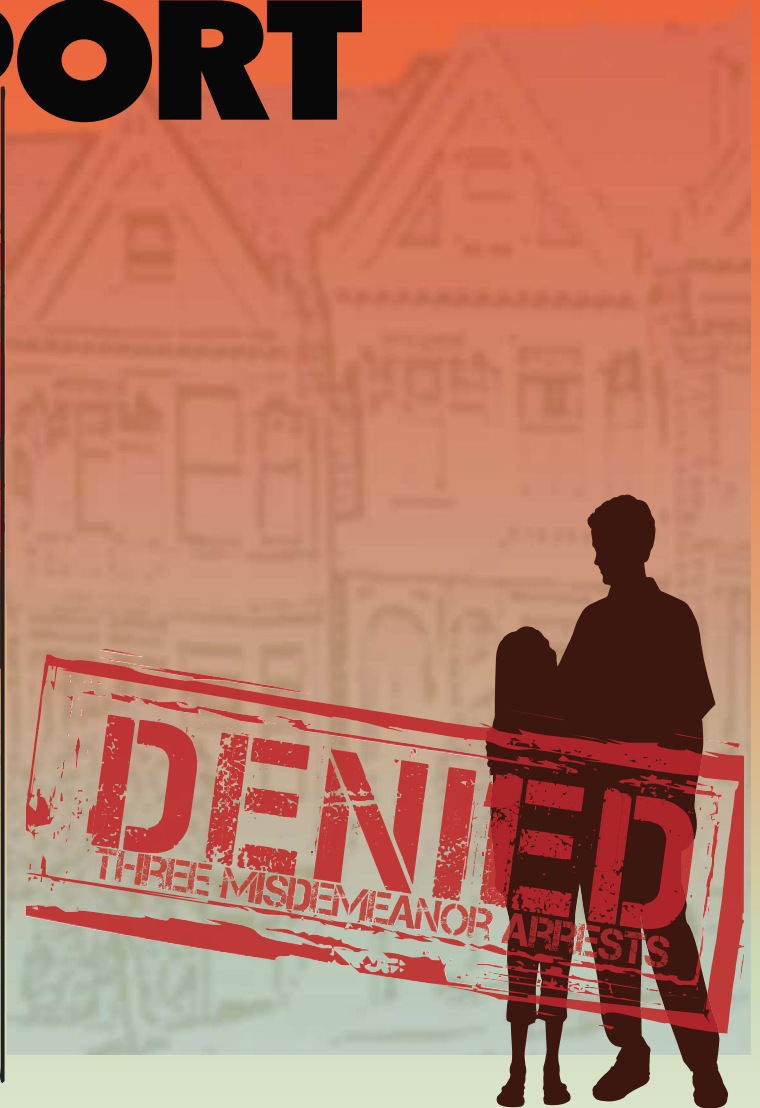
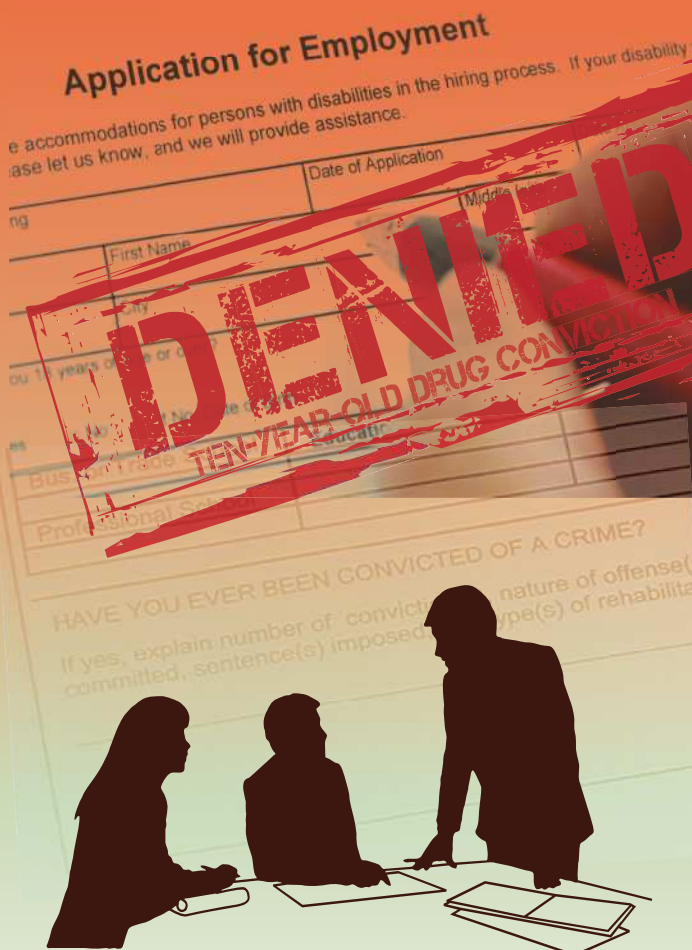


**TO OBTAIN
EMPLOYMENT**

**TO HOUSE
OUR FAMILIES**

**TO HELP
US THRIVE**

FAIR CHANCE ORDINANCE FIRST YEAR REPORT



**A REPORT BY THE SAN FRANCISCO HUMAN RIGHTS COMMISSION
JANUARY 2016**



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ABOUT THE FAIR CHANCE ORDINANCE

On March 4, 2014, Mayor Lee signed into law [Article 49 of the San Francisco Administrative Code, “The Fair Chance Ordinance” \(“FCO”\)](#). It went into effect on August 13, 2014, 180 days following the signing.

The FCO applies to all affordable housing providers (“housing providers”) in San Francisco, as well as all employers located or doing business in the City that have 20 or more employees. The HRC enforces the FCO’s provisions related to affordable housing, and the Office of Labor Standards Enforcement (“OLSE”) enforces its employment provisions.

With regard to affordable housing, all housing providers are subject to specific advertising, communication, notice, posting, and record-keeping requirements related to consideration of arrest and/or conviction records as a factor in any negative housing action, including refusal to rent. Blanket exclusions of persons with arrest and/or conviction records are unlawful, and housing providers may only consider a tenant applicant’s arrest and/or conviction record at certain times and within certain limitations. If a housing provider wishes to take a negative housing action based on a person’s arrest and/or conviction record, the housing provider must follow a specific procedure that includes proper notice, a response period, and consideration of additional mitigating evidence.

In sum, the FCO provides persons with arrest and/or conviction records the opportunity to be considered for employment and housing on an individual basis, thereby affording them with a “fair chance” to acquire employment and housing, effectively reintegrate into the community, and provide for their families and themselves.

ABOUT THE SAN FRANCISCO HUMAN RIGHTS COMMISSION

The San Francisco Human Rights Commission (“HRC”) provides leadership and advocacy in securing, protecting and promoting human rights for all people. For over 50 years, HRC has grown in response to San Francisco’s mandate to address the causes of and problems resulting from bias and discrimination. HRC has the good faith and commitment of San Francisco’s leaders to be an independent voice of human rights protection for all people and, again and again, leads the way on groundbreaking initiatives in the realm of human and civil rights. To that end, HRC:

- advocates for human and civil rights;
- resolves community disputes involving individual or systemic illegal discrimination;
- provides technical assistance, information and referrals to individuals, community groups, businesses and government agencies related to human rights and social services; and
- investigates and mediates discrimination complaints.

HRC RESPONSIBILITIES UNDER THE FAIR CHANCE ORDINANCE

Under Article 49, the Human Rights Commission has the following primary responsibilities:

- publish and issue a notice that informs affordable housing applicants of their rights under the Article;
- enforce the Ordinance, including investigating possible violations of the Article;
- establish rules for the administrative process for determining and appealing violations of the Article; and
- establish a community-based outreach program regarding rights and procedures under the Article.

In addition, Section 4911(b) of Article 49 requires the HRC to maintain a record of the number and types of complaints it receives and the resolution of those complaints. The information shall be compiled on an annual basis and reported to the Board of Supervisors by January 31 of each year.

This report is in compliance with this subsection.

FAIR CHANCE OUTREACH AND ENGAGEMENT

Beginning in 2011, the HRC conducted meetings with local stakeholders to learn more about how to best reduce barriers to persons with arrest and conviction records. HRC also collaborated with community-based organizations at the forefront of efforts to reform reentry services and conducted over 50 meetings with neighborhood associations and housing providers. Leading up to and following the implementation of the FCO, the HRC has continued to conduct trainings for affordable housing providers and persons with arrest and conviction records on the rights and requirements of the Ordinance.

HRC In-House Training

During the first year of enforcement, from August 13, 2014 to August 13, 2015, the HRC hosted several in-house training sessions for housing providers, tenants, and tenant applicants. The housing provider sessions were hosted during lunch hours, and the tenant and tenant applicant sessions were held after work hours, to ensure maximum attendance and participation.

In each one-hour training session, HRC staff spent approximately 30 minutes reviewing the Ordinance and then responded to specific questions of importance to each stakeholder group. In addition, at the housing provider training sessions, the HRC distributed 18"x24" posters of the Notice of Rights and Responsibilities Under the FCO so that housing providers could post the Notice to comply with the FCO.

Quarterly Meetings With Community Groups

Many aspects of the FCO were initially spearheaded by a group of community organizations referred to as the Fair Chance Coalition. In recognition of the strong community ties of the Fair Chance Coalition and with the goal of creating a transparent, relevant process for receiving community input about the FCO, the HRC partnered with the Office of Labor Standards and Enforcement ("OLSE") to host quarterly meetings with the Coalition. During these meetings, HRC and OLSE provided general, non-identifying information on complaints received, shared dates on planned community outreach, and obtained recommendations to increase access to FCO protections.

These meetings also enabled HRC and OLSE to check in and align practices and outreach between the two agencies. Towards this end, HRC and OLSE set up a referral system for misdirected inquires. In addition, HRC reviewed and modeled its Frequently Asked Questions document after OLSE's version. HRC and OLSE aligned presentation schedules and attended presentations together, including at the Five Keys Charter School Reentry Resources Fair.

Grant Funding for Community Engagement

On July 1, 2015, with funding designated by San Francisco Supervisor London Breed, HRC solicited proposals from non-profit organizations to conduct comprehensive community-based outreach to persons with arrest and conviction records in San Francisco. The funding was issued in recognition that, despite HRC's outreach, many San Francisco residents are still unaware of the FCO and their new rights and responsibilities that accompany it. The purpose of this grant funding is to select a community-based organization to assist the HRC in further education and enforcement of the FCO.



Youth Engagement

From June 1 to August 10, 2015, the HRC hosted twenty students ages 13-17 for a summer educational program. Over the course of 10 weeks, students interacted with the Fair Chance Ordinance. Students engaged in role play exercises, heard from guest speakers, and discussed current events related to the Ordinance. In addition, they were assigned homework to talk about the FCO with their families and friends.

At the end of the summer, the students presented on the Fair Chance Ordinance at the Ella Hill Hutch Community Center to a crowd that included their parents, friends, members of the San Francisco Police Department, and other city officials.

NATIONAL PARTNERSHIPS

Fair Chance Implementation Strategies For Government Agencies

HRC partnered with the National Employment Law Project (“NELP”) to co-write two national publications on the Fair Chance Ordinance. With the goal of providing relevant and current information to local enforcement agencies, the reports examined the [successes and challenges](#) of Fair Chance legislation in Seattle, Washington; San Francisco, California; and Washington, D.C.

The publications were presented and distributed at the annual Governing for Racial Equity conference, held in Seattle from June 11 to 12, 2015. During the conference, more than 500 local government practitioners from around the country convened to discuss strategies to end institutional and structural racism, strengthen regional alliances, and increase public will to achieve racial equity. HRC joined representatives from the Washington, D.C. Office of Human Rights, the Seattle Office of Civil Rights, and NELP on a panel discussion entitled, “Beyond Ban the Box: Strategies for Implementing and Enforcing Fair Chance Law.”



National League of Cities Webinar

In partnership with the National League of Cities and NELP, the HRC participated in a webinar exploring enforcement strategies for Fair Chance laws. Marketed to civil rights compliance agencies around the country, the webinar was attended by over 75 local government representatives.



BEST PRACTICES IN FAIR CHANCE ENFORCEMENT

Best Practices in Fair Chance Enforcement reviews [case studies](#) of Fair Chance laws from San Francisco, Seattle, and the District of Columbia provides best practices, including:

- “Ban-the-Box” to prevent employers and housing providers from considering arrest and/or conviction records in employment and housing decisions;
- Delay conviction history inquiries until a conditional offer of employment is made, since waiting until the final hiring stage clarifies the rationale for an adverse decision, facilitating enforcement;
- Require individualized assessments of applicants, considering the age of the offense, its job or housing relevance, and evidence of rehabilitation;
- Provide clear standards to reduce blanket exclusions of people with arrest and/or conviction records;
- Provide applicants with both notice of the rationale for proposed denials of employment or housing as well as the opportunity to review background check reports before a final decision is made, avoiding misinformed decisions based on common errors in background check reports; and
- Allow for agency-initiated investigations as well as complaint-based investigations, to ensure that agencies are not wholly relying on complaints and can direct their resources to high-impact cases.

DRAFTING FCO RULES OF ENFORCEMENT

From March 4 to August 13, 2014, during the six-month period after Mayor Lee signed the FCO into law but before the law went into effect, the HRC met with community based organizations and housing providers to draft rules of enforcement for the FCO.

Housing Provider Round Table Discussions

In 2014, the HRC invited San Francisco housing providers to participate in the rulemaking process. Over the course of several meetings, HRC staff and representatives from Mercy Housing, Tenderloin Neighborhood Development Cooperation, Chinatown Community Development Corporation, Caritas Management Corporation, and Community Housing Partnership reviewed the ordinance, identified areas needing clarity, and created language to guide complainants and respondents on addressing violations of the FCO.

These sessions were useful to all parties. Housing providers indicated areas of enforcement of the law that would be difficult for them. When these challenges were presented, the group engaged in collective brainstorming to address concerns. Some of the concerns and solutions are detailed as follows.

"Thanks for including me as a part of the Fair Chance roundtable discussion. I appreciate the clarification and guidance from the HRC and the comments from the roundtable participants. It made it easier to guide my staff properly to properly revise the various application forms and resident selection plans to make sure we are in compliance with the Fair Chance Ordinance. Thanks again."

– FCO ROUND TABLE DISCUSSION PARTICIPANT

CONCERN 2:

Some housing providers receive both City and federal funding. Federal regulations require housing providers to exclude persons with certain convictions from the property without an individualized assessment as required by Article 49 §4906(f) .

BRAINSTORMED SOLUTION: HRC and affordable housing providers reviewed Article 49 §4916, which states that federal and state law preempts the FCO when there is a conflict, allowing housing providers to follow the federal law in such instances without violating the FCO. Housing providers also reviewed the specific, limited convictions prohibited from federally funding housing under the applicable law. Housing providers would continue to ensure employees are trained on and apply these requirements.

CONCERN 1:

Given the long wait lists for affordable housing and thousands of applications on file, housing providers expressed concern about the amount of time it would take to ensure their applications and application processes are FCO compliant.

BRAINSTORMED SOLUTION: HRC staff reminded housing providers that the first year of the ordinance is an "education year." Under Article 49 §4911(a)(2), any violation of the law would result in warnings and Notices to Correct. Financial penalties would not be issued until 12 months after the ordinance had been in effect, providing housing providers with a full year to bring their applications and application processes into compliance with the FCO.

CONCERN 3:

Affordable housing providers have received many applications that already include information on a tenant applicant's arrest or conviction history. After the FCO went into effect, this would violate Article 49 §4906(c) .

BRAINSTORMED SOLUTION: Affordable housing providers could designate an employee to redact this information on all applications. This employee would not be the person in charge of making housing decisions. Other housing providers indicated that they would issue new FCO compliant applications.

CONCERN 4:

Housing providers have long wait lists for tenancy. When a unit becomes available, they work to fill the unit as quickly as possible by contacting the next three people on the waiting list. The first of these three applicants to submit their application will become the successful tenant. The FCO will slow down this process because if an applicant was issued a notice of adverse action based on criminal history and filed a complaint with the HRC, the housing provider would have to wait for a full investigation of the complaint to before filling the unit.

BRAINSTORMED SOLUTION: housing providers and HRC staff discussed how the pre-FCO system is detrimental to persons with arrest and conviction records because their applications always take longer to process than an applicant without a conviction history, thereby disqualifying them from ostensibly neutral “first come, first served” policies. Under the FCO, persons with arrest and conviction records are ensured an opportunity for their record to be individually assessed and have evidence of rehabilitation considered before the unit is filled.

CONCERN 6:

Some housing providers do not receive detailed conviction history reports. Instead, they receive a notification from the background check company that indicates the applicant passed or did not pass.

This process could violate Article 49 §4906(a), if prohibited inquiries were made, and §4906(f), if no individualized assessment was conducted.

BRAINSTORMED SOLUTION: Many affordable housing providers use different companies for their tenant screening needs. In discussion, housing providers indicated that they entered into contracts with background check screening companies that are updated on a regular basis. They determined that they would reach out to their background check companies and work with them to ensure that only information compliant with the FCO was reported on the background check report. In addition, HRC offered to contact the background check company on the housing provider’s behalf to discuss the requirements of the ordinance.

CONCERN 5:

The affordable housing provider’s background check company provides all of the information, including credit history, eviction history, income verification, and arrest and conviction history, on one report. Receiving all of this information at once could violate Article 49 §4906(c) .

BRAINSTORMED SOLUTION: The assembled affordable housing providers discussed the different mechanisms in which they receive conviction history information. Some housing providers in the meeting indicated that their background check company provided them with an option to delay information about conviction history. Another housing provider stated that their background check screening company placed a blank sheet of paper between credit and eviction history reports and an applicant’s conviction history.

As a result of this discussion, HRC included language in Section IV(D) of the Rules of Enforcement, entitled “Obtain but not Review.” This section permits housing providers to obtain conviction history information at the same time as credit and rental history with the condition that the conviction history is not reviewed until after the other reports have been reviewed. Affordable housing providers were advised to document and maintain records of this process.

CONCERN 7:

Under Article 49 §4906(h), after an applicant provides evidence of rehabilitation, housing providers must delay an adverse action for a reasonable period to reconsider the action in light of the applicant’s new evidence. However, what constitutes a “reasonable time” is not defined by the Ordinance.

BRAINSTORMED SOLUTION: HRC staff indicated that the amount of time each housing provider spent reviewing evidence of rehabilitation would differ. HRC stated that if a complaint of discrimination was made, investigators would want to see evidence from the housing provider that the information was considered. Housing Providers proposed creating a document checklist so there would be a standard procedure followed in each case.

Review With Mayor's Office of Housing

HRC has worked in consultation with the Mayor's Office of Housing and Community Development ("MOH") on rule making and enforcement per Article 49 §4911 of the FCO. During the course of several meetings, the HRC and MOH reviewed the draft rules and the proposed Notice of Rights and Responsibilities under the Fair Chance Ordinance and set up a system for identifying properties subject to the Fair Chance Ordinance.

In addition, on July 11, 2014, the HRC presented the proposed rules to the MOH Counseling Working Group and received feedback that was incorporated into subsequent draft rules.

Public Hearing on Rules

On August 28, 2014, the Commission hosted a public hearing on the draft rules. Notice of the hearing was issued to all affordable housing providers. The Commission heard testimony from HRC and MOH staff as well as public comment from one affordable housing provider in attendance. On November 4, 2014, after a two month public comment period, the rules were finally adopted.

NOTICE TO TENANTS, HOUSING APPLICANTS, AND AFFORDABLE HOUSING PROVIDERS CITY AND COUNTY OF SAN FRANCISCO



San Francisco Police Code Article 48 – Fair Chance Ordinance (FCO) Protections for People with Prior Arrests or Conviction Records

Under the Fair Chance Ordinance (FCO), you have the right to:

- 1) Have all of your other qualifications for affordable housing decided **BEFORE** your housing provider learns anything about your prior arrest or conviction record.¹
- 2) Not be asked about your prior record through a rental application form.
- 3) Be provided with a **copy of this notice** before your housing provider runs your background report.
- 4) Not have any of the following six "off-limits" categories requested or considered:
 - arrests that did not result in conviction
 - participation in a diversion or deferral judgment program
 - suspended, judicially dismissed, involuntary or otherwise nonpunitive convictions
 - juvenile record
 - a conviction more than 7 years old
 - an infraction
- 5) Have your record assessed individually, in which only the "directly-related"² convictions and unresolved arrests in your record are considered. (See below footnote for a definition of directly-related)
- 6) Be provided with a **copy of the background report** and told which conviction or unresolved arrest is the basis for the potential denial. You have 14 days to **respond orally or in writing to show that you shouldn't be denied**. You can respond by:
 - ✓ Pointing out any inaccuracies in the report.
 - ✓ Providing evidence of rehabilitation. Evidence of rehabilitation include satisfying parole/probation, receiving education/training, participating in a counseling/treatment program, letters of recommendation, age you were convicted.
 - ✓ Explaining any mitigating factors about the circumstance of the conviction. Mitigating factors include physical or emotional abuse, coercion, a threatened abuse/mental illness that led to the conviction.
- 7) Call the Human Rights Commission to understand your rights or file a complaint (within 60 days of violation) without any negative action or retaliation taken against you by your Housing Provider.

FAIR CHANCE ORDINANCE INFORMATION SESSIONS FOR AFFORDABLE HOUSING PROVIDERS



The Human Rights Commission will host monthly sessions for affordable housing providers on the Fair Chance Ordinance/Article 49 of the Police Code. HRC staff will answer questions and provide information on the enforcement and complaint process. For more information on the Fair Chance Ordinance, visit: <http://sf-hrc.org/article-49-san-francisco-police-code-fair-chance-ordinance>



LOCATION:
San Francisco Human
Rights Commission
25 Van Ness Avenue
Suite 800
San Francisco CA 94114

DATES:
August 27
September 24
October 29
November 17
December 17

All sessions will be at
5:00 p.m.
To RSVP: email
zoe.polk@sfgov.org

FAIR CHANCE ORDINANCE INFORMATION SESSIONS FOR AFFORDABLE HOUSING APPLICANTS AND TENANTS



The Human Rights Commission (HRC) will host monthly sessions for **AFFORDABLE HOUSING APPLICANTS AND TENANTS** on the Fair Chance Ordinance/Article 49 of the Police Code. HRC staff will answer questions and provide information regarding applicants' rights under the law.

LOCATION:
San Francisco Human
Rights Commission
25 Van Ness Avenue
Suite 800
San Francisco CA 94114

DATES:
August 20
September 17
October 29
November 19
December 17

All sessions will be at
5:00 p.m.

To RSVP: email
zoe.polk@sfgov.org

For more information on the Fair Chance Ordinance, visit:
<http://sf-hrc.org/article-49-san-francisco-police-code-fair-chance-ordinance>



FCO COMPLIANCE SURVEY

In December 2015, the HRC conducted a survey of San Francisco affordable housing providers to examine the effects of its FCO outreach and the extent of housing providers' compliance with the Ordinance from August 13, 2014 to August 13, 2015. At the time of publication, the HRC received 100 unique survey responses representing 58 housing providers in the City with a total of 5,354 employees.

The information received from these 58 housing providers was self-reported. HRC will conduct follow up reviews based on information provided.

Survey Respondents

While the size of the housing providers surveyed varies from 1 to 3,000 employees, the majority of survey respondents are small businesses or nonprofits with between 1 and 5 employees.

Housing Provider by Number of Employees	Total Number of Respondents In Housing Provider Size Range	Percentage of Respondents In Housing Provider Size Range (Approximate)
1-5	19	32.8%
6-10	13	22.4%
11-50	13	22.4%
51-200	8	13.8%
201-500	3	5.2%
More than 500	2	3.4%

Question 1: How Many Vacant Units Did Your Company Have In San Francisco Between August 13, 2014 and August 13, 2015?

Survey respondents reported a total of 2,102 vacant units over this yearlong period. The majority of these vacancies were managed by employers with 51-200 employees.

Housing Provider by Number of Employees	Total Number of Vacant Units In Housing Provider Size Range	Percentage of Total Vacant Units In Housing Provider Size Range (Approximate)
1-5	35	1.7%
6-10	173	8.2%
11-50	220	10.5%
51-200	960	45.7%
201-500	221	10.5%
More than 500	493	23.5%

Question 2: Between August 13, 2014 and August 13, 2015, How Many Vacant Units Did You Fill?

Survey respondents filled a total of 1,971 units during this period out of 2,102 available vacancies (93.8%).

Housing Provider Size by Number of Employees	Total Number of Vacant Units Filled In Housing Provider Size Range (Percentage Filled)	Percentage of Total Vacant Units Filled In Housing Provider Size Range (Approximate)
1-5	32 (out of 35; 91.4%)	1.6%
6-10	146 (out of 173; 84.4%)	7.4%
11-50	178 (out of 220; 80.9%)	9.0%
51-200	930 (out of 960; 96.9%)	47.2%
201-500	192 (out of 221; 86.9%)	9.7%
More than 500	493 (out of 493; 100%)	25.0%

Question 3: Between August 13, 2014 and August 13, 2015, How Many of Your Vacant Units Were Filled By Persons With Arrest and/or Conviction Records?

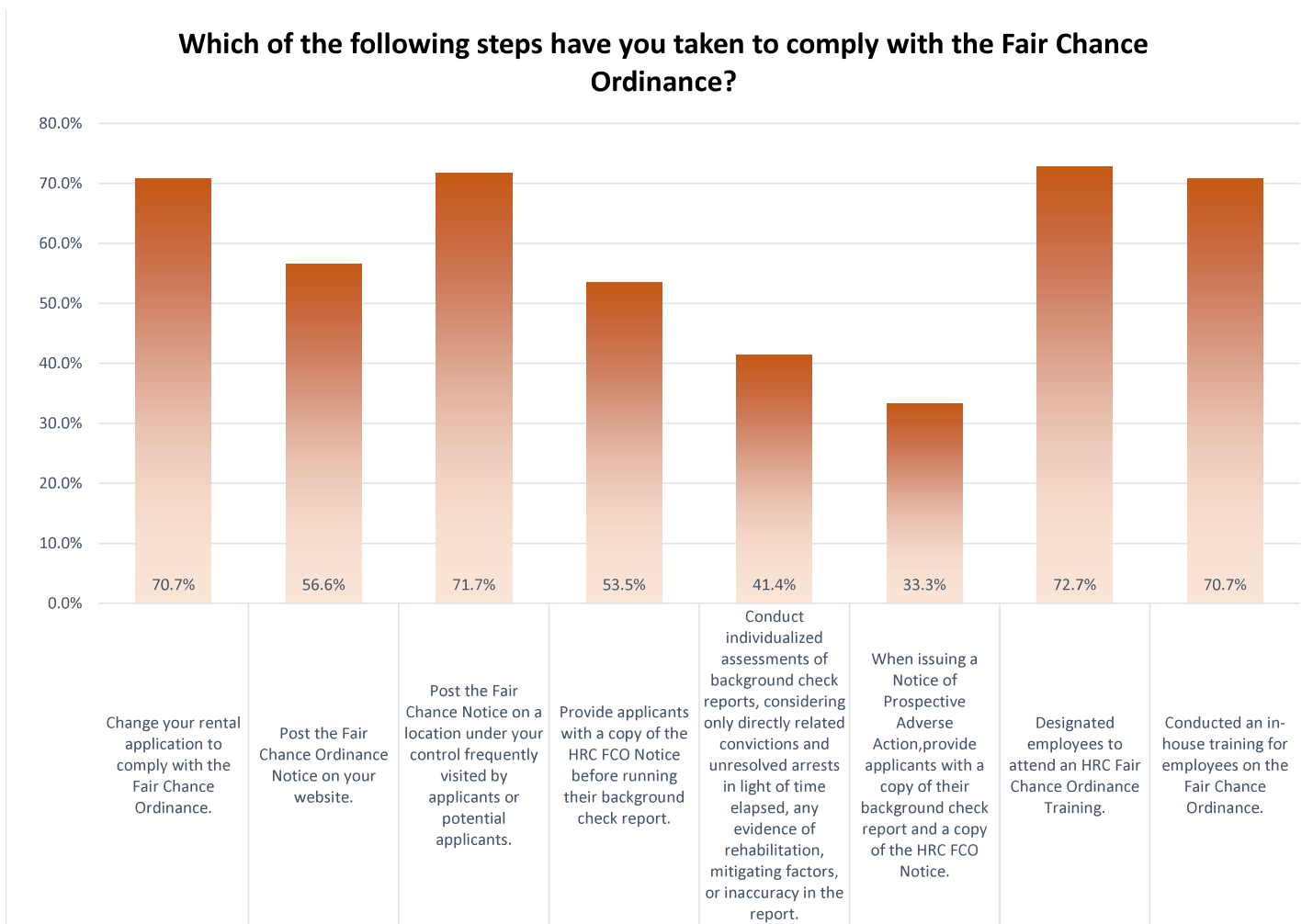
Survey respondents reported that out of 1,971 filled vacancies during this period, only 112 vacancies were filled by persons with arrest and/or conviction records (5.7%).

Housing Provider Size by Number of Employees	Total Number of Vacant Units Filled By Persons With Arrest and/or Conviction Records In Housing Provider Size Range (Percentage Filled)	Percentage of Total Vacant Units Filled By Persons With Arrest and/or Conviction Records In Housing Provider Size Range (Approximate)
1-5	0 (out of 32; 0%)	0.0%
6-10	26 (out of 146; 17.8%)	23.2%
11-50	18 (out of 178; 10.11%)	16.1%
51-200	40 (out of 930; 4.3%)	35.7%
201-500	27 (out of 192; 14.1%)	24.1%
More than 500	1 (out of 493; 0.2%)	0.9%

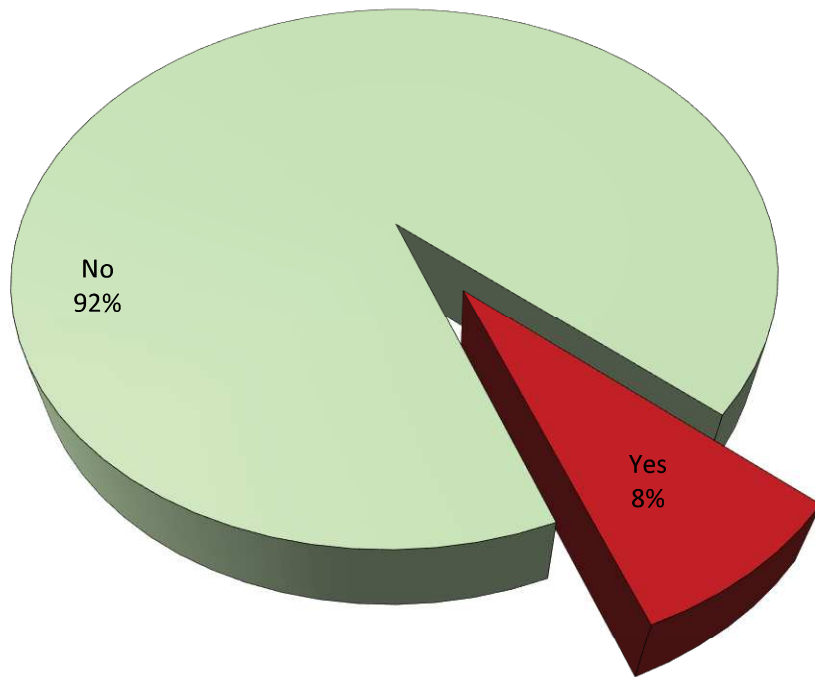
Question 4: Which of the Following Steps Have You Taken to Comply With the Fair Chance Ordinance?

The FCO requires housing providers to follow certain advertising, communication, notice, posting, and record-keeping requirements and to conduct an individualized assessment of tenant applicants with arrest and/or conviction records. For example, in all solicitations or advertisements for affordable housing, the housing provider must state that it will consider for tenancy qualified applicants with criminal histories in a manner consistent with the FCO. Because this statement would not have been posted prior to the FCO, housing providers must update their solicitations and advertisements to be FCO compliant. Similarly, the FCO requires that a FCO “Know-Your-Rights”-style notice be posted on housing providers’ websites and at any location under their control that is frequented by potential tenant applicants for their housing. Housing providers therefore must post this notice properly to be FCO compliant. Other FCO requirements and housing providers’ compliance with them are described in later survey questions, below.

In Question 4, survey respondents could check any of up to eight boxes. The first six represent different compliance requirements of the FCO. The seventh and eighth boxes provide information regarding the extent of FCO training that housing providers have voluntarily undertaken. The following chart represents the percentage of survey respondents who checked each box.



Question 5: Between August 13, 2014 and August 13, 2015, Did Your Company Make Any Inquiries Prohibited By the Fair Chance Ordinance?



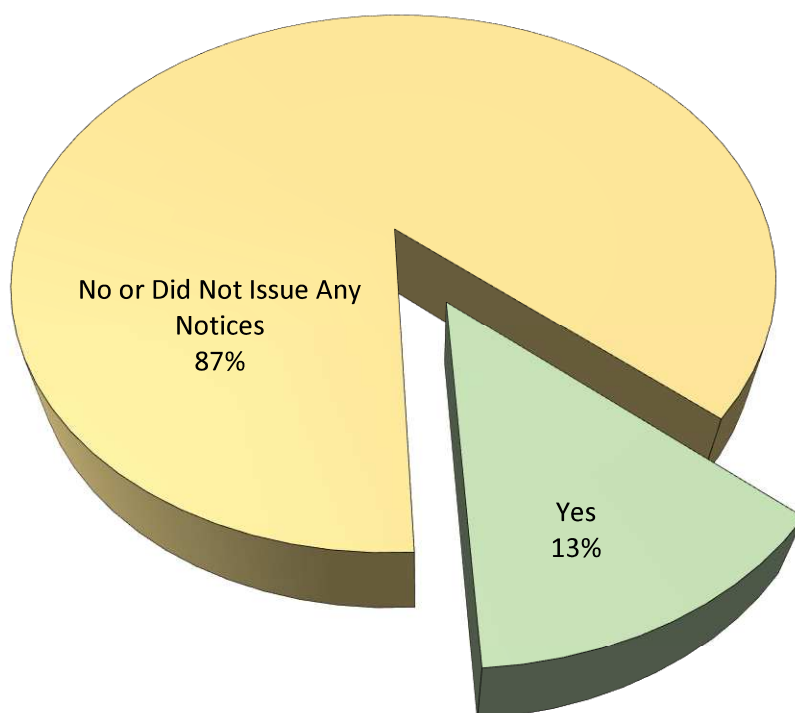
The FCO prohibits housing providers from inquiring about the following at any time during the application process for tenancy:

- any arrest not leading to conviction, except for any unresolved arrest;
- any conviction more than seven years old;
- any participation in a diversion or deferral of judgment program;
- any conviction that has been dismissed, expunged, or otherwise invalidated;
- any conviction in the juvenile justice system; and
- any offense other than a felony or misdemeanor, such as an infraction.

Most survey respondents did not make any inquiries prohibited by the FCO over the yearlong period covered by the survey. However, there are a significant number of survey respondents who self-reported that they did not comply with the FCO.

Question 5 did not ask why a housing provider did or did not make inquiries prohibited by the FCO. As such, the survey results do not reveal whether the above noncompliance was intentional or simply the result of lack of knowledge of the FCO during its phased implementation period.

Question 6: Between August 13, 2014 and August 13, 2015, Did Your Company Issue Notices Required By the Fair Chance Ordinance?



Before taking a negative housing action based on an individual's arrest and/or conviction record, such as eviction, denial of an application to rent, failing to add a household member to an existing lease, or reducing a tenant subsidy, the FCO requires that a housing provider issue a Notice of Prospective Adverse Action, attach a copy of the individuals' background check report to the Notice, and give the affected individual 14 days to respond to the Notice, orally or in writing. This allows the individual to provide evidence of rehabilitation, mitigating factors, and/or inaccuracy in the background check report. The housing provider must delay any negative action for a reasonable period after receipt of this response to reconsider it in light of the new information.

Many of the survey respondents did not issue any notices, including Notices of Prospective Adverse Action, during the covered time period and therefore answered "no" to Question 6 without violating the FCO. However, among those who did issue some type of notice between August 13, 2014 and August 13, 2015, most complied with the FCO and issued a Notice of Prospective Adverse Action.

Question 7: If "Yes" to Question 6, How Many Notices Did You Issue?

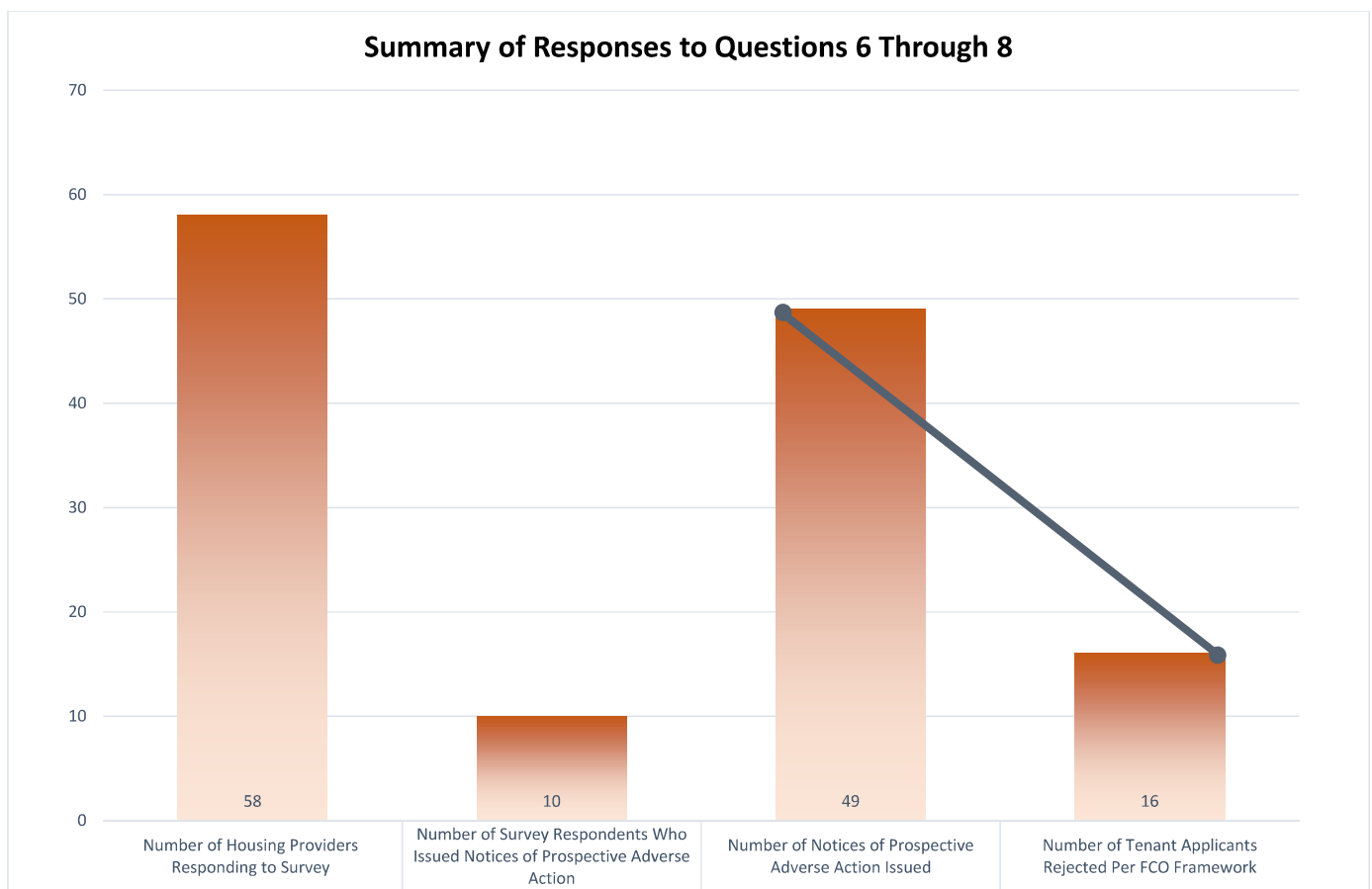
In total, 10 housing providers issued 49 Notices of Prospective Adverse Action during the yearlong period covered by the survey. The largest number of Notices issued by any one housing provider was reported as 18.

Question 8: If “Yes” to Question 7, After Waiting the Required 14 Day Period, How Many Applicants Did Your Compant Reject Based On A Directly-Related Conviction or An Unresolved Arrest?

The FCO limits the lawful reasons a housing provider can rely upon to take a negative housing action based on an individual’s arrest and/or conviction record after a response is received or the Notice period expires. The housing provider must conduct an individualized assessment of each person with an arrest and/or conviction record, considering only directly-related convictions, the time that has elapsed since the conviction or unresolved arrest, any evidence of inaccuracy in the background check report, evidence or rehabilitation, or other mitigating factors.

Of the 10 housing providers who issued Notices of Prospective Adverse Action, all of them rejected fewer applicants than were issued Notices. This strongly implies that the aforementioned FCO response and reconsideration framework resulted in more persons with arrest and/or conviction records receiving equal treatment to other applicants or tenants after an individualized assessment was conducted.

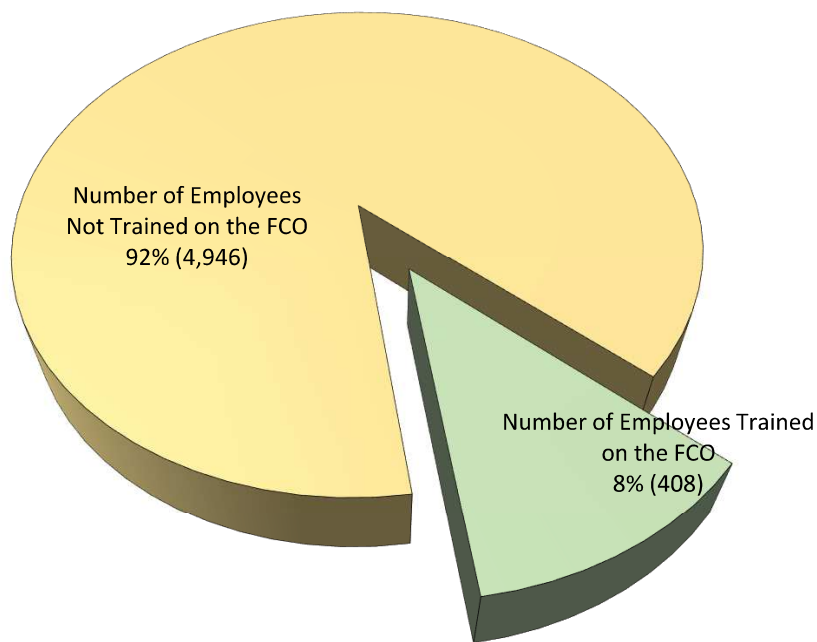
Below is a summary of the data from Questions 6 through 8 regarding survey respondents who issued Notices of Prospective Adverse Action.



Question 9: Among Your Employees, How Many Have Received Training Regarding the Fair Chance Ordinance?

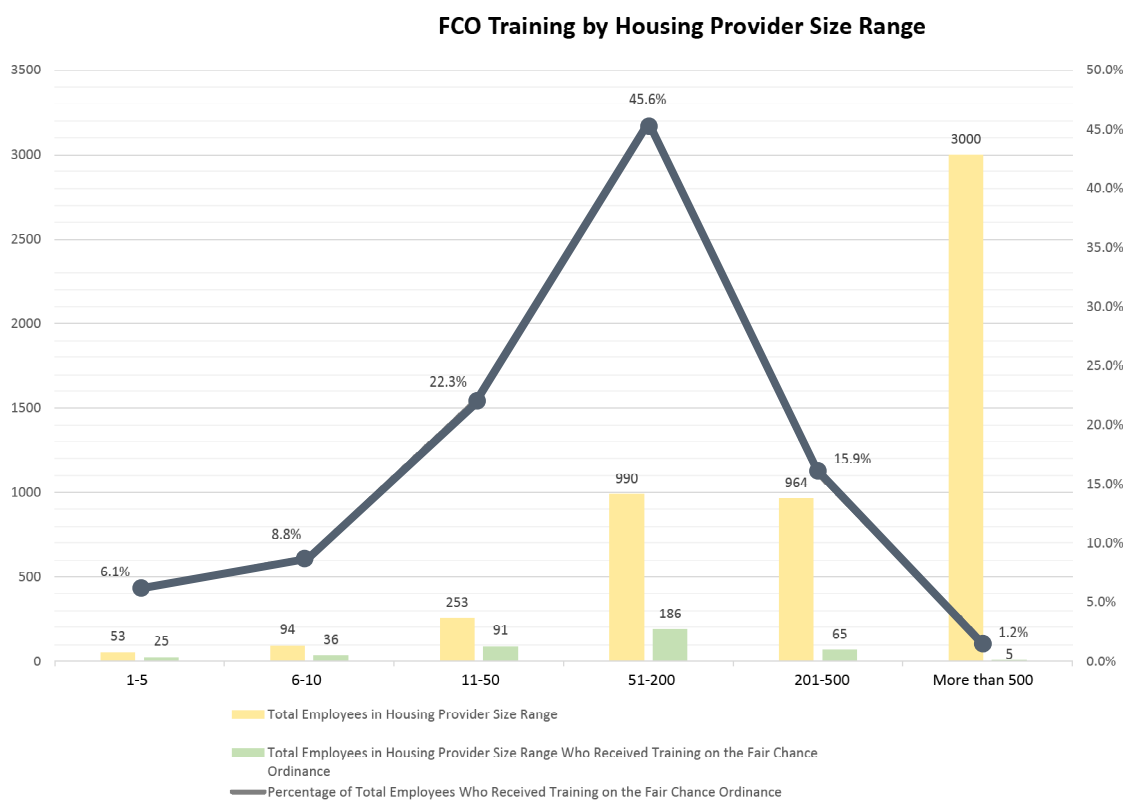
As described above, a thorough outreach campaign is vital to the success of the FCO. Correspondingly, housing providers must make their employees aware of the FCO and oversee their compliance with its requirements. The HRC survey sought to measure housing providers' voluntary trainings on the FCO to gauge these metrics and determine what further outreach may be warranted.

Of the 5,354 employees employed by all survey respondents, 408 received training. Housing providers varied in the application of their training, with most training only a small portion of their staff, and only five housing providers with more than five employees training all of their staff.



5,354 Total Employees Covered by Survey

Despite the small percentage of employees currently trained on the FCO, the majority of survey respondents indicated in Question 4 that they had designated employees to attend an HRC FCO training or conducted their own in-house FCO training. This discrepancy could indicate that further training of housing providers is forthcoming; or that despite housing providers having undergone training, not enough of their employees are being trained; or that housing providers are only providing training to employees who are most likely to have compliance responsibilities specific to the FCO.



FAIR CHANCE COMPLAINTS RECEIVED BY THE HUMAN RIGHTS COMMISSION

Per Article 49 §4911(a)(2), during the first year of enforcement of the Ordinance, HRC issued warnings and Notices to Correct in response to any complaints.

From August 2014 to December 2015, HRC received 14 FCO complaints. A sampling of these complaints is outlined below.

COMPLAINT 1: VIOLATION: INTERVIEW PROCESS

The HRC was contacted by a potential housing applicant who stated that she intended to apply for an available unit in District 6. The applicant stated she was told by management that “no felons” were allowed in the building and that she was dissuaded from applying due to her conviction record.

HRC worked with the Mayor’s Office of Housing and the specific housing provider to remove this language from its housing applications. HRC provided further review of the requirements of the FCO.

COMPLAINT 2: VIOLATION: CONVICTION HISTORY DISCLOSURE ON APPLICATION

A student at San Francisco State University (“SFSU”) contacted the HRC regarding the SFSU housing application. The student stated that the application requests disclosure of any felony convictions. HRC issued a “Letter of Concern” to the university, stating that although the HRC did not have jurisdiction over SFSU, the department encouraged the university to review the Fair Chance best practices available on HRC’s website.

The HRC subsequently provided educational materials on the FCO to the administration of SFSU. HRC also met with SFSU’s Project Rebound, a program organized for students with prior convictions, and provided information on the FCO.



COMPLAINT 3: VIOLATION: FAILURE TO PROVIDE NOTICE OR COPY OF CONVICTION HISTORY REPORT

An individual completed an application for housing in District 6. At no point during the application process did the individual receive a copy of the Fair Chance Notice. The individual was served with a denial notice instead of the required Notice of Prospective Adverse Action and was not provided a copy of his background check report. In its denial of the individual's appeal, the provider stated the denial was due to "an established pattern of criminal activity" but did not state which specific convictions resulted in the denial.

HRC initiated a complaint and is currently investigating this matter.

COMPLAINT 4: VIOLATION: IMPROPER ADVERTISEMENT AND CONVICTION HISTORY INQUIRY ON APPLICATION

The HRC met with an individual who applied for housing in District 10. The advertisement for this listing stated, "Criminal history criteria: is as follows: does not have a misdemeanor conviction: any number in the last 3 (three) years" and "does not have a felony conviction: any number in the last 7 (seven) years."

According to the individual, he was asked questions about his conviction history on the application. The individual further stated he was told in an e-mail that his application was denied due to an "unresolved felony" out of state. In addition, there is a document entitled, "Resident Screening Policy for Affordable Housing," accessed from the "Resident Selection Criteria" link on the webpage for this listing. This document stated, "The application will be denied for any of the following reported criminal related reasons," and then listed several types of criminal history information that might appear on a background check report.

HRC initiated a complaint and is currently investigating this matter.

Trainings In Response to Complaints

In addition to issuing Notices to Correct, the HRC provided several free trainings to housing providers, including Chinatown Community Development Corporation, Allen Hotel, CSV Hospitality, Aranda Hotel, CSV Hospitality, Conrad House, and Tenderloin Housing Clinic.

The HRC also provided free in-house trainings for housing providers and tenants/applicants, as described above.



NEXT STEPS

- 1. Continue Public Education and Outreach.** The HRC will continue to provide free training and technical support for Affordable Housing Providers, tenants and housing applicants subject to the FCO.
- 2. Partnering with the community, engendering trust with complaints and helping reach our most marginalized residents.** In 2015, HRC will partner with the Lawyers' Committee for Civil Rights to increase understanding of and fluency with the FCO.
- 3. Increasing the effectiveness of FCO by ensuring local affordable housing providers can evaluate impact.** Based on the survey responses, HRC will follow up with local affordable housing providers on the record keeping process. HRC will learn more about affordable housing providers are documenting their FCO compliance. In addition, HRC will revise the FCO records request to get more information on the effectiveness of the ordinance.
- 4. Examine barriers faced by persons with arrest and conviction records face in obtaining private housing.** HRC will speak to housing providers and applicants regarding the use of conviction history in private housing and the impact of creating a uniform process.
- 5. Examine FCO protections for live-in aides.** HRC will continue its research into the FCO's effect on live-in aides for more information regarding the extent to which live-in aides are protected under the Ordinance.
- 6. Learning from national examples to increase FCO effectiveness.** HRC will also continue to study best practices and successes in other jurisdictions. For example, the HRC is currently considering the Director-initiated charges/complaints. In Seattle, the Office of Civil Rights determined that employees with arrest and/or conviction records fear retaliation from the business community and are reluctant to file complaints. Through increasing the number of Director initiated charges/complaints, the HRC can provide an additional level of anonymity and create a positive ripple effect to increase reporting of violations, thereby improving housing and employment opportunities for people with arrest and/or conviction records in San Francisco.

In addition, the HRC will continue its research on financial penalties and other incentives for reporting violations of the FCO. For example, the Washington, D.C. Office of Human Rights directs penalty funds or Fair Chance violations to complainants and has significant monetary remedies available to incentivize employers to comply and applicants to come forward with suspected violations.