requires Sayville Commons to comply with the Fair Housing Act, damages to compensate all persons harmed, and civil penalties.²²⁵

Another two cases resulted in consent orders resolving complaints based on reasonable accommodations. First, the United States Department of Justice filed a complaint on behalf of two disabled complainants, alleging that the respondents discriminated against the complainants by refusing their requests for a reasonable accommodation of their disabilities.²²⁶ The complaint alleged the following: the respondents discriminated in the rental, or otherwise made unavailable or denied, a dwelling to the complainants because of disability, in violation of 42 USC. § 3604(f)(1)(A); the respondents discriminated against the complainants in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability, in violation of 42 USC § 3604(f)(2)(A); the respondents discriminated against the complainants by refusing to make reasonable accommodations in rules, policies, practices, or services, which were necessary to afford the complainants an equal opportunity to use and enjoy a dwelling, in violation of 42 USC § 3604(f)(3)(B); and the respondents coerced, intimidated, threatened, or interfered with the

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *United States v Gainesville Housing Authority*, Consent decree 1:05cv193 (ND Fla December 21, 2006)

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complainants in the exercise or enjoyment of, or on account of their having exercised or enjoyed any right granted or protected by the Fair Housing Act, in violation of 42 USC § 3617.²²⁷ The parties entered into a consent decree, where the respondents agreed to comply with the Fair Housing Act, provide compensation for the complainants, and attend fair housing training.²²⁸ Significantly, the respondents agreed to "adopt and implement specific written guidelines for receiving and handling requests made by people with disabilities for reasonable accommodations," which shall comply with the requirements of 42 USC §§ 3601 et seq.²²⁹

Additionally, HUD on behalf of Montana Fair Housing ("MFH"), filed a charge of discrimination against Brent Nelson, Bernard Nelson, and BWN, LLC ("respondents") on September 29, 2005, alleging that the respondents, as owners of a 12-unit building in Billings, Montana, violated the Fair Housing Act by failing to design and construct covered multifamily dwellings in accordance with the Act's accessibility requirements pursuant to 42 USC § 3604(f)(2).²³⁰ A hearing was held before an administrative law judge ("ALJ") in April 2006, where the ALJ found that the respondents were not liable for the discrimination alleged, and the ALJ dismissed the charge.²³¹ On appeal, the Secretary set aside the ALJ's decision, finding that the respondents were liable for the violations, and remanded the case to the ALJ "to enter a remedial order to include appropriate retrofits to the property; monetary damages to the MFH, including litigation costs and costs relating to pursuing the administrative complaint with HUD; civil penalties; and injunctive relief."²³² The Secretary found that the following features of the respondents' property was not accessible and usable by disabled persons in violation of the Fair

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *HUD v Nelson*, 05-068-FH (HUD ALJ, June 1, 2007), *1.

²³¹ *Id.* at *2.

²³² *Id.*

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Housing Act: parking; stairs; knob hardware at the front entrances; width of patio doors; height of the thresholds and lack of beveling at the patio doors; mailbox location; doorways from the kitchen to the front hall; width of the doors and clear floor space in all four master bathrooms; the lavatories in the hall bathrooms of certain units; the distance from the wall to the centerline of the toilet in certain units; and front entrances.²³³ The order provided that respondents correct the aforementioned issues.²³⁴ Moreover, the order required that the respondents must compensate MFH for damages allegedly caused by the respondents' discriminatory conduct.²³⁵

3. Independent living requirements

Before 1988, many landlords expressly required that residents be capable of independent living.²³⁶ These policies generally excluded "applicants who needed assistance with the activities of daily living and imposed subjective provider judgments about who could or could not fulfill the basic obligations of tenancy."²³⁷ While facially neutral, these policies profoundly affect people with disabilities.²³⁸ A recent article noted that "[f]ederal courts have struck down such policies," but "a growing number of senior housing providers continue to apply them in a manner that unlawfully excludes people with disabilities and people regarded as having

²³³ *Id.* at *5.

²³⁴ *Id.* at *6-11.

²³⁵ *Id.* at *11.

²³⁶ Allen II at 17.

²³⁷ *Id.* Gordon notes that

All residential facilities are permitted to ask questions that might disclose whether an applicant can meet the "requirements of tenancy." Such questions clearly can include whether a resident would be able to maintain the unit in a sanitary condition, pay applicable fees, and live peaceably in a group setting. While early case law under the Fair Housing Amendments Act indicated that it may be impermissible to ask if an applicant is capable of "independent living," on the ground that such a question is overly broad, HUD has since indicated that such a question is permitted when the housing provider takes into consideration whether the applicant can meet the requirements of tenancy with the assistance of a third party such as a relative, private aide or outside social services agency. Gordon, *supra*.

²³⁸ *Id.*

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disabilities.”²³⁹ On a positive note, the Assisted Living and Shared Housing Act does not appear to enable senior housing providers to have independent living requirements. However, this would be no guarantee that a senior housing provider would not have such a policy in Illinois.

In *Cason v Rochester Housing Authority*,²⁴⁰ the defendants required that senior housing applicants demonstrate that they can live independently before a unit was granted. The defendants denied the plaintiff a housing unit because she needed a wheelchair and walker, used aide services, and relied on adult diapers.²⁴¹ The court held that while the independent living requirement for the housing unit did not substantially cause discrimination against the disabled— affecting 17 out of 276 disabled applicants—the policy had an adverse affect on the disabled; thus, it is illegal under the Fair Housing Act.²⁴² An article noted that “[q]uestions that could be asked to all applicants on a nondiscriminatory basis might include income, references, and rental history, as well as questions regarding age or handicap when you have to be a certain age or have a handicap to qualify for the housing . . . [b]ut discriminatory questions are not permitted.”²⁴³

In *Niederhauser v Independence Square Housing*,²⁴⁴ there was a federal action in California, challenging a senior housing provider’s policies that included illegal inquiries about disability and eviction of residents who were deemed incapable of living independently. This case extended the regulation to cover existing tenants, even when the policy is expressly spelled out in the rental agreement.²⁴⁵ The plaintiffs were an elderly and disabled married couple who had lived in a housing unit owned by the defendants since 1979.²⁴⁶ In 1985, the defendants

²³⁹ *Id.*

²⁴⁰ 748 F Supp 1002, 1004 (WD NY 1990).

²⁴¹ *Id.* at 1005.

²⁴² *Id.* at 1009.

²⁴³ Allen I at 127; see 24 CFR § 100.202(c).

²⁴⁴ FH-FL ¶16.305 (ND Cal August 27, 1998).

²⁴⁵ *Id.* at 16,305.7.

²⁴⁶ *Id.* at P 16,305.1.

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issued a new qualifications policy with the plaintiff's lease renewal, requiring all tenants to be able to live independently.²⁴⁷ In 1996, the defendants questioned the plaintiffs' ability to meet the new tenancy requirements after one plaintiff was released from the hospital.²⁴⁸ The defendants then refused to accept the plaintiffs back, and informed the plaintiffs that they should seek another residence.²⁴⁹ The court ruled that the defendant's policy and actions were illegal, stating that any policy asking an applicant or a current tenant a question beyond what would be asked to determine housing eligibility in terms of their disability or their ability to live independently, is illegal, and any policy that would evict a tenant based on such inquiries is also illegal.²⁵⁰

4. Discharge and transfer

Frequently, senior housing providers decide to move ALF or CCRC residents to "higher levels of care."²⁵¹ A developing case in San Francisco is illustrative of discharge and transfer issues. The *San Francisco Chronicle* recently reported that a senior housing provider sought to displace an 88-year-old resident.²⁵² Sally Herriot uses a walker, needs help getting dressed, and is having vision problems. Herriot says that with the help of her own round-the-clock aides, she has everything she needs in her one-bedroom Palo Alto apartment. Herriot hoped that the spacious apartment with a covered balcony would be her last home. However, the senior

²⁴⁷ *Id.* at 16,305.2.

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ *Id.*

²⁵¹ Allen II at 17. Gordon notes that

Proposed transfers of CCRC residents from one level of care to another, such as from residential to assisted living or assisted living to nursing, often raise concerns among residents, and their families, who may be neither physically nor emotionally prepared to make the move. The situation is complicated by the fact that, increasingly, home- and community-based services are available to help residents meet their care needs in the lower acuity setting where they already reside. In addition, the concept of "aging in place" is held out as an ideal to be encouraged of all who work with the elderly. Because such moves are almost always based upon a decline in the resident's physical, mental, or functional status, the transfer decision may be characterized by a resistant resident or family as a violation of the disability discrimination laws. Gordon, *supra*.

²⁵² Walsh, Diana, *The San Francisco Chronicle*, "Widow battles her retirement home/Administrators want her in assisted living, but she says she's fine in her apartment" (March 2, 2007).

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housing provider disagrees, and officials there have told Herriot that she must move from her apartment into a much smaller, assisted-living unit at the home where they believe she will be better served by a trained nursing staff. Instead, the senior housing provider will likely assign Herriot to a hospital-like room (with a roommate), where the floors are linoleum, the doors are kept open and only a curtain separates residents assigned to a double room.

Herriot and her deceased husband paid a nonrefundable \$180,000 entrance fee to move into the senior housing provider more than 15 years ago, also agreeing to pay a monthly fee that has fluctuated from \$2,500 to \$3,500 to cover services. Under the contract, the Herriots also signed a continuing care agreement that gave the senior housing provider the right to determine the appropriate level of care for the couple and the authority to move them into an assisted-living unit or a skilled-nursing unit if and when either of them needed more care.

The senior housing provider sent Herriot a letter last year saying it planned to move her in 30 days. Herriot's attorneys subsequently filed an action in federal court that could set a legal precedent for the more than five million Americans living in senior housing facilities, i.e. continuing care retirement communities and assisted-living facilities. The senior housing provider's position is that decisions to move residents from one level of care to another are made when necessary to provide the appropriate level of health care for residents and that decisions are made only after careful consideration and in consultation with the center's medical staff. The senior housing provider contends that the decision to move a resident into a higher level of care is not unlike what doctors do every day with patients. An unsuccessful mediation took place in

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April 2007, and this case has proceeded with discovery. A jury trial is scheduled to commence in April 2008.²⁵³

This type of decision “may be motivated by a resident and his or her family, may follow the conclusion that state law does not permit the resident to remain in her current setting, or may be the product of a business decision by the provider that the resident’s care is becoming too costly.”²⁵⁴ A recent article ponders “[i]f these providers are subject to the FHA and may not discriminate on the basis of disability, how can residents be moved against their wills?”²⁵⁵ Under the Assisted Living/Shared Housing regulations, a resident with a condition listed in section 295.2000(c) or if the facility can no longer provide adequate care shall have his or her residency terminated in accordance with Section 295.2010.²⁵⁶ However, the residential living component of most CCRCs is unlicensed, so there is far less guidance than with assisted living facilities as to when a resident may or must be transferred due to increasing care needs.²⁵⁷ Significantly, these residents consider these units as their “private homes,” where they may receive unlimited long-term care.²⁵⁸

In *HUD v Strawberry Point Lutheran Home for the Aging*,²⁵⁹ the plaintiff received a letter from housing provider contending that the plaintiff was no longer able to live independently because his physical condition had changed since becoming a resident. The letter asserted that the plaintiff was no longer in compliance with the senior housing provider’s

²⁵³ United States District Court, Northern District of California website, <http://www.cand.uscourts.gov/> (last accessed October 1, 2007).

²⁵⁴ Allen II at 16.

²⁵⁵ *Id.*

²⁵⁶ Ill Adm Code 295.2000(d)-(e).

²⁵⁷ Gordon, *supra*.

²⁵⁸ *Id.*

²⁵⁹ 2003 WL 1311336, *3 (HUD ALJ March 5, 2003).

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guidelines and requested that the plaintiff vacate the residence.²⁶⁰ The parties reached an accord through mediation with HUD, which resulted in a HUD consent decree. In the consent decree, the senior housing provider agreed not discriminate in the sale or rental of or otherwise make unavailable a dwelling on the basis of race, color, national origin, religion, sex, disability, or familial status; board members and employees agreed to attend fair housing training; the senior housing provider agreed to distribute fair housing brochures to all current residents; and the senior housing provider agreed to maintain a list of all requests for reasonable accommodations made by residents.²⁶¹ Significantly, the settlement of this administrative complaint required the senior housing provider to establish new transfer policies that recognize the right of seniors with disabilities to “age in place” with the assistance of outside service providers.²⁶²

The Maine Insurance Code may provide a good example for a legislative model as to transferring CCRC residents. Under that provision, a CCRC resident may only be transferred to a skilled nursing facility with written consent of the resident or the resident’s representative or if the resident posed a healthy or safety threat to other residents, thereby warranting a move to a facility with a higher level of care.²⁶³ The latter determination must be made by an interdisciplinary team, which includes medical personnel, social workers, and therapists, as well as providing input from the resident or resident’s representative.²⁶⁴ This transfer policy limits the reasons a CCRC may transfer a resident; requires individuals other than a facility’s administration to participate in the decision-making process; requires a written explanation for the transfer; and provides an appeal process for the resident.²⁶⁵ Maine’s CCRC transfer statute

²⁶⁰ *Id.*

²⁶¹ *Id.* at *6-7.

²⁶² *Id.* at *5-9.

²⁶³ Strum at 133.

²⁶⁴ *Id.*

²⁶⁵ *Id.* at 133-134.

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provides a comprehensive scheme to prohibit an unlawful transfer. Illinois provides no transfer policy protection for CCRC residents, and limited protections for ALF residents.

5. Other cases

Retirement communities may have a legitimate purpose for denying housing that does not violate the Fair Housing Act. One example would be *Ackerman v Deaf and Hearing Connection of Tampa Bay, Inc.*,²⁶⁶ where the plaintiff brought an action alleging that the defendant, operator of independent living complex with predominately disabled residents, violated FHA and Rehabilitation Act when it denied his request for a roommate and declined to renew his lease. The trial court denied the plaintiff's motion for preliminary injunction, and he appealed to the 11th Circuit, although it was noted that the trial court acknowledged that this was a close call.²⁶⁷ Significantly, the plaintiff was unable to pay rent without having a roommate.²⁶⁸ Under an abuse of discretion standard of review, the 11th Circuit would not overturn the trial court's ruling.²⁶⁹ The 11th Circuit concluded that the defendant's refusal for denying the lease was based on plaintiff's inability to pay the rent, not because of plaintiff's disability.²⁷⁰ Further, a roommate would not be considered a reasonable accommodation.²⁷¹ However, in a case where a resident of a two-bedroom independent living complex had Parkinson's disease and requested a live-in aid to assist him that he would pay for himself; the failure to accommodate would violate the Fair Housing Act.²⁷²

²⁶⁶ 2006 WL 2769380 (11th Cir 2006).

²⁶⁷ *Id.*

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² See *McNown v Luther Village*.

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Moreover, in *Weinstein v Cherry Oaks Retirement Community*,²⁷³ the defendant retirement community had a bizarre policy of requiring residents who used wheelchairs or walkers to transfer to ordinary chairs when taking meals in dining room. The defendant claimed that the purpose of this policy “was to allow [defendant’s] personnel an opportunity to observe residents regularly and to ensure that they were physically appropriate to remain at the boarding home.”²⁷⁴ The plaintiff was wheelchair-bound, but his condition deteriorated so he was unable to be transferred to an ordinary chair; the defendant then precluded the plaintiff from taking meals in the dining room.²⁷⁵ The appellate court concluded that “the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling” violated the Colorado Fair Housing Act, and a “reasonable accommodation” was construed to mean “changing a rule that may be otherwise generally applicable so as to make its burden less onerous on a disabled individual.”²⁷⁶

The United States Department of Justice initiated an action on similar grounds against Chicago-based Covenant Retirement Communities. On August 23, 2007, the Justice Department announced that it has reached an agreement with the defendants, which resolved allegations of disability discrimination.²⁷⁷ According to the complaint, the defendants had policies requiring residents who used motorized mobility aids, i.e., canes, walkers, wheelchairs, and scooters, to obtain personal liability insurance, demonstrate their competence at operating the motorized aid, and provide physicians’ certifications of need. Further, the defendants barred residents and

²⁷³ 917 P2d 336, 337 (Colo App 1996).

²⁷⁴ *Id.*

²⁷⁵ *Id.* at 338.

²⁷⁶ *Id.*

²⁷⁷ United States Department of Justice Press Release, *Justice Department Settles Disability Rights Case with National Provider of Retirement Housing*, <http://www.usdoj.gov/> (last accessed September 23, 2007).

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visitors from using mobility aids in certain common areas, including dining rooms, and steered persons with mobility impairments from independent living to assisted living.²⁷⁸ This case originated when a retired couple filed discrimination complaints with the HUD.²⁷⁹ HUD conducted an investigation and referred the matter to the Justice Department.²⁸⁰ The agreement dismantles the defendants' policies and requires for employee training, a nondiscrimination policy, record keeping, and monitoring.²⁸¹ Additionally, the defendants must provide a settlement fund for individuals who were injured by the policies.²⁸²

The following case provides an illustration of another combination factors case that violated the Fair Housing Act. In *United States v Resurrection Retirement Community*,²⁸³ the United States Department of Justice brought a “pattern and practice” lawsuit in federal court under the FHA to challenge both illegal inquiries and a requirement that applicants subject themselves to a medical assessment as a condition of admission. The defendant was a 500-unit retirement community located in Chicago. In this case, the investigation revealed that the defendant treated applicants and tenants with handicaps differently in the terms and conditions of tenancy at the facility than other non-handicapped applicants and tenants.²⁸⁴ Significantly, the defendant engaged in a pattern or practice of discrimination on the basis of handicap, including:

- Imposing as a term or condition of tenancy that applicants and tenants must be healthy and able to live independently of any assistive services which are necessary because of such applicant's or tenant's handicap, including services which are arranged and paid for by such applicant or tenant;

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² *Id.*

²⁸³ Consent Order No. 02-CV-7453 (ND Ill October 17, 2002, available at <http://www.usdoj.gov/crt/housing/documents/resurrectsettle.htm> (last accessed December 28, 2006).

²⁸⁴ *United States v Resurrection Retirement Community, Inc.*, Complaint No. 02-CV-7453, filed September 17, 2002, <http://www.usdoj.gov/crt/housing/documents/resurrectcomp.htm> (last accessed December 28, 2006).

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- Limiting the number of hours that tenants with a handicap may receive assistive services which are necessary because of their handicap in their apartment units, including services which are arranged and paid for by such tenants;
- Inquiring to determine whether an applicant for an apartment unit at Resurrection has a handicap and inquiring as to the nature and severity of such handicap;
- Requiring applicants to submit to a medical assessment conducted by an employee of defendants as a term or condition of tenancy;
- Discouraging persons with a handicap from renting apartment units at Resurrection because of their handicap; and
- Steering persons with a handicap from Resurrection to assisted living facilities because of their handicap.²⁸⁵

The court entered a consent order enjoining the practices and awarding damages, because of inquiries it made into the medical condition of individuals seeking admission.²⁸⁶ The defendant was ordered, among other things, to pay civil penalties and to provide documentation of its admission practices.²⁸⁷ Notably, this case does not indicate whether the defendant was organized as a CCRC, but the organization was described as a retirement community. Presumably, if the organization were an ALF, it would have been enabled by the Assisted Living and Shared Housing Act to conduct inquiries into disabilities via physical assessments or medical screenings. Significantly, the Department of justice brought this action under the FHA, and it did not utilize any state or local laws. The Bazelon Center noted this case's significance because it demonstrates the ongoing resistance of senior housing providers to abandon their "independent living" requirements, as well as a demonstration of the Department of Justice's commitment to challenging such requirements as part of its FHA enforcement responsibilities.²⁸⁸

²⁸⁵ *Id.*

²⁸⁶ *Resurrection Retirement Community*, Consent Order, *supra*.

²⁸⁷ *Id.* The defendants paid a penalty of \$220,000. *Chicago Retirement Community Pays \$220,000 To Settle*, http://www.findarticles.com/p/articles/mi_pjus/is_200210/ai_2686261774 (last accessed December 28, 2006).

²⁸⁸ Bazelon Center for Mental Health Law, *The Illegality of "Independent Living" Requirements in Rental Housing, Assisted Living Centers and Continuing Care Retirement Communities*, http://www.bazelon.org/issues/housing/infosheets/independentliving.htm#_ednref15 (last accessed December 1, 2006).

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F. Recommendations and Conclusion

Senior housing providers that employ an independent living requirement for residency may conflict with the Fair Housing Act. The developing case law seems to indicate that senior housing providers must conform their practices to the mandates of *Cason* and its progeny. Part of the problem is that state and local law may create an apparent loophole with regulations that allow for independent living requirements. Clearly, a key issue facing the senior housing industry is complying with fair housing laws.²⁸⁹ A senior housing facility without services or an assisted living facility will have the burden of showing that a discriminatory practice is either essential to the nature of the facility or necessary as a security or safety measure.

The Federal Fair Housing Act was passed in 1968, and it now outlaws housing discrimination based on race, color, national origin, religion, familial status, disability, and sex.²⁹⁰ While age is not one of the protected classes under the Act, there is a “correlation between age and disability” which “is unmistakable in a population whose life expectancy has risen dramatically” over the past several decades.²⁹¹ Another article notes that “[m]ore than half of elderly Americans suffer from physical and mental disabilities, and these disabilities both limit their capacity to advocate for themselves, and make them the targets of discrimination.”²⁹² The Acts’ provisions are also mirrored and expanded upon by several states and municipalities.²⁹³ Significantly, some states and municipalities expand protected classes, including age, among others.²⁹⁴

²⁸⁹ Schwemm at 124.

²⁹⁰ 42 USC § 3601 et seq.

²⁹¹ Allen II at 16.

²⁹² Ziaja at 313. According to Ziaja, approximately 52.5 percent of elderly Americans have at least one disability as defined by the Fair Housing Act. *Id.* at 314.

²⁹³ Schwemm at 124 noting that in 2004, approximately 35 states and 64 localities had fair housing laws that were substantially equivalent in their substantive coverage to the Fair Housing Act.

²⁹⁴ The Illinois Human Rights Act prohibits discrimination based on race, color, religion, sex, national origin,

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Significantly, “[m]ost of the prohibitions of the FHA and its state and local counterparts apply to housing for older persons, although providers of such housing often seem oblivious to the mandates of these laws.”²⁹⁵ Private parties, the United States Attorney General, HUD, or state agencies can enforce the FHA violations.²⁹⁶ While there is not a great deal of case law, there is an indication that courts are willing to enforce FHA provisions in favor of seniors. Nevertheless, few seniors litigate discrimination cases, especially challenging independent living requirements. One article noted the following reasons: economic limitations, diminished capacity, or limited access to legal services.²⁹⁷

One article suggested that class action under Federal Rule of Civil Procedure 23²⁹⁸ would be one of the better ways to utilize the protections of FHA and its available remedies.²⁹⁹ The article posed the following class action hypothetical; involving wheelchair bound seniors and an independent living facility with an ambulatory-only policy.³⁰⁰ Under these circumstances, the seniors may seek an injunction or compensatory damages.³⁰¹ Since seniors generally have limited assets to pursue litigation, a class action would remove a bar that has traditionally hindered seniors from litigating such a claim, as well as minimizing and defraying the litigation

ancestry, citizenship status (with regard to employment), age (40 and over), marital status, physical or mental handicap, military service, unfavorable military discharge, and sexual orientation. 775 ILCS 5/1 102(A); see also 775 ILCS 5/3 101 et seq. The Chicago Fair Housing Ordinance prohibits discrimination based on race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income. Chicago Municipal Code 5-8-010.

²⁹⁵ Schwemm at 124.

²⁹⁶ 42 USC §§ 3610, 3613, 3614.

²⁹⁷ Margulies, Peter, *Access, Connection, and Voice: A Contextual Approach to Representing Senior Citizens of Questionable Capacity*, 62 Fordham L Rev 1073, 1074-1077 (1994).

²⁹⁸ The class action requirements as expressed by FRCP 23(a) are the following: 1) the class is so numerous that joinder of all members is impracticable; 2) there are common questions of fact and law for the entire class; 3) the claims or defenses of the representative parties are typical of the entire class; and 4) the representative parties will fairly and adequately protect the interests of the entire class.

²⁹⁹ Ziaja at 337.

³⁰⁰ *Id.* at 338.

³⁰¹ *Id.*

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costs.³⁰² The article noted that the commonality requirement may be a problem: “[t]he question becomes whether the determination of the existence of a disability is an individual inquiry or whether a class can be established by recognizing disability in the general cases.”³⁰³ For example, the class action commonality requirement may require that each class member demonstrate that FHA covered his or her disability.³⁰⁴ Nevertheless, a senior housing facility without service’s non-ambulatory policy can potentially define the class, unlike a more fact-intensive inquiry in a reasonable modification or reasonable accommodation action.³⁰⁵ Significantly, the class action would be looking only to strike the senior housing facility without service’s non-ambulatory policy, instead of a reasonable accommodation for each class member.³⁰⁶

Another article suggested that the federal government enact legislation for independent living, assisted living, and CCRC analogous to the Nursing Home Reform Act (“NHRA”).³⁰⁷

The key provisions of NHRA are as follows:

- Freedom of choice
- Freedom from restraints and abuse
- Privacy
- Confidentiality
- Accommodation of individual needs
- Personal items
- Grievances
- Participation in groups and other activities
- Examination of survey results
- Access and visitation rights³⁰⁸

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.* Ziaja noted that the commonality requirement defeated class action attempts under the Rehabilitation act; however, Ziaja suggested that the Fair Housing Act was different as it required that a multi-unit housing complex cannot refuse to rent to an individual based on disability.

³⁰⁵ *Id.* at 339..

³⁰⁶ *Id.* at 339.

³⁰⁷ Frolik at 22; 42 USC §§ 1395i-3(c), 1396r(c).

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The Illinois Assisted Living/Shared Housing Act has many of these provisions.

However, one important provision that the Illinois General Assembly should add to this Act would be the accommodation of individual needs provision. Such a provision gives residents the right to receive services that reasonably accommodate their individual needs and preferences.³⁰⁹ Moreover, legislation with these protections should be enacted for CCRCs. These Acts should include fair housing protections, whereby residents would be protected from forms of invidious discrimination in senior housing facilities without services, assisted living facilities, and CCRCs.

There is a considerable gap where senior housing providers can effectively discriminate against seniors, especially against seniors with disabilities. Under existing federal and state law, senior housing providers are treated no differently than any other housing provider. The State of Illinois regulates only ALFs and offers very little oversight of CCRCs and no oversight of independent living communities. The Assisted Living and Shared Housing Act, in some ways, enables ALFs to engage in such practices by allowing exclusions of certain disabilities, inquiries into disabilities via physical assessments, and discharge and transfer provisions. Clearly, these provisions are in contravention of the Fair Housing Act.

Ultimately, protecting seniors from housing discrimination comes down to individuals asserting and protecting their rights under the Fair Housing Act. Fortunately, courts have been very willing to enforce the Fair Housing Act in favor of seniors and against senior housing providers' policies, as well as state regulations. However, many seniors, for a variety of reasons, have been unwilling to litigate their fair housing claims. Further, federal and state agencies do not seem to be investigating and enforcing fair housing laws on their own initiative. The Illinois legislature should amend and expand the Assisted Living and Shared Housing Act. This Act

³⁰⁸ 42 USC §§ 1395i-3(c), 1396r(c).

³⁰⁹ See Frolik at 22-23.

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should ensure that senior housing providers follow the Fair Housing Act by striking exclusions of certain disabilities and inquiries into disabilities via physical assessments. This Act should also modify discharge and transfer provisions. The legislature must also provide legislation that will better regulate independent living communities and CCRCs by making it explicit that they meet the Fair Housing Act's standards. The legislature should require licensing agencies to inspect for violations of the Fair Housing Act in senior housing to ensure that those facilities are following federal and state fair housing laws.

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II. SENIOR SURVEY

The Project administered a survey to 360 senior citizens. The survey sought to collect information regarding respondent's neighborhood or community preferences; housing amenities and design preferences; understanding of fair housing laws; past claims of housing discrimination; and disabilities and need for assistance with daily activities. The Project administered the survey to seniors in the City of Chicago, Suburban Cook County, Lake County, and Northwest Indiana. The survey is attached as Appendix I. The summary of the survey results follows.

A. Methodology

During the one-year grant from the Retirement Research Foundation, the John Marshall Law School Fair Housing Legal Support Center and Clinic administered a written survey to 360 senior citizens in the Chicago Metropolitan area. The survey sought to collect information regarding respondent's neighborhood or community preferences; housing amenities and design preferences; understanding of fair housing laws; past claims of housing discrimination; and disabilities and need for assistance with daily activities.

The survey was disseminated through group facilitations and mailers to senior centers. The mailings were not sent directly to the seniors themselves. Approximately 860 of the surveys were mailed and 305 surveys were returned. The return ratio on the mailings was approximately 35 percent. Surveys were also delivered to seniors in person at four senior centers located in the Chicago Metropolitan area. A representative of the Project went to the center and provided a brief overview of the project to the seniors. Approximately 110 seniors were approached at these centers and 55 surveys were completed. The return ratio on these contacts at the senior

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centers was approximately 50 percent. Thus, the overall return ratio from the mailings and the personal contacts was approximately 37 percent.

During the course of the survey, some issues were noted. In some instances, the facilitators were faced with language barriers, as English was a second language for some seniors. It was noted that a few seniors demonstrated little or no fluency of the English language. Additionally, there was evidence of cognitive barriers with some seniors. Thus, those surveys were not included in the final tabulation.

B. Key Findings

The Project collected 360 senior surveys. As one aspect of the Project, JMLS surveyed seniors to ascertain, among other things:

1. What seniors desire and expect in housing;
2. Whether seniors have experienced housing discrimination;
3. Seniors willingness to file a discrimination complaint; and
4. Seniors knowledge of the Fair Housing Laws.

The survey was disseminated through group facilitations and mailers to senior centers.

The survey results revealed the following; approximately 29 percent of respondents were between the ages of 55-64; 26 percent were between the ages of 65-74; 30 percent were between the ages of 75-84; and 11 percent were 85 years or older. Approximately 57 percent of respondents were women. Approximately 67 percent of respondents were Caucasian and 33 percent of respondents were minorities. The minority breakdown is as follows: 15 percent were African-American; 12 percent were Hispanic; three percent were Asian; two percent identified themselves as “other;” and the remaining one percent identified themselves as American Indian/Alaskan native or Pacific Islander.

Approximately 58 percent of respondents resided in single-family homes; this result was almost double to those living in apartments or other multi-family facilities. Approximately half

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of those surveyed lived alone. Approximately 16 percent resided in some sort of seniors-only facility. Approximately 61 percent of respondents owned their own residences. Of those surveyed, approximately 76 percent were satisfied with their current living arrangements. Approximately 59 percent of respondents indicated that they probably or definitely would not move.

Approximately 25 percent of respondents indicated that they had some type of disability, while 17 percent indicated that they resided with a disabled individual. Most of the disabilities involved limited mobility or hearing or vision loss. Accessible housing was a clear preference for a vast number of those surveyed. An interesting result was that of the seniors surveyed, approximately 56 percent indicated that housekeeping assistance was important or very important to them. Approximately 75 percent indicate that assistance with home maintenance was important or very important. Almost two out of three seniors indicated that planned social and recreational activities were important to them and the number jumped even higher when it came to medical, transportation, and meal services.

Approximately 25 percent of respondents indicated that they had suffered some form of housing discrimination in the past; however, approximately 26 percent of those instances occurred in the past five years. Approximately 25 percent answered that they had been at some time a victim of housing discrimination because of race; 14 percent indicated national origin discrimination; 19 percent indicated age discrimination; and 15 percent indicated that they were victims of discrimination because of disability. [Respondents could respond to more than one form of discrimination for that particular inquiry.]

More than one half of those surveyed expressed unfamiliarity with the fair housing laws and the remedies they afford. Approximately 61 percent of respondents believed that a senior

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housing provider could mandate an “independent living” requirement. And in answer to specific questions, many did not know that landlords had to make reasonable accommodations for the disabilities of tenants and allow them to make reasonable modifications, at their own expense, to their units. Furthermore, approximately 40 percent of respondents indicated that they would not take any action if they thought that they were the victims of housing discrimination.

It was also interesting that a vast majority of those surveyed preferred to live in communities that reflected a great amount of diversity in faith and religion and that was racially and ethnically integrated. But there was also a significant minority of persons who preferred a more restricted environment. The results of this survey were validated by the experiences related by counselors and other persons who work with seniors.

C. Survey Responses

Questions about the type of neighborhood or community that the respondents prefer.

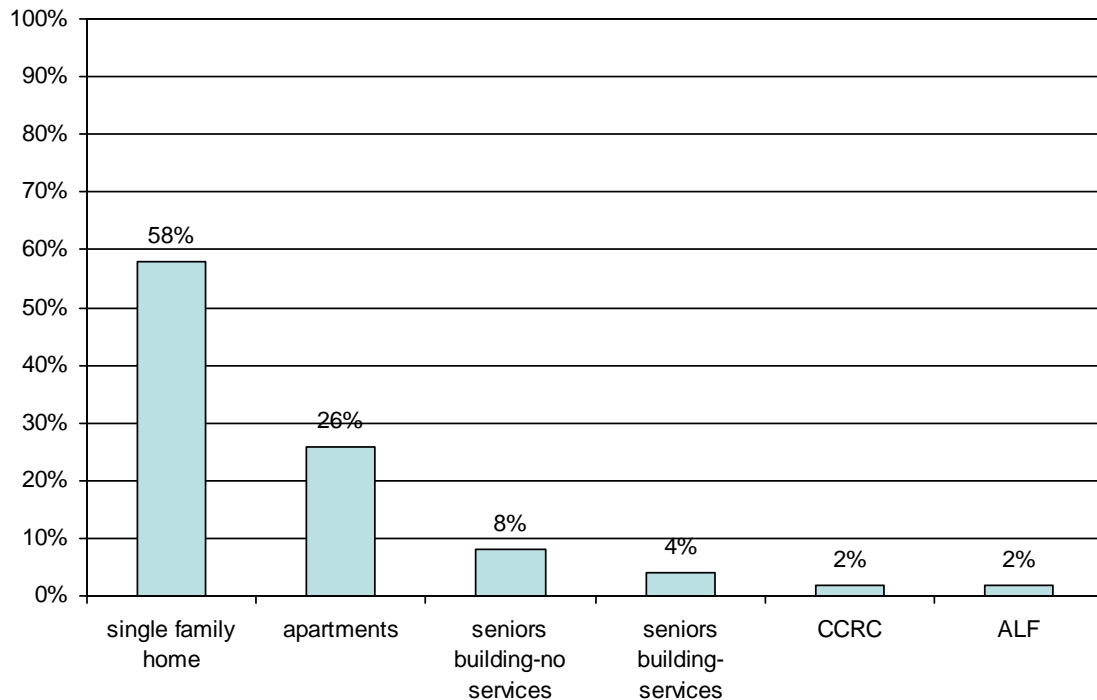
1. Please select the ONE answer that best describes where you live:

Approximately 58 percent of respondents indicated that they resided in single-family homes and 26 percent stated that they lived in apartments with people of all ages. Additionally, eight percent of respondents resided in seniors only buildings with no special services; four percent of respondents resided in seniors only buildings with support services; two percent of respondents resided in continuing care communities; and two percent of respondents resided in assisted living facilities. All of the respondents responded to this question with the results reflected in the following chart.

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Where respondents reside.



In sum, the respondents answered this question as follows:

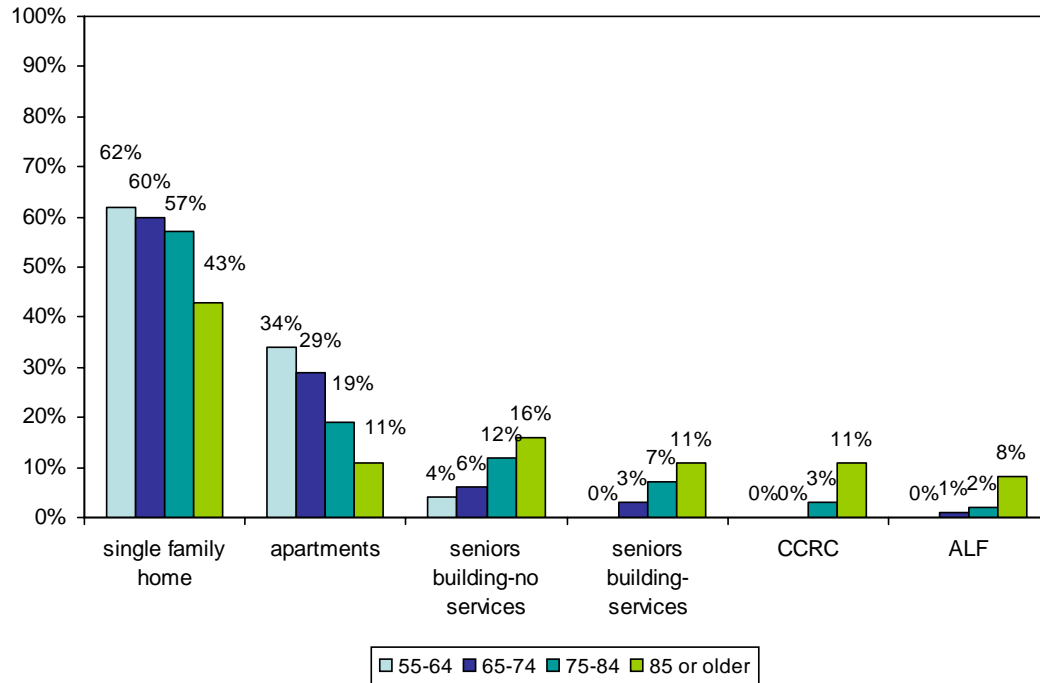
	Single family home	Apartment with people of all ages	Seniors only building with no special services	Seniors only building with support services	Assisted living facility	CCRC	Nursing home
Overall totals	209	94	27	16	6	8	0

The results were further broken down as follows. According to the results, minorities were less likely, as a percentage, to reside in single-family homes. Approximately 61 percent of Caucasian respondents resided in single-family homes. Approximately 48 percent of minority respondents resided in single-family homes. Approximately 18 percent of Caucasian respondents resided in some kind of senior housing. Conversely, 15 percent of minority respondents resided in senior housing.

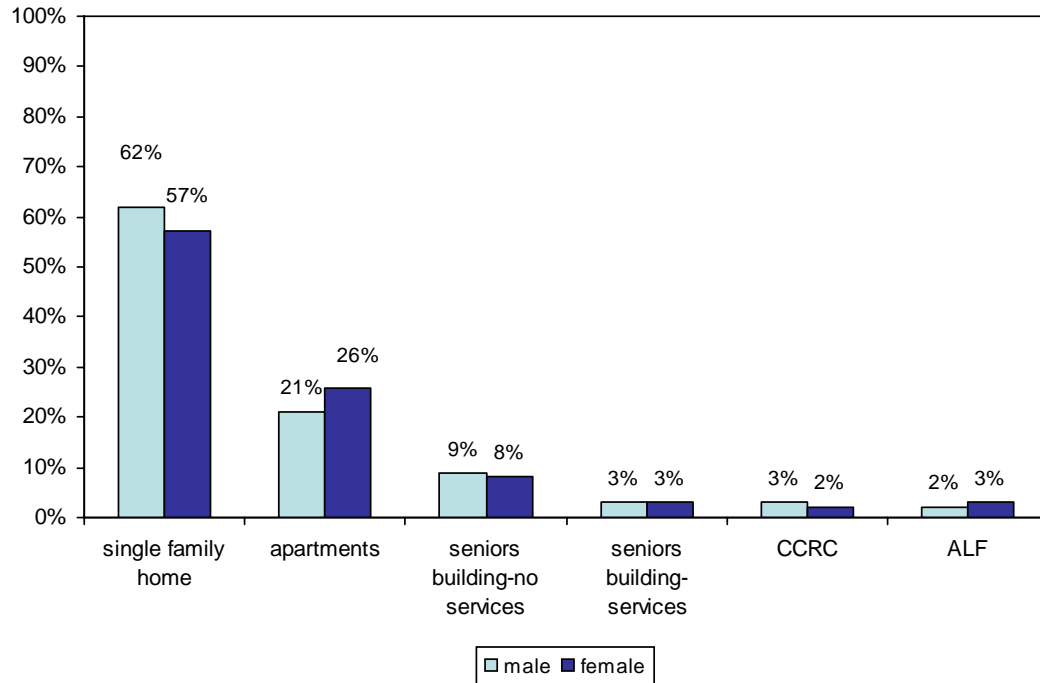
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Where seniors reside by age group.



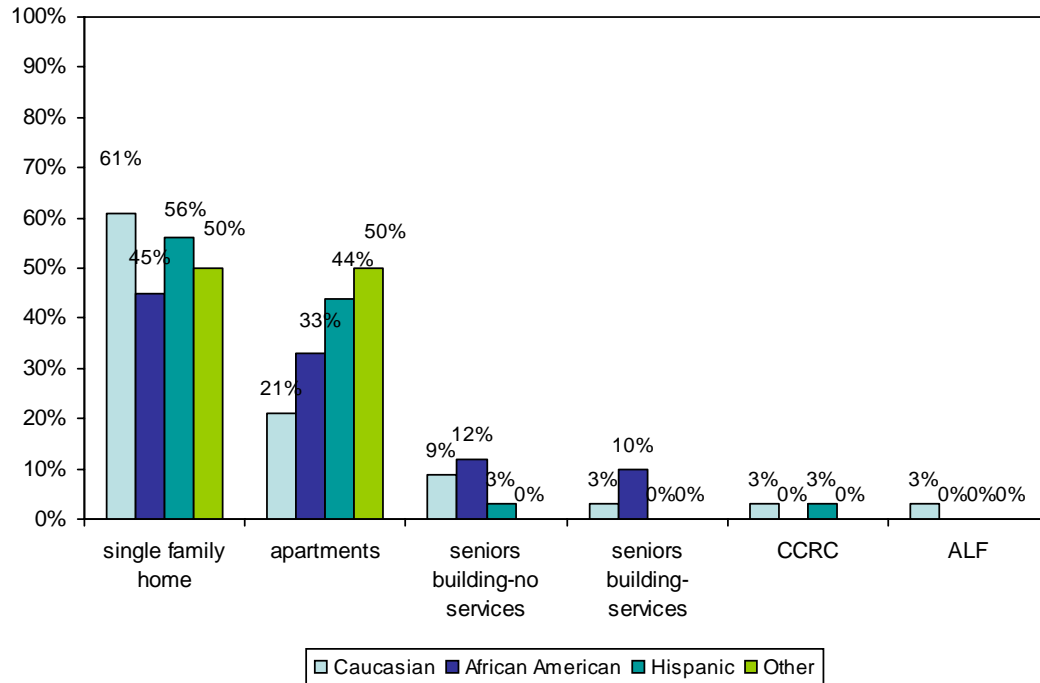
Where seniors reside by gender.



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Where seniors reside by race.



It should be noted that there were some “no responses” that were not included in the breakdown. This was done because less than 10 percent of the respondents did not provide answers to the demographic questions. Moreover, there were some “no responses” to some of the other questions, as well.

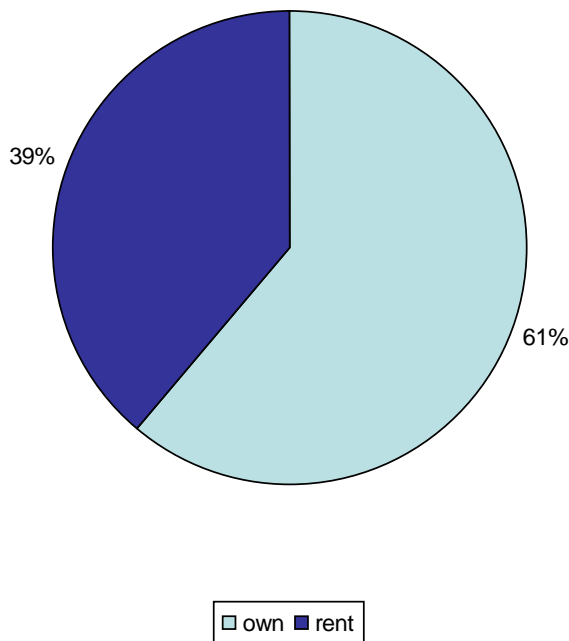
2. Do you own your home or apartment; or do you rent?

Respondents indicated that 61 percent owned their residence, while 39 percent rented their residence. There were nine respondents, who did not answer this question; thus, 351 out of 360 respondents answered the question. In sum, 215 respondents owned their residences, while 136 respondents rented their residences.

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Whether respondents own or rent.

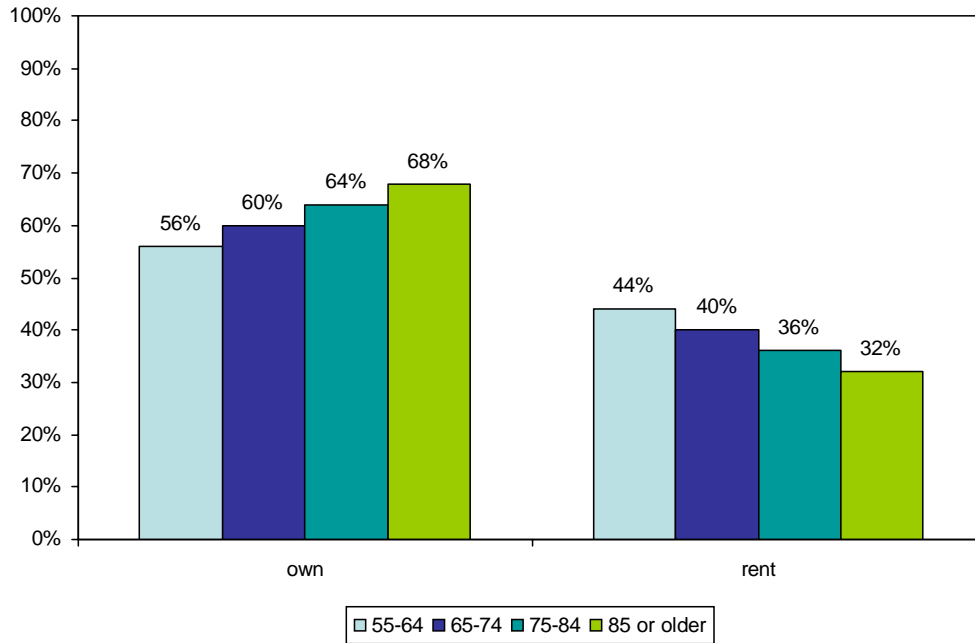


The results were further broken down as follows. Approximately 66 percent of Caucasian respondents owned their residences. However, 45 percent of minority respondents owned their residences and that rate of ownership was consistent among African-American and Hispanic respondents. The rates of home ownership increased as a percentage among older respondents. Approximately 56 percent of respondents aged 55-64; 60 percent of respondents aged 65-74; 63 percent of respondents aged 75-84; and 68 percent of respondents aged 85 or older owned their residences.

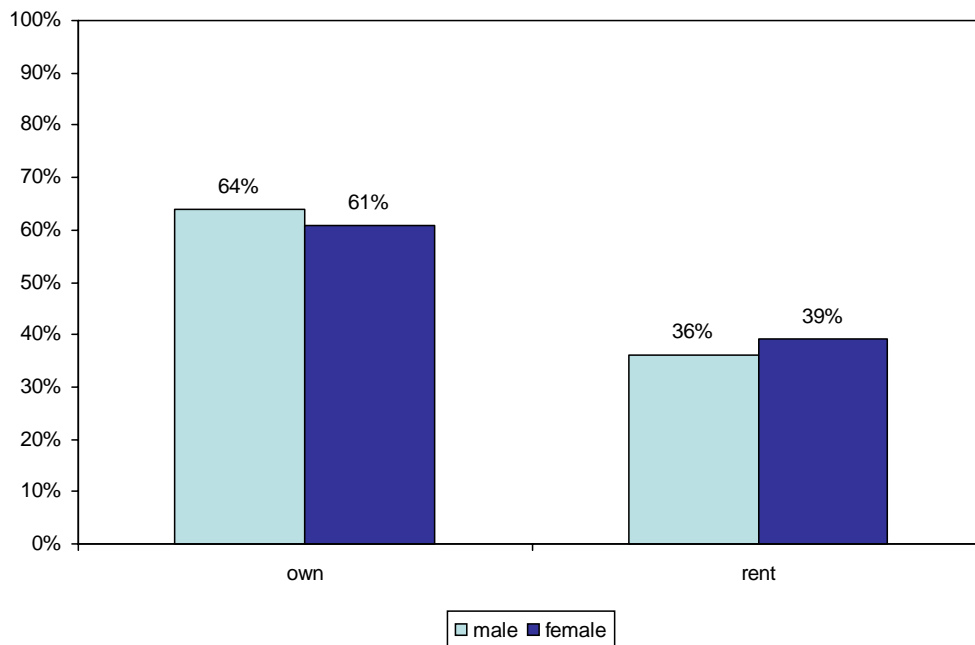
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Owners and renters by age.



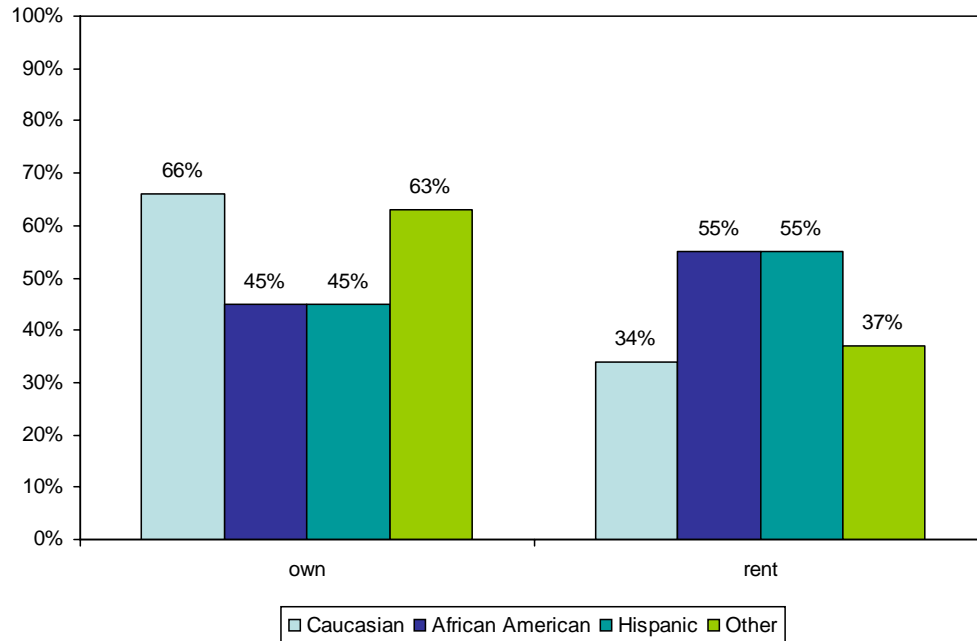
Owners and renters by gender.



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Owners and renters by race.



3. Please provide the number of persons living in your household on a regular basis.

Respondents indicated that 51 percent resided alone, while 49

percent resided with other

individuals in the household. 35

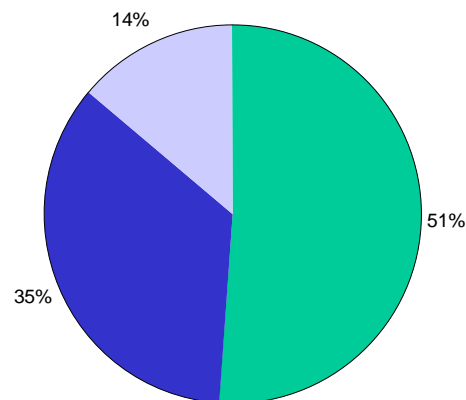
percent of respondents resided with

only one other individual. All of

the respondents responded to this

question.

Number of persons residing in respondent's household.



■ alone ■ one other person ■ two other persons or more

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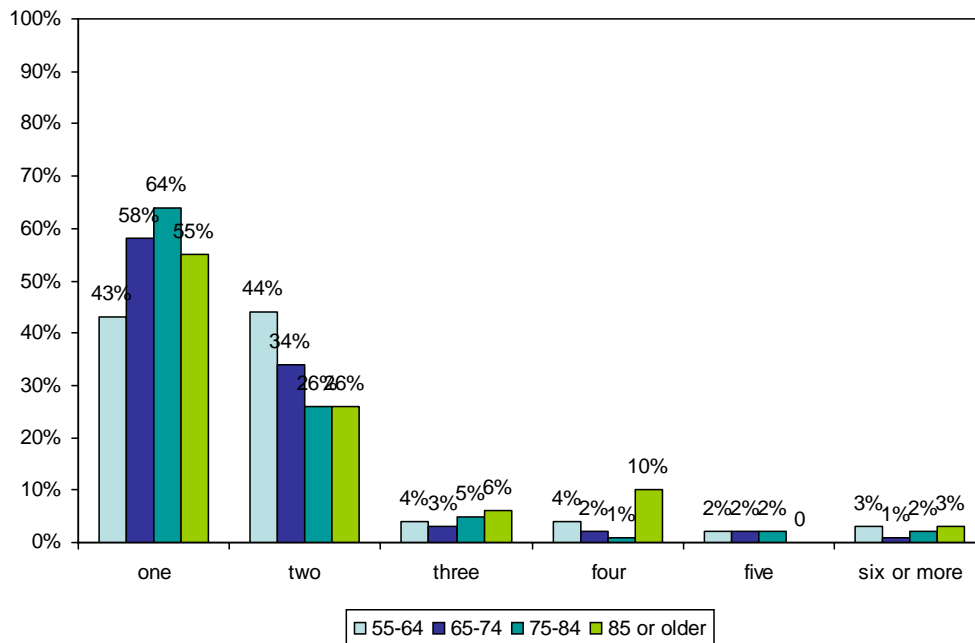
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In sum, the following table reflects the respondents' totals by answer choice.

	One	Two	Three	Four	Five	Six or more
Overall totals	183	127	19	16	7	8

The results were further broken down as follows. The percentage of respondents residing alone was consistent among Caucasian respondents (52 percent) and minority respondents (50 percent). However, 28 percent of Hispanic respondents resided alone, while 63 percent of African-American respondents resided alone. Female respondents (53 percent) were more likely to reside alone than male respondents (45 percent). The following was determined in viewing the results in the context of age: 43 percent of respondents aged 55-64; 58 percent of respondents aged 65-74; 64 percent of respondents aged 75-84; and 55 percent of respondents aged 85 or older indicated that they resided alone.

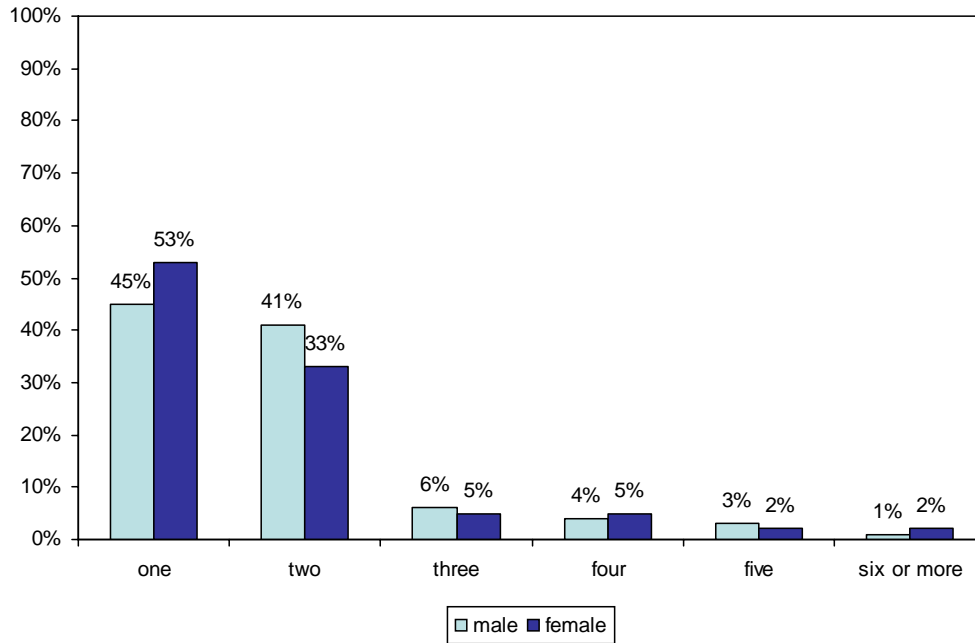
How many individuals reside with the respondents by age.



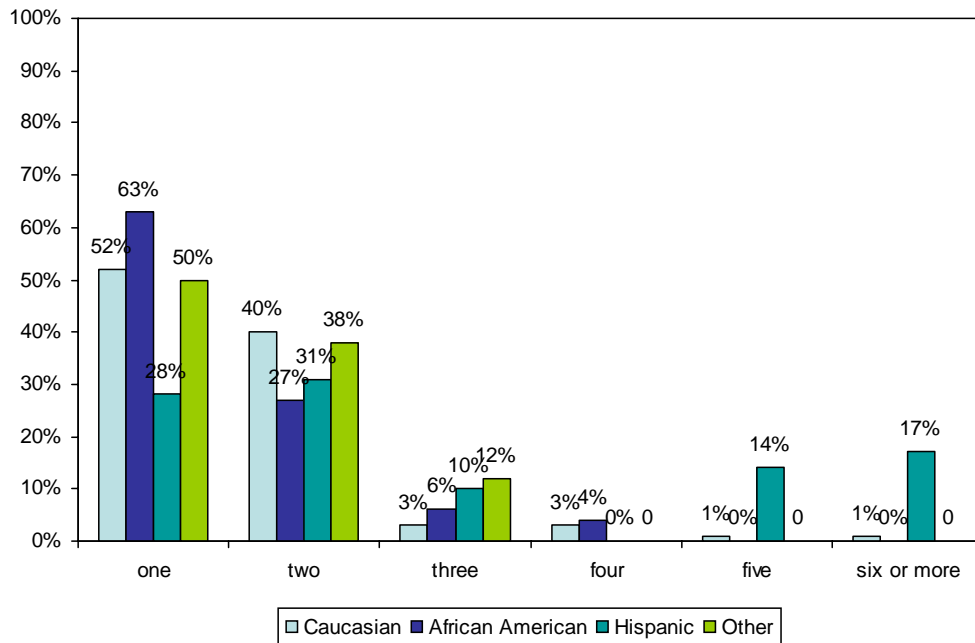
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How many individuals reside with the respondents by gender.



How many individuals reside with the respondents by race.



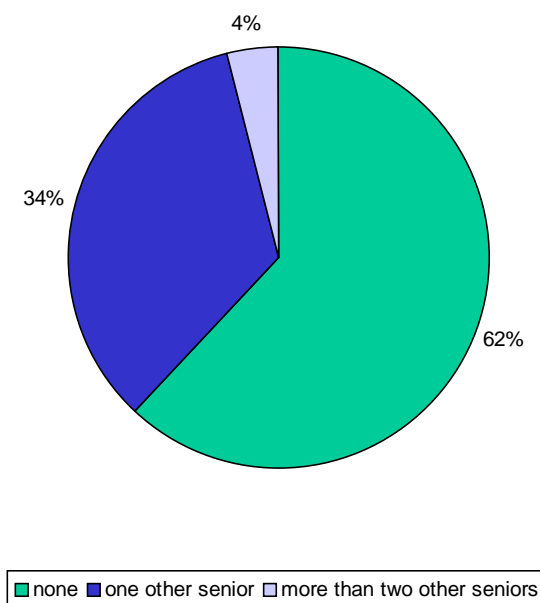
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3a. Seniors residing with respondent.

Approximately 62 percent of respondents indicated that they were the only senior residing in the household. 34 percent of respondents resided with one other senior. All of the respondents responded to this question. In sum, 222 respondents resided alone; 123 respondents resided with one other senior; and 15 respondents resided with two or more other seniors.

Number of other seniors residing with respondent.

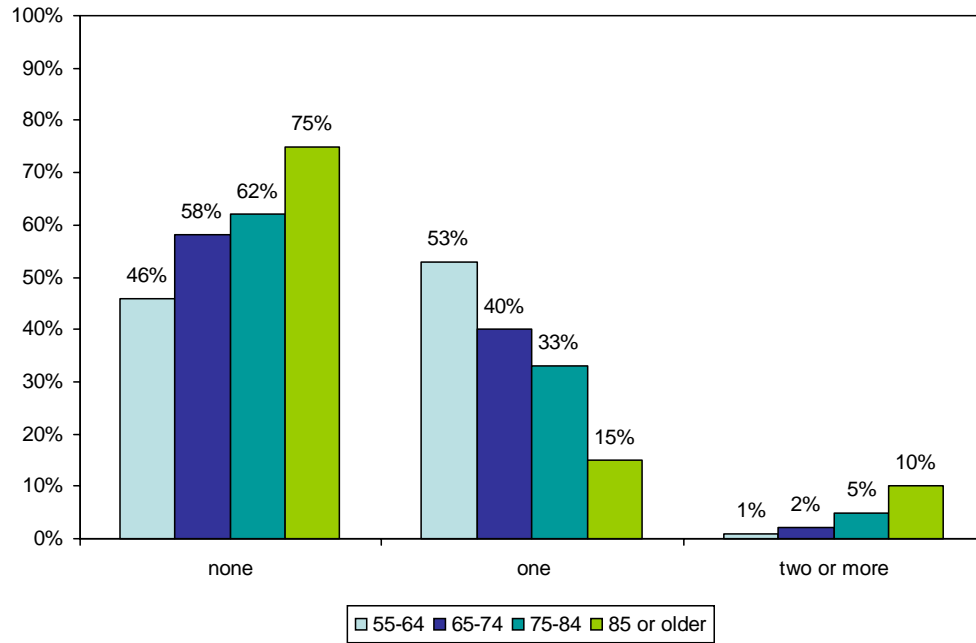


The results were further broken down as follows. The results were relatively consistent as Caucasian respondents (64 percent) and minority respondents (62 percent) generally indicated that they were the only senior residing in the household. However, 74 percent of African-American respondents indicated that they were the only senior residing in the household, while 41 percent of Hispanic respondents indicated as such. Female respondents (64 percent) were more likely as a percentage to be the only senior in the household as compared to the male respondents (54 percent). Predictably, older respondents were more likely to be the only senior in the household than younger respondents: 46 percent of respondents aged 55-64; 58 percent of respondents aged 65-74; 60 percent of respondents aged 75-84; and 75 percent of respondents aged 85 or older indicated as such.

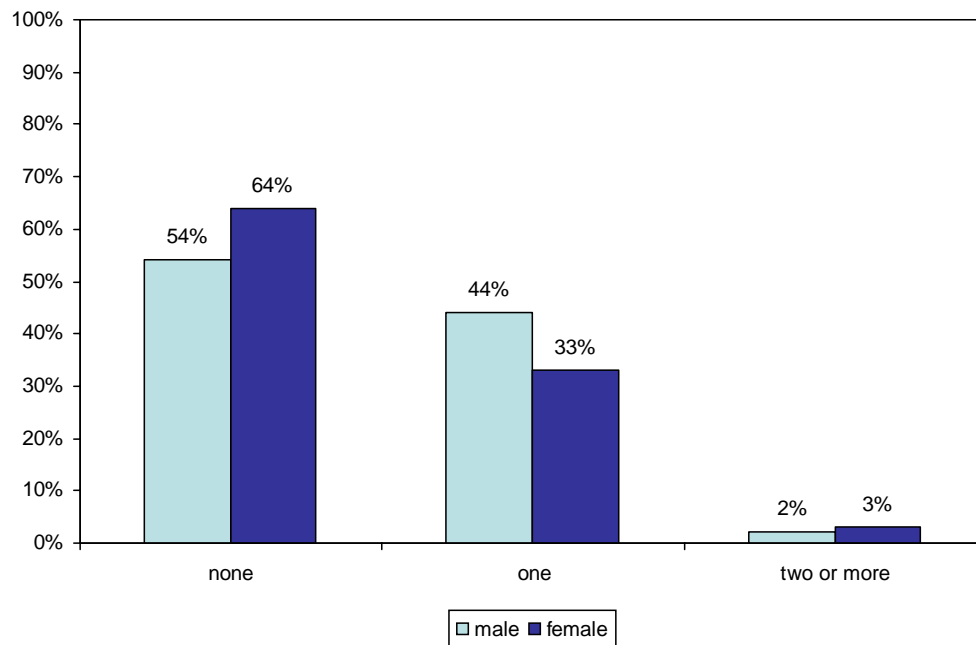
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How many seniors reside with the respondents by age.



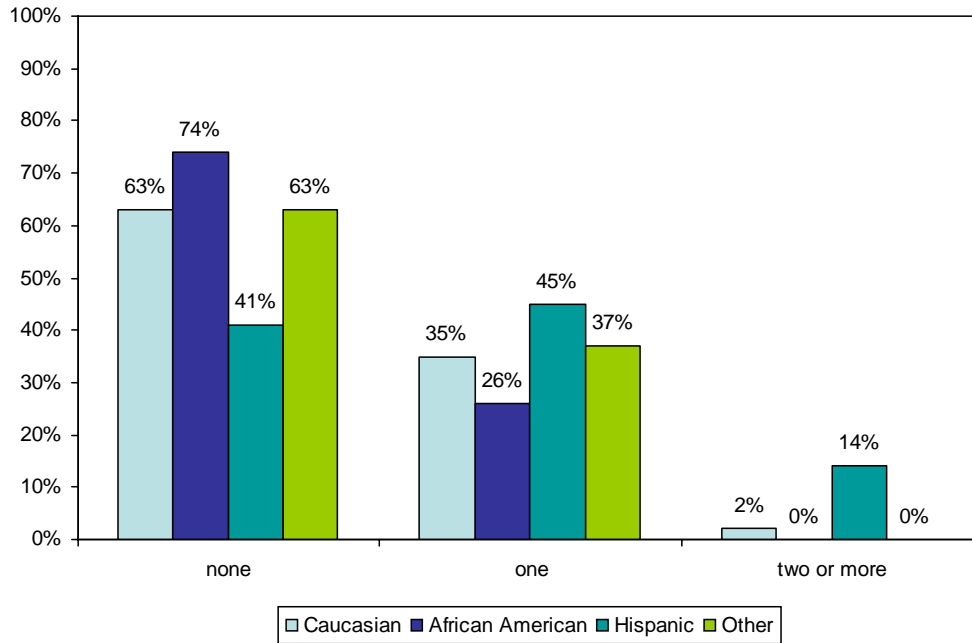
How many seniors reside with the respondents by gender.



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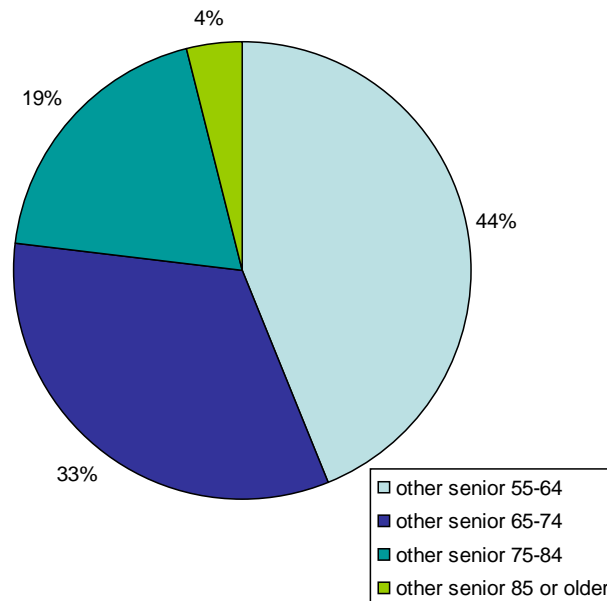
How many seniors reside with the respondents by race.



3b. Age of the other seniors.

Approximately 44 percent of respondents resided with another senior between the ages of 55 – 64; 33 percent of respondents resided with another senior between the ages of 65 – 74; 19 percent of respondents resided with another senior between the ages of 75 – 84; and 4 percent of respondents resided with another senior 85 years or older. There were 138 respondents to this question with

Age ranges of other seniors residing in the respondent's household.



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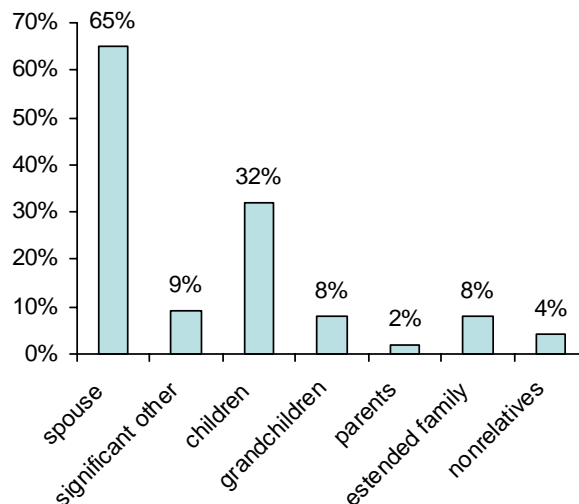
the results reflected in the following chart. [222 respondents indicated that they resided alone.]

3c. Who resides with the respondent.

As noted previously, 51 percent of respondents resided alone. 36 percent of the total respondents indicated that they resided with their spouse or a significant other. However, 177 respondents indicated that other individuals resided in their household, and the respondents were instructed to check all answer choices that applied. The results provided that 20 percent of respondents resided with their children or grandchildren (or their spouses' or significant others' children or grandchildren).

As noted previously, 177 respondents indicated that they resided with other individuals. Most of those respondents (65 percent) indicated that they resided with their spouses. Approximately 32 percent of those respondents indicated that they resided with their children or the children of their significant others.

Individuals residing in the respondent's household.



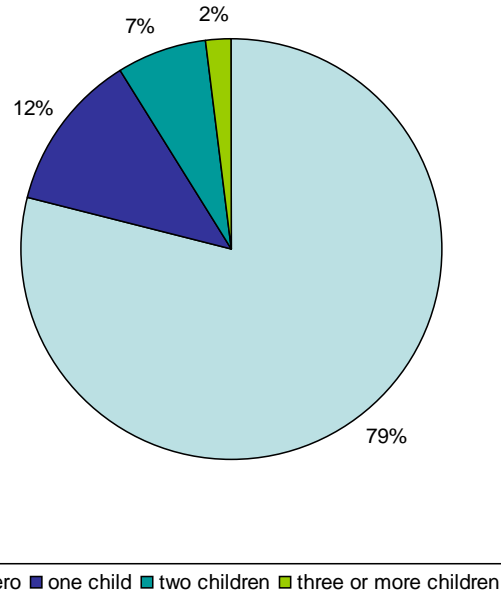
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3d. How many children or grandchildren under age 18 reside with you.

Approximately 79 percent of respondents indicated that no children, 18 years or under, resided in the respondent's household. Thus, 21 percent of respondents resided with children under the age of 18 years. While the previous question noted that 20 percent of the respondents resided with their own children or grandchildren (or their spouses' or significant others' children or grandchildren), it can be reasonably inferred that the remaining respondents resided with member of their extended family, some of whom may be under 18 years of age. All of the respondents responded to this question.

Number of children, 18 years or under, residing in the respondent's household.



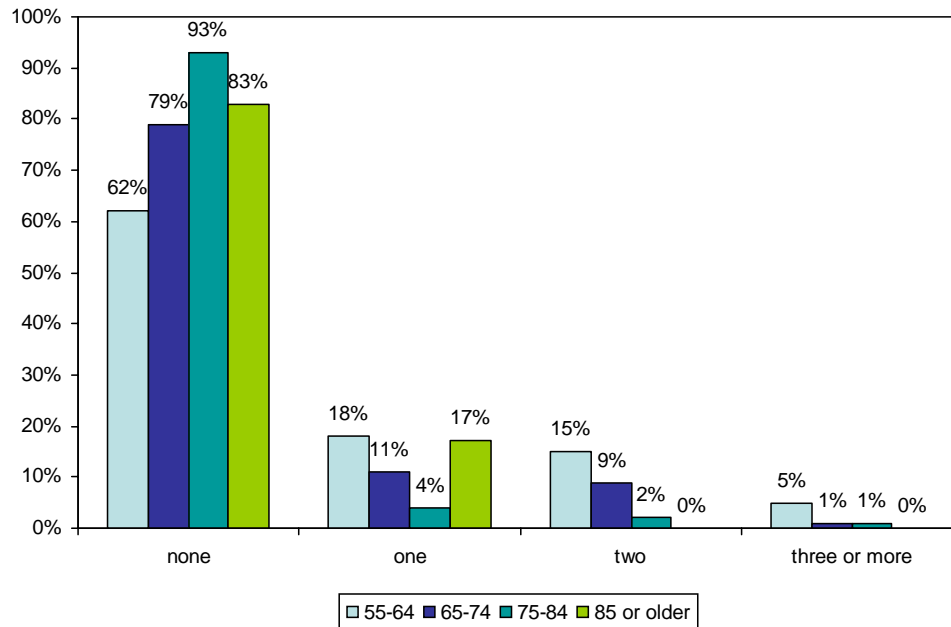
In sum, 283 respondents resided with zero children, 18 years and under; 43 respondents resided with one child, 18 years or under; 26 respondents resided with two children, 18 years or under; and eight respondents resided with three or more children, 18 years or under.

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The results were further broken down as follows with 22 percent of Caucasian respondents residing with children under 18 years of age. Only six percent of African-American respondents indicated as such. However, 38 percent of Hispanic respondents indicated that they resided with children under 18 years of age. More female respondents as a percentage (23 percent) resided with children under 18 years of age than male respondents (17 percent). The youngest group of respondents disproportionately resided with children under 18 years of age than compared with older respondents: 42 percent of respondents aged 55-64 indicated as such. The rates dropped as the respondents ages increased: 21 percent of respondents aged 65-74 and seven percent of respondents aged 75-84. However, the rate increased to 17 percent with respect to respondents aged 85 or older.

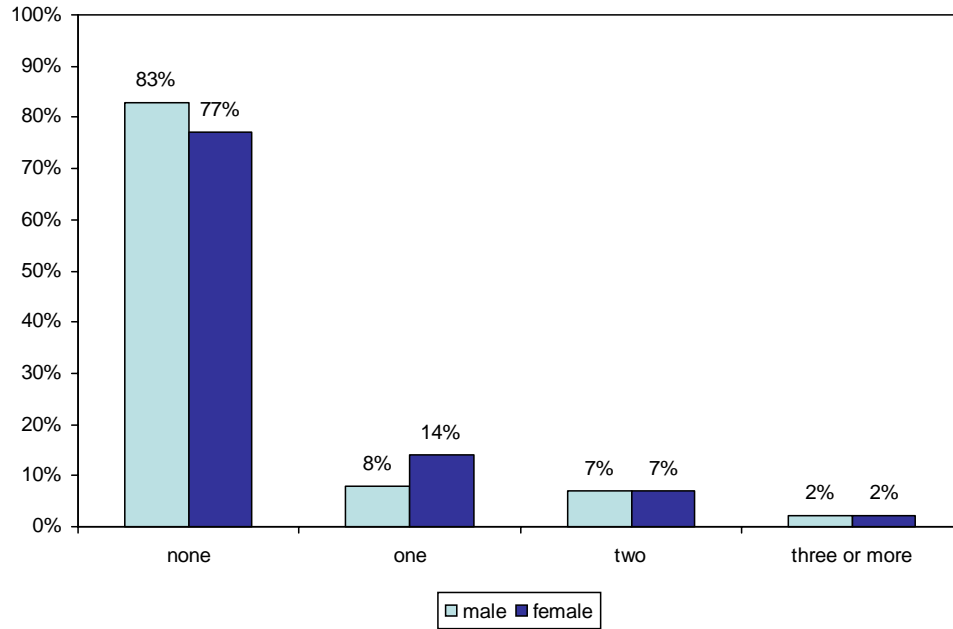
How many children reside with the respondents by age.



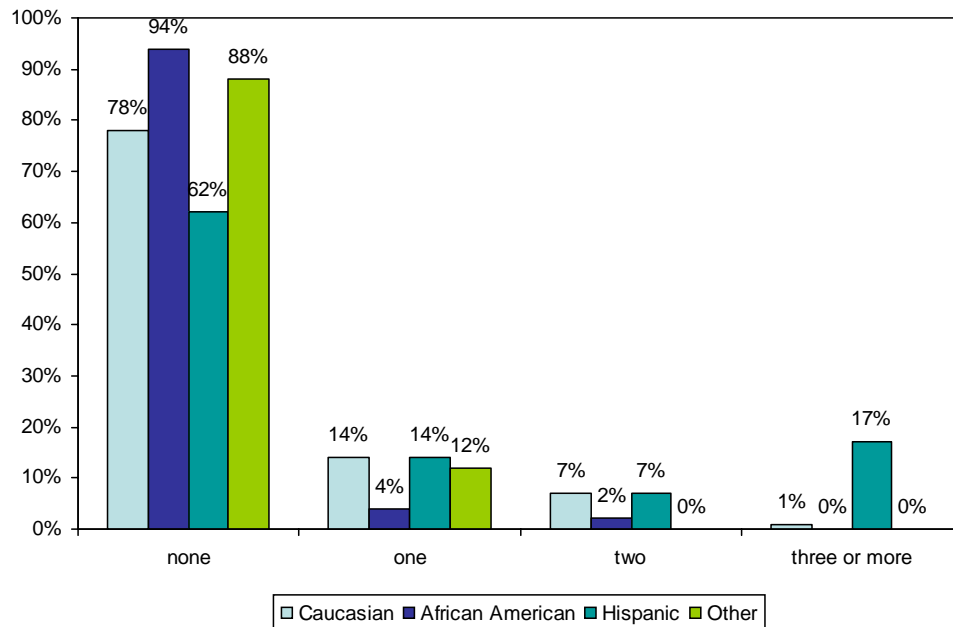
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How many children reside with the respondents by gender.



How many children reside with the respondents by race.



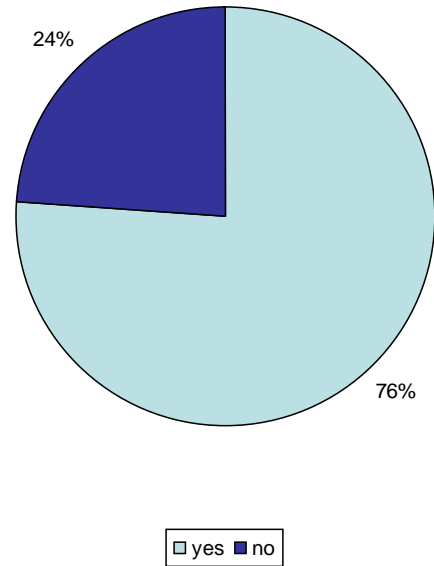
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3e. Are you satisfied with your current residence?

Approximately 76 percent of respondents indicated that they were satisfied with their current housing situation. There were 12 respondents, who did not answer this question; thus, 348 out of 360 respondents answered the question; and 263 respondents answered “yes, while 85 respondents answered “no.”

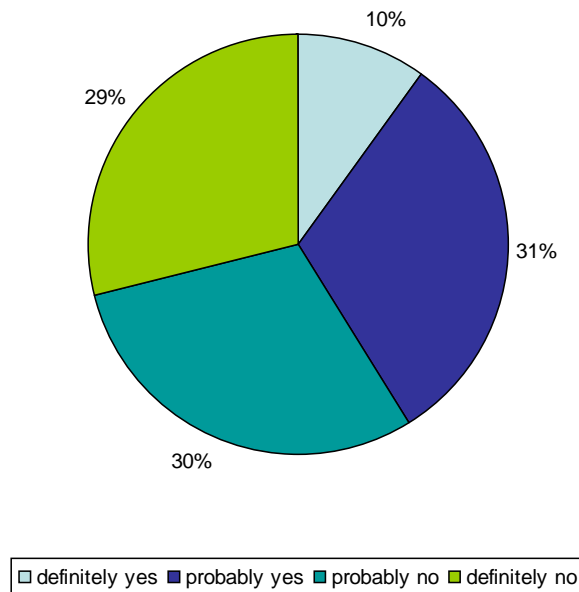
Whether respondents were satisfied with their current housing situation.



4. Do you plan to move in the future?

Only 10 percent of respondents indicated that they definitely wanted to move from their current housing situation. Another 31 percent of respondents indicated that they would probably move. 30 percent of respondents indicated that they probably would not move, and 29 percent of respondents indicated that they definitely would not move.

Whether respondents plan on moving.



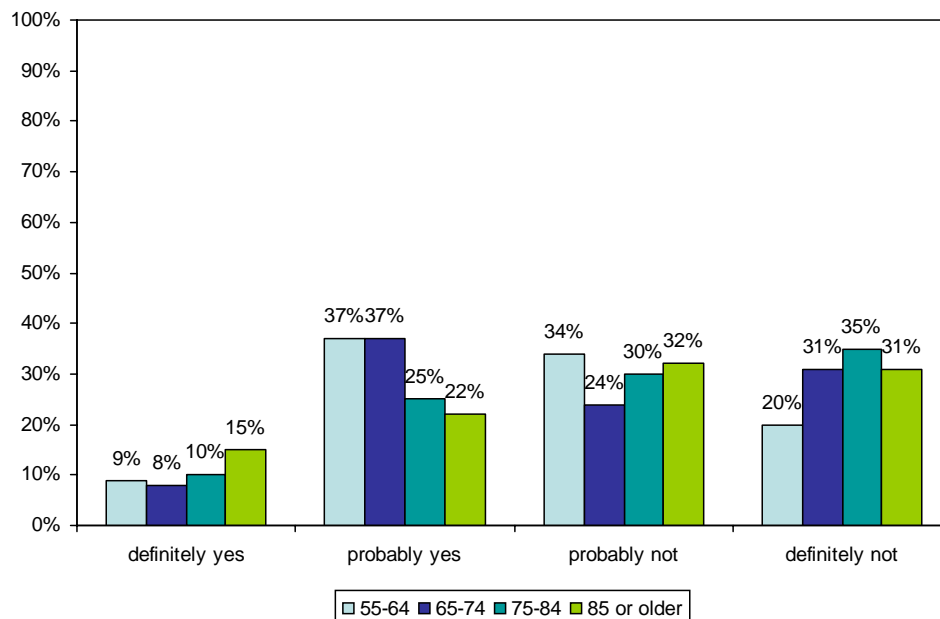
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Respondents who answered “definitely not” to this question were directed to skip to question number seven. There were six respondents, who did not answer this question; thus, 354 out of 360 respondents answered the question. In sum, 36 respondents answered “definitely yes,” 110 respondents answered “probably yes,” 106 respondents answered “probably not,” and 102 respondents answered “definitely not.”

The results were further broken down as follows. Older respondents were less likely, as a percentage, to move than younger respondents: 32 percent of respondents aged 85 or older indicated that they would “definitely not” move. Conversely, 19 percent of respondents aged 55-64; 33 percent of respondents aged 65-74; and 35 percent of respondents aged 75-84 indicated that they would “definitely not” move. More female respondents (33 percent) than male respondents (22 percent) planned on “definitely not” moving. African-American respondents (47 percent) were less likely to move than Caucasian respondents (27 percent) or Hispanic respondents (18 percent), in terms of responding “definitely not” planning to move.

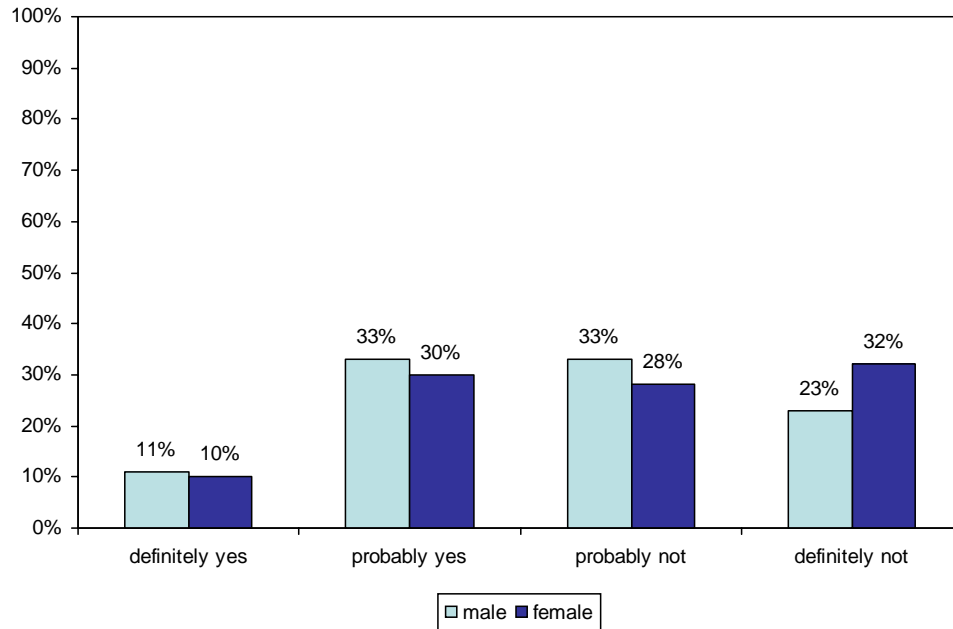
Whether the respondents plan on moving in the future by age.



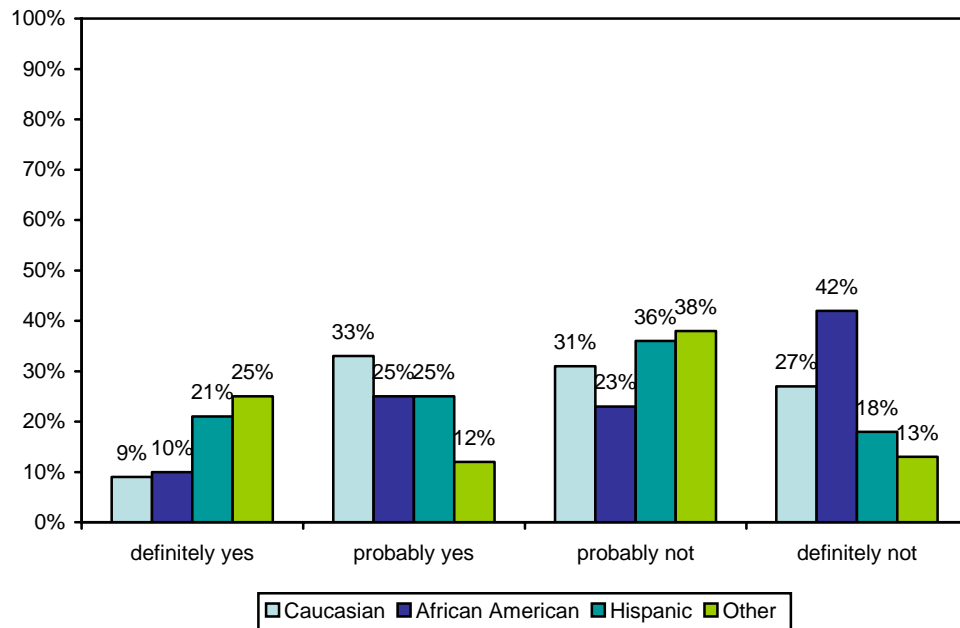
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Whether the respondents plan on moving in the future by gender.



Whether the respondents plan on moving in the future by race.



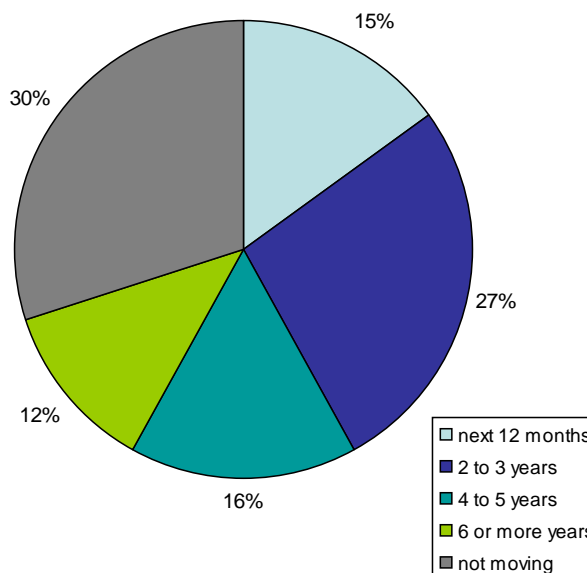
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5. When do you think that you will want/need to move?

Approximately 15 percent of respondents indicated that they planned on moving within the next 12 months. Another 27 percent of respondents indicated that they planned on moving within the next two to three years; 16 percent of respondents indicated that they planned on moving within the next four to five years; and 12 percent of respondents indicated that they planned on moving in six years or more. Finally, 30 percent of respondents indicated that they had no plans to move.

When respondents plan on moving.



There were seven respondents, who did not answer this question, and 102 respondents, who skipped this question based on their response to question number four; thus, 251 out of 334 respondents answered the question. The following table demonstrates the raw number per answer choice for this question.

	Next 12 months	2 to 3 years	4 to 5 years	6 or more years	No plans to move
Overall totals	38	67	40	31	75

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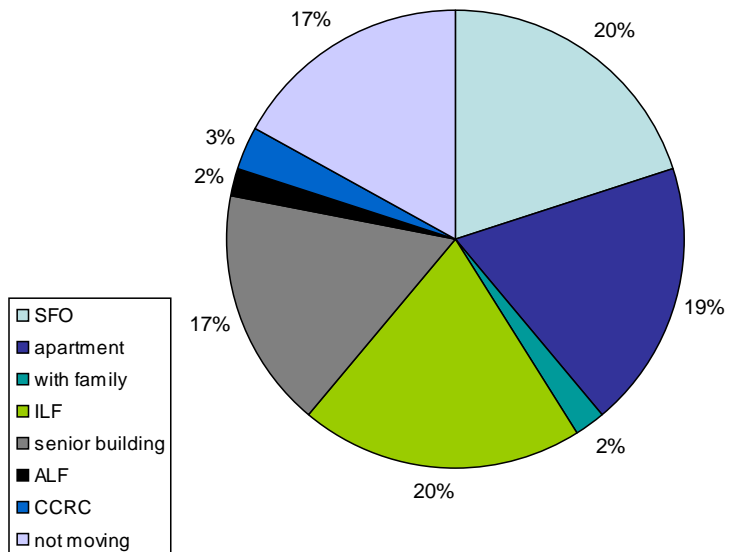
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6. To what style housing would you prefer to move?

In sum, 59 percent of respondents indicated that they preferred to move to a single family home, an apartment or condominium, or an independent living facility. Another 17 percent of respondents indicated that they did not plan on moving. However, 22 percent of respondents indicated that they wanted to move in to a facility with some sort of services, i.e., senior building with services, CCRC, or ALF. None of the respondents indicated that they wanted to move to a nursing home.

The survey provided the following answer choices: single family home; apartment or condo; move in with relatives or friends; independent living facility (senior housing facility without services); senior building with services; continuing care retirement community; assisted living facility; and not moving. Thus, the chart on the following page reflects those answer choices as percentages.

Housing preferences of respondents.



There were four respondents, who did not answer this question, and 102 respondents, who skipped this question based on their response to question number four; thus, 254 out of 360 respondents answered the question.

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The following table provides the respondents' answers in raw numbers.

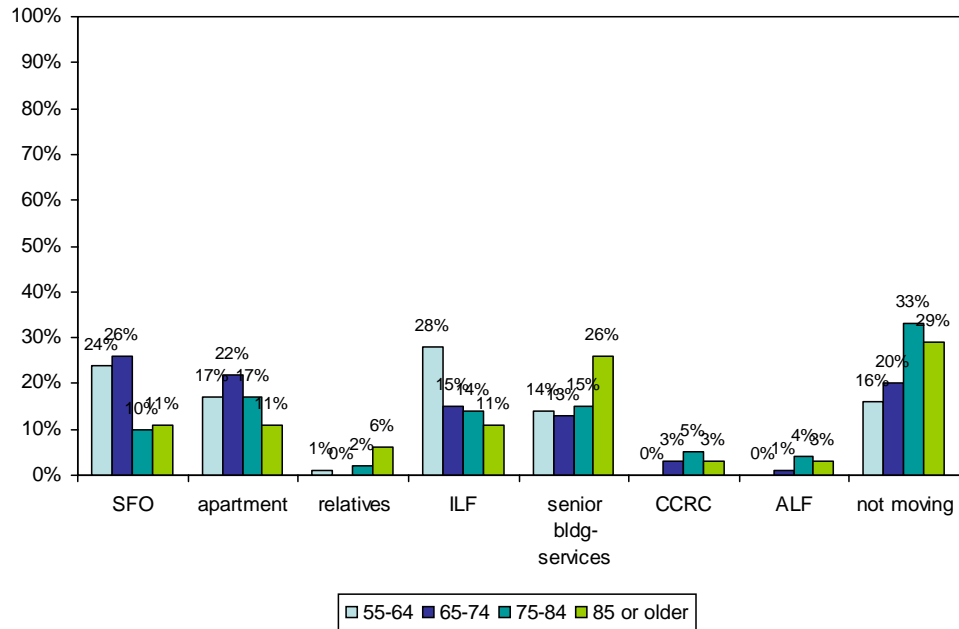
	Single family home	Apartment or condo	With relatives or friends	ILF	Senior building with services	CCRC	ALF	Not moving
Overall totals	50	48	4	52	44	7	6	43

The results were further broken down as follows. The results were relatively consistent with respect to respondents indicating that they wanted to move to senior housing according to race: Caucasian respondents (45 percent) African-American respondents (43 percent); and Hispanic respondents (39 percent) indicated that they wanted to reside in some sort of senior housing. However, the rates dropped significantly as to whether respondents wanted to live in senior housing with some type of services. Thus, 25 percent of Caucasian respondents, 22 percent of Hispanic respondents, and 18 percent of African-American respondents indicated that they wanted to reside in senior housing with some sort of services. The responses to this question varied with respect to age, as the youngest and the oldest respondents were more likely as a percentage to prefer some sort of senior housing: 42 percent of respondents aged 55-64 and 43 percent of seniors aged 85 or older preferred some sort of senior housing. Conversely, 33 percent of respondents aged 65-74 and 37 percent of respondents aged 75-84 preferred some sort of senior housing. The rates shifted when dealing with only senior housing with services. 31 percent of respondents aged 85 or older; 23 percent of respondents aged 75-84; 18 percent of respondents aged 65-74; and 14 percent of respondents aged 55-64 preferred senior housing with services.

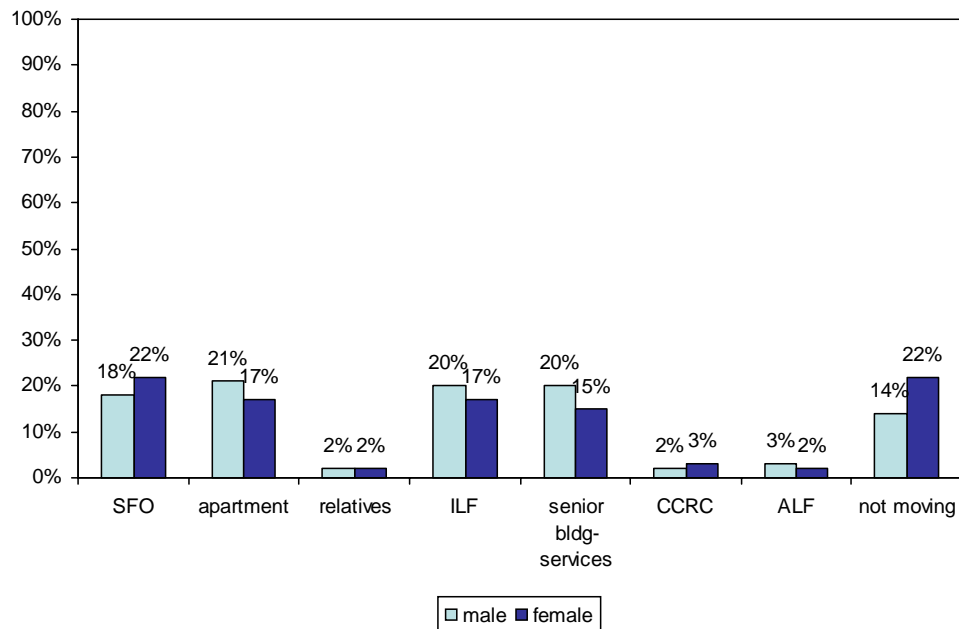
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Housing preferences of respondents by age.



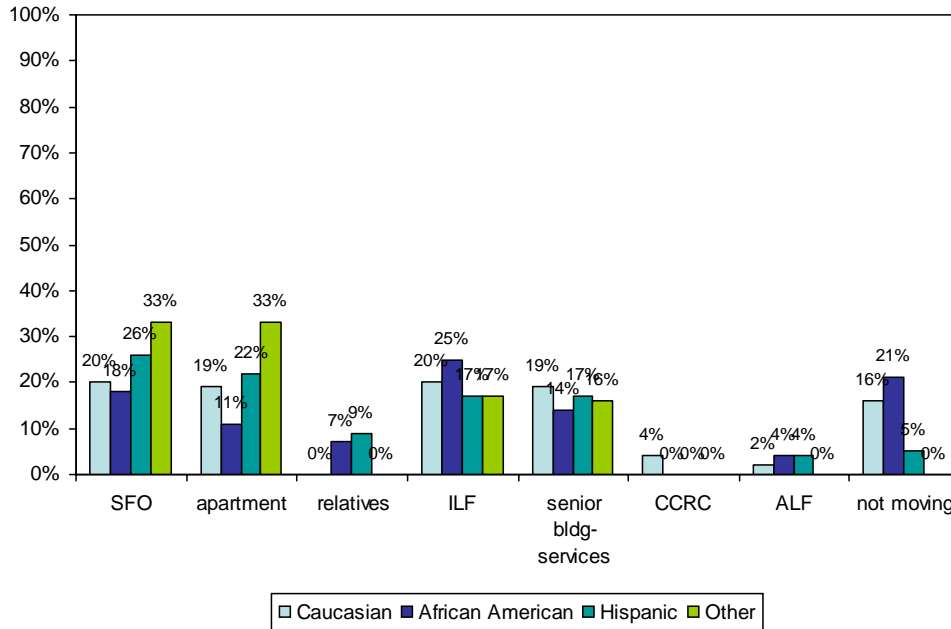
Housing preferences of respondents by gender.



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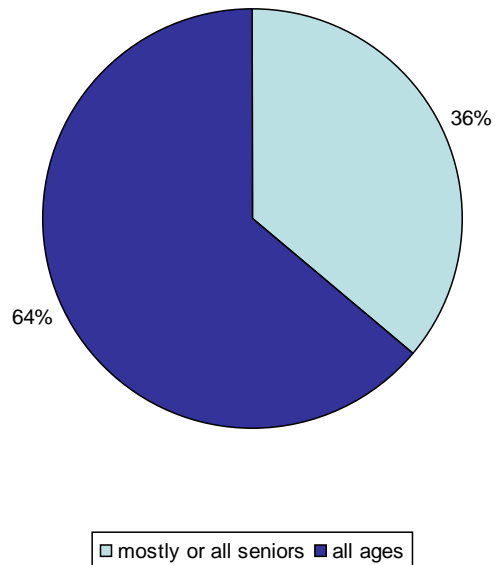
Housing preferences of respondents by race.



7a. Would you prefer to live with seniors only, or with people of all ages?

Approximately 64 percent of respondents indicated that they preferred to live with people of all ages. There were 10 respondents, who did not answer this question; thus, 350 out of 360 respondents answered the question. In sum, 127 respondents answered “mostly or all seniors,” while 223 respondents answered “all ages.”

Age preferences of respondents.

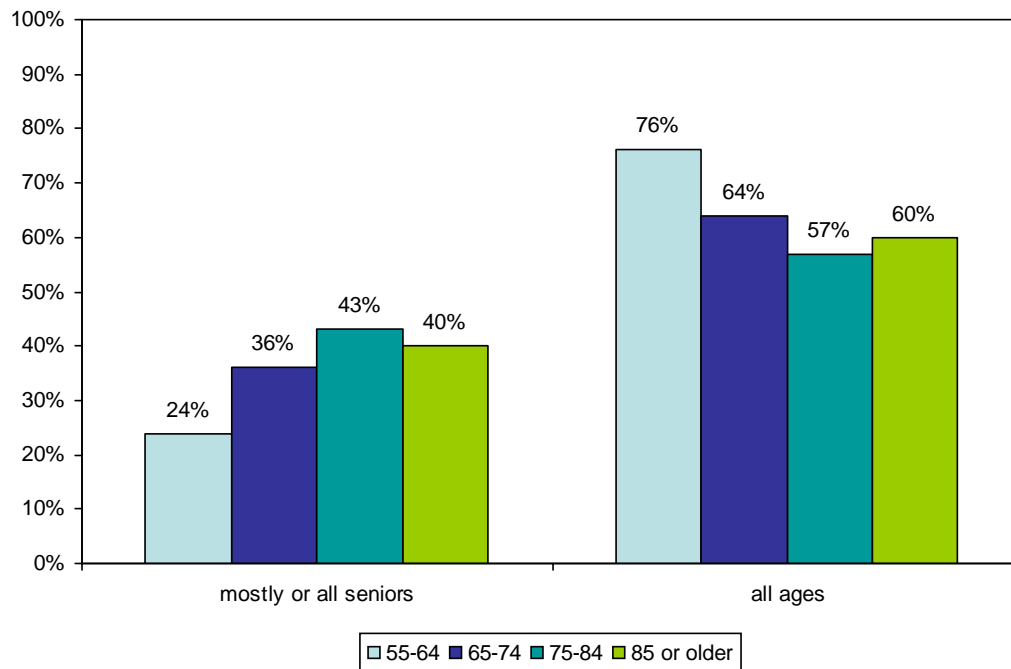


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The results were further broken down as follows. The results were relatively consistent with respect to Caucasian respondents (68 percent) and Hispanic respondents (67 percent) preferring to reside in communities with a wide range of ages. Conversely, 45 percent of African-American respondents preferred to reside in communities with a wide range of ages. Younger respondents preferred to reside in communities with people of all ages than did older respondents: respondents aged 55-64 (76 percent); respondents aged 65-74 (64 percent); respondents aged 75-84 (57 percent); and respondents aged 85 or older (60 percent).

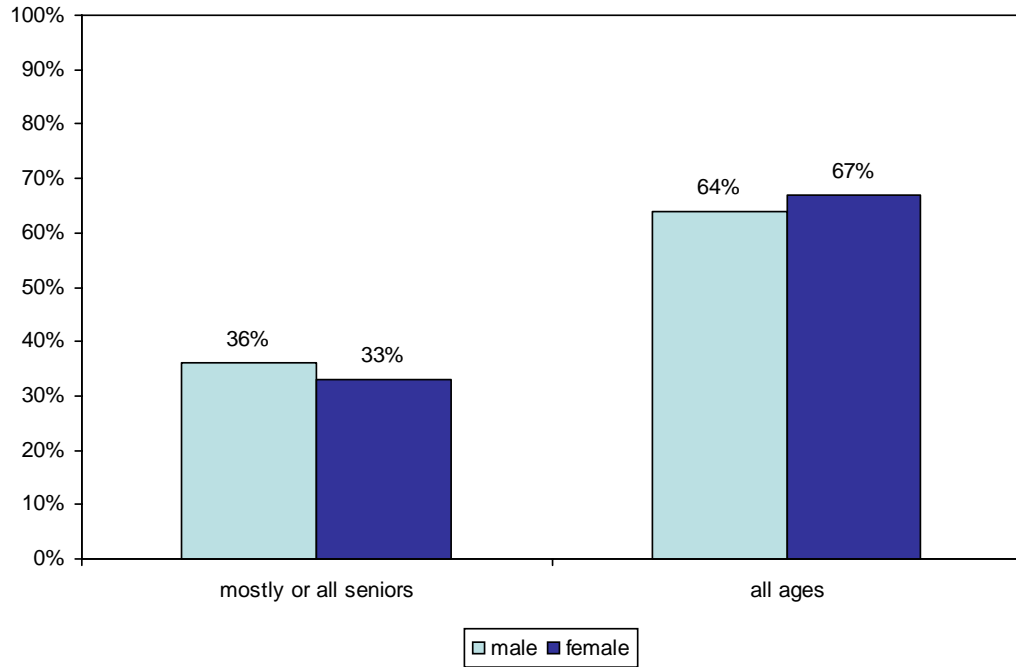
Responses by age.



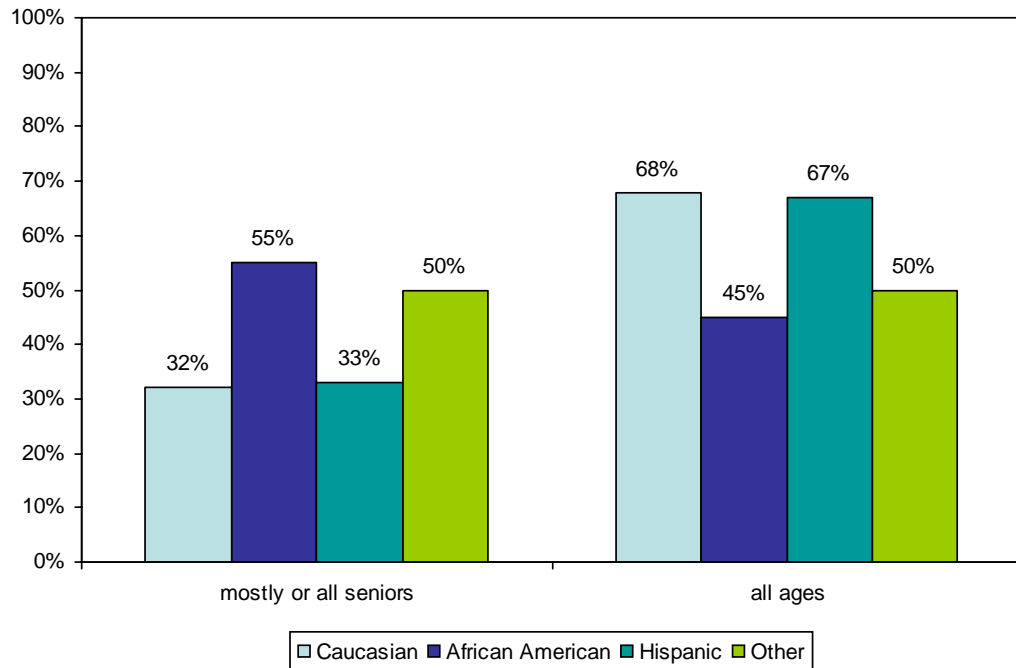
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Responses by gender.



Responses by race.



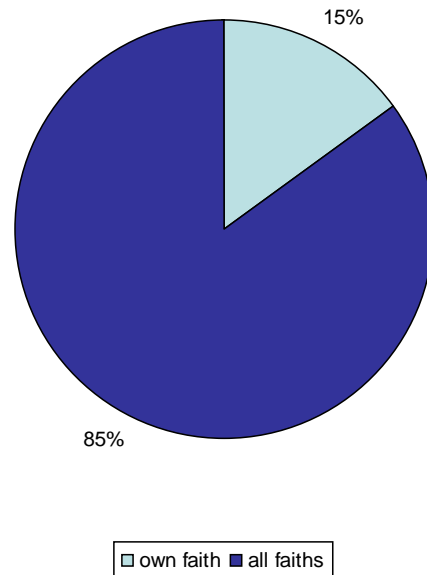
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7b. Would you prefer to live with people of your own faith, or with people of all faiths?

Approximately 85 percent of respondents indicated that they preferred to live with people of all faiths. There were 10 respondents, who did not answer this question; thus, 350 out of 360 respondents answered the question. In sum, 54 respondents answered “own faith,” while 296 respondents answered “all faiths.”

Faith preferences of respondents.

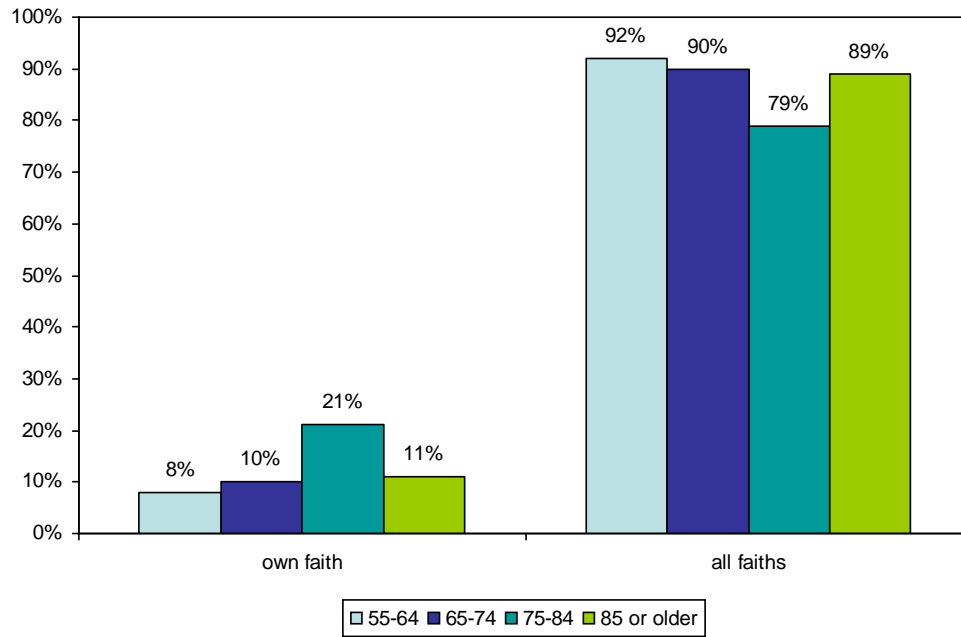


The results were further broken down as follows. The results were consistent among the sub-categories with respect to their preference for residing in communities with religious diversity with most sub-categories ranging from 83 to 92 percent. The one slight anomaly was that 79 percent of respondents aged 75-84 preferred to reside in communities with religious diversity.

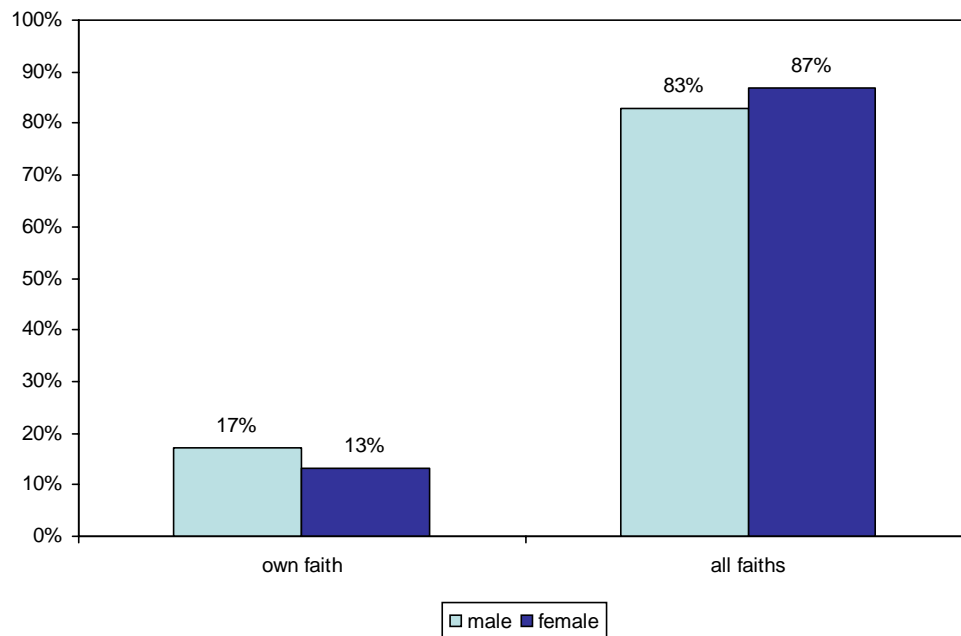
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Responses by age.



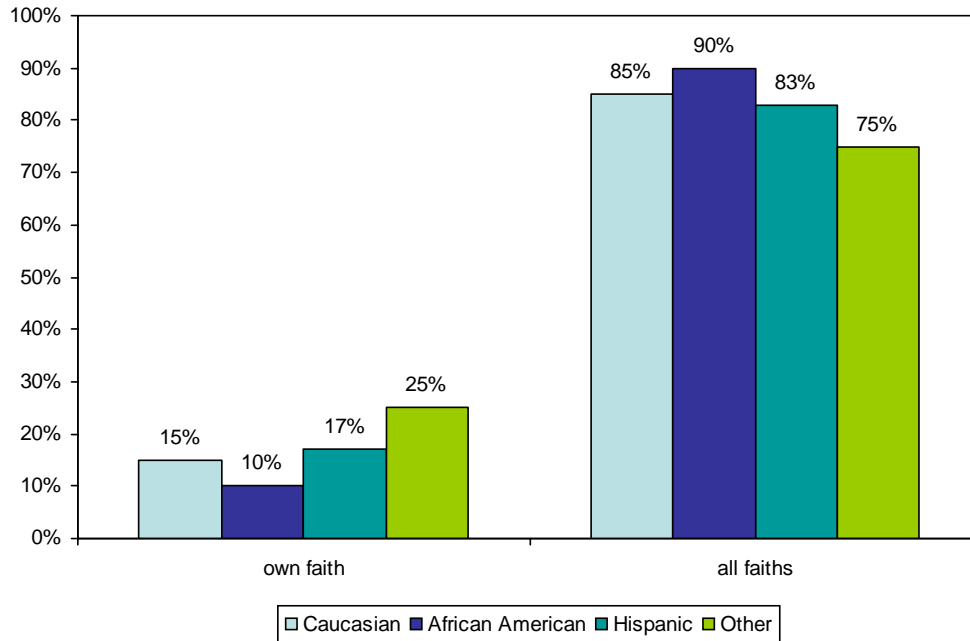
Responses by gender.



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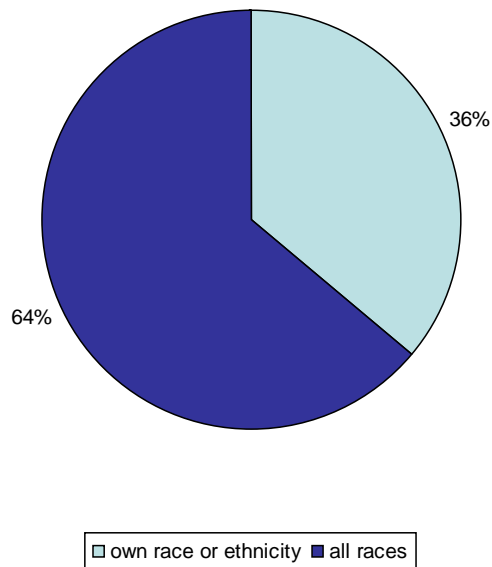
Responses by race.



7c. Would you prefer to live mostly with people of your racial or ethnic group or in a community with many types of people?

Approximately 64 percent of respondents indicated that they preferred to live with all types of different people, whereas 36 percent of respondents indicated that they preferred to live primarily with their own race or ethnic group. There were 12 respondents, who did not answer this question; thus, 348 out of 360 respondents answered the question.

Racial or ethnic group preferences of respondents.



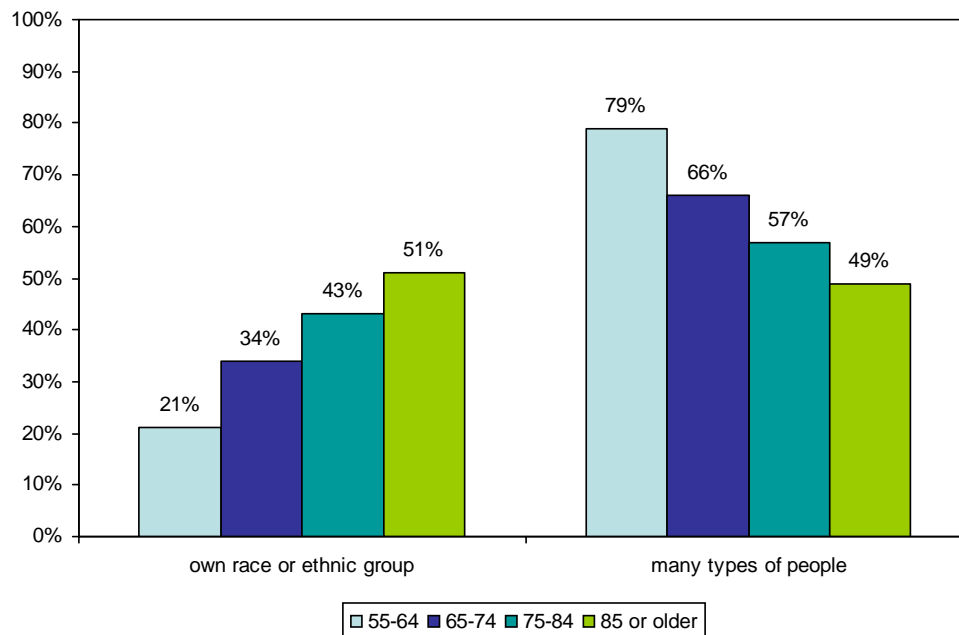
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In sum, 127 respondents answered “own race or ethnic group,” while 221 respondents answered “many types of people.”

The results were further broken down as follows. The results were relatively consistent with respect to gender: 65 percent of female respondents and 64 percent of male respondents preferred to reside in diverse communities. Overwhelmingly, 96 percent of African-American respondents preferred to reside in diverse communities, while 60 percent of Caucasian respondents preferred to reside in diverse communities, while 60 percent of Caucasian respondents and 69 percent of Hispanic respondents indicated that they preferred to reside in diverse communities. The age of the respondent clearly demonstrated some evidence of racial preference as respondents aged. Here, 79 percent of respondents aged 55-64; 66 percent of respondents aged 65-74; 57 percent of respondents aged 75-84; and 49 percent of respondents aged 85 or older preferred to reside in diverse communities.

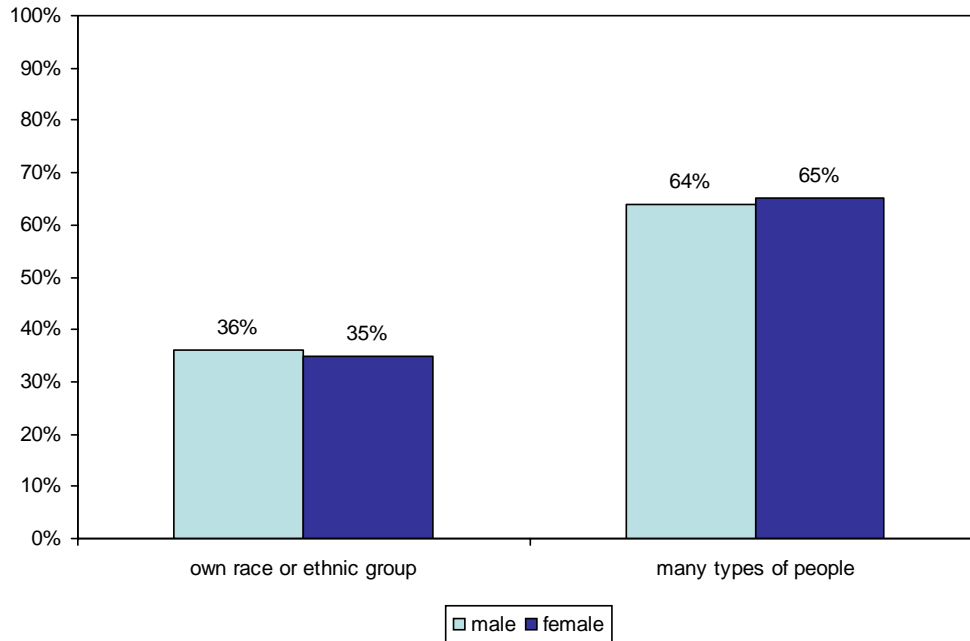
Responses by age.



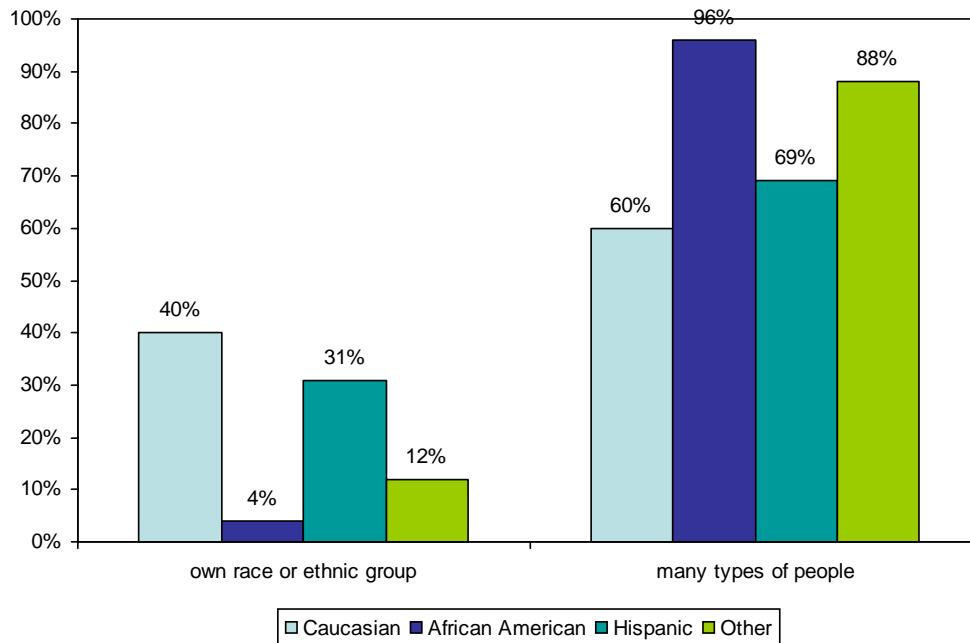
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Responses by gender.



Responses by race.



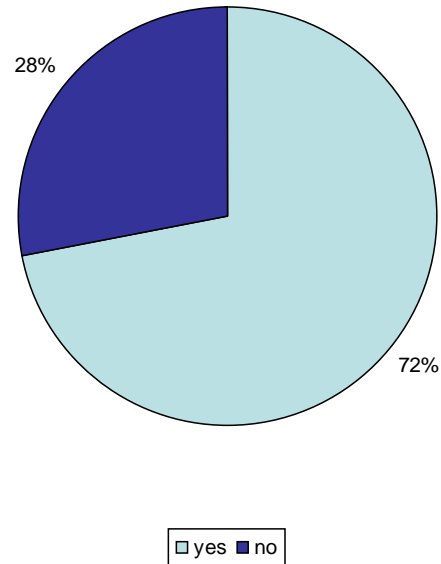
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7d. Would it be important to have a community with access to cultural and recreational activities, or would this not be important to you?

Approximately 72 percent of respondents indicated that they preferred to have access to cultural and recreational activities. There were eight respondents, who did not answer this question; thus, 352 out of 360 respondents answered the question; and 254 respondents answered “yes, while 98 respondents answered “no.” In sum, 254 respondents answered “yes, important to have activities close by,” while 98 respondents answered “no, activities close by would not be important.”

Proximity to cultural and recreational activities.



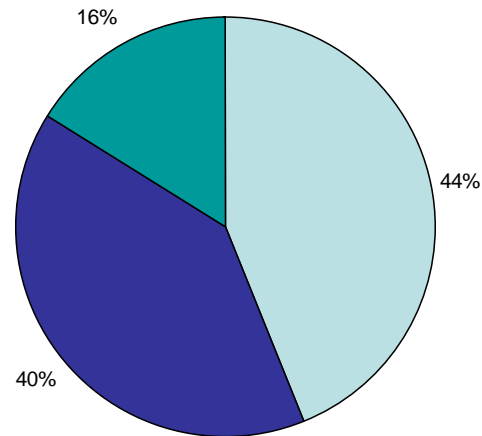
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- 8. Please indicate whether that service would be not at all important, somewhat important or very important to you in choosing a housing provider.**

Approximately 44 percent of respondents indicated that housekeeping assistance was not important to them. Conversely, 40 percent of respondents indicated that housekeeping assistance was somewhat important, and 16 percent of respondents indicated that such assistance was very important.

Housekeeping assistance.



□ not important ■ somewhat important ■ very important

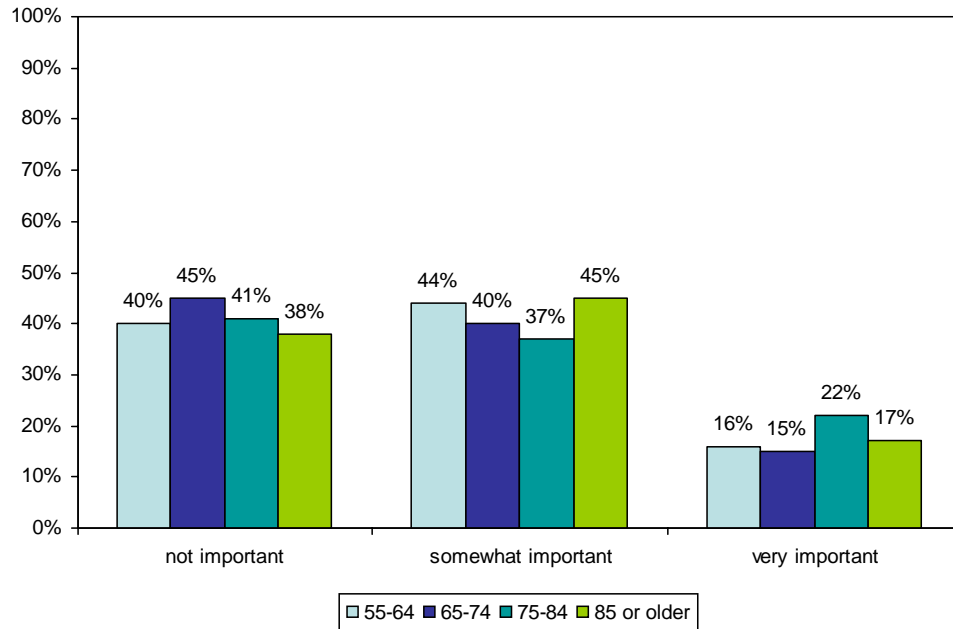
In sum, 157 respondents answered “not important,” 145 respondents answered “somewhat important,” and 58 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 31 percent indicated not important; 39 percent indicated somewhat important; and 30 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 47 percent; somewhat important, 41 percent; and very important, 12 percent.

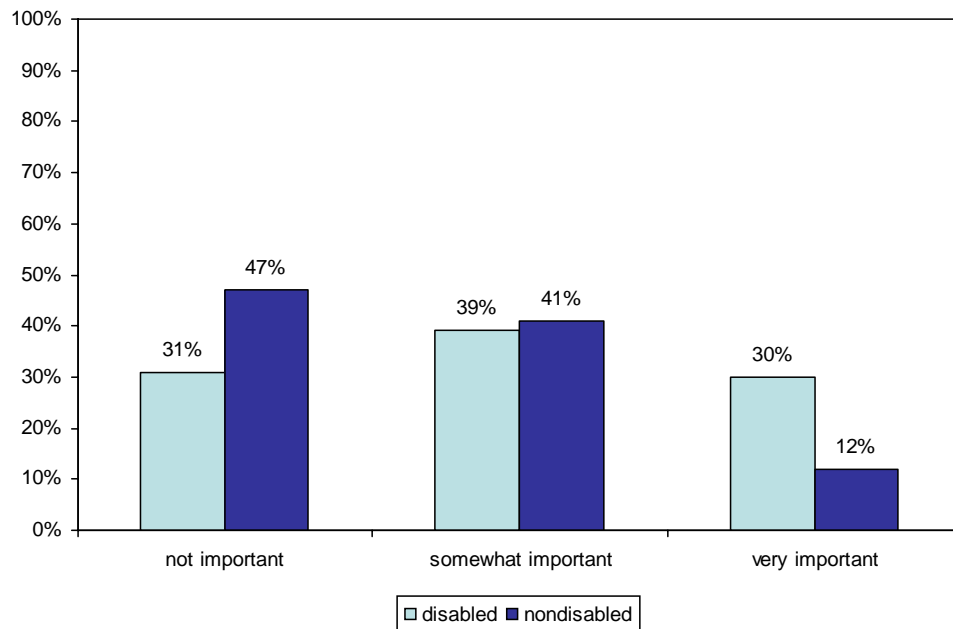
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Importance of housekeeping assistance to respondents by age.



Importance of housekeeping assistance to respondents by disability.

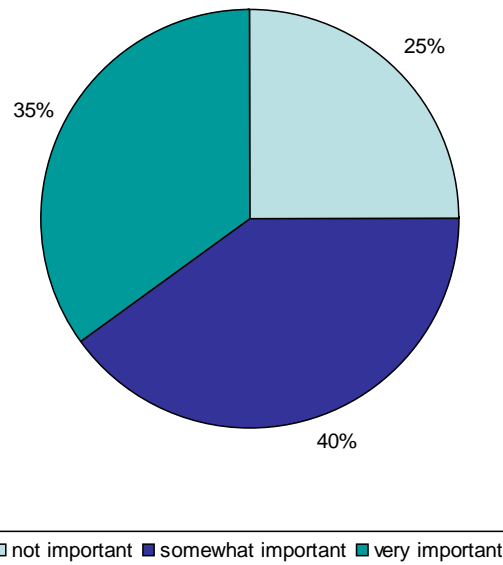


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Approximately 25 percent of respondents indicated that home maintenance was not important to them. Conversely, 40 percent of respondents indicated that home maintenance was somewhat important, and 35 percent of respondents indicated that such assistance was very important.

Home maintenance.



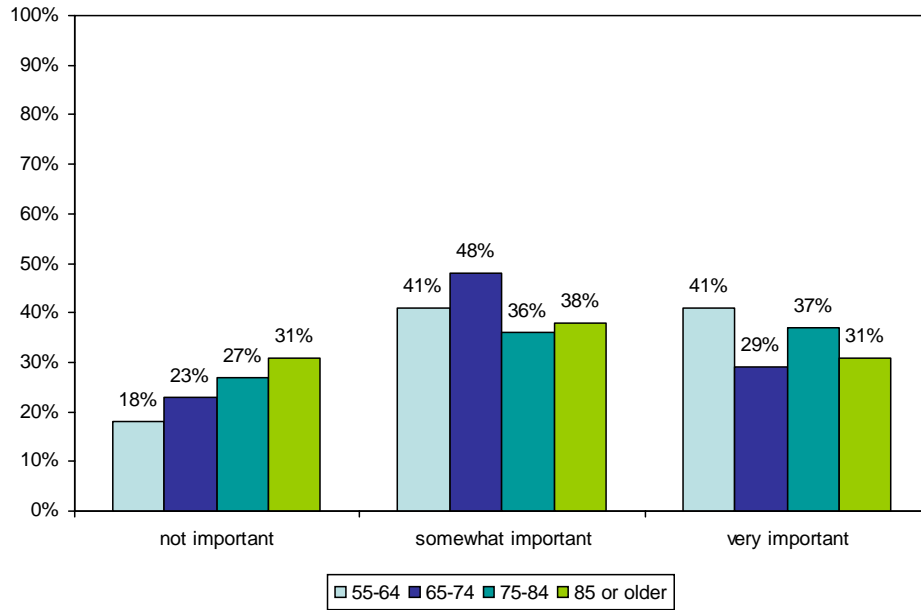
In sum, 90 respondents answered “not important,” 144 respondents answered “somewhat important,” and 126 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 19 percent indicated not important; 24 percent indicated somewhat important; and 57 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 27 percent; somewhat important, 45 percent; and very important, 28 percent.

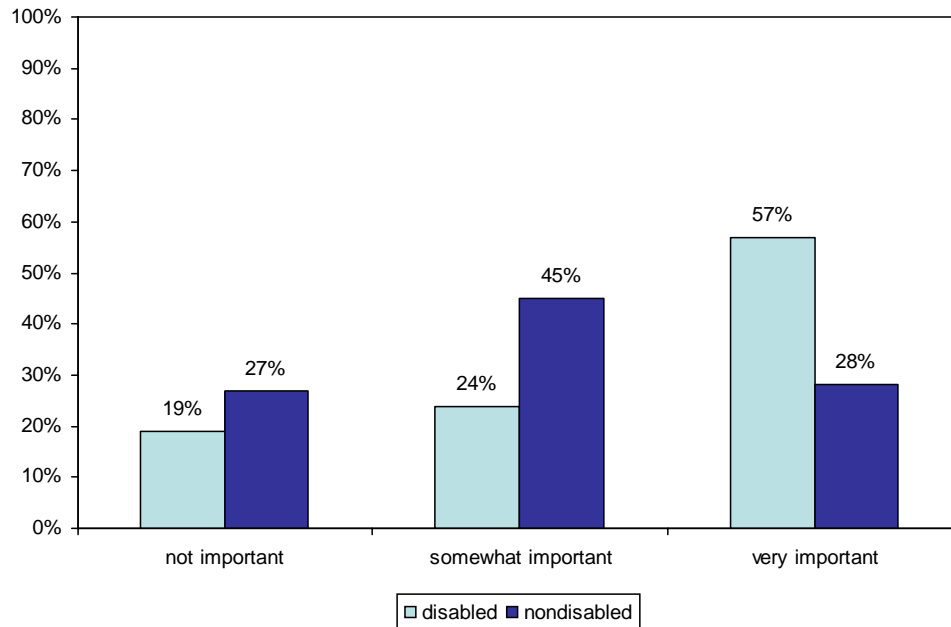
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Importance of home maintenance to respondents by age.



Importance of home maintenance to respondents by disability.

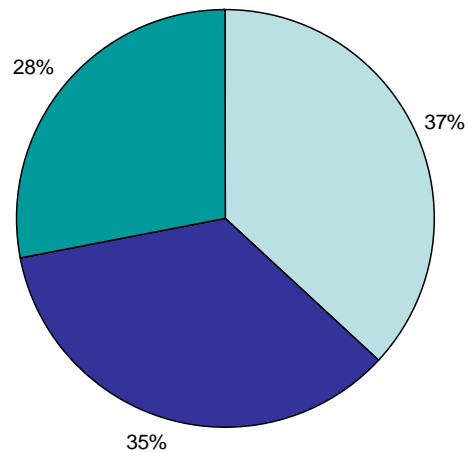


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Approximately 37 percent of respondents indicated that laundry service was not important to them. Conversely, 35 percent of respondents indicated that laundry service was somewhat important, and 28 percent of respondents indicated that such assistance was very important.

Laundry service.



□ not important ■ somewhat important ■ very important

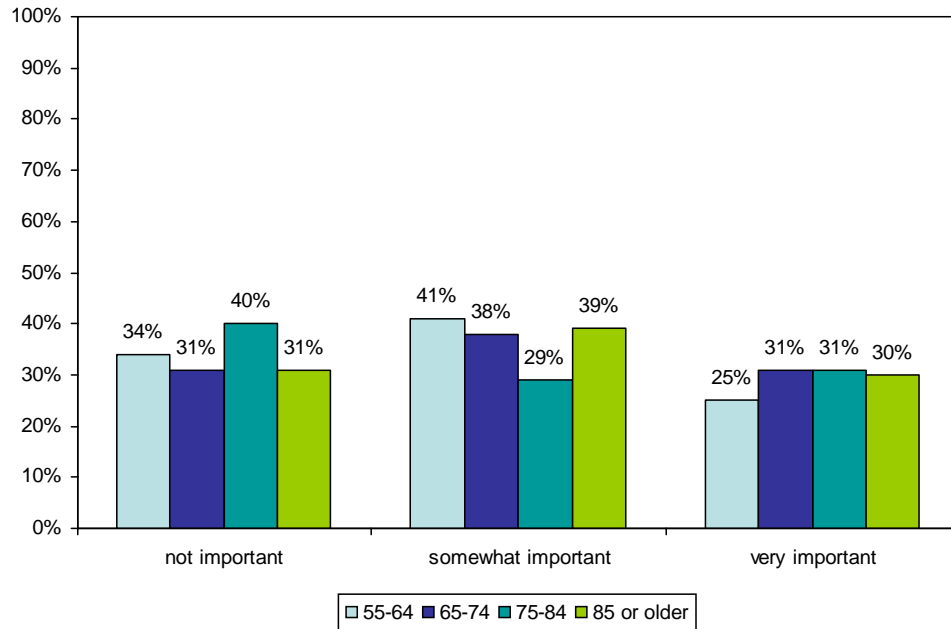
In sum, 133 respondents answered “not important,” 127 respondents answered “somewhat important,” and 100 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 30 percent indicated not important; 29 percent indicated somewhat important; and 41 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 39 percent; somewhat important, 37 percent; and very important, 23 percent.

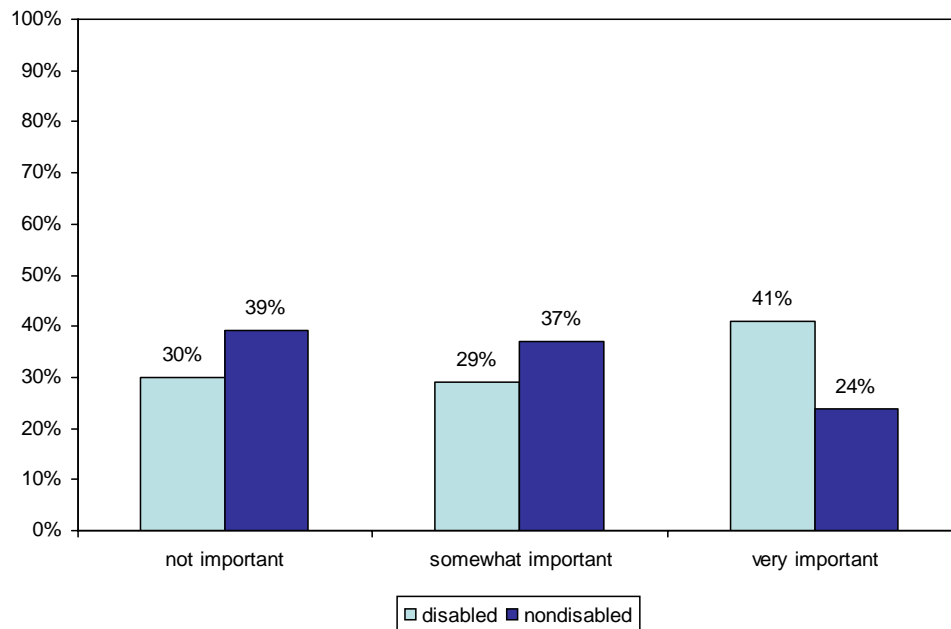
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Importance of laundry service to respondents by age.



Importance of laundry service to respondents by disability.

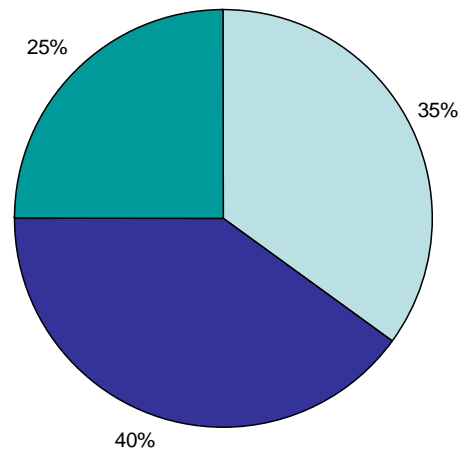


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Approximately 35 percent of respondents indicated that planned social and recreational activities were not important to them. Conversely, 40 percent of respondents indicated that such activities were somewhat important, and 25 percent of respondents indicated that such activities were very important.

Planned social and recreational activities.



□ not important ■ somewhat important ■ very important

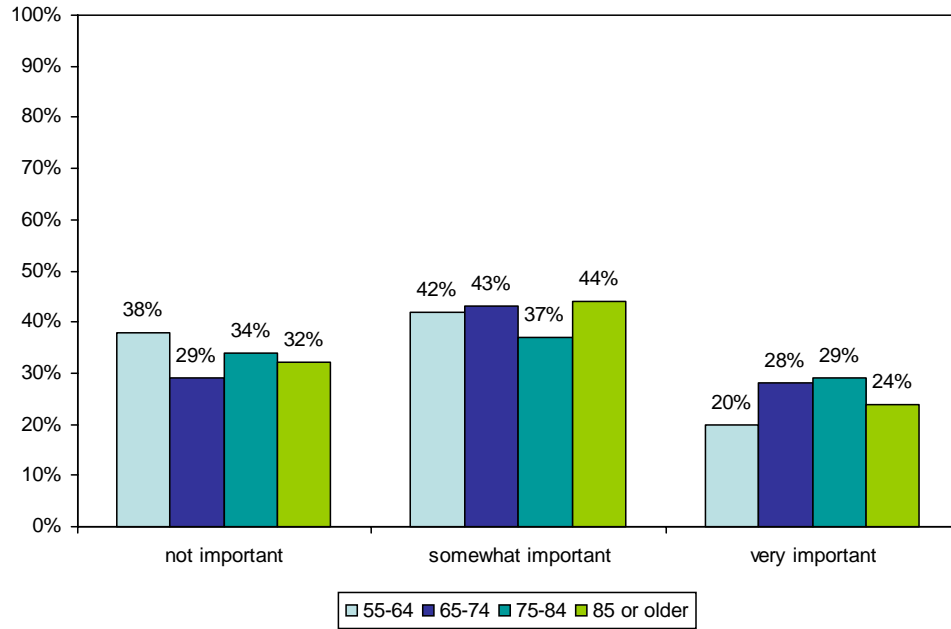
In sum, 133 respondents answered “not important,” 127 respondents answered “somewhat important,” and 100 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 30 percent indicated not important; 35 percent indicated somewhat important; and 35 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 39 percent; somewhat important, 36 percent; and very important, 25 percent.

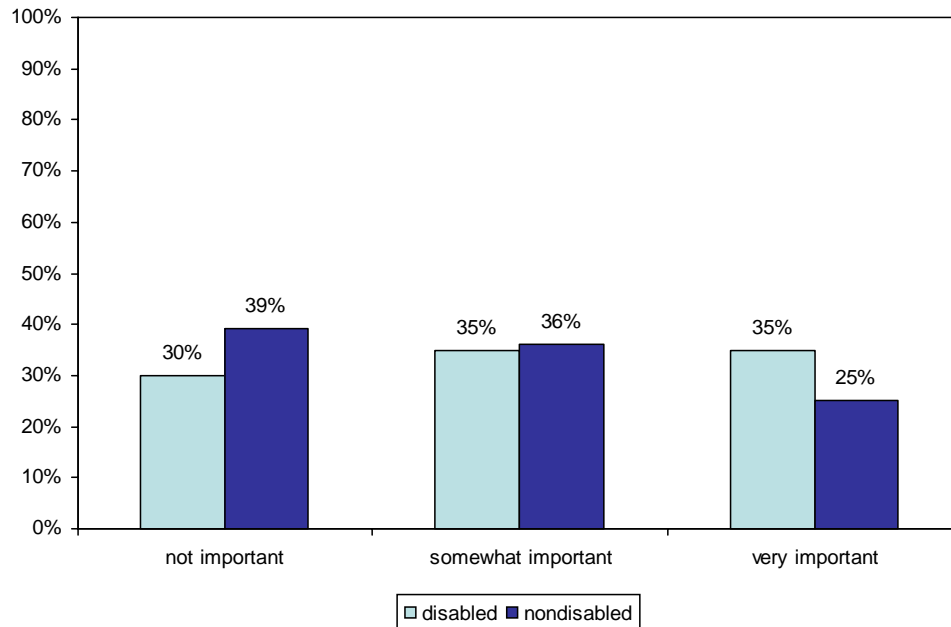
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Importance of planned social and recreational activities to respondents by age.



Importance of planned social and recreational activities to respondents by disability.

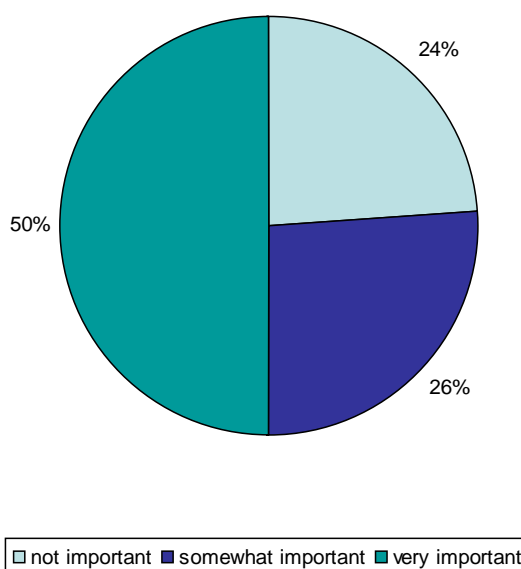


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Approximately 24 percent of respondents indicated that general medical services were not important to them. Conversely, 26 percent of respondents indicated that such services were somewhat important, and 50 percent of respondents indicated that such services were very important.

General medical services.



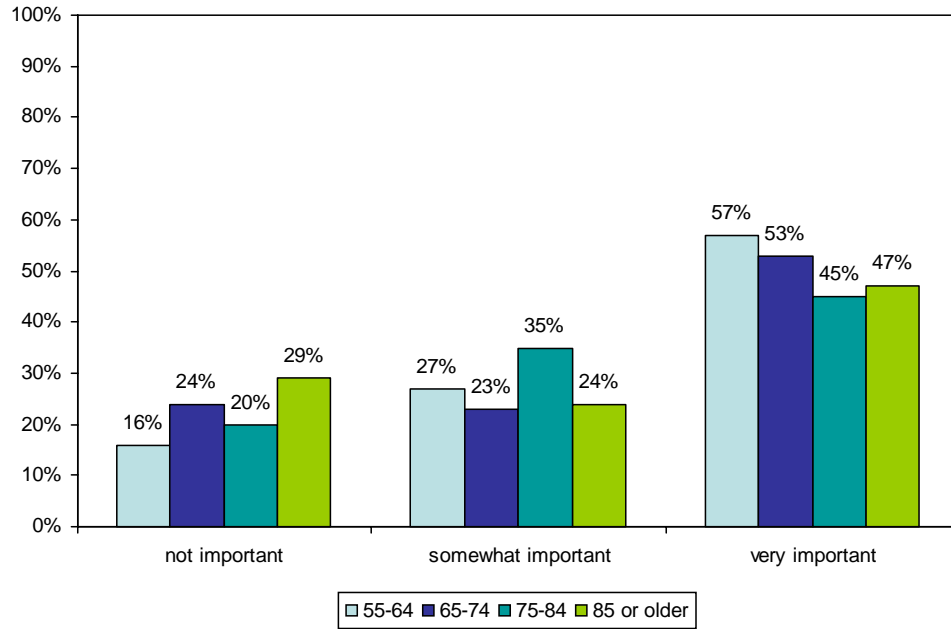
In sum, 85 respondents answered “not important,” 92 respondents answered “somewhat important,” and 183 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 23 percent indicated not important; 27 percent indicated somewhat important; and 50 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 24 percent; somewhat important, 25 percent; and very important, 51 percent.

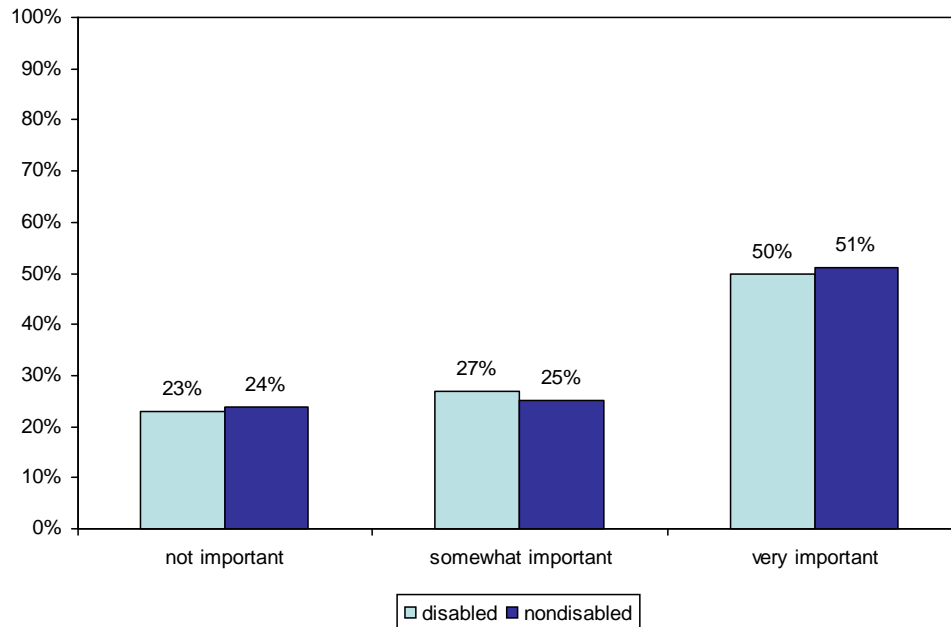
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Importance of general medical services to respondents by age.



Importance of general medical services to respondents by disability.

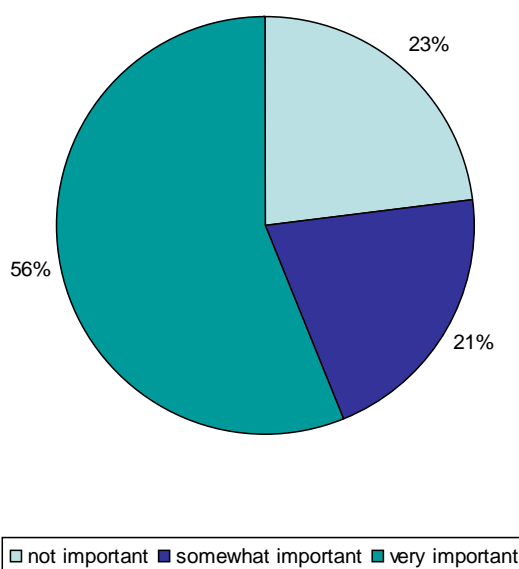


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Approximately 23 percent of respondents indicated that emergency medical help was not important to them. Conversely, 21 percent of respondents indicated that such help was somewhat important, and 56 percent of respondents indicated that such help was very important.

Emergency medical help.



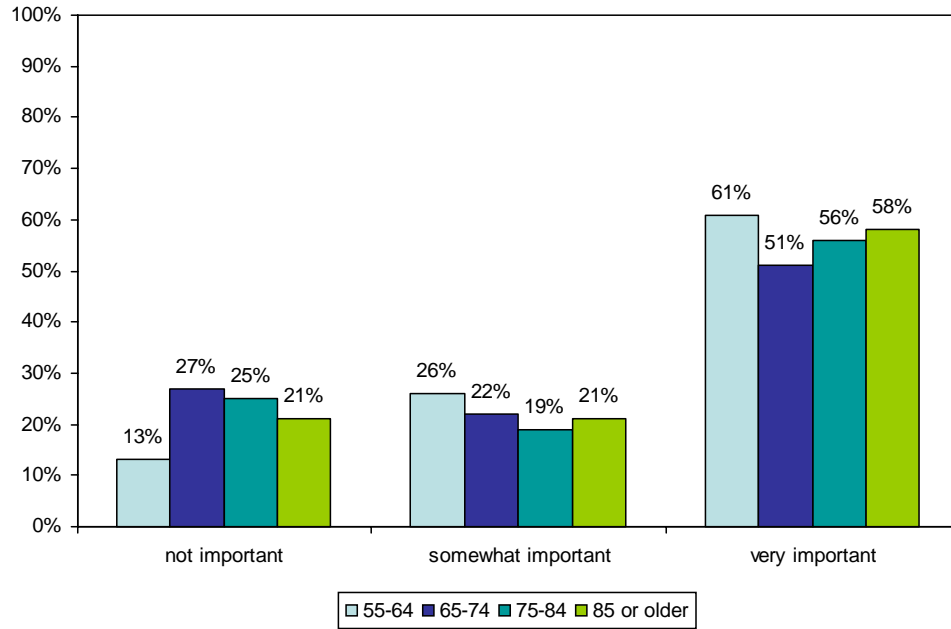
In sum, 83 respondents answered “not important,” 77 respondents answered “somewhat important,” and 200 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 19 percent indicated not important; 23 percent indicated somewhat important; and 58 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 24 percent; somewhat important, 21 percent; and very important, 55 percent.

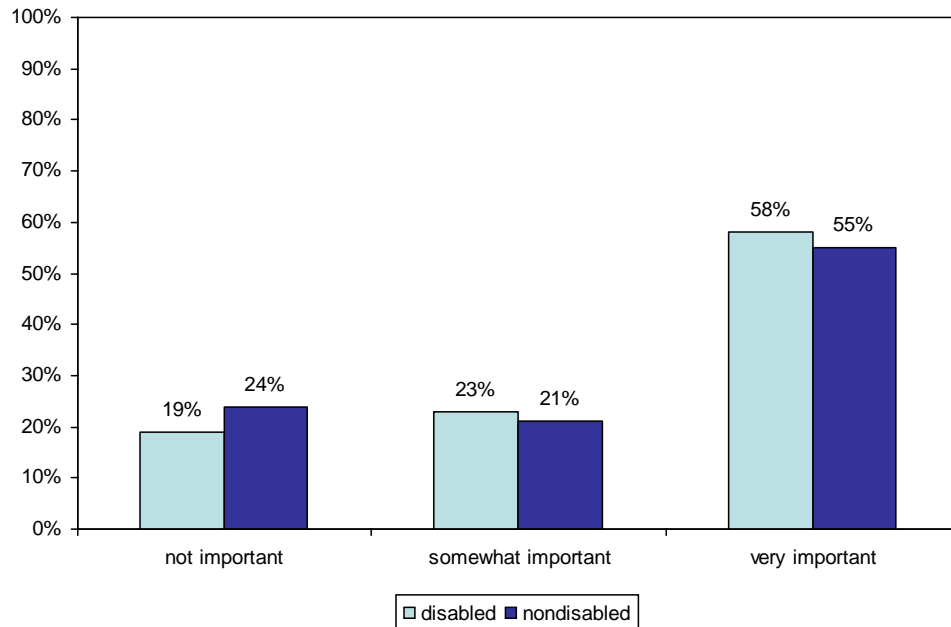
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Importance of emergency medical help to respondents by age.



Importance of emergency medical help to respondents by disability.

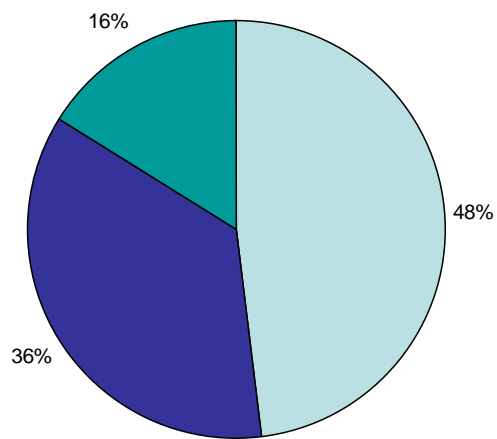


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Approximately 48 percent of respondents indicated that personal hygiene assistance was not important to them. Conversely, 36 percent of respondents indicated that such assistance was somewhat important, and 16 percent of respondents indicated that such assistance was very important.

Personal hygiene assistance.



□ not important ■ somewhat important ■ very important

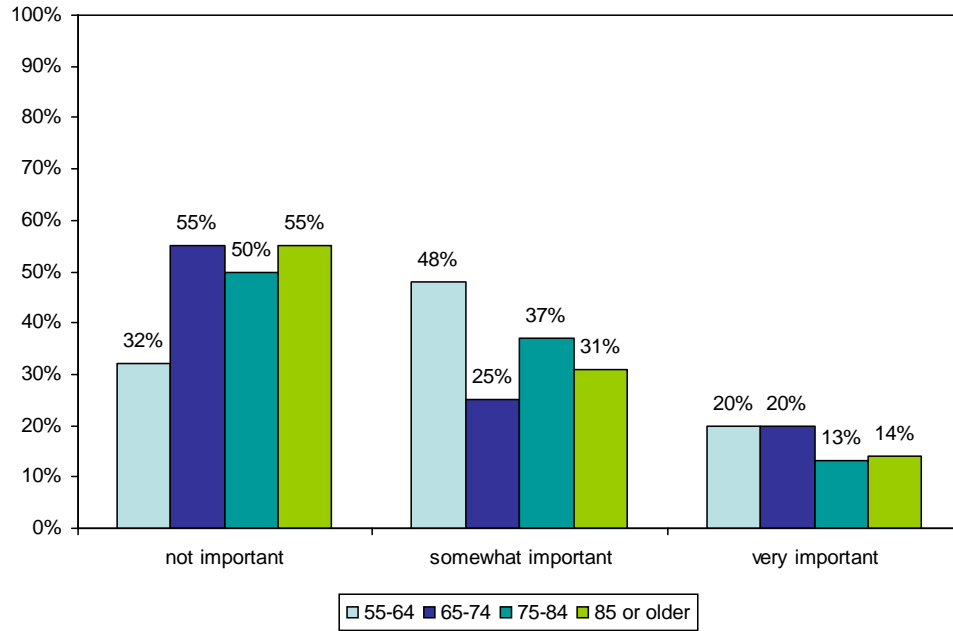
In sum, 172 respondents answered “not important,” 128 respondents answered “somewhat important,” and 60 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 44 percent indicated not important; 38 percent indicated somewhat important; and 18 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 49 percent; somewhat important, 35 percent; and very important, 16 percent.

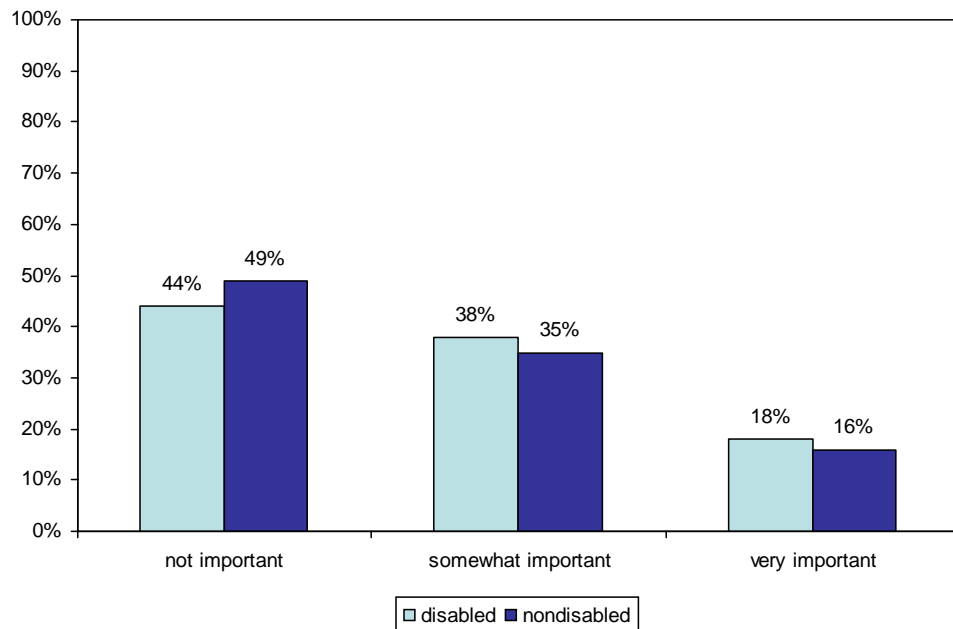
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Importance of personal hygiene assistance to respondents by age.



Importance of personal hygiene assistance to respondents by disability.

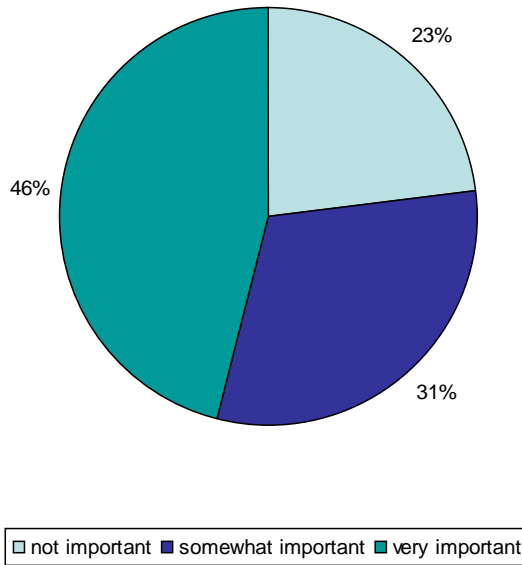


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Approximately 23 percent of respondents indicated that transportation service was not important to them. Conversely, 31 percent of respondents indicated that such service was somewhat important, and 46 percent of respondents indicated that such service was very important.

Transportation service.



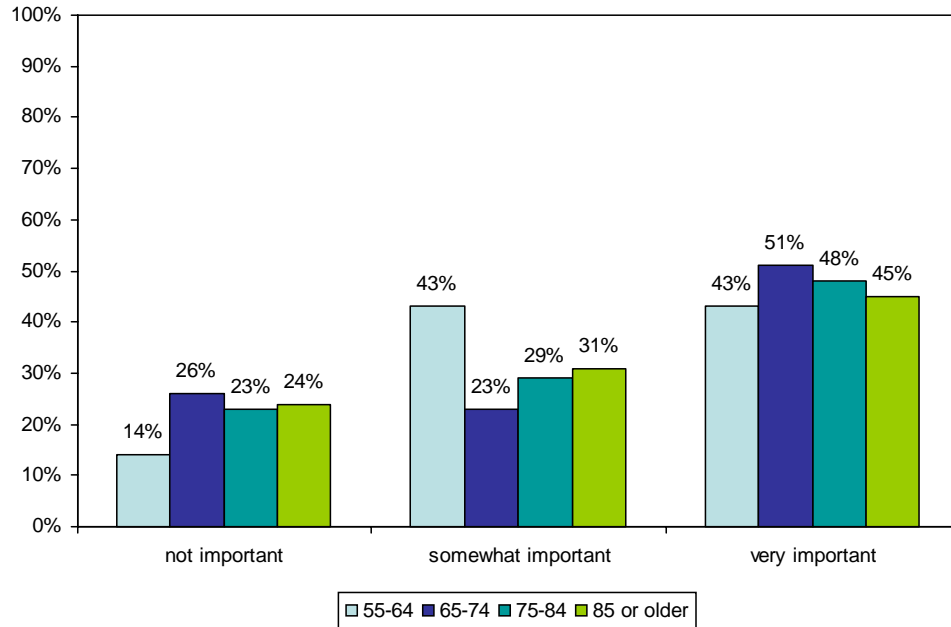
In sum, 81 respondents answered “not important,” 111 respondents answered “somewhat important,” and 168 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 20 percent indicated not important; 27 percent indicated somewhat important; and 53 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 23 percent; somewhat important, 32 percent; and very important, 45 percent.

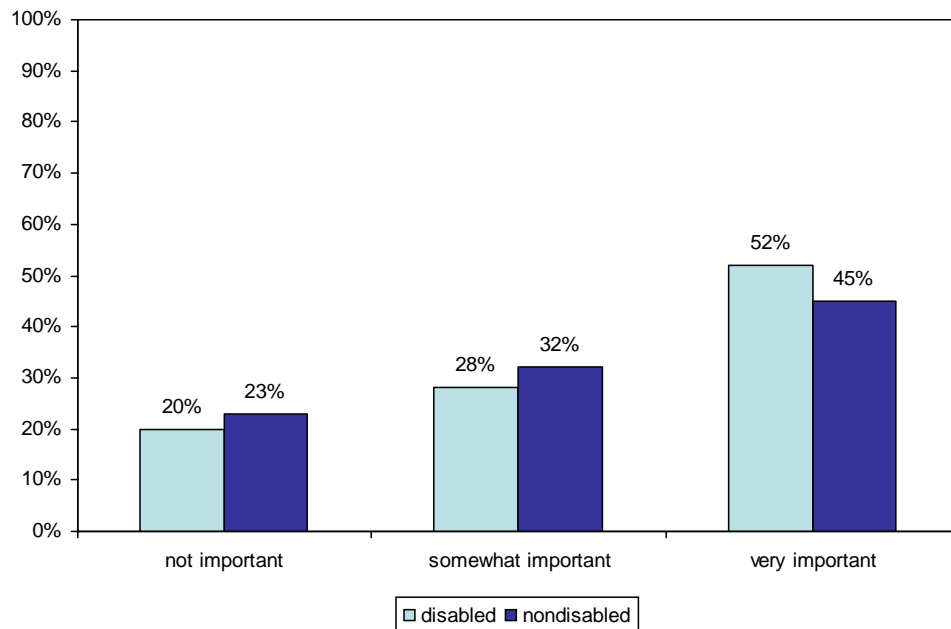
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Importance of transportation service to respondents by age.



Importance of transportation service to respondents by disability.

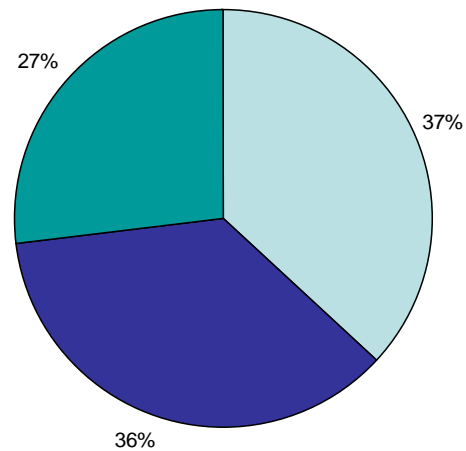


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Approximately 37 percent of respondents indicated that meal services were not important to them. Conversely, 36 percent of respondents indicated that meal service was somewhat important, and 27 percent of respondents indicated that meal service was very important.

Meal service.



□ not important ■ somewhat important ■ very important

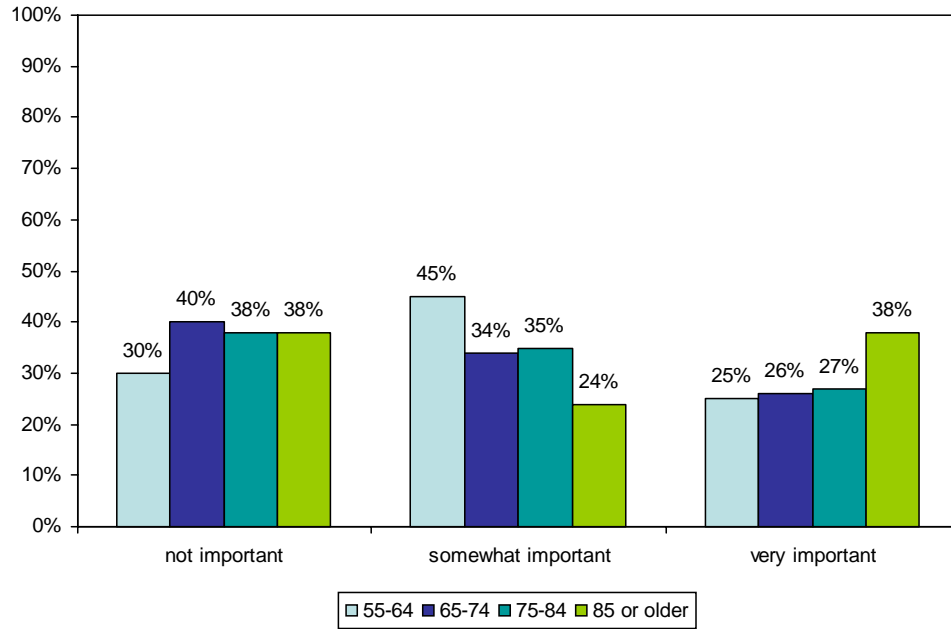
In sum, 133 respondents answered “not important,” 129 respondents answered “somewhat important,” and 98 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 32 percent indicated not important; 37 percent indicated somewhat important; and 31 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 38 percent; somewhat important, 36 percent; and very important, 26 percent.

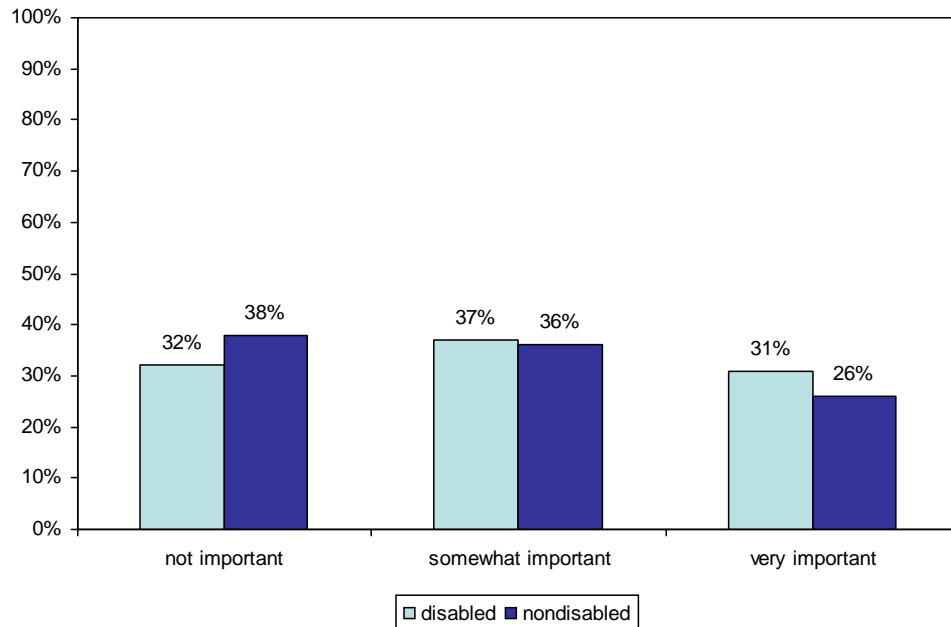
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Importance of meal service to respondents by age.



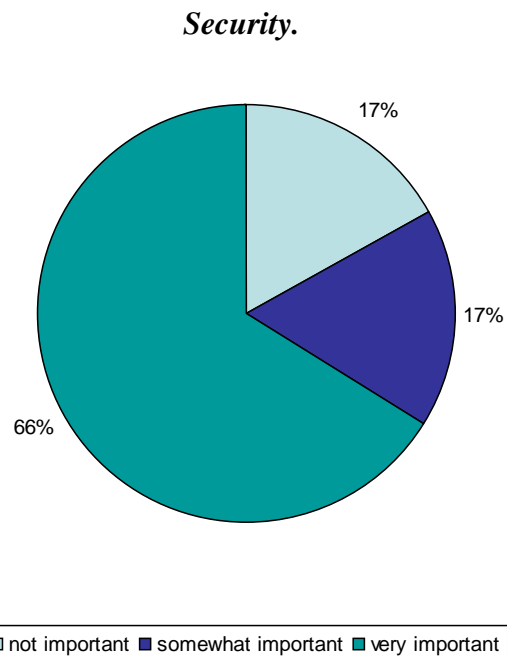
Importance of meal service to respondents by disability.



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Approximately 17 percent of respondents indicated that security was not important to them. Conversely, 17 percent of respondents indicated that security was somewhat important, and 66 percent of respondents indicated that security was very important.



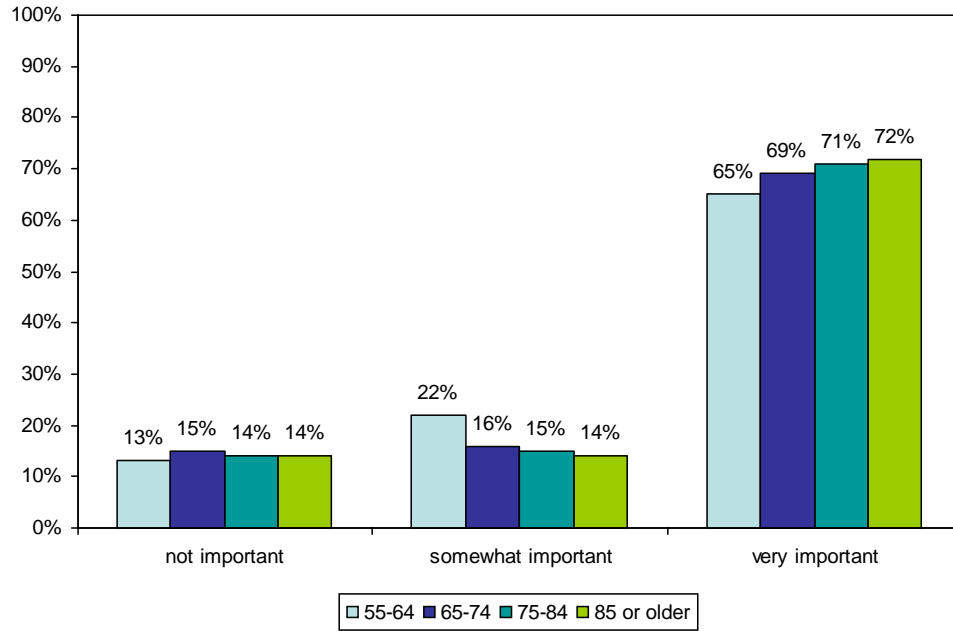
In sum, 60 respondents answered “not important,” 62 respondents answered “somewhat important,” and 238 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 13 percent indicated not important; 23 percent indicated somewhat important; and 64 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 18 percent; somewhat important, 16 percent; and very important, 66 percent.

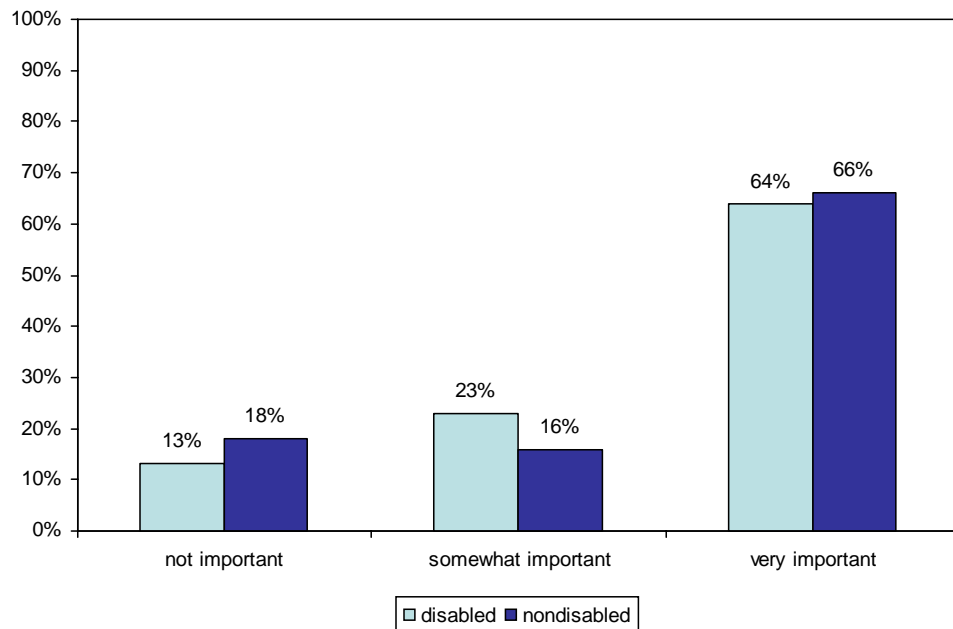
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Importance of security to respondents by age.



Importance of security to respondents by disability.



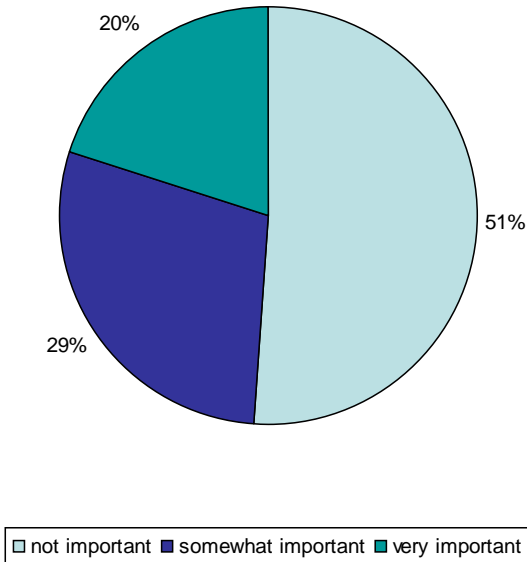
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9. Now please rate how important the following housing design options would be for you.

Approximately 51 percent of respondents indicated that levers on doors instead of standard knobs were not important to them. Conversely, 29 percent of respondents indicated that such features were somewhat important, and 20 percent of respondents indicated that such features were very important.

Levers on doors instead of standard knobs.



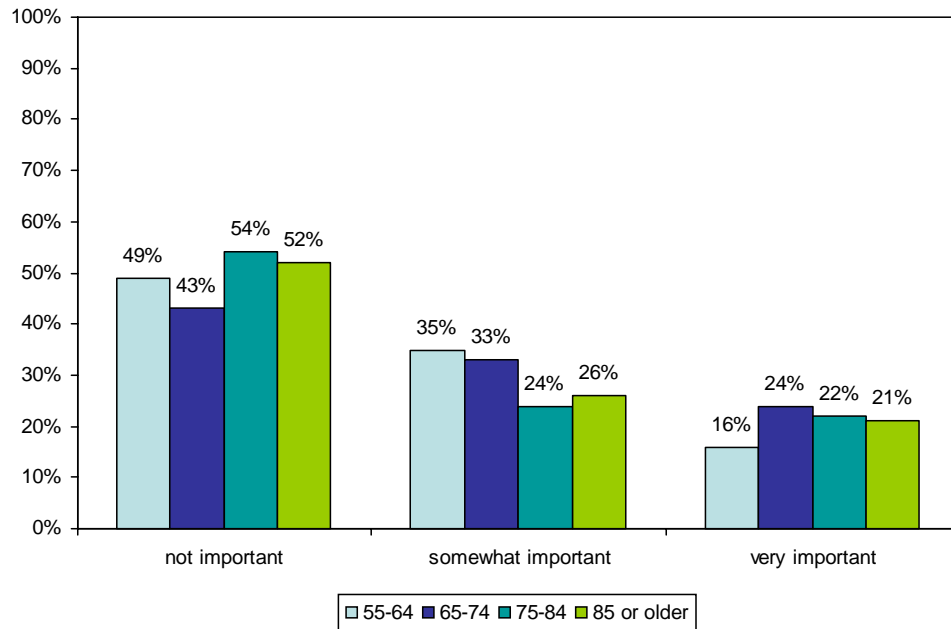
In sum, 182 respondents answered “not important,” 104 respondents answered “somewhat important,” and 74 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 40 percent indicated not important; 29 percent indicated somewhat important; and 31 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 54 percent; somewhat important, 29 percent; and very important, 17 percent.

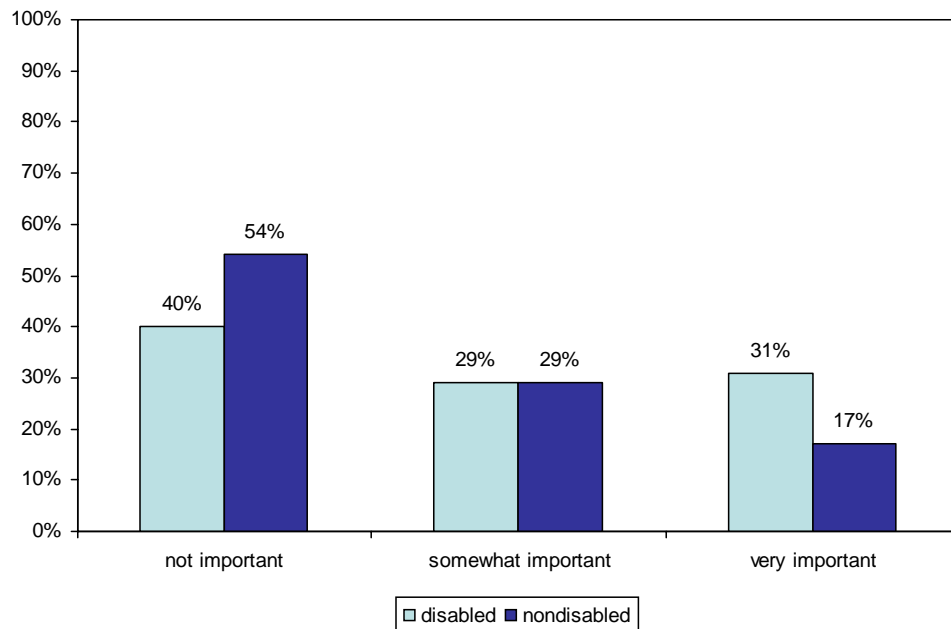
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Importance of levers on doors instead of standard knobs to respondents by age.



Importance of levers on doors instead of standard knobs to respondents by disability.

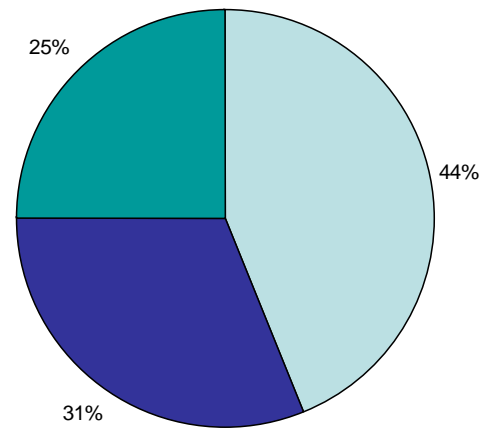


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Approximately 44 percent of respondents indicated that lower kitchen cabinets were not important to them. Conversely, 31 percent of respondents indicated that such features were somewhat important, and 25 percent of respondents indicated that such features were very important.

Lower kitchen cabinets.



□ not important ■ somewhat important ■ very important

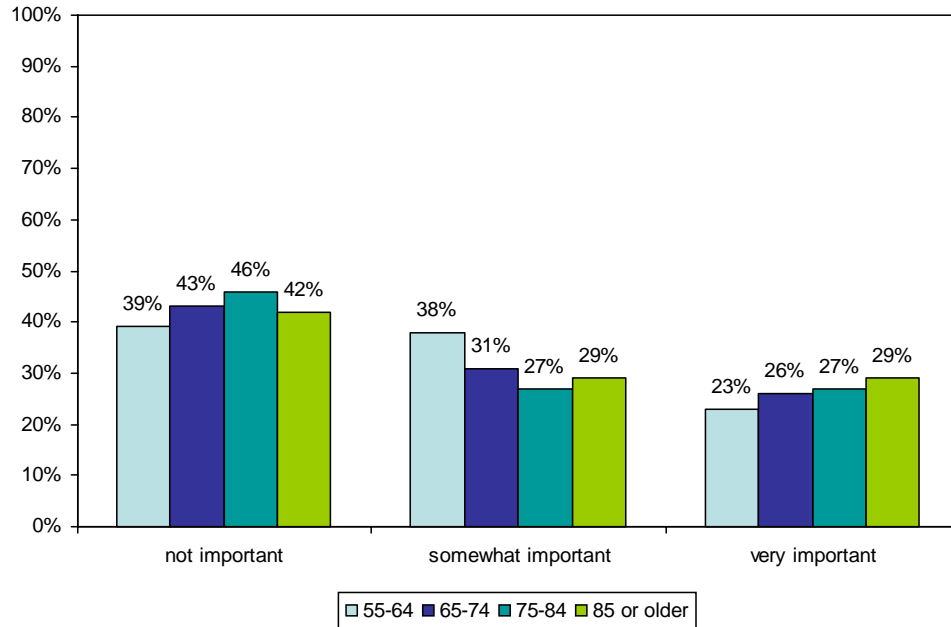
In sum, 159 respondents answered “not important,” 110 respondents answered “somewhat important,” and 91 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 38 percent indicated not important; 30 percent indicated somewhat important; and 32 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 46 percent; somewhat important, 31 percent; and very important, 23 percent.

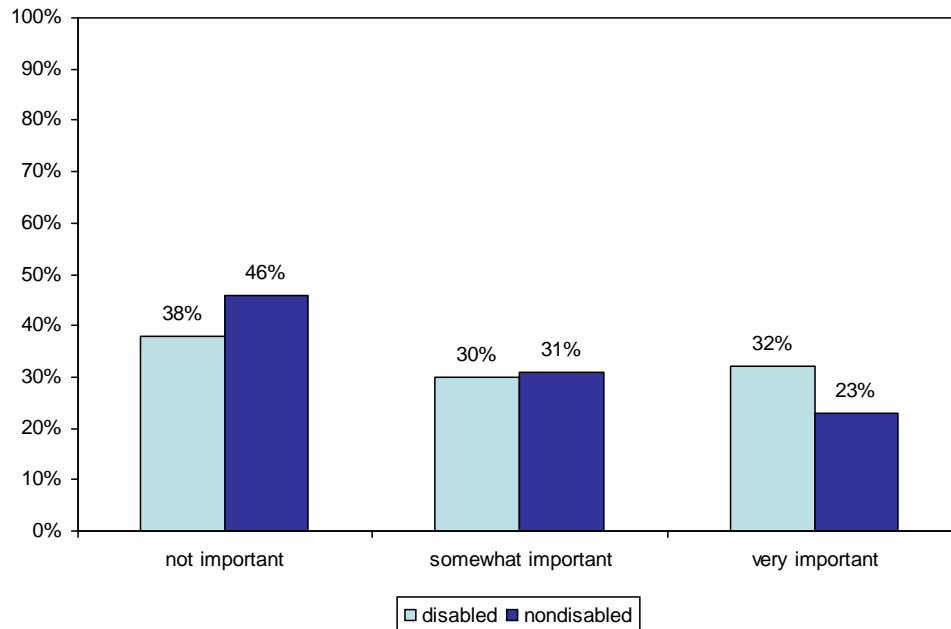
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Importance of lower kitchen cabinets to respondents by age.



Importance of lower kitchen cabinets to respondents by disability.

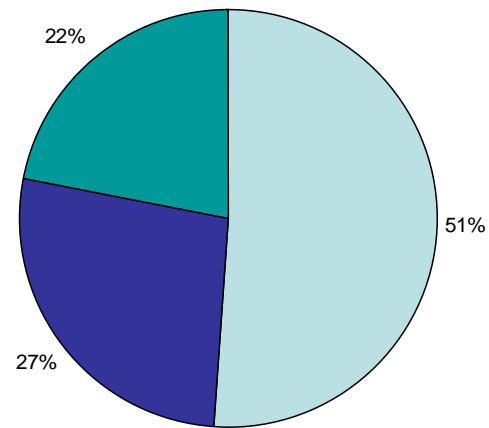


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Approximately 51 percent of respondents indicated that lower light switches and electrical outlets were not important to them. Conversely, 27 percent of respondents indicated that such features were somewhat important, and 22 percent of respondents indicated that such features were very important.

Lower light switches and electrical outlets.



□ not important ■ somewhat important ■ very important

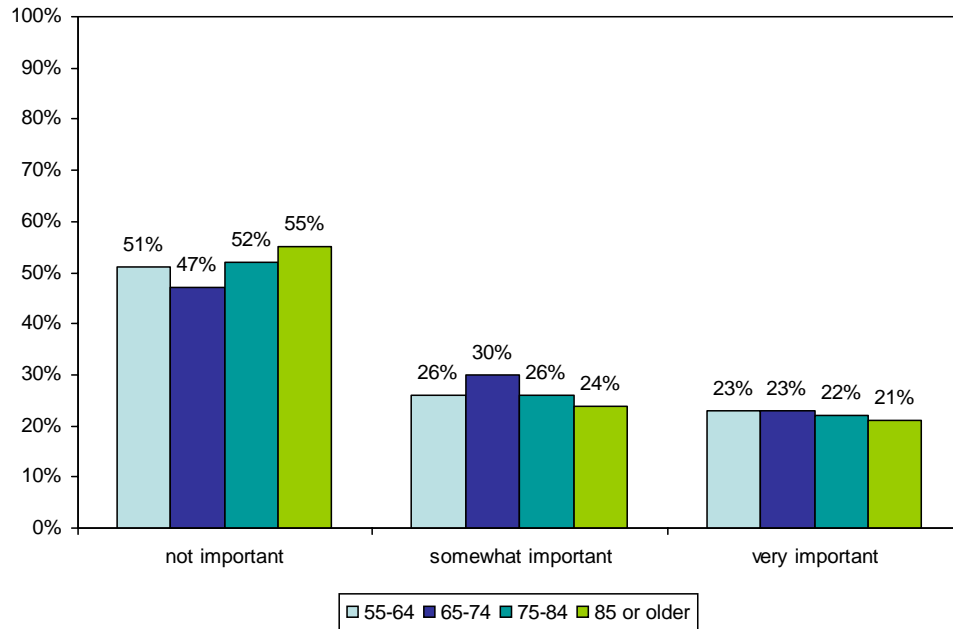
In sum, 183 respondents answered “not important,” 97 respondents answered “somewhat important,” and 80 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 38 percent indicated not important; 26 percent indicated somewhat important; and 36 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 55 percent; somewhat important, 27 percent; and very important, 18 percent.

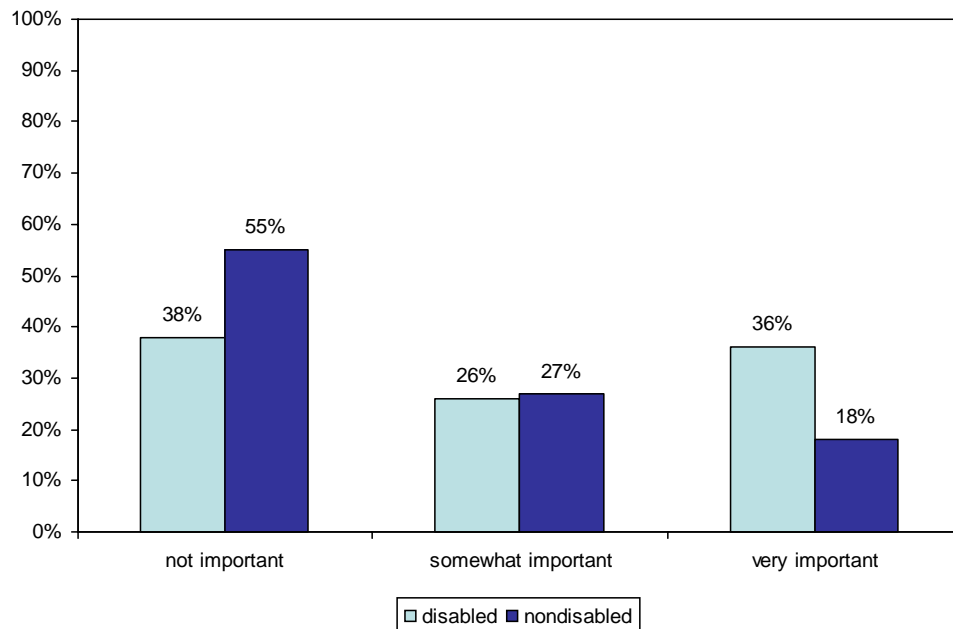
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Importance of lower light switches and electrical outlets to respondents by age.



Importance of lower light switches and electrical outlets to respondents by disability.

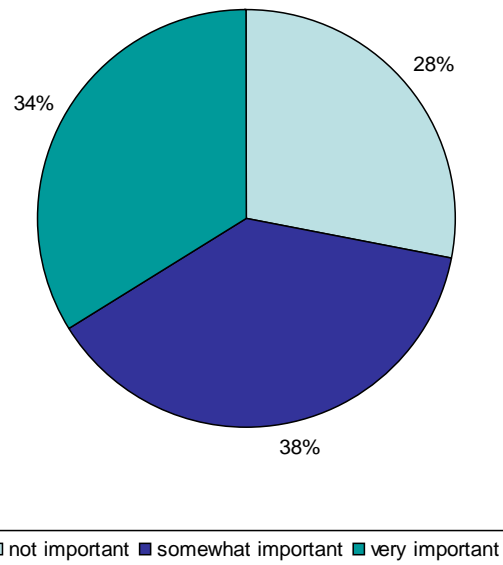


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Approximately 28 percent of respondents indicated that large and easy to read numbers on the Thermostats were not important to them. Conversely, 38 percent of respondents indicated that such features were somewhat important, and 34 percent of respondents indicated that such features were very important.

Large and easy to read numbers on the Thermostat.



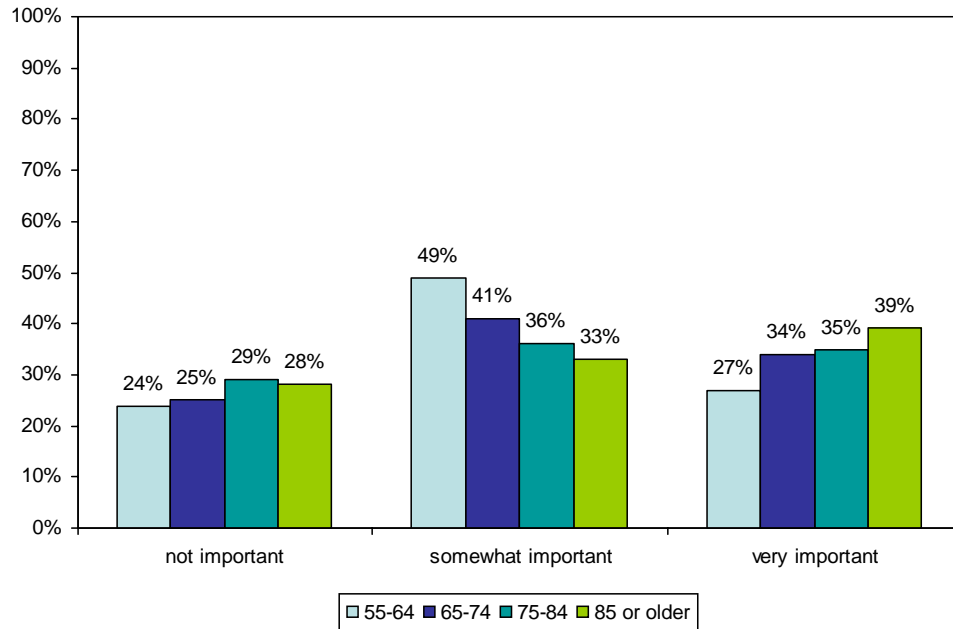
In sum, 99 respondents answered “not important,” 138 respondents answered “somewhat important,” and 123 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 27 percent indicated not important; 27 percent indicated somewhat important; and 46 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 28 percent; somewhat important, 42 percent; and very important, 30 percent.

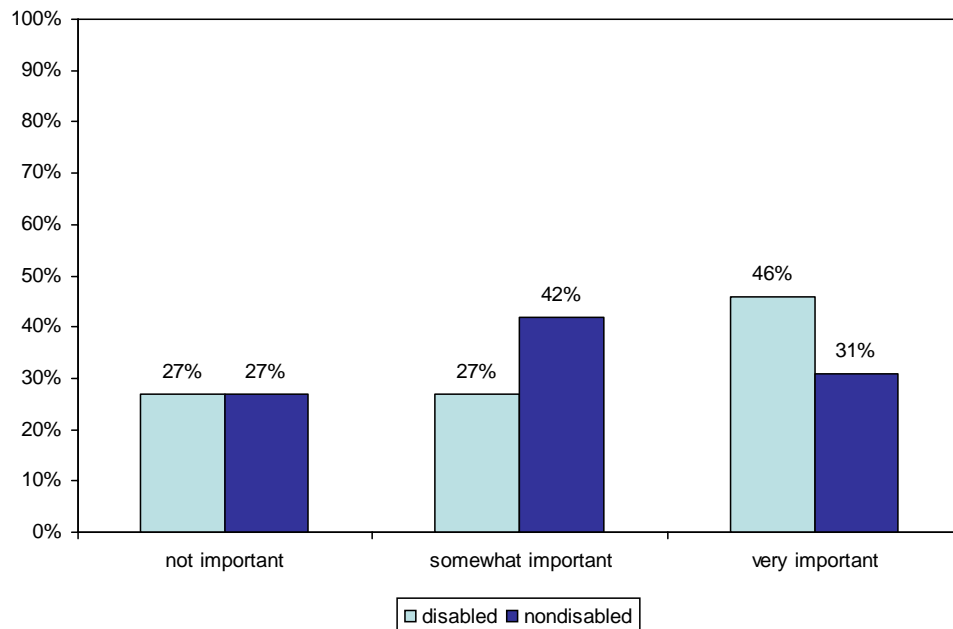
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Importance of large and easy to read numbers on the Thermostat to respondents by age.



Importance of large and easy to read numbers on the Thermostat to respondents by disability.

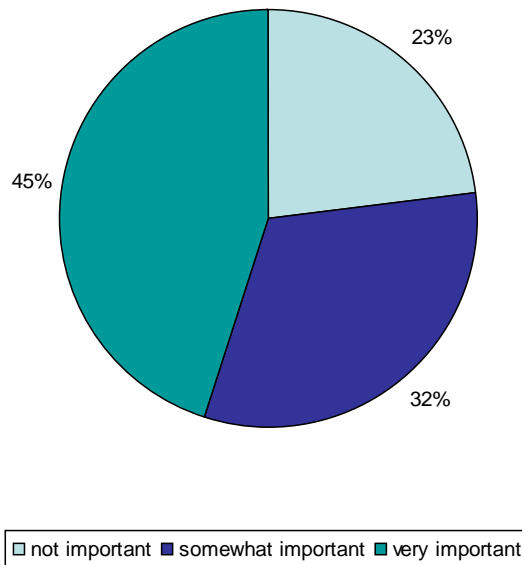


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Approximately 23 percent of respondents indicated that grab bars in bathroom facilities were not important to them. Conversely, 32 percent of respondents indicated that such features were somewhat important, and 45 percent of respondents indicated that such features were very important.

Grab bars in bathroom facilities.



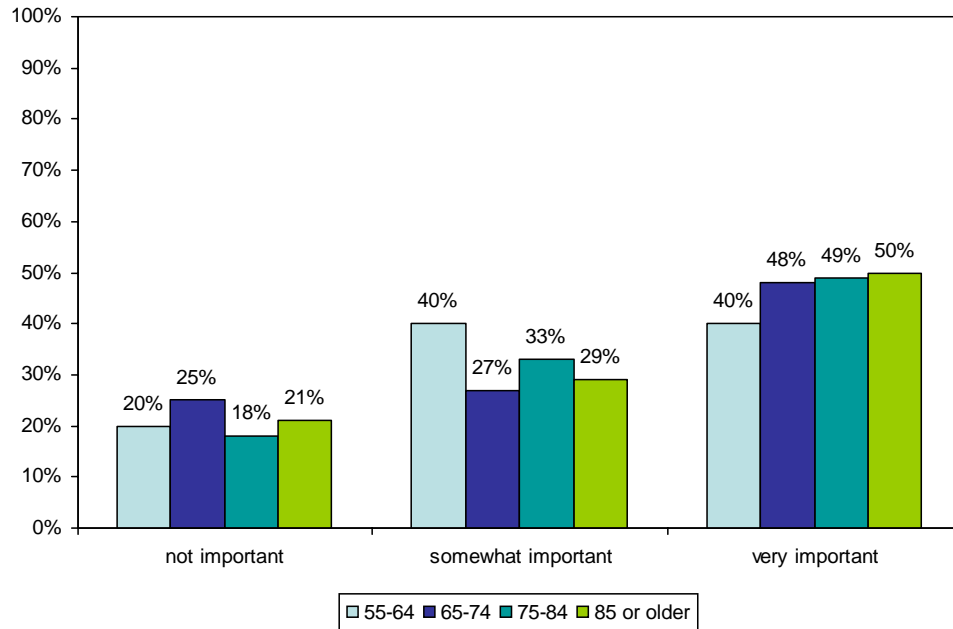
In sum, 81 respondents answered “not important,” 116 respondents answered “somewhat important,” and 163 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 14 percent indicated not important; 33 percent indicated somewhat important; and 53 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 25 percent; somewhat important, 32 percent; and very important, 43 percent.

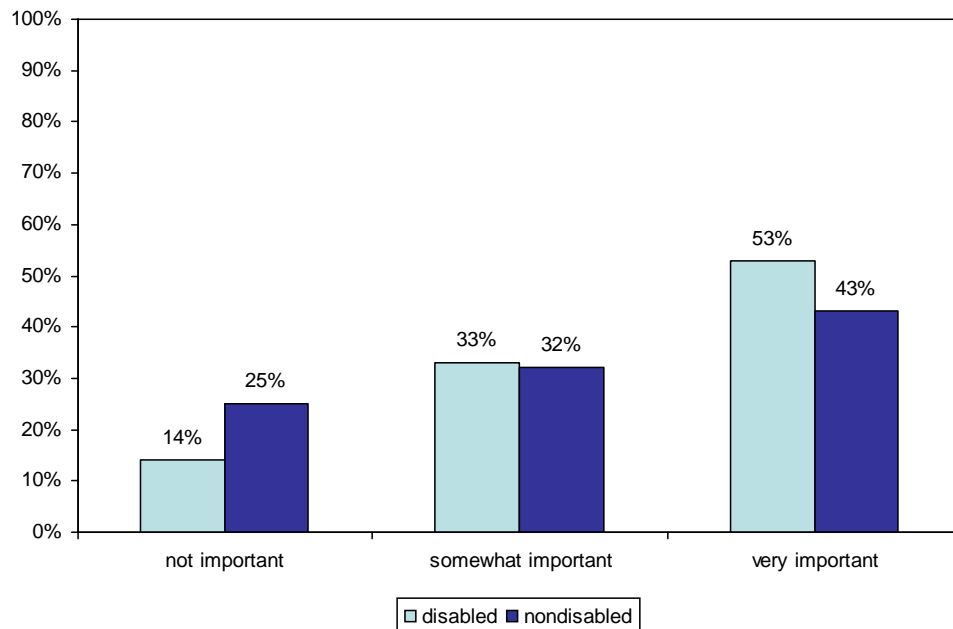
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Importance of grab bars in bathroom facilities to respondents by age.



Importance of grab bars in bathroom facilities to respondents by disability.

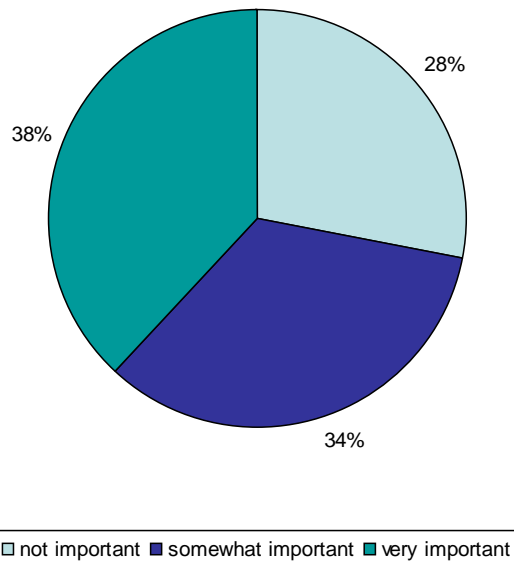


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Approximately 28 percent of respondents indicated that larger bathrooms for maneuverability were not important to them. Conversely, 34 percent of respondents indicated that such features were somewhat important, and 38 percent of respondents indicated that such features were very important

Larger bathrooms for maneuverability.



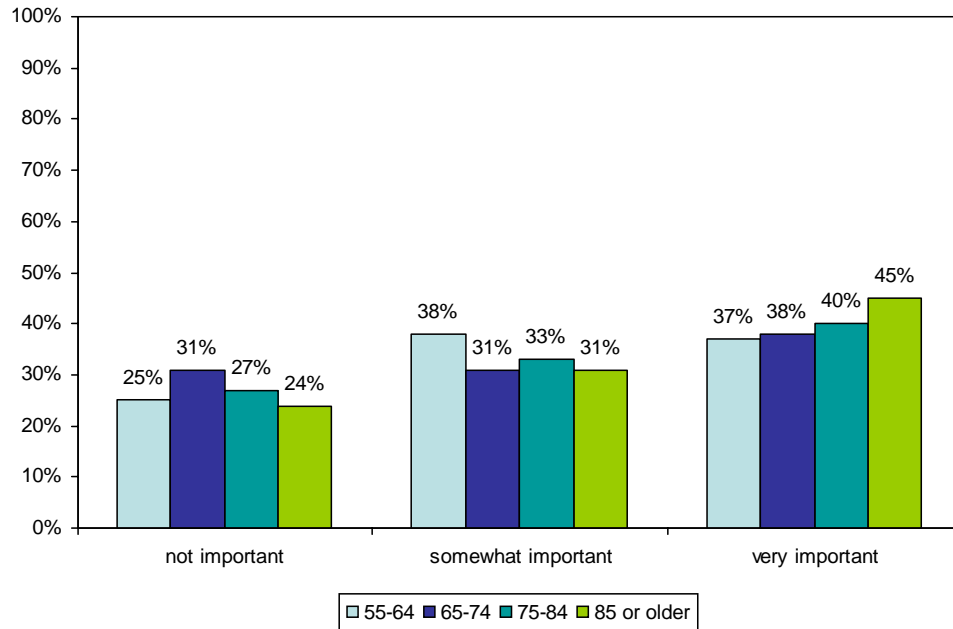
. In sum, 101 respondents answered “not important,” 123 respondents answered “somewhat important,” and 136 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 20 percent indicated not important; 35 percent indicated somewhat important; and 45 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 25 percent; somewhat important, 32 percent; and very important, 43 percent.

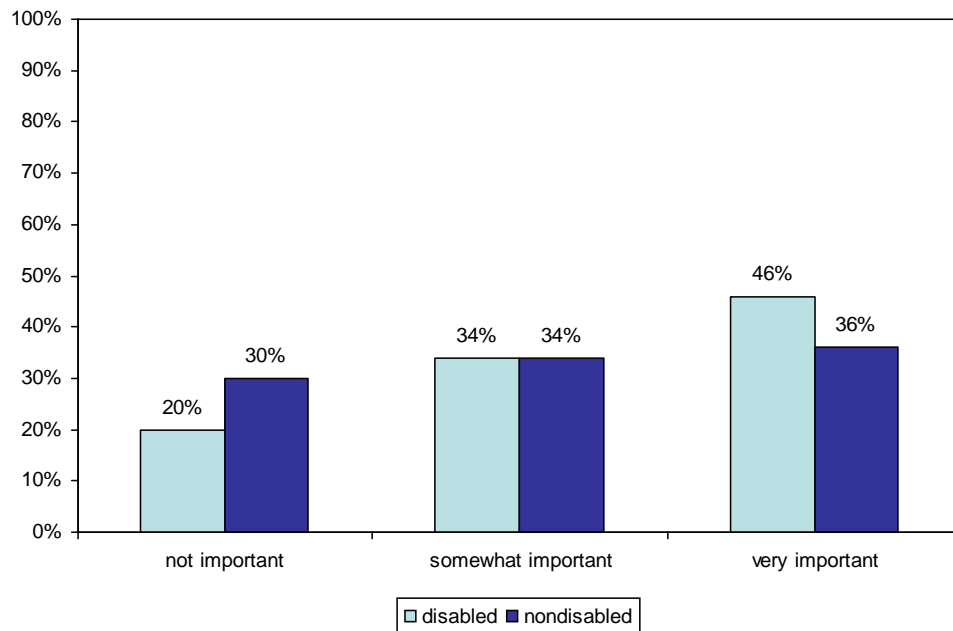
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Importance of larger bathrooms for maneuverability to respondents by age.



Importance of larger bathrooms for maneuverability to respondents by disability.

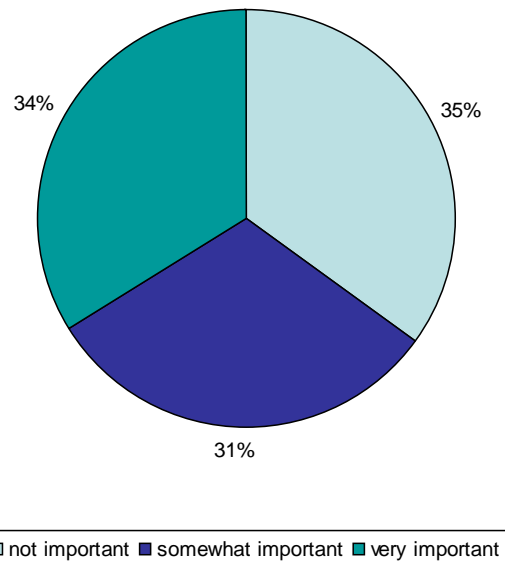


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Approximately 35 percent of respondents indicated that wider doorways for maneuverability were not important to them. Conversely, 31 percent of respondents indicated that such features were somewhat important, and 34 percent of respondents indicated that such features were very important.

Wider doorways for maneuverability.



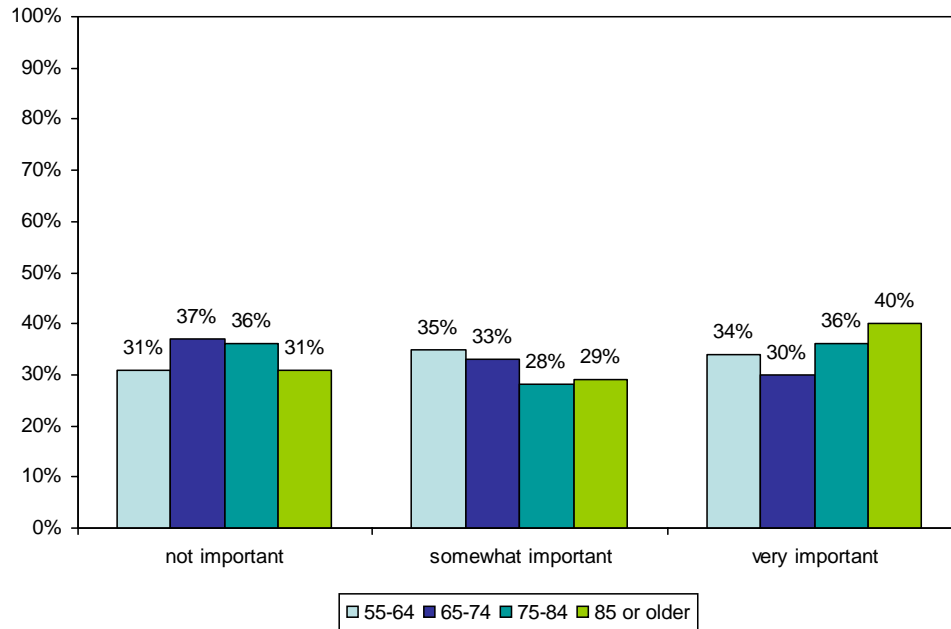
In sum, 125 respondents answered “not important,” 113 respondents answered “somewhat important,” and 122 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 35 percent indicated not important; 32 percent indicated somewhat important; and 33 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 35 percent; somewhat important, 31 percent; and very important, 34 percent.

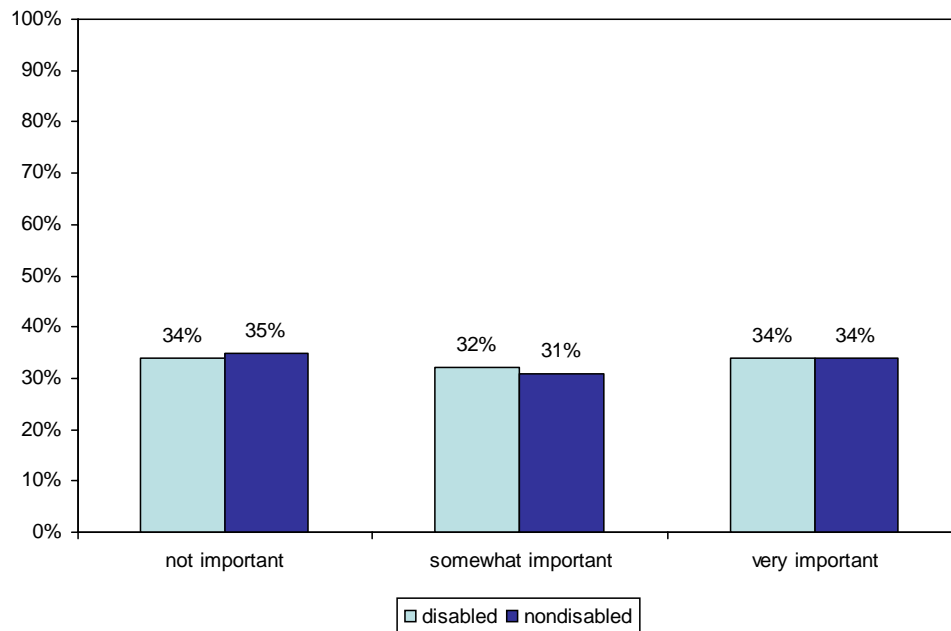
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Importance of wider doorways for maneuverability to respondents by age.



Importance of wider doorways for maneuverability to respondents by disability.

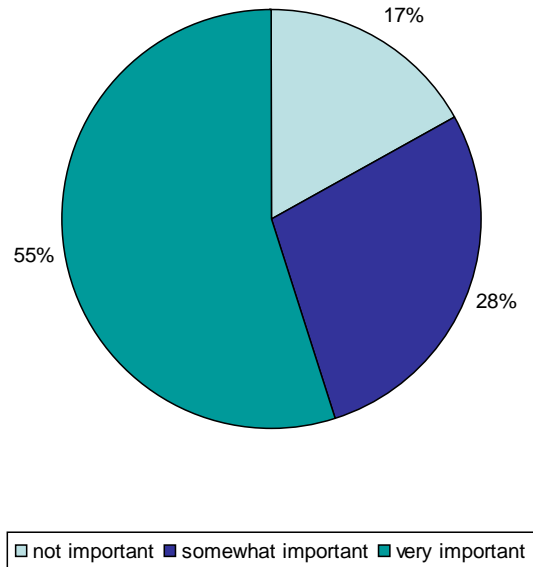


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Approximately 17 percent of respondents indicated that at least one bathroom and one bedroom on the first floor were not important to them. Conversely, 28 percent of respondents indicated that such features were somewhat important, and 55 percent of respondents indicated that such features were very important.

At least one bathroom and one bedroom on the first floor.



In sum, 61 respondents answered “not important,” 100 respondents answered “somewhat important,” and 199 respondents answered “very important.”

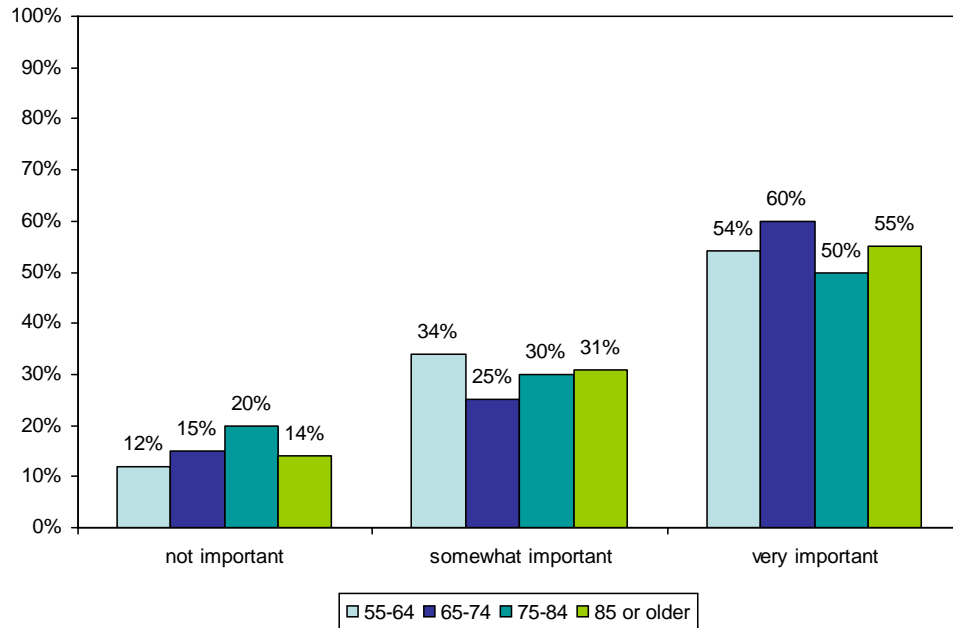
The results were further broken down as follows. When broken down by disabled respondents, there were negligible distinctions. With respect to disabled respondents: 35 percent indicated not important; 32 percent indicated somewhat important; and 33 percent indicated very important. Nondisabled respondents indicated the following: not important, 35 percent; somewhat important, 31 percent; and very important, 34 percent.

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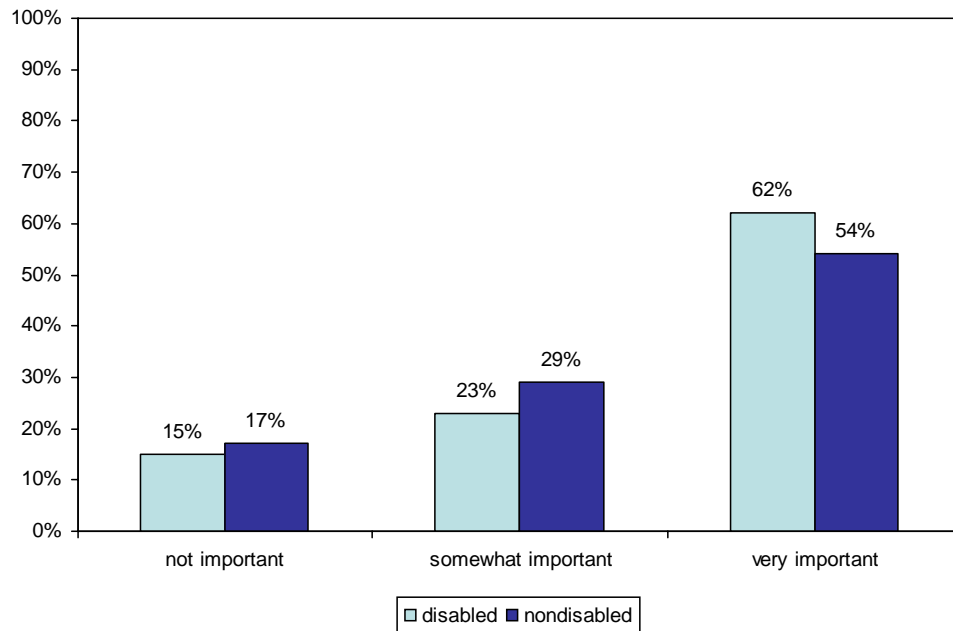
Importance of at least one bathroom and one bedroom on the first floor to respondents

by age.



Importance of at least one bathroom and one bedroom on the first floor to respondents

by disability.

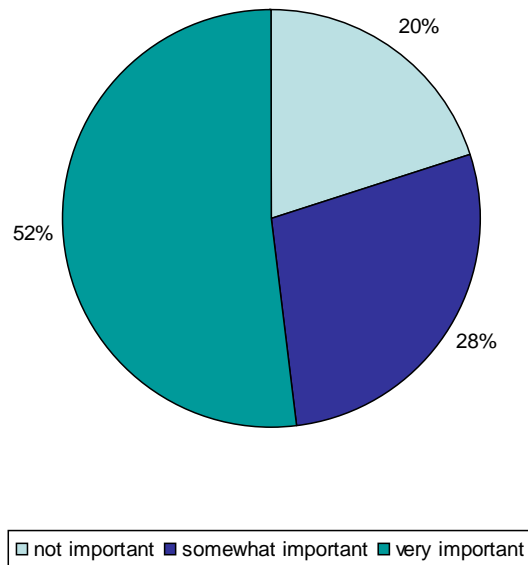


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Approximately 20 percent of respondents indicated that limited stairs inside the residence were not important to them. Conversely, 28 percent of respondents indicated that such features were somewhat important, and 52 percent of respondents indicated that such features were very important.

Limited stairs inside the residence.



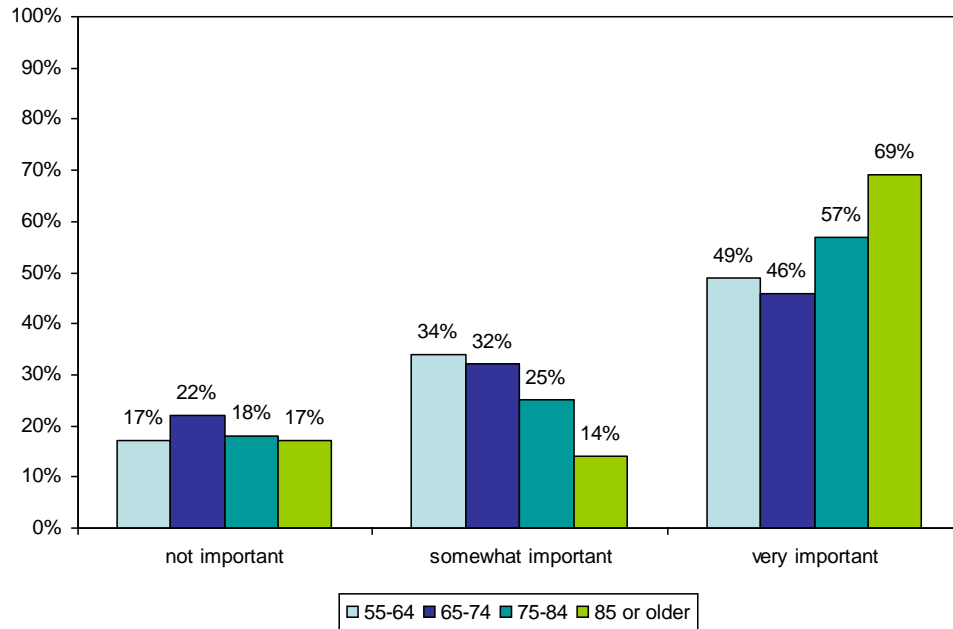
In sum, 72 respondents answered “not important,” 99 respondents answered “somewhat important,” and 189 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 14 percent indicated not important; 23 percent indicated somewhat important; and 63 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 22 percent; somewhat important, 29 percent; and very important, 49 percent.

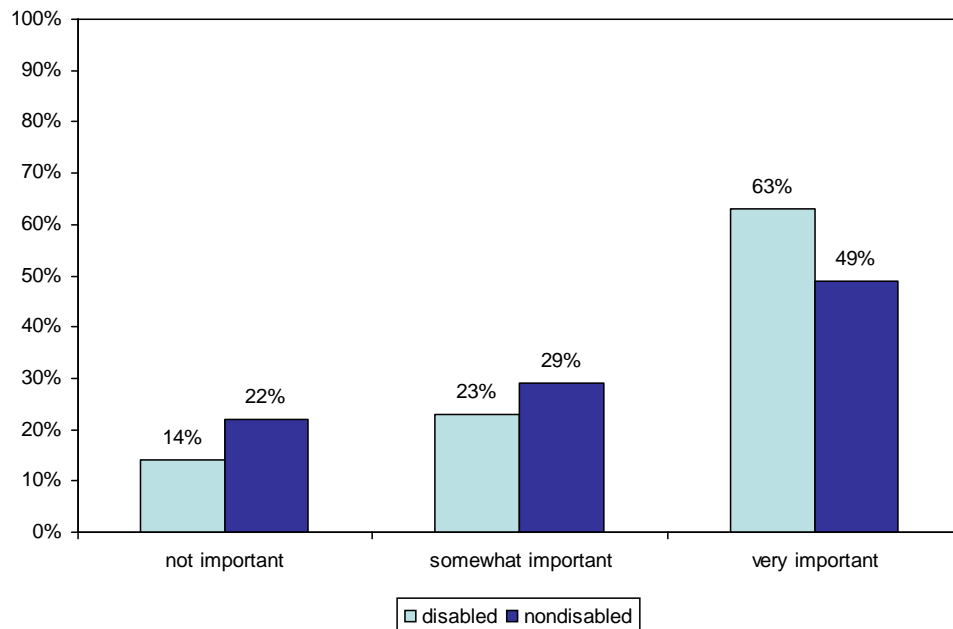
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Importance of limited stairs inside the residence to respondents by age.



Importance of limited stairs inside the residence to respondents by disability.

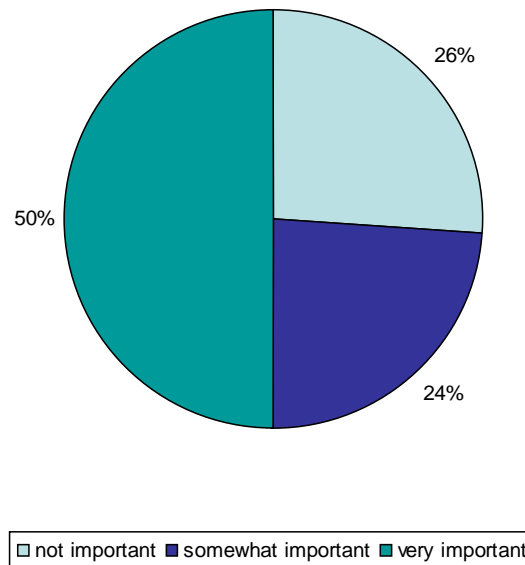


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Approximately 26 percent of respondents indicated that limited stairs inside the residence were not important to them. Conversely, 24 percent of respondents indicated that such features were somewhat important, and 50 percent of respondents indicated that such features were very important.

One outside entrance without stairs.



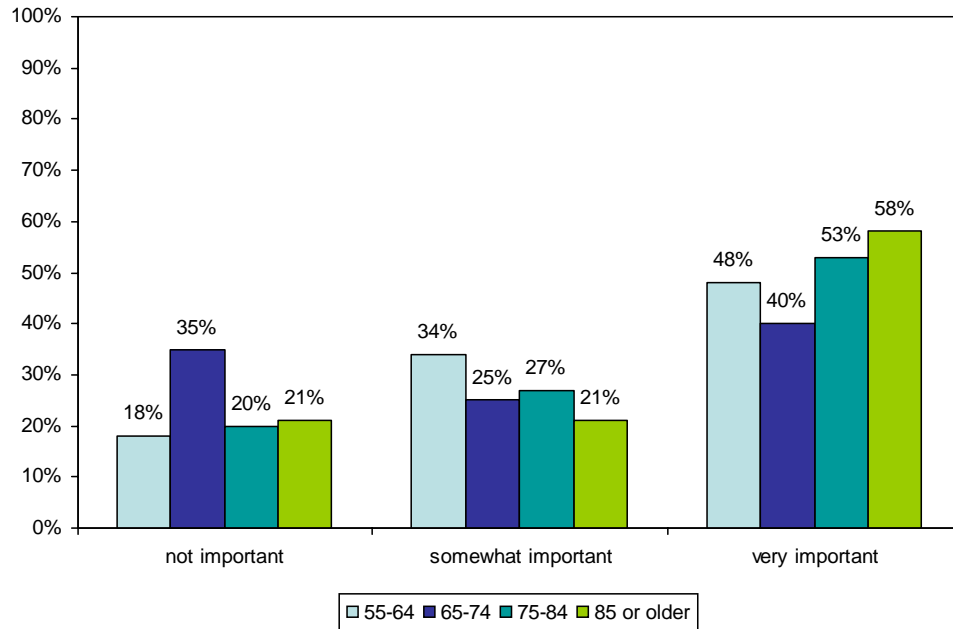
In sum, 92 respondents answered “not important,” 86 respondents answered “somewhat important,” and 182 respondents answered “very important.”

The results were further broken down as follows. When broken down by disabled respondents, there were some interesting distinctions. With respect to disabled respondents: 15 percent indicated not important; 24 percent indicated somewhat important; and 61 percent indicated very important. Conversely, nondisabled respondents indicated the following: not important, 29 percent; somewhat important, 24 percent; and very important, 53 percent.

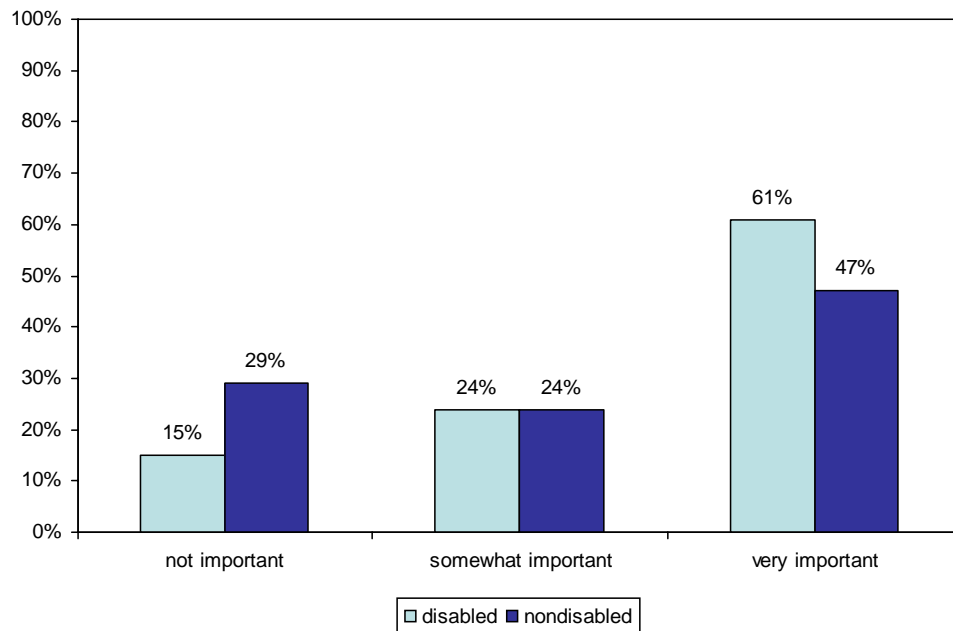
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Importance of one outside entrance without stairs to respondents by age.



Importance of one outside entrance without stairs to respondents by disability.



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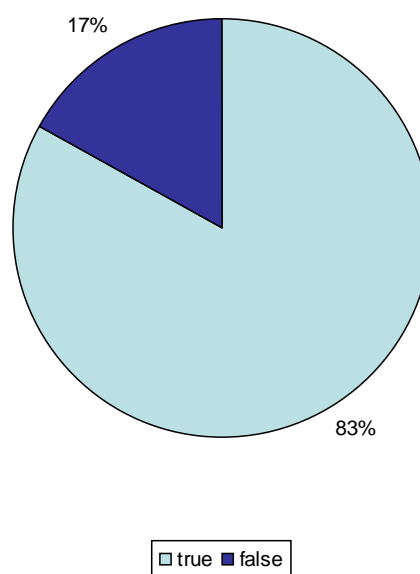
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The following section sought to determine seniors' understanding of fair housing laws.

10. A landlord must make reasonable changes in its rules to accommodate tenants who are disabled when these changes are necessary to enable tenants to fully enjoy the dwelling.

Respondents overwhelmingly answered this question correctly, with 83 percent of respondents providing the correct response. There were 39 respondents, who did not answer this question; thus, 321 out of 360 respondents answered the question. In sum, 267 respondents answered “true,” while 54 respondents answered “false.”

A landlord must make reasonable changes in its rules to accommodate a disabled tenant.

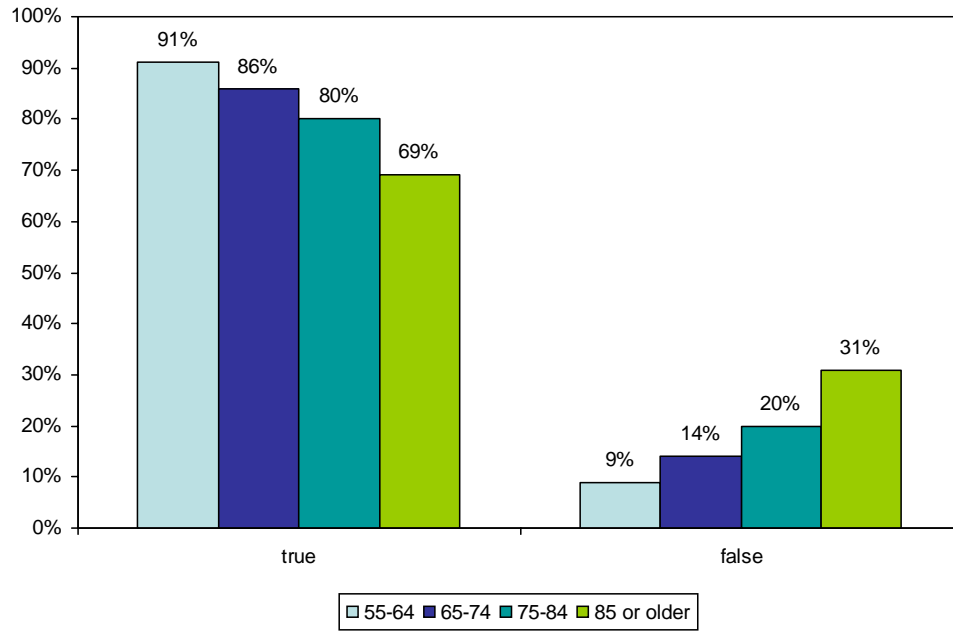


The results were further broken down as follows. The results were relatively consistent with respect to gender: 84 percent of male respondents and 83 percent of female respondents providing the correct response. With respect to race, 86 percent of both Caucasian and Hispanic respondents provided the correct response, while 77 percent of African-American respondents provided the correct response. However, there was a slight decrease in correct responses with respect to age: 92 percent of respondents aged 55-64; 86 percent of respondents aged 65-74; 80 percent of respondents aged 75-84; and 69 percent of respondents aged 85 or older provided the correct response.

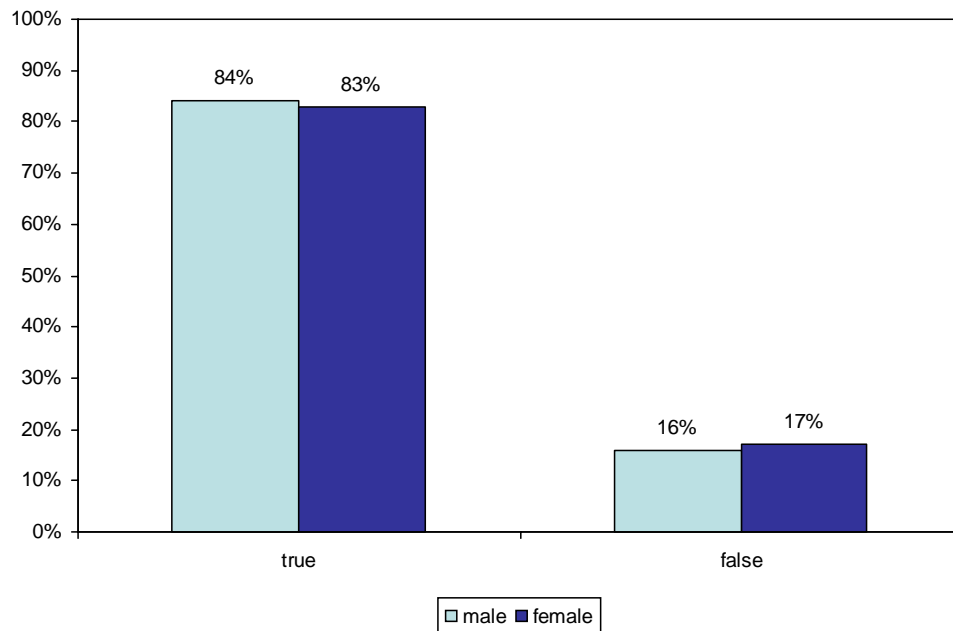
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Responses by age.



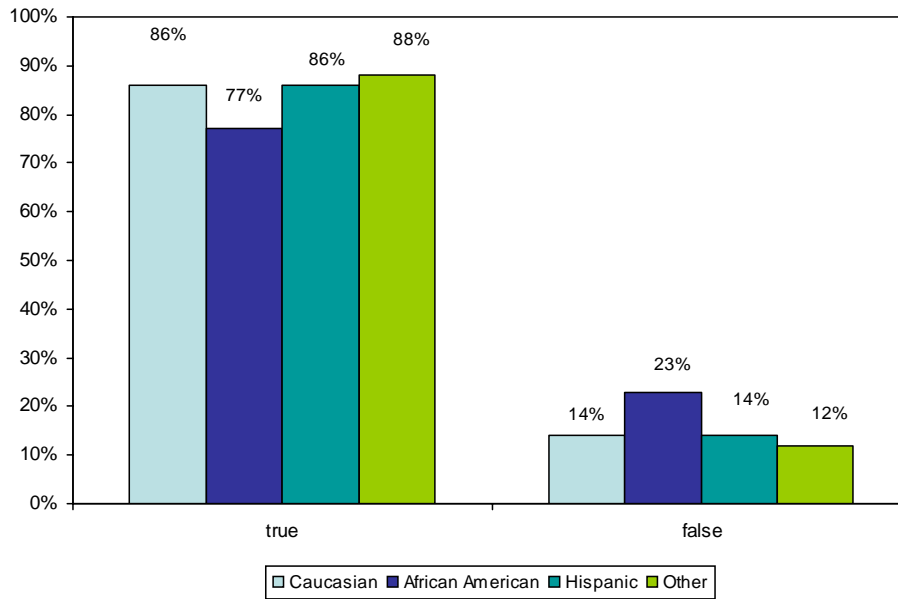
Responses by gender.



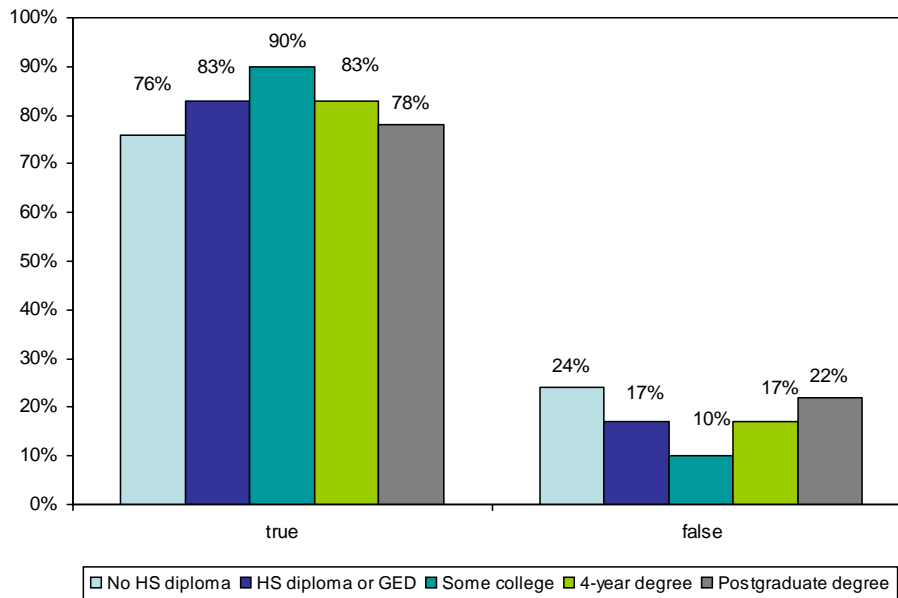
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Responses by race.



Responses by education level.



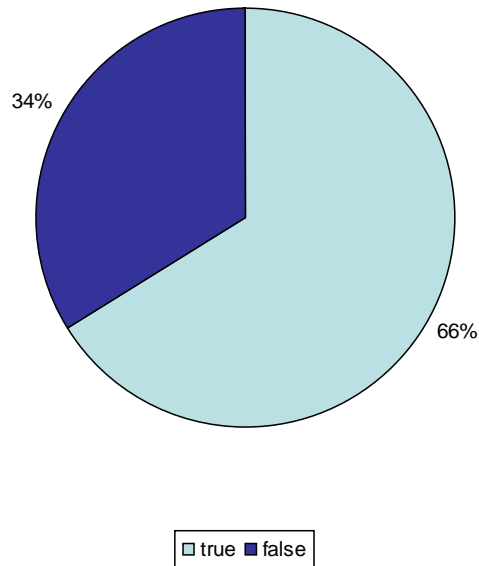
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11. A landlord can refuse to allow a tenant to make structural changes in the unit at the tenant’s own expense that are necessary to enable the tenant to fully enjoy the dwelling.

Approximately 34 percent of respondents stated that the answer to this statement was false, which is the correct answer. Sixty-six percent of respondents answered this question incorrectly by stating that the statement is true. There were 46 respondents, who did not answer this question; thus, 314 out of 360 respondents answered the question. In sum, 206 respondents wrongly answered the question, while 108 respondents answered the question correctly.

A landlord can refuse to allow a tenant from making a reasonable modification.



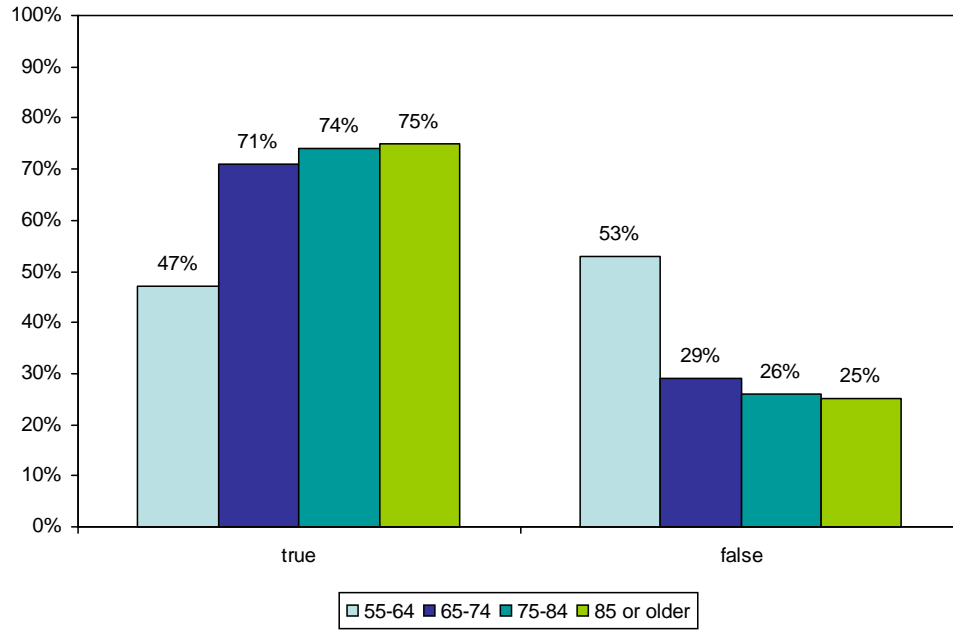
The results were further broken down as follows. A clear majority of respondents answered this question incorrectly. The results were relatively consistent with respect to gender and race. As such, 38 percent of male respondents and 33 percent of female respondents answered “false.” As to race, 38 percent of Hispanic respondents, 33 percent of Caucasian respondents, and 29 percent of African-American respondents answered “false” to this question. A notable distinction arose with respect to age, where 53 percent of respondents aged 55-64; 29

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percent of respondents aged 65-74; 26 percent of respondents aged 75-84; and 25 percent of respondents aged 85 or older answered “false” to this question.

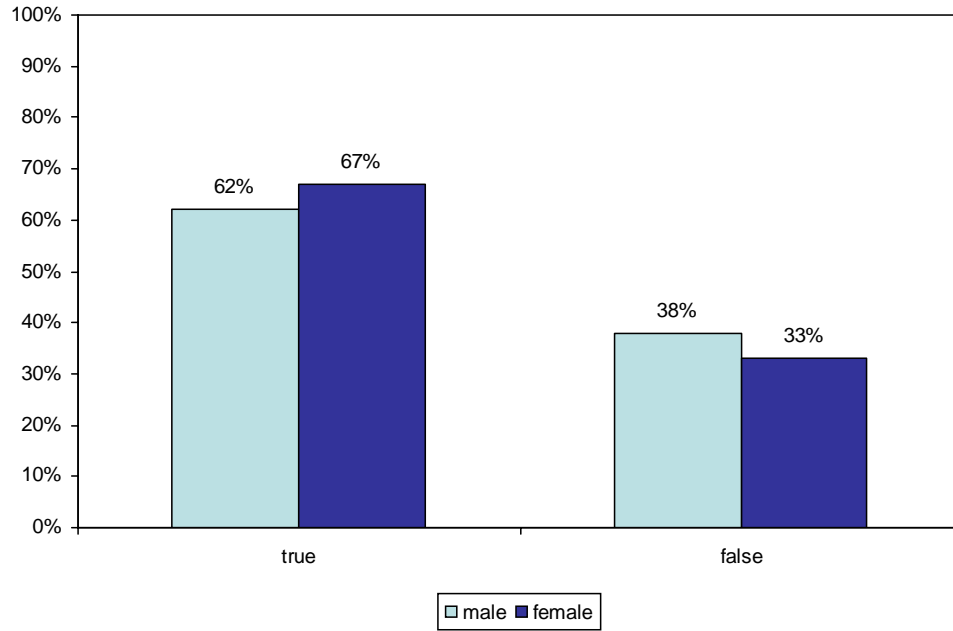
Responses by age.



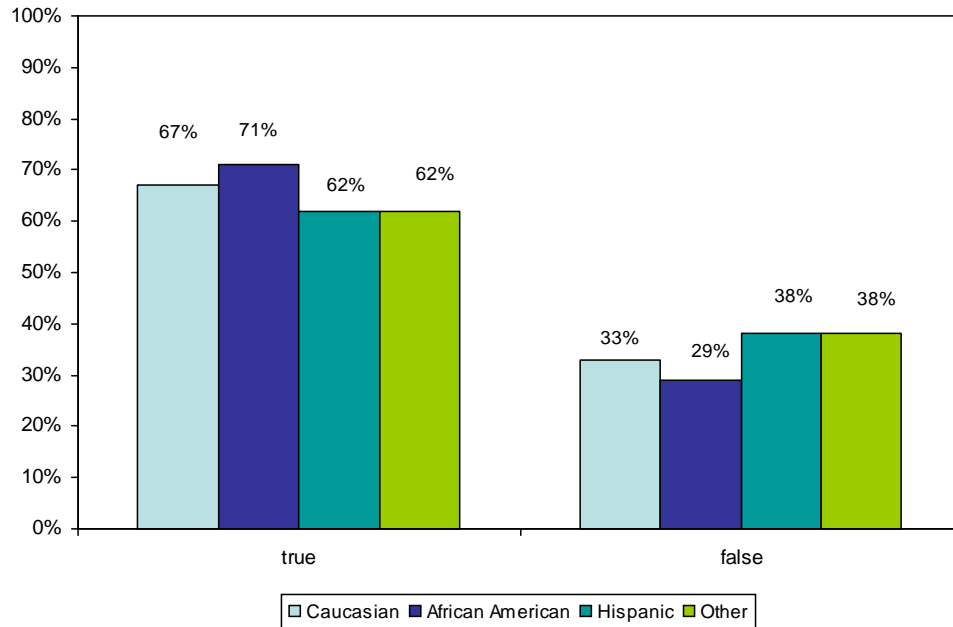
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Responses by gender.



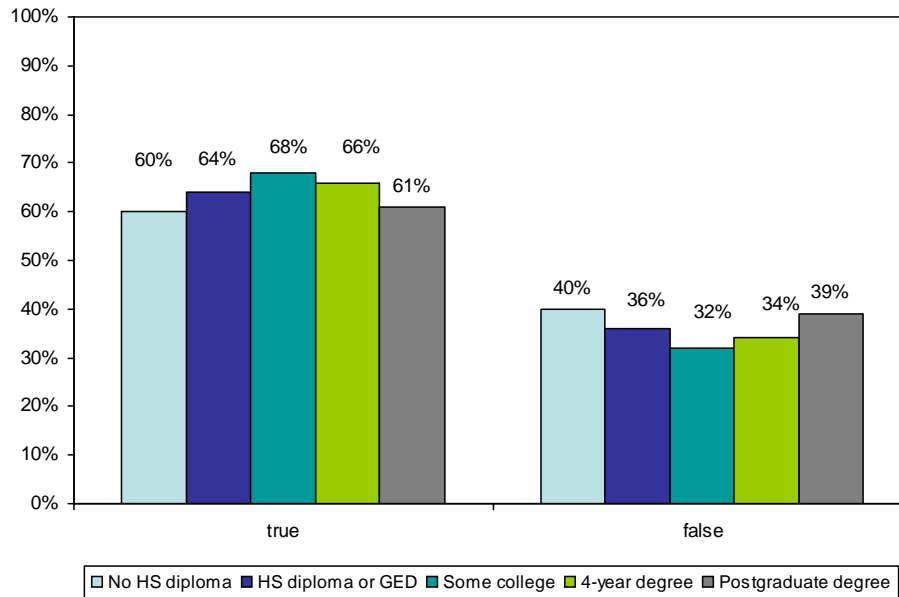
Responses by race.



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Responses by education level.



12. Please indicate which examples, if any, you think would be forms of discrimination by a senior housing provider (excluding nursing homes), *i.e.* that would presumably violate federal law:

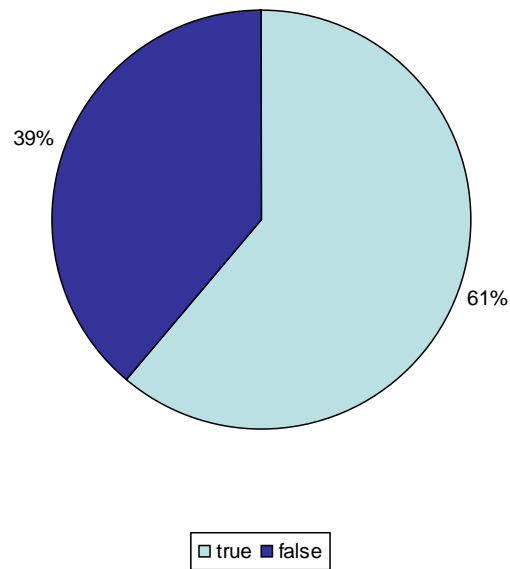
Approximately 61 percent of *Housing providers may require residents to have the* respondents answered this question *“ability to live independently.”* incorrectly by stating that the example did not violate federal law. Thirty-nine percent of respondents answered this question correctly by stating that the example did violate federal law.

There were 68 respondents, who did not answer this question; thus, 292 out

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of 360 respondents answered the question. In sum, 177 respondents wrongly answered the question, while 115 respondents answered the question correctly.

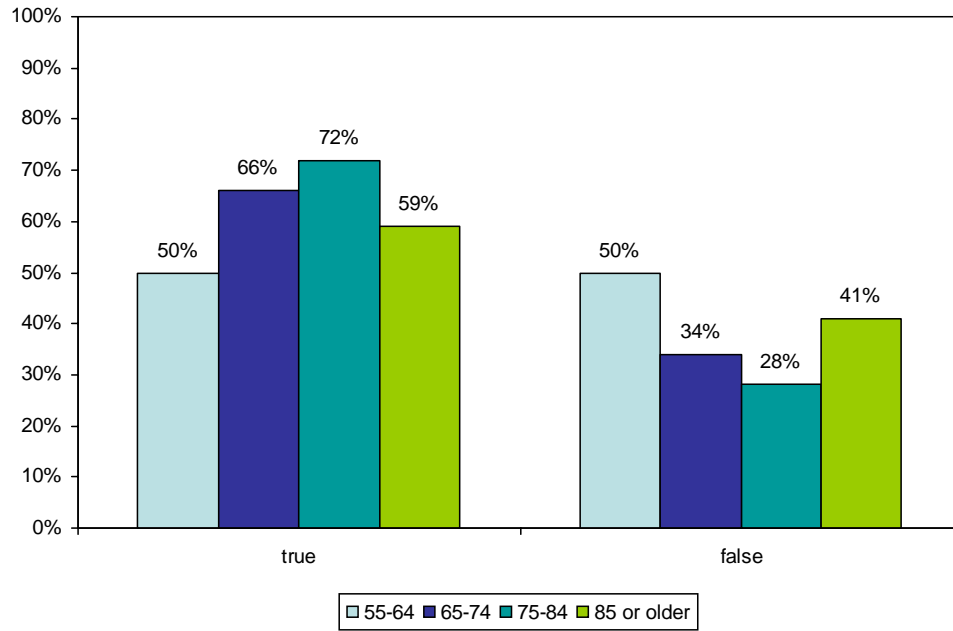


The results were further broken down as follows. Question number 12a provided another example of where respondents struggled with the correct state of fair housing law. The results were consistent with respect to gender, where 40 percent of male respondents and 37 percent of respondents answered “false” to this question. Interestingly, Hispanic respondents (58 percent) and African-American respondents (45 percent) provided more correct responses, as a percentage, than Caucasian respondents (34 percent). The youngest and the oldest respondents provided more correct responses than the middle age groups: 50 percent of respondents aged 55-64; 34 percent of respondents aged 65-74; 28 percent of respondents aged 75-84; and 41 percent of respondents aged 85 or older answered “false” to this question.

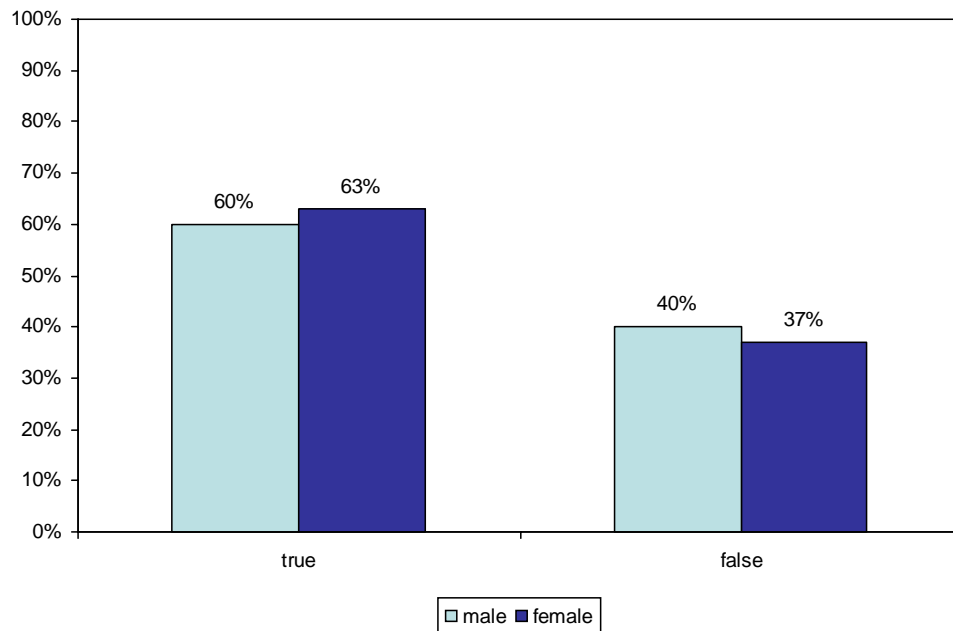
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Responses by age.



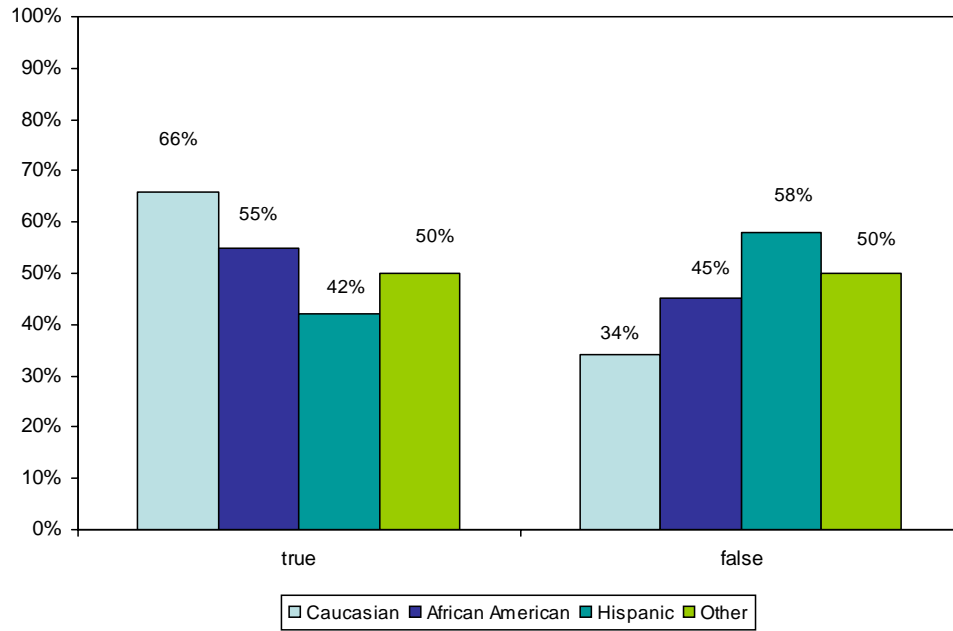
Responses by gender.



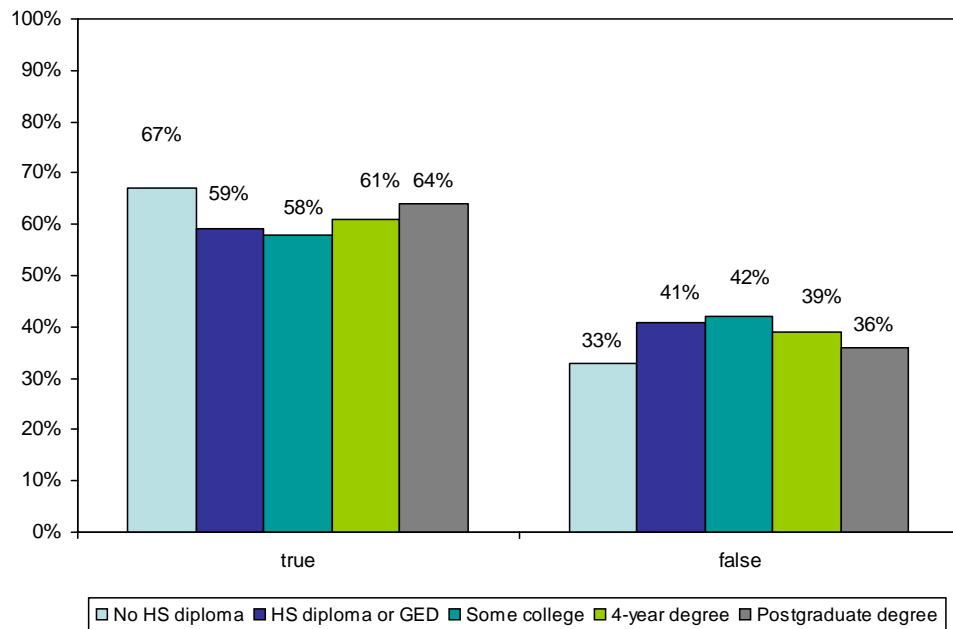
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Responses by race.



Responses by education level.

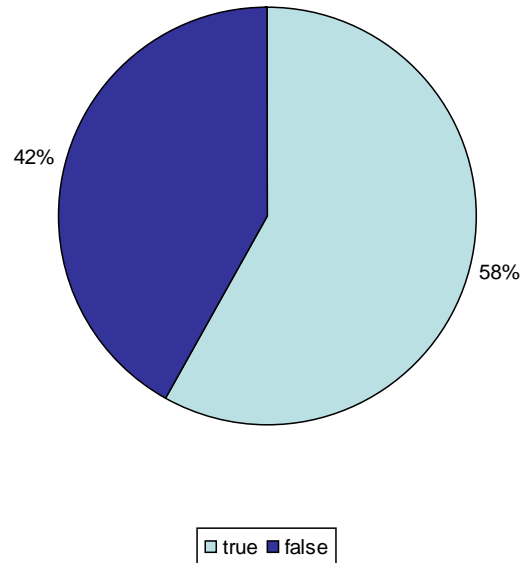


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Approximately 58 percent of respondents answered this question incorrectly by stating that the example did not violate federal law. Forty-two percent of respondents answered this question correctly by stating that the example did violate federal law. There were 54 respondents, who did not answer this question; thus, 306 out of 360 respondents answered the question. In sum, 176 respondents wrongly answered the question, while 130 respondents answered the question correctly.

Housing providers may require applicants to have a “successful history of living independently.”

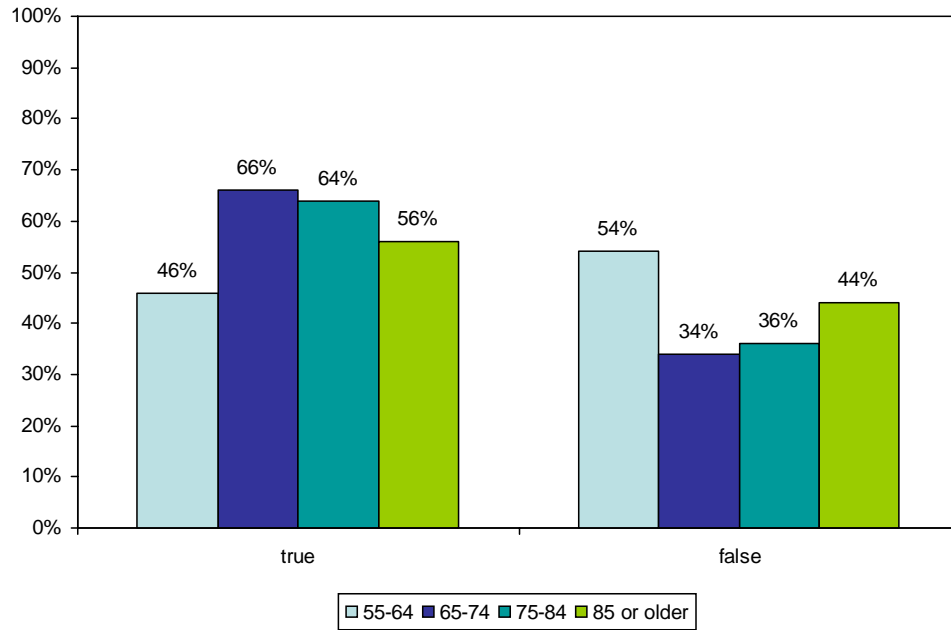


The results were further broken down as follows. More minority respondents, as a percentage, answered this question correctly than Caucasian respondents: 61 percent of Hispanic respondents; 58 percent of African-American respondents; and 37 percent of Caucasian respondents answered “false” to this question. Once again, the youngest and oldest respondents answered this question correctly more than the middle groups: 54 percent of respondents aged 55-64; 34 percent of respondents aged 65-74; 36 percent of respondents aged 75-84; and 44 percent of respondents aged 85 or older answered “false” to this question. Male respondents (46 percent) fared better than female respondents (37 percent) on this question.

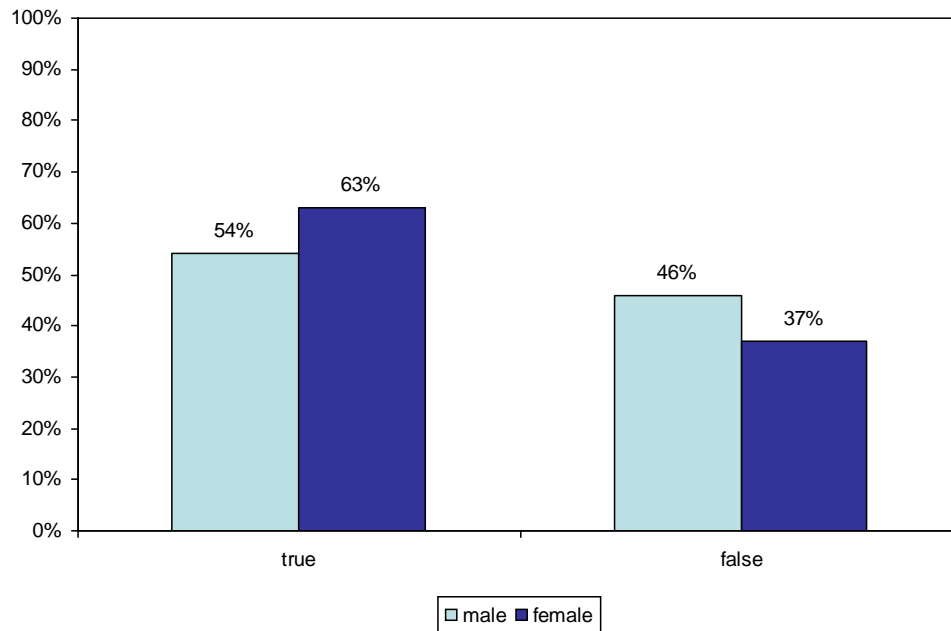
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Responses by age.



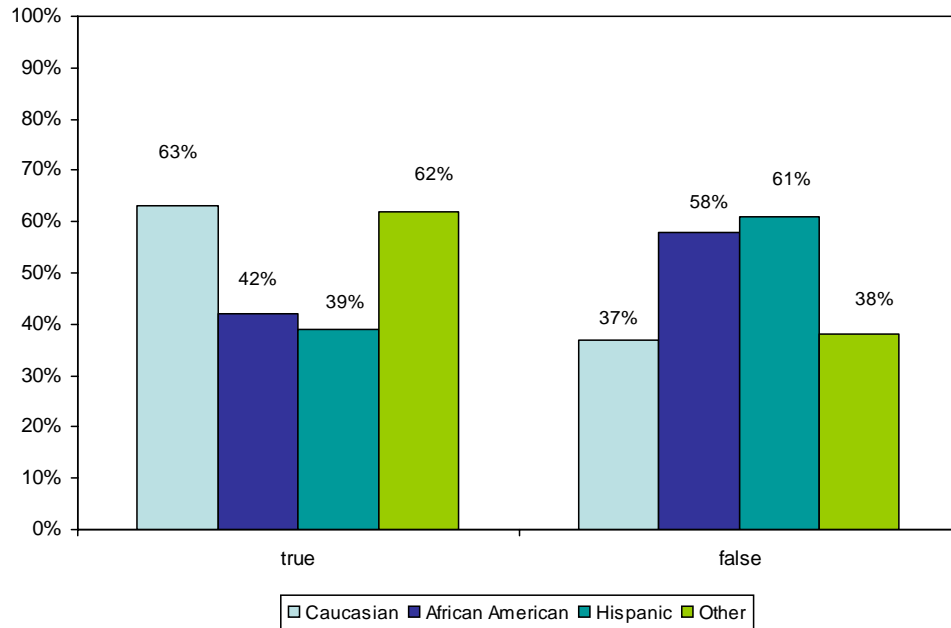
Responses by gender.



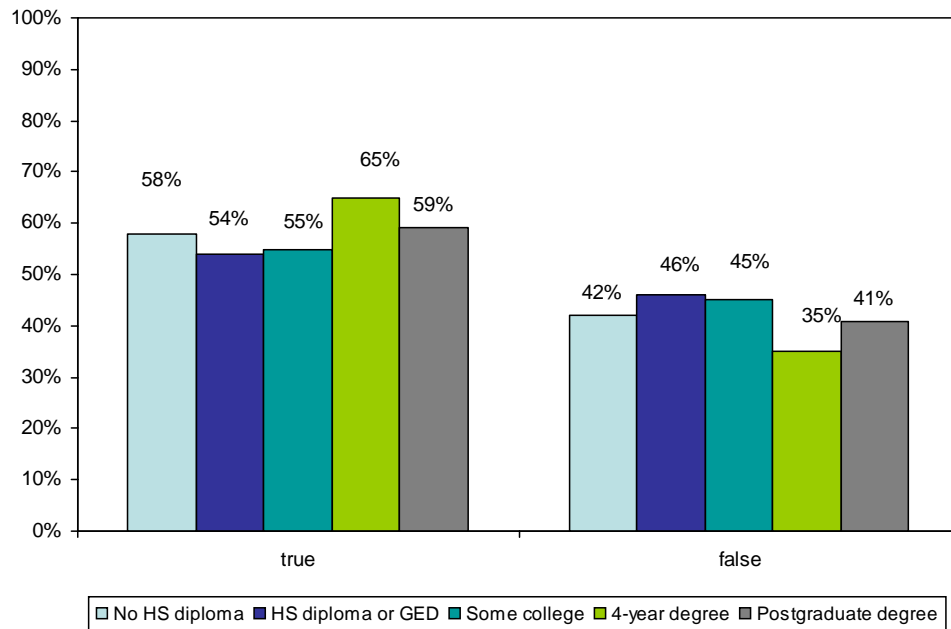
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Responses by race.



Responses by education level.

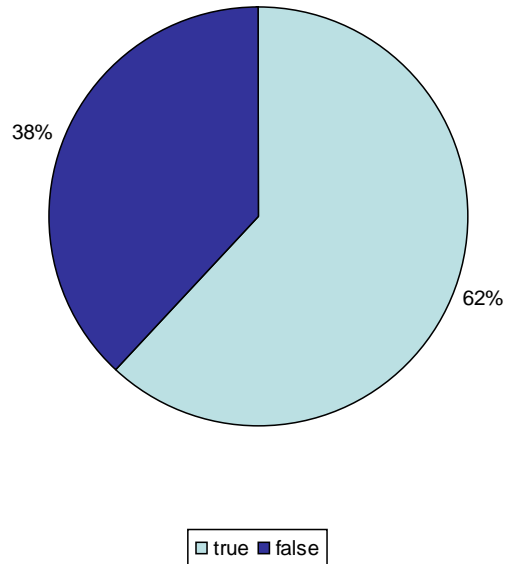


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Approximately 62 percent of respondents answered this question correctly by stating that the example did not violate federal law. Thirty-eight percent of respondents answered this question incorrectly by stating that the example did violate federal law. There were 49 respondents, who did not answer this question; thus, 311 out of 360 respondents answered the question. In sum, 192 respondents correctly answered the question, while 119 respondents answered incorrectly.

Housing providers may mandate timely rental payments.



The results were further broken down as follows. Respondents fared better on this question, where the results were consistent with respect to age with 66 percent of male respondents and 64 percent of female respondents answering this question correctly. Unlike previous questions, the older respondents provided more correct responses, as a percentage, than younger respondents: 69 to 71 percent of the respondents aged 65 or older (the three oldest age brackets) answered this question correctly, while 48 percent of respondents aged 55-64 answered this question correctly. More African-American respondents (82 percent) answered this question correctly, as a percentage, than respondents of other races, where 63 percent of Caucasian respondents and 56 percent of Hispanic respondents answered this question correctly.

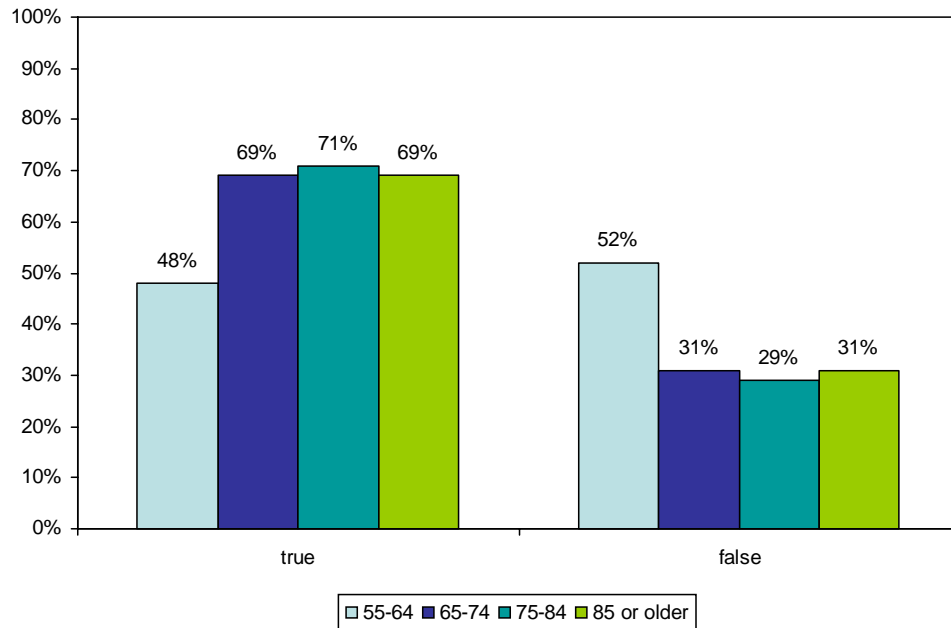
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There is an ambiguity in this question. As a general rule, the statement is correct.

However, a person with a disability may request a reasonable accommodation to pay later. This ambiguity may have misled some respondents in their answers.

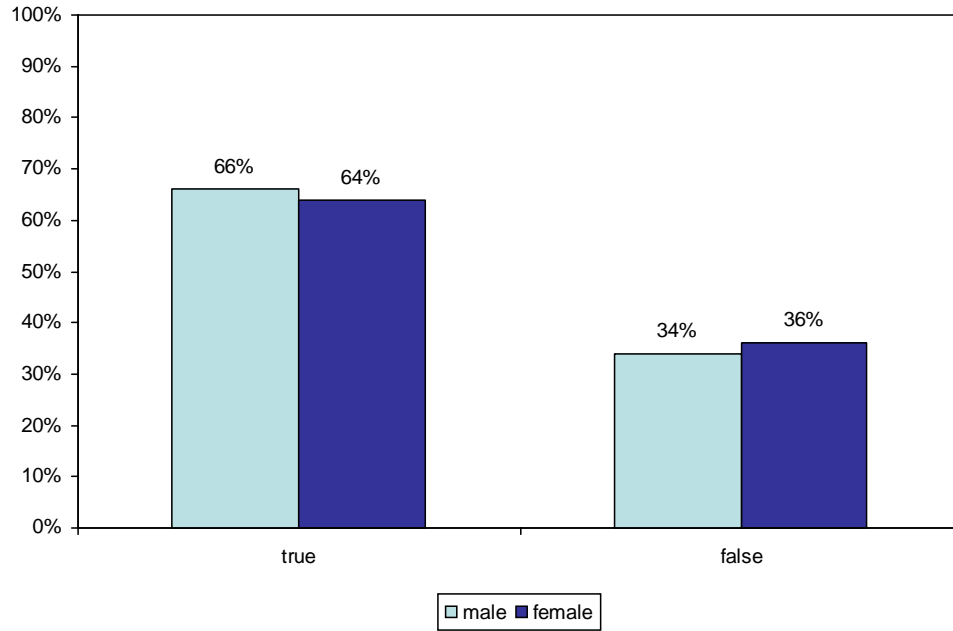
Responses by age.



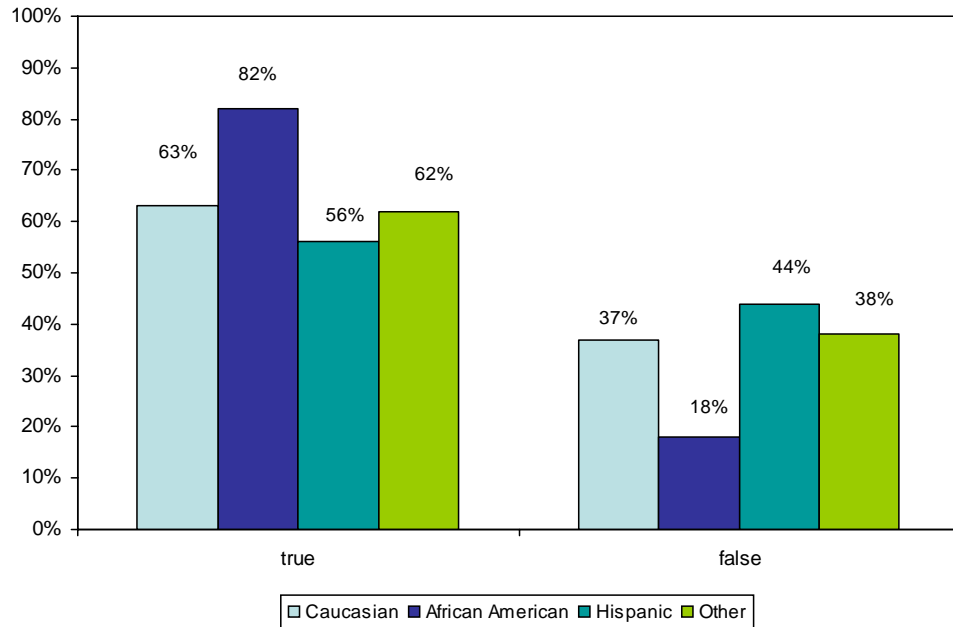
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Responses by gender.



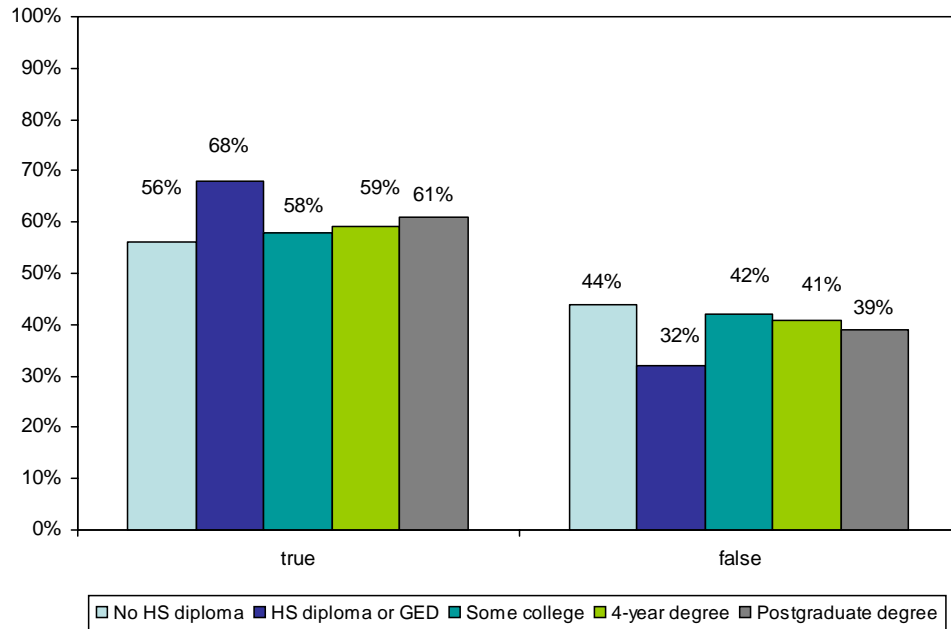
Responses by race.



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Responses by education level.



Approximately 60 percent of respondents answered this question incorrectly by stating that the example did not violate federal law. Forty percent of respondents answered this question correctly by stating that the example did violate federal law.

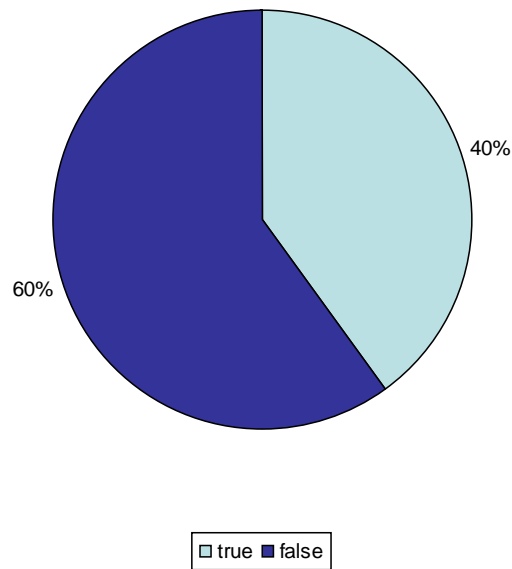
There were 52 respondents, who did not answer this question; thus, 308 out of 360 respondents answered the

Housing providers can mandate that residents undergo periodic medical evaluations and examinations.

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question. In sum, 185 respondents wrongly answered the question, while 123 respondents answered correctly.

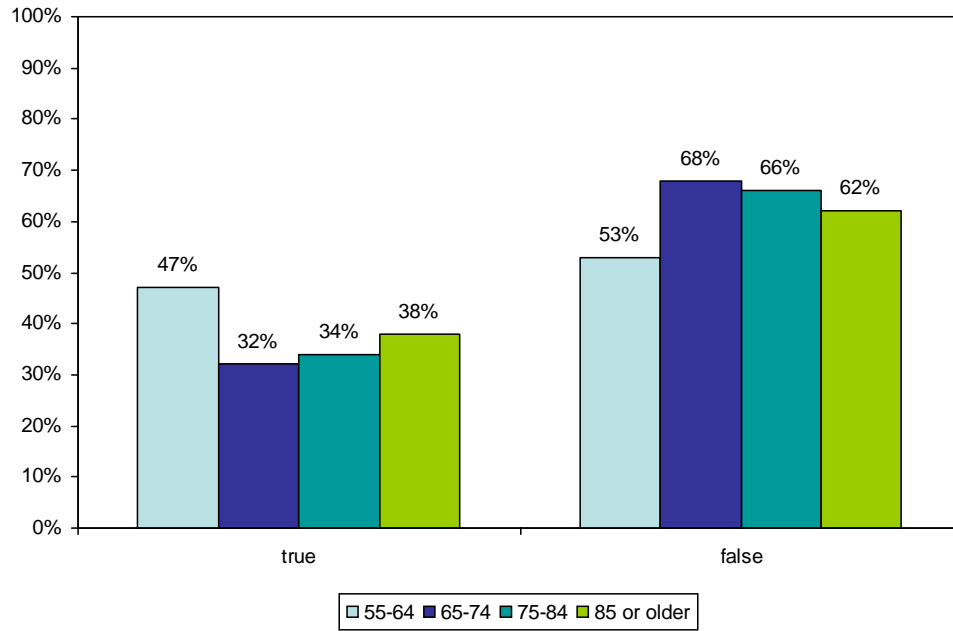


The results were further broken down as follows. The results to this question were relatively consistent with respect to gender and age (the three oldest age groups). Here, 62 percent of both male and female respondents answered this question correctly. Respondents from the three oldest age groups provided correct answers at a rate of 63 to 68 percent. However, 53 percent of respondents aged 55-64 answered this question correctly. With respect to race, 62 percent of Caucasian respondents; 55 percent of Hispanic respondents; and 47 percent of African-American respondents answered this question correctly.

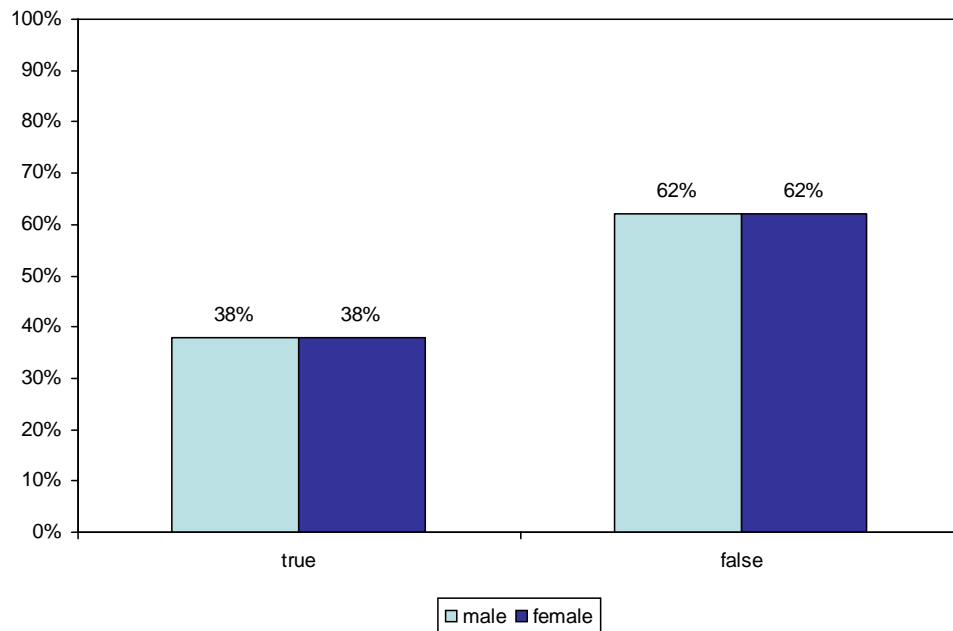
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Responses by age.



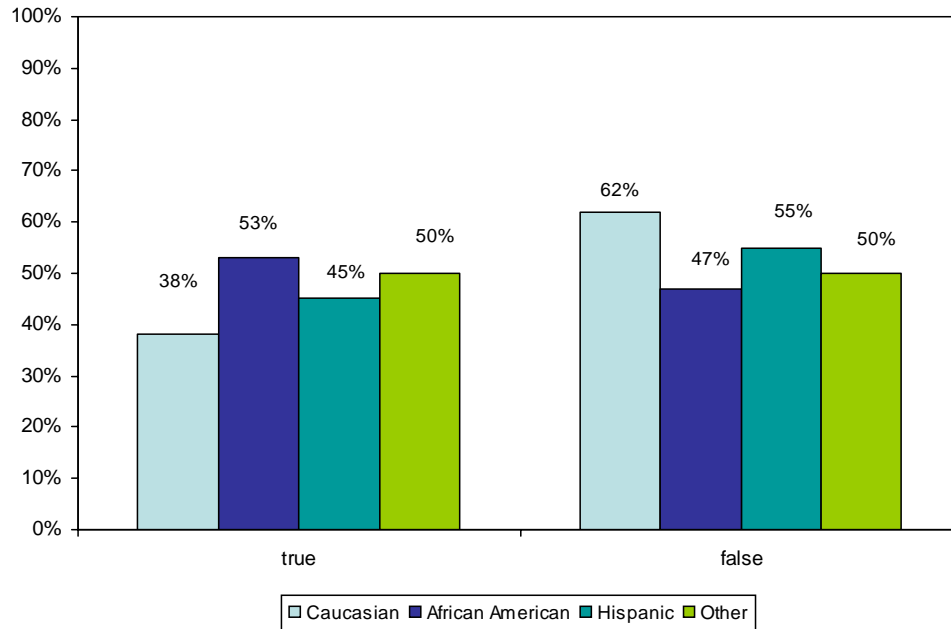
Responses by gender.



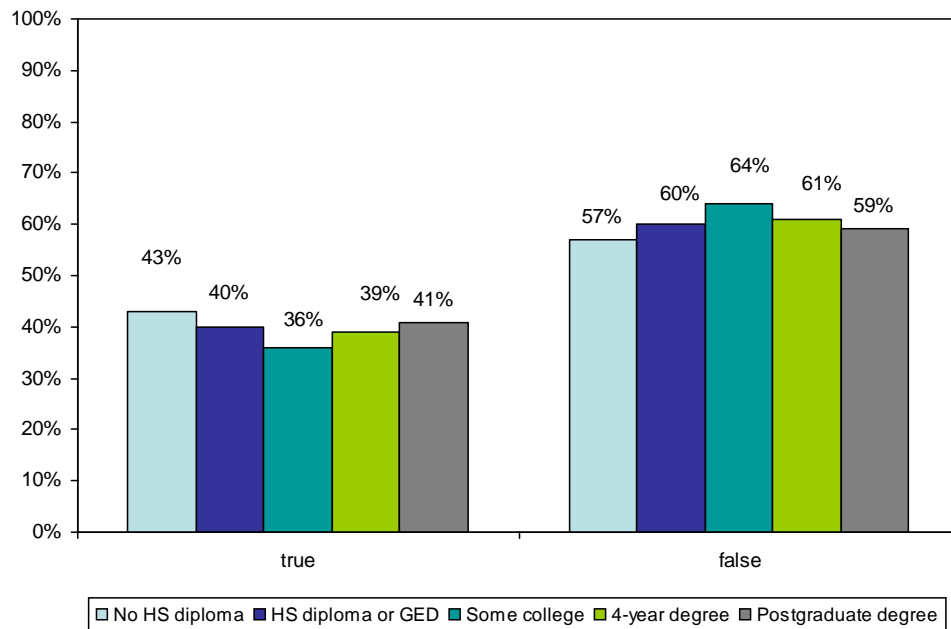
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Responses by race.



Responses by education level.

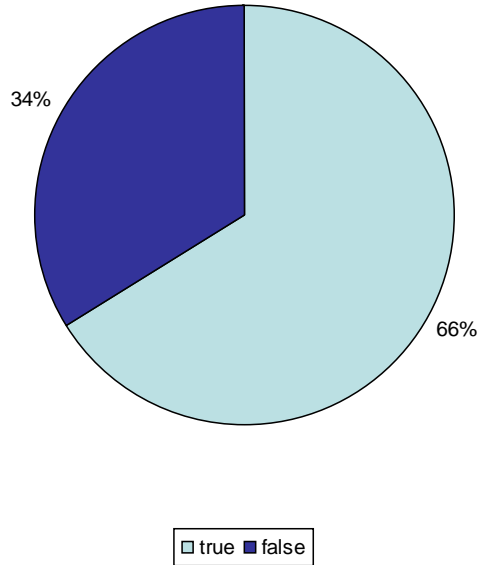


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Approximately 66 percent of respondents answered this question correctly by stating the example did not violate federal law. Thirty-four percent of respondents answered this question incorrectly by stating that the example did violate federal law. There were 48 respondents, who did not answer this question; thus, 312 out of 360 respondents answered the question. In sum, 206 respondents correctly answered the question, while 106 respondents answered the question incorrectly.

Housing providers may require that a resident not be a danger to others.

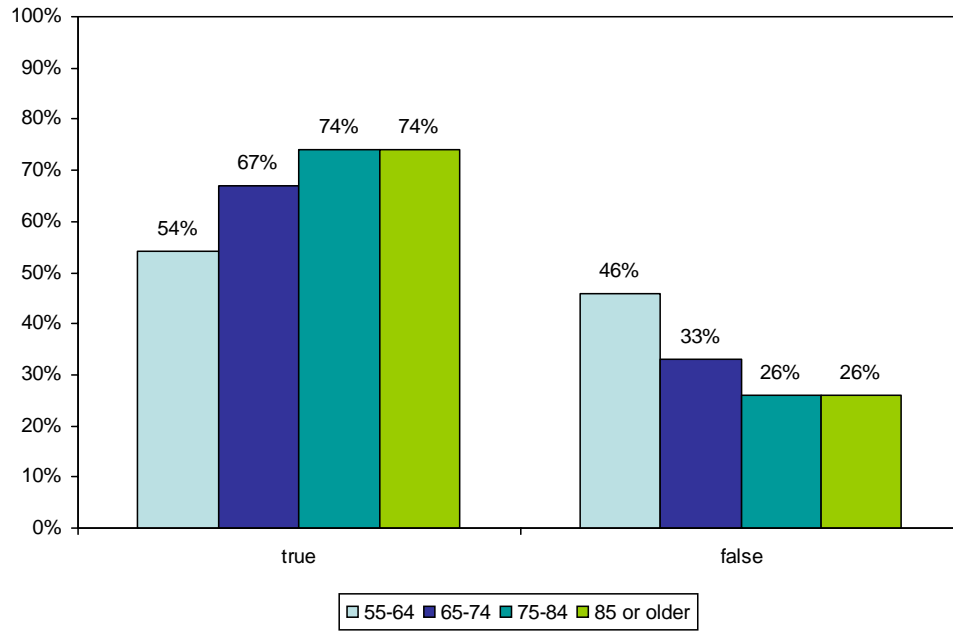


The results were further broken down as follows. The results were relatively consistent with respect to gender, where 67 percent of male respondents and 66 percent of female respondents provided the correct response. Once again, the respondents from the oldest three age groups provided more correct responses than respondents from the youngest age group. Only 54 percent of respondents aged 55-64 provided correct responses. However, 67 percent of respondents aged 65-74; 74 percent of respondents aged 75-84; and 74 percent of respondents aged 85 or older answered this question correctly. Overwhelmingly, African-American respondents (79 percent) provided more correct responses, as a percentage, than Caucasian respondents (67 percent) or Hispanic respondents (55 percent).

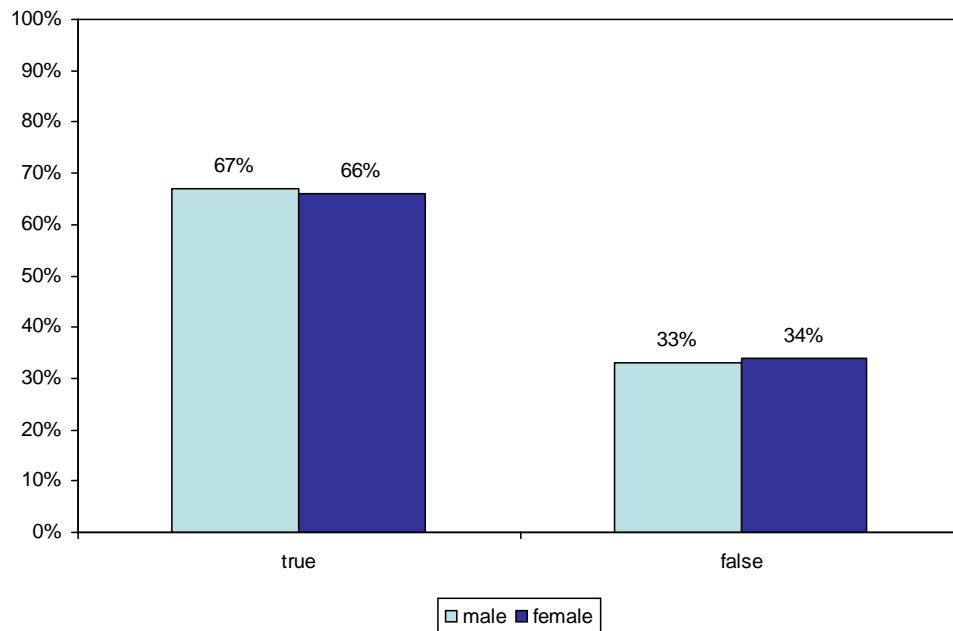
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Responses by age.



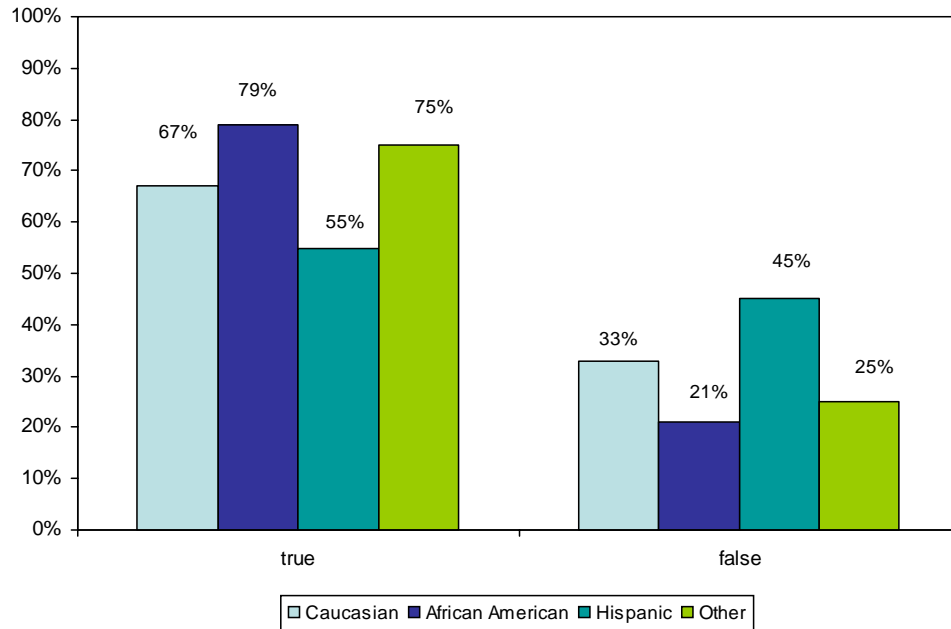
Responses by gender.



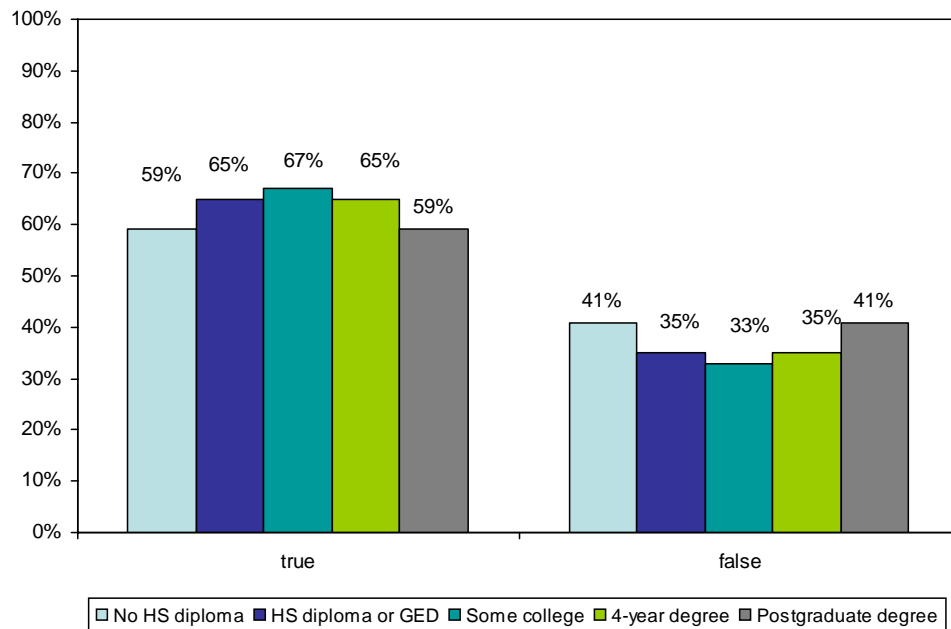
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Responses by race.



Responses by educational level.



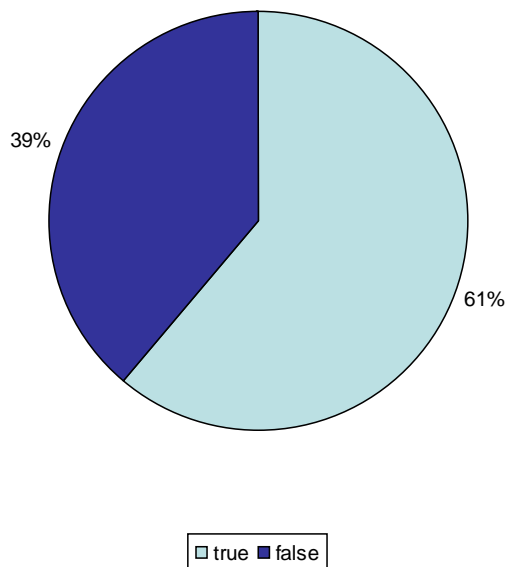
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Approximately 61 percent of *Housing provider for residents 55 years and older may exclude children.*

respondents answered this question correctly by stating that the example did not violate federal law. Thirty-nine percent of respondents answered this question incorrectly by stating that the example did violate federal law.

There were 48 respondents, who did not answer this question; thus, 312 out of 360 respondents answered the question. In sum, 191 respondents correctly answered the question, while 121 respondents answered the question incorrectly.



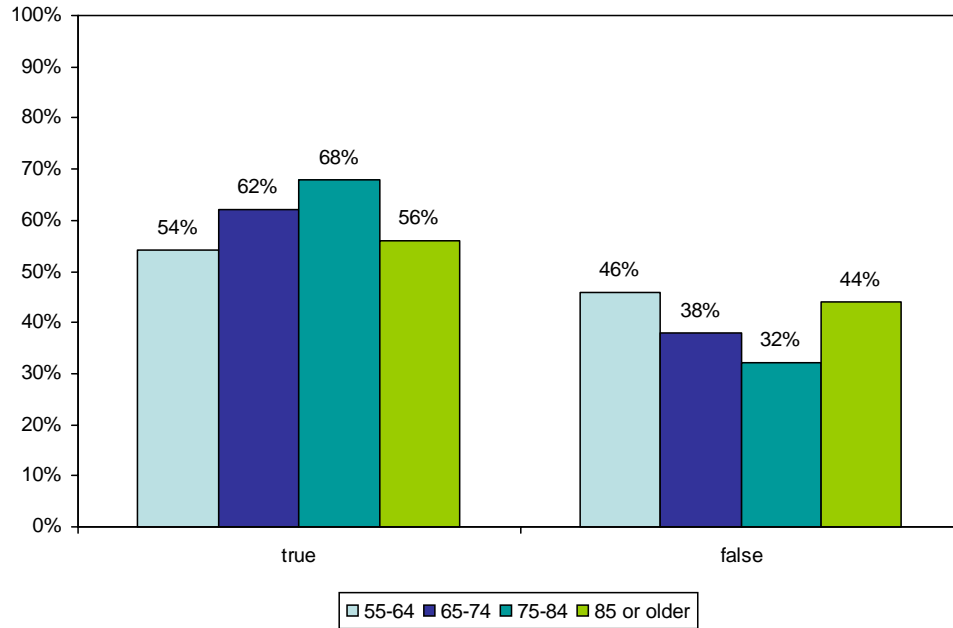
The results were further broken down as follows. The responses to this question provided some divergence among the different sub-categorical breakdowns. As to gender, 64 percent of female respondents provided correct responses, while 59 percent of male respondents provided correct responses. With respect to race, Caucasian respondents (67 percent) provided more correct responses, as a percentage, than African-American respondents (52 percent) or Hispanic respondents (50 percent). The middle age groups provided more correct responses, as a percentage, than the youngest and oldest respondents. Thus, 54 percent of respondents aged 55-64; 62 percent of respondents aged 65-74; 68 percent of respondents aged 75-84; and 56 percent of respondents aged 85 or older answered “true” to this question.

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The question is somewhat ambiguous because there is a self-certification process that a 55 or older housing provider must go through. Therefore, it is possible that some respondents spotted the ambiguity and were misled in their answer.

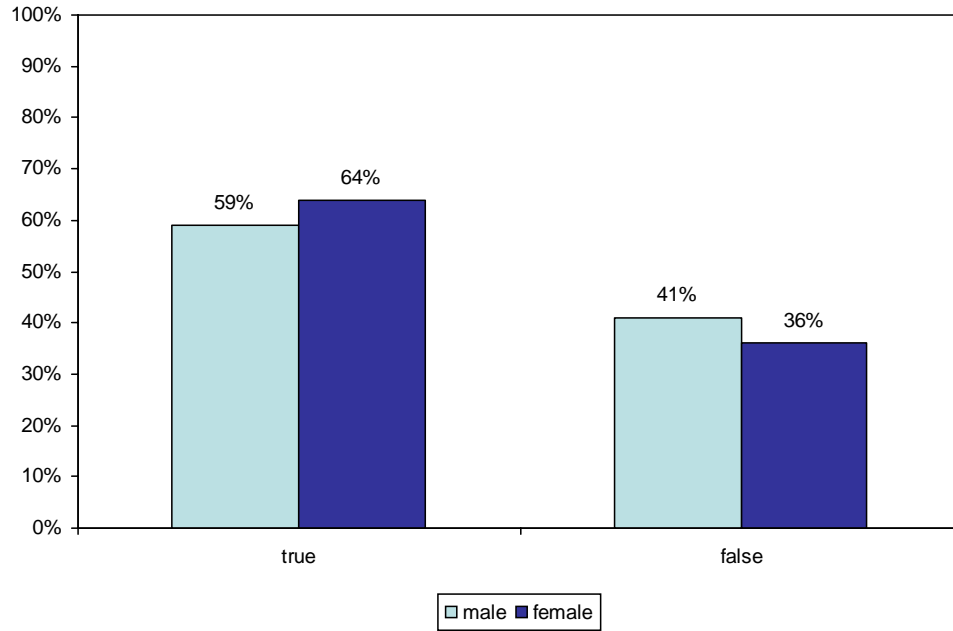
Responses by age.



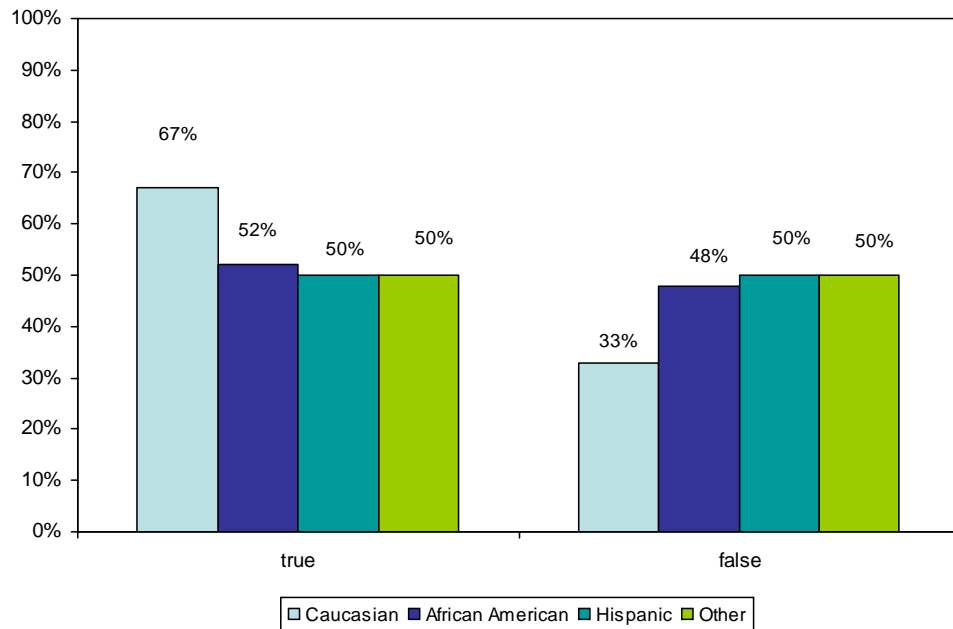
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Responses by gender.



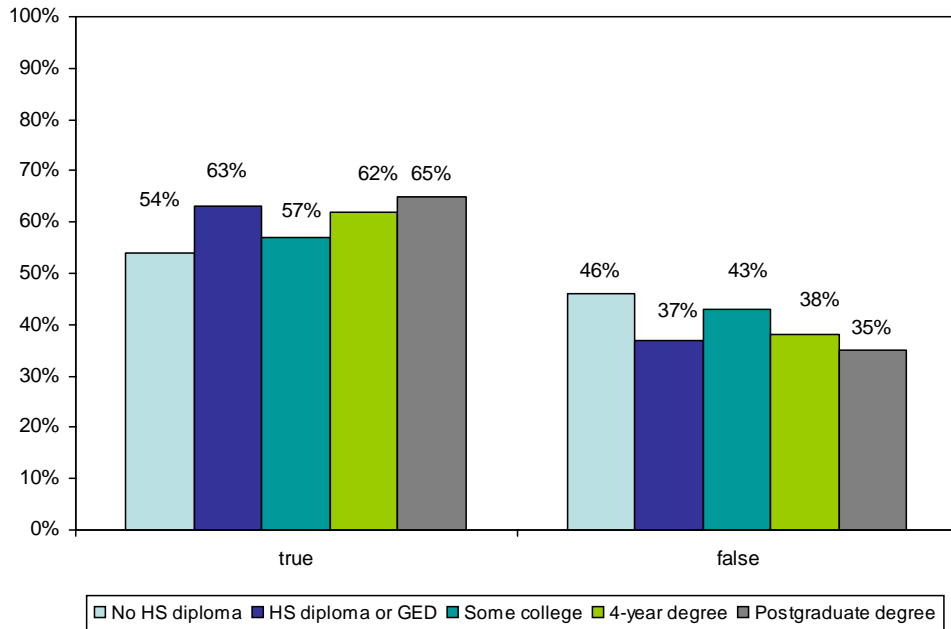
Responses by race.



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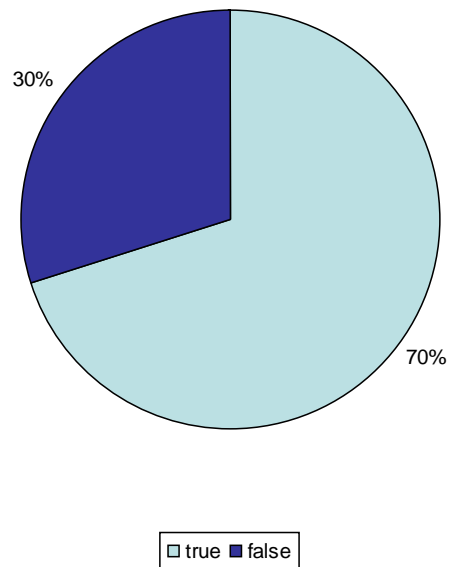
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Responses by education level.



Approximately 70 percent of respondents answered this question incorrectly by stating that this example did not violate federal law. Thirty percent of respondent answered this question correctly by stating that the example did violate federal law. There were 44 respondents, who did not answer this question; thus, 316 out of 360 respondents answered the

Landlords can enforce a no-pets policy equally among all tenants.



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question. In sum, 220 respondents wrongly answered the question, while 96 respondents answered the question correctly.

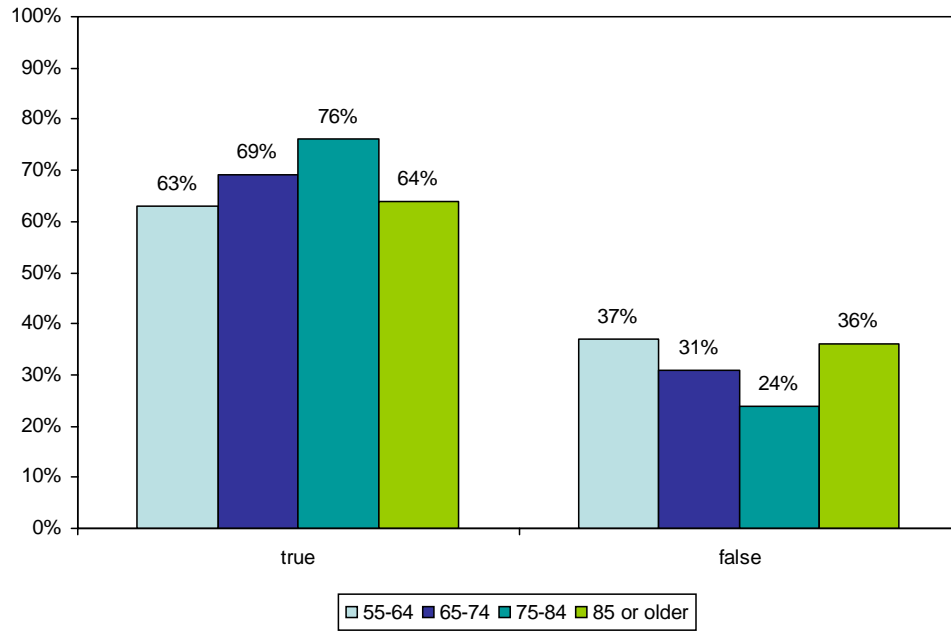
The results were further broken down as follows. The results were relatively consistent in that most respondents answered this question in correctly with 73 percent of male respondents and 68 percent of female respondents answering incorrectly. As to age, 63 percent of respondents aged 55-64; 69 percent of respondents aged 65-74; 76 percent of respondents aged 75-84; and 64 percent of respondents aged 85 or older provided the incorrect response. With respect to race, 86 percent of African-American respondents; 71 percent of Hispanic respondents; and 68 percent of Caucasian respondents provided the incorrect response.

This question is also ambiguous. It is true that a landlord can equally enforce a no-pets policy against all tenants. However, a tenant with a disability may request a reasonable accommodation to keep a pet necessary to enable the person to live independently.

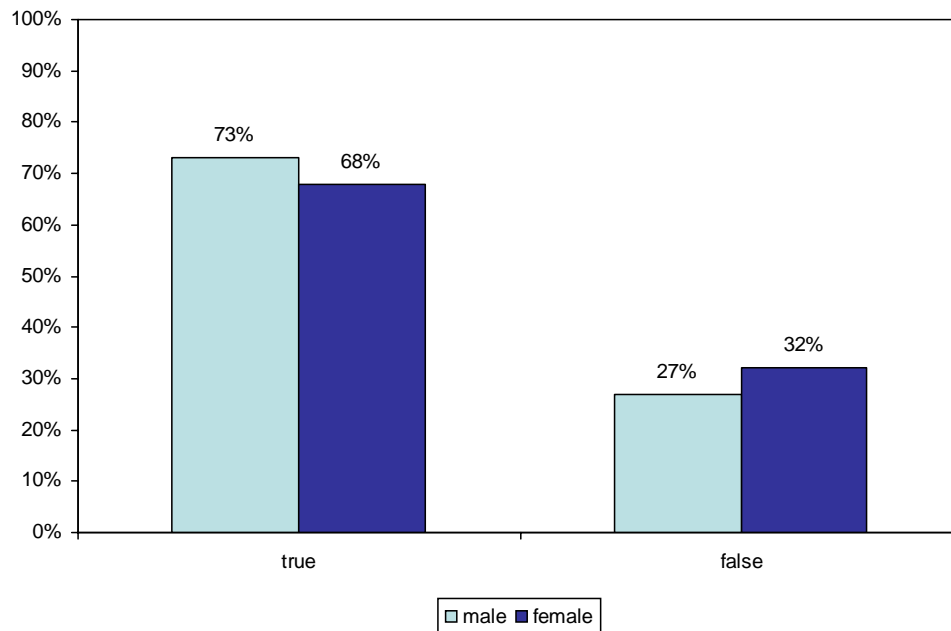
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Responses by age.



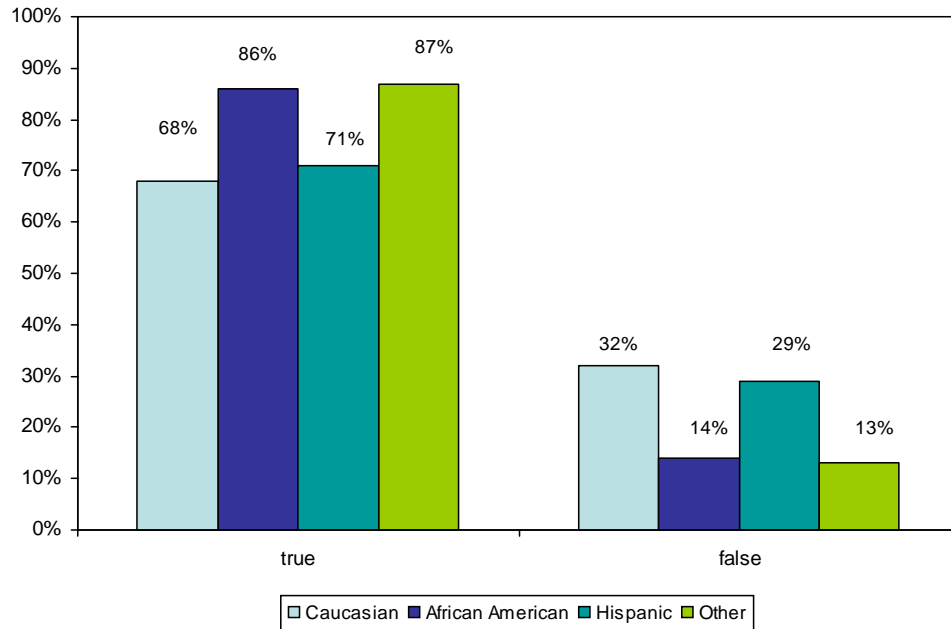
Responses by gender.



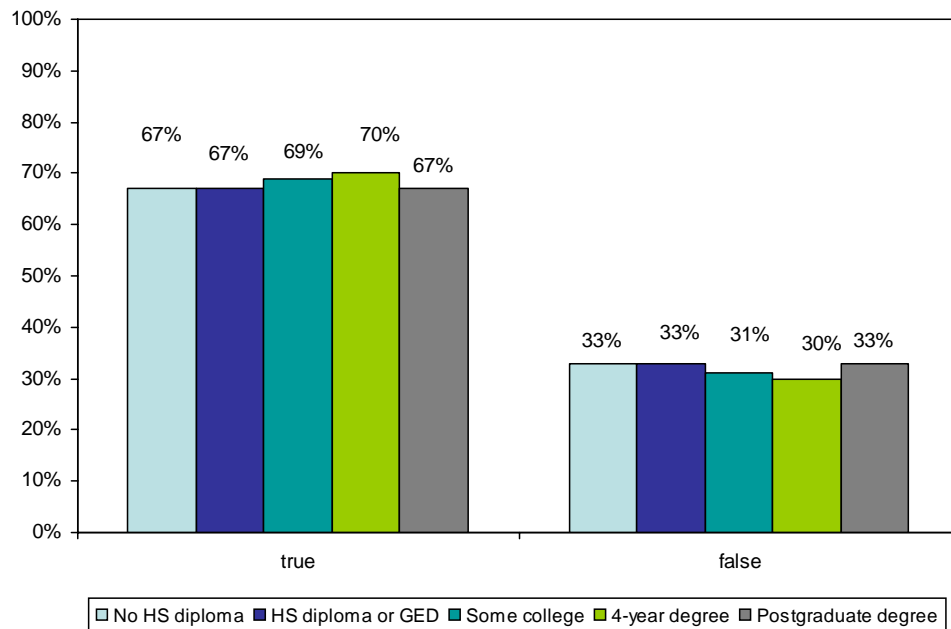
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Responses by race.



Responses by education level.



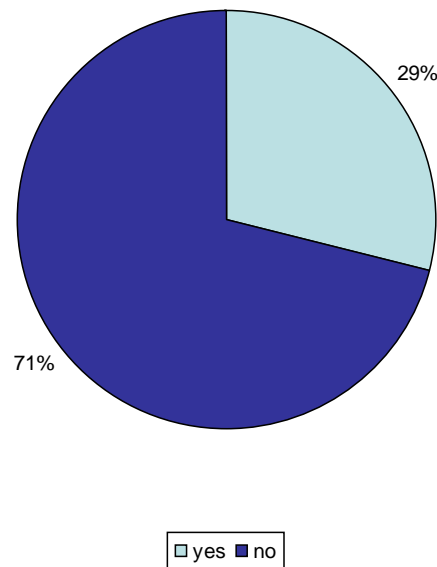
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13. Have you ever heard about the Illinois Department on Aging’s Ombudsman program that protects and promotes the rights of people living in long-term care facilities?

Approximately 71 percent of respondents indicated that they were not aware of this program. There were 13 respondents, who did not answer this question; thus, 347 out of 360 respondents answered the question; In sum, 100 respondents answered “yes,” while 247 respondents answered “no.”

Whether respondents were aware of the Ombudsman program.



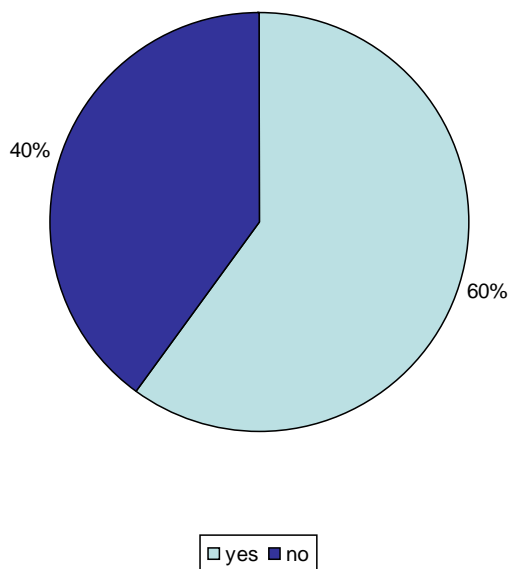
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14. If you were the victim of housing discrimination, do you think you would file a complaint?

Approximately 60 percent of respondents indicated that they would file a complaint. There were 15 respondents, who did not answer this question; thus, 345 out of 360 respondents answered the question. In sum, 207 respondents answered “yes,” while 138 respondents answered “no.”

Whether respondents would file a housing discrimination complaint.



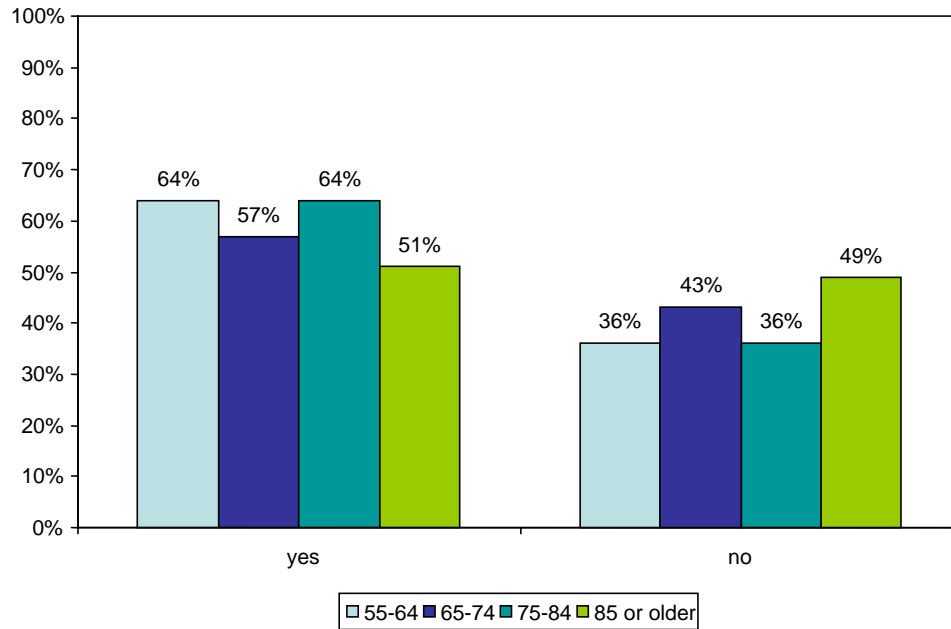
The results were further broken down as follows. This question provided some interesting results. First, 68 percent of male respondents indicated that they would file a housing discrimination complaint, but only 57 percent of female respondents indicated that they would file such a complaint. Second, 67 percent of African-American respondents and 59 percent of Hispanic respondents indicated that they would file such a complaint. This is interesting when compared to a later question that asked if respondents have been victims of discrimination and whether they took any action in response. The Caucasian respondents (59 percent) also demonstrated a willingness to file housing discrimination complaints if necessary. The breakdown with respect to age varied: 64 percent of respondents aged 55-64; 57 percent of

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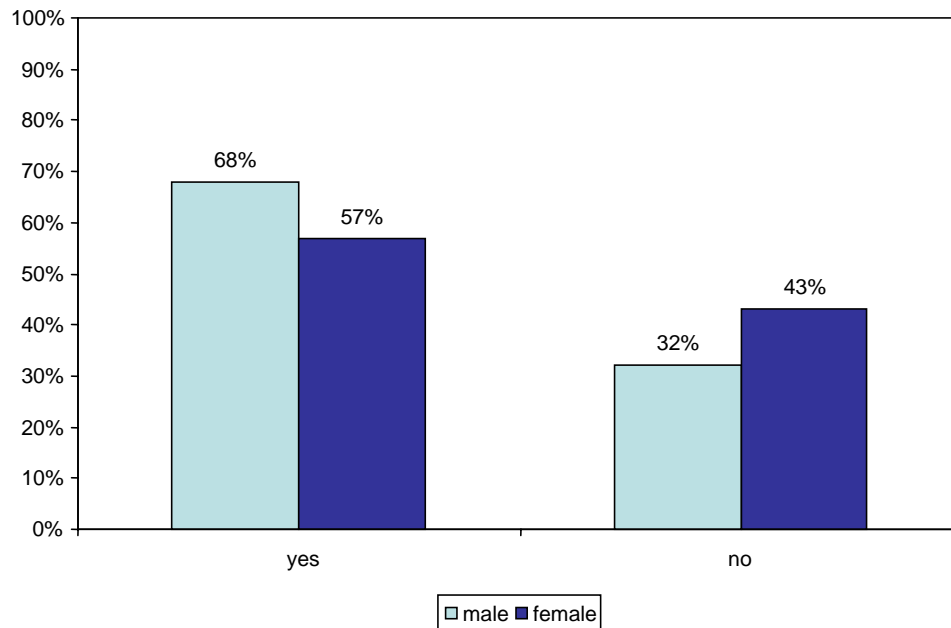
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respondents aged 65-74; 64 percent of respondents aged 75-84; and 51 percent of respondents aged 85 or older indicated that they would file such a complaint.

Responses by age.



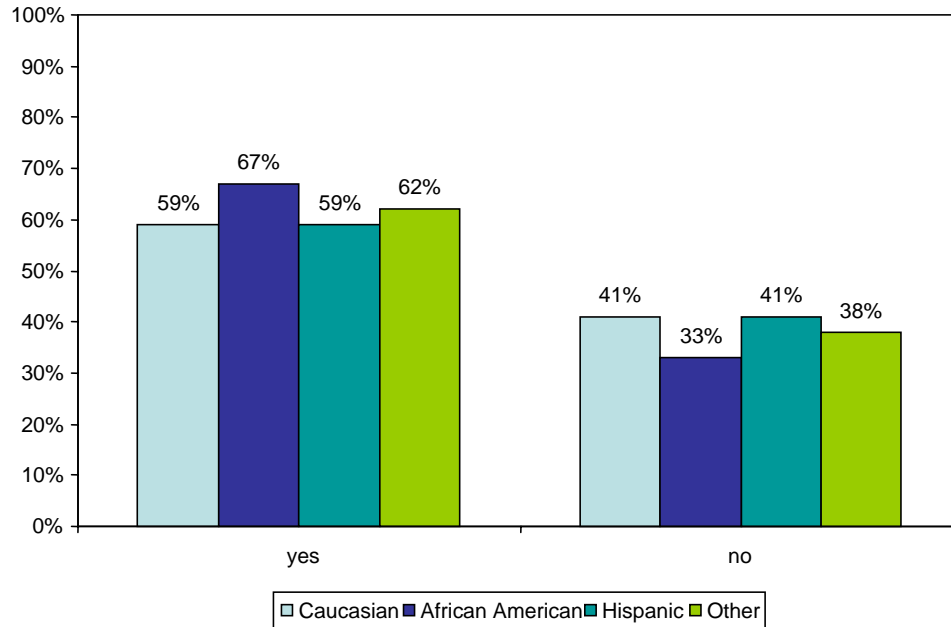
Responses by gender.



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Responses by race.



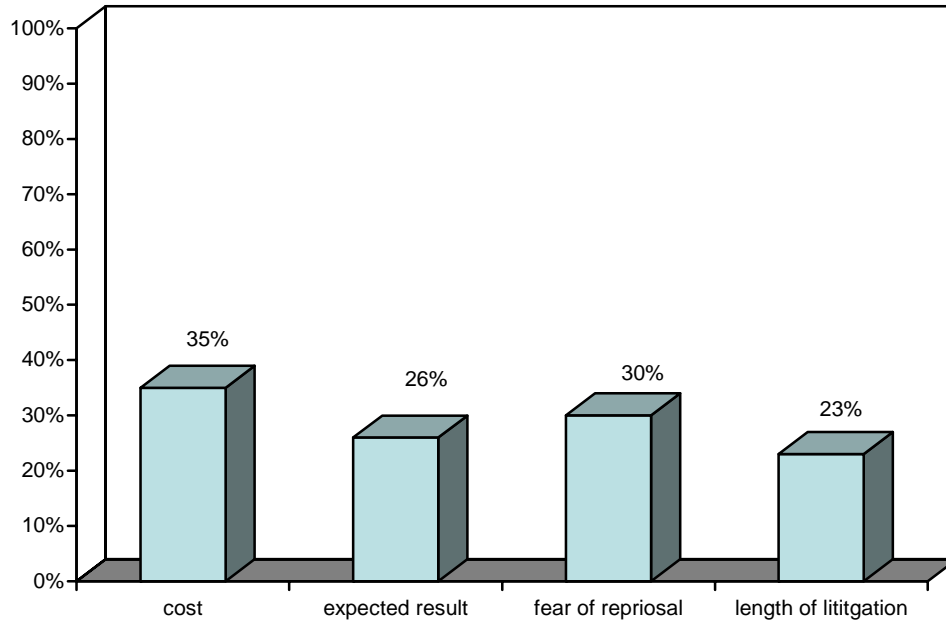
14a. If no, choose the reason[s].

Approximately 35 percent of respondents indicated that they would not file a housing discrimination complaint because of cost, while 26 percent indicated a fear of reprisal, 30 percent indicated expected result; and 23 percent indicated length of litigation. Nine respondents provided unspecified reasons or “other.” There were 15 respondents, who did not answer this question, and 207 respondents skipped this question based on their responses to question 14; thus, 138 out of 360 respondents answered the question. The results are reflected in the chart on the following page.

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Reasons for not filing a housing discrimination complaint.



The following table reflects the respondents' answers in raw numbers.

	Respondents	Cost	Expected result	Fear of reprisal	Length of litigation	Other
Overall totals	138	48	36	42	32	9

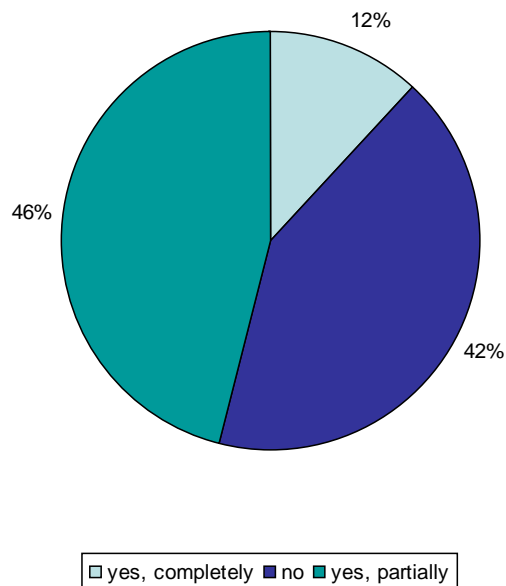
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15. Do you think if you filed such a complaint that it would achieve your desired results?

Approximately 42 percent of respondents believed that a housing discrimination complaint would not achieve its desired results. Whereas 12 percent of respondents believed that a housing discrimination complaint would completely achieve its desired results, and 46 percent of respondents believed such a complaint would be at least partially successful.

Whether respondents believed a housing discrimination complaint would achieve desired results.



There were 21 respondents, who did not answer this question; thus, 339 out of 360 respondents answered the question. In sum, 42 respondents answered “yes, completely;” 141 respondents answered “no;” and 156 respondents answered “yes partially.”

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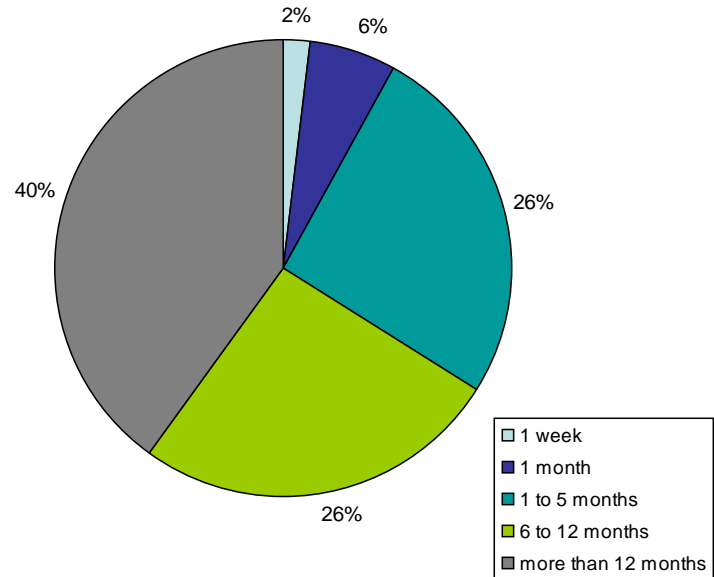
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16. How much time do you think it would take to resolve the complaint?

Approximately 40 percent of respondents believed that a housing discrimination complaint would take longer than one year to resolve, while 60 percent of respondents believed that such a complaint would be resolved in less than one year. There were 38 respondents, who did not answer this question; thus, 322 out of 360 respondents answered the question.

The respondents were provided with the following answer choices: one week; one month; one to five months; six months to one year; and more than one year. The results as a percentage are as follows.

How long it would take to resolve a housing discrimination complaint.



The following table reflects the respondents' answers in raw numbers.

	One week	One month	One to five months	Six months to one year	More than on year
Overall totals	6	19	85	84	128

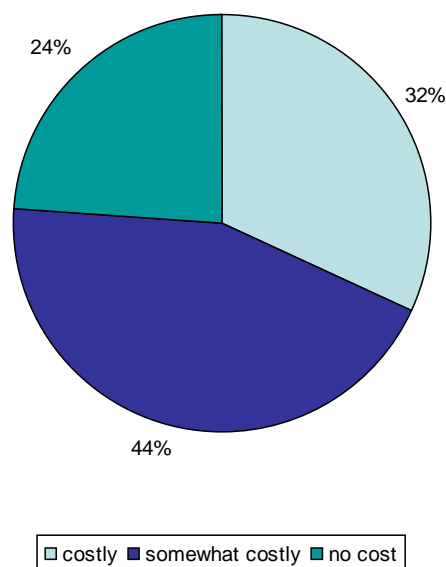
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17. How much do you think it costs to file a housing discrimination complaint with a federal agency?

Approximately 24 percent of respondents believed that there was no cost associated with filing a housing discrimination complaint. There were 29 respondents, who did not answer this question; thus, 331 out of 360 respondents answered the question.

How much would it cost to file a housing discrimination complaint.



The following table reflects the respondents’ answers in raw numbers.

	Costly	Somewhat costly	No cost
Overall totals	107	144	80

18. Do you believe that you have ever been the victim of discrimination in housing because of your (check all that apply):

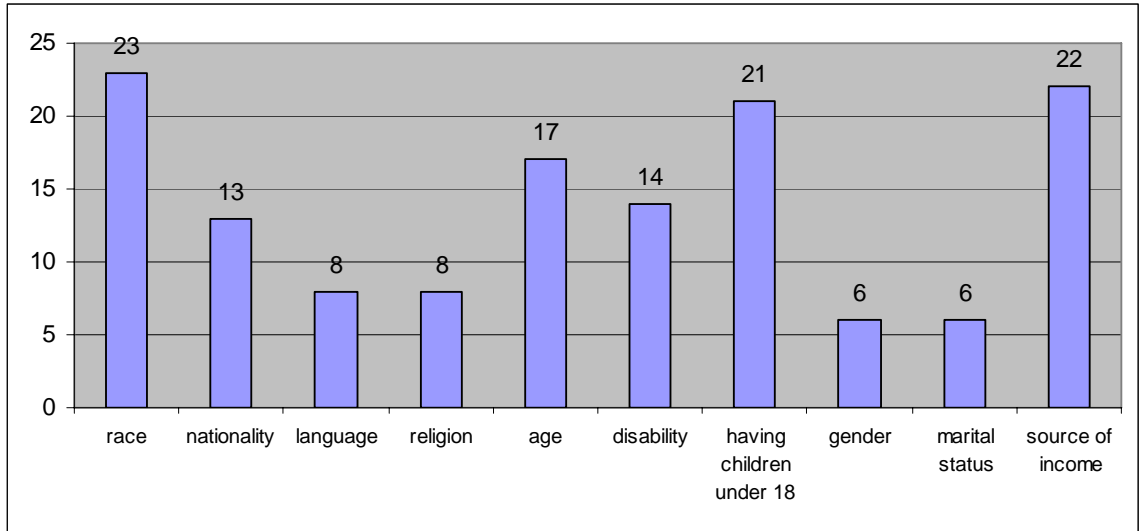
Approximately 25 percent of respondents indicated that they were the victims of some form of housing discrimination. For this question, there were 91 affirmative responses, whereas 269 indicated no discrimination by choosing none of the available answers. Respondents could provide multiple bases of discrimination. The most prevalent bases of discrimination indicated by respondents were race (25 percent of affirmative respondents); source of income (24 percent of affirmative respondents); having children under 18 (23 percent of affirmative respondents);

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age (19 percent of affirmative respondents); disability (15 percent of affirmative respondents); and nationality (14 percent of affirmative respondents).

Forms of discrimination indicated by respondents (by number of responses).

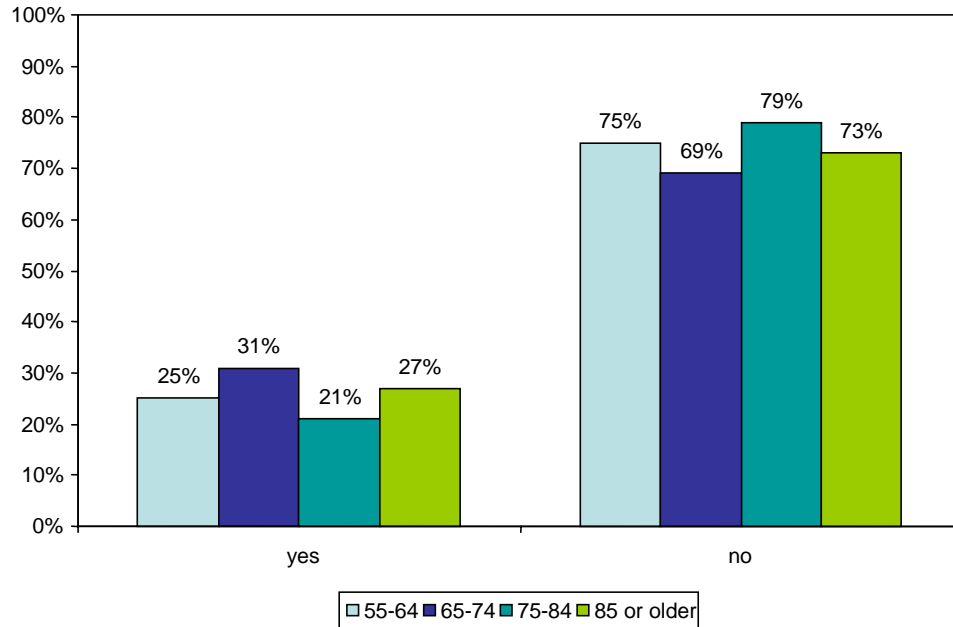


The results were further broken down as follows. The results were relatively consistent with respect to age with 25 percent of respondents aged 55-64; 31 percent of respondents aged 65-74; 21 percent of respondents aged 75-84; and 27 percent of respondents aged 85 or older indicating that they were victims of discrimination. However, more male respondents (32 percent) indicated that they were victims of housing discrimination than female respondents (23 percent). Predictably, there was a significant disparity among the racial groups: 51 percent of minorities indicated that they were victims of housing discrimination compared to 18 percent of Caucasian respondents. However, more Hispanic respondents (62 percent) indicated that they were victims of such discrimination than African-American respondents (43 percent).

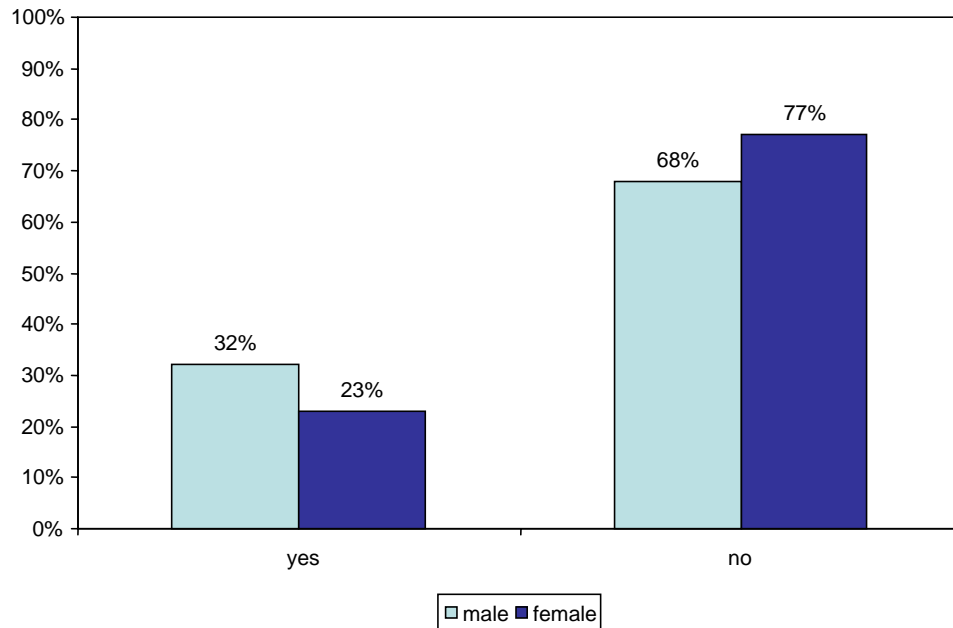
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Were respondents victims of housing discrimination by age.



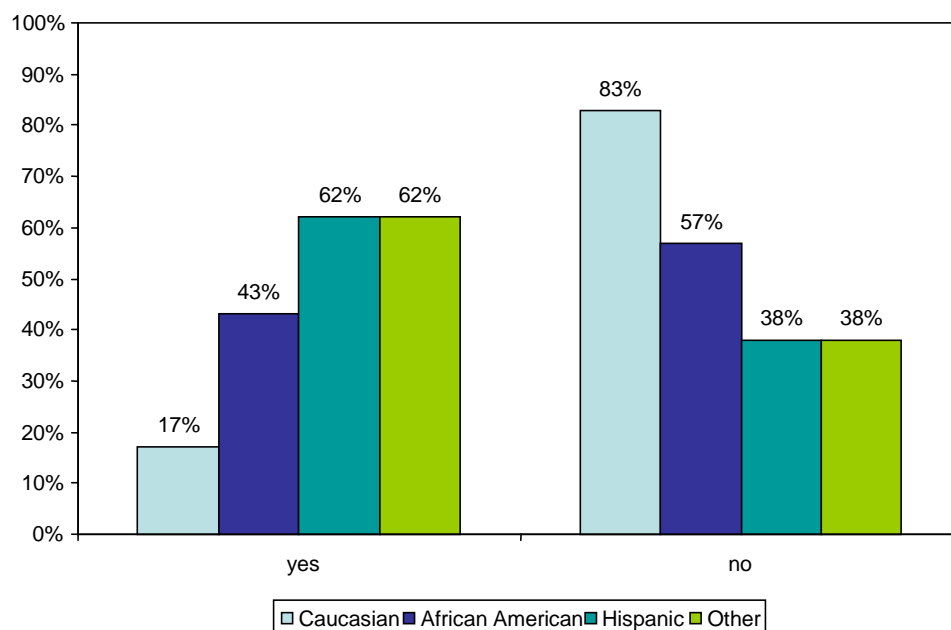
Were respondents victims of housing discrimination by gender.



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Were respondents victims of housing discrimination by race



Of the 91 affirmative respondents, the bases of discrimination were broken down as in the following chart. Most female respondents complained of discrimination of the bases of having children under 18 years of age (30 percent) and source of income (26 percent). Interestingly, only 12 percent of female respondents complained of gender as a basis of housing discrimination. Most male respondents complained of race (36 percent), age (27 percent), and disability (25 percent) as bases of discrimination. Similarly, most Caucasian respondents complained of age (26 percent) and disability (21 percent) as bases for housing discrimination. Most African-American respondents complained of race (71 percent) and source of income (38 percent) as bases for housing discrimination. Most Hispanic respondents complained of nationality (39 percent) and having children under 18 years of age (39 percent) as bases for housing discrimination.

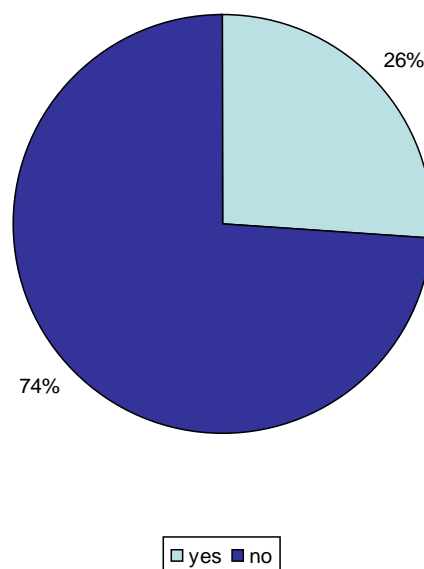
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19. Did the discrimination occur within the past five years?

Approximately 26 percent of respondents indicated that the discrimination occurred within the past five years. For this question, there were 91 affirmative responses, with 269 respondents who skipped this question based on their response to question 18. In sum, 24 respondents answered “yes,” while 67 respondents answered “no.”

Whether the discrimination occurred within the past five years.



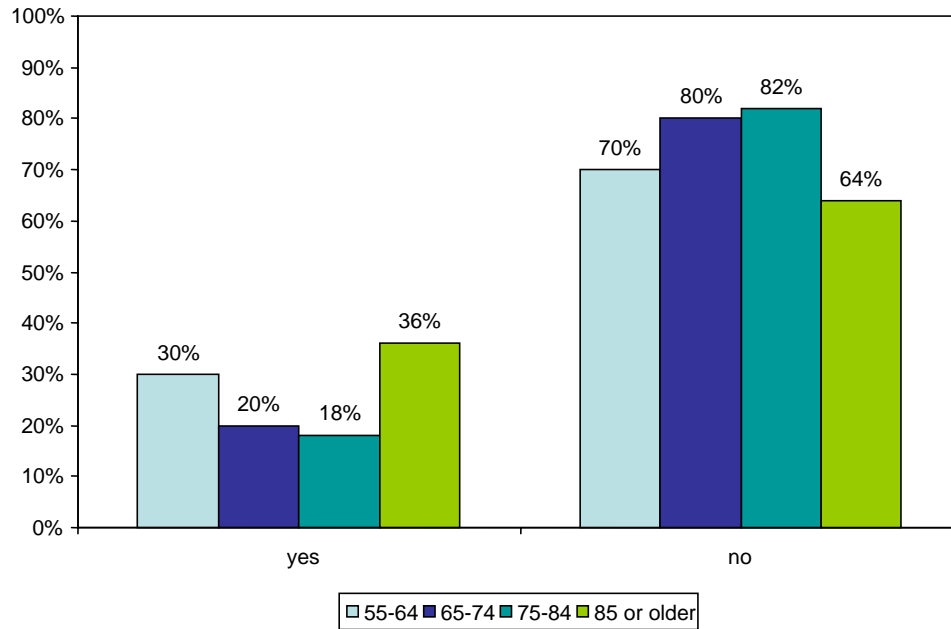
The results were further broken down as follows. Generally, the responses were consistent as to whether the discriminatory conduct occurred within the past five years in terms of age, gender, and race. As to, more male respondents (30 percent) than female respondents (21 percent) indicated that the discriminatory conduct occurred within the past five years. With respect to age, 30 percent of respondents aged 55-64; 20 percent of respondents aged 65-74; 18 percent of respondents aged 75-84; and 36 percent of respondents aged 85 or older indicated that the discriminatory conduct occurred within the past five years. Interestingly, as to race, 33 percent of Hispanic respondents and 28 percent of Caucasian respondents indicated that the discriminatory conduct occurred within the past five years. However, 14 percent of African-

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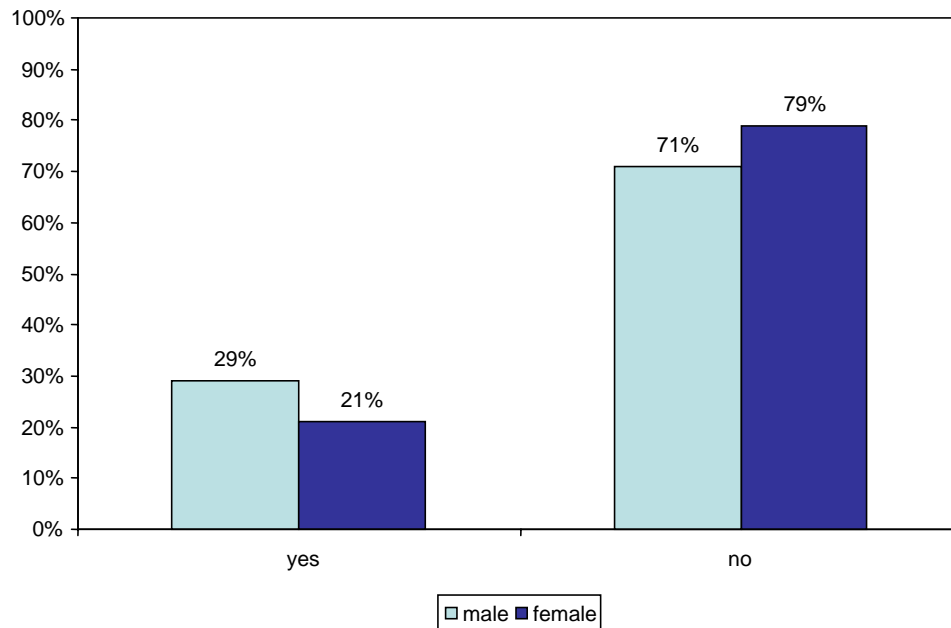
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American respondents indicated that the discriminatory conduct occurred during that same time period.

Did the housing discrimination occur within the last five years by age.



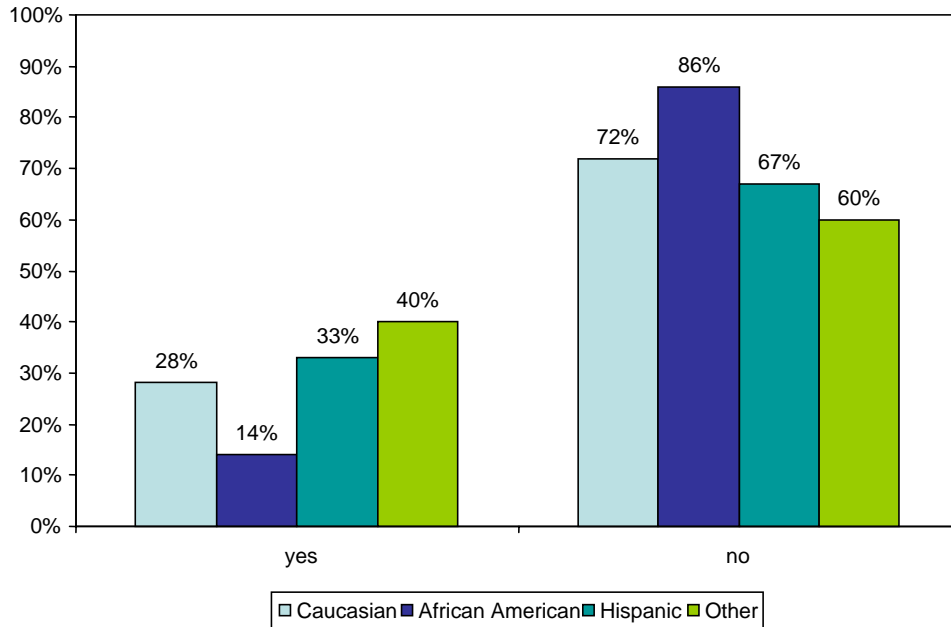
Did the housing discrimination occur within the last five years by gender.



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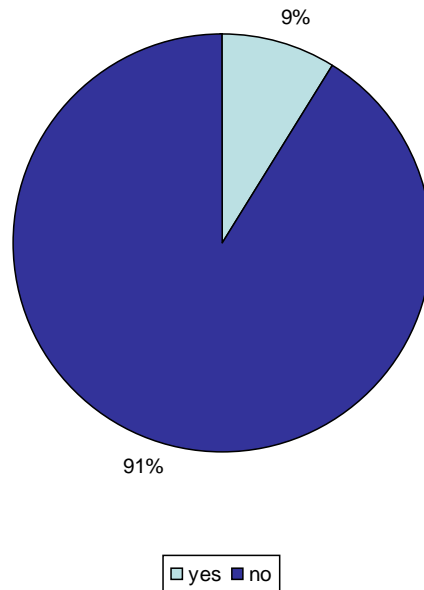
Did the housing discrimination occur within the last five years by race.



20. Did you take legal action following the discrimination?

Only nine percent of the 91 respondents indicated that they took any action regarding the housing discrimination. That rate is shockingly small compared to a previous action, which whether respondents would file a housing discrimination complaint. For this question, there were 91 affirmative responses, with 269 respondents who skipped this question based on their

Whether the respondents took any action regarding the housing discrimination.



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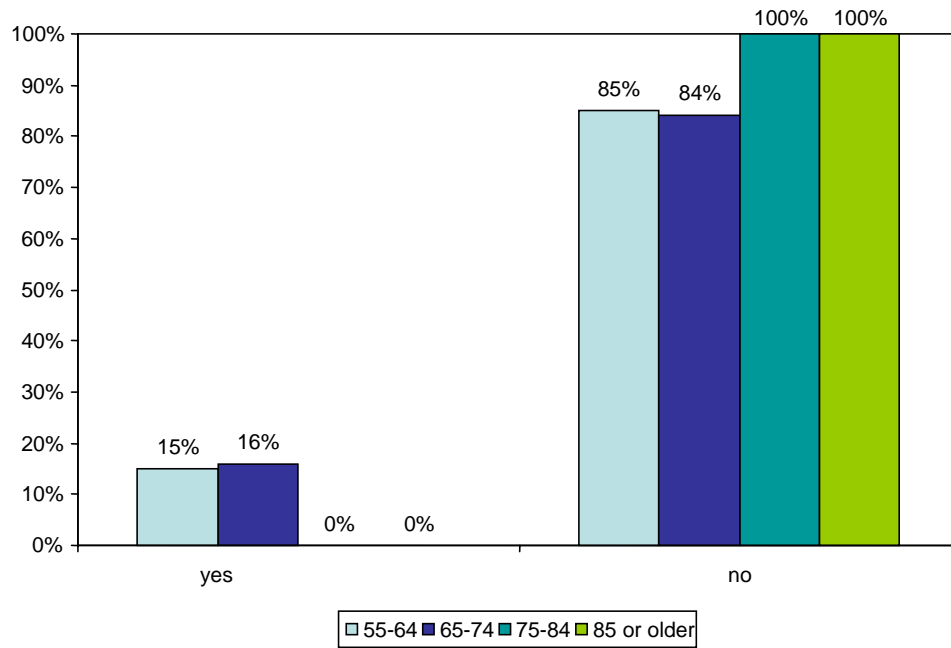
response to question 18.

The results were further broken down as follows. Once again, very few respondents indicated that they took any action with respect to their housing discrimination claims. With respect to age, no respondents over the age of 75 took any action (two age sub-categories). However, 15 percent of respondents aged 55-64 and 16 percent of respondents aged 65-74 indicated that they took some kind of action. Male respondents (11 percent) were more likely than female respondents (five percent) to take some kind of action. The results with respect to race were especially interesting when compared to a prior question on whether respondents would file housing discrimination complaints. In response to that question, 59 to 67 percent of African-American, Hispanic, and Caucasian respondents indicated that they would file a housing discrimination complaint. Here, 12 percent of Caucasian respondents and 11 percent of Hispanic respondents indicated that they took some kind of action. Only five percent of African-American respondents took some kind of action in response to alleged discriminatory conduct involving housing. Of the eight respondents, who took some kind of action: three contacted an attorney; four discussed the matter with a family member or friend; and four consulted a governmental agency. [Multiple responses could be given to this follow-up query.]

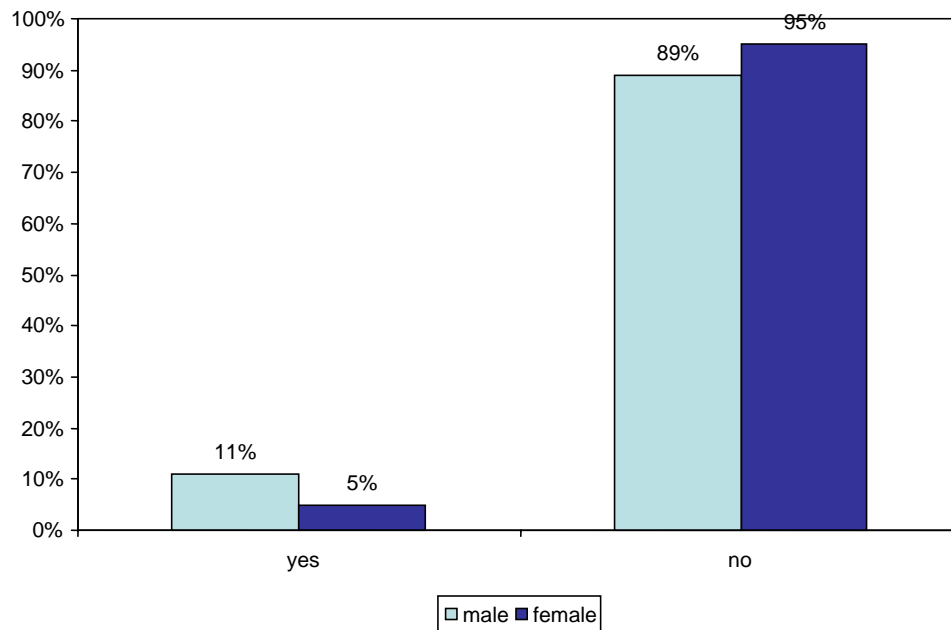
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Responses by age.



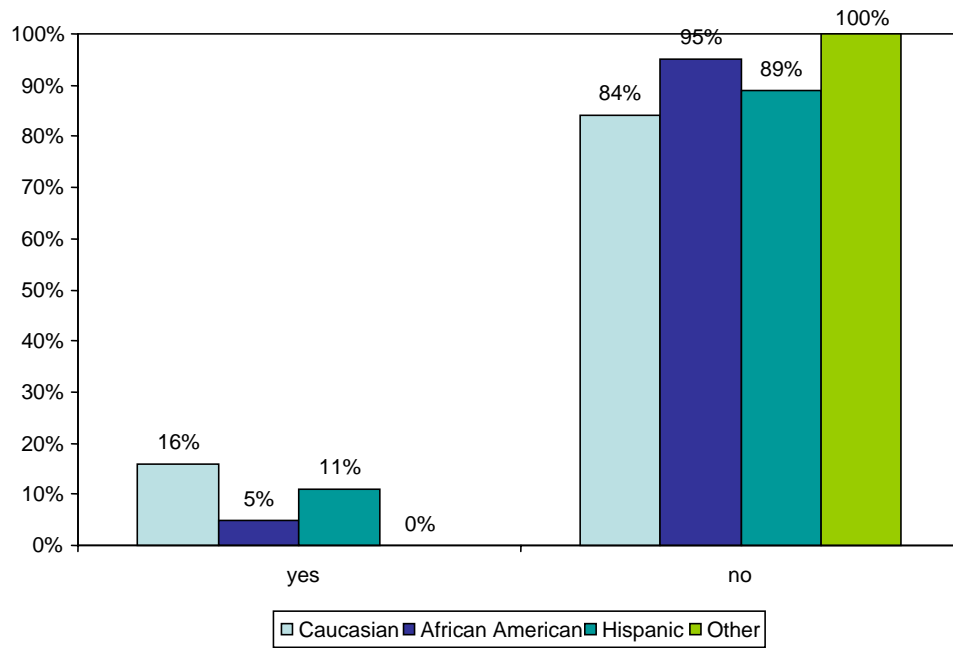
Responses by gender.



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Responses by race.



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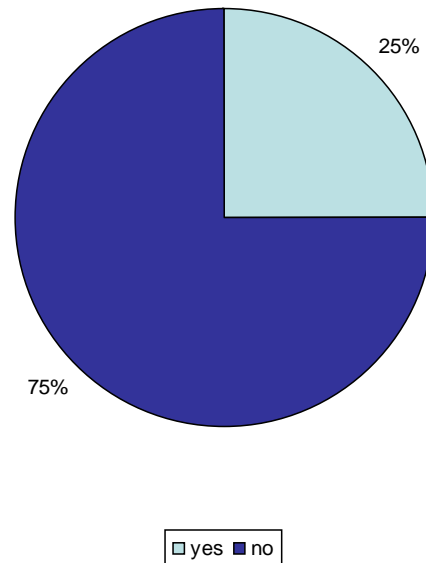
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The following questions relate to physical or mental disabilities that may limit you or a member of your household's choice of housing.

21. Do you have a disability?

Approximately 25 percent of respondents indicated that they had a disability. There were 14 respondents, who did not answer this question; thus, 346 out of 360 respondents answered the question. In sum, 85 respondents answered “yes,” while 261 respondents answered “no.”

Whether respondent has a disability.

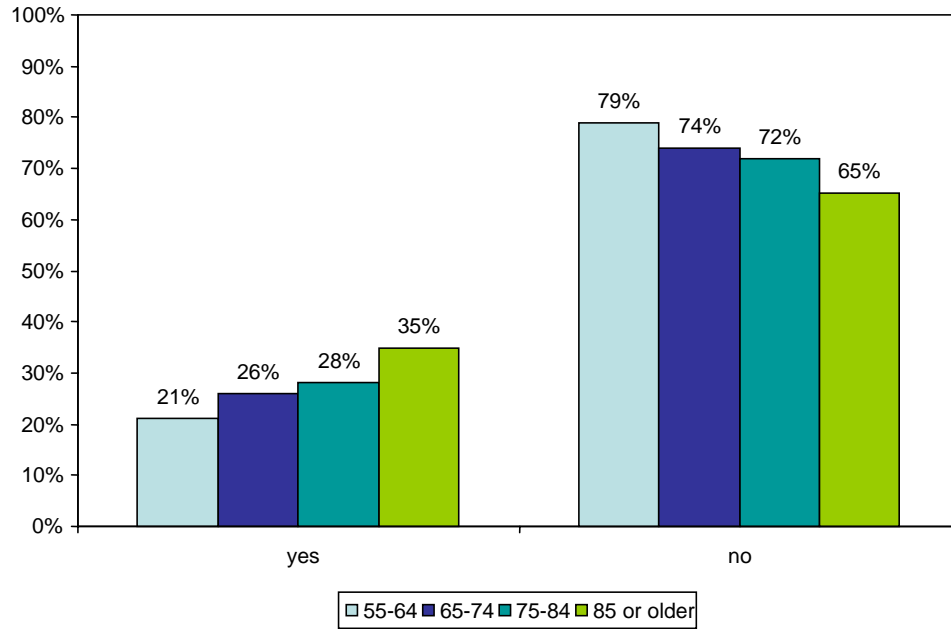


The results were further broken down as follows. As respondents aged, the rates indicating some sport of disability increased: 21 percent of respondents aged 55-64; 26 percent of respondents aged 65-74; 28 percent of respondents aged 75-84; and 35 percent of respondents aged 85 or older indicated that they had some type of disability. More male respondents (28 percent) than female respondents (23 percent) indicated that they had a disability. African-American respondents (16 percent) were less likely, as a percentage, to have a disability than Caucasian respondents (25 percent) or Hispanic respondents (28 percent).

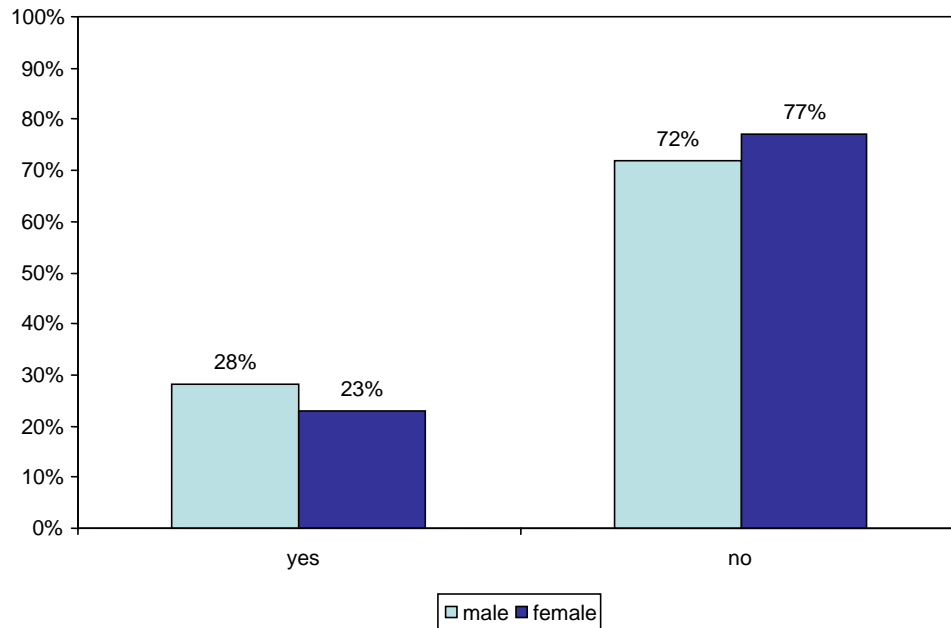
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Responses by age.



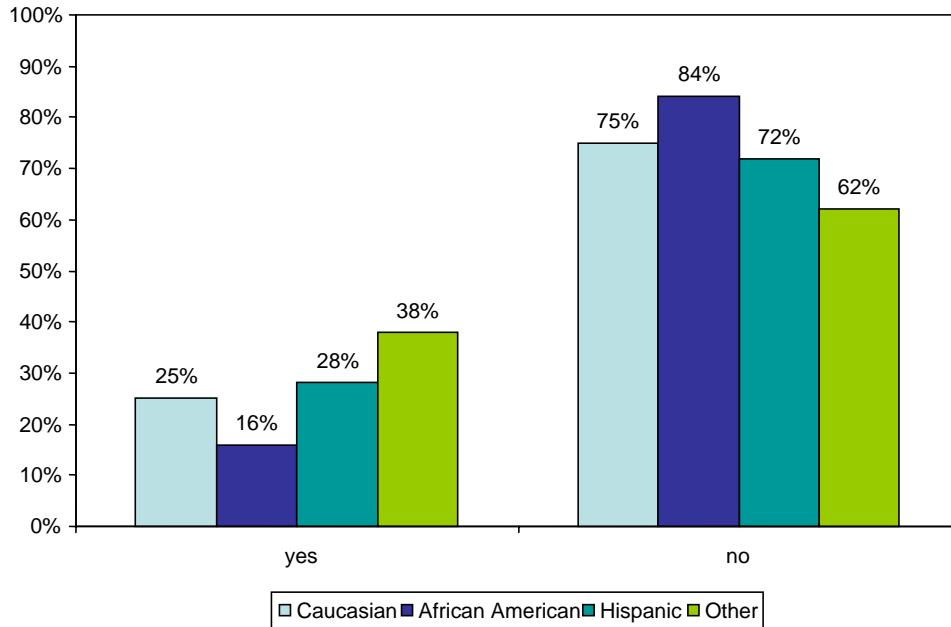
Responses by gender.



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Responses by race.



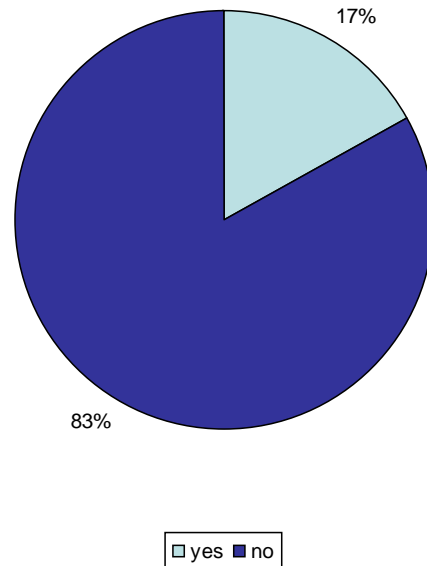
22. Does someone else in your immediate household have a disability?

The project also inquired if there were other individuals with disabilities residing in the respondents' households.

Approximately 17 percent of respondents indicated that someone in their household had a disability.

There were 21 respondents, who did not answer this question; thus, 339 out of 360 respondents answered the question. In sum, 57 respondents

Whether someone in respondent's household has a disability.



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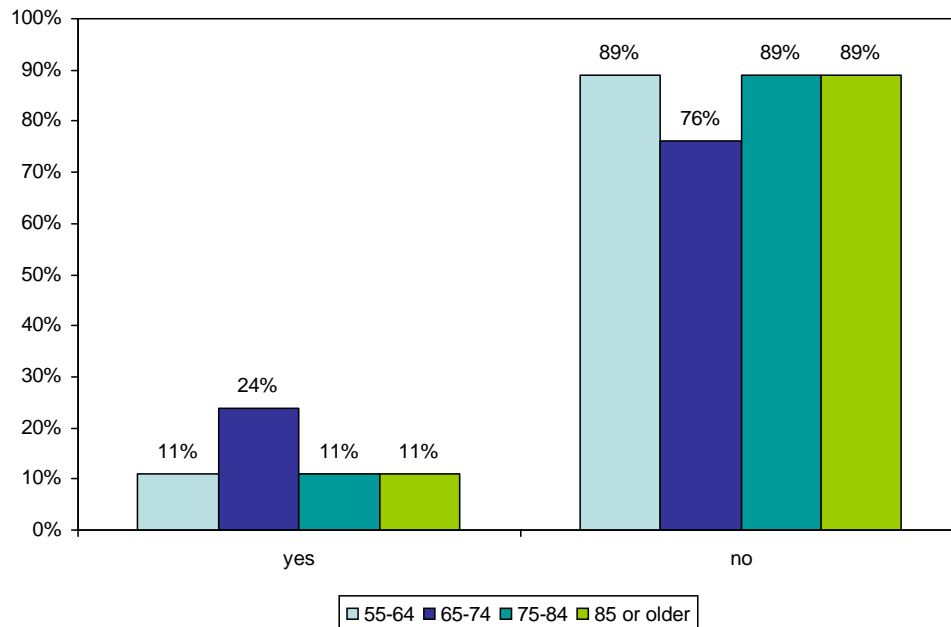
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answered “yes,” while 282

respondents answered “no.”

The results were further broken down as follows. More male respondents (23 percent) than female respondents (11 percent) indicated that they had some kind of disability. With respect to race, 28 percent of Hispanic respondents indicated that they had some sort of disability. Conversely, 17 percent of Caucasian respondents and 16 percent of African-American respondents indicated that they were disabled. The respondents were relatively consistent with respect to three age groups: 11 percent of respondents aged 55-64; 11 percent of respondents aged 75-84; and 12 percent of respondents aged 85 or older indicated that they were disabled. However, 24 percent of respondents aged 65-74 indicated that they were disabled.

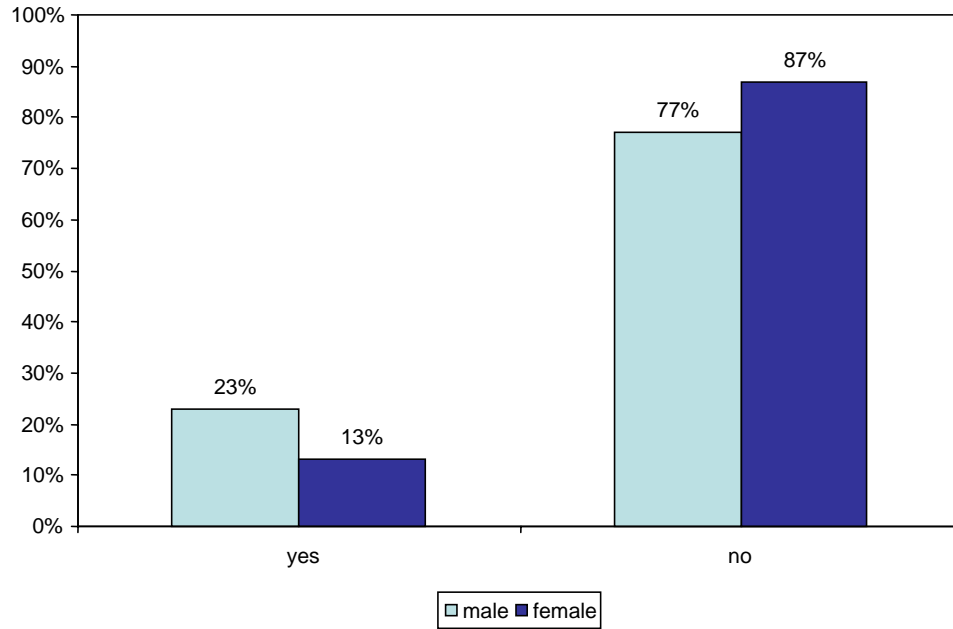
Responses by age.



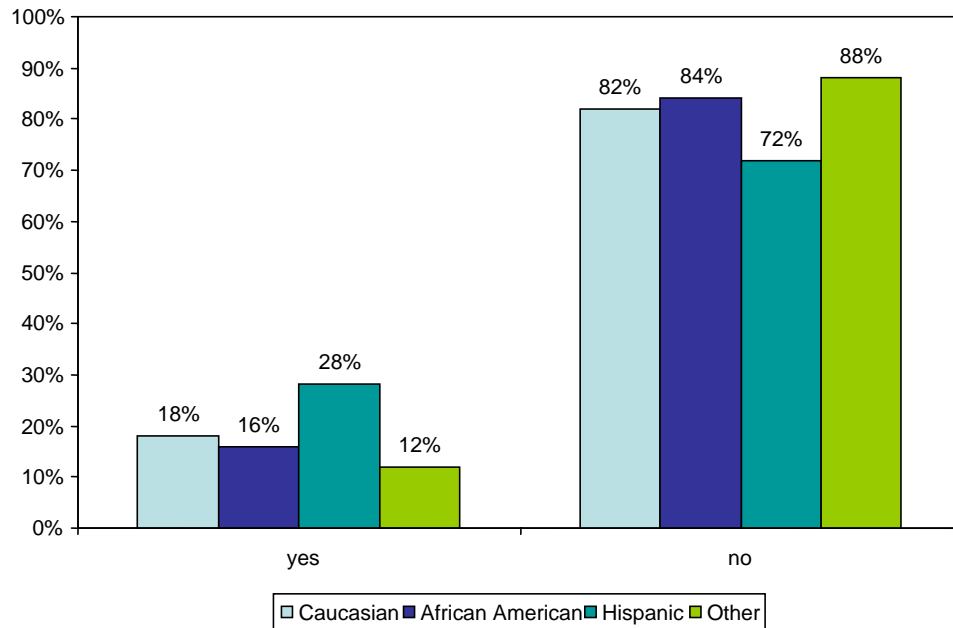
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Responses by gender.



Responses by race.



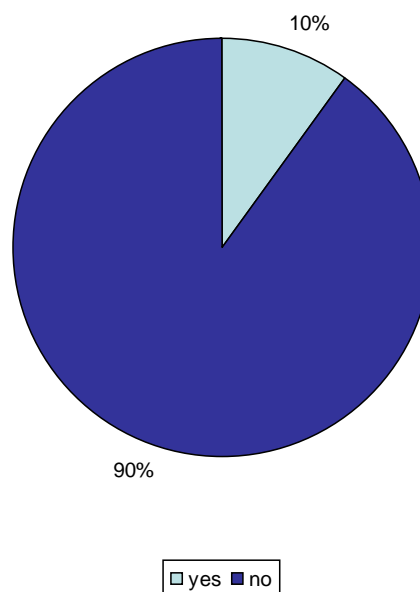
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23. Do you act as a caregiver for someone with a disability?

Approximately 10 percent of respondents indicated that they acted as a caregiver for a disabled individual. There were 20 respondents, who did not answer this question; thus, 340 out of 360 respondents answered the question. In sum, 34 respondents answered “yes,” while 306 respondents answered “no.”

Whether respondent acts as the caregiver for a disabled individual.

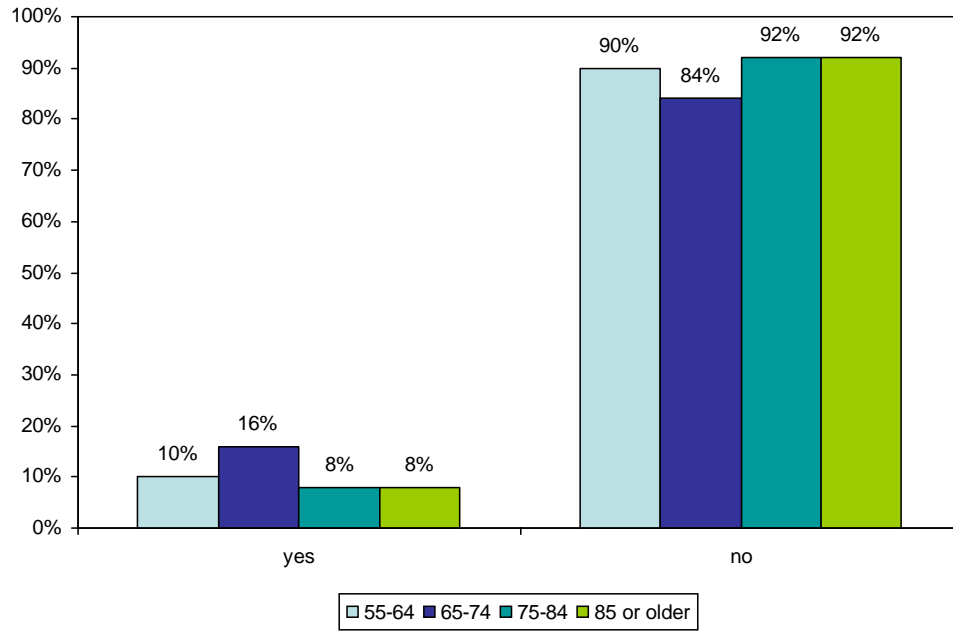


The results were further broken down as follows. More male respondents (15 percent) than female respondents (five percent) were caregivers for someone with a disability. As to race, 10 percent of Caucasian respondents; 12 percent of African-American respondents; and 14 percent of Hispanic respondents indicated that they were caregivers for a disabled person. With respect to age, 10 percent of respondents aged 55-64; 16 percent of respondents aged 65-74; eight percent of respondents aged 75-84; and eight percent of respondents aged 85 or older were caregivers for disabled persons.

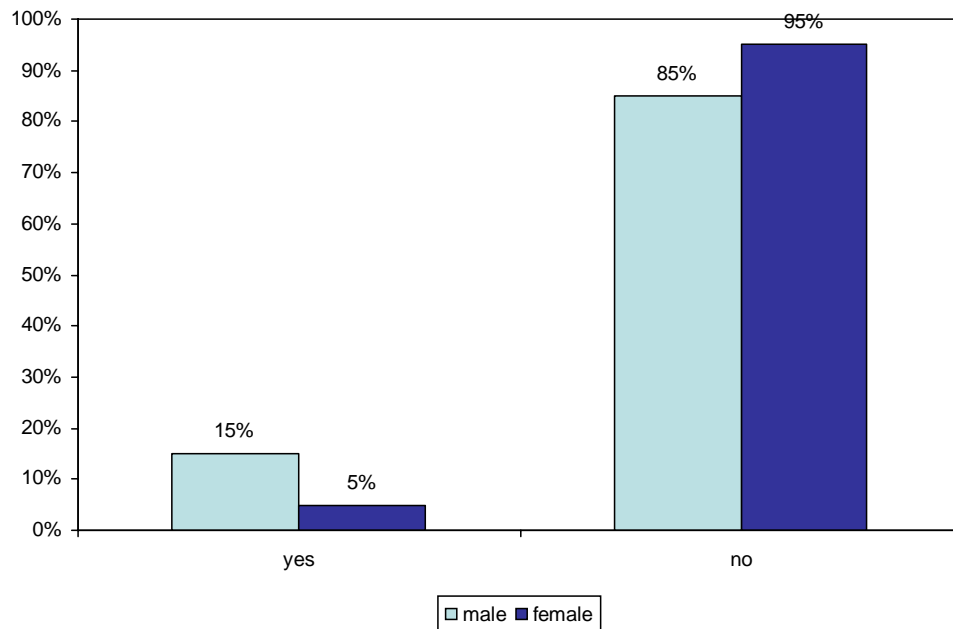
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Responses by age.



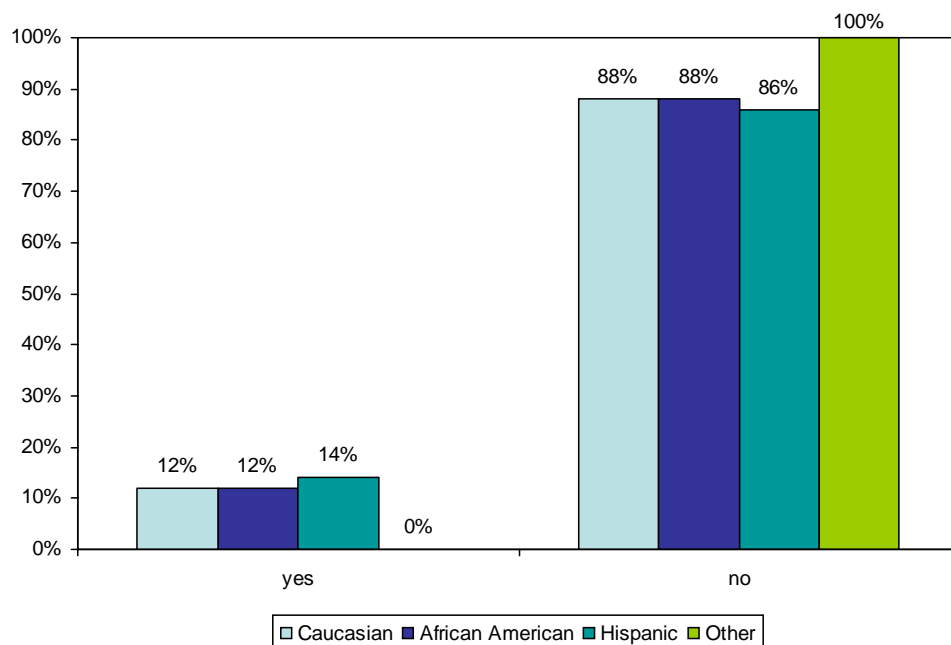
Responses by gender.



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Responses by race.



- 24. Listed below are conditions that can limit one’s ability to perform major life activities like walking, talking, hearing, seeing, learning, performing manual tasks and/or caring for one-self. We are interested in learning whether you or someone in your household has or has ever had any of these conditions. Please choose any that apply.**

Approximately 49 percent of respondents indicated that they or someone in their household had some type of disability that was enumerated as part of this question. Interestingly, approximately half (90) of the 178 respondents who indicated a disability in question 24 had previously indicated no disability in questions 21 and 22. [The questions that inquired about disabilities.] With respect to age, 16 percent of respondents aged 55-64; 23 percent of respondents aged 65-74; 29 percent of respondents aged 75-84; and 35 percent of respondents aged 85 or older indicated that they had some sort of disability in question 24, but

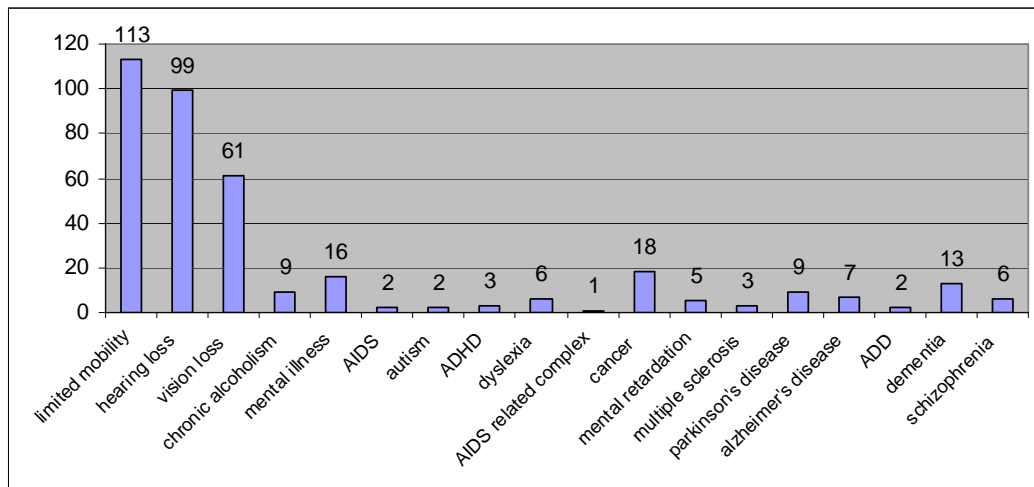
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responded no to questions 21 and 22. As to gender, more male respondents (37 percent) than female respondents (28 percent) indicated that they had some sort of disability in question 24, but responded no to questions 21 and 22. With respect to race, 27 percent of Caucasian respondents; 24 percent of African-American respondents; and 15 percent of Hispanic respondents indicated that they had some sort of disability in question 24, but responded no to questions 21 and 22.

The results as to disability type are reflected in the following chart.

Types of disabilities indicated by respondents (By number of responses).



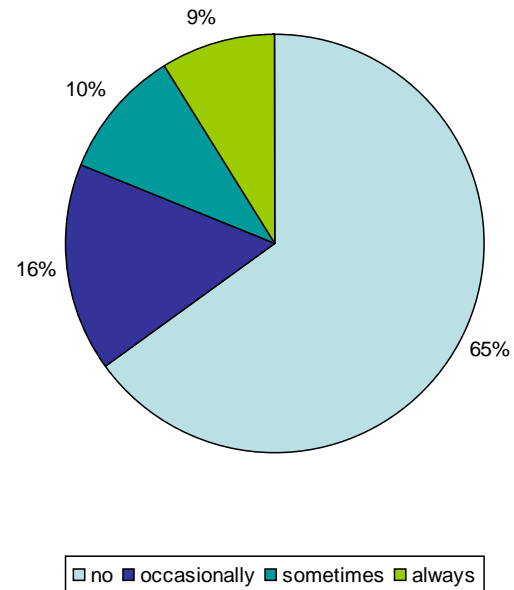
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25. Please answer the following items as they pertain to you or someone in your immediate household:

Approximately 65 percent of respondents indicated that they did not require assistance with housekeeping duties such as vacuuming, laundry and general housecleaning duties. Approximately 16 percent of respondents indicated occasionally; 10 percent of respondents indicated sometimes; and nine percent indicated always. In sum, 233 respondents answered “no,” 59 respondents answered “occasionally,” 36 respondents answered “sometimes,” and 32 respondents answered “always.”

Assistance with housekeeping duties.

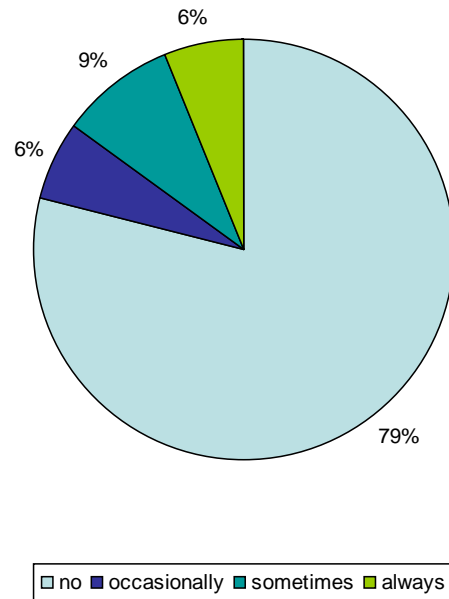


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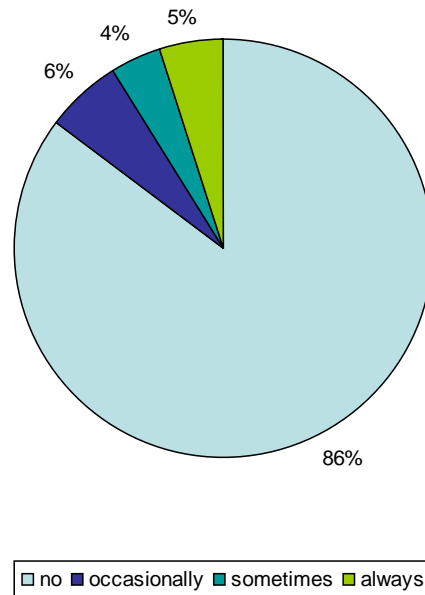
Approximately 79 percent of respondents indicated that they did not require assistance in preparing daily meals. Six percent of respondents indicated occasionally; nine percent of respondents indicated sometimes; and six percent indicated always. In sum, 285 respondents answered “no,” 20 respondents answered “occasionally,” 34 respondents answered “sometimes,” and 21 respondents answered “always.”

Assistance in preparing daily meals.



Approximately 86 percent of respondents indicated that they did not require assistance in dressing such as help with shoelaces, zippers, medical appliances or garments. Six percent of respondents indicated occasionally; four percent of respondents indicated sometimes; and five percent indicated always. In sum, 308 respondents answered “no,” 21 respondents answered “occasionally,” 14 respondents answered “sometimes,” and 17 respondents answered “always.”

Assistance with dressing.

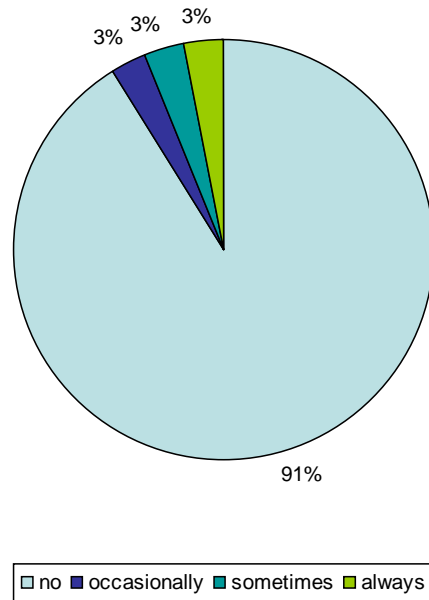


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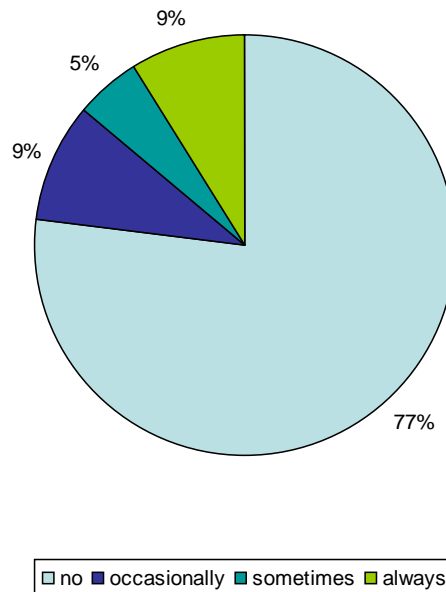
Approximately 91 percent of respondents indicated that they did not require help because of incontinence, a colostomy or catheter. Three percent of respondents indicated occasionally; three percent of respondents indicated sometimes; and three percent indicated always. In sum, 329 respondents answered “no,” 10 respondents answered “occasionally,” 10 respondents answered “sometimes,” and 11 respondents answered “always.”

Incontinence, a colostomy or catheter.



Approximately 77 percent of respondents indicated that they did not require assistance to travel due to physical or mental limitations. Nine percent of respondents indicated occasionally; five percent of respondents indicated sometimes; and nine percent indicated always. In sum, 278 respondents answered “no,” 31 respondents answered “occasionally,” 19 respondents answered “sometimes,” and 32 respondents answered “always.”

Assistance to travel due to physical or mental limitations.

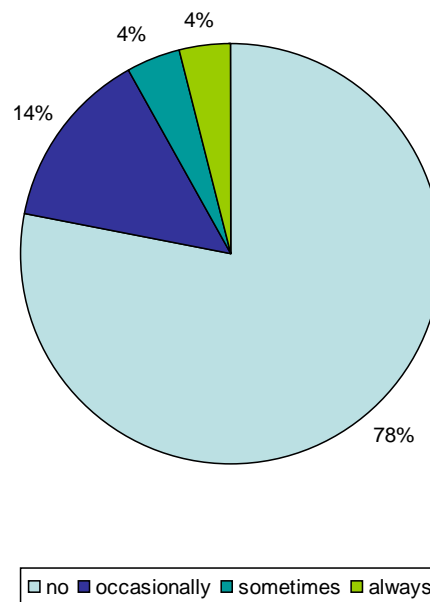


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Approximately 78 percent of respondents indicated that they did not require help because of memory loss. Approximately 14 percent of respondents indicated occasionally; four percent of respondents indicated sometimes; and four percent indicated always. In sum, 282 respondents answered “no,” 51 respondents answered “occasionally,” 16 respondents answered “sometimes,” and 11 respondents answered “always.”

Memory loss.

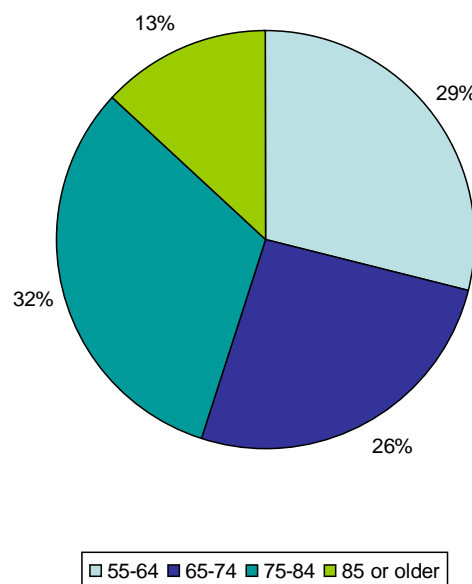


This last set of questions will only be used to group responses to this survey.

26. How old were you on your last birthday?

Approximately 29 percent of respondents were between the ages of 55-64; 26 percent of respondents were between the ages of 65-74; 32 percent of respondents were between the ages of 75-84; 13 percent of respondents were 85 or older.

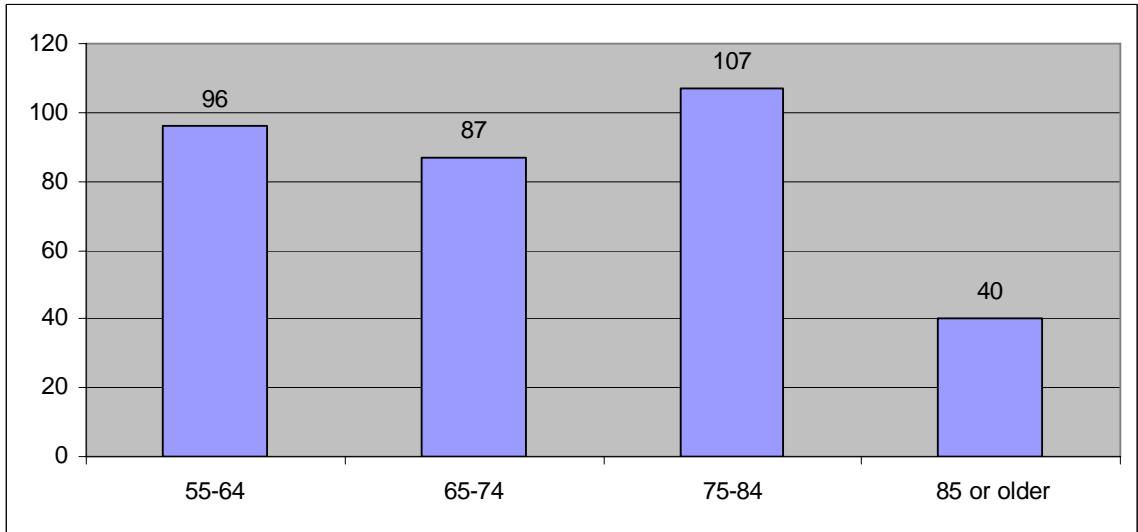
Chart 26: Respondents' ages.



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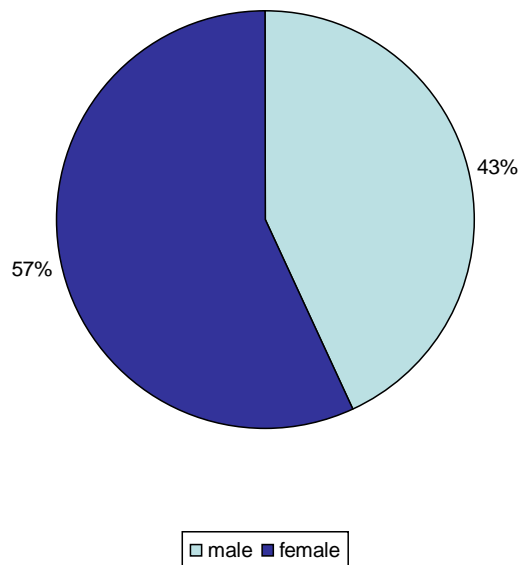
There were 330 respondents to this question; thus, 30 individuals did not respond. The respondents provided the following answers as raw numbers.



27. Please indicate your gender.

Approximately 43 percent of respondents were males and 57 percent of respondents were females. There were 324 respondents to this question; thus, 36 individuals did not respond. In sum, 139 respondents answered “male,” and 185 respondents answered “female.”

Respondents' genders.



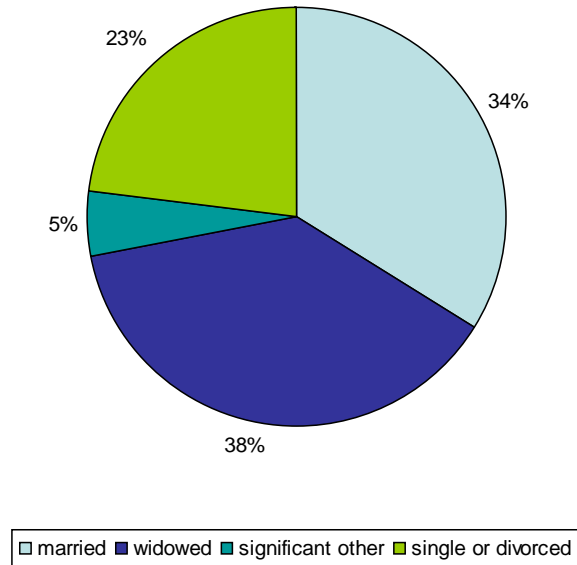
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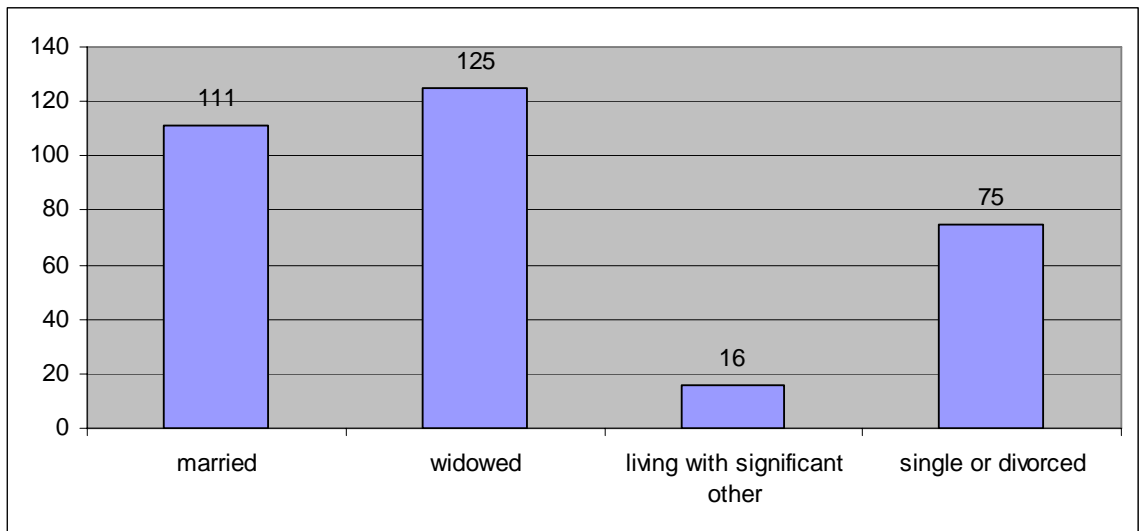
28. Please indicate your marital status.

Approximately 39 percent of respondents were married or living with their significant other; 38 percent of respondents were widowed; and 23 percent of respondents were single or divorced.

Respondents' marital status.



There were 327 respondents to this question; thus, 33 individuals did not respond. The respondents provided the following answers as raw numbers.



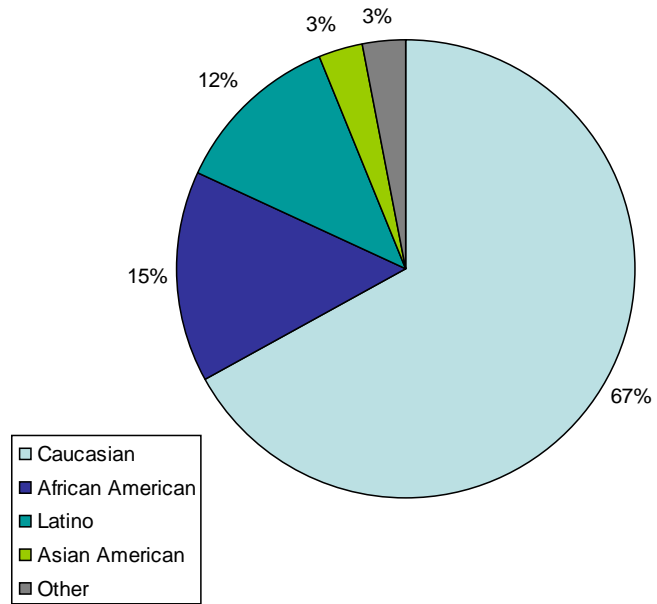
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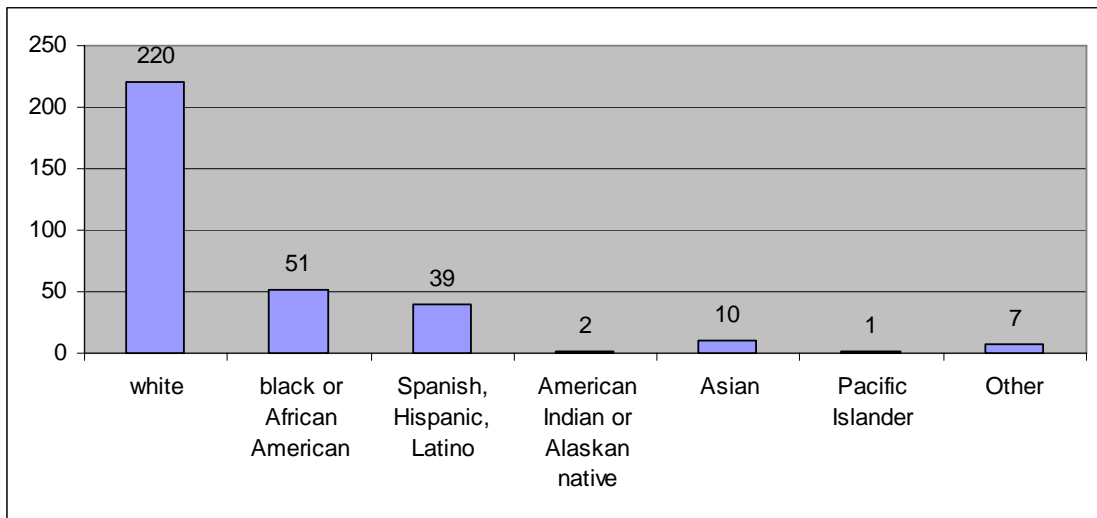
29. Please indicate what race or ethnicity you consider yourself and any members of your immediate household.

Approximately 67 percent of respondents were Caucasian and 33 percent of respondents were minorities. The minority breakdown is as follows: 15 percent were African-American; 12 percent were Hispanic; three percent were Asian; two percent identified themselves as “other;” and the remaining one percent identified themselves as American Indian/Alaskan native or Pacific Islander.

Respondents’ race or ethnicity.



There were 330 respondents to this question; thus, 30 individuals did not respond. The respondents provided the following answers as raw numbers.



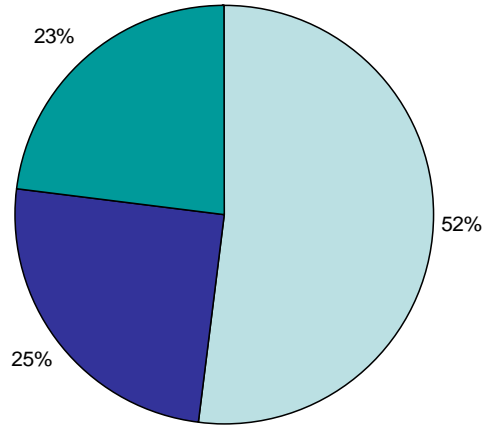
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30. What is the highest level of schooling you have completed?

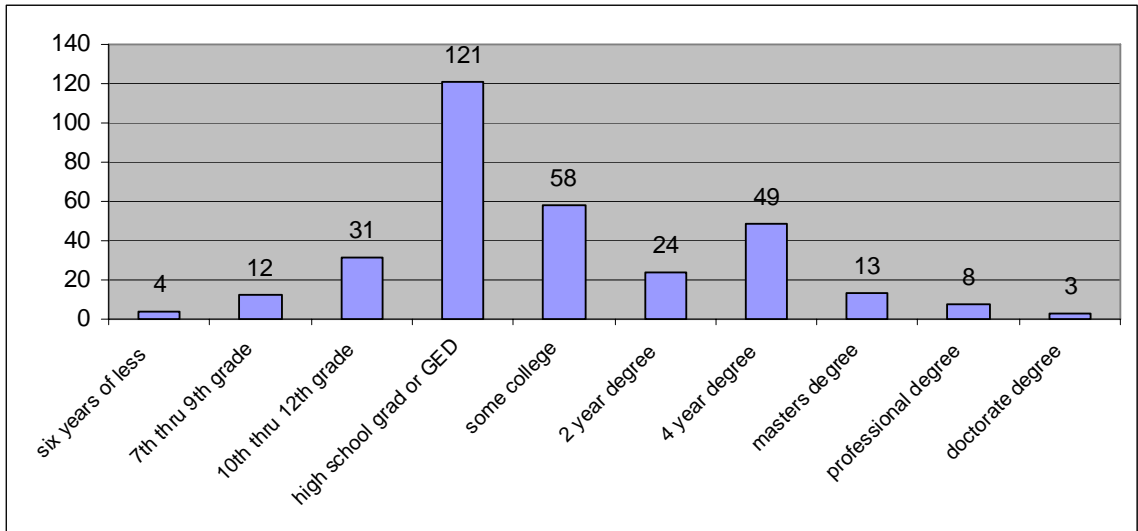
Approximately 52 percent of respondents had a high school education or less; 25 percent had some kind of college education but not a four-year degree; and 23 percent had a four-year degree or more. Nationally, 27 percent of adults, 25 years and older, have a four-year degree is 27 percent.³¹⁰

Respondents' education level.



□ HS diploma or less ■ some college ■ 4-year degree or more

There were 323 respondents to this question; thus, 37 individuals did not respond. The respondents provided the following answers as raw numbers.



³¹⁰ *The Grand Rapids Press* (Sep. 12, 2007), citing United States Census Bureau statistics.

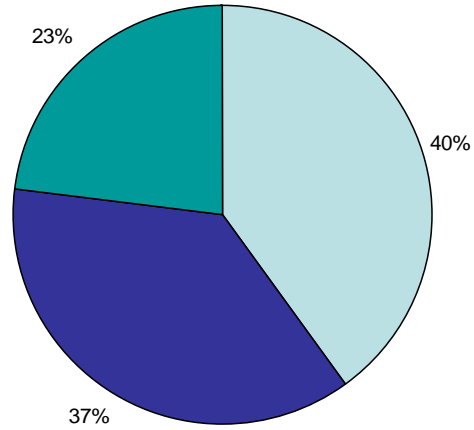
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31. What was your household's total income for 2006?

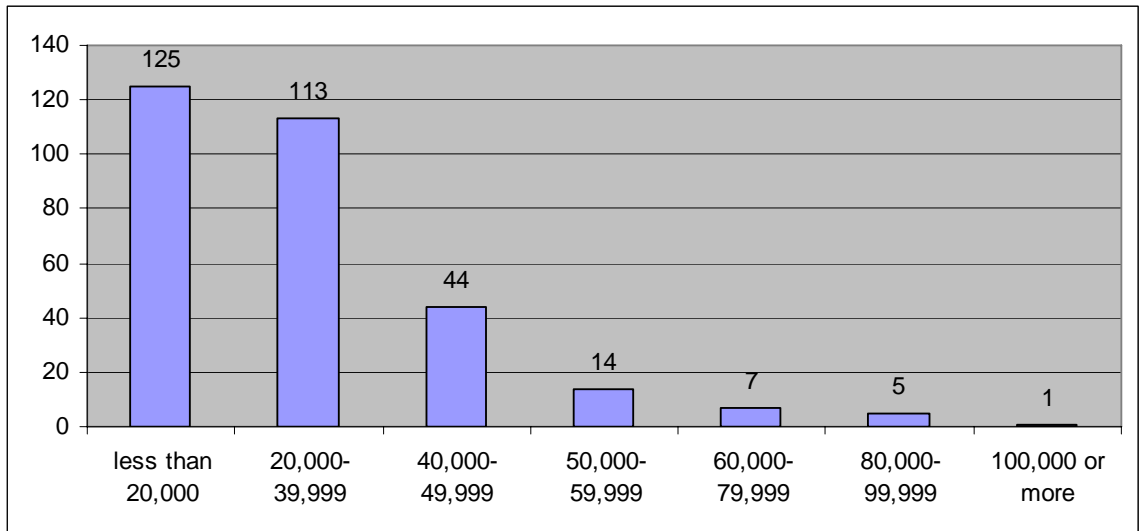
Approximately 40 percent of respondents earned less than \$20,000 per year; 37 percent earned between \$20,000 and \$39,999 per year; and 23 percent earned more than \$40,000 per year.

Respondents' household income.



□ \$20,000 or less ■ \$20,000 to \$39,999 ■ \$40,000 or more

There were 309 respondents to this question; thus, 51 individuals did not respond. The respondents provided the following answers as raw numbers.



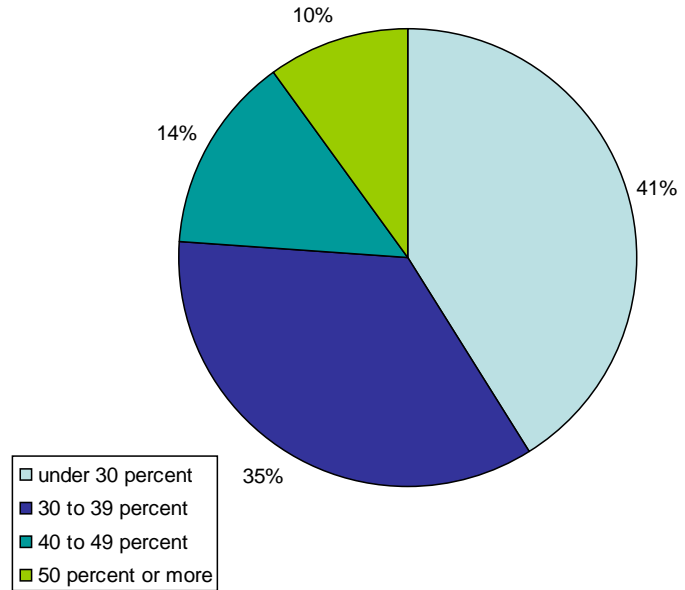
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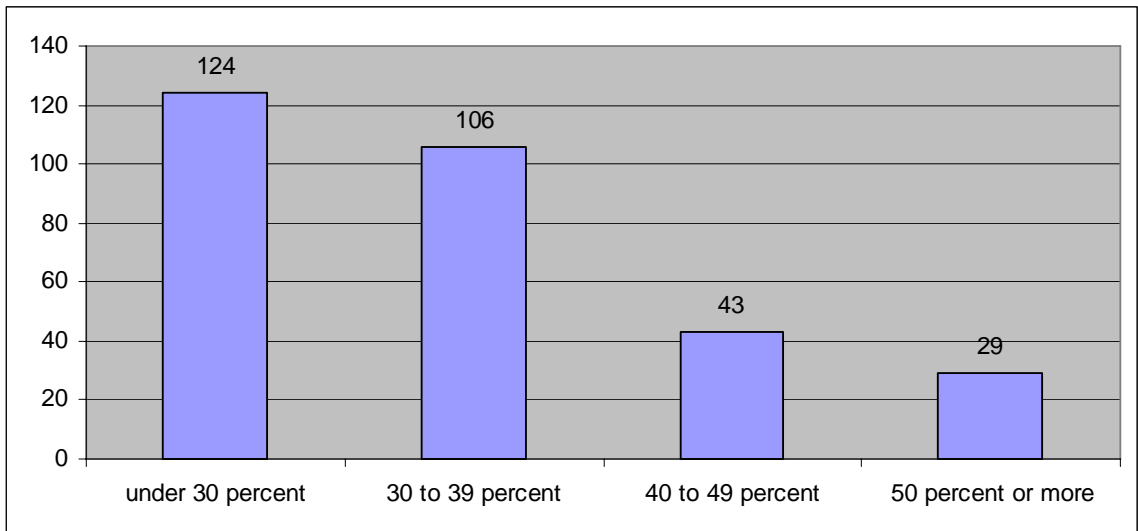
32. Approximately what percentage of your income is spent on housing?

Approximately 41 percent of respondents that they spend less than 30 percent of their income on housing; 35 percent spent 30 to 39 percent on housing; 14 percent spent 40 to 49 percent on housing; and 10 percent spent 50 percent or more on housing.

Respondents' percentage of income spent on housing.



There were 302 respondents to this question; thus, 58 individuals did not respond. The respondents provided the following answers as raw numbers.



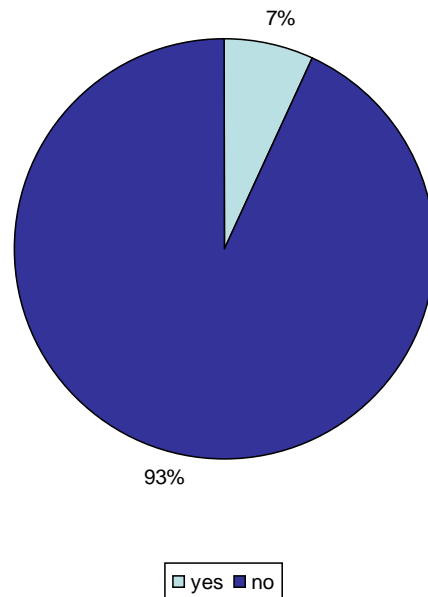
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33. Do you receive any state or federal housing assistance?

Approximately 93 percent of respondents indicated that they did not receive state or federal housing assistance. There were 343 respondents to this question; thus, 17 individuals did not respond. In sum, 24 respondents answered “yes,” while 319 respondents answered “no.”

Whether respondent receives state or federal housing assistance.



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III. SENIOR ORGANIZATION SURVEY, COMMISSIONER SURVEY, AND INTERVIEWS

A. Senior Organization Survey

To ascertain the current status of housing options available for seniors in the Chicago area, the Project asked nine senior organizations in the Chicago Metropolitan area to participate in a survey. Six organizations responded. In sum, the Project asked 80 directors, managers, and staff persons at senior organizations in the Chicago area to complete this survey; 33 individuals responded. The Project sought to obtain these individuals' knowledge and observations of what they think seniors feel about issues related to living in the Chicago area. The Project sought to 1) better assess what seniors want and prefer in housing alternatives, and 2) allow the United States the opportunity to adequately prepare for the current and future senior population as it inevitably becomes a larger and more influential part of our society.

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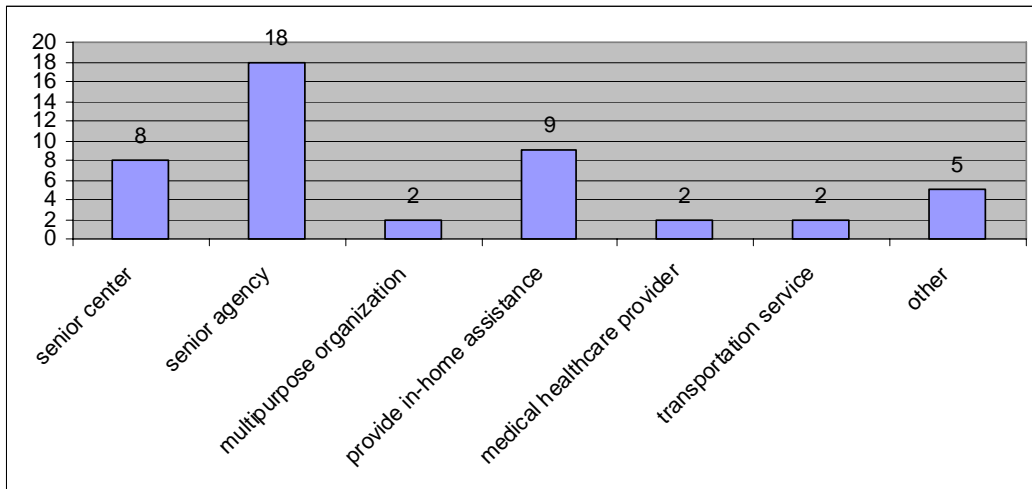
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The first section of the survey asks you general questions about your organization.

1. Please indicate your type of organization.

Approximately 55 percent of respondents indicated that they were affiliated with a senior agency. Respondents could check as many responses as applied.

Respondent's type of organization.



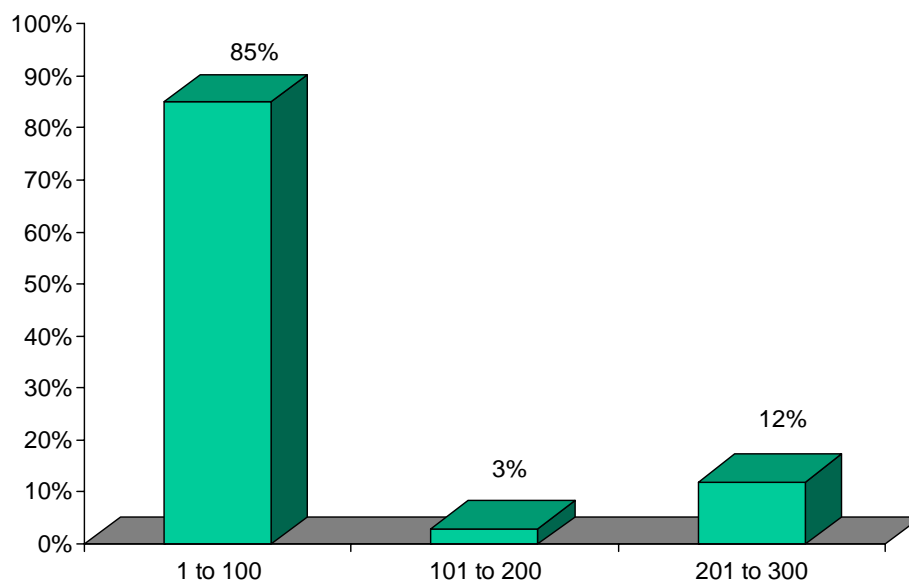
2. How many people do you regularly serve on a daily basis?

Approximately 85 percent of respondents indicated that their agencies serve less than 100 individuals on a daily basis. In sum, 28 respondents' agencies served 1 to 100 people a day; 1 respondent's agency served 101 to 200 people a day; and 4 respondents' agencies served 201 to 300 people a day.

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Individuals served on a daily basis.



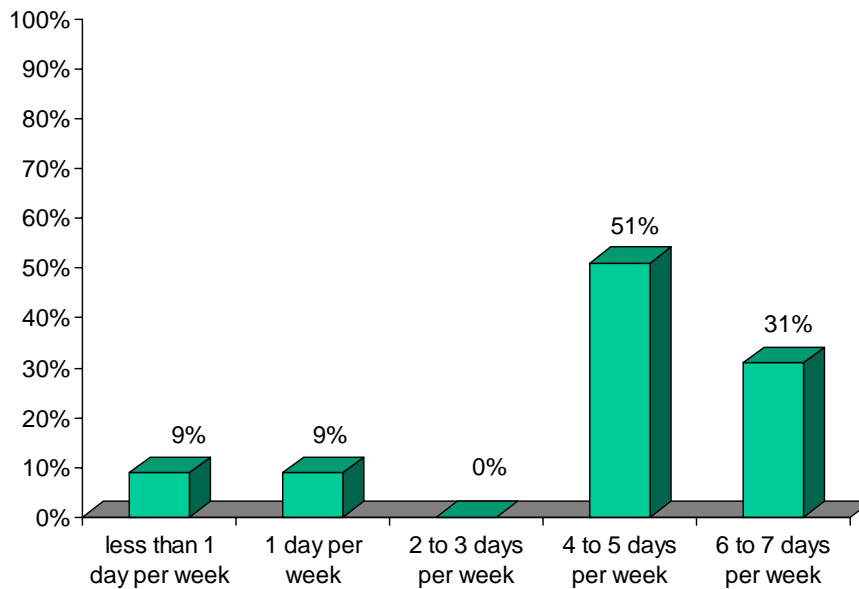
3. What kind of access do seniors have to your organization?

More than 50 percent of the respondents indicated that seniors have access to their agency more than four days per week. Approximately 52 percent of respondents indicated that seniors have access to their agency four to five days per week, while approximately 30 percent indicated that seniors have access to their agency six to seven days per week. In sum, three respondents indicated that seniors had access to the facility less than one day per week; three respondents indicated that seniors had access to the facility one day per week; zero respondents indicated that seniors had access to the facility two or three days per week; 17 respondents indicated that seniors had access to the facility four or five days per week; and 10 respondents indicated that seniors had access to the facility six or seven day per week.

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Seniors access to the organization.



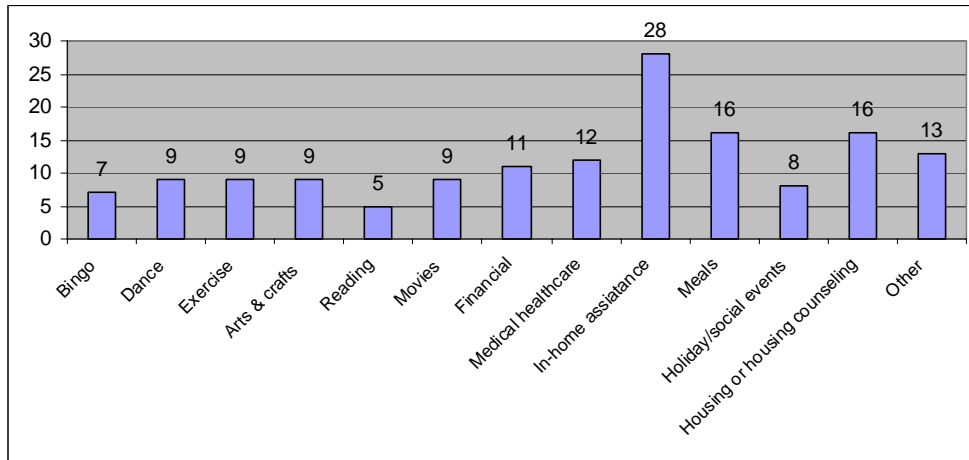
4. What kind of services do you provide for seniors?

Respondents indicated that their agencies provided a wide range of services for seniors. Respondents indicated that their agencies provided a wide range of services for seniors. Some respondents (approximately 21 to 27 percent indicated that their agencies provided some type of social activities, i.e., bingo, dance, exercise, arts and crafts, movies, holiday/social events. Approximately 48 percent of respondents indicated that their agency provided some sort of housing counseling program. Approximately 85 percent of the respondents indicated that their agencies provided in-home assistance.

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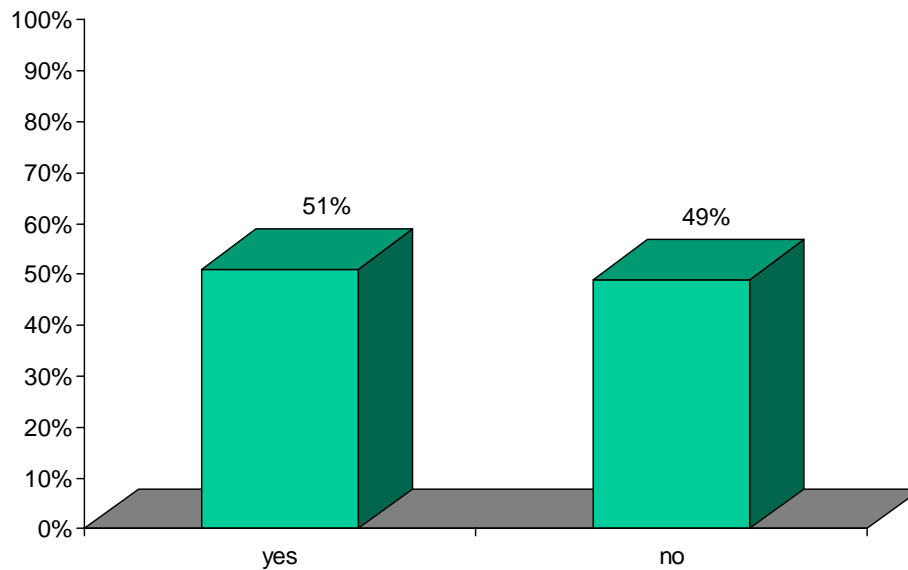
Types of services provided (in raw numbers).



5. Do you offer educational programs for housing?

Approximately 51 percent of respondents indicated that their agencies provided educational programs on housing issues. In sum, 17 respondents indicated “yes,” while 16 respondents indicated “no.”

Whether respondent’s agency provides educational programs for housing.



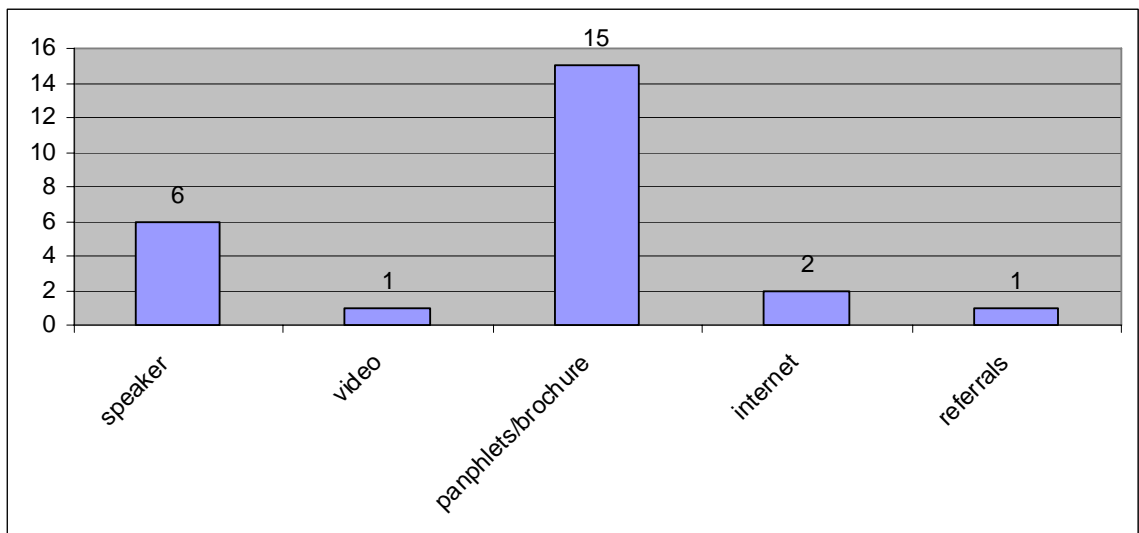
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5a. *If yes, how is it presented?*

Approximately 88 percent of the respondents, whose agencies provided educational programs on housing, presented the information through pamphlets and brochures. Respondents could provide as many choices as applicable.

How the educational programs for housing are presented (in raw numbers).



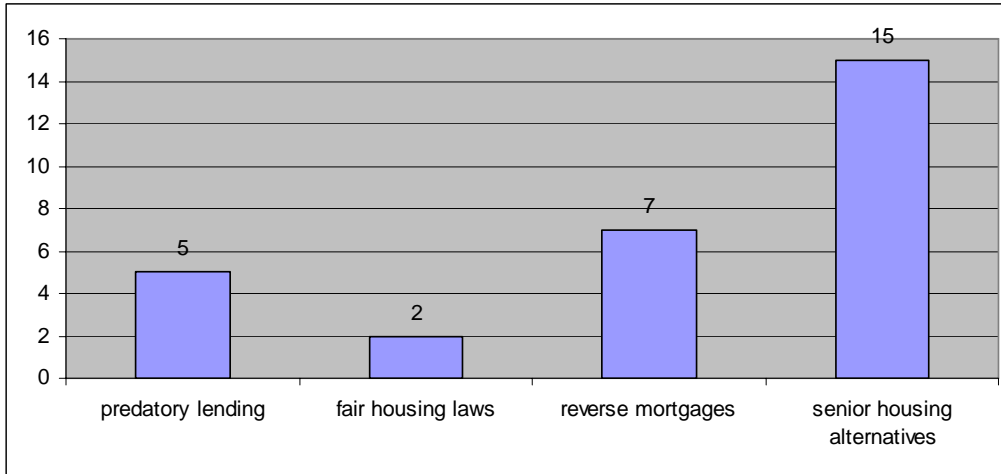
5b. *What are the topics?*

Most of the respondents, approximately 88 percent, indicated that their agencies provided information on senior housing alternatives. Approximately 41 percent of respondents indicated that their agencies provided information on reverse mortgages, while 29 percent of respondents' agencies provided information on predatory lending. Approximately 12 percent of respondents' agencies provided information on fair housing laws. Respondents could provide as many choices as applicable.

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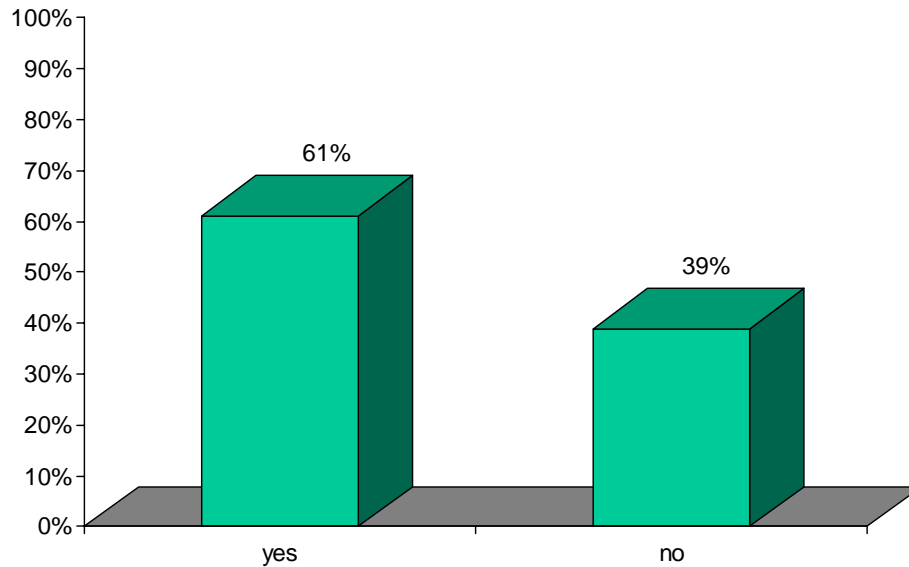
Educational programs on housing topics (in raw numbers).



6. Do you offer educational programs about medical service alternatives?

Approximately 61 percent of respondents indicated that their agencies provided educational programs on medical service alternatives. In sum, 20 respondents answered “yes,” while 13 respondents answered “no.”

Educational programs on medical service alternatives.



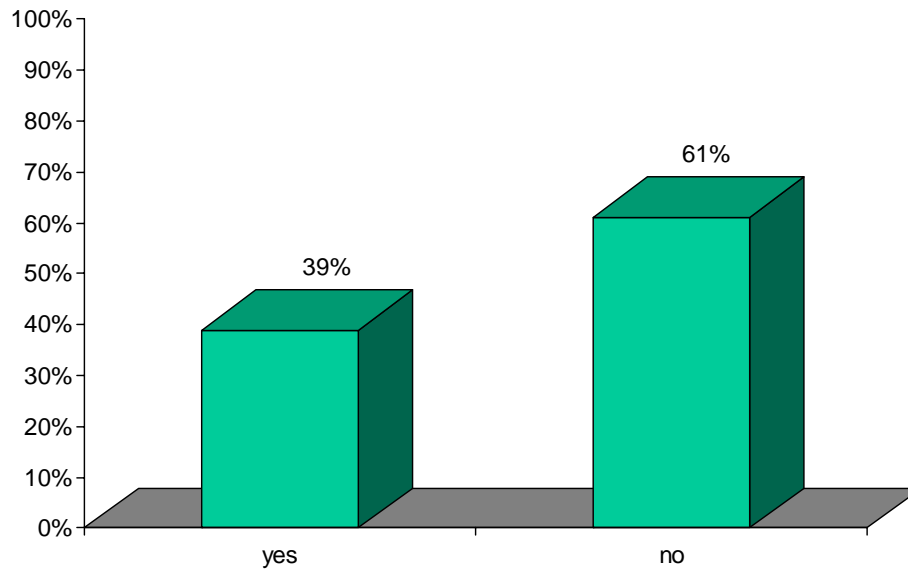
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7. Do you offer educational programs about depression?

Approximately 61 percent of respondents indicated that their agencies do not provide educational programs about depression. In sum, 13 respondents answered “yes,” while 20 respondents answered “no.”

Educational programs on depression.



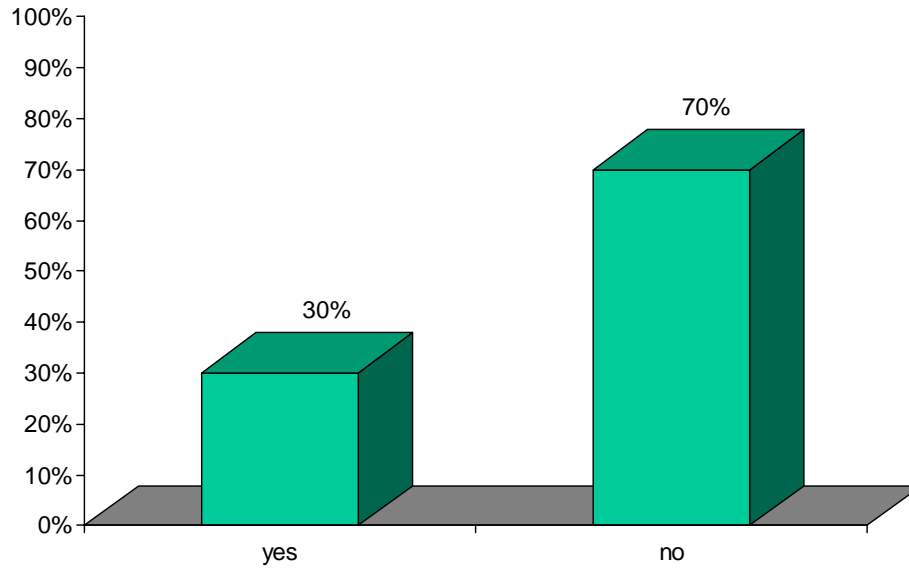
8. Do you offer counseling programs for housing?

Approximately 70 percent of respondents indicated that their agencies do not provide counseling programs on housing. In sum, 10 respondents answered “yes,” while 23 respondents answered “no.”

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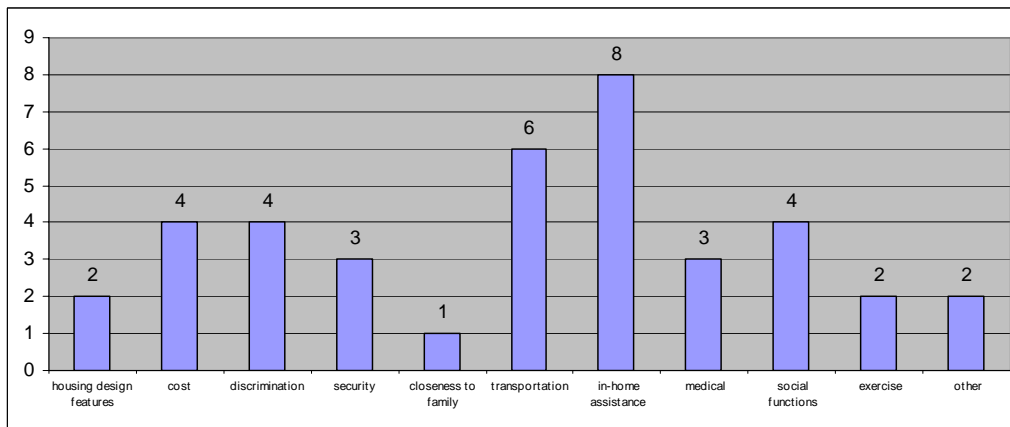
Counseling programs on housing.



8a. If yes, what are the primary issues?

The respondents, who responded affirmatively to the previous question, were asked what the primary housing issues were. Respondents could check as many issues as applicable. Most respondents, 80 percent, indicated that in-home assistance was among the primary housing issues. Respondents could provide as many choices as applicable.

Primary housing issues (in raw numbers).



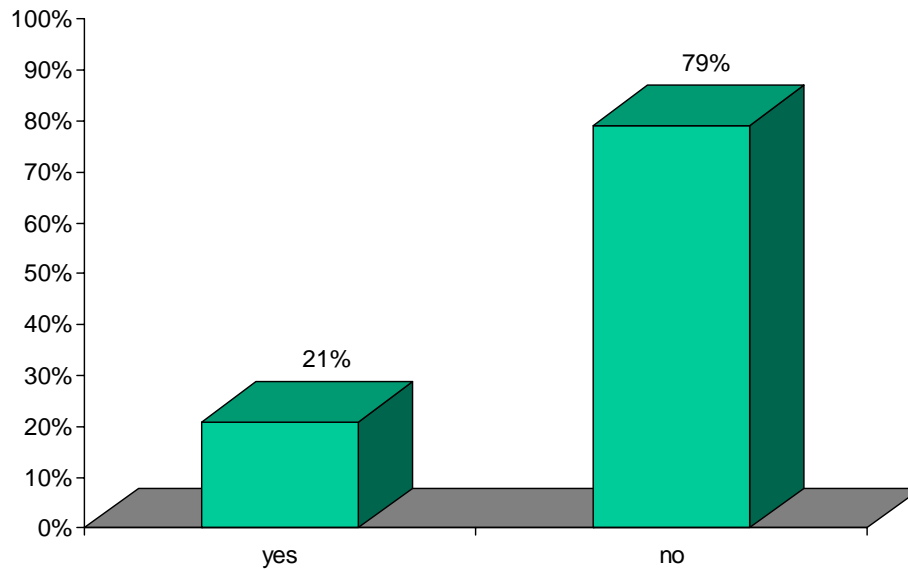
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9. Do you offer counseling programs for medical services?

Approximately 79 percent of respondents indicated that their agencies do not provide counseling programs for medical services. In sum, seven respondents answered “yes,” while 26 respondents answered “no.”

Counseling programs for medical services.



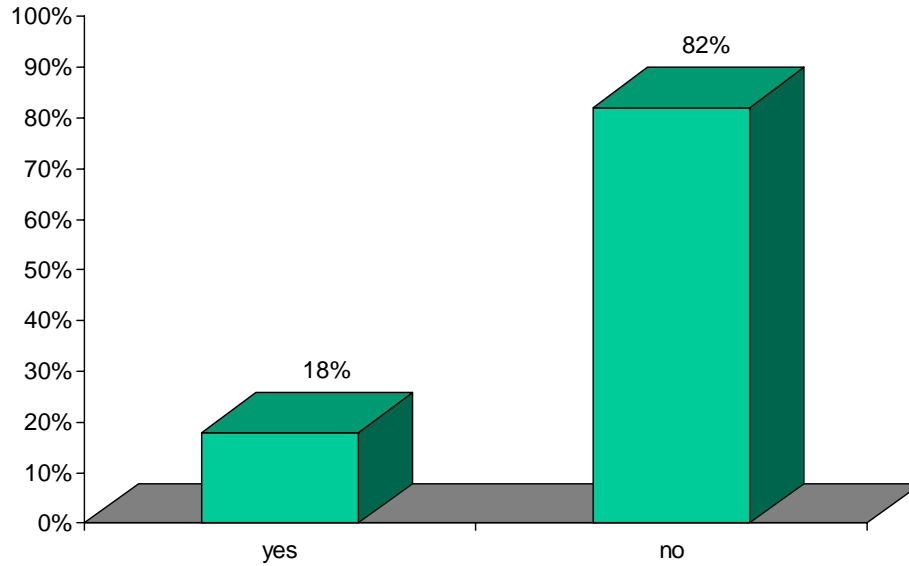
10. Do you offer counseling for depression?

Approximately 82 percent of respondents indicated that their agencies do not provide counseling programs for depression. In sum, six respondents answered “yes,” while 27 respondents answered “no.”

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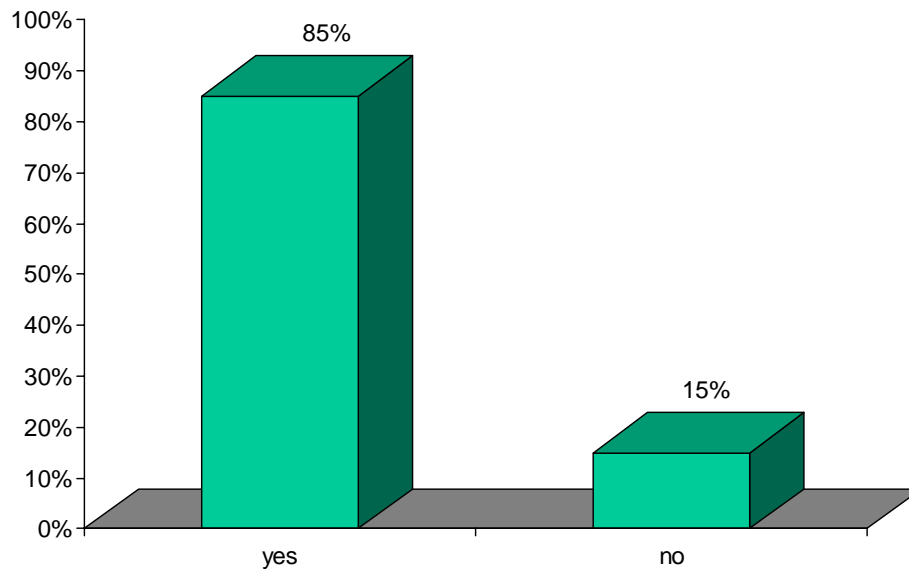
Counseling programs for depression.



11. Do you have a referral process for any of these categories?

Approximately 85 percent of respondents' agencies provided some sort of referral services. In sum, 28 respondents answered "yes," while three respondents answered "no."

Referral processes.



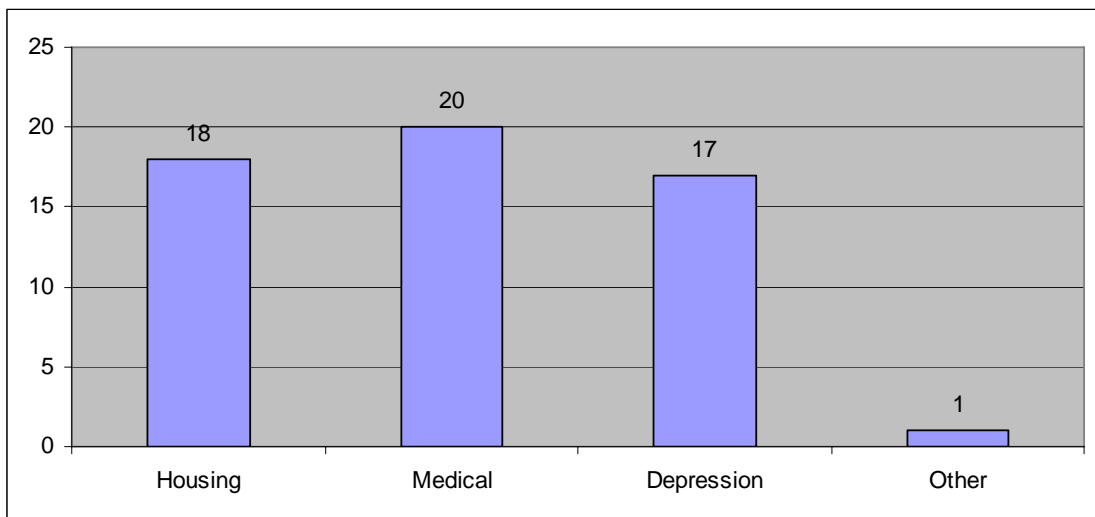
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11a. If yes, please check all that apply.

Approximately 71 percent of respondents, who responded affirmatively to the previous question, indicated that their agencies provided medical referral services. While 64 percent and 61 percent of respondents indicated that their agencies provided referrals for housing and depression, respectively. Respondents could provide as many choices as applicable.

Types of services.

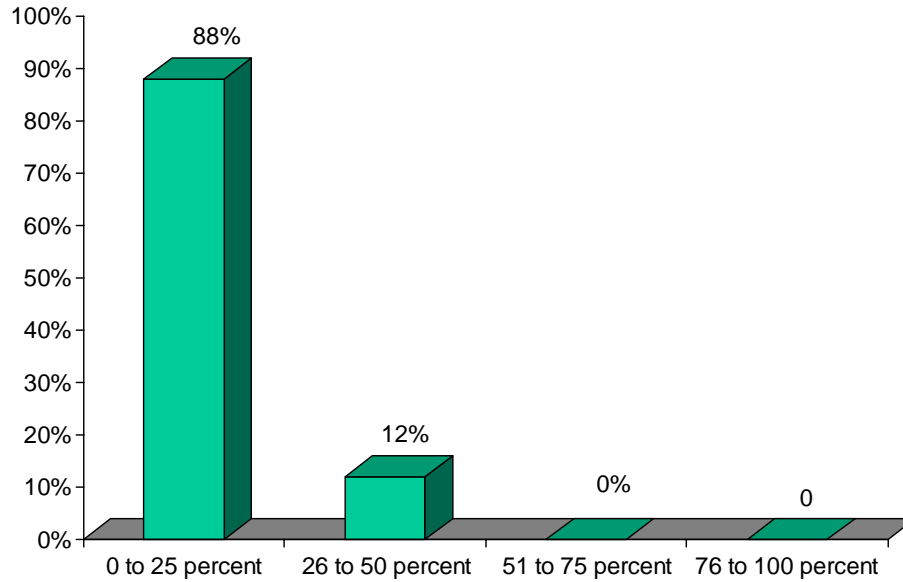


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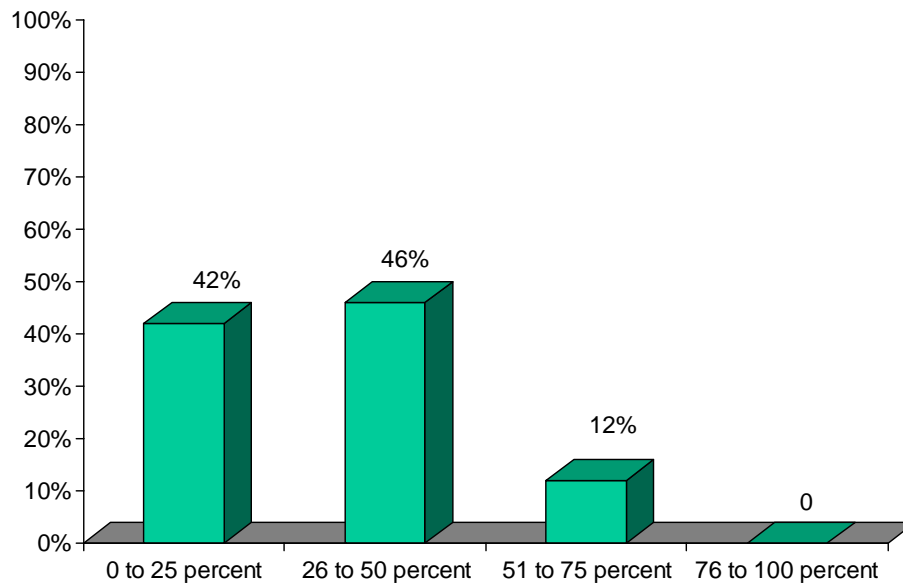
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12. What percentage of the seniors do you perceive as having problems walking?

Seniors with wheelchair.



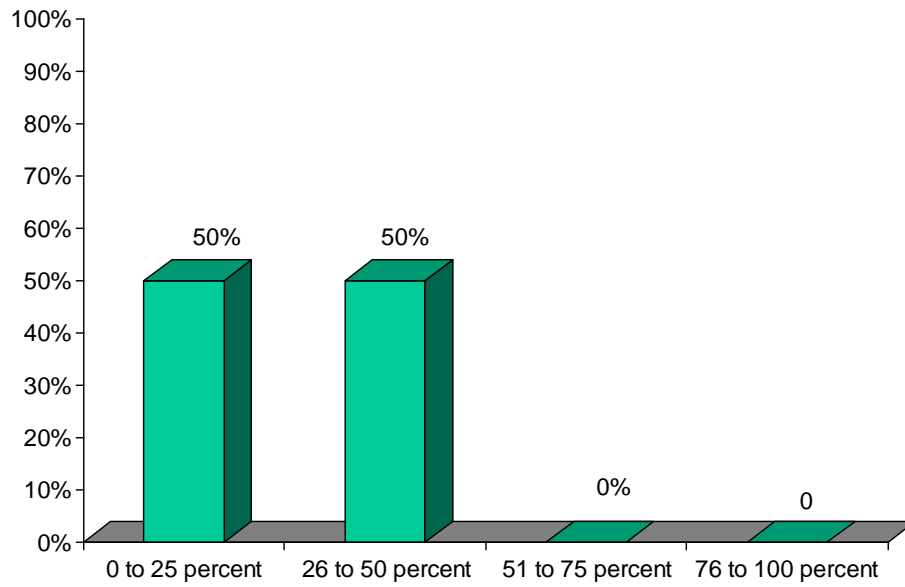
Seniors with cane/walker



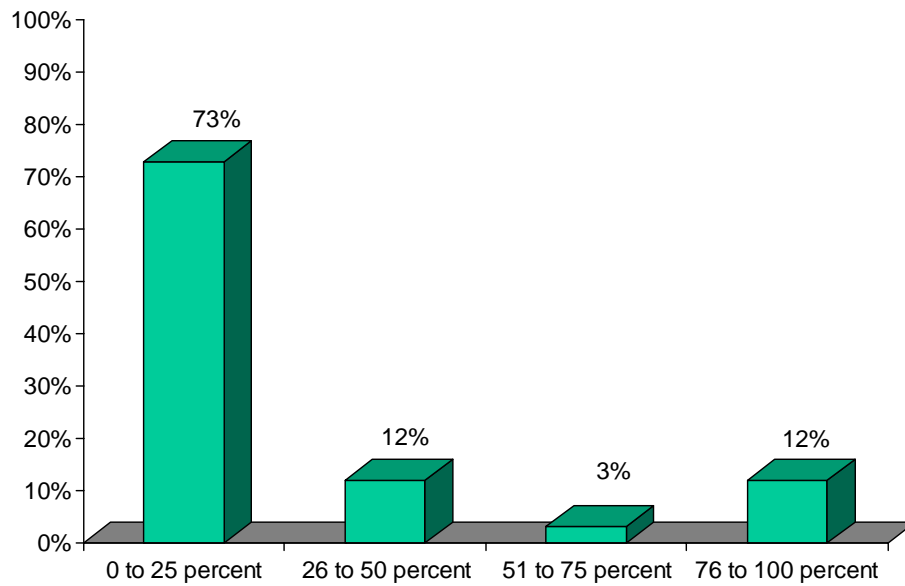
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Some difficulty walking



No real difficulty



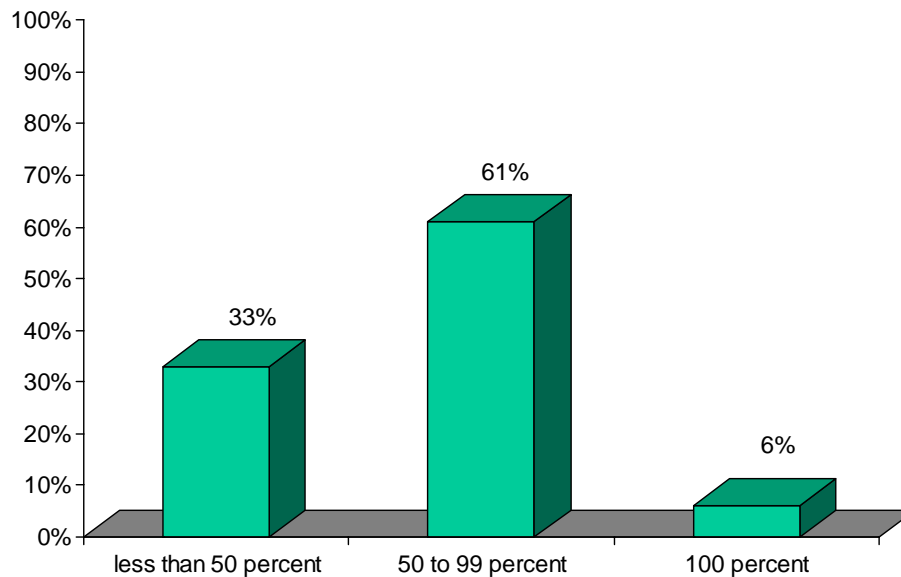
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13. What percentage of the seniors do you perceive as having a physical or mental disability?

One-third of respondents perceived seniors with a physical or mental disability were less than 50 percent of the population. Two-thirds of respondents perceived that more than 50 percent of seniors had a mental or physical disability. In sum, 11 respondents indicated that less than 50 percent of their seniors had a mental or physical disability; 20 respondents indicated that 50 to 99 percent of their seniors had a mental or physical disability; and two respondents indicated that all of their seniors were mentally or physically disabled.

Seniors with a mental or physical disability.



13a. If so, please identify the types of disabilities and the number of persons who have these disabilities.

There were 13 respondents, who did not respond to this follow-up question. The respondents who answered this question responded as follows:

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- Types: stroke victims, paralysis, frequent falls, hip replacement, osteoporosis, renal failure, Parkinson's, Alzheimer's, dementia
- Types: Alzheimer's/dementia (30 percent), arthritis (50 percent), other medical issues (20 percent)
- Alzheimer's (20 percent), arthritis (50 percent), other (30 percent)
- Difficulty walking, depression
- Dementia, Alzheimer's, Parkinson's, diabetes, COPD (50 out of 99)
- Inability to ambulate
- Dementia, poor ambulation, fall history, RH arthritis, MS, cerebral palsy
- Cognitive, poor ambulation, mental illness, Parkinson's, arthritis, wheelchair, paralysis, amputation
- Physical
- Poor ambulation, altered mental status changes, seniors who have severe health issues
- Slow to ambulate
- Strokes, heart attacks, asthma
- Mobility, paralysis, dementia
- Various functional, sensory impairments
- Bipolar; depression; anxiety; chronic arthritis
- Walking, moving, arthritis
- Mental
- Arthritis, Parkinson's
- Dementia, anxiety, depression, personality disorder, obsessive compulsive disorder
- Respiratory issues

14. What do you perceive are the major issues that seniors face as a result of aging in our society?

Major issues listed by most respondents included housing issues such as having the option to “age-in-place” in their home, accessibility and affordability; adequate medical coverage, transportation, and isolation concerns such as loneliness and the lack of knowledge concerning public assistance options. The respondents provided the following responses.

Response 1:

1. Housing: being able to stay in their homes and remain independent
2. Affordable pricing for repairs or upkeep of homes from vendors and contractors
3. Transportation: no longer driving, how can they get to doctor appointments, buying groceries
4. Support from their city governments to stay in their homes

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5. Safety issues

Response 2:

1. Lack of appropriate transportation
2. Poor coordination of federal and state programs

Response 3: Many seniors are dealing with issues such as transportation, unable to evacuate own premises due to structure of homes which is typical in Berwyn and Cicero and the major concern of affordable housing for their income

Response 4: Major issues seniors face is some change in their medical physical/mental ability, also facing some sort of financial troubles due to low income; it is sometimes difficult to keep control of these issues

Response 5: There are seniors in the community who may still be able to live within the community but due to the income level or lack of options client would have to be placed in a nursing home, assisted living, or supportive living

Response 6: Affordable housing on a fixed income, prescription assistance

Response 7: Housing, transportation, personal grooming, meals

Response 8: No response

Response 9: Limited family support

Response 10: Easy access, safe environment, assuring a limited access to the 14-30 age group, handicap accessible

Response 11: Lack of knowledge about resources available; inability to access resources; lack of support/caregiver; lack of affordable housing

Response 12: Affordable healthcare and housing

Response 13: City programs are income based, which may disqualify some persons

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Response 14: Seniors not taking care of themselves and not following up with doctors appointments and taking their medications

Response 15: Family support, economics, isolation

Response 16: Housing-affordable; transportation

Response 17: Lack of info related to available services

Response 18: Discrimination/neglected

Response 19: Ability to care for themselves; lack of adequate family support

Response 20: No response

Response 21: Ability to remain independent, in own housing, and have their needs met; isolation

Response 22: No response

Response 23: Medical support

Response 24: Healthcare; access to affordable healthcare; prescription drug costs

Response 25: No response

Response 26: Discrimination in housing, housing for grandparents raising children, predatory lending

Response 27: Depression, problems with personal hygiene, personality disorder

Response 28: Finances, housing, dental, vision

Response 29: Loneliness, depression, isolation, financial, housing, mental

Response 30: Isolation, loneliness, affording healthcare, prescriptions, transportation

Response 31: Adequate housing, medical care, financial stability, loneliness, alcoholism, drug dependence

Response 32: Understanding medical insurance and papers that need to be filled out

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Response 33: Seniors need more facilities throughout Chicago

15. What do you perceive are the two most important housing related issues for Chicago-area seniors?

Respondents' chief answers for the two most important housing related issues for Chicago-area seniors included affordability, accessibility, and proximity to stores, medical facilities and other services. The respondents provided the following responses.

Response 1:

1. Affordability - none in Berwyn
2. Location

Response 2: Cost

Response 3:

1. Not enough housing
2. No affordable housing in the area

Response 4:

1. Income
2. Accessibility for impairments

Response 5:

1. Income
2. Lack of resources and knowledge

Response 6:

1. Affordability
2. Accessibility

Response 7:

1. Affordability
2. Access

Response 8: No response

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Response 9:

1. Lack of affordable housing
2. Transportation

Response 10:

1. Safe environment
2. Elevators not functioning

Response 11:

1. Lack of affordable housing
2. Housing not meeting standards

Response 12:

1. Affordability
2. Fairness

Response 13: No response

Response 14:

1. Cost
2. Area

Response 15: No response

Response 16:

1. Affordability
2. Access to area stores/medical services

Response 17:

1. Location
2. Access to services

Response 18:

1. Safe housing
2. Assistance in housing, i.e. case management

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Response 19:

1. Lack of accessibility to premises
2. Lack of assistive devices, i.e. grab bars

Response 20: No response

Response 21: Accessibility to affordable, independent housing

Response 22: No response

Response 23: Old homes need repair

Response 24:

1. Affordable housing
2. Adequate housing

Response 25: No response

Response 26:

1. Grandparents raising grandchildren
2. Lack of alternatives to CHA, supportive living, need for options

Response 27:

1. Cost of renting apartments
2. Location

Response 28:

1. Lack of housing or long waiting lists
2. Age requirements

Response 29:

1. Low income housing
2. Proper care in terms of medical assistance

Response 30:

1. Affordable housing for low income clients
2. Good location, close to stores, hospital, transportation

Response 31:

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1. Affordability
2. Safety

Response 32:

1. Price
2. Location

Response 33:

1. Not enough affordable housing available
2. No knowledge of fair housing programs

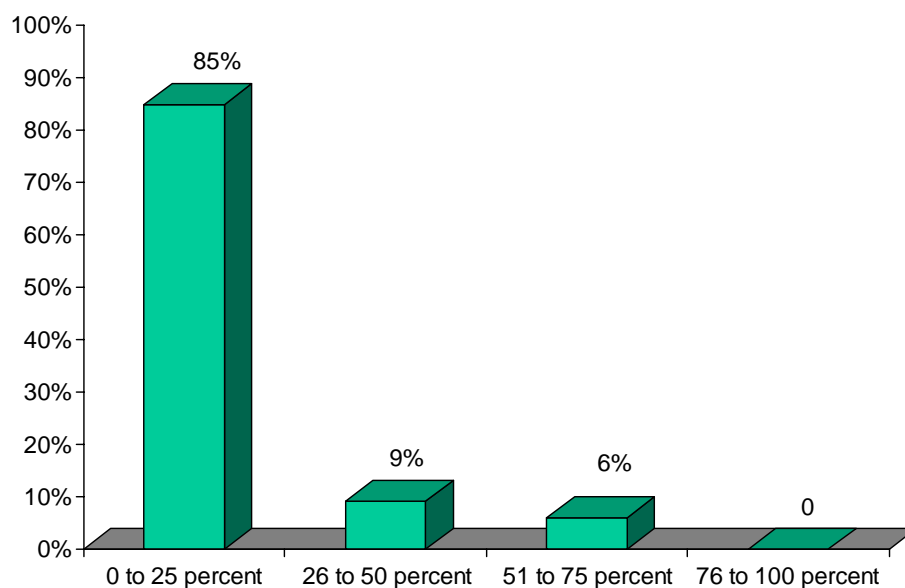
16. What percentage of seniors do you think have a general knowledge of the fair housing laws?

Approximately 85 percent of respondents believed that less than 25 percent of seniors have a general knowledge of fair housing laws. And 94 percent of respondents believed that less than 50 percent of seniors have a general knowledge of fair housing laws. In sum, 28 respondents indicated that less than 25 percent of their seniors understood fair housing laws; three respondents indicated that 26 to 50 percent of their seniors understood fair housing laws; two respondents indicated that 51 to 75 percent of their seniors understood fair housing laws; and zero respondents indicated that 76 to 100 percent of their seniors understood fair housing laws.

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Seniors' knowledge of fair housing laws.



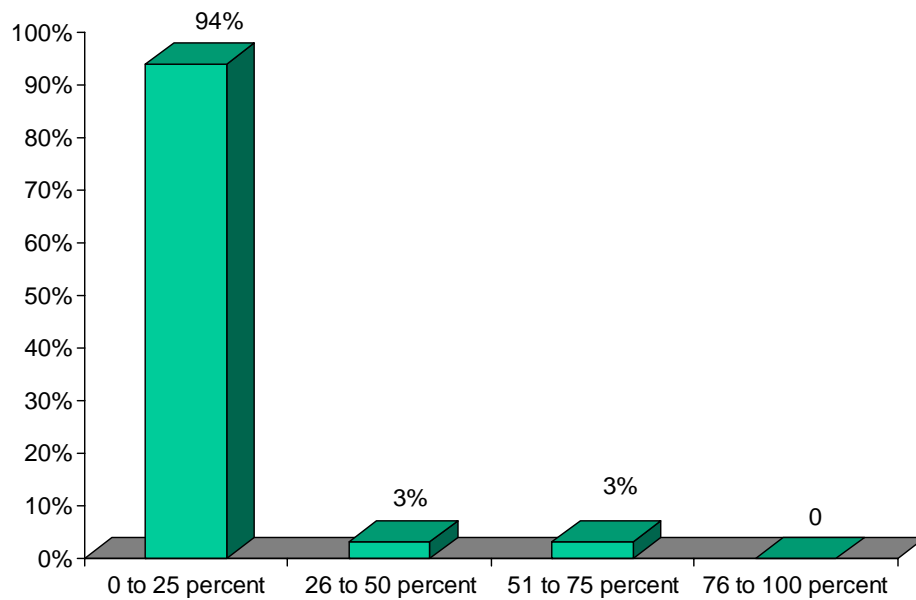
17. What percentage of seniors do you think are aware that they can file a fair housing complaint with the Department of Housing and Urban Development (HUD) and have the charge investigated for no cost?

Approximately 94 percent of respondents believed that less than 25 percent of seniors are aware that they can file a fair housing complaint with HUD. In sum, 31 respondents indicated that less than 25 percent of their seniors were aware of filing fair housing complaints; one respondent indicated that 26 to 50 percent of its seniors were aware of filing fair housing complaints; one respondent indicated that 51 to 75 percent of its seniors were aware of filing fair housing complaints; and zero respondents indicated that 76 to 100 percent of their seniors were aware of filing fair housing complaints.

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Seniors' awareness of filing fair housing complaints.



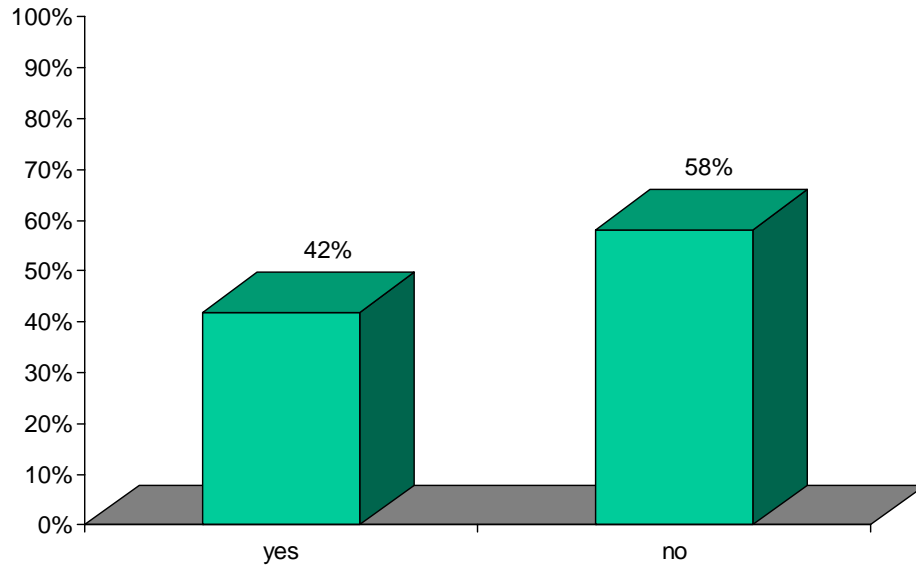
18. Is your organization provided with information concerning the fair housing laws applicable to the Chicago-area?

Approximately 58 percent of respondents indicated that their agencies are not provided with Chicago's applicable fair housing laws. In sum, 14 respondents indicated "yes," while 19 respondents indicated "no."

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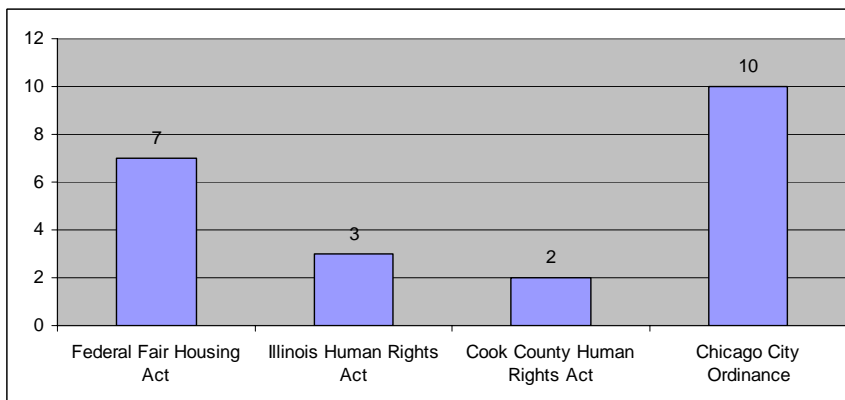
Whether respondents' agency has information regarding fair housing laws.



19. If yes, what information is provided?

Approximately 71 percent of the respondents, who responded affirmatively to the previous question, indicated that their agencies were provided with information regarding the Chicago ordinance. One-half of those respondents indicated that their agencies were provided with information on the federal fair housing act. Respondents could provide as many choices as applicable.

What type of information is provided.



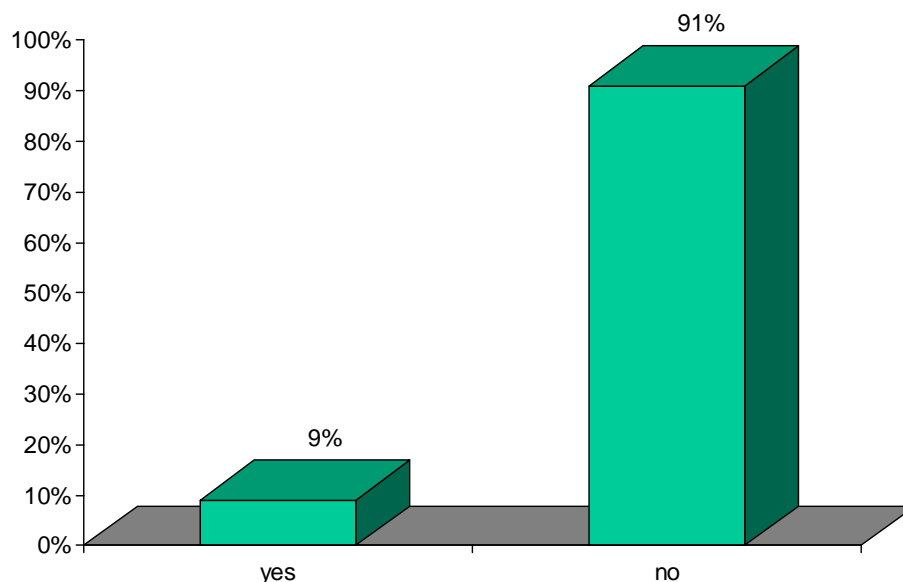
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20. Is your organization trained in fair housing law?

Less than 10 percent of the respondents indicated that their agencies received training in fair housing laws. In sum, three respondents answered “yes,” and 30 respondents answered “no.”

Whether the respondent’s agency is trained in fair housing laws.



21. If yes, who provided the training?

Of the respondents who responded affirmatively to the previous question, one each indicated that HUD, a local agency, or The John Marshall Law School conducted the training.

22. How was the training done?

There were no responses to this question. Only affirmative respondents from question number 20 would have responded to this question.

23. When did the training occur?

Two out of the three affirmative responders to question number 20 indicated that the training occurred in the last one year. And the other respondent indicated that the training occurred more than three years ago.

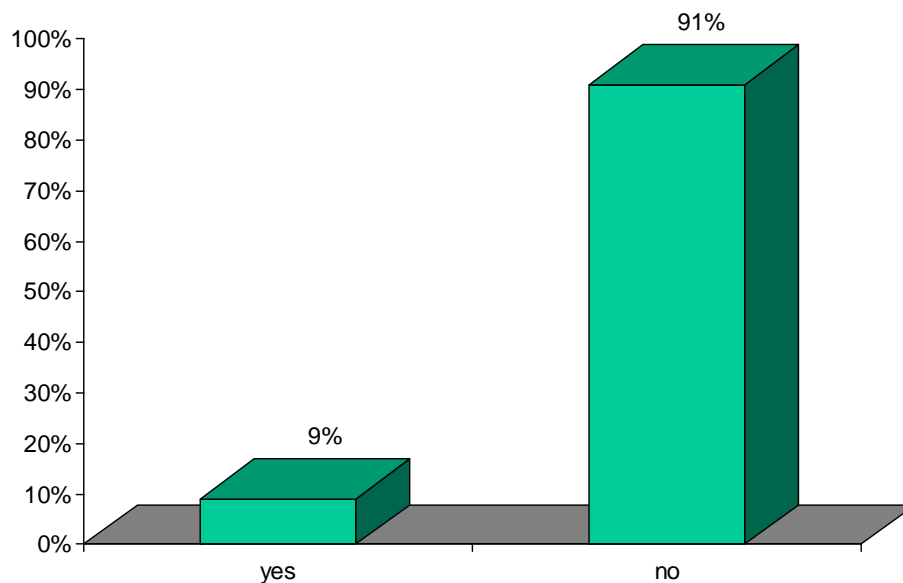
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24. Does your organization participate in education with respect to fair housing on a regular or somewhat regular basis?

Less than 10 percent of the respondents indicated that their agencies participate in regular fair housing educational programs. In sum, three respondents answered “yes,” and 30 respondents answered “no.”

Whether the respondent’s agency participates in regular fair housing educational programs.



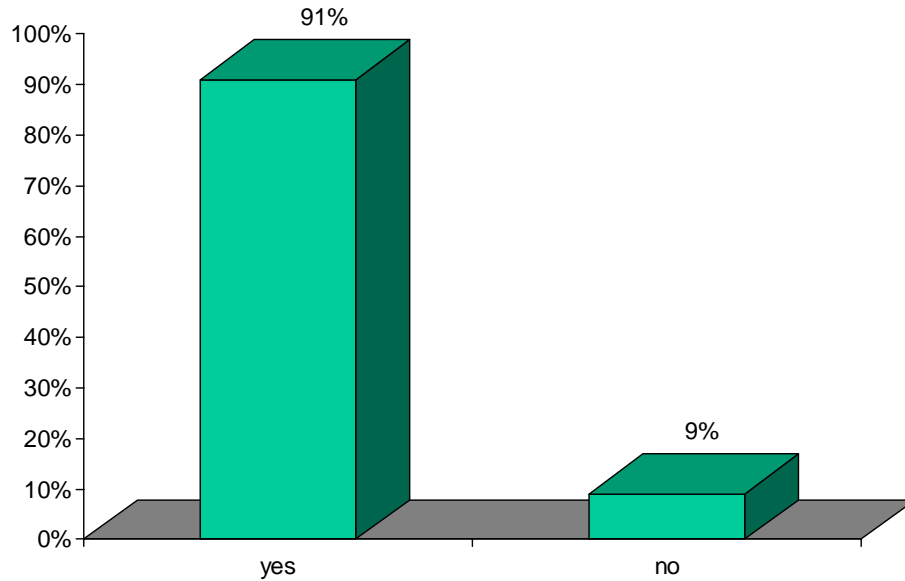
25. Would your organization be interested in receiving educational materials regarding fair housing for seniors?

Approximately 91 percent of respondents indicated that their agencies would be interested in receiving educational materials on fair housing issues facing seniors. In sum 30 respondents answered “yes,” and three respondents answered “no.”

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Whether the respondent’s agency would be interested in educational materials on fair housing issues for seniors.



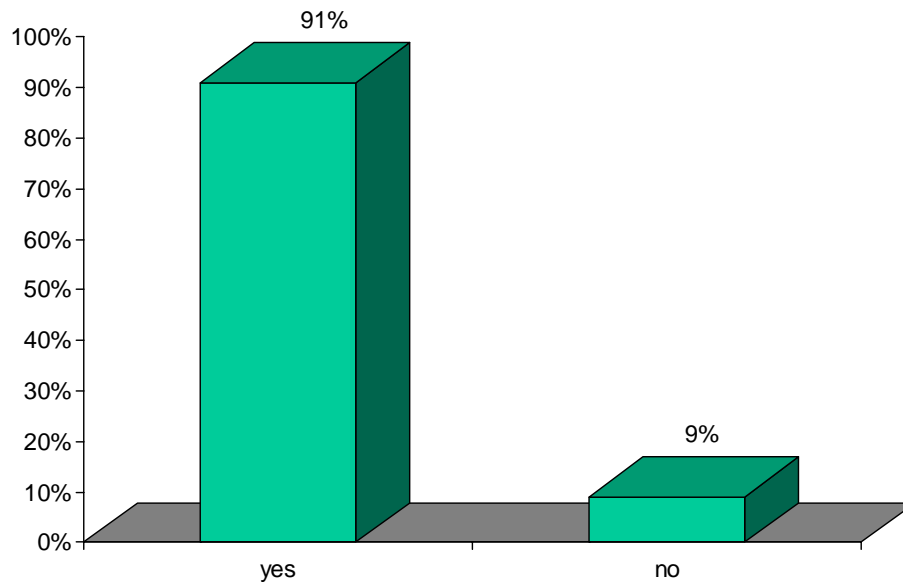
26. Would your organization be interested in having a presenter speak about fair housing issues concerning seniors?

Approximately 91 percent of respondents indicated that their agencies would be interested in having a presenter on fair housing issues facing seniors. In sum 30 respondents answered “yes,” and three respondents answered “no.”

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Whether the respondent's agency would be interested in having a presenter on fair housing issues for seniors.



B. Fair Housing Commissioners Survey

This survey was distributed at a seminar at The John Marshall Law School on fair housing law that was held for commissioners and hearing officers of state and local human relations agencies. Approximately 30 commissioners and hearing officers from approximately 15 different states were present. Nine completed the survey. The Project asked senior housing commissioners and hearing officers to participate in a survey on whether they have encountered any complaints by seniors against senior housing providers. For the purposes of this survey senior housing providers are described as senior housing facilities without services, assisted living facilities, and continuing care retirement communities.

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The first section of the survey asks some general background information.

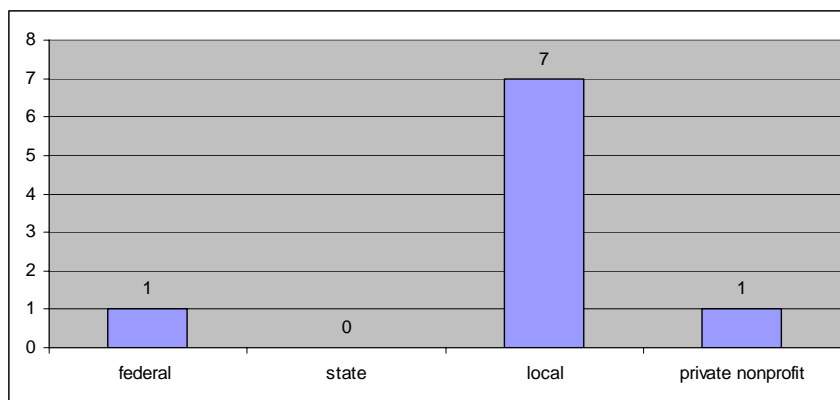
1. What is your job title?

This survey was conducted at a seminar for fair housing commissioners and hearing officers at The John Marshall Law School. There were nine respondents for this survey. The respondents indicated that they held the following positions: city council member; pastor; commission chair; nonprofit housing organization board member; fair housing educator/investigator; acting director; assistant executive director; and commissioner and anti-redlining coordinator.

2. What type of agency do you work for?

Most of the respondents were affiliated with a local agency, rather than a federal or state agency.

Respondent's agency work place.



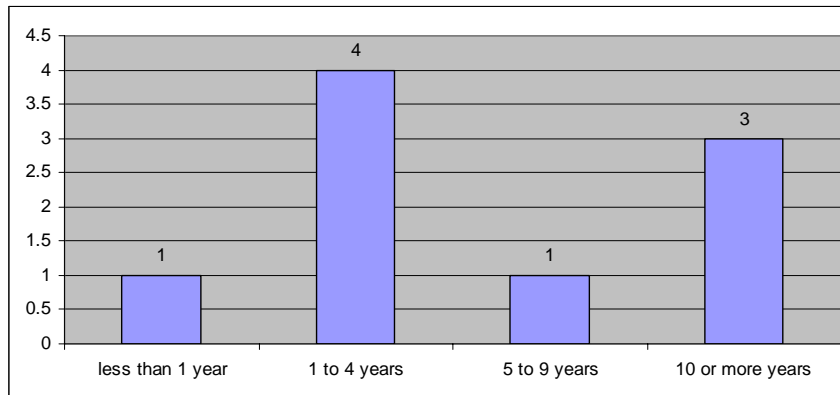
3. How long have you worked in this position?

There was an even split as to length of tenure in those positions. Five respondents worked in those positions for less than four years, while four respondents worked in those positions for more than five years.

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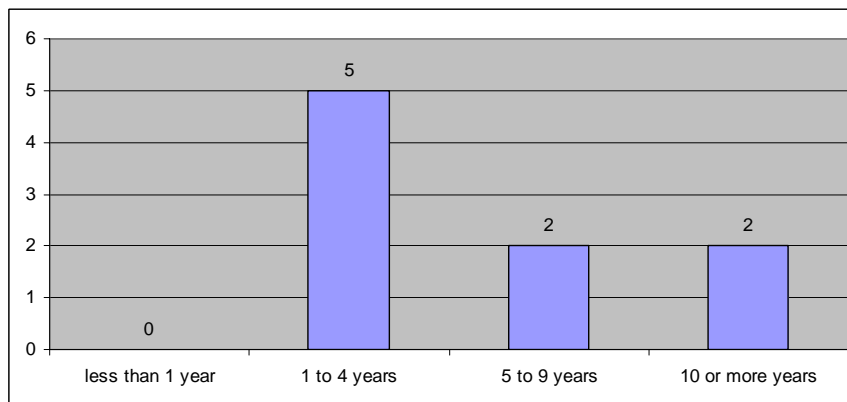
Respondent's tenure with the organization.



4. How long have you been employed in the area of housing regulation?

Respondents responded similarly to amount of time spent working in the field of housing regulation. Five respondents worked in those positions for less than four years, while four respondents worked in those positions for more than five years.

Respondent's experience in fair housing.



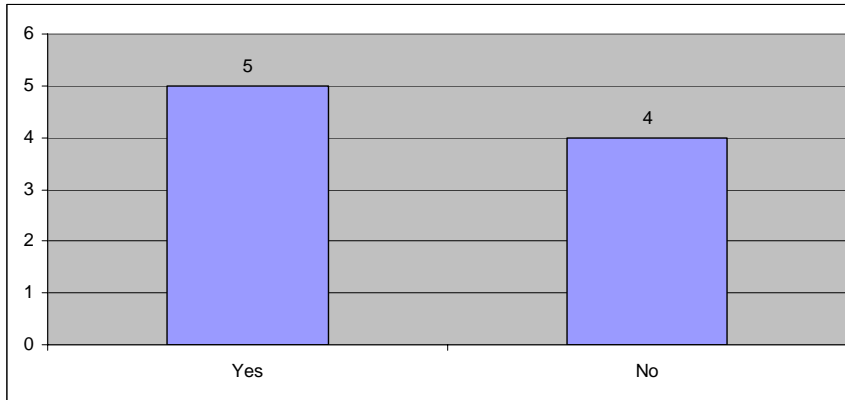
5. Has your agency received any fair housing complaints involving senior housing providers?

Five respondents indicated that their agencies received fair housing complaints involving senior housing providers. Those responding negatively, skipped to question 10.

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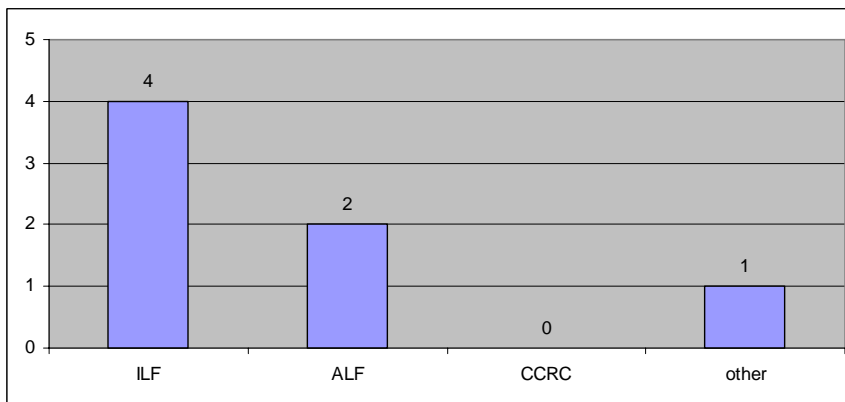
Fair housing complaints received by respondent's agency.



6. What type of senior housing provider was involved in the complaint?

Respondents could respond to multiple selections for this question. Four out of the five respondents indicated that independent living facilities were involved in some type of complaint with their agency.

Type of senior housing provider implicated in the complaint.

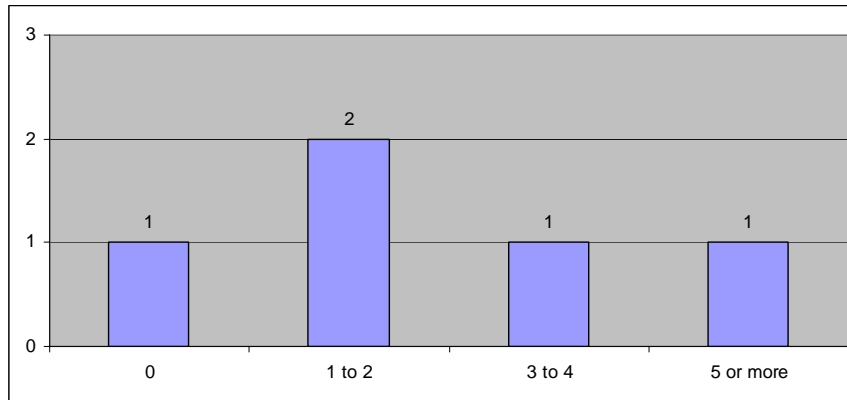


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7. How many such complaints has your agency handled in the past 12 months?

Number of housing discrimination complaints.



One respondent elaborated on this question, indicating that the respondent's agency facilitated four complaints against facilities and three complaints against publishers for discriminatory advertising. The facilities included the following: Chalet North, The Cedars, Keystone, Hickory Manor.

8. What was the conduct/behavior of the senior housing provider that prompted the action?

The following responses were provided to his question.

- There was one advertisement for independent living, active lifestyle.
- There were two advertisements for mainly senior residents.
- One brochure showed all-Caucasian, physically fit human models.
- One housing provider stated to a senior that the facility allowed service animals, but only if the service animals were trained.
- One facility lacked accommodation for wheelchair; it was a new community that followed the building code but not the Fair Housing Act.

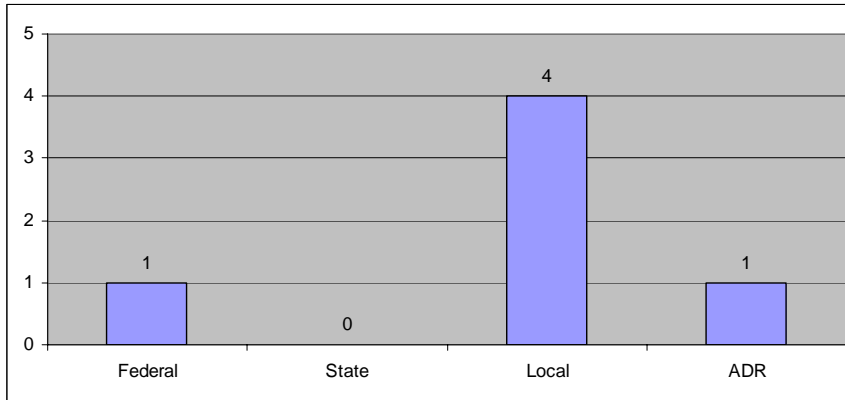
9. What type of action was taken?

In most cases, respondents indicated that a local complaint was initiated.

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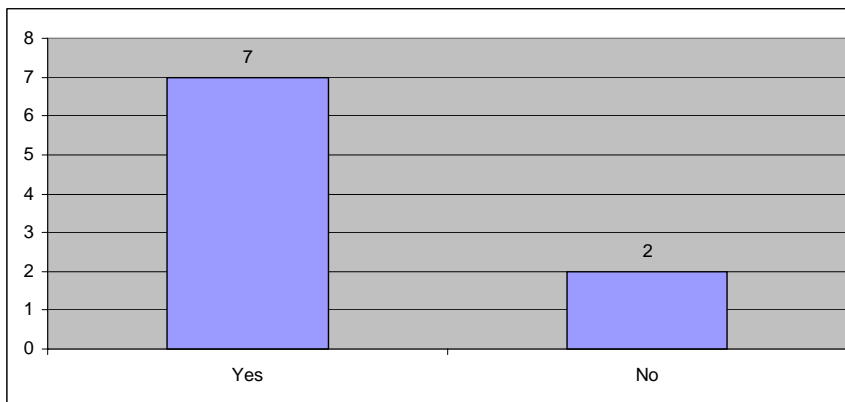
Type of action initiated.



10. Do you believe fair housing laws are implicated in housing issues involving senior housing providers?

Seven respondents believed that fair housing laws are implicated in issues involving senior housing providers.

Whether fair housing laws are implicated for senior housing providers.



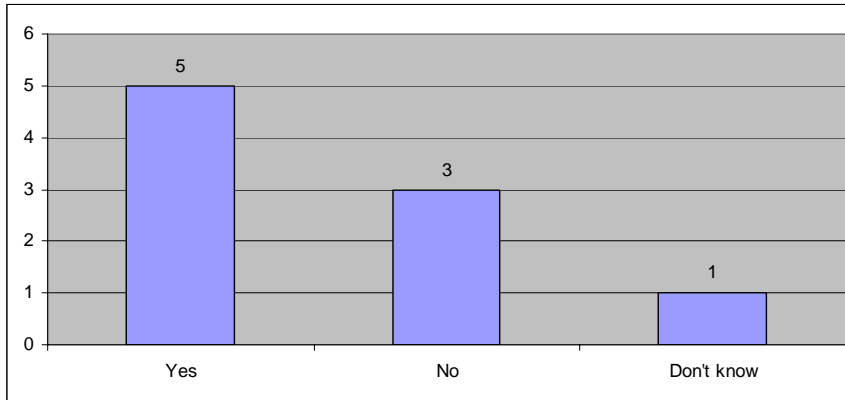
11. Does your state or municipality regulate senior housing providers?

Five respondents indicated that their state or municipality provided some type of regulation of senior housing providers. Those responding negatively to this question skipped ahead to question 14.

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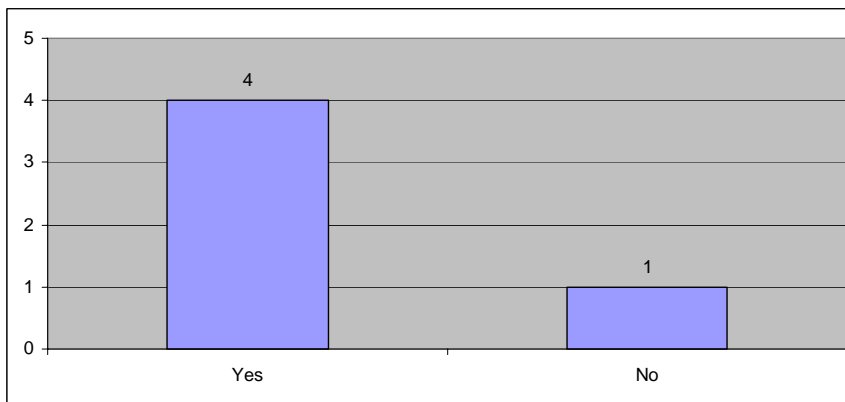
Regulation of senior housing providers.



12. Are inspections required?

Of those affirmative respondents from the previous question, four respondents indicated that there was some type of inspection requirement for senior housing provider regulation. The negative responded skipped to question 14.

Inspections of senior housing providers.



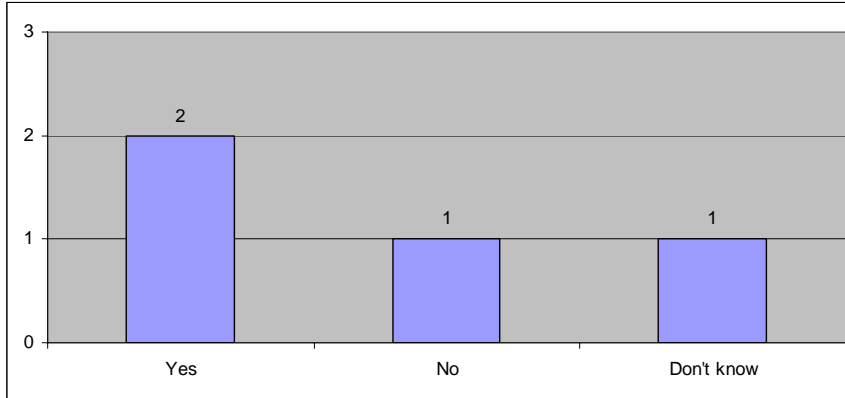
13. Do inspectors or regulators ensure compliance with fair housing laws?

Half of the affirmative respondents from the previous question indicated that inspectors or regulators ensure compliance with fair housing laws.

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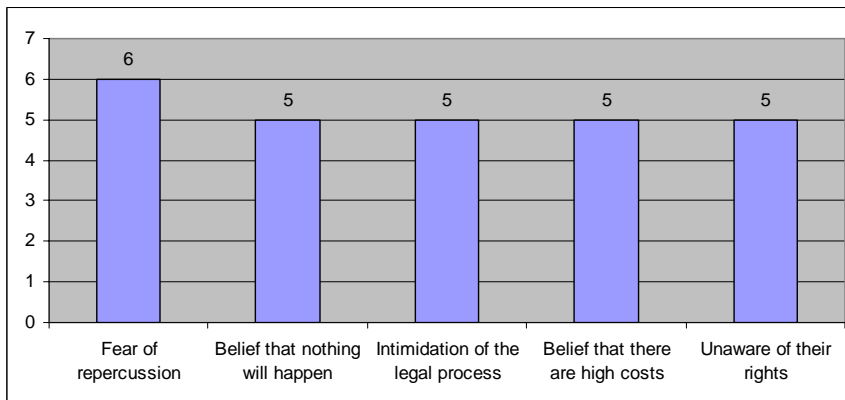
Enforcement of fair housing laws on senior housing providers.



14. Which of the following reasons do you think best explains why seniors refrain from filing housing discrimination?

Five respondents believed that seniors refrained from filing housing discrimination complaints on the following bases: belief that nothing will happen; intimidation of the legal process; belief that there are high costs; and unaware of their rights. Two-thirds of the respondents believed that fear of repercussion was the main basis from refraining from filing a housing discrimination complaint.

Why seniors refrain from filing housing discrimination complaints.



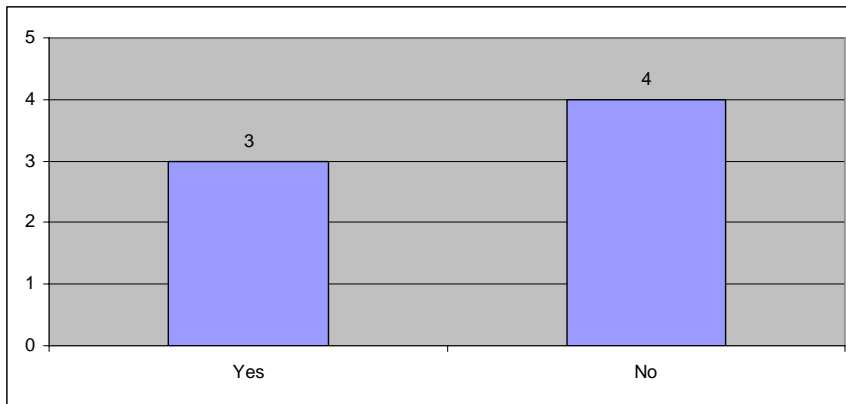
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15a. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: race.

Three (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to race.

Whether senior housing providers recognize fair housing laws as to race.

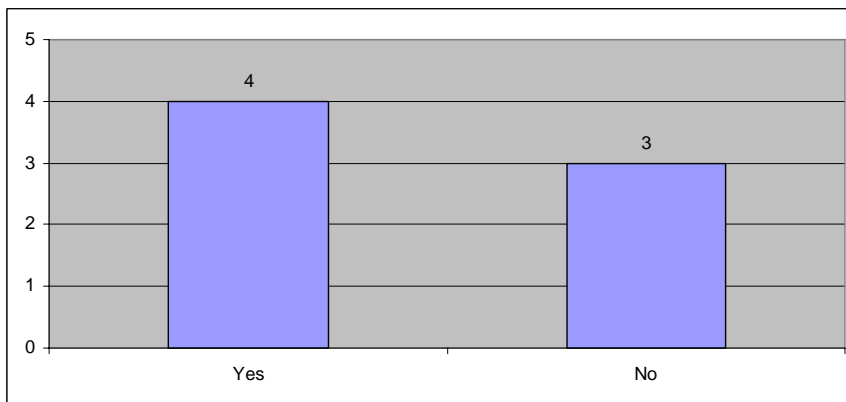


Note: two respondents did not respond to this question.

15b. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: color.

Four (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to color.

Whether senior housing providers recognize fair housing laws as to color.



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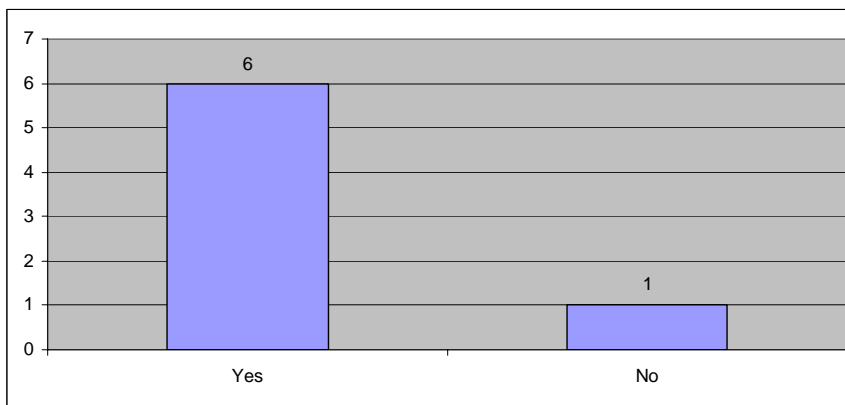
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Note: two respondents did not respond to this question.

15c. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: religion.

Six (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to religion.

Whether senior housing providers recognize fair housing laws as to religion.



Note: two respondents did not respond to this question.

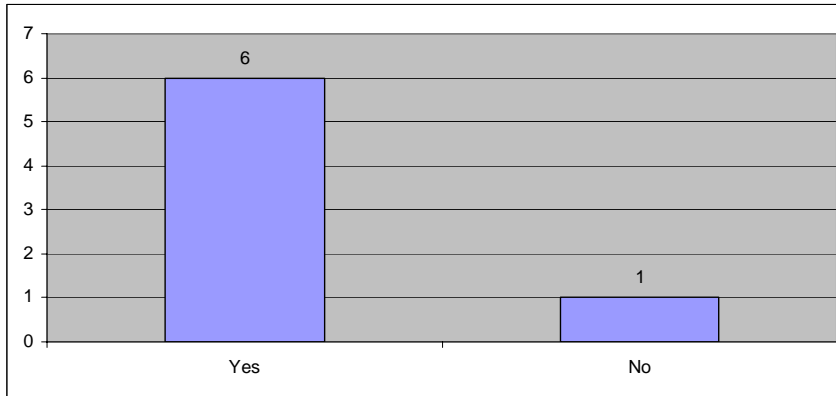
15d. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: sex.

Six (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to sex.

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Whether senior housing providers recognize fair housing laws as to sex.

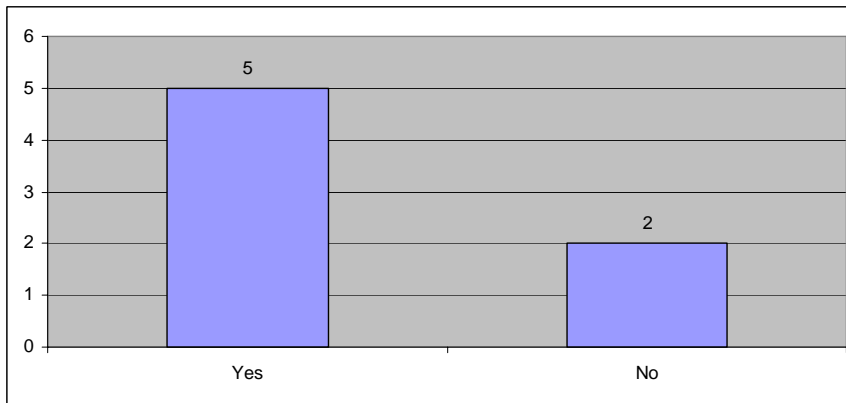


Note: two respondents did not respond to this question.

15e. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: national origin.

Five (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to national origin.

Whether senior housing providers recognize fair housing laws as to national origin.



Note: two respondents did not respond to this question.

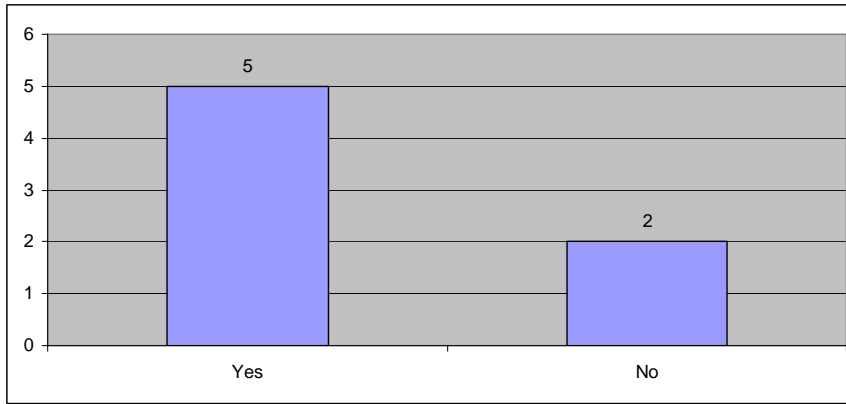
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15f. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: ancestry.

Five (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to ancestry.

Whether senior housing providers recognize fair housing laws as to ancestry.

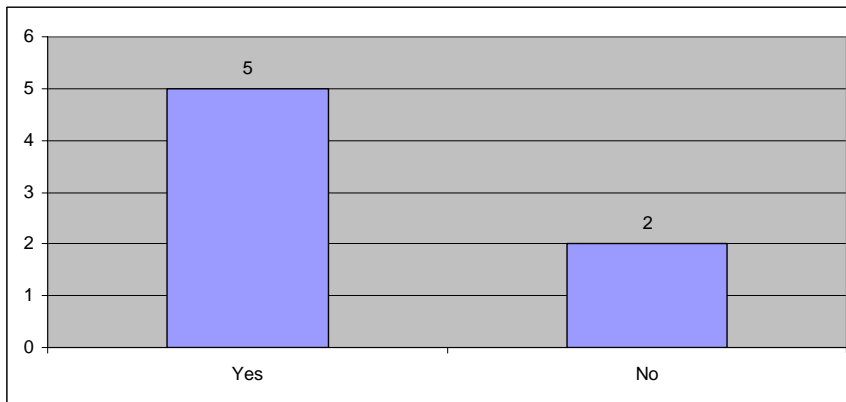


Note: two respondents did not respond to the previous question.

15g. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: age.

Five (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to age.

Whether senior housing providers recognize fair housing laws as to age.



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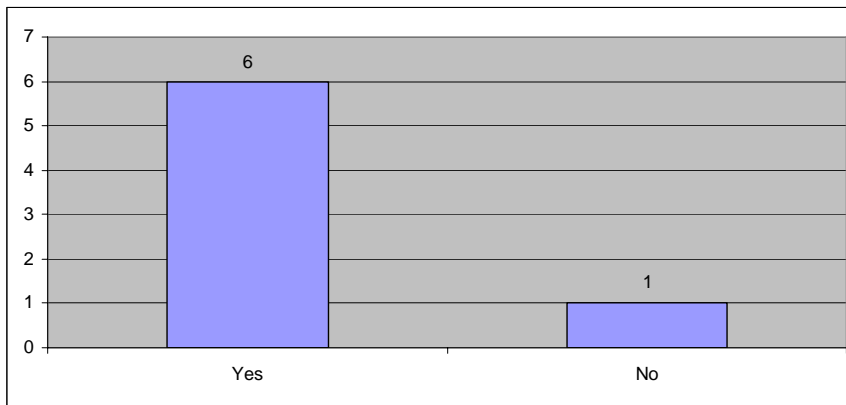
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Note: two respondents did not respond to this question.

15h. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: marital status.

Six (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to marital status.

Whether senior housing providers recognize fair housing laws as to marital status.



Note: two respondents did not respond to this question.

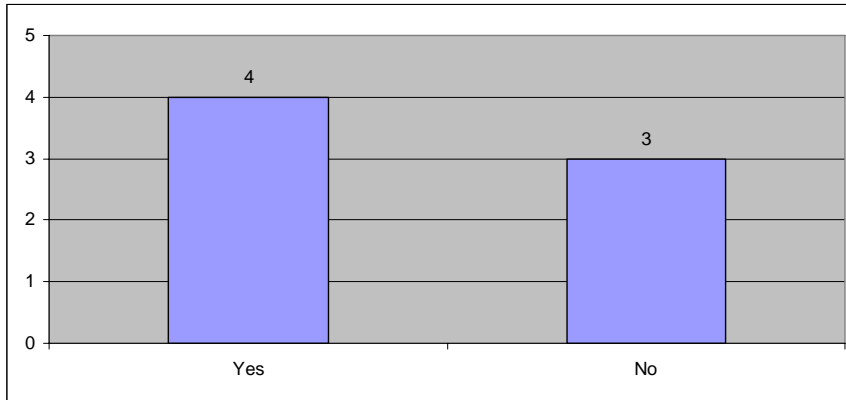
15i. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: physical disability.

Four (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to physical disability.

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Whether senior housing providers recognize fair housing laws as to physical disability.

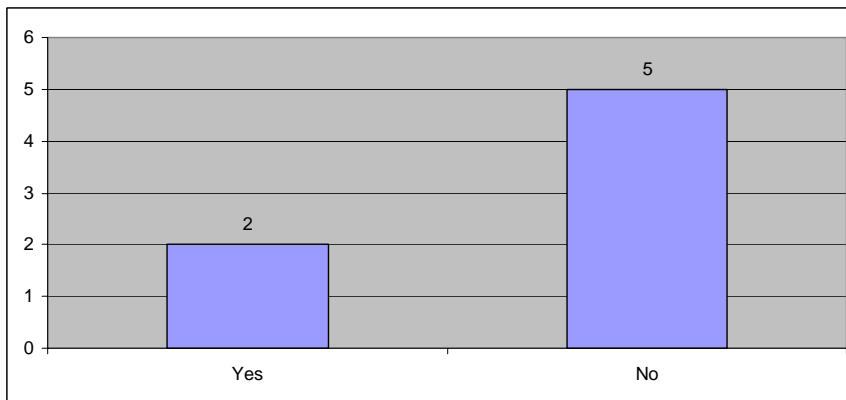


Note: two respondents did not respond to this question.

15j. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: mental disability.

Two (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to mental disability.

Whether senior housing providers recognize fair housing laws as to mental disability.



Note: two respondents did not respond to this question.

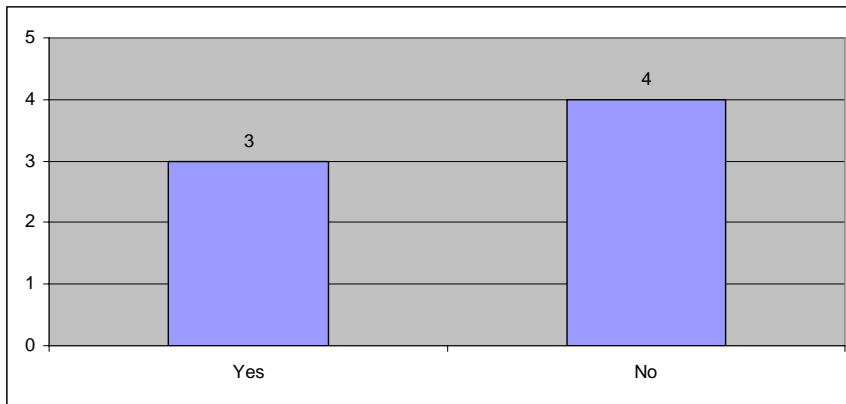
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15k. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: military status.

Three (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to military status.

Whether senior housing providers recognize fair housing laws as to military status.



Note: two respondents did not respond to this question.

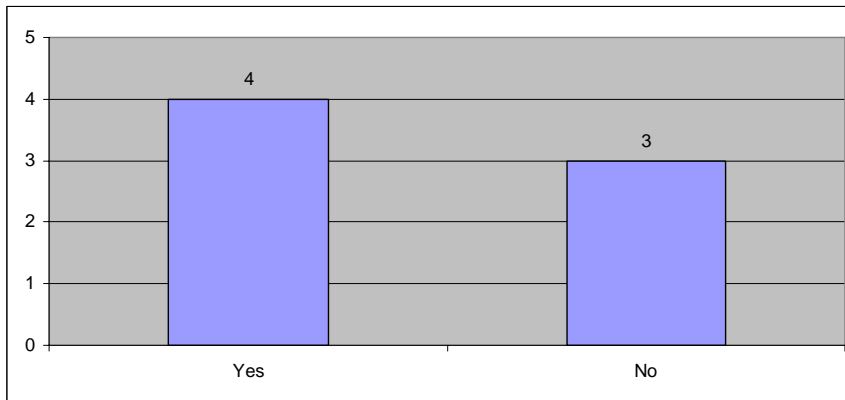
15l. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: sexual orientation.

Four (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to sexual orientation.

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Whether senior housing providers recognize fair housing laws as to sexual orientation.

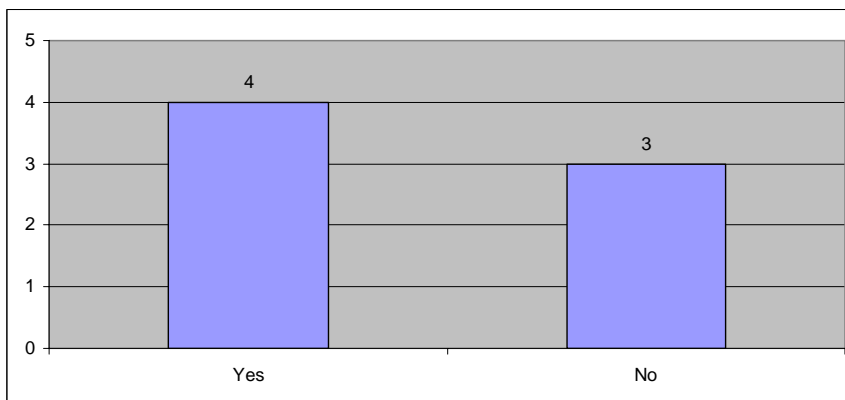


Note: two respondents did not respond to this question.

15m. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: unfavorable military discharge.

Four (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to unfavorable military discharge.

Whether senior housing providers recognize fair housing laws as to unfavorable military discharge.



Note: two respondents did not respond to this question.

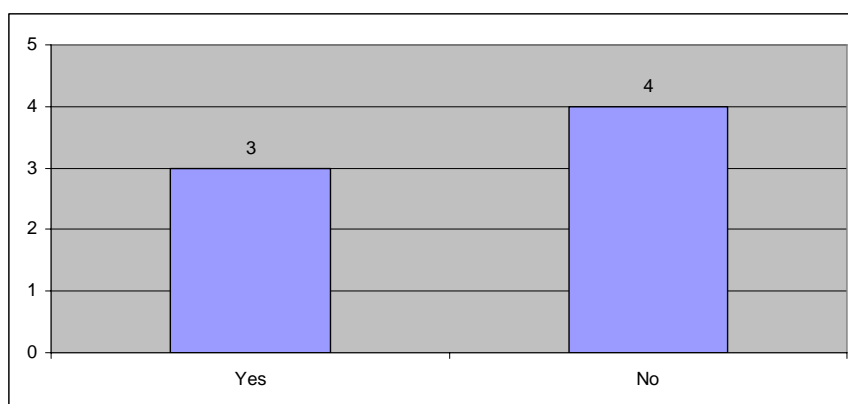
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15n. Do you think the fair housing laws are adequately recognized and followed by senior housing providers with respect to: source of income.

Three (out of seven) respondents indicated that the senior housing providers adequately recognize fair housing laws with respect to source of income.

Whether senior housing providers recognize fair housing laws as to source of income.



Note: two respondents did not respond to this question.

16. Do you think fair housing laws should be considered when annual on-site inspections are performed in senior housing providers?

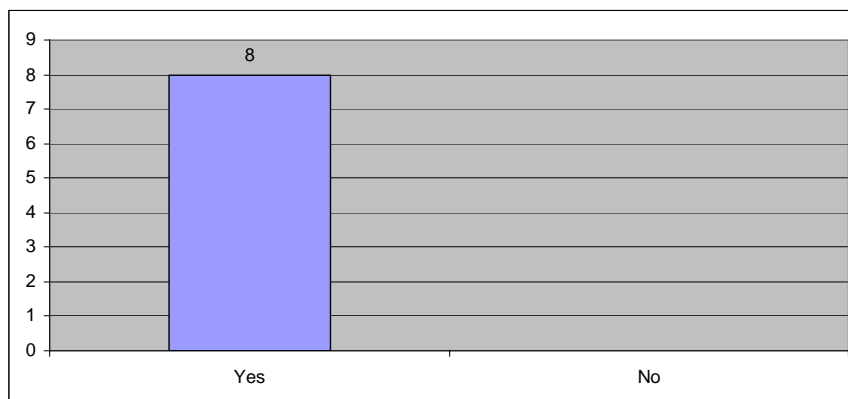
There were eight affirmative responses to this question, and one no-response. Five respondents expanded on their responses as follows:

- Too many inspectors/housing providers are aware of codes but not [the] requirements of ADA and FHA; to use FHA inspectors especially for new housing; will be proactive rather than reactive
- Due to my answers to question number 14, the senior population needs advocates; this is a population that is often times marginalized depending of course on one's socio-economic status
- Because it gives the residents a sense that someone [some] agency is interested in their health and welfare, whether they speak about it or not
- No one else goes on site; enforcement agencies do not have resources or education to do this requirement
- To ensure that rights of seniors are protected to show that “we mean business”

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Should inspectors consider fair housing laws during annual on-site inspections?



C. Agency Interviews

The Project conducted brief interviews with representatives of HUD, Cook County Commission on Human Rights (CCCHR), and the Illinois Bureau of Assisted Living. The representatives of HUD, CCCHR, and the Bureau were asked to respond to the following questions: 1) whether seniors file fair housing complaints and 2) why some seniors file a fair housing complaint while others will not. The representative of the Bureau provided an overview of the agency and its scope of authority.

The HUD representative indicated that HUD does not track the ages of complainants but suspects most disability complaints are probably involve seniors. The majority of these complaints deal with reasonable accommodation issues as opposed to issues involving a refusal to rent or sell. Some complaints have involved independent living communities that either advertise for able-bodied residents or steer disabled applicants to other facilities. HUD recently settled a case with an independent living facility because certain common areas were not accessible. This case involved an establishment that offered fishing access for its residents. However, there were no concrete paths or landings for disabled tenants to gain access to the lake in order to be able to fish. The case was settled and the facility did extend sidewalks and provide

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landing areas so all residents could equally enjoy the fishing privileges. The HUD representative also felt that possibly seniors are less mobile and therefore have less of an opportunity to encounter housing discrimination in the market place. Additionally, the HUD representative indicated that seniors often become disabled after becoming a resident of a facility and may not realize that they have not waived their fair housing rights by signing the agreement to become a resident of the facility. Facilities may dictate when meals are served and when activities are held and seniors might become accustomed to following facility directives and believe that they may have waived certain rights in order to qualify as a resident of the facility. The HUD representative further stated that seniors in HUD subsidized housing do not seem reluctant to complain about reasonable accommodation issues.

CCCHR legal counsel indicated that she is not aware of seniors filing fair housing complaints. Counsel further indicated that seniors may not file complaints because if they are denied housing based on discrimination – the need to find alternative housing outweighs the need to pursue a discrimination complaint, assuming that the senior is aware they have been discriminated against in the first instance.

The director of the Bureau of Assisted Living and Information Support indicated that there were approximately 200 ALFs in Illinois, and 35 in Cook County. The Bureau has three staff members, one of which is the inspector. Thus, there is only one inspector in state. The Bureau does not have a database of licensed facilities.

D. Assisted Living Exit Interviews

The Project submitted a Freedom of Information Act request on April 8, 2007, requesting exit conference forms for Cook County assisted living facilities, as compiled by the Bureau of Assisted Living and Information Support. On May 16, 2007, the Project received exit interview

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forms for 32 Cook County assisted living facilities. Generally, there were two years for each facility, between 2004 and 2007. In total, there were 53 exit conference forms, and 20 instances of at least one noted technical infraction of the regulations. The following table provides a breakdown of the submitted exit conference forms.

2004		2005		2006		2007	
Inspection	Infraction	Inspection	Infraction	Inspection	Infraction	Inspection	Infraction
5	4	16	9	28	6	4	1

The top five most frequent cited infractions implicated the following regulations: service plan, 77 Ill Adm Code 295.4010 (12 infractions); disaster preparedness, 77 Ill Adm Code 295.2040 (10 infractions); physician's assessment, 77 Ill Adm Code 295.4000 (8 infractions); personnel requirements, 77 Ill Adm Code 295.3000 (7 infractions); and employee orientation and ongoing training, 77 Ill Adm Code 295.3020 (6 infractions). Interestingly, seven Sunrise Assisted Living facilities in Cook County were inspected by the Bureau. Six of those facilities received infractions (eight total infractions). Thus, Sunrise Assisted Living facilities in Cook County received 40 percent of the infractions issued in this sample.

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IV. MATCHED TESTS

The Project conducted 60 matched tests at senior housing facilities without services, assisted living facilities, and continuing care retirement communities. Senior testers of various ethnic backgrounds, some with disabilities, inspected senior housing providers that allowed the Senior Housing Research Project team to determine what discrimination seniors face in their housing options.

A. Senior Housing Options

This report discussed various types of senior housing in a previous section. A recent article noted that “[t]he senior housing industry now offers hundreds of thousands of units in settings other than nursing homes.”³¹¹ Such units can be classified generally as senior housing facilities without services, assisted living centers, and continuing care retirement communities. Those options are summarized as follows.

1. Senior Housing Facilities Without Services

Senior housing facilities without services are designed for seniors with minimal health or personal care needs.³¹² These facilities are not allowed to provide skilled nursing services, so these types of facilities would be regulated as any multi-family dwelling.³¹³

2. Assisted Living Facilities

Assisted living centers or facilities combine “individualized supportive services with modest health care assistance.”³¹⁴ According to a recent presentation, there are more than one “million adults currently live in assisted living facilities.”³¹⁵ Assisted living centers typically

³¹¹ Allen II at 16.

³¹² *Id.*

³¹³ Sturm at 124.

³¹⁴ Frolik at 23-24.

³¹⁵ *Id.*

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provide the following services: meals; housekeeping; transportation; assistance with eating, bathing, dressing, walking, etc.; access to health and medical services; security and staff availability; emergency call systems in each resident's unit; health and exercise programs; medication management; laundry; and social and recreational activities.³¹⁶ While there is no federal regulation, states and municipalities have begun to regulate assisted living centers.³¹⁷

3. Continuing Care Retirement Communities

A continuing care retirement community (CCRC) provides supportive housing with lifetime care for its residents.³¹⁸ The CCRC may offer a wide range of housing options, including independent living, assisted living, and nursing home care; as the CCRC seeks to ensure that the resident will never need to move.³¹⁹ Fundamentally, a CCRC “provides housing, meals, and other services, including nursing home care, usually in exchange for a one-time capital investment or entrance fees and a monthly service fee.”³²⁰ There is no federal oversight of CCRCs, and state regulation varies.³²¹

³¹⁶ *Id.*

³¹⁷ *Id.* The Illinois legislature enacted the Assisted Living and Shared Housing Act, effective as of January 1, 2001. 210 ILCS 9/1. In passing Assisted Living and Shared Housing Act, the legislature sought to permit the development and availability of assisted living establishments and shared housing establishments based on a social model that promotes the dignity, individuality, privacy, independence, autonomy, and decision-making ability and the right to negotiated risk of those persons; to provide for the health, safety, and welfare of those residents residing in assisted living and shared housing establishments in this State; to promote continuous quality improvement in assisted living; and to encourage the development of innovative and affordable assisted living establishments and shared housing with service establishments for elderly persons of all income levels. It is the public policy of this State that assisted living is an important part of the continuum of long term care. 210 ILCS 9/5.

³¹⁸ Frolik at 19. Another article noted that in 2003, “there were approximately 2,150 CCRCs with about 613,625 beds.” Sturm at 123.

³¹⁹ Frolik at 19.

³²⁰ Krauskopf at § 12:81. The article notes that “[t]he monthly fee is determined by operating costs and may increase periodically.” *Id.* Additionally, “[t]he resident ordinarily does not acquire any ownership rights in the residential unit.” *Id.* Ultimately, “CCRCs usually are constructed on a village concept, and the individual remains within the community for life, moving from independent housing to nursing home and back as needed.” *Id.*

³²¹ See 210 ILCS 40/1 to 40/12.

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B. Methodology

The Project tested senior housing facilities without services, assisted living facilities, and continuing care retirement communities throughout the City of Chicago and suburban Cook County from December 2006 through August 2007. The 60 test sites can be characterized as follows:

- Assisted living facilities: 23
- Senior housing facilities without services: 19
- CCRCs: 18

The testers were paired according to either race or disability. For racial tests, one Caucasian was paired with an African-American tester, keeping gender constant. For disability, one non-disabled individual was paired with a disabled individual, keeping race and gender constant. According to HUD testing guidelines, basic paired testing protocols call for all other characteristics to be comparable. For example, when disabled and nondisabled testers were used, they were of similar race, gender, age, income, and family composition, as well as having similar housing needs.³²² HUD testing guidelines provide suggestions about inserting disability into testing. The HUD guidelines provide “[t]o ensure that testers were identifiable as disabled during in-person tests, . . . testers were recruited in specific categories—such as wheelchair users, blind or substantially vision impaired, deaf or substantially hearing impaired, or having a mental disability that fit into the identified categories.”³²³ However, when the disability is not easily ascertainable, the tester may adequately convey his/her disability. Nevertheless, it became clear that traditional matched tests would not adequately provide a great deal of information with respect to certain issues facing disabled individuals. For example, a nondisabled individual

³²² U.S. Department of Housing & Urban Development, *Against Persons with Disabilities: Testing Guidance for Practitioners* 13 (July 2005).

³²³ *Id.* at 17.

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would not be posed with the same questions as a disabled individual. As such, the matched tests results yielded little compelling information about reasonable modification or reasonable accommodation.

For senior housing facilities without services, assisted living facilities, and continuing care retirement communities, the testers represented themselves as the individuals seeking housing. The testers represented themselves as individuals down-sizing from larger homes, with limited needs for daily assistance and requirements for services such as meal preparation, laundry, and parking. Testers aged 55 years and older were selected and trained to conduct the 60 matched tests. The testers were trained on how to present the scenarios given to them by the Project. All testers were instructed to maintain the characteristics assigned to them by the Project throughout the entire testing experience. The testers were trained on the proper method for recording their experiences from the test site. The testers inquired about the advertised units at various senior housing providers. They asked about the following:

- Rent
- Date availability
- Lease length
- Deposit
- Other fees
- Application process
- Waiting lists
- Incentives
- Follow-up arrangements

The testers also inspected available units, noting how many and what kind of units are shown during the interview.

The testers were equipped with the proper paperwork and instructions in order to complete their tests. To ensure the testers were able to find their test site, they were provided with detailed directions to the assigned location. Also, each tester was provided with a “Tester

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Assignment Form” that included information on the test site, name, address, telephone number, and the method in which the tester found out about the test site, i.e. newspaper ad. The type of housing desired was also indicated on the “Tester Assignment Form,” along with their reason for moving, the date housing was needed by, and how long the tester had been looking for housing.

Each tester was assigned specific characteristics, including the following: persons in household, race, sex, age, source of income, amount of income, and household indebtedness. In order for each tester to qualify for obtaining a unit/space at the tested site, the testers had 100 percent equity in their homes; which would be sold once they acquired a new place of residence.

Immediately following each site visit the testers recorded their experiences on a standardized “Tester Report Form.” The testers were provided a “Test Narrative Report Form,” in which the testers detailed their experience in a chronological manner. Each paired tester presented the identical request to the housing provider. As mentioned previously, the testers requested the units at the senior housing facilities without services, assisted living facilities, and continuing care retirement communities for themselves.

Each tester was assigned test sites and specific characteristics in order to match the tests appropriately. The testers performed site visits and then record their experiences after leaving the test site. The testers were trained to interact with the housing providers in an objective and interested manner for the duration of each site visit. They were instructed on the proper method for recording their experience from the visit to the test site. The specific test instructions are provided in Appendix D.

C. Matched Tests Findings

In total, 60 matched tests were conducted at senior housing facilities without services, assisted living facilities, and continuing care retirement communities. The focus was on racial

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testing with a cautious approach in testing for disability. As such, 53 facilities were tested for race and seven facilities were tested for disability.

In terms of racial preference, the matched tests demonstrated 26 of the facilities (49 percent) demonstrated preference for the Caucasian tester. Ten senior housing facilities without services expressed some preference for the Caucasian tester; ten ALFs demonstrated some preference for the Caucasian tester; and six CCRCs demonstrated some preference for the Caucasian tester.

Type of facility	Preference			
	None	Slight	Moderate	Strong
Senior housing facilities without services	6	8	2	0
Assisted living facilities	10	2	3	5
Continuing care retirement communities	11	4	1	1
Total	27	14	6	6

In terms of disability, the matched tests demonstrated four of the facilities demonstrated preference for the nondisabled tester. Three senior housing facilities without services some preference for the nondisabled tester; two ALFs demonstrated some preference for the nondisabled tester; and none of the CCRCs demonstrated any preference for the nondisabled tester.

Type of facility	Preference			
	None	Slight	Moderate	Strong
Senior housing facilities without services	1	1	1	0
Assisted living facilities	1	2	0	0
Continuing care retirement communities	1	0	0	0
Total	3	3	1	0

Testers were given tours by the same agent at 24 (40 percent) of the matched tests. This was very encouraging, as it provides the best examples of whether there was evidence of preference at a given test. In terms of race, there were six senior housing facilities without

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services, where the testers met the same agent. At four of these facilities, there was some evidence of preference for the Caucasian tester. There were seven ALFs, where the testers met the same agent. At five of these facilities, there was some evidence of preference for the Caucasian tester. There were six CCRCs, where the testers met the same agent, and at two of these facilities, there was some evidence of preference for the Caucasian tester. In terms of disability, there were two senior housing facilities without services, where the testers met the same agent. At one of these facilities, there was some evidence of preference for the nondisabled tester. There were three ALFs, where the testers met the same agent. At two of these facilities, there was some evidence of preference for the nondisabled tester.

Waiting lists

Race: At 31 facilities, there were no waiting lists; and 13 facilities, there were waiting lists for both testers. At six facilities, the African-American tester was told that there was a waiting list, while the Caucasian tester was not. At three facilities, the Caucasian tester was told that there was a waiting list, while the African-American tester was not. At 24 of the facilities (45 percent) the testers were provided the same information with respect to the waiting lists. The following table provides the breakdown by type of facility.

Type of facility	Waiting lists			None
	For both testers	Only for African-American	Only for Caucasian	
Senior housing facilities without services	5	2	1	8
Assisted living facilities	3	1	2	14
Continuing care retirement communities	5	3	0	9
Total	13	6	3	31

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Type of facility	Waiting lists	
	Different information	Same information
Senior housing facilities without services	7	9
Assisted living facilities	9	11
Continuing care retirement communities	8	9
Total	24	29

Disability: Four facilities did not have waiting lists, and three facilities had waiting lists. At three of the facilities, the testers were provided different information about the waiting lists. At one facility, the disabled tester was told that there was a 15-year waiting list for an accessible unit; whereas, the nondisabled tester was told that the waiting list was between 3 to 12 months long at that facility. The following table provides the breakdown by type of facility.

Type of facility	Waiting lists			None
	For both testers	Only for disabled tester	Only for nondisabled tester	
Senior housing facilities without services	1	0	0	2
Assisted living facilities	1	0	0	2
Continuing care retirement communities	1	0	0	0
Total	3	0	0	4

Type of facility	Waiting lists	
	Different information	Same information
Senior housing facilities without services	1	2
Assisted living facilities	2	1
Continuing care retirement communities	0	1
Total	3	4

Availability of units

Race: At 27 facilities, there was availability for either tester. And at 18 facilities, there was no availability for either tester. However, at eight of the facilities, the agents indicated that there was availability during the Caucasian tester's tour, but no availability during the African-American tester's tour. There were no instances where an African-American tester was told that

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there was availability, while the Caucasian tester was told that there was no availability. The following table provides the breakdown by type of facility.

Type of facility	Availability of units		
	No availability for either tester	Availability for Caucasian tester	Availability for both testers
Senior housing facilities without services	5	2	9
Assisted living facilities	6	4	10
Continuing care retirement communities	7	2	8
Total	18	8	27

Disability: At two facilities, there was availability for either tester. And at four facilities, there was no availability for either tester. However, at one facility, the agent indicated that there was availability during the nondisabled tester’s tour, but no availability during the disabled tester’s tour. There were no instances where the disabled tester was told that there was availability, while the nondisabled tester was told that there was no availability. The following table provides the breakdown by type of facility.

Type of facility	Availability of units		
	No availability for either tester	Availability for nondisabled tester	Availability for both testers
Senior housing facilities without services	1	0	2
Assisted living facilities	2	1	0
Continuing care retirement communities	1	0	0
Total	4	1	2

Duration of the tours

Race: The results demonstrated that at 36 facilities, the length of the tests were neutral. And by neutral, the Project considered tests that were within ten minutes of one another (or in favor of the African-American tester). There were six facilities, where the Caucasian tester’s tour lasted 11 to 20 minutes longer than the African-American tester’s tour. At seven facilities,

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the Caucasian tester's tour lasted 21 to 30 minutes longer than the African-American tester's tour. And at four facilities, the Caucasian tester's tour lasted 31 minutes or longer than the African-American tester's tour. The following table provides the breakdown by type of facility.

Type of facility	Duration of tours			
	Neutral (within 10 minutes)	11 to 20 minutes longer	21 to 30 minutes longer	31 or more minutes longer
Senior housing facilities without services	12	2	1	1
Assisted living facilities	13	0	5	2
Continuing care retirement centers	11	4	1	1
Total	36	6	7	4

Disability: The results demonstrated that at six facilities, the length of the tests were neutral. And by neutral, the Project considered tests that were within ten minutes of one another (or in favor of the disabled tester). At one facility, the nondisabled tester's tour lasted 11 to 20 minutes longer than the disabled tester's tour. The following table provides the breakdown by type of facility.

Type of facility	Duration of tours			
	Neutral (within 10 minutes)	11 to 20 minutes longer	21 to 30 minutes longer	31 or more minutes longer
Senior housing facilities without services	3	0	0	0
Assisted living facilities	2	1	0	0
Continuing care retirement communities	1	0	0	0
Total	6	1	0	0

Identification

Only two of the facilities (both matched tests for race) asked testers to produce identification before affording them tours. At one facility, both testers were asked to produce

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identification. At another facility, only the African-American tester was asked to produce identification. Both of these instances occurred at senior housing facilities without services.

Financial incentives

Race: At six of matched tests, the Caucasian testers were offered some sort of financial incentives, while the African-American testers were not offered similar financial incentives. The following table provides the breakdown by type of facility.

Type of facility	Financial incentives	
	Offered to Caucasian tester	No incentives offered to either tester
Senior housing facilities without services	1	15
Assisted living facilities	4	16
Continuing care retirement communities	1	16
Total	6	47

Disability: None of the testers were offered financial incentives.

Contacting the facilities

Race: At 14 matched testes, African-American testers expressed that there was some difficulty in contacting the facilities to schedule tours. These difficulties manifested in calls being transferred to voicemail many times or in unreturned telephone calls. There were no instances reported by Caucasian testers expressing any difficulty in contacting the facilities. The following table provides the breakdown by type of facility.

Type of facility	Contacting the facilities	
	Difficulty	No Difficulty
Senior housing facilities without services	3	13
Assisted living facilities	4	16
Continuing care retirement communities	7	10
Total	14	39

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Disability: At one matched testes, the disabled tester expressed that there was some difficulty in contacting the facility to schedule a tour. There were no instances reported by nondisabled testers expressing any difficulty in contacting the facilities. The following table provides the breakdown by type of facility.

Type of facility	Contacting the facilities	
	Difficulty	No Difficulty
Senior housing facilities without services	1	2
Assisted living facilities	0	3
Continuing care retirement communities	0	1
Total	1	6

How did you find out about us?

Race: On five matched tests, the agents asked the African-American testers were asked how they learned of those particular facilities. No such inquiry was made of any Caucasian tester at those facilities. The following table provides the breakdown by type of facility.

Type of facility	How did you find out about us inquiry	
	Yes	No
Senior housing facilities without services	1	15
Assisted living facilities	1	19
Continuing care retirement communities	3	14
Total	5	48

Disability: An African-American tester was posed such a question at a matched test of a senior housing without services facility. The African-American nondisabled tester at that facility was not posed such a question.

Steering

Race: At six facilities, the African-American testers were steered from the facility to some other facility. None of the Caucasian testers were steered during the matched tests. The following table provides the breakdown by type of facility.

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Type of facility	Steering	
	Yes	No
Senior housing facilities without services	1	15
Assisted living facilities	5	15
Continuing care retirement communities	0	17
Total	6	47

Disability: At two facilities, the disabled testers were steered from the facility to some other facility. None of the nondisabled testers were steered during the matched tests. The following table provides the breakdown by type of facility.

Type of facility	Steering	
	Yes	No
Senior housing facilities without services	2	1
Assisted living facilities	0	3
Continuing care retirement communities	0	1
Total	2	5

Our residents are much older than you

At three of the facilities, the African-American testers were told that residents at that facility were significantly older than the tester. This was not with the case with any Caucasian testers (or on any of the matched tests for disability). The following table provides the breakdown by type of facility.

Type of facility	Our residents are older statement	
	Yes	No
Senior housing facilities without services	0	16
Assisted living facilities	3	17
Continuing care retirement communities	0	17
Total	3	50

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D. Anecdotal Highlights

1. Senior Housing Facilities Without Services

Preference for the Caucasian tester can be subtle. At one facility, the Caucasian tester was provided with more information compared to the African-American tester. Significantly, the Caucasian tester's tour was longer (50 minutes) than the African-American tester's tour. When the Caucasian tester called, she was told that the waiting list was 6 to 12 months long. Even though the agent noted that she exceeded this facility's income requirements, the agent provided an application for the Caucasian tester. Conversely, upon arrival, the African-American tester was required to tender her drivers' license before a tour would be given. Further, the agent told the African-American tester that the residences were fully occupied. The African-American tester was told that no actual waiting list existed at the time, but by applying, she would be placed on a waiting list. The African-American tester was also informed of the income limitations, and no one exceeding the income threshold would be accepted.

Religious facility discourages both testers, but still demonstrates a preference for the Caucasian tester. Here, the agent told the African-American tester that this facility had a five-year waiting list; however, the agent produced various packets of forms and lists of properties administered by this facility, but much of the information was regarding properties administered by the Chicago Housing Authority (CHA). The agent told the Caucasian tester that this facility administered four independent living facilities in Chicago and one group home. The Caucasian tester believed that the building he visited was merely an administrative building. The African-American tester went to the same building, but the agent told him that the building had a five-year waiting list. Moreover, the agent did not provide the Caucasian tester with any CHA information.

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Even though the African-American tester had a negative experience, there was no indicia of preference based on race. Here, the African-American tester indicated in his/her report that they felt unwelcome or treated in a rude manner. When the African-American tester called, the agent commented that she has no information about apartments but could take this tester's name for a waiting list. The agent also indicated that the African-American tester should contact another senior housing provider, indicating that there were no seniors housing units, but only single-family homes. The African-American tester learned that this facility only had single family houses and that the senior housing provider would be building "independent living" apartments with groundbreaking scheduled for July. The Caucasian tester was provided similar information regarding the single-family homes and senior housing. Apparently, this development targeted seniors for its single-family homes.

Another religiously affiliated facility demonstrated a clear preference for the Caucasian tester. At this facility, the African-American tester's tour was 25 minutes long, while the Caucasian tester's tour was 90 minutes. The Caucasian tester was invited to lunch, while the African-American tester was not even though his tour was also during the lunch hour. The African-American tester noted that he felt shielded from the predominantly Caucasian residents during his tour. The agent also stated that the average age of the residents was 80 years old and significantly older than the African-American tester.

The African-American tester had great difficulty setting up an appointment. Here, the African-American tester placed five calls, but he never reached the sales agent. The African-American tester went to the facility without an appointment. The Caucasian tester had no difficulty in setting up an appointment via telephone. Both testers were told that there was a waiting list. The agent told the African-American tester that the waiting list was two to three

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years, but no specifics were given to the Caucasian tester. However, the agent told the Caucasian tester that it was a “very long” waiting list. The African-American tester was shown two studio units, because none of the one-bedroom units were available. The Caucasian tester was shown a small one-bedroom unit, a larger one-bedroom unit, and a two-bedroom unit.

A facility indicated a preference based on an applicant's zip code. The African-American tester had to place several calls before being able to schedule an appointment. When the African-American talked to the agent via telephone, the agent asked where the African-American tester resided. The agent indicated that there was a preference for individuals, who resided within the 60617 zip code. The African-American tester’s current zip code was 60616. The Caucasian tester was not asked what her zip code was. At the facility, the African-American tester was shown a one-bedroom unit. The agent told the African-American tester that there was a waiting list for units, but a market rate unit may be available within three months. The agent told the Caucasian tester that there was a 6 to 12 month waiting list for subsidized units, where the income maximum was \$15,800 for one person. The waiting list for a non-subsidized (market rate) unit was “not many,” according to the agent.

What about a reasonable modification? The Project tested a senior housing without services facility for disability with two African-American female testers. This facility provides housing for low-income individuals with a maximum income threshold of \$24,000 per year. Both testers were told that no interviews were granted without applications, and that application materials could only be picked up. The disabled tester was told that there were only six accessible units in the facility, and that the waiting list for an accessible unit was 15 years. The agent suggested other facilities for the disabled tester. There was no discussion of reasonable

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modifications. The nondisabled tester was told that the waiting list was 3 to 12 months. Both testers found the agent less than cordial.

2. Assisted Living Facilities

The African-American tester steered away. Here, the African-American's tour lasted 25 minutes, while the Caucasian tester's tour was one hour. The agent told the Caucasian tester that the facility's assisted living program is very independent. The African-American tester was told that this facility had units available; however, the agent did not believe that this tester would be a good fit. The agent indicated that the African-American tester appeared very active, and that the average age of this facility's residents was 87 years old. Further, the typical resident at this facility required daily medical assistance. The agent provided senior guides to the African-American tester, and she suggested other "more suitable" facilities. The agent did not review senior guides with the Caucasian tester to find more suitable senior housing options.

The typical resident was much older than the African-American tester. The African-American tester attempted to call to make an appointment, but she was unable to contact the facility. The Caucasian tester called in advance to set up her appointment. The agent told the African-American tester that the average age of residents was 88 years old at this facility. The agent suggested that the African-American tester visit other facilities, of which the agent purported to be more "active" and "independent." The African-American tester was told that there were one-bedroom units available, but a waiting list for two-bedroom units. Conversely, the agent noted that the Caucasian tester may be more suitable for independent living rather than assisted living. However, the agent further stated that if the Caucasian tester's needs changed, then her status could be changed to "assisted living," all while staying in the same

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accommodations, i.e., the tester would not have to move. The Caucasian tester was also told that there was a waiting list for two-bedroom units, but that one-bedroom units were available.

No problem if the Caucasian tester exceeded the income threshold. This facility had a maximum income threshold, and the agent told the African-American tester that she exceeded the threshold. The African-American tester was told that the maximum income for residents was \$28,000 per year, and the agent recommended another facility for the African-American tester. The African-American tester was not afforded a tour when the agent learned that she exceeded the maximum income threshold. Similarly, the Caucasian tester also exceeded the maximum income threshold. However, the agent told her that she could spend down her assets in order to qualify for the maximum monthly amount of \$2,900. Significantly, the testers were given different information regarding the maximum income threshold: the African-American tester was told \$28,000 per year, while the Caucasian tester was told \$34,800 per year (\$2,900 per month). Additionally, the African-American tester was not provided with a tour, while the Caucasian tester's tour last approximately 45 minutes.

More steering. Here, the African-American tester did not reach anyone by telephone, so she went to this facility without an appointment. The Caucasian tester's tour lasted 70 minutes, while the African-American tester's tour lasted 15 minutes. The agent told the African-American tester that the residents' average age was 80 years old, and that there were no residents as young as the African-American tester. The African-American tester was 70 years old. When the African-American tester arrived at the facility, the agent initially asked her "[h]ow are you doing financially . . . the apartments are \$2,400 per month." The agent noted where the African-American tester resided, and the agent stated that another senior housing provider was near the African-American tester's neighborhood.

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Residents must be able to reside in a “Kosher environment.” When the African-American tester called, the agent told her that this was a religious facility that observes all relevant customs. The agent would not provide any information to the African-American tester over the telephone, indicating that information was only provided at the facility. However, the agent would not provide an express appointment for the African-American tester, providing the facility’s office hours only. The African-American tester’s tour lasted 15 minutes, while the Caucasian tester’s tour lasted 30 minutes. During the tour, the agent repeatedly told the African-American tester that the facility served only Kosher-style food, and that the facility does not serve “ham and sausage.” The agent stressed that residents must be able to reside in a “Kosher environment.” The agent also told the African-American tester that residents must be able to afford the facility. When the Caucasian tester called, the agent asked if the tester was a member of their faith. The agent indicated that the tester might not be comfortable at this facility, because it was a private religiously affiliated residence and the food was Kosher. At the Caucasian tester’s tour, the agent emphasized that the facility was a religious environment. This facility sought to exclude both testers, because they were not members of a particular faith. However, the matched test of this facility also demonstrates a strong preference for the Caucasian tester over the African-American tester.

Rude agent, but no preference. The Caucasian tester was provided with a great deal of information when he called for an appointment. The African-American tester noted that the agent provided little information and made no inquiries when he called for an appointment. The Caucasian tester was told that this facility had a 6 to 12 month waiting list, while the African-American tester was not provided with this information. Both testers were told that this facility had income limitations; however, the African-American tester was told that the facility would

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negotiate with the tester based on his income level; the agent emphatically stated that the facility accepted individuals with private income sources.

A large national assisted living facility provided incredible results at three of its facilities. The Project tested two of these assisted living facilities for race with African-American female testers and another assisted living facility for disability with African-American female testers, one with a disability and one without disability.

At the first facility, the Project tested this assisted living facility for race with female testers. The African-American tester's tour lasted 25 minutes. In fact, the African-American tester called to schedule an interview, and she was told that an agent could take her on a tour of facility if she arrived by 5:00 p.m. The African-American tester arrived at 4:45 p.m., after driving two hours. Upon arrival, the African-American tester was told that "community relations associate" had just left. The African-American tester was told that she could return another day for a test! The agent did not discuss a waiting list with the African-American tester. The African-American tester toured the facility on her own, talking to residents, who were very friendly. The Caucasian tester's tour was approximately 50 minutes long, and the "community relations associate" conducted the tour. The Caucasian tester was early for her appointment, but the "community relations associate" immediately took her on a tour. The "community relations associate" told the Caucasian tester that she should return for another visit for lunch, and that the "community relations associate" would contact the Caucasian tester in a couple of weeks to follow-up. The African-American tester was not afforded such treatment.

Second, the Project tested this assisted living facility for race with female testers. The African-American tester's tour lasted 75 minutes (there was a 15-minute wait before a tour was given), while the Caucasian tester's tour lasted 47 minutes. The agent told the Caucasian tester

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that there was a waiting list. There were no specifics given to the Caucasian tester regarding the waiting list; however, the agent told her that it would be “possibly weeks but not months.” Conversely, the African-American tester was told that there was no availability at this facility and that there was no waiting list. Upon arrival, the African-American tester was “immediately” informed that there was no availability at this facility. However, the agent directed the African-American tester to another facility. Conversely, the Caucasian tester was strongly encouraged, as the agent pointed out key features, as well as the five different styles of units. The agent offered to call the Caucasian tester within a couple of weeks to follow-up. The Caucasian tester was invited back for a subsequent tour and lunch. There was no follow-up indicated to the African-American tester.

Third, the Project tested this assisted living facility for disability with African-American female testers. The non-disabled tester placed three calls before speaking to a marketing representative. When the non-disabled tester called, she was told that this facility only served individuals with Alzheimer’s. This blatant misstatement can easily be refuted by going to this facility’s website. The non-disabled tester asked if she could still tour this facility, to which the agent responded that this tester could call back. Curiously, that same agent also talked to the disabled tester, who was afforded a tour of the facility. Upon entering the facility, the disabled tester was greeted by “Teddy,” a large black dog, who is this facility’s “resident dog.” The agent asked how the disabled tester heard of the facility. The agent showed the disabled tester a one-bedroom unit and a double-occupancy unit. However, the agent told the disabled tester that there was only one unit available, a double-occupancy unit.

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3. Continuing Care Retirement Communities

African-American had difficulty contacting the facility. The Caucasian tester's tour was 75 minutes, while the African-American tester's tour lasted 45 minutes. The Caucasian tester called to set up an appointment in advance. This facility did not return the African-American's calls until he was en route to this facility after deciding to visit the facility without an appointment. The Caucasian tester learned that there was a waiting list for assisted living, but not for independent living. However, the African-American tester was told that renovation and construction were causing temporary unit limitations, but that would be rectified in the coming months. The Caucasian tester was given a following breakdown of this facility's residents: 50 percent catholic, 25 percent Lutheran, and 25 percent mixed and 90 percent woman and 10 percent men. The matched test of this facility demonstrates a very slight preference for the Caucasian tester.

How did you find out about us? The African-American tester's tour lasted 30 minutes, while the Caucasian tester's tour was 90 minutes long. Upon arrival, the African-American tester was asked to wait (and fill out an information card). And the agent asked the African-American tester how she found out about this facility. Both testers were told that there were no waiting lists for this facility. After the tour, the Caucasian tester was invited to lunch. The Caucasian tester was provided with more marketing materials than the African-American tester, including subsequent mailers.

Financial incentive for the Caucasian tester. The African-American tester was unable to contact the facility, and he went to the facility without an appointment. The agent left a message for this tester when he was en route to the facility. Upon arrival, the agent asked how the African-American tester heard about this facility. The African-American's test occurred during

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the dinner hour, at which time, he did not observe any minority residents. The Caucasian tester was shown two units, but it was unknown how many units the African-American tester was shown during his tour. After the Caucasian tester's tour, the agent called him, and told him that he would receive one month's rent at no charge if he signed a lease before the end of the month. The African-American tester did not receive a similar financial incentive.

The African-American tester was given "the run around" when he called this facility, but he eventually scheduled an appointment. Both testers' tours were approximately 30 minutes long. The African-American tester was told that there was a waiting list, but units may be available in September 2007. The agent told the African-American tester that all of the facility's 170 units were rented. The Caucasian tester was told that there was no waiting list, even though his test was approximately one week later. The Caucasian tester was told that there were no one-bedroom units available; however, there were studio and two-bedroom units available.

E. Conclusion

A significant number of senior housing providers may be violating the fair housing laws by failing to provide seniors particularly those who are members of racial or ethnic minorities with the same information and service as Caucasian applicants. As such, minority applicants are discouraged from seeking integrated housing. African-American testers appeared to experience greater difficulty in getting appointments, in getting literature about the facilities, in being given tours of the facilities, in being given information about waiting lists, and in being called back. Approximately 40 percent of the facilities tested for race showed some preference for the Caucasian tester. Similarly, four out of the seven facilities that were tested for disability demonstrated some preference for the nondisabled tester.

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V. ADVERTISING SURVEY

A. Overview

The Project reviewed marketing materials for a number of senior housing providers, including brochures and Internet material. The Project sought to review compliance with the Fair Housing Act's prohibition against publishing "any notice, statement, or advertisement, with respect to the sale or rental of a dwelling."³²⁴ Specifically, this section highlights any advertising indicating "independent living" requirements or "medical screening" requirements; advertising indicating racial preferences; and advertising indicating disfavor towards disabled individuals. Senior housing facilities can be vulnerable to claims of discrimination on the basis of race, color, national origin, or disability. However, it may be due to economic and social factors outside the control of the senior housing provider, and not due to any intentional discrimination. The fact is that the resident population of the senior housing facility often does not reflect the racial, ethnic, or disabled composition of the areas in which they are located.

Under §3604(c) of the Fair Housing Act (FHA):

[i]t shall be unlawful . . . To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

The statute applies to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling, covering all advertising media: newspapers, magazines, television, radio, and the Internet.³²⁵ The Act protects not only prospective tenants, but also existing ones.³²⁶ In prohibiting advertisements, statements, or other notices that indicate a discriminatory preference

³²⁴ 42 USC 3604(c).

³²⁵ *Housing Rights Center v Sterling*, 404 F Supp 2d 1179, 1193-1194 (CD Cal 2004); HUD Memorandum, Fair Housing Act Application to Internet Advertising (September 20, 2006).

³²⁶ *Housing Rights Center*, 404 F Supp 2d at 1193-1194.

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in the context of the selling or renting of a dwelling, the FHA does not require evidence of discriminatory intent.³²⁷ Several federal cases involving the Fair Housing Act held that a plaintiff need not show actual intent to discriminate in order to sustain a valid suit for unlawful discrimination, i.e., if advertising has the effect, intentionally or unintentionally, of communicating a preference or a limitation that has a discriminatory impact upon a prospective applicant, the advertisement will likely to be in violation of the law. An oral or written statement violates the statute if it suggests a preference, limitation or discrimination to the ordinary listener or reader.³²⁸ An advertisement alleged to violate the FHA must be considered in its totality.³²⁹ For example, a statement to a prospective tenant may violate the FHA if it indicates that the available apartments offered are in a Caucasian home,³³⁰ if a housing provider advertises that it prefers prospects who only speak a certain language.³³¹

An individual advertiser can be held liable if it uses either a large number of all-Caucasian or all-nondisabled models in a single advertisement or one of several all-Caucasian or all-nondisabled models in a series of advertisements.³³² Section 3604(c) does not require proof of an advertiser's intent to indicate discriminatory or exclusionary message in an advertisement to be in violation,³³³ but rather, a strict standard of liability applies to such violations.³³⁴ Human models in an advertisement are a medium for the expression of a racial or nondisability

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ *Housing Opportunities Made Equal, Inc v Cincinnati Enquirer, Inc*, 943 F2d 644, 648 (6th Cir 1991).

³³⁰ *United States v Hunter*, 459 F2d 205, 215 (4th Cir 1972).

³³¹ *Holmgren v Little Village Community Reporter*, 342 F Supp 512, 514 (ND Ill 1971).

³³² *Housing Opportunities Made Equal*, 943 F2d at 648.

³³³ *Ragin v New York Times Co*, 923 F2d 995, 1000 (2nd Cir 1991); *Fenwick-Schafer v Sterling Homes*, 774 F Supp 361, 364 (D Md 1991); *Saunders v General Services Corp*, 659 F Supp 1042, 1058 (ED Va 1987); *United States v Pelzer Realty Co*, 484 F2d 438, 443 (5th Cir 1973); *Soules v United States Department of Housing and Urban Dev*, 967 F2d 817, 824 (2nd Cir 1992).

³³⁴ *Ragin*, 923 F2d at 1000.

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preference.³³⁵ Models should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, or disability, and is not for the exclusive use of one such group.³³⁶ If models are used in advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area within the advertising distribution.³³⁷ One court found that regulations referring to the use of human models are mandatory, not suggestive.³³⁸

Senior housing providers may defend the practice of using all-Caucasian or all-nondisabled models in their advertising by indicating that the seniors depicted in the advertising are actual residents of the facility. This argument still has the following weaknesses: (1) the effect upon the reader of seeing a depiction of all-Caucasian or all-nondisabled residents is the same whether they are actual residents or only models, and (2) the fact that the facility has only Caucasian or nondisabled residents to put in their advertising may show that the facility's advertising policies have been effective in discouraging non-Caucasian or disabled individuals from applying for occupancy, whether or not this was the intent.³³⁹ Another aggravating factor is when all, or virtually all of the advertisement has the depicted residents Caucasian or non-disabled, while the non-Caucasian or disabled individuals are predominately depicted as waiters, housekeepers, or staff members.³⁴⁰ Affinity groups such as churches, fraternal orders, and even national-origin-based groups sponsor many senior housing providers.³⁴¹ While there are exceptions under the FHA for religious and fraternal groups, these exemptions are narrowly

³³⁵ *Id.*

³³⁶ 24 CFR § 109.30(b); *Fenwick-Schafer*, 774 F Supp at 365.

³³⁷ 24 C.F.R. § 109.30(b). *Fenwick-Schafer*, 774 F Supp at 365; *Ragin*, 923 F2d at 1000; *Spann v Colonial Village Inc.*, 899 F2d 24, 27-28 (DC Cir1990).

³³⁸ *Ragin*. 923 F2d at 995. See also *Hunter*, 459 F2d at 215; *Fenwick-Schafer*, 774 F Supp at 361; *Ragin v Steiner, Clateman & Assocs*, 714 F Supp 709, 713 n 3 (SD NY 1989).

³³⁹ *Gordon*, *supra*.

³⁴⁰ *Id.*

³⁴¹ *Id.*

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circumscribed and do not apply if the senior housing provider is considered to be a “commercial” activity, rather than one that is purely religious or fitting within the bona fide activities of a private club.³⁴² The general rule for senior housing providers that are sponsored by such affinity groups is that they should make it clear to the public that while there is affinity group sponsorship, admission to the community is not based upon the applicant's religion, national origin, or other protected status.³⁴³

In advertising, senior housing providers often repeat the adjectives “active” or “independent,” when describing the community or the type of people one may expect to find there.³⁴⁴ In doing so, senior housing providers communicate an overly broad prejudice against people with physical handicaps, i.e., there are some disabilities that may hamper a resident's ability to be “active” but that may not necessarily result in an inability to live in a residential setting, or that would pose the risk of an unacceptably high level or duration of long-term care needs.³⁴⁵

The Act's prohibition of discriminatory advertisements was intended to apply to newspapers as well as any other publishing medium.³⁴⁶ A publisher can be liable for the overall lack of representation of minority human models in real estate advertisements if one or more independent advertisers is found in violation of 42 USC 3604(c).³⁴⁷ A publisher can be expected to monitor the use of models in real estate ads³⁴⁸ and can easily distinguish between permissible

³⁴² *Id.*

³⁴³ *Id.*

³⁴⁴ *Id.*

³⁴⁵ *Id.*

³⁴⁶ *Hunter*, 459 F2d at 213.

³⁴⁷ *Ragin*, 923 F2d. at 1000.

³⁴⁸ *Id.* at 1001.

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and impermissible advertisements in discharging its duty to reject those ads that violate § 3604(c).³⁴⁹

If a reasonable person would understand that the housing material language means that people who are disabled or use support services cannot live at a particular facility, the housing material is illegal.³⁵⁰ The test for determining whether a §3604(c) violation has occurred is whether, given the natural interpretation of the words, it would indicate to the ordinary reader, a discriminatory preference or limitation.³⁵¹ An ordinary reader is defined as neither the most suspicious nor the most insensitive of readers.³⁵² A preference for a protected class does not require ads to jump out at the reader with an offending message, but only to suggest that an ordinary reader of a particular protected group is preferred or not preferred.³⁵³ Section 3604(c) does not require proof of an advertiser's intent to indicate a preference.³⁵⁴ Instead, a strict standard of liability applies to such violations. The inclusion of an independent living requirement in the housing providers' written rules and policies violates §3604(c) "regardless of...actual policies or practices."³⁵⁵ Words or pictures in an advertisement can indicate a preference.³⁵⁶ Words of "active", "independent", "hiking", etc. combined with photos of non-disabled seniors can create a natural interpretation to an ordinary reader for a preference for non-handicap residents.

³⁴⁹ *Hunter*, 459 F2d at 213.

³⁵⁰ *Ragin*, 923 F2d at 999-1000.

³⁵¹ *Jancik v United States Department of Housing and Urban Dev*, 44 F3d 553, 556 (7th Cir 1995); *Housing Opportunities Made Equal*, 943 F2d at 648; *Ragin*, 923 F2d at 999; *Spann*, 899 F2d at 27-28; *Hunter*, 459 F2d at 215.

³⁵² *Ragin*, 923 F2d at 1002.

³⁵³ *Jancik*, 44 F3d at 556; *Ragin*, 923 F2d at 999-1000; *Hunter*, 459 F2d at 215; *Housing Opportunities Made Equal, Inc*, 943 F2d at 648.

³⁵⁴ *Ragin*, 923 F2d at 1002.

³⁵⁵ *Niederhauser*, FH-FL at *5-6.

³⁵⁶ *Fenwick-Schafer*, 774 F Supp at 364; *Saunders*, 659 F Supp at 1042.

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HUD recently ruled that § 3604(c) also applied to Internet advertising.³⁵⁷ HUD noted that some web providers argued that the Communications Decency Act³⁵⁸ (CDA) provides for exemptions to FHA applicability. The CDA limits interactive computer services' liability for content originating from a third party user of the service. While the CDA does not expressly limit liability under the FHA, some have argued that CDA § 230 protects Internet publishers from liability against federal and state civil rights statutes. Nevertheless, HUD concluded that:

[T]he CDA does not make Web sites immune from liability under the Fair Housing Act or from liability under state and local laws that HUD has certified as substantially equivalent to the Fair Housing Act.³⁵⁹

HUD indicated that it will investigate web content to ensure that the Internet advertising market does not allow for unlawful discriminatory conduct.³⁶⁰ HUD will investigate allegations where web sites have published discriminatory advertisements and will issue a determination of reasonable cause where there was cause that discriminatory conduct occurred.³⁶¹ In most cases, conciliation will result, and HUD proposes the following as part of the conciliation agreements:

- Provisions designed to prevent discriminatory advertisements from being posted on web sites
- Including such practices as screening, filtering, pop-up warnings, or user self-certification.³⁶²

Before HUD issued its memorandum, the Chicago Lawyers' Committee for Civil Rights Under Law, Inc. ("CLCCRUL") brought a lawsuit against Craigslist alleging discriminatory on-line advertising in that Craigslist has published and continues to publish housing ads from the metropolitan Chicago-area that are discriminatory on the basis of race, sex, national origin,

³⁵⁷ HUD Memorandum, *supra*.

³⁵⁸ 47 USC 230.

³⁵⁹ HUD Memorandum, *supra*.

³⁶⁰ *Id.*

³⁶¹ *Id.*

³⁶² *Id.*

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religion, color and familial status in violation of the federal Fair Housing Act.³⁶³ On November 14, 2006, the District Court held that the Communications Decency Act provided limited immunity for an Internet service provider from liability under any statute that requires publication as an element.³⁶⁴ The Court also held that the Fair Housing Act claim requires publication as an element and that the case must be dismissed.³⁶⁵ On January 10, 2007 the District Court denied CLCCRUL's motion to reconsider; and the following day, CLCCRUL appealed the District Court's decision to the Seventh Circuit. That appeal is still pending. Clearly, HUD's recent ruling that CDA provides no protection from liability under FHA will play a significant role in the outcome of this litigation.

B. Methodology

The Project sought to review compliance with the Fair Housing Act's prohibition against publishing "any notice, statement, or advertisement, with respect to the sale or rental of a dwelling."³⁶⁶ The Project obtained printed materials by submitting requests, via mail or Internet request forms, from facilities listed in the senior guides in the Chicagoland area. The Project also obtained many examples of printed materials from the matched tests. The Project reviewed senior housing advertising to ensure compliance with the Act's prohibition against publishing "any notice, statement, or advertisement, with respect to the sale or rental of a dwelling."³⁶⁷ Each senior housing provider will be assessed with reference to the following categories: (1) improper residency requirements and application procedures; (2) improper preference of race; and (3) improper disfavor towards disabled individuals. An improper residency requirement

³⁶³ Chicago Lawyers' Committee website, http://www.clccrul.org/projects/the_fair_housing_project/craigslist_lawsuit.html (last accessed October 5, 2007).

³⁶⁴ *Id.*

³⁶⁵ *Id.*

³⁶⁶ 42 USC 3604(c).

³⁶⁷ 42 USC 3604(c).

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may be manifested through an independent living requirement or a medical examination requirement, among other things. Significantly, there is a distinction in using the term “independent facility,” which is acceptable, as opposed to an “independent living requirement,” which may be improper.

C. Advertising Survey Results

The Project reviewed marketing materials from 74 senior housing providers. There were 24 senior housing with services facilities, 27 assisted living facilities, and 23 continuing care retirement communities. There were 68 senior housing providers that provided printed marketing materials. Of those six senior housing providers without printed marketing materials, five were senior housing facilities without services. The other provider without printed marketing materials was an ALF. There were 61 senior housing providers with websites, and 13 without websites. All 23 CCRCs had websites, while 22 ALFs and 16 senior housing facilities without services had websites. There were five ALFs and eight senior housing facilities without services without websites.

Type of facility (74 total requests)	Marketing materials	
	Printed materials	Websites
Senior housing facilities without services	19	16
Assisted living facilities	26	22
Continuing care retirement communities	23	23
Total	68	61

Residency requirements

There were 12 senior housing providers had some sort of residency requirement within their printed materials (with four senior housing facilities without services, four ALFs, and four CCRCs). There were eight senior housing providers with some sort of residency requirement within their websites (with two senior housing facilities without services, three ALFs, and three

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CCRCs). For ordinary residential housing, including senior housing, requirements that applicants and tenants must be healthy and able to live independently may be in violation of 42 USC §3604(f)(1). That section provides in pertinent part that: “it shall be unlawful...to (1) discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of (A) that buyer or renter.” Moreover, HUD regulation 24 C.F.R.100.202(c) further prohibits preadmission inquiries in order “to determine whether an applicant ... has a handicap or to make inquiry as to the nature or severity of a handicap of such a person.” It is well established that requiring a resident to be capable of independent living as a condition of residency constitutes illegal discrimination on the basis of disability, in violation of the Fair Housing Act.³⁶⁸ Significantly, housing providers also cannot require that applicants undergo medical assessments, examinations or the like in order to obtain housing.³⁶⁹

By imposing requirements that applicants and residents be able to function independently, these housing providers are violating the Act by making unavailable or denying a dwelling to a person because of a handicap. 42 USC § 3604(f)(1). The rules discussed above clearly apply to non-assistive senior housing, i.e., housing which is not licensed as an ALF under the Illinois assisted living statute. Whereas licensed ALFs in Illinois present some unsettled issues at this time. Such facilities are required by Illinois statute, 210 ILCS 9/15, to have medical evaluations and are subject to certain restrictive residency requirements. The persistence of independent living and medical

³⁶⁸ See generally *Cason*, 748 F Supp at 1009.

³⁶⁹ *Id.* at 1008; *Robards*, 713 A2d at 954. The Department of Justice has brought suits to enjoin senior housing providers from applying such requirements. *United State v. Pacific Life Insurance Co*, Consent decree SA 04 CA 0114OG (WD Tex February 2, 2004) available at www.usdoj.gov/crt/housing/documents/newforestsettle.htm; *Resurrection Retirement Community*, Consent decree, *supra*. In *Resurrection Retirement Community*, defendants were enjoined from imposing as a term or condition of tenancy that applicants and tenants must be healthy and able to live independently of any assistive services, limiting the number of hours that tenants with a disability may receive assistive services necessary because of their disability, including services arranged and paid for by such applicant or resident, inquiring into whether applicants have a disability and the nature and severity of any such disability, and requiring applicants to submit to a medical assessment as a term or condition of tenancy. *Id.* In *Pacific Life Insurance*, defendants were enjoined from engaging in practices similar to those at issue in *Resurrection Retirement Community*.

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exam requirements demonstrates that some senior housing providers may be discriminating against seniors with disabilities.

Racial preferences

There were 15 senior housing providers with an improper racial preference in their printed materials (with seven senior housing facilities without services, two ALFs, and six CCRCs). There were 24 senior housing providers with an improper racial preference in their websites (with six senior housing facilities without services, six ALFs, and 12 CCRCs). Once again, this manifested with printed materials containing all (or almost all) Caucasian human models.

Section 3604(c) prohibits making or publishing any... advertisement concerning the rental of a dwelling that indicates any preference or limitation based on race.³⁷⁰ As previously noted, the test for determining whether a §3604(c) violation has occurred is whether, given the natural interpretation of the words, it would indicate to the ordinary reader, who is neither the most suspicious nor the most insensitive of readers or listeners, a discriminatory preference or limitation.³⁷¹ An individual advertiser may be held liable if it uses either a large number of all-Caucasian models in a single advertisement or one of several all-Caucasian models in a series of advertisements.³⁷²

Human models in an advertisement are a medium for the expression of a racial preference.³⁷³ In many of the marketing material that demonstrated a preference for Caucasians, it is apparent that there is no minority representation; thus, such marketing materials fail the

³⁷⁰ 42 USC § 3604(c)

³⁷¹ *Jancik*, 44 F3d at 556; *Housing Opportunities Made Equal*, 943 F2d at 648; *Ragin*, 923 F2d at 999; *Spann*, 899 F2d at 27-28; *Hunter*, 459 F2d at 215.

³⁷² *Housing Opportunities Made Equal*, 943 F2d at 648.

³⁷³ *Id.*

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ordinary reader test. For example, by representing exclusively Caucasian models in their advertisements, the senior housing providers are indicating a preference for non-minorities and may be in violation of 42 USC § 3604(c). Ideally, models should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race or color, and is not for the exclusive use of one such group.³⁷⁴ Senior housing providers should be encouraged to use models that reasonably represent majority and minority groups in the metropolitan area within the advertising distribution.³⁷⁵

The Administration on Aging provides the following information.³⁷⁶ In Illinois, the percentage of persons over the age of 60 is 82 percent Caucasian, 11 percent African-American, four percent Hispanic, two percent Asian and one percent other. Overall, 68 percent of Illinois' population is Caucasian. The Chicago metropolitan area population consists of 8,376,601 people. The statistical breakdown is as follows: 59 percent Caucasian (4,930,740 people) and 41 percent Minority (3,469,550 people). In the City of Chicago, the population is 2,929,000, of which 37 percent are African-American, 32 percent Caucasian, 26 percent Hispanic, and five percent other (including Asians).

It follows that approximately 40 percent of the models portrayed in senior housing advertisements in the Chicagoland area should be minority. However, a number of senior housing providers' marketing materials, this was not the case. If the senior housing providers were to comply with the law, each would have to add at least two minority models (out of every five) to be in compliance with the law. It would be a relatively quick change to update senior housing providers' websites; however, printing costs may deter some senior housing providers.

³⁷⁴ 24 CFR § 109.30(b); *Fenwick-Schafer*, 774 F Supp at 365.

³⁷⁵ 24 CFR § 109.30(b). *Fenwick-Schafer*, 774 F Supp at 365; *Ragin*, 923 F2d at 999; *Spann*, 899 F2d at 27-28.

³⁷⁶ Statistics received from the Administration on Aging. *A Profile of Older Americans*, United States Department of Health and Human Services (2001).

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Senior housing advertisements depicting human models may be used to attract a certain audience of potential senior residents and to selectively exclude others. For example, potential senior residents may not identify or feel welcome if the photos for the housing advertisements do not include members of their race. The use of human models in advertising personalizes the advertisements and encourages seniors to identify themselves in a positive way with the models and housing featured. By selectively including and excluding certain human models in advertisements for housing, the senior housing providers implicitly indicate who is “welcome” and who is not. The message is unmistakable, minorities are not wanted. These marketing materials indicate a strong partiality towards non-minority applicants and residents and are, consequently, in violation of the Fair Housing Act.

Disability preference

There were 43 senior housing providers with an improper bias against disabled individuals (with 14 senior housing facilities without services, 16 ALFs, and 13 CCRCs). There were 48 senior housing providers with an improper bias against disabled individuals (with 15 senior housing facilities without services, 19 ALFs, and 14 CCRCs). Typically, this was manifested in the failure to include any disabled human models, as well as referencing “active lifestyles.”

First, a preference for non-disabled senior residents is created through the use of non-disabled models in housing advertisements. Second, it is unclear whether a preference for non-disabled senior residents can be inferred by the use of language such as “active” and “independent” alone. It is our position that a discriminatory preference in housing advertisements through photos or language in combination with a lack of disabled human models

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and language demonstrates a preference for nondisabled seniors compounds the preference for non-disabled senior residence to the reader.

Once again, a violation of §3604(c) has occurred if an ordinary reader's natural interpretation of the advertisement would indicate a preference for a protected class (race, color, religion, sex, handicap, familial status, or national origin).³⁷⁷ An ordinary reader is defined as neither the most suspicious nor the most insensitive of readers.³⁷⁸

The advertisements of senior housing facilities are targeted for residents 55 and older. According to a statistical analysis from 2000 census information, 13 percent of people 50 and older have a limitation on their ability to care for themselves due to mobility.³⁷⁹ For people 65 and older, 68 percent have disabilities that interfere with one or more activities of daily living.³⁸⁰ Therefore, ideally the advertisements should reflect the demographics of the advertising audience 55-70 years old and should include more than 40 percent (two of every five) of the human models in the advertisements as handicapped. Conversely, the results for the Project's survey demonstrated that 25 percent of respondents had some type of disability. Interestingly, 49 percent of respondents indicated that they or someone in their household had some sort of disability in the Project's survey. Thus, the Project's survey is probably close to the AARP report in terms of seniors with disabilities.

For advertisement containing one to two models, the courts have determined that the advertising campaign as a whole should represent the demographics of the target audience.³⁸¹ Therefore, in a series of advertisements, at least two out of every five ads should contain a

³⁷⁷ *Ragin*, 923 F2d at XXX; *Hunter*, 459 F2d at 215; *Spann*, 899 F2d at XXX.

³⁷⁸ *Ragin*, 923 F2d at 1002.

³⁷⁹ AARP, *Beyond 50: A report on Independent Living & Disability*, 37, (2003).

³⁸⁰ *Id.* at 38.

³⁸¹ *Housing Opportunities Made Equal, Inc.*, 943 F2d at 648.

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handicapped model. The senior housing providers' marketing materials convey a disparity between their representations of disabled models in their photos compared to the senior disabled population in the Chicago metropolitan area. Simply flipping through the printed materials or "surfing" through the providers' websites, the use of nondisabled models suggests a preference for nondisabled residents. Nevertheless, an attendee at the Project's presentation noted that some senior housing providers do not include disabled seniors or "old" seniors in their marketing materials, because applicants may not like residing at such facilities. Moreover, he suggested that a facility that advertises a particular disability may be disregarded by an applicant, even if that applicant suffers from that particular disability. However, while advertising can show the most optimistic side, it cannot misrepresent or portray a situation that otherwise violates 42 USC § 3604(c).

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CONCLUSION

A. Findings on discrimination against persons with disabilities in senior housing

The Project conducted seven matched tests for disability discrimination. Four of the matched tests demonstrated some preference for the nondisabled tester. There were five tests where both testers met with the same agent. There were two senior housing facilities without services, where the testers met the same agent; and at one of these facilities, there was some evidence of preference for the nondisabled tester. There were three assisted living facilities, where the testers met the same agent; and at two of these facilities, there was some evidence of preference for the nondisabled tester. None of the continuing care retirement community testers met the same agent.

We also note that approximately 25 percent of the respondents to the senior survey indicated that they had been the victims of some form of housing discrimination. Approximately 15 percent of these affirmative responses indicated that they suffered housing discrimination based on disability. An interesting finding was that the survey revealed that roughly 25 percent of respondents indicated that they had a disability and around 17 percent of respondents indicated that someone in their household had a disability. This finding led the Project to ask two questions about potential discrimination based on disability: 1) would disabled seniors who do not consider themselves disabled feel welcome at a senior facility that advertised for “active seniors,” and 2) even if seniors are aware of their disabilities, do they still consider themselves to be “active”? The senior survey did not address these questions.

With respect to the senior organization survey, accessibility was a prevalent answer given by respondents to the open ended survey questions: “What do you perceive are the major issues that seniors face as a result of aging in our society?” and “What do you perceive are the two most

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important housing related issues for Chicago-area seniors?” One-third of respondents perceived seniors with a physical or mental disability were less than 50 percent of the population. Two-thirds of respondents perceived that more than 50 percent of seniors had a mental or physical disability.

The advertising survey provided some interesting results with respect to bias against disabled individuals. Approximately 18 percent of the printed materials contained an improper residency requirement, and approximately 13 percent of the websites contained an improper residency requirement. Typically, this was some sort of independent living requirement or a required physical (or mental) examination. We did not consider that the use of the words “independent” and “active” alone was illegal. The context of the communication was important. For example, there is a distinction in saying that “this is an independent living facility,” and that “you must be able to live independently.” In terms of the survey, it might have been interesting to have structured some multiple choice questions to see how seniors interpret these terms and to determine if seniors with disabilities are deterred from housing developments that advertise “active” or “independent” living environments.

Approximately 63 percent of the printed materials and 79 percent of the websites failed to include any disabled human models, as well as referred to “active lifestyles,” which could well be interpreted as a preference for nondisabled individuals.

B. Findings on discrimination on the basis of race and national origin in senior housing

Overall, 49 percent of the facilities demonstrated some preference for the Caucasian tester. Our conclusions on preferences were based on HUD’s “Checklist of Indicators for Unequal Treatment.” Significantly, testers were given tours by the same agent at 19 of the senior

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housing providers. There were six senior housing facilities without services, where the testers met the same agent; and at four of these facilities, there was some evidence of preference for the Caucasian tester. There were seven assisted living facilities, where the testers met the same agent; and at five of these facilities, there was some evidence of preference for the Caucasian tester. There were six continuing care retirement communities, where the testers met the same agent; and at two of these facilities, there was some evidence of preference for the Caucasian tester.

As previously mentioned, approximately 25 percent of respondents to the senior survey indicated that they were the victims of some form of housing discrimination. The most prevalent type of housing discrimination indicated by respondents was race. Approximately 25 percent of affirmative respondents indicated that they had suffered housing discrimination based on race. Most male respondents complained of race (36 percent), while most female respondents complained of discrimination on the basis of having children less than 18 years of age (30 percent). Approximately 14 percent of those affirmative respondents indicated that they had suffered housing discrimination on the basis of national origin.

None of the senior organization respondents listed race or national origin discrimination to the open ended survey questions: “What do you perceive are the major issues that seniors face as a result of aging in our society?” and “What do you perceive are the two most important housing related issues for Chicago-area seniors?” with one respondent answering “discrimination in housing” to the first question. Approximately 12 percent of respondents indicated that they believed that discrimination was a primary issue in senior housing.

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Approximately 22 percent of the printed materials used all (or nearly all) Caucasian human models, and approximately 39 percent of the websites used all (or almost all) Caucasian human models.

C. Enforcement of the fair housing laws as they relate to seniors

Approximately nine percent of seniors, who indicated in the senior survey that they had suffered housing discrimination, took some action to address it. With respect to age, no respondents over the age of 75 took any action (two age sub-categories). However, 15 percent of respondents aged 55-64 and 16 percent of respondents aged 65-74 indicated that they took some kind of action. Male respondents (11 percent) were more likely than female respondents (five percent) to take some kind of action. Approximately 12 percent of Caucasian respondents and 11 percent of Hispanic respondents indicated that they took some kind of action. Around five percent of African-American respondents took some kind of action in response to alleged discriminatory conduct involving housing.

Approximately 83 percent of respondents indicated that they were aware that a landlord must make changes in its rules and policies when necessary for a disabled tenant to fully enjoy the residence, which correctly states the law. However, around 66 percent indicated that they thought a landlord did not have to allow structural changes for a disabled tenant if the tenant paid for the changes, which is not the correct legal rule and the misinformation could seriously impact on the quality of housing for seniors with disabilities.

Approximately, 60 percent of respondents indicated that they would file a housing discrimination complaint while the remaining 40 percent indicated that they would not file a complaint because of perceived costs, lack of result, fear of reprisal, or length of litigation.

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Around 76 percent of respondents indicated that they believed that it is somewhat costly or costly to file a housing discrimination complaint.

With respect to the senior organization survey, approximately 85 percent of respondents believed that less than 25 percent of seniors have a general knowledge of fair housing laws with 94 percent of respondents indicating that less than 50 percent of seniors have a general knowledge of fair housing laws. Approximately 94 percent of respondents believed that less than 25 percent of seniors are aware that they can file a fair housing complaint with HUD. Approximately 10 percent of the respondents indicated that their agencies participate in regular fair housing educational programs and around 91 percent of respondents indicated that their agencies would be interested in having a presenter on fair housing issues facing seniors.

One agency representative indicated that seniors may not file complaints because if they are denied housing based on discrimination the need to find alternative housing outweighs the need to pursue a discrimination complaint, assuming that the senior is aware they have been discriminated in the first instance. Another agency representative indicated that their agency recently settled a case with a senior housing facility without services because certain common areas were not accessible. The case involved an establishment that offered fishing access for its residents. However, there were no concrete paths or landings for disabled tenants to gain access to the lake in order to be able to fish. The case was settled and the facility did extend sidewalks and provide landing areas so all residents could equally enjoy the fishing privileges.

The survey of Illinois statutes and Chicago ordinances show very little emphasis on the fair housing laws, and some of the statutes, particularly those related to assisted living and nursing facilities, have provisions that are directly contradicted by the fair housing laws. This is especially true of the provisions that allow housing providers to ask potential applicants about

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their disabilities and of the provisions that set forth the grounds that allow a facility to deny residency to persons with multiple disabilities. Despite the fact that much senior housing is regulated and inspected by the state, these inspections do not include inquiry about compliance with the fair housing laws. The survey shows that the Illinois legislature as well as the Chicago City Council could be more aggressive in taking affirmative steps to see that fair housing becomes a reality for many seniors.

D. Recommendations

The results of this study demonstrate compelling information that identifies areas where further study, outreach and education, and enforcement are warranted. The findings demonstrate the following:

- A significant number of seniors are unaware of their fair housing rights;
- A significant number of counselors, social workers, and other providers of assistance to seniors are receptive to receiving information and training on the fair housing laws so that they can assist seniors in protecting their fair housing rights;
- Senior housing providers should use diverse models in their advertising and affirmatively market to minorities and disabled individuals;
- There is a difference of treatment accorded seniors in senior housing based primarily on race and disability;
- State and local laws and regulations should be revised or rewritten affirmatively to further fair housing.
- As a result, further testing, enforcement, education, and advocacy are all warranted.

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APPENDICES

Appendix A

210 ILCS 9/75(c) A person shall not be accepted for residency if:"

1. the person poses a serious threat to himself or herself or to others;
2. the person is not able to communicate his or her needs and no resident representative residing in the establishment, and with a prior relationship to the person, has been appointed to direct the provision of services;
3. the person requires total assistance with 2 or more activities of daily living;
4. the person requires the assistance of more than one paid caregiver at any given time with an activity of daily living;
5. the person requires more than minimal assistance in moving to a safe area in an emergency;
6. the person has a severe mental illness, which for the purposes of this Section means a condition that is characterized by the presence of a major mental disorder as classified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) (American Psychiatric Association, 1994), where the individual is substantially disabled due to mental illness in the areas of self-maintenance, social functioning, activities of community living and work skills, and the disability specified is expected to be present for a period of not less than one year, but does not mean Alzheimer's disease and other forms of dementia based on organic or physical disorders;
7. the person requires intravenous therapy or intravenous feedings unless self-administered or administered by a qualified, licensed health care professional;

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8. the person requires gastrostomy feedings unless self-administered or administered by a licensed health care professional;
9. the person requires insertion, sterile irrigation, and replacement of catheter, except for routine maintenance of urinary catheters, unless the catheter care is self-administered or administered by a licensed health care professional;
10. the person requires sterile wound care unless care is self-administered or administered by a licensed health care professional;
11. the person requires sliding scale insulin administration unless self-performed or administered by a licensed health care professional;
12. the person is a diabetic requiring routine insulin injections unless the injections are self-administered or administered by a licensed health care professional;
13. the person requires treatment of stage 3 or stage 4 decubitus ulcers or exfoliative dermatitis;
14. the person requires 5 or more skilled nursing visits per week for conditions other than those listed in items (13) and (15) of this subsection for a period of 3 consecutive weeks or more except when the course of treatment is expected to extend beyond a 3 week period for rehabilitative purposes and is certified as temporary by a physician; or other reasons prescribed by the Department by rule.

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Appendix B

77 Ill. Adm. Code 295.2000 The Illinois Administrative Code provides the following regarding residency requirements:

a) No individual shall be accepted for residency or remain in residence if the establishment cannot provide or secure appropriate services, if the individual requires a level of service or type of service for which the establishment is not licensed or which the establishment does not provide, or if the establishment does not have the staff appropriate in numbers and with appropriate skill to provide such services. (Section 75(a) of the Act)

b) Only adults may be accepted for residency. (Section 75(b) of the Act)

c) A person shall not be accepted for residency if:

1) The person poses a serious threat to himself or herself or to others;

2) The person is not able to communicate his or her needs in any manner and no resident representative residing in the establishment, and with a prior relationship to the person, has been appointed to direct the provision of services;

3) The person requires total assistance with 2 or more activities of daily living;

4) The person requires the assistance of more than one paid caregiver at any given time with an activity of daily living;

5) The person requires more than minimal assistance in moving to a safe area in an emergency. For the purpose of this Section, minimal assistance means that the resident is able to respond, with or without assistance, in an emergency to protect himself/herself, given the staffing and construction of the building;

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6) The person has a severe mental illness, which for the purposes of this Section means a condition that is characterized by the presence of a major mental disorder as classified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV), where the individual is substantially disabled due to mental illness in the areas of self-maintenance, social functioning, activities of community living and work skills, and the disability specified is expected to be present for a period of not less than one year, but does not mean Alzheimer's disease and other forms of dementia based on organic or physical disorders. Nothing in this Section is meant to prohibit an individual with a diagnosis of depression from living in an establishment so long as the resident is not substantially disabled in the areas of self-maintenance, social functioning, activities of community living, and work skills;

7) The person requires intravenous therapy or intravenous feedings unless self-administered or administered by a qualified, licensed health care professional;

8) The person requires gastrostomy feedings unless self-administered or administered by a licensed health care professional;

9) The person requires insertion, sterile irrigation, and replacement of catheter, except for routine maintenance of urinary catheters, unless the catheter care is self-administered or administered by a licensed health care professional;

10) The person requires sterile wound care unless care is self-administered or administered by a licensed health care professional;

11) The person requires sliding scale insulin administration unless self-performed or administered by a licensed health care professional;

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- 12) The person is a diabetic requiring routine insulin injections unless the injections are self-administered or administered by a licensed health care professional;
- 13) The person requires treatment of stage 3 or stage 4 decubitus ulcers or exfoliative dermatitis; or
- 14) The person requires 5 or more skilled nursing visits per week for conditions other than those listed in subsection (c)(13) for a period of 3 consecutive weeks or more except when the course of treatment is expected to extend beyond a 3 week period for rehabilitative purposes and is certified as temporary by a physician.
(Section 75(c) of the Act)
- d) A resident with a condition listed in subsection (c) shall have his or her residency terminated in accordance with Section 295.2010. (Section 75(d) of the Act)
- e) Residency shall be terminated in accordance with Section 295.2010 of this Part when services available to the resident in the establishment are no longer adequate to meet the needs of the resident. This provision shall not be interpreted as limiting the authority of the Department to require the residency termination of individuals. (Section 75(e) of the Act)
- f) Subsection (d) of this Section shall not apply to terminally ill residents who receive or would qualify for hospice care and such care is coordinated by a hospice licensed under the Hospice Program Licensing Act or other licensed health care professional employed by a licensed home health agency and the establishment and all parties agree to the continued residency. (Section 75(f) of the Act)
- g) Subsections (c)(3), (4), (5) and (9) shall not apply to individuals who are quadriplegic or paraplegic, or individuals with neuro-muscular diseases, such as muscular dystrophy and multiple sclerosis, or other chronic diseases and conditions if the individual is able

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to communicate his or her needs and does not require assistance with complex medical problems, and the establishment is able to accommodate the individual's needs. (Section 75(g) of the Act)

h) For the purposes of subsections (c)(7) through (11), a licensed health care professional may not be employed by the owner or operator of the establishment, its parent entity, or any other entity with ownership common to either the owner or operator of the establishment or parent entity, including but not limited to an affiliate of the owner or operator of the establishment. Nothing in this Section is meant to limit a resident's right to choose his or her health care provider. (Section 75(h) of the Act)

i) Before a prospective resident's admission to an assisted living establishment or a shared housing establishment, the establishment shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 76 of the Act).

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Appendix C

The following information was provided by the New Lifestyles website, which provides comprehensive, quality information on senior residences and care options.³⁸²

Types of Housing/Care	Definitions
Adult Day Services	Adult Day Service is designed especially for older people who want to remain in the community but who cannot be home alone during the day due to a physical, social and/or mental impairment. Adult day service also provides respite for family caregivers, especially those who are employed outside the home, and socialization for isolated adults. Services offered in adult day service centers include health monitoring, medication supervision, personal care and recreational/therapeutic activities. Nutritious lunches and snacks are served and special diets are provided. Several centers may specialize in providing care to clients diagnosed with Alzheimer's disease and related disorders while others target specific ethnic populations.
Assisted Living/Shared Housing	<p>An establishment is a home, building, residence, or any other place where sleeping accommodations are provided for at least 3 unrelated adults, at least 80 percent of whom are 55 years of age or older and where the following are provided consistent with the purposes of this Act:</p> <ol style="list-style-type: none"><li data-bbox="423 1102 1435 1176">1. Services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home;<li data-bbox="423 1207 1435 1354">2. Community-based residential care for senior persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;<li data-bbox="423 1386 1435 1501">3. Mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and<li data-bbox="423 1533 1435 1795">4. A physical environment that is a homelike setting that includes the following and such other elements as established by the Department in conjunction with the Assisted Living and Shared Housing Advisory Board: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases

³⁸² New Lifestyles website, http://www.newlifestyles.com/resources/state_licensing/IL.aspx (last accessed Dec. 23, 2006).

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Types of Housing/Care	Definitions
Community Living Facility	<p>in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.</p> <p>Community Living Facility means a transitional residential setting which provides guidance, supervision, training and other assistance to ambulatory or mobile adults with a mild or moderate developmental disability with the goal of eventually moving these persons to more independent living arrangements. Residents are required to participate in day activities, such as vocational training, sheltered workshops or regular employment. A Community Living Facility shall not be a nursing or medical facility and shall house no more than 20 residents, excluding staff.</p>
Home Health Agencies	<p>Home Health Agencies & Care cover a broad range of services that are brought to a person in his or her own home, including: Part-time skilled nursing care, Part-time services of home health aides and homemakers (necessitated by a resident's poor health), Occupational therapy, Physical therapy, Speech therapy, Nutrition counseling and Medical supplies and equipment.</p>
Hospice	<p>Hospice means a coordinated program of home and inpatient care providing directly, or through agreement, palliative and supportive medical, health and other services to terminally ill patients and their families. A full Hospice utilizes a medically directed interdisciplinary Hospice Care team of professionals and volunteers. The program provides care to meet the physical, psychological, social, spiritual and other special needs which are experienced during the final stages of illness and during dying and bereavement. Home care is to be provided on a part-time, intermittent, regularly scheduled basis, and on an on-call around-the-clock basis according to patient and family need. To the maximum extent possible, care shall be furnished in the patient's home. Should in-patient care be required, services are to be provided with the intent of minimizing the length of such care and shall only be provided in a hospital licensed under the Hospital Licensing Act, or a skilled nursing facility licensed under the Nursing Home Care Act.</p>
Intermediate Nursing Care	<p>Intermediate Nursing Care for the developmentally disabled is primarily for mobile adults who need physical, intellectual, social and emotional assistance. These facilities provide an environment approximating, as closely as possible, the patterns and conditions of everyday life in mainstream society. Such an environment is meant to encourage residents to learn, to interact with the community and to become less dependent on others. An Intermediate Care Facility is for people who need health services and some nursing supervision in addition to help with eating, dressing, walking or other personal needs. Medicaid may pay for Intermediate Care but Medicare never does.</p>
Sheltered Care	<p>Sheltered Care Facilities provide personal assistance, supervision, oversight and a suitable activity program. Provisions are made for periodic medical supervision and other medical services as needed. Such facilities are for</p>

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Types of Housing/Care	Definitions
Skilled Nursing Care	<p>individuals who do not need nursing care but do need the services listed above in meeting their needs. These facilities are identified with SC in the program field.</p> <p>A Skilled Nursing Care facility is staffed to make round-the-clock nursing services available to elderly or disabled residents who require them. In Illinois, the Medicaid program pays for care in a skilled nursing facility if a person's physician says such care is needed and the program approves his or her decision.</p>

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Appendix D

Test Instructions

- The tester should review the test assignment—memorizing characteristics and having any relevant identification such as a driver’s license
- The tester will first call to arrange an interview in response an advertisement or a listing for available housing
- The tester will arrive for an appointment that was arranged by telephone with the housing provider in response to an advertisement or a listing for available housing
- The tester should inquire about available housing
- Ask the housing provider to take you through available units
- Obtain information about the available units
 - Exact address
 - Number of bedrooms
 - Price
 - Deposit
 - Utilities
 - Other fees
 - Length of lease
 - Date of availability
 - Income eligibility
- If you are told of a waiting list, follow these instructions:
 - Ask how many people are on the waiting list
 - Ask how long it might take to be offered a unit
 - Do not ask or agree to put your name on any waiting lists
- Obtain the name of the housing provider—if the housing provider has not volunteered his/her name by the end of the visit, please ask for it
- Allow the housing provider to suggest any follow-up contact

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Appendix E

Checklist of Indicators for Unequal Treatment

The following checklist was pulled from the HUD guidelines. By comparing the treatment of testers was the tester who is a minority or disabled treated differently and adversely:

- Was there difficulty in contacting property or getting information in comparison to other testers?
- Is the advertised unit available?
- When is advertised unit available?
- Are other units of the same size/type requested available?
- How many other units are available?
- When other units of the same size/type are requested available?
- Where are the available units located?
- Where are the other units located?
- How many units were shown?
- What condition and what amenities are provided in available units?
- Is there evidence of steering within the property based on race/disability?
- Are there differences in pricing of units?
- Are there differences in deposit amount or types of fees?
- Are there differences in the application process description of requirements for:
 - Credit check?
 - Co-signer?
 - Criminal record check?
 - Request for income or other information?
 - Other

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- Were there inquiries about the nature or severity of a disability or comments about people with disabilities (or race)?
- Were there comments about handicapped units or accessible features?
- Were there comments about the racial composition of the units?
- Is there evidence of steering to other properties?
- Are there differences in offers of application form, waiting list, callbacks, visits?
- Are there other differences in the quality or quantity of information provided?
- Is there other evidence of adverse treatment based on race or disability?
- Is there other evidence of adverse treatment in comparison to another tester?

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Appendix F

Checklist of Indicators for Denial of Reasonable Modification

- Was there difficulty in contacting property or in getting information?
- Was the requested modification refused or denied outright?
- Was an alternative modification offered instead?
- Were questions raised about the need for the modification?
- Was some other person's approval needed for approval of the modification?
- Was there a delay of more than 24 hours in approving the concept of the modification?
- Did follow up about the modification approval have to be initiated by the tester?
- Were conditions imposed on approval of the modification, such as:
 - Use of licensed contractor?
 - Use of landlord-approved contractor?
 - Landlord-specified type of construction?
 - Special insurance required?
 - Removal of exterior modification upon departure?
 - Security deposit, not related to the cost of restoration of interior dwelling, charged?
 - Other
- Were there inquiries about the nature or severity of a disability or comments about people with disabilities?
- Were there comments about handicapped units or accessible features?
- Is there evidence of steering to other properties?
- Is there other evidence of adverse treatment based on disability?

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Appendix G

Checklist of Indicators for Denial of Reasonable Accommodation

- Was there difficulty in contacting property or in getting information?
- Was the requested accommodation refused or denied outright?
- Was an alternative accommodation offered instead?
- Was some other person's approval needed for approval of the accommodation?
- Were questions raised about the need for the accommodation?
- Was there a delay of more than 24 hours in approving the concept of the accommodation?
- Did follow up about the accommodation approval have to be initiated by the tester?
- Were conditions imposed on approval of the accommodation, such as:
 - An additional charge?
 - A waiting period?
 - Specific conditions, such as breed or weight requirements for service animal?
 - Action by someone else?
 - Action by the tester?
 - Special insurance required?
 - Other requirements
- Were there inquiries about the nature or severity of a disability or comments about people with disabilities?
- Were there comments about handicapped units or accessible features?
- Is there evidence of steering to other properties?
- Is there other evidence of adverse treatment based on disability?

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Appendix H

Forms

This section referenced a number of forms, some have been produced by The John Marshall Law School Fair Housing Legal Support Center and others may be created using HUD templates.³⁸³ The following forms were pulled, reviewed, and modified for the purposes of this study: Tester Assignment Forms, Tester Report Forms, Debriefing Forms, and Test Narrative Report Forms.³⁸⁴ Additionally, the data was processed using a modification of the HUD Checklist of Indicators for Unequal Treatment (to create the testing comparative report form).

³⁸³ The HUD forms include the “Available Rental Unit Form,” available in U.S. Department of Housing & Urban Development, *Against Persons with Disabilities: Testing Guidance for Practitioners* 143, and the “Site Visibility Checklist, available in *id.* at 150.

³⁸⁴ As mentioned previously, these are forms created and used by The John Marshall Law School Fair Housing Legal Support Center.

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Appendix I

Senior Survey

The purpose of this confidential survey is to find out what issues are most important to you in Chicago area housing. We will ask about housing design issues that are important to you, the services you want access to, and the lifestyle choices you prefer. We also are interested in learning what you know about the Fair Housing law.

Your answers will be used to develop recommendations for improving senior housing choices. The John Marshall Law School Fair Housing Legal Support Center would like to thank you in advance for taking part in this survey.

We have some questions about the type of neighborhood or community you prefer.

1. Please select the ONE answer that best describes where you live:

- I live in a single family home
- I live in an apartment in a building with people of all ages
- I live in a seniors only building that has no special services
- I live in a seniors only building that offers support services
- I live in an assisted living facility
- I live in a retirement community with many levels of care
- I live in a nursing home

2. Do you own your home or apartment; or do you rent?

- I own
- I rent

3. In the space provided, please write in the number of persons living in your household on a regular basis? _____

**a. If there are persons who live with you, how many of them are seniors?
(Leave blank if you live alone) _____**

b. How old are these persons? (Please check all that apply)

- 55-64
- 65-74
- 75-84
- 85 or older

c. Who resides with you? (Please check all that apply)

- Your spouse
- Your significant other/life partner
- Your children or your spouse's/significant other's children

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- Your grandchildren/great-grandchildren or your spouse's/significant other's grandchildren/great-grandchildren
 - Your parents or your spouse's/significant other's parents
 - Extended family
 - Non-relatives
- d. If you have children or grandchildren under age 18 living with you, please indicate how many:**
- One
 - Two
 - Three or more
- e. Are you satisfied with your current residence?**
- Yes
 - No
- 4. Do you plan to move in the future?**
- Definitely yes
 - Probably yes
 - Probably not
 - Definitely not **(PLEASE SKIP on to question # 7)**
- 5. When do you think that you will want/need to move?**
- Within the next 12 months
 - Not within 12 months, but in the next two to three years
 - About four to five years from now
 - Six or more years from now
 - I do not plan to move
- 6. To what style housing would you prefer to move?**
- To a single family home
 - To an apartment or condominium
 - In with relatives or friends
 - To a senior independent living building
 - To a senior building with services
 - To a continuing care facility
 - To an assisted living facility
 - To a nursing home
 - Do not plan to move
- 7. Next we have some questions about the type of neighborhood or community you would prefer if you were to move?**
- a. Would you prefer to live with seniors only, or with people of all ages?**
- Mostly or all Seniors

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All ages

b. Would you prefer to live with people of your own faith, or with people of all faiths?

Own faith

All faiths

c. Would you prefer to live mostly with people of your racial or ethnic group or in a community with many types of people?

Primarily my ethnic/racial group

Many types of people

d. Would it be important to have a community with access to cultural and recreational activities, or would this not be important to you?

Yes, important to have activities close by

No, activities close by would not be important

8. For each area shown on the left, please place a check in the column on the right to indicate whether that service would be not at all important, somewhat important or very important to you in choosing a housing provider.

	Not Important	Somewhat Important	Very Important
Housekeeping Assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Home Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Laundry Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Planned Social & Recreational Activities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General Medical Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Emergency Medical Help	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal Hygiene Assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Transportation Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Meal Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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9. Now please rate how important the following housing design options would be for you by placing a check mark in one the columns:

	Not important	Somewhat Important	Very Important
Levers on doors as opposed to standard knobs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lower kitchen cabinets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lower light switches and electrical outlets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Large and easy to read numbers on the Thermostat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Grab bars in bathroom facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larger bathrooms for maneuverability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wider doorways for maneuverability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At least one bathroom and one bedroom on the 1 st floor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Limited stairs inside the residence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
One outside entrance without stairs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This next section is a quiz to see how well seniors understand their housing rights. Remember that your answers will be anonymous! We are interested only in the overall picture we get from all our seniors. We will use the results to create pamphlets to help teach people about their rights. Please check true or false for each statement.

10. A landlord must make reasonable changes in it rules to accommodate tenants who are disabled when these changes are necessary to enable tenants to fully enjoy the dwelling.
- True
 - False

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11. A landlord can refuse to allow a tenant to make structural changes in the unit at the tenant’s own expense that are necessary to enable the tenant to fully enjoy the dwelling.

- True
- False

12. Please indicate which examples, if any, you think would be forms of discrimination by a senior housing provider (excluding nursing homes), i.e. that would presumably violate federal law:

	True	False
Requires residents to have the “ability to live independently?”	<input type="checkbox"/>	<input type="checkbox"/>
Requires applicants to have “successful history of living independently?”	<input type="checkbox"/>	<input type="checkbox"/>
Mandates timely rental payments?	<input type="checkbox"/>	<input type="checkbox"/>
Mandates that applicants undergo periodic medical evaluations and examinations?	<input type="checkbox"/>	<input type="checkbox"/>
Requires that tenant’s not be a danger to others?	<input type="checkbox"/>	<input type="checkbox"/>
A 55 year old and older senior community can exclude children?	<input type="checkbox"/>	<input type="checkbox"/>
A landlord can enforce a no pet- policy equally to all tenants?	<input type="checkbox"/>	<input type="checkbox"/>

13. Have you ever heard about the Illinois Department on Aging’s Ombudsman program which protects and promotes the rights of people living in long-term care facilities?

- Yes
- No

14. If you were the victim of housing discrimination, do you think you would file a complaint?

- Yes
- No

If no, choose the reason[s]: Please choose all that apply.

- Cost
- Expected Result
- Fear of Reprisal
- Length of Litigation
- Other _____

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- 15. Do you think if you filed such a complaint that it would achieve your desired results?**
- Yes, completely
 - No
 - Yes, at least partly
- 16. How much time do you think it would take to resolve the complaint?**
- One week
 - One month
 - More than one month but less than five months
 - Six Months to one year
 - More than one year
- 17. How much do you think it costs to file a housing discrimination complaint with a federal agency?**
- Costly
 - Somewhat Costly
 - No Cost
- 18. Do you believe that you have ever been the victim of discrimination in housing because of your (check all that apply):**
- | | |
|--------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Race | <input type="checkbox"/> Disability |
| <input type="checkbox"/> Nationality | <input type="checkbox"/> Having children under 18 |
| <input type="checkbox"/> Language | <input type="checkbox"/> Gender |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Marital status |
| <input type="checkbox"/> Age | <input type="checkbox"/> Source of income |
- 19. Did the discrimination occur within the past five years?**
- Yes
 - No
- 20. Did you take legal action following the discrimination?**
- No
 - Yes
- If yes, did you get advice:**
- By consulting an attorney
 - By consulting a family member or close friend
 - By consulting a government official or agency

The following questions relate to physical or mental disabilities that may limit you or a member of your household's choice of housing.

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21. Do you have a disability?

- Yes
- No

22. Does someone else in your immediate household have a disability?

- Yes
- No

23. Do you act as a caregiver for someone with a disability?

- Yes
- No

24. Listed below are conditions that can limit one’s ability to perform major life activities like walking, talking, hearing, seeing, learning, performing manual tasks and/or caring for one-self. We are interested in learning whether you or someone in your household has or has ever had any of these conditions. Please choose any that apply.

- | | | |
|---------------------------------------------|---|-----------------------------------------------------------|
| <input type="checkbox"/> Limited Mobility | | <input type="checkbox"/> AIDS Related Complex |
| <input type="checkbox"/> Hearing Loss | | <input type="checkbox"/> Cancer |
| <input type="checkbox"/> Vision Loss | | <input type="checkbox"/> Mental Retardation |
| <input type="checkbox"/> Chronic Alcoholism | | <input type="checkbox"/> Multiple Sclerosis |
| <input type="checkbox"/> Mental Illness | | <input type="checkbox"/> Parkinson’s Disease |
| <input type="checkbox"/> AIDS | | <input type="checkbox"/> Alzheimer’s |
| <input type="checkbox"/> Autism | | <input type="checkbox"/> ADD (Attention Deficit Disorder) |
| <input type="checkbox"/> ADHD | G | <input type="checkbox"/> Dementia |
| (Attention Deficit Hyperactivity Disorder) | | <input type="checkbox"/> Schizophrenia |
| <input type="checkbox"/> Dyslexia | | |

25. Please answer the following items as they pertain to you or someone in your immediate household:

	No	Occasionally	Sometimes	Always
Need assistance with housekeeping duties such as vacuuming, laundry and general housecleaning duties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Require assistance in preparing daily meals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Need assistance in dressing such as	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	No	Occasionally	Sometimes	Always
help with shoelaces, zippers, medical appliances or garments?				
Require help because of incontinence, a colostomy or catheter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Require assistance to go somewhere from home, or to return home because of physical or mental limitations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have bouts with memory loss?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This last set of questions will only be used to group responses to this survey.

26. How old were you on your last birthday?

- 55-64
- 65-74
- 75-84
- 85 or older

27. Please indicate your gender.

- Male
- Female

28. Please indicate your marital status.

- Married
- Widowed
- Living with significant other
- Single or Divorced

29. Please indicate what race or ethnicity you consider yourself and any members of your immediate household. You may choose more than one option.

- Caucasian
- Black or African-American
- Spanish, Hispanic, or Latino
- American Indian or Alaska Native
- Asian
- Pacific Islander
- Other

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30. What is the highest level of schooling you have completed?

- Six years or less
- 7th through 9th grade
- 10th through 12th grade without a diploma
- High School Diploma or GED
- Some College
- 2 year college degree (Associates Degree)
- 4 year college degree (Bachelor's Degree)
- Master's Degree (MA, MS)
- Professional Degree (MD, DDS, DVM, LLB, JD)
- Doctorate Degree (PhD, EdD)

31. What was your household's total income for 2006?

- Less than \$20,000
- \$20,000-\$39,999
- \$40,000-\$49,999
- \$50,000-\$59,999
- \$60,000-\$79,999
- \$80,000-\$99,999
- \$100,000 or more

32. Approximately what percentage of your income is spent on housing?

- Under 30%
- 30 to 39%
- 40 to 49%
- 50% or over

33. Do you receive any state or federal housing assistance?

- Yes
- No