

Part III Discrimination

Chapter 8 Fiftieth Anniversary of the Fair Housing Act: How the Past Informs the Future*

*Barbara R. Barreno-Paschall and Jessica Schneider***

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INTRODUCTION

In the summer of 1966, Dr. Martin Luther King, Jr. marched in Chicago to protest prolific housing discrimination against Black residents and entrenched segregation that purposely separated Blacks from whites. He exposed the world to racial tensions in Chicago and was met with great anger and hostility. In 1968, in the wake of his assassination and at a time of great turmoil and unrest, the Fair Housing Act (FHA)¹ was passed and is known as one of the most aggressive civil rights laws of its time. Fifty years later, most of the United States is still sharply segregated, forcing many civil rights advocates to wonder about its unfulfilled promise. Progress has been mixed at best, though there have been positive outcomes as advocates consistently fight to combat discrimination. The fifty-year anniversary of the FHA’s passage provides an opportunity to both reflect on the past and look ahead to the future of fair housing advocacy. Deliberate government action to segregate the country cannot be forgotten, as Richard Rothstein demonstrated in his recent book.² Despite setbacks, fair housing continues to occupy its place in the national consciousness and rightfully so. Recent additions and improvements to the affirmatively furthering fair housing mandate made over the last several years have been sharply curtailed by the current administration, making an unfriendly legal landscape even more hostile. For example, the current HUD administration suspended the previous rule requiring local governments and other recipients of HUD funding to develop and submit plans to affirmatively further fair housing. Current HUD leadership has made it clear that combatting housing discrimination is not a top priority for the agency.³ A HUD

agency that is distancing itself from remedying discrimination and prefers to focus on “self-sufficiency” reinforces the problematic idea that segregation occurs largely because of personal choice.

Though it has evolved in type, housing discrimination continues in 2018, especially against the Black population. While rarely overtly based on race, it is perpetuated by a sophisticated combination of what is often classified as economic policy. In urban America, the average white person lives in a neighborhood that is seventy-five percent white, whereas a typical Black person lives in a neighborhood that is only thirty-five percent white and as much as forty-five percent Black.⁴ The problem is that those statistics do not differ much from the segregation picture in 1940. Housing discrimination and segregation are presently linked to many other problems in access to quality employment, education, transportation, and healthcare. The tie between housing segregation and education segregation is clear and public schools continue to re-segregate decades after the landmark *Brown v. Board of Education* ruling in 1954. Both school and housing “choice” are failed policies. It is also hard to forget the images of recent unrest and uprisings perpetuated by the killings of young Black men and women by police. Many were linked to a history of housing discrimination and Ferguson, Missouri is a prime example.⁵

The budding promise of the disparate impact legal theory after the *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*⁶ U.S. Supreme Court case has largely faded as it becomes clear it may not be a viable route for substantive reform. Though the FHA may have largely failed to achieve its goals and promises, it is as important as ever that advocates utilize its power. New challenges are constantly emerging to combat sophisticated and covert discrimination. It is important to revisit the role of the government in creating the segregated landscape we see today to remind ourselves of how we got to this point. It seems after fifty years our society has forgotten or willfully ignores the intentional role that government played in housing segregation. Works like Rothstein’s *The Color of Law* bring it back into our collective consciousness and emphasize the important point that if not only just the federal government but also local and state governments do not have the

will to end segregation, it will not be done.⁷ The history described in Rothstein's book is largely the inspiration for this article as it refuses to let America forget its past. All too often, public officials are reluctant to support truly racially equitable public policy in a direct way. It is only through acknowledging the past that we can adequately address the future. Perhaps even more than in 1968, one's zip code today can determine access to one's opportunities and quality of life. It is especially true in Chicago and other major metropolitan areas.

This article will provide an overview of the Fair Housing Act and its use as both a reactive and affirmative anti-discrimination tool. Part I will discuss the pre-Fair Housing Act landscape and the lack of enforcement of the affirmatively furthering fair housing mandate, which dulls the promise of recent reforms. Part II will discuss local fair housing efforts in Chicago as an example with an emphasis on local ordinances that prove what can be done despite limited federal enforcement efforts and its active participation in furthering entrenched segregation. Part II will also discuss housing choice voucher discrimination and briefly address the connection between fair housing and public education in Chicago. Part III will address the future of fair housing in Chicago and where we can go from here as well as using New Orleans and Houston as examples of areas in which opportunities to further fair housing were met with resistance. Finally, Part IV will discuss the future of fair housing advocacy given the large number of advocates that are ready and willing to continue the fight. Creative litigation and policy are not only preferred but required in order to challenge entrenched segregation. Local civil rights laws and fair housing ordinances are key due to reduced enforcement by the federal government. The challenge of desegregation demands a different approach. Fifty years later, we are still searching but one thing is clear: policy and practice can no longer be neutral about race and racial segregation.

I. THE PRE-FAIR HOUSING ACT LANDSCAPE AND EARLY IMPLICATIONS FOLLOWING ITS PASSAGE

In order to remedy a problem, the true nature and source of the harm needs to be identified. In order to shape a more

just and equitable future, past injustice must be carefully examined. For a long time, housing segregation and discrimination have been framed as a matter of personal choice and not public policy. If there is no public actor then no particular governing body can be at fault. It therefore follows that the courts cannot mandate a remedy. But it is clear that government played a large role in the segregation of the United States and the myth of private choice cannot stand. In his book *The Color of Law*, Rothstein brings to light once again a history that has been largely ignored. He describes the legal history of housing discrimination as well as the roots of neighborhood segregation as “A Forgotten History of How Our Government Segregated America.” In order to reflect on the fiftieth anniversary of the FHA, it is important to address the landscape and housing discrimination that it was designed to remedy.

A. The State of Fair Housing Pre-1968

Rothstein highlights clear and forceful government policies of local, state, and federal government that “explicitly segregated every metropolitan area in the United States.”⁸ “The policy was so systematic and forceful that its effects endure to the present time.”⁹ The FHA is a tool used to remedy those effects. However, it has often been done without recognizing the state’s action or acknowledging the racially discriminatory intent of the federal government. Rothstein tells a story of consistent resistance to integration of whites and Blacks. For example, his opening story is of Frank Stevenson, who was part of the influx of World War II workers in Richmond, California. The influx of these workers from 1940 to 1945 resulted in a population explosion and the need for significantly more housing. It could not keep pace with the nation’s rapid population growth. The federal government intervened to build public housing that was officially segregated.¹⁰ Because Richmond was a predominantly white city before the war, the government segregated Black workers and established residential living patterns that exist to this day. That pattern was replicated throughout the country. Whites would move to the suburbs and Blacks would be left behind to inhabit public housing and, in most cases, substandard housing.¹¹

Other actors followed the lead of segregated housing. The

United Services Organization (a private organization that was organized by President Franklin D. Roosevelt and used government buildings for some of its club locations) had separate Black and white clubs in Richmond for military personnel. City police tried to stop the migration of Blacks into the city by arresting and jailing them if they could not prove they were employed. In Palo Alto, the Federal Housing Administration and Veterans Administration refused to insure mortgages for Blacks in designated largely white neighborhoods. Not only that, but these agencies also would not insure mortgages for white people in a neighborhood where Black people lived.¹² Banks and banking regulators followed suit and increasing segregation followed.

In Chicago, there was a similar pattern. It was also impossible to obtain a federally-backed loan in majority Black neighborhoods while at the same time the Chicago Housing Authority constructed public housing developments in predominantly Black neighborhoods.¹³ It is just one example of the intentional use of public housing by federal and local governments to contain Black residents in certain areas. In the late 1940s, white families were increasingly obtaining housing in the private market so any public housing project with designated units for whites ran the risk of having vacant units that only Blacks would want to fill. Opportunities arose for city councils to create a path to integration but they were ignored. One example is in Detroit, where from 1948 to 1949 the City Council held hearings on twelve proposed housing projects but only projects in predominantly Black areas were approved, solidifying further an already segregated city.¹⁴ The same types of decisions occur today and understanding that local governments had the chance to commit to furthering integration and did the opposite is essential to understanding both the need for the FHA and why it has not lived up to its potential.

Rothstein describes other legal land restrictions designed to keep Black families out of white neighborhoods that were prevalent leading up to the passage of the FHA. They are characterized as a “move backward, dramatically so. Residential integration declined steadily until the mid-twentieth century and it has mostly stalled since then.”¹⁵ While public housing was primarily a federal program with some participation from local government, the government policies that

isolated white families in all white urban neighborhoods began with local government. Many cities achieved that isolation by adopting zoning rules separating Black and white families and preventing them from living together in the same neighborhood. Baltimore was the first to pass a racial zoning ordinance in 1910 prohibiting Blacks from buying homes on white majority blocks and vice versa.¹⁶ Soon, many other cities followed suit in the South and on the border. Support for racial zoning policies was widespread. The Supreme Court overturned a racial zoning ordinance of Louisville, Kentucky in 1917.¹⁷ But a trend emerged of local governments keeping lower-income Blacks from buying property in white, middle class neighborhoods and keeping middle-class Blacks from buying into those same neighborhoods.¹⁸ The constant resistance to integration continued. “Frequently, class snobbishness and racial prejudice were so intertwined that when suburbs adopted such ordinances, it was impossible to disentangle their motives and prove that the zoning rules violated constitutional provisions of racial discrimination.”¹⁹

Lower-income Black neighborhoods were also often zoned to permit certain industry, including polluting industry, which made them a less desirable place to live. For example, in St. Louis zoning decisions by the local plan commission permitted taverns, liquor stores, and centers of prostitution to open only in Black neighborhoods.²⁰ Federal officials also used economic zoning that could result in racial segregation. Framing the policy as economic and not racial allowed the zoning to accomplish segregation without naming it though its purpose was clear. Those living in majority-Black neighborhoods pay higher property taxes and are often assessed at higher rates than people living in majority-white neighborhoods. Governmental policies kept Black incomes low throughout much of the twentieth century and depressed wages afforded access only to lower quality housing.²¹

The Home Owners’ Loan Corporation (HOLC) was created in 1933 by the federal administration to rescue households about to go into foreclosure. In order to assess risk about its borrowers’ abilities, the HOLC hired local real estate agents for appraisals. Those agents were required by ethics codes to maintain segregation and so in the HOLC’s color-coded maps of every metropolitan area, every neighborhood with Black people living in it was colored red for high risk known as

“redlining.”²² White areas were colored green for low risk. These maps had a significant impact and “put the federal government on record as judging that Black people, simply because of their race, were poor risks.”²³ The Federal Housing Administration Underwriting Manual also discouraged banks from making loans at all in certain Black neighborhoods and also tried to prevent school desegregation. The federal government engineered a segregated nation piece by piece and with all the tools available.²⁴

B. The Growing Need for Protections and Events Leading Up to the Passage of the Fair Housing Act

It was against this backdrop of continuing segregation and blatant *de jure* discrimination orchestrated by multiple levels of government that many people from across the nation began to demand the outlawing of housing discrimination and the idea of the FHA came into being. Advocates and politicians realized that segregation was largely a matter of public policy and not private choice, requiring a legal tool to address state action and outlaw certain practices. The FHA, or Civil Rights Act of 1968, was seen as an extension of the Civil Rights Act of 1964. The law was designed to foster integration as well as outlaw individual acts of discrimination. Dr. Martin Luther King, Jr.’s arrival in Chicago was a pivotal moment leading up to the FHA’s passage. In August 1966, he was struck by a rock at an equal housing march in the Marquette Park neighborhood.²⁵ He became more unpopular as he spoke out about poverty and equal housing rights.

In the wake of Dr. King’s death and the fiery protests that followed, the nation found the will to pass powerful legislation outlawing housing discrimination. The FHA was passed just days after the assassination of Dr. King, which likely was a catalyst for getting the law signed quickly after Congress had rejected two previous versions. Dr. King and Chicago had already become symbols of the fight against housing discrimination in an effort to broaden the civil rights movement beyond the issue of discrimination against Black people in the South. In the years leading up to the passage of the FHA, King brought national attention to the issue of housing discrimination by organizing marches and staying

in a North Lawndale apartment on Chicago's West Side. In January 1966, King moved into the apartment on Hamlin Street in a city with entrenched segregation. The apartment became the center of the Chicago Freedom Movement, a campaign designed, as he once put it, to "eradicate a vicious system which seeks to further colonize thousands of Negroes within a slum environment."²⁶ In the riots that followed King's 1968 assassination, the original tenement was damaged and eventually torn down. The land sat empty for decades until five years ago, when the Lawndale Christian Development Corporation opened the apartments. Even so, do forty-five decent homes, mostly subsidized, some market-rate—achieve King's dream?²⁷ Achieve integration? Achieve the purpose of the FHA?

The FHA's passage provided for enforcement mechanisms combatting housing discrimination though the federal enforcement power could be stronger. There are multiple government agencies that now investigate fair housing complaints and enforce both the FHA and local laws prohibiting housing segregation. There is also the option for aggrieved persons to file in court. There are federal regulations and HUD guidance elaborating on legal issues. There is a lot of power in the plain language of the statute that advocates rely upon to continue to enforce the law to its fullest extent.

C. Affirmatively Furthering Fair Housing and its Historical Lack of Enforcement

It took just 60 years—not even a lifetime—to divide communities in nearly every U.S. metropolitan area along racial lines.²⁸ It follows that any legal challenge must have the ability to do more than just remedy individual acts of housing discrimination. The FHA did more than just outlaw housing discrimination. It contained a powerful affirmative provision requiring that federal agencies and federal grantees further the purposes of the FHA. In discussing the fiftieth anniversary of the FHA it is essential to mention affirmatively furthering fair housing (AFFH).²⁹ Recipients of federal funds which includes housing authorities and municipalities, among others, have a mandate to not just refrain from engaging in housing discrimination, but also to be proactive in affirmatively furthering fair housing. HUD's largest program of grants to states, cities and towns has

delivered \$137 billion to more than 1,200 communities since 1974. To receive the money, localities are supposed to identify obstacles to fair housing, keep records of their efforts to overcome them, and certify that they do not discriminate. Despite existing since the passage of the FHA, the AFFH provision remains an unfulfilled promise. The new regulations adopted by the Obama administration have been undermined by the current administration.³⁰ Even with the rare opportunity to use the leverage of HUD's billions of dollars in funding to compel integration, the enforcement of the AFFH provision has been largely absent.

It was President Nixon's HUD secretary George Romney that first believed the mandate to affirmatively further fair housing gave "him the authority to pressure predominantly white communities to build more affordable housing and end discriminatory zoning practices."³¹ Romney ordered HUD officials to reject applications for water, sewer and highway projects from cities and states where local policies fostered segregated housing. It was an effective enforcement mechanism he named "Open Communities." Romney did not initially clear it with the White House. So Nixon shut it down. In the subsequent administrations, HUD officials and Presidents followed the same pattern as Nixon's showing a lack of political courage and will to achieve the always unpopular idea of integration.³² In 2018, AFFH still has the potential to be an effective tool and if the government with the support of housing advocates truly embraced its power, a lot of progress could be made to address the entrenched segregation that afflicts the nation. The AFFH provision on its face has the power to remedy many of the problems Rothstein describes in his book. If municipalities and local governments in receipt of federal funds today were engaging in exclusionary zoning, the unequal and discriminatory provision of affordable or public housing, redlining, and preventing homeownership for Blacks and Latinos as Rothstein described, they clearly would not be affirmatively furthering fair housing. In fact, that would be actively prohibiting fair housing. The potential is still there for enforcement of AFFH but it is underutilized. Fortunately, the passage of the FHA led to other local fair housing ordinances and other local opportunities to combat segregation.

II. IMPACT OF THE FAIR HOUSING ACT ON CHICAGO'S HOUSING LANDSCAPE—AN EXAMPLE

In Chicago and its surrounding metropolitan area, the impact of the FHA has been mixed when it comes to reversing the harm caused by private and government action in the decades leading up to its passage. The Chicago Housing Authority constructed public housing in a way that furthered segregation, saw white residents increasingly leave for the suburbs, and was a part of government efforts to deliberately segregate large urban areas. As Natalie Moore explains in her book *The South Side: A Portrait of Chicago and American Segregation*, once white flight began in the mid-twentieth century, “the chance of integrated neighborhoods greatly diminished” and public housing was “just one casualty of anti-integration forces.”³³ The Chicago region, fifty years later, is still known as one of the most segregated in the nation. For example, during the period from 2010 to 2014, the Chicago-Naperville-Elgin area’s segregation index was 76, which means that more than 76 percent of Black individuals would need to relocate to achieve integration.³⁴

There are also significant economic disparities among racial and ethnic groups in Chicago. As of 2016, 70.50% of Black families and 64.43% of Latinx families did not earn a living wage, compared with 34.03% of white families.³⁵ According to research conducted by the Urban Institute in 2018, in the Chicago metropolitan area, only 39.1 percent of Black households own their home compared with 74.1 percent of white households.³⁶ This is the largest gap between Black and white rates of ownership among the country’s largest metropolitan areas.³⁷

Despite the continued disparities that often are dictated by a person’s zip code, there has been progress in Chicago’s housing landscape. This progress includes the acknowledgment of the importance of housing mobility for low- and moderate-income individuals living in public housing or receiving government subsidies, efforts to expand fair housing protections at the local level, and developing a shared understanding of the importance of affirmatively furthering fair housing. The following are examples³⁸ of housing policies and practices that were impacted, either directly or indirectly, by the creation of federal protections from housing

discrimination.

A. The *Gautreaux* Litigation and Emergence of Housing Mobility and “Scattered Site” Housing

Perhaps one of the most famous housing cases in Chicago’s history did not involve the FHA directly but took place in a climate in which housing was being viewed through a different lens following the Act’s passage. In 1966, two years before the Fair Housing Act was signed into law, the *Gautreaux* class action lawsuits were filed against the Chicago Housing Authority and HUD, alleging violations of the Fourteenth Amendment to the U.S. Constitution and statutory violations.³⁹ The plaintiffs, who were Black public housing applicants or tenants, alleged discriminatory conduct by the government that was intended to maintain a racially segregated public housing system.⁴⁰ The conduct spanned a 15-year period from 1950 to 1965 in which public housing was purposely located in majority-Black neighborhoods of Chicago without locating similar housing in majority-white neighborhoods.⁴¹

The district court granted summary judgment for the plaintiffs in 1969, finding that the CHA had violated Sections 1981 and 1983 by engaging in racially discriminatory tenant assignment practices and site selection procedures.⁴² The court later issued an order requiring the CHA, among other things, to change the manner in which public housing was located and how tenants were assigned to public housing units, thereby affirmatively engaging in the administration of its public housing system “to the end of disestablishing the segregated public housing system [resulting] from CHA’s unconstitutional site selection and tenant assignment procedures.”⁴³ The concept of “scattered site” public housing was introduced as a result of this ruling.⁴⁴

The plaintiffs’ separate lawsuit against HUD was dismissed by the district court and the Seventh Circuit reversed and ordered the court to enter summary judgment for the plaintiffs.⁴⁵ The plaintiffs’ cases against the CHA and HUD were consolidated, and ultimately the question of whether a remedial order can extend to the greater Chicago metropolitan area was brought before the U.S. Supreme Court. In 1976, ten years after the original *Gautreaux* complaints were

filed and after slow progress was being made by the CHA to comply with the district court's 1969 order, the Court affirmed the judgment of the Seventh Circuit to remand the case to the district court, ruling that past discriminatory conduct could be remedied by considering the Chicago metropolitan area rather than the City of Chicago alone.⁴⁶

Following the Court's ruling, a consent decree was entered into between the *Gautreaux* plaintiffs and HUD.⁴⁷ As a result of the consent decree, more than 7,000 families were able to relocate through the Gautreaux Assisted Housing Program, with over half of the families moving to majority-white suburbs.⁴⁸ More than 2,000 scattered site housing units were built during the next several decades, although it required the appointment of a receiver by the district court in 1987 get the process going.⁴⁹

Although the *Gautreaux* litigation did not involve claims under the FHA, the goals of the lawsuits were directly related to the purpose of the FHA in prohibiting discrimination in housing on the basis of race and other protected classes.⁵⁰ Other programs, such as Moving to Opportunity in the mid-1990s,⁵¹ were created as a result of the success of the Gautreaux Assisted Housing Program, and tens of thousands of lives were impacted because of the litigation.

Gautreaux is one example in one city of the idea of "Moving to Mobility," an actual program of the Clinton administration in the 1990s that was not as expansive as the Chicago program but was designed to provide aid to allow some families to move to the suburbs though others had to stay where they were. Research supports that each year a child spends in a zip code with more opportunity leads to better life outcomes.⁵² Though many have benefited from mobility programs, "[m]any people, both Black and white, are less than enchanted with government efforts at integration that they regard as unwelcome social engineering."⁵³ Despite the available laws and litigation efforts the lesson from *Gautreaux* is it will take buy-in by communities and the desire for integration for it to truly be achieved.

B. Expansion of Local Fair Housing Protections Through the Chicago Fair Housing Ordinance and Cook County Human Rights Ordinance

In the years after the Fair Housing Act became law, the City of Chicago and Cook County expanded local fair housing protections to residents through the Chicago Fair Housing Ordinance⁵⁴ and Cook County Human Rights Ordinance, respectively.⁵⁵ These ordinances enabled individuals who faced discrimination apart from the seven protected bases covered under federal law, particularly those with alternate sources of income, to seek relief.

The Chicago Fair Housing Ordinance was adopted by the Chicago City Council on September 11, 1963, five years before the Fair Housing Act was passed.⁵⁶ The ordinance prohibited “real-estate brokers to discriminate on account of race, color, religion, national origin or ancestry in the sale, rental or financing of residential property in the city” which included the practice of “panic peddling,” or inducing the sale of property from white owners due to the loss of the property’s value from the actual or impending arrival of Black residents in the neighborhood.⁵⁷ Members of Chicago’s real estate industry challenged the constitutionality of the Chicago Fair Housing Ordinance in *Chicago Real Estate Board v. Chicago*.⁵⁸ In 1967, the Illinois Supreme Court upheld the ordinance, finding that the City of Chicago had the authority to adopt the ordinance and its restrictions on real-estate brokers did not violate the due process or equal protection clauses of the Constitution.⁵⁹

A 1968 Annual Report⁶⁰ of the City of Chicago Commission on Human Relations found that the city’s fair housing protections were greater than the federal law after the ordinance was amended to apply to “[e]very holder of and agent for housing and residential real estate,” which included private owners and sellers as well as real estate brokers. The report also referenced an increase in the number of complaints that were investigated by the Commission to 185 complaints.⁶¹

The federal Fair Housing Amendments Act was passed in 1988 and strengthened enforcement mechanisms and added disability and familial status as protected classes under the Fair Housing Act.⁶² In 1990, significant amendments were

made to the Chicago Fair Housing and Human Rights Ordinances, including an expansion of the Chicago Commission on Human Relations' enforcement powers.⁶³ At this time, the Chicago Fair Housing Ordinance had 13 protected classes: race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, and source of income.⁶⁴

Three years later, on March 16, 1993, the Cook County Board of Commissioners adopted the Cook County Human Rights Ordinance, which "prohibits [housing] discrimination when they are based upon a person's race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status."⁶⁵

The City of Chicago Commission on Human Relations and the Cook County Commission on Human Rights have a shared understanding that housing discrimination cases occurring within the City of Chicago and alleging discrimination on account of the same protected classes will be investigated by that city's agency and not by the County's agency.⁶⁶

In 2015, the City of Chicago Commission on Human Relations issued a report celebrating 25 years after the 1990 amendments to Chicago Human Rights Ordinance, which includes the Chicago Fair Housing Ordinance.⁶⁷ That year, 86 housing discrimination complaints were filed, the majority of which were for source of income discrimination.⁶⁸ According to the Commission's 2016 Annual Report, 61 housing discrimination complaints were filed and 36 of those complaints alleged source of income discrimination.⁶⁹

The Fair Housing Act may be the law of choice to file housing discrimination complaints, but its coverage is limited to seven protected classes: race, color, sex, religion, national origin, disability, and familial status.⁷⁰ In Chicago and Cook County, the ability for individuals to file complaints on account of source of income discrimination, sexual orientation, and other protected classes is a reflection of the importance of furthering fair housing in the region. It is difficult to ignore, however, that the number of complaints filed with these agencies appears to be far lower than the incidences of discrimination given the region's long history of segregation and discrimination. One reason for the discrepancy between

the number of complaints filed and the incidences of discrimination is that would-be complainants are deterred by the limited enforcement options available when filing with local Commissions. For example, fines for violations of the Chicago Fair Housing Ordinance do not exceed \$1,000 and the majority of rulings on fair housing cases by the Board of Commissioners of the Chicago Commission on Human Relations did not include injunctive relief.⁷¹ There is also no private right of action for violations of the Chicago Fair Housing Ordinance⁷² and thus no recourse for complainants whose cases are dismissed by the Chicago Commission on Human Relations and cannot file their complaints in another forum.

C. The City of Chicago's Plan for Transformation and the Expansion of the Housing Choice Voucher Program

While the *Gautreaux* litigation gave rise to housing mobility and “scattered site” public housing, the lives of the people who resided in public housing in Chicago were significantly impacted by the CHA’s Plan for Transformation at the turn of the 21st century.⁷³ However, what has emerged in the nearly two decades following the agency’s decision to demolish 17,000 public housing units and build new, mixed-income housing and issue Housing Choice Vouchers (“HCV”) is a significant gap in the availability of affordable housing compared with the growing demand by low- and moderate-income families.⁷⁴ That gap has allowed segregation patterns to continue by limiting where families, and often families of color, can live. Furthermore, rampant discrimination against HCV holders is an issue that cannot be ignored and is an incarnation of historical problems in a different form despite governmental efforts. While it is helpful in theory that source of income discrimination can be enforced at the local level, it is a not protected class under the federal Fair Housing Act, despite the high percentage of residents of color who participate in the HCV program and implications of race and national origin discrimination. But race discrimination and voucher holder discrimination are inextricably linked.

Decades before the Plan for Transformation was implemented, the “Section 8” voucher program was created follow-

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ing the passage of the Housing and Community Development Act of 1974, with an objective of replacing the construction of public housing with a market-based subsidy program.⁷⁵ Through this program, tenants pay no more than 30 percent of their adjusted monthly income for rent while the rest of the rent payment is subsidized by the federal government.⁷⁶ Today, the program is commonly referred to as the HCV Program and more than 5 million people in over 2.2 million families nationwide participate in the program.⁷⁷ In Chicago, the program is administered by the Chicago Housing Authority, and in Cook County (outside of Chicago), the program is administered by the Housing Authority of Cook County.⁷⁸

More than a decade after the Plan for Transformation came into effect, research on the residents impacted by the demolition of 17,000 units of public housing showed that while some residents lived in better-quality housing, others still lived in racially segregated neighborhoods, on the West and South Sides of Chicago, where there are safety concerns.⁷⁹ During this time, the number of participants in the HCV Program also dramatically increased (from over 25,000 in 1999 to nearly 38,000 in 2011).⁸⁰ As of the end of 2016, this number climbed to nearly 47,000, and there are approximately 40,000 names on the waitlist, which CHA closed or that number likely would have been even higher.⁸¹ The vast majority, or 87 percent, of HCV participant heads of households in Chicago are Black.⁸²

A primary objective of the HCV Program is for participants to use the vouchers to rent units in the private market that otherwise may not be available to them.⁸³ However, housing affordability affects where HCV holders can actually use the voucher, because many properties in Chicago charge rents that are above the CHA's payment standard.⁸⁴ For example, as of 2018, HCV participants can afford to rent only 26 percent of properties located in Chicago's eight centrally-located Community Areas.⁸⁵ In Cook County, there is an "affordability gap" of approximately 182,000 units, which is defined as the "difference between the demand for affordable rental housing by lower-income households . . . and the supply of units that would be affordable at 30 percent of a lower-income household's income."⁸⁶

Attempts to construct affordable housing in Chicago have

been, and continue to be, met with heavy resistance by community members, particularly in areas that have a majority-white population. For example, in 2017, a proposal was announced by northwest-side Alderman John Arena for a seven-story residential development in the Jefferson Park neighborhood which comprised of 80 units offered at affordable rents, 20 of which would be reserved for CHA voucher-holders.⁸⁷ This proposal previously had been rejected in another Ward of Chicago as a result of community opposition, and such opposition was made clear here by several of the majority-white residents in the area.⁸⁸ Ultimately, in 2018, the development did not receive the low-income housing tax credits it needed to be fully funded and the proposal was amended to reduce the total number of units and the number of family-sized units.⁸⁹ This is one of several examples in which opposition to the construction of affordable housing can hinder racial and ethnic integration in Chicago neighborhoods. Even if voucher-holders were able to rent more units in the City of Chicago and Cook County, source of income discrimination, which includes discrimination against HCV holders, occurs on a frequent, if not daily, basis.⁹⁰ Source of income is a protected class under both the Chicago Fair Housing Ordinance (since 1990) and the Cook County Human Rights Ordinance (since 1993, and for voucher-holders since 2013),⁹¹ but it is not a protected class under the FHA. As a result, residents of Chicago and suburban Cook County who have been discriminated against on this basis must file their complaints with a local agency. However, the time frame to file these complaints is only 180 days of the alleged discriminatory conduct, compared with one year to file with HUD and the Illinois Department of Human Rights, and investigations of such local complaints can exceed one year.⁹²

As more Chicago residents participate in the HCV program, further research is needed regarding voucher-holders who experience source of income discrimination and whether they are aware of their fair housing rights under the local Ordinances. Given the lack of availability of the federal Fair Housing Act as a resource, it is essential for HCV participants to be aware of their rights and to file complaints when they experience discrimination. The tie between race discrimination and voucher holder discrimination is

undeniable. Though legal advocates can use a theory under both protected classes, the FHA should be amended to include HCV participants as a protected class as it has emerged as a proxy for race and a modern form of discrimination.

More money and resources need to be provided for housing mobility programs and pilot projects that can pinpoint the best strategies for residential integration while at the same time discrimination against HCV participants must be enforced and prevented.

D. The Connection Between Housing and Education Segregation

It is becoming increasingly important in the fair housing narrative to consider the connection between housing and other opportunities such as employment, transportation, and health. Fair housing efforts can have a ripple effect. In reflecting on the fifty years since the FHA's passage, the connection between fair housing and education segregation is clear and the legal attempts by many to dismantle segregation are undoubtedly related. Since housing location invariably determines school location, segregated neighborhoods inevitably lead to segregated schools. But the idea of school "choice" and the growing number of charter schools in many states has eroded the idea of the neighborhood school.⁹³ Chicago is a good example where public schools, including charter schools, are highly segregated. Public school closings have disproportionately affected Black students in Chicago.⁹⁴ The pervasive idea that neighborhoods are segregated because of where people personally choose to live feeds the myth that people intentionally seek to attend school with others of their same race or ethnicity. Despite the documented benefits of integration in schools as well as integration in housing, there is continued resistance to both, demonstrated by a lack of political and legal will.⁹⁵

In the *Parents Involved in Community Schools v. Seattle School Dist. No. 1* case that addressed whether Seattle schools could use maintaining racial diversity as a factor for school assignment in a "tiebreaker situation," Chief Justice Roberts wrote in the plurality opinion that "[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race."⁹⁶ The Court held that the "tiebreaker

scheme” was not narrowly tailored.⁹⁷ In that memorable sentence, Chief Justice Roberts encapsulated the idea that it is not acceptable to talk about race or use race as a factor in decision making, even if the goal is to achieve integration and its benefits, or even if the goal is to desegregate public schools that have slowly re-segregated in this country. But stopping housing and education discrimination is not possible without naming race.⁹⁸ The idea that race must be removed from the equation does not address the lessons learned in the fifty years since the FHA’s passage.

The law must embrace integration as a goal and name the historical effects of governmental racial segregation as a force that still influences our neighborhoods and school populations today. Remediating past discrimination is and should be a compelling enough reason for schools to adopt race-conscious policies.

III. THE FUTURE OF FAIR HOUSING IN CHICAGO AND BEYOND: WHERE WE GO FROM HERE

Half a century after the FHA was signed into law, there is growing uncertainty regarding the Act’s long-term effectiveness, especially in light of recent actions taken by the current HUD administration, from suspending the implementation of the 2015 Affirmatively Furthering Fair Housing final rule to reconsidering its 2013 final rule implementing the FHA’s disparate impact standard. Such actions may result in lasting changes to federal housing policy that stall or possibly reverse progress made by previous HUD administrations to further fair housing across the nation.

For fair housing advocates, however, the objectives of protecting people from housing discrimination and affirmatively furthering fair housing remain as important as ever. This Part discusses the developments that have occurred under the current HUD administration and actions being taken by advocates in the Chicago region to continue the work that remains as critical as when housing discrimination became protected under federal law fifty years ago.

A. HUD's Changes in Approach to its Affirmatively Furthering Fair Housing Rule and Disparate Impact Rule

Over the past year, the current HUD administration has taken several actions which reflect a stark contrast to housing policies advanced in the previous administration. In July 2015, HUD published its final rule on Affirmatively Furthering Fair Housing, which “provides HUD program participants with an approach to more effectively and efficiently incorporate into their planning processes the duty to affirmatively further the purposes and policies of the Fair Housing Act.”⁹⁹ The rule outlined the process for Assessments of Fair Housing as a replacement for the Analysis of Impediments process, which “ha[d] not been as effective as originally envisioned.”¹⁰⁰ That same year, the U.S. Supreme Court decided *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.* and affirmed that disparate impact claims were cognizable under the FHA.¹⁰¹

In January 2018, HUD issued a notice stating that it was extending the deadline for local governments to submit an Assessment of Fair Housing (“AFH”) until after October 2020.¹⁰² This action meant that some federal funding recipients would not be required to submit an AFH until as late as 2024 or 2025.¹⁰³ A few months later, in May 2018, the agency issued a notice stating that it had withdrawn the Local Government Assessment Tool which was being used to conduct and submit AFHs.¹⁰⁴ HUD also withdrew the January 2018 notice extending the deadline for submission of AFHs and issued a separate notice referring to the “pre-existing requirements” of conducting an analysis of impediments to fair housing choice.¹⁰⁵

A few weeks before HUD's May 2018 notices were issued, the National Fair Housing Alliance and two Texas-based organizations filed a federal complaint against HUD for violations of the Administrative Procedure Act.¹⁰⁶ Specifically, the plaintiffs alleged that HUD did not follow a notice-and-comment procedure, engaged in “arbitrary and capricious” conduct, and “abdicated its statutory responsibilities” when it issued the January 2018 notice and suspended the AFFH rule's requirements.¹⁰⁷ The plaintiffs later amended

their complaint to incorporate the May 2018 notices and filed a motion for preliminary injunction to rescind the May 2018 notices and reinstate the Local Government Assessment Tool.¹⁰⁸

In August 2018, HUD issued an Advance Notice of Proposed Rulemaking inviting public comment on amendments to the AFFH regulations.¹⁰⁹ That same month, the district court dismissed the plaintiffs' complaint against HUD for lack of standing because the plaintiffs did not demonstrate that their "mission-driven activities were perceptively impaired" or that they "have had to divert resources to counteract the withdrawal of the [local government assessment tool]."¹¹⁰ It is unclear whether additional litigation will be filed to challenge HUD's suspension of the AFFH final rule.¹¹¹

Earlier in 2018, HUD issued an Advance Notice of Proposed Rulemaking relating to possible amendments to its 2013 final rule implementing the FHA's disparate impact standard following the U.S. Supreme Court's 2015 ruling in the *Inclusive Communities* case.¹¹² HUD had been sued by the American Insurance Association and other homeowner's insurance trade associations in 2013 for violations of the Administrative Procedure Act.¹¹³ The case was remanded by the U.S. Court of Appeals for the District of Columbia Circuit in 2015 in light of the *Inclusive Communities* ruling and litigation has been stayed to allow HUD to consider public comment in response to its June 2018 Advanced Notice of Proposed Rulemaking.¹¹⁴

Two of the more recent developments that were cause for celebration in the last few years have been quickly stalled and reversed by the new administration despite long-standing efforts of fair housing advocates. It follows a familiar pattern of forward progress and backward movement in the history of the FHA and illustrates the power of federal government roadblocks. The fight will continue.

B. Actions Taken by Local Organizations to Further Fair Housing and Address Segregation

Notwithstanding the current HUD administration's actions regarding the Affirmatively Furthering Fair Housing and disparate impact rules and the uncertainty regarding the future of these rules, local non-profit organizations and

government agencies in Chicago are working together to further fair housing and address the longtime segregation among racial and ethnic groups that continues to hinder economic and social progress for the city and the metropolitan area.

In 2017, Metropolitan Planning Council (“MPC”), a non-partisan, nonprofit organization focused on the growth of the greater Chicago region, released a report titled “The Cost of Segregation” that identified increases in income for Black residents in the Chicago region by an average of \$2,892 per person and the gross domestic product by \$8 billion, among other figures, if levels of economic and Black-white segregation were reduced to the national median.¹¹⁵ The following year, MPC released a roadmap titled “Our Equitable Future” and proposed a number of policy recommendations with respect to “[b]uilding inclusive housing [and] neighborhoods” that would advance racial equity, including: (1) Lessen local control over affordable housing decisions; (2) Conduct a regional assessment of fair housing; (3) Assess the impact of new and proposed development; (4) Property tax relief for affordable units across a range of neighborhoods; (5) Increase housing options by increasing CHA voucher subsidies; (6) Reform unfair, inaccurate Cook County property tax assessments; (7) Expand homeownership opportunities; and (8) Ensure affordable units are leased to those most in need.¹¹⁶

Regional organizations such as the Chicago Area Fair Housing Alliance agree with MPC’s recommendation that an AFH should be conducted for the Chicago region and are in communication with local government agencies regarding the development of the AFH. Furthermore, the Chicago Metropolitan Agency for Planning (“CMAP”) has identified in its draft “On to 2050 Comprehensive Regional Plan” a “lack of sufficient housing options” as a contributing factor to concentrated poverty and segregation in the region. CMAP recommends that the regional and local housing supply be matched with the types of housing that residents want as demographics and the type and location of housing change.¹¹⁷

The City of Chicago has acknowledged the importance of preserving affordable housing, increasing levels of homeownership, and avoiding displacement, among other objectives, and is preparing the next Five-Year Housing Plan for 2019-2023 to address them.¹¹⁸ The current administration has

introduced a number of housing-related initiatives including creating a separate Department of Housing, which currently is included within the city's Department of Planning and Development, and providing up to \$60,000 in purchasing assistance to eligible homebuyers.¹¹⁹

The policy recommendations and initiatives referenced above are just some examples of the local efforts being undertaken in the Chicago region to address racial and ethnic segregation and develop neighborhoods that are more equitable and prosperous for all residents.

C. A Return to Still Available Claims Under 42 U.S.C. Section 1982

In his book, Rothstein links governmental actions promoting segregation with the Thirteenth Amendment and the relics of slavery prohibition. In 2018, most Americans understand that prejudice and mistreatment of Black people did not develop out of thin air and that stereotypes and attitudes behind racial discrimination have their origins in the system of slavery.¹²⁰ Therefore if the government did not just allow housing segregation but actively promoted it, it failed to abide by the Thirteenth Amendment's prohibition of slavery and its relics.¹²¹ In *Jones v. Mayer*, the U.S. Supreme Court agreed with this interpretation and revived the power of the Thirteenth Amendment and a law passed pursuant to it, 42 U.S.C. § 1982, to redress racial housing discrimination.¹²² In that case, the Court held that Section 1982 banned all racially-based discrimination in the sale or rental of real or personal property, and that the Thirteenth Amendment of the U.S. Constitution had empowered Congress to prohibit private, as well as state-sanctioned, racial discrimination of this type.¹²³ Two months before the Supreme Court announced its ruling, Congress adopted the FHA which provided for civil enforcement.

Because of the timing, which Rothstein refers to as an "historical accident," many people, including civil rights advocates, have largely failed to pay much attention to the *Jones* decision.¹²⁴ It has been the FHA, and not Section 1982, that has been used to challenge housing discrimination. But that loses sight of the fact that housing discrimination had actually been outlawed since 1866. The mixed progress of using the FHA suggests that advocates should use other

legal avenues available to them and revisit *Jones v. Mayer* to determine whether it could be an effective avenue to argue against housing discrimination. Certainly, it makes the pre-1968 landscape even more problematic if housing discrimination was outlawed that entire time. But it is not clear from the decision whether discriminatory acts prior to the 1968 opinion could be brought under Section 1982.¹²⁵

D. Beyond Chicago: Recent Integration Attempts in Houston and New Orleans and Similar Challenges

In recent years, it is often in the aftermath of natural disasters that federal funds pour into a municipality. With that outpouring comes the opportunity to change public housing patterns, change segregation, and possibly move a city closer towards integration. Furthermore, with the opportunity to build more affordable housing comes the opportunity to affect where that housing will be constructed. After Hurricane Katrina devastated New Orleans in 2005, the local and federal government got a head start on plans already in place to demolish public housing despite an increased need for affordable housing after the storm displaced thousands of primarily Black New Orleans residents. The government's goal was familiar: get rid of old traditional public housing and replace it with a mixed-income development "to deconcentrate poverty and give lower-income residents a better place to live—a goal that has been met with only partial success."¹²⁶ Former public housing residents brought suit and claimed that the actions of HUD and the Housing Authority of New Orleans to demolish four of New Orleans' largest public housing developments were taken with the intent to rid New Orleans of some of its poor Black residents.¹²⁷

As in Chicago, the HCV Program in New Orleans has failed to be a suitable replacement for the loss of public housing in the city. Many landlords discriminated against voucher-holders by refusing to accept vouchers. There was not a suitable amount of housing stock available for tenants to rent. What was an opportunity for integration and attacking entrenched segregation became government reinforcement of the same discriminatory patterns that we have seen for decades. There are different actions the city could have taken to promote fair housing instead of furthering

segregation.¹²⁸

Similarly, when Houston suffered through Hurricane Ike in 2008 and then more recently Harvey in 2017, there was an influx of federal housing funds. In 2011, the Houston Housing Authority learned that it would be receiving a substantial amount of money. But of the \$45 million the agency eventually received from HUD, it has managed to build just 154 units of affordable housing that cost \$12 million.¹²⁹ Originally proposed housing projects and developments in areas that already had high levels of segregation and poverty were blocked because fair housing advocates argued that they would only perpetuate segregation. Support from HUD under the Obama administration made it a slightly easier fight. However, proposals to build the same housing in wealthier areas were met with strong community opposition and struck down by local politics. “Residents said they worried about more traffic, overcrowded schools, decreasing property values and crime if subsidized apartments went up in their neighborhoods.”¹³⁰ Those reasons will sound familiar to any advocate supporting affordable housing developments in wealthier areas or even HCV holders attempting to move into higher-income areas. But the resistance meant that money available to build much needed affordable housing instead sat unused as building costs continued to increase.

After Hurricane Harvey caused even more structural damage to housing there will be more of a struggle over how the federal funds for rebuilding are used. Houston’s housing department does hope to do better with the larger amount of funds received after Harvey. As its department director said, “Residents have a right to stay in communities where they’ve grown up, but they also have the right to choose to move to other neighborhoods that maybe have better schools or are closer to their jobs. Harvey is now the opportunity to execute on the promise that for a long time has been denied to some of these neighborhoods and residents.”¹³¹ With the right amount of political will, that promise can be a reality but that is often the obstacle to remedying segregation. The cost of segregation is already too high.

CONCLUSION

The most recent U.S. Supreme Court term did not contain

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a major fair housing decision or a release of any long-awaited regulations. In fact, the current HUD administration instead rolled back previous progress and protections. But it did contain an important milestone in the fiftieth anniversary of the passage of the Fair Housing Act. That milestone provides an opportunity for important reflection on the history of the government's role in actively promoting segregation. Resistance to integration after the Civil Rights Movement continues to be strong. Progress must continue in order for goals of Dr. King and the FHA to be realized. In Chicago, like in other cities across the nation, advocates are ready and willing. But the question remains whether creative legal challenges, policy advocacy, or both, will be an effective route to change. Racial segregation in housing is extremely hard to undo given its replication by generations, and in the current era of neutral policies, the government continues to do harm. It is clear that the government must be explicit about remedying housing segregation in order to reverse it. Quality of life and access to opportunity in this country should not be often determined by one's zip code. Fifty years from now, that could be the case. But it cannot happen without smart advocacy and sufficient political will.

NOTES:

¹In this Article, references to the Federal Housing Administration will include the full name of the agency while references to the federal Fair Housing Act often will include the acronym.

²Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*. New York: Liveright Publishing Corporation, 2017.

³Glen Thrush, "Under Ben Carson, HUD Scales Back Fair Housing Enforcement," *N.Y. Times*. Mar. 28, 2018, <https://www.nytimes.com/2018/03/28/us/ben-carson-hud-fair-housing-discrimination.html> (last accessed Sept. 18, 2018).

⁴Bernadette Atuahene, "Our Taxes Are Too Damn High": Institutional Racism, Property Tax Assessments, and the Fair Housing Act, 112 *Nw. U.L. Rev.* 1501, 1516 (2018).

⁵Richard Rothstein, "The Making of Ferguson: Long before the shooting of Michael Brown, official racial-isolation policies primed Ferguson for this summer's events." *The American Prospect*. Oct. 15, 2014, <http://prospect.org/article/making-ferguson-how-decades-hostile-policy-created-powder-keg> (last accessed Sept. 18, 2018).

⁶576 U.S. ___, 135 S.Ct. 2507, 2015 WL 2473449 (2015).

⁷Rothstein, *supra* note 2.

⁸J. William Callison, From the Reading Room “The Color of Law: A Forgotten History of How Our Government Segregated America.” 26 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 5 (2017).

⁹Rothstein, *supra* note 2, at Preface p. VIII.

¹⁰*Id.* at 5.

¹¹*Id.* at 13–14, 24–30.

¹²*Id.* at 13.

¹³*Id.* at 24.

¹⁴*Id.* at 30.

¹⁵*Id.* at 39.

¹⁶*Id.* at 34.

¹⁷*Buchanan v. Warley*, 245 U.S. 60 (1917) involved a white owner who attempted to sell to a Black individual on a block where there were already two Black and eight white households making the sale prohibited by the ordinance. The Court relied on the idea that the central purpose of the Fourteenth Amendment was to protect the freedom of contract. It ruled that racial zoning ordinances interfered with the right of a property owner to sell to the person of his choice. Many ignored the decision or tried to argue that racial zoning ordinances even slightly different than the one at issue in *Buchanan* were permitted.

¹⁸Rothstein, *supra* note 2, at 48.

¹⁹*Id.* at 53.

²⁰*Id.* at 50.

²¹*Id.* at 153–54.

²²It is important to note that discrimination in mortgage lending was not fully outlawed by the FHA but instead by the Equal Credit Opportunity Act in 1974 and Community Reinvestment Act in 1977.

²³*Id.* at 64.

²⁴Callison, *supra* note 8. The article describes the additional Rothstein themes of state sponsored violence, white flight, and the construction of housing developments such as the Levittown Homes.

²⁵David Bernstein, “The Longest March,” CHI. MAGAZINE. July 25, 2016, <http://www.chicagogmag.com/Chicago-Magazine/August-2016/Martin-Luther-King-Chicago-Freedom-Movement/> (last accessed Sept. 18, 2018).

²⁶Mary Schmich, “MLK’s legacy in Lawndale a work in progress,” CHI. TRIBUNE. Jan. 26, 2016, <http://www.chicagotribune.com/news/columnists/schmich/ct-lawndale-martin-luther-king-mary-schmich-met-0126-20160126-column.html> (last accessed Sept. 15, 2018).

²⁷*Id.*

²⁸Nikole Hannah-Jones, “Living Apart: How the Government Betrayed

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a Landmark Civil Rights Law,” ProPublica, June 25, 2015, <https://www.propublica.org/article/living-apart-how-the-government-betrayed-a-landmark-civil-rights-law> (last accessed Sept. 15, 2018).

²⁹Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. For further information see Title VIII of the Civil Rights Act of 1958, 42 U.S.C. § 3608 and Executive Order 12892. *See also* “Affirmatively Furthering Fair Housing (AFFH)” <https://www.hudexchange.info/prgrams/affh> (last accessed Sept. 23, 2018).

³⁰Kriston Kapps, “The Trump Administration Just Derailed a Key Obama Rule on Housing Segregation,” CityLab, January 4, 2018, <https://www.citylab.com/equity/2018/01/the-trump-administration-derailed-a-key-obama-rule-on-housing-segregation/549746/> (last accessed Sept. 18, 2018).

³¹Nikole Hannah-Jones, *supra* note 28.

³²*Id.* In a 1972 “eyes only” memo to Ehrlichman and H.R. Haldeman, another aide, Nixon explained his position. “I am convinced that while legal segregation is totally wrong that forced integration of housing or education is just as wrong.” ProPublica could find only two occasions since Romney’s tenure in which the department withheld money from communities for violating the Fair Housing Act. In several instances, records show, HUD has sent grants to communities even after they’ve been found by courts to have promoted segregated housing or been sued by the U.S. Department of Justice. New Orleans, for example, has continued to receive grants after the Justice Department sued it for violating that Fair Housing Act by blocking a low-income housing project in a wealthy historic neighborhood.

³³Natalie Y. Moore, *The South Side: A Portrait of Chicago and American Segregation*. New York: St. Martin’s Press, 2016, at 63.

³⁴William H. Frey, “Census Shows Modest Declines in Black-White Segregation.” Excel Table, Brookings Inst., Dec. 8, 2015.

³⁵Alden Loury, “More than half of Chicago family households do not earn a living wage.” Met. Planning Council, June 28, 2018, <http://www.metroplanning.org/news/8593/More-than-half-of-Chicago-family-households-do-not-earn-a-living-wage> (last accessed Sept. 13, 2018).

³⁶Alanna McCargo and Sarah Stochak. “Mapping the Black homeownership gap.” Urban Inst., Feb. 26, 2018, <https://www.urban.org/urban-wire/mapping-Black-homeownership-gap> (last accessed Sept. 13, 2018).

³⁷*Id.*

³⁸While there have been countless changes to housing policy over the course of the 50 years since the Fair Housing Act’s passage, this Part focuses on areas that have been, or could be, of particular interest in Chicago to fair housing advocates and supporters.

³⁹*Hills v. Gautreaux*, 425 U.S. 284, 286 (1976); The Gautreaux Lawsuit, BPI, 2018, <https://www.bpichicago.org/programs/housing-community-development/public-housing/gautreaux-lawsuit/> (last accessed Sept. 13, 2018).

⁴⁰*Hills*, 425 U.S. at 286; *Gautreaux v. Chi. Hous. Auth.*, 296 F. Supp. 907, 908 (N.D. Ill. 1969).

⁴¹*Hills*, 425 U.S. at 286.

⁴²*Gautreaux*, 296 F. Supp. at 909–10, 914.

⁴³*Gautreaux v. Chi Hous. Auth.*, 304 F. Supp. 736, 740–42 (N.D. Ill. 1969).

⁴⁴The *Gautreaux Lawsuit*, BPI.

⁴⁵*Hills*, 425 U.S. at 289; *Gautreaux v. Romney*, 448 F.2d 731, 740–41 (7th Cir. 1971).

⁴⁶*Hills*, 425 U.S. at 305–06; The *Gautreaux Lawsuit*, BPI.

⁴⁷*Gautreaux v. Landrieu*, 523 F. Supp. 665, 672–82 (N.D. Ill. 1981).

⁴⁸The *Gautreaux Lawsuit*, BPI; McRoberts, Flynn. “*Gautreaux Housing Program Nears End.*” *Chi. Tribune*, Jan. 12, 1996, (<http://www.chicagotribune.com/news/ct-xpm-1996-01-12-9601120040-story.html>) (last accessed Sept. 13, 2018); Alana Semuels, “*Is Ending Segregation the Key to Ending Poverty?*.” *The Atlantic*, Feb. 3, 2015, <https://www.theatlantic.com/business/archive/2015/02/is-ending-segregation-the-key-to-ending-poverty/385002/> (last accessed Sept. 13, 2018).

⁴⁹The *Gautreaux Lawsuit*, BPI; Ziemba, Stanley and Joel Kaplan. “*Receiver Named for CHA’s Scattered Sites.*” *Chi. Tribune*, Aug. 4, 1987, <http://www.chicagotribune.com/news/ct-xpm-1987-08-04-8702260960-story.html> (last accessed Sept. 13, 2018).

⁵⁰Fair Housing Act, 42 U.S.C. §§ 3601 et. seq.

⁵¹Semuels, “*Ending Segregation*”; “*Moving to Opportunity for Fair Housing.*” U.S. Dep’t of Housing and Urban Development. <https://www.hud.gov/programdescription/mto> (last accessed Sept. 13, 2018); *see generally* Raj Chetty, et al. “*The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment.*” Harvard University and NBER, Aug. 2015, https://scholar.harvard.edu/files/hendren/files/mto_paper.pdf (last accessed Sept. 13, 2018).

⁵²*See* Chetty, *supra* note 51.

⁵³Clyde Haberman, “*Housing Bias and the Roots of Segregation.*” *New York Times*, Sept. 18, 2016. <https://www.nytimes.com/2016/09/19/us/housing-bias-and-the-roots-of-segregation.html> (last accessed Sept. 15, 2016).

⁵⁴The Chicago Fair Housing Ordinance is a component of the Chicago Human Rights Ordinance, which references other types of discrimination that are protected under the Ordinance. This Part focuses on the Chicago Fair Housing Ordinance with occasional references to the broader ordinance.

⁵⁵This Section focuses on local agencies, although it is worth noting that the Illinois Human Rights Act, which was passed in 1980, protects Illinois residents, including residents of Chicago from housing discrimination with respect to real estate transactions. *See* 775 ILCS 5, Art. 3, <http://>

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www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=077500050HArt.+3&ActID=2266&ChapterID=64&SeqStart=1200000&SeqEnd=2100000 (last accessed Sept. 13, 2018).

⁵⁶“Analysis of Impediments to Fair Housing Choice.” Applied Real Estate Analysis, Inc., Feb. 16, 2016, at 16.

⁵⁷*Chi. Real Estate Bd. v. Chi.*, 36 Ill. 2d 530, 533 (Ill. 1967).

⁵⁸*Id.*

⁵⁹*Id.* at 555–56.

⁶⁰City of Chicago Commission on Human Relations (“CCHR”) Annual Report, 1968, <https://www.cityofchicago.org/content/dam/city/depts/cchr/AnnualReports/1968AnnualReport.pdf>.

⁶¹*Id.*

⁶²Michael H. Schill and Samantha Friedman. “The Fair Housing Amendments Act of 1988: The First Decade.” Cityscape, U.S. Dep’t of Housing and Urban Dev’t, 1999, at 57.

⁶³CCHR Annual Report, 2015, https://www.cityofchicago.org/content/dam/city/depts/cchr/supp_info/2015AnnualReport.pdf. (“These powers included the authority to hold administrative hearings, issue subpoenas, and award monetary damages, injunctive relief, and attorney’s fees.”).

⁶⁴A 14th protected class, gender identity, was added in 2002. CCHR Annual Report, 2015.

⁶⁵Human Rights Ordinance and Regulations, Cook County Government, 2018, <https://www.cookcountyil.gov/service/human-rights-ordinances-and-regulations> (last accessed Sept. 13, 2018); Cook County Human Rights Ordinance, Introduction, <https://www.jmls.edu/clinics/fairhousing/pdf/cook-county-human-rights-ordinance.pdf> (last accessed Sept. 13, 2018).

⁶⁶“Explanation of the Relationship between the Cook County Commission on Human Rights and the City of Chicago Commission on Human Relations,” City of Chi. Comm’n on Human Relations, July 2009, <https://www.cityofchicago.org/content/dam/city/depts/cchr/AdjSupportingInfo/AdjFORMS/CookCountyCommissionExplanationofRelationship.pdf> (last accessed Sept. 13, 2018).

⁶⁷CCHR Annual Report, 2015.

⁶⁸*Id.*

⁶⁹CCHR Annual Report, 2016, https://www.cityofchicago.org/content/dam/city/depts/cchr/supp_info/2016AnnualReportFINAL.pdf (last accessed Sept. 13, 2018).

⁷⁰42 U.S.C. § 3604.

⁷¹Chi. Mun. Code § 5-8-130; *see* CCHR Board Rulings Digest through Feb. 2018 for a list of awards in housing discrimination cases. While compensatory and punitive damage awards have been issued by the Board of Commissioners, only a small number of complaints that are filed each year reach the Board rulings stage.

⁷²Chi. Mun. Code § 5-8-070. The Cook County Human Rights Ordinance includes a private right of action, but Chicago residents alleging discriminatory conduct covered by the Chicago Fair Housing Ordinance may not file complaints with the Cook County Commission on Human Rights. See Cook County Code of Ordinances § 42-32(d); “Explanation of the Relationship between the Cook County Commission on Human Rights and the City of Chicago Commission on Human Relations,” *supra* note 66.

⁷³See Moore, *supra* note 33, at 67–73 for a discussion of the Plan for Transformation and public housing residents’ concerns regarding the plan.

⁷⁴See, e.g., Mick Dumke, “Years Late, With Big Gaps, CHA Nears End of Housing ‘Transformation.’” Chi. Sun-Times, Sept. 3, 2017, <https://chicago.suntimes.com/feature/years-late-with-big-gaps-cha-nears-end-of-housing-transformation/> (last accessed Sept. 13, 2018); “2018 State of Rental Housing in Cook County.” Inst. for Housing Studies at DePaul Univ, Apr. 5, 2018, <https://www.housingstudies.org/research-publications/state-of-housing/2018-state-rental-housing-cook-county/> (last accessed Sept. 13, 2018).

⁷⁵“40 Years Ago: August 22, President Ford Signs Housing and Community Development Act of 1974.” Nat’l Low Income Hous. Coalition, Aug. 18, 2014, <http://nlihc.org/article/40-years-ago-august-22-president-ford-signs-housing-and-community-development-act-1974> (last accessed Sept. 13, 2018); “Not Welcome: The Uneven Geographies of Housing Choice.” Chicago Policy Research Team, 2017, at xi.

⁷⁶Not Welcome, at xi.

⁷⁷“Housing Choice Vouchers Fact Sheet.” U.S. Dep’t of Hous. and Urban Dev’t. https://www.hud.gov/topics/housing_choice_voucher_program_section_8 (last accessed Sept. 13, 2018); “Policy Basics: The Housing Choice Voucher Program.” Center for Budget and Policy Priorities, May 3, 2017, <https://www.cbpp.org/research/housing/policy-basics-the-housing-choice-voucher-program> (last accessed Sept. 13, 2018).

⁷⁸“Housing Choice Voucher (HCV) Program: How the Program Works.” Chi. Hous. Auth. <http://www.thecha.org/residents/housing-choice-voucher-hcv-program> (last accessed Sept. 13, 2018); “Housing Choice Voucher (HCV) Programs.” Hous. Auth. of Cook County. <https://thehacc.org/residents/housing-choice-voucher-program/> (last accessed Sept. 13, 2018).

⁷⁹Susan J. Popkin, et al. “CHA Residents and the Plan for Transformation.” Urban Inst. Jan. 2, 2013, at 3, <https://www.urban.org/sites/default/files/publication/23376/412761-CHA-Residents-and-the-Plan-for-Transformation.PDF> (last accessed Sept. 13, 2018); see also Moore, *supra* note 33, at 78–80 for a discussion of the relocation of CHA public housing residents and residents’ experiences in mixed-income housing.

⁸⁰*Id.*

⁸¹Not Welcome, at xi; Dumke, “Years Late.”

⁸²Not Welcome, at xi.

⁸³Housing Choice Voucher (HCV) Program: How the Program Works.

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⁸⁴See *infra* note 85. This is true even after taking the CHA's exception payment standard into account for Mobility Areas, defined as "a Chicago community area with 20% or fewer of its families with income below the poverty level and a below median reported violent crime count." "Find CHA Housing." Chi. Hous. Auth. <http://www.thecha.org/residents/housing-choice-voucher-hcv-program/find-hcv-housing> (last accessed Sept. 24, 2018). See also Moore, *supra* note 33, at 76 ("HUD says it wants families to live in better neighborhoods, but what the federal government is willing to pay is, by and large, insufficient for market rental rates in low-poverty areas."). Moore also observes that several Black South Side neighborhoods saw large increases in the number of voucher holders in such neighborhoods following the Plan for Transformation, and that there have declines in those neighborhoods with respect to median household incomes and home sales and increases in poverty.

⁸⁵"Equitable Mobility in the Housing Choice Voucher Program." Policy Research Collaborative at Roosevelt Univ. 2018, https://cpb-us-e1.wpmucdn.com/blogs.roosevelt.edu/dist/0/285/files/2018/05/Equitable-Mobility-in-the-HCV-Program_ONLINE-vzymbg.pdf (last accessed Sept. 13, 2018).

⁸⁶2018 State of Rental Housing in Cook County.

⁸⁷A City Fragmented, at 56.

⁸⁸*Id.* at 57–58.

⁸⁹*Id.* at 61. As of the writing of this Article in September 2018, the amended proposal was being considered by the City of Chicago Plan Commission, whose approval is required for further action to be taken on the development.

⁹⁰See generally Not Welcome.

⁹¹Not Welcome, at xi.

⁹²"File a Discrimination Complaint." City of Chi. Comm'n on Human Relations. https://www.cityofchicago.org/city/en/depts/cchr/supp_info/file_a_discriminationcomplaint.html (last accessed Sept. 13, 2018); "File a Complaint for Unlawful Discrimination or Harassment." Cook County Gov't. <https://www.cookcountyl.gov/service/complaint-filing-and-investigation> (last accessed Sept. 13, 2018); "Learn about the FHEO Complaint and Investigation Process." U.S. Dep't of Hous. and Urban Dev't. https://www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process (last accessed Sept. 13, 2018); "Fair Housing Rights Under Illinois Law." Ill. Dep't of Human Rights. https://www2.illinois.gov/dhr/FilingCharge/Pages/FAQ_Section_VI.aspx (last accessed Sept. 13, 2018).

⁹³Michelle Chen, "Charter Schools Are Reshaping America's Education System for the Worse," *The Nation*, Jan. 4, 2018, <https://www.thenation.com/article/charter-schools-are-reshaping-americas-education-system-for-the-worse/> (last accessed Sept. 18, 2018).

⁹⁴P. Jankov, & C. Caref, (2017). Segregation and inequality in Chicago Public Schools, transformed and intensified under corporate education reform. Education Policy Analysis Archives, 25(56), <https://files.eric.ed.gov/fulltext/EJ1144439.pdf>. Special Issue on Restructuring and Resisting

Education Reforms in Chicago’s Public Schools, guest edited by Dr. Federico Waitoller and Rhoda AR. Guterrez.

⁹⁵For a discussion of housing and education segregation in Chicago, see “Chicago From Home to School: Why Segregation Persists and Current Reforms May Only Make Things Worse,” Chicago Area Fair Housing Alliance (Oct. 2013), [https:// docs. wixstatic. com/ ugd/ e6d287_ f064903ba9504bc794734fba031f610e.pdf](https://docs.wixstatic.com/ugd/e6d287_f064903ba9504bc794734fba031f610e.pdf) (last accessed Sept. 15, 2018).

⁹⁶*Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. 701 (2007).

⁹⁷*Id.*

⁹⁸Nikole Hannah-Jones said, “Through the years, as I’ve written about racial inequality, I came to understand that the two biggest drivers of it are housing segregation and school segregation, which of course are closely intertwined . . . Nothing about race in America is simple, but the truth is that most white families don’t want to. They don’t want the level of integration and resource sharing that would be required to provide quality education for all children.” Silverstein, Jake. “A Chat With MacArthur Genius Nikole Hannah-Jones,” N.Y. Times. Oct. 13, 2017. [https:// www.nytimes.com/2017/10/13/insider/nikole-hannah-jones-macarthur-grant.html](https://www.nytimes.com/2017/10/13/insider/nikole-hannah-jones-macarthur-grant.html) (last accessed Sept. 18, 2018).

⁹⁹“Affirmatively Furthering Fair Housing.” Final rule. U.S. Dep’t of Hous. and Urban Dev’t. 80 Fed. Reg. 42271 (July 16, 2015), [https:// www.federalregister.gov/documents/2015/07/16/2015-17032/affirmatively-furthering-fair-housing](https://www.federalregister.gov/documents/2015/07/16/2015-17032/affirmatively-furthering-fair-housing) (last accessed Sept. 13, 2018).

¹⁰⁰*See id.*

¹⁰¹576 U.S. ___, 135 S.Ct. 2507, 2015 WL 2473449 (2015). For more information regarding the Supreme Court’s ruling, see Jessica Schneider, “Disparate Impact and Implicit Bias: The Past and Future of the Fair Housing Act.” Civil Rights Lit. and Attorney Fees Annual Handbook. Vol. 31, 545–566, Saltzman, Steven Ed. (2015).

¹⁰²“Affirmatively Furthering Fair Housing: Extension of Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants.” Notice. U.S. Dep’t of Hous. and Urban Dev’t. 83 Fed. Reg. 683 (Jan. 5, 2018), <https://www.federalregister.gov/documents/2018/01/05/2018-00106/affirmatively-furthering-fair-housing-extension-of-deadline-for-submission-of-assessment-of-fair> (last accessed Sept. 13, 2018).

¹⁰³“HUD Indefinitely Suspends AFFH Rule, Withdraws Assessment Tool.” Nat’l Low Income Hous. Coalition. May 21, 2018, [http://nlihc.org/ article/hud-indefinitely-suspends-affh-rule-withdraws-assessment-tool](http://nlihc.org/article/hud-indefinitely-suspends-affh-rule-withdraws-assessment-tool) (last accessed Sept. 13, 2018).

¹⁰⁴“Affirmatively Furthering Fair Housing: Withdrawal of the Assessment Tool for Local Governments.” Notice. U.S. Dep’t of Hous. and Urban Dev’t. 83 Fed. Reg. 23922 (May 23, 2018), <https://www.federalregister.gov/documents/2018/05/23/2018-11146/affirmatively-furthering-fair-housing-withdrawal-of-the-assessment-tool-for-local-governments> (last accessed Sept. 13, 2018).

¹⁰⁵“Affirmatively Furthering Fair Housing: Withdrawal of Notice

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Extending the Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants.” Notice; withdrawal. U.S. Dep’t of Hous. and Urban Dev’t. 83 Fed. Reg. 23928 (May 23, 2018), <https://www.federalregister.gov/documents/2018/05/23/2018-11143/affirmatively-furthering-fair-housing-withdrawal-of-notice-extending-the-deadline-for-submission-of> (last accessed Sept. 13, 2018); “Affirmatively Furthering Fair Housing (AFFH): Responsibility to Conduct Analysis of Impediments.” Notice. U.S. Dep’t of Hous. and Urban Dev’t. 83 Fed. Reg. 23927 (May 23, 2018), <https://www.federalregister.gov/documents/2018/05/23/2018-11145/affirmatively-furthering-fair-housing-affh-responsibility-to-conduct-analysis-of-impediments> (last accessed Sept. 13, 2018).

¹⁰⁶Complaint, *Nat’l Fair Hous. Alliance v. Carson*, 18-cv-01076 (D.D.C. May 8, 2018), <https://nationalfairhousing.org/wp-content/uploads/2018/05/Filed-complaint-1.pdf> (last accessed Sept. 13, 2018).

¹⁰⁷*Id.* ¶¶ 148, 155, 167.

¹⁰⁸*Nat’l Fair Hous. Alliance v. Carson*, No. 18-1076, 2018 U.S. Dist. LEXIS 139679, at **4–7 (D.D.C. Aug. 17, 2018).

¹⁰⁹“Affirmatively Furthering Fair Housing: Streamlining and Enhancements.” Advance notice of proposed rulemaking. U.S. Dep’t of Hous. and Urban Dev’t. 83 Fed. Reg. 159 40713 (Aug. 16, 2018), <https://www.gpo.gov/fdsys/pkg/FR-2018-08-16/pdf/2018-17671.pdf> (last accessed Sept. 13, 2018).

¹¹⁰*Nat’l Fair Hous. Alliance v. Carson*, 2018 U.S. Dist. LEXIS 139679, at **70, 75.

¹¹¹As of the date of the writing of this Article in September 2018, the plaintiffs in the *NFHA v. Carson* litigation were seeking to amend their complaint and the court’s judgment to dismiss the complaint.

¹¹²“Reconsideration of HUD’s Implementation of the Fair Housing Act’s Disparate Impact Standard.” Advanced notice of proposed rulemaking. U.S. Dep’t of Hous. and Urban Dev’t. 83 Fed. Reg. 28560 (June 20, 2018), <https://www.federalregister.gov/documents/2018/06/20/2018-13340/reconsideration-of-huds-implementation-of-the-fair-housing-acts-disparate-impact-standard> (last accessed Sept. 13, 2018).

¹¹³For more information, see Complaint, *Am. Ins. Ass’n v. HUD*, No. 13-cv-00966 (D.D.C. June 26, 2013).

¹¹⁴*Am. Ins. Ass’n v. HUD*, No. 14-5321, 2015 U.S. App. LEXIS 16894 (D.C. Cir. Sept. 23, 2015); see district court docket for *Am. Ins. Ass’n v. HUD*, No. 13-cv-00966, regarding the stay of litigation.

¹¹⁵“The Cost of Segregation.” Met. Planning Council and Urban Inst., 2017, at 4, <http://www.metroplanning.org/costofsegregation> (last accessed Sept. 13, 2018).

¹¹⁶“Our Equitable Future: A Roadmap for the Chicago Region.” Met. Planning Council, 2018, at 12–16, <http://www.metroplanning.org/costofsegregation/roadmap> (last accessed Sept. 13, 2018).

¹¹⁷“On to 2050 Comprehensive Regional Plan.” Draft. Chi. Met. Agency for Planning, 2018, at 40, http://www.cmap.illinois.gov/onto2050#ON_TO_2050_Draft_Plan (last accessed Sept. 13, 2018).

¹¹⁸For more information regarding data and information prepared in connection with the development of the 2019–2023 5-Year Housing Plan, see “Overview of Chicago’s Housing Market,” Inst. for Hous. Studies at DePaul Univ., 2018, <https://fiveyearplandata.housingstudies.org/> (last accessed Sept. 13, 2018).

¹¹⁹Vance, Steven. “Emanuel’s nine recent affordable housing initiatives.” Chi. Cityscape. July 11, 2018, <https://blog.chicagocityscape.com/emanuels-nine-recent-affordable-housing-initiatives-a8af769d52c9> (last accessed Sept. 13, 2018).

¹²⁰Rothstein, *supra* note 2, at Preface p. IX.

¹²¹*Id.*

¹²²*Jones v. Alfred Mayer Co.*, 392 U.S. 409 (1968).

¹²³This was a result predicted the year before by Arthur Kinoy in his seminal article, “The Constitutional Right of Negro Freedom,” 21 *RUTGERS L. REV.* 387 (1967).

¹²⁴Rothstein, *supra* note 2, at Preface p. IX.

¹²⁵*Jones*, *supra* note 122.

¹²⁶Pam Fessler, “After Katrina, New Orleans’ Public Housing Is A Mix Of Pastel And Promises,” Aug. 17, 2015, <https://www.npr.org/2015/08/17/431267040/after-katrina-new-orleans-public-housing-is-a-mix-of-pastel-and-promises> (last accessed Sept. 15, 2018).

¹²⁷For a good summary of these issues and events, see Bill Quigley and Sarah Godchaux, “Locked Out and Torn Down: Public Housing Post Katrina,” https://billquigley.wordpress.com/2015/06/08/locked-out-and-torn-down-public-housing-post-katrina-by-bill-quigley-and-sara-h-godchaux/#_ftn1 (last accessed Sept. 15, 2018). Specifically, the complaint alleged that HANO and HUD’s failure to repair and reopen the developed units from which the tenants were displaced violated (1) the Fair Housing Act, alleging disparate treatment, disparate impact, and a breach of the duty to affirmatively further fair housing; (2) the U.S. Housing Act of 1937; (3) the HANO lease agreements; (4) the Fifth and Fourteenth Amendments of the U.S. Constitution, alleging discriminatory intent under the Equal Protection Clause; and (5) various state laws, including constructive eviction and breach of contract. The plaintiff residents asked the district court to immediately enjoin the planned demolitions, to compel HUD and HANO to repair and reopen the public housing units, and to award plaintiffs monetary damages for economic loss and emotional distress. All motions for an injunction were denied. *Anderson v. Jackson*, 556 F.3d 351 (2009). A final injunction stopping demolition was granted when it was discovered the demolition required city council approval. Approval was granted during a quickly called raucous city council meeting.

¹²⁸See Greater New Orleans Fair Housing Action Center and Lawyers’ Committee for Civil Rights Under Law, “Strategies to Affirmatively Further Fair Housing: Proposals for the City of New Orleans Comprehensive Zoning Ordinance (CZO) and Beyond,” Apr. 28, 2011 https://lawyerscommittee.org/wp-content/uploads/2015/06/4-28-11_Strategies_to_Affirmatively_Further_Fair_Housing.pdf (last accessed Sept. 18, 2018).

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¹²⁹Neena Satija, “A decade after Ike, Houston still hasn’t spent tens of millions it got to build affordable housing.” *Tex. Tribune*, Mar. 29, 2018, <https://www.texastribune.org/2018/03/29/houston-texas-affordable-housing-hurricane-ike-harvey/> (last accessed Sept. 15, 2018).

¹³⁰*Id.*

¹³¹*Id.*

