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Homeownership, Wealth, & the Production of Racialized Space

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Introduction

One of the hard-won insights of the 20th Century is that race, and the stratification experienced with it, is a social construct. Although the constructed nature of race is still contested, it has gained currency even among conservatives, including members of the Supreme Court. What is less explored is how race is constructed and what we might do to reconstruct it. We fail to understand how race not only constructs the identity of the racial other, but also how it constructs the identity of the dominant racial group. It is not the constructed nature of race that is the problem, but how it is constructed and the work we use it to do.

It is important then to understand what work race and other othering[1] processes are doing, and how we construct and maintain these processes. In the United States, racial identity and stratifications are the manifestations of a process of othering, giving shape and meaning to the dominant norm of whiteness and commitment to an ideology of radically separate individualism. This paper will explore the role of housing as one of the, if not the primary, mediating institutions for the reproduction of racial meaning and racial distribution in modern America.

Housing is key to the production of race in contemporary American society. Patterns of residential living not only shape and define the meanings of race, but they are the primary explanatory variable to the production of racial inequality. We live in institutions and structures that shape who we are and our life chances. These structures are sometimes referred to as opportunity structures. Housing is at the hub of these opportunity structures. Housing is instrumental to the life chances of individuals, families, and communities. For example, housing defines educational opportunities through tax policies that rely heavily on local property taxes to fund schools. In turn, jurisdictional boundaries, which define tax policy, shape housing patterns in dynamic relation. This is not a natural role of housing. It has not always played that role in the United States and often does not play that role in other societies.

More deeply, housing is central to conceptions of who belongs in our imagined community. It defines, next to marriage and sex, the most intimate conceptions of our self and

[1] 'Othering' is the (conscious or unconscious) process of differentiating oneself from other people.

our community. These spaces acquire racialized meanings. Think of racial profiling: it is most extreme when non-Whites are in a White space. There is an implicit understanding that non-Whites either do not belong in or are strangers in White space, which may be imagined as a neighborhood, a town, or even the entire country. When Arizona and other states allow police to stop non-Whites for looking "un-American," such states create or maintain racialized and regulated spaces. While these laws are clearly directed at Latinos, housing segregation has a similar effect on Blacks and others who might be American but still do not belong. This helps to explain how a school district targeted and investigated a young Black mother in Ohio who sought to enroll her children in a school district in which she did not reside, or how a young Black teenager taking a short cut returning from a convenience store for candy and a soda would arouse suspicion near a gated community.

Growing patterns of both racial and socioeconomic segregation – normalized as natural preferences of individuals or the operations of market forces – are central to the broader trends of increasing inequality in American society. Today, more than ever, housing patterns are linked to regional, national, and even global forces. Whereas technological developments – such as the automobile and industrialization – changed living patterns in the past, today's access to credit markets, bifurcated labor markets, public policy, and global financial trends shape patterns of residential living as much as individual choice.

U.S. Policy and Housing

A review of the history of housing policy in the United States illustrates the ways in which federal, state, and local policies have directly shaped and influenced historical and contemporary housing patterns.

Historical Housing Policies

Despite the widespread segregation of public life in so many ways, before 1900, housing segregation was not the norm. We had other mechanisms for othering, not the least of which concerned explicit laws that regulated social status and belonging for people in physical proximity. Most Americans did not reside in the cities. Black and White families lived in close

proximity. The great migration and the waves of Black migrants to the North, as well as the industrialization of the South, changed those patterns. But as more and more Americans moved to cities, in areas where explicit laws were more relaxed, new practices for reproducing race and belonging emerged.

Between 1870 and 1970, U.S. homeownership developed alongside waves of Black and immigrant migrations, technological advancements (e.g. automobiles) that opened up new markets (e.g. suburbs), and shifting labor markets that were linked to global events (e.g. WWI). There was also a shift in the function of laws and the work place. As Blacks moved North and West, many of the structures of the South gave way to other practices for race making. A developing housing market would be pushed into practice for this purpose. As such, barriers to Black homeownership evolved. Before 1900, deed restrictions, which only covered single parcels and did not keep Blacks from migrating into non-White communities, were not uncommon. After 1910, and until 1948 – years in which migration patterns reached record levels – "improvement associations" used restrictive covenants that contractually forbid Blacks from owning, occupying, or leasing residents' property.[2] Moreover, realtors used different screening and rent requirements for Blacks.

The Home Owners Loan Corporation (HOLC) helped homeowners refinance urban mortgages, but excluded Blacks through HOLC's neighborhood quality ratings system and "redlining." Redlining used the color red to indicate on maps which neighborhoods were the poorest quality. Neighborhoods in red rarely received HOLC loans, which effectively and systematically undervalued racially or ethnically mixed neighborhoods. Black areas were always redlined.[3] Private banks adopted HOLC's loan system, including HOLC's process for creating maps and ratings.

The Federal Housing Administration (FHA), created in 1937, and the Veterans Administration (VA), created in 1944, extended HOLC's practices. The FHA Loan Program guaranteed the value of collateral for loans made by private banks, making low down payments (e.g. 10 percent) the new norm. Moreover, the FHA Loan Program created low monthly

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[2] Degraff, 336-337; Drake and Cayton, pp. 182-90; Kusmer, pp. 46, 167.
[3] Jackson, 199-201.

payments: repayment periods were extended to twenty-five or thirty years, and fully amortized loans were encouraged.[4]

These homeownership benefits, however, did not extend equally to Blacks. The 1939 FHA Loan Program's *Underwriting Manual* explained: "If a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes."[5] Ultimately, it would not be until the 1950s before the FHA stopped encouraging the use of racially restricted covenants.[6] As such, White middle-class areas received the majority of FHA and VA mortgages.[7] St. Louis County, a suburb surrounding St. Louis, received five times as many FHA Loan Program mortgages, and nearly six times the loan money as did St. Louis between 1934 and 1960.[8] Similar patterns were found in New York. In New York, per capita FHA Loan Program lending in suburban Long Island was eleven times that in Brooklyn and sixty times that in the Bronx.[9] Additionally, some cities, such as Paterson and Camden, New Jersey, had zero FHA mortgages in some years.[10] These practices not only directed government and private resources along racial lines, they helped create modern racial dynamics, generating racial meaning and identity. The middle class as it came to be known did not exist prior to these practices. This new emerging middle class meant White – not ethnic, not Black, and not other. While this lending process was and still is deeply racialized, it had implications for othering beyond race.[11]

Historically, realtors have been active facilitators of housing discrimination. Realtors used flat refusal, deception, and different screening, deposit, and rent requirements for Black applicants.[12] Rose Helper's surveys in the 1950s provide insight. In one study, realtors believed "few or very few banks were willing to make loans to Blacks, and half of the agents confirmed that banks would not make loans to areas that were Black, turning Black, or threatened with

[4] Ibid., 204.
[5] Ibid., 208.
[6] Ibid., 203.
[7] Ibid., 211.
[8] Ibid.
[9] Ibid.
[10] Ibid., 213.
[11] Consider bans on group homes for people with disabilities or "non-traditional" families.
[12] Helper, 322.

the possibility of Black entry."[13] Another study of real estate practices found that, in Chicago, 80 percent of realtors refused to sell Blacks properties in White neighborhoods, and 68 percent refused to rent Blacks such property.[14] Half of those who would sell or rent to Blacks likely applied restrictive conditions.[15]

The Highway Act of 1956 generated tremendous development that not only broke up Black neighborhoods, but led to further disinvestment of these areas by indirectly subsidizing the development of White suburbs. For the Whites who could not leave the central cities – later to be renamed the inner cities – urban renewal functioned as urban removal and further marginalized and destroyed strong Black communities to create roads and safe buffers for White elites still bound in cities. The destruction of these neighborhoods also created a housing boom for large public housing projects, also known as vertical ghettoes. Thus, government and private markets were not just directing resources to the emerging White middle class; these actors also denied and destroyed resources in existing Black communities. Again, these processes created both a new form of blackness and whiteness, deepening and re-institutionalizing the othering. The dynamic would be acknowledged – but not changed – years later in the Kerner Commission Report.[16]

In the sales and rental markets, Whites were systematically advantaged through the marketing of nonadvertised units and disparate types of credit assistance.[17] In 1989, the *Atlanta Constitution* (AC) conducted one of the largest studies on racial housing discrimination, examining 10 million applications to savings and loan associations between 1983 and 1989. The AC discovered that the overall rejection rate was 11 percent for Whites and 24 percent for

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[13] Ibid., 337.
[14] Ibid., 201.
[15] Ibid., 317.
[16] U.S. National Advisory Commission on Civil Disorders, *The Kerner Report*.
[17] Galster, 39-63. T 1988 Housing and Discrimination Survey are summarized in the following reports: Mikelsons and Turner, *Housing Discrimination Study: Mapping Patterns of Steering for Five Metropolitan Areas*; Turner, Edwards, and Mikelsons, *Housing Discrimination Study: Analyzing Racial and Ethnic Steering*; Yinger, *Housing Discrimination Study: Incidence and Severity of Unfavorable Treatment*; Yinger, *Housing Discrimination Study: Incidence of Discrimination and Variations in Discriminatory Behavior.*

Blacks.[18] In three of the five years evaluated, high-income Blacks were rejected more often than low-income Whites across 35 metropolitan areas.[19]

Other studies confirmed widespread discrimination. In 1977, the U.S. Department of Housing and Urban Development (HUD) conducted an extensive assessment of housing discrimination in forty metropolitan areas with central cities containing at least an 11 percent Black population. Nationwide, Whites were favored on 48 percent of transactions in the sales market and on 39 percent of those in the rental market.[20] Blacks had a 60 percent chance of experiencing unfavorable treatment in rental markets in Detroit, Indianapolis, and Los Angeles, and in sales markets in Cincinnati, Columbus, and Detroit.[21] In the 1980s, estimates indicated that Blacks averaged a 20 percent chance of experiencing discrimination in the sales market and a 50 percent chance in the rental market.[22]

In 1988, the Housing Discrimination Study (HDS) repeated HUD's 1977 survey. The HDS found that widespread discrimination was similar to 1977.[23] The study indicated that Whites were advantaged in 45 percent of the transactions in the rental market and 34 percent of those in the sales market. Additionally, more bias was documented in the marketing of nonadvertised units (e.g., 60 percent and 90 percent of the housing units made available to Whites were not brought to the attention of Blacks). And, Whites received more favorable credit assistance in 46 percent of sales encounters and were offered more favorable terms in 17 percent of rental transactions.[24]

The Housing Acts of 1949 and 1954, Acts which ushered in public housing, did not reverse these trends. These Acts provided "federal funds to local authorities to acquire slum properties, assemble them into large parcels, clear them of existing structures, and prepare

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[18] Dedman.
[19] Ibid.
[20] Wienk, Reid, Simonson and Eggers..
[21] Ibid.
[22] Galster, 39-63.
[23] Mikelsons and Turner, *Housing Discrimination Study: Mapping Patters of Steering for Five Metropolitan Areas*; Turner, Edwards, and Mikelsons, *Housing Discrimination Study: Incidence and Severity of Unfavorable Treatment*; and Yinger, *Housing Discrimination Study: Incidence of Discrimination and Variations in Discriminatory Behavior*.
[24] Yinger, 23-43.

them for redevelopment."[25] Federal funding was tied to stipulations that required replacement housing to be made available to displaced families. Multi-story, high-density public housing projects were built almost always in, or adjacent to, Black neighborhoods. Such "urban renewal" continued for two decades. It halted in the 1970s, when White communities and political forces adamantly resisted mandates to build projects in White neighborhoods.

Housing and Wealth

The U.S. housing policy is more than just housing policy. Since housing is a hub of opportunity, housing policy is about the creation and distribution of opportunity. Segregation, then, is not just about the distribution of people, but the distribution of opportunity. Housing policy has both enabled and constrained the generational life chances of millions of Americans. For Whites, it created the middle class. For Blacks, it created significant gaps in, and distance from, opportunity and well-being. A brief exploration of the Federal government's response to the Great Depression is illustrative.

In the aftermath of the Great Depression, widespread foreclosures and inaccessible credit led to another shift in the housing market and new barriers to Black homeownership. Established in 1933, the HOLC became "the first government-sponsored program to use, on a mass scale, long term, self-amortizing mortgages with uniform payments."[26] In other words, opportunity was created and distributed. The percentage of families living in owner-occupied dwellings increased from 44 percent to 63 percent between 1934 and 1969, with the purchase price of new suburban homes being cheaper than rental prices for comparable dwellings in the city.[27]

Legislative acts continued to distribute opportunity and improved life chances for many and in particular for White men born in the 1920s. Ira Katznelson, and many others, asserts that the Selective Service Act, more commonly known as the GI Bill of Rights, is probably the single most important legislation in the creation of middle-class America. Of the men born in

[25] Massey and Denton, 55.
[26] Jackson, 208.
[27] Ibid., 204.

the 1920s, 80 percent were eligible for benefits under the GI Bill.[28] Between 1944 and 1971, $95 billion flowed to former soldiers, as "millions bought homes, attended college, started business ventures, and found jobs commensurate with their skills."[29] Similar to New Deal housing legislation, racial compromises were structured into the GI Bill, and Black veterans' life chances were shaped much differently than White veterans' life chances.

Before the GI Bill's passage, Southern congressmen negotiated racialized provisions that would constrain the life chances and wealth of Blacks for generations. The final GI Bill authorized states, not the federal government, to determine eligibility for the bill's educational benefits. Furthermore, the "South's desire to preserve Jim Crow and maintain White supremacy in the states of the former confederacy" was not limited to Southern efforts that altered who received a GI Bill-assisted education.[30] The negotiated final bill also authorized the Veteran Administration to adopt the same housing standards and policies as the FHA. And thus, Black veterans' ability to accumulate wealth was handicapped significantly. As Melvin L. Oliver and Thomas Shapiro note, the value of the average housing unit tripled from 1970 to 1980. The housing boom in the 1970s, typically described in purely economic terms, was a racialized and uneven source of opportunity.

Interventions and Deregulation

There are a number of challenges and difficulties in addressing our entrenched racialized structures and practices. One is that we often fail to acknowledge that racial practices are constantly changing, without necessarily improving across every indicator, and certainly without any final resolution. We name the problem in one era not as a problem of race, but as a specific or salient problem of that era. People have been proclaiming the end of the issue of race since the abolition of slavery and the end of the Civil War. If we address slavery, Jim Crow, mass incarceration, individual prejudice, and elect a Black president, then we believe the problem has been solved. Our analysis, narratives, and rush to "move on" perpetuate a dysfunctional blindness to the complicated dynamics of race.

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[28] Katznelson.
[29] Katznelson.
[30] Oliver and Shapiro, 108.

In addition, we also fail to understand just how deeply issues of race have impacted the American national identity: who we are, our institutions, and our values.[31] We have not acknowledged or addressed our deep ambivalence towards race. It is not just that we do not understand race. We often have conflicting approaches to race both within the country and ourselves.[32] When we look at important legislation and rules designed to deal with race, this ambivalence is often present but seldom noticed. Moreover, these efforts and missed opportunities resulted in partial successes and disturbing racial arrangements and outcomes. Again, the Federal government's response warrants our attention.

Following a series of demonstrations of mass civil disobedience in the mid- and late-1960s, often triggered by incidents involving police brutality, President Johnson formed the Kerner Commission to identify the causes of racial unrest.[33] The Commission concluded that the United States "was moving toward two societies, one black, one white – separate and unequal."[34] In particular, the Commission identified residential segregation as a significant cause of racial inequality.

Conflicting approaches to race, both within the country and ourselves, are apparent in the evolution and enforcement of the Civil Rights Act of 1968. In 1968, Congress passed Title VIII of the Civil Rights Act of 1968 (Fair Housing Act). Here, Congress prohibited persons from refusing to rent or sell a home to any person because of race and authorized HUD to enforce the act. The Fair Housing Act, once one of the most filibustered bills in history, passed in the aftermath of institution- and country-defining events – the Detroit riots of 1967 and the assassination of Martin Luther King Jr. The Fair Housing Act, however, was not the watershed moment it could have been. From its inception, the Fair Housing Act lacked critical enforcement mechanisms. The Supreme Court recognized this reality in 1972: "HUD has no power of enforcement."[35] Initially, the Fair Housing Act was primarily an anti-discrimination act that was limited to "aggrieved persons" who initiated private suits on their own. Other limiting

[31] powell, "Racing to Justice", PAGE#

[32] This conflict is increasingly being exposed to those who will follow the research in the cognitive sciences. See Kang. "Getting Up to Speed on Implicit Bias."

[33] U.S. National Advisory Commission on Civil Disorders, *The Kerner Report*..

[34] Ibid.

[35] *Trafficante v. Metropolitan Life Ins. Co.*, 409 U.S. 205, 210 (1972).

provisions (e.g., those that placed the burden of costs and attorneys' fees on plaintiffs), further weakened an act whose individualistic nature made it inherently inadequate and ill-suited to remedy systemic and institutional harms.

Other limitations went beyond the Fair Housing Act's design. Richard Nixon appointed George Romney, Mitt Romney's father and an opponent of housing segregation, as his first secretary of HUD. In an effort to preempt and respond to Romney's efforts to enforce the Act, Southerners saw fit to refer to Nixon as "Mister Integrator" and "Anti-South." Nixon responded, in part, by putting and keeping Romney on a tight leash.[36] At first, and with Nixon's position on housing in mind, Romney attempted to discreetly push for fair housing enforcement without making formal policy announcements.[37] Such efforts did not last long. Nixon eventually "froze Romney out" and "ordered HUD to stop all efforts to pressure cities and states to foster integrated housing."[38] George Romney resigned in 1972. Undoubtedly, *the problem* is not merely a specific problem of that era.

For most of its history, indifference and opposition have undermined the Fair Housing Act. A senior HUD official under President Bill Clinton spoke to this legacy: "People say integration has failed. It hasn't failed because it's never been tried."[39] Similarly, experts estimated that between 1968 and 1995, about two million housing discrimination incidents occurred every year; by contrast, only four hundred fair housing cases were decided during that time period.

Other apparent conflicts are observable in the structures of the agencies responsible for the Act's enforcement. Commenting on HUD's structural conflicts and its racialized identity, a former assistant secretary of HUD under the Clinton administration stated: "HUD is…the most disfavored of all agencies and FHEO is the most despised of all."[40] In 2012, the Fair Housing and Equal Opportunity Office's (FHEO), HUD's civil rights arm, employed Blacks and Whites at a ratio of almost two to one – 57 percent and 27 percent respectively.[41] Moreover, employees in

[36] Hannah-Jones.
[37] Ibid.
[38] Ibid.
[39] Ibid.
[40] Ibid.
[41] Ibid.

the fair housing office reportedly make less than comparably experienced employees in HUD.[42] (The division responsible for disbursing funds to communities, the Community Development division, is 51 percent White and 32 percent Black.[43])

Such conflicts, though structural and deeply rooted in historical forces, reflect choices. Between 1974 and 1983, HUD did not withhold any block grants (i.e., money cities and states would apply for in order to build roads) from any communities.[44] Using 1988 as a starting point, some researchers could only identify two instances in which HUD withheld block grants from communities that violated the Fair Housing Act.[45] To the contrary, Montgomery County, Md., traditionally one of the nation's wealthiest and whitest suburbs, took a more proactive approach.[46] In the 1970s, Montgomery County officials enacted "inclusionary zoning" ordinances that mandated affordable units in each large development.[47] ("Exclusionary zoning" refers to zoning tools that block or slow housing growth in a community, make housing more expensive, or limit rental units.[48]) In essence, a structural solution was implemented for a structural problem. In a span of three decades, this suburb's population went from being 92 percent White to having a Black population of 18 percent and segregation levels that are below the national average.[49]

Yet such efforts and outcomes are not representative. In fact, HUD exacerbated segregation by subsidizing segregated housing. For years, much of HUD's staff and budget prioritized building new units, regardless of whether the communities who were receiving millions were complying with fair housing regulations.[50] A 2009 internal HUD study noted that many communities applied for block grants without completing the required paperwork, including an "analysis of impediments" to fair housing, which was "apparently not performed at

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[42] Ibid.
[43] Ibid.
[44] Ibid.
[45] Ibid.
[46] Ibid.
[47] Ibid.
[48] Pendall, 66..
[49] Hannah-Jones.
[50] Ibid.

all."[51] Also telling, the study found that one-third of the grant materials needed to be updated, with one out of ten receiving no updates since the 1990s.

Inclusionary zoning ordinances similar to those implemented in Montgomery County, not only provide a mechanism for institutional and systemic harms to be addressed, they also illuminate why success has been limited. Simply put, when disconnected from structural solutions, anti-discrimination requirements are insufficient. Congress eventually recognized this dynamic and realized further action was needed.

In 1983, Congress amended the Fair Housing Act to require HUD to "affirmatively further fair housing." More importantly, Congress took a significant step in affirming that fair housing is still the critical strategy to address structural and systematic inequality.[52] Recent progress in enforcement has been documented and HUD has shown signs that it is willing to enforce this critical requirement. The Obama administration has reportedly doubled the funding for private fair housing enforcement agencies to over $40 million dollars, threatened to cut of block grants worth millions of dollars, and has rejected requests from states that were requesting billions.[53] These efforts suggest the Obama administration recognizes that private or individual responses and solutions are insufficient. Nevertheless, the Fair Housing Act has had mixed results. These mixed results mark other related legislative acts.[54]

In the 1970s, two legislative acts were enacted to address discriminatory credit practices in the housing market. First, the Home Mortgage Disclosure Act of 1975 (HMDA) mandated lending institutions to report public loan data to the federal government, including the applicant's race, gender, and income, the amount, type, and approval or denial of loan, and the census tract of the home.[55] Second, the Community Reinvestment Act of 1977 (CRA) required institutions chartered by the Federal Deposit Insurance Company (FDIC) to officially end redlining practices in communities of color and other lower income communities. Though few believe redlining really ended, and despite strong evidence that race continues to place a critical role in the credit market, there is a push by bankers and other to weaken the CRA.

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[51] Ibid.
[52] powell,
[53] Ibid.
[54] Ibid.
[55] Squires, Hyra, and Renner.

Bankers, who by no means were the only ones, rushed to move on without accounting for housing's racialized history. As a result, they invited dysfunction blind spots to securitized processes, and opportunities were once again missed. One of the most important missed opportunities was the recent work around private securitization. Securitization created an explosion in the amount of capital and liquidity in the mortgage market. Since Black and Latino markets were undercapitalized – in part due to decades of redlining – this was an opportunity to address this lack; and, to some extent securitization did. Capital poured into these communities and for a short time the home ownership gap, if not the segregation gap, began to close. What was not noticed by most – until it was too late – was the terms and unsustainability of these practices.

As will be shown below, these practices were deeply racialized but not necessarily based on racial animus, and in some cases were well-intentioned efforts to make more resources available to previously excluded communities. But not enough attention was paid to the existing structures of segregation and disinvestment that these new approaches were built upon.[56] It is also worth noting that the big push for addressing the issue of a dual credit market is not necessarily coming from White homeowners who might be reluctant to live with non-Whites. Instead, there is a big and organized push from a banking and mortgage industry that does not want to see its prerogatives limited. While this tension is often present, it seldom is in such plain view.[57]

These shifts in credit tell a story that is not just about the private credit market and missed opportunities, but also government complicity and neglect. Beginning in the early 1980s, there was a restructuring of the financial industry and credit markets. First, important legislation was passed, including The Depository Institutions Deregulation and Monetary Control Act of 1980 and The Garn–St. Germain Depository Institutions Act of 1982, which permitted lending institutions to charge any rate of interest they chose and to provide

[56] This insight could be important as we examine racialization further into the 21st Century. But this requires a different understanding of race and racialization than the dominant discourse.

[57] Powell and Menendian.

adjustable-rate mortgage loans. The former established the "groundwork for risk-based pricing in mortgage lending."[58]

Second, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, which allowed for multiple branch banking, expanded the purview of federally chartered banks. This legislation arguably produced a more competitive banking environment on a local level, increasing the potential provision of financial services to Black and other minority and low-income borrowers in compliance with the Community Reinvestment Act of 1977.

Third, and most importantly, the Gramm–Leach–Bliley Act, also known as the Financial Services Modernization Act of 1999, repealed the Glass-Steagall Act.[59] A provision within the act enabled commercial banks and investment banks to exist within the same top-tier holding company, known as Financial Holding Companies (FHC). The creation of the FHC charter facilitated the use of the "originate to distribute model," whereby banks originate loans and resell them within structured products, rather than holding the loans on their balance sheets until maturity. The incentive to make good loans was thus dramatically reduced. Lastly, the Commodities Futurization Act of 2000 deregulated these new products, including credit-default swaps on them, by excluding them from regulation by the Securities Exchange Commission and the Commodities Future Trade Commission.

With the invention of securitization in the 1970s, government-sponsored enterprises (GSEs) entered the business of securitization.[60] GSEs "guaranteed the principal and interest income of their securities even when mortgagors defaulted," and enabled "larger capital markets to directly invest in American homeownership at a lower cost than the older depository lending model of business."[61] As the biggest players in the secondary mortgage market, Fannie Mae and Freddie Mac set much of the standards for the entire mortgage market. They were government chartered, but became private corporations in 1968 and 1970, and were subsequently traded on the New York Stock Exchange. Private institutions, including investment banks, financial holding companies, and thrift holding companies, followed in the

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[58] Squires, Hyra, and Renner. , PAGE#.

[59] The Glass-Steagall Act refers to four provisions within the Banking Act of 1933 that limited activities and affiliations between investment and commercial banks.

[60] These government sponsored enterprises included Fannie Mae and Freddie Mac.

[61] Peterson, 14.

practice of securitization with the passage of the Secondary Mortgage Market Enhancement Act of 1984 and entered the business of subprime mortgages. The private securitization of mortgages and other forms of credit became increasingly important.

These developments also created new ratings and different forms of securities. As their market share grew, the GSEs were pushed into mimicking the private market, including the subprime loan market. In the mid-2000s, the GSEs lowered their standards. As a result, a new market, consisting of agency mortgage-backed securities that were considered subprime but with a federal guarantee, opened up. Following massive losses due to "risky-but-not-subprime mortgages," inadequate capital to cover declining property values, and fears of instability in the housing market, the federal government put Fannie Mae and Freddie Mac under "conservatorship" in 2008. The Treasury Department gave both companies an infusion of capital.[62] The story following the large loss was to shift much of the blame on Black and Latino communities and even the CRA.

With the creation of securitized mortgages, clients and communities that had historically been discriminated against became sought after in the housing market.[63] Traditionally, the volume of mortgages was in proportion to the amount of deposits with the bank; in contrast, with the securitization of mortgages, the volume of mortgages was limited by "the number of potential borrowers and investors' willingness to purchase mortgage-backed securities."[64] New demand was generated for banks to increase their "pool of borrowers" in this new system, whereby expanding credit to Black and other historically marginalized communities while also securing a new market for profit generation.[65]

The history of racialized residential segregation of Blacks created the geography for "reverse redlining," where "high-cost loan products" are disproportionately directed towards Black and other communities of color.[66] The spatial effects of historical segregation, coupled with the historical inability of Blacks and other communities of color to access mortgage credit

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[62] Thomas and Van Order.
[63] Securitization is defined here as the "process of pooling assets, such as mortgage loans, and then reselling them to investors." Peterson, 3.
[64] Rugh and Massey, 631.
[65]Ibid.
[66] Squires, Hyra, and Renner., PAGE#.

as a result of discrimination in the credit markets, were important factors in generating the foreclosure crisis. They created conditions that enabled subprime lending in communities of color. These communities were "differentially marketed risky subprime loans" that were securitized and sold in secondary markets.[67] Even though financial holding companies and stand-alone investment banks were often not directly making these loans, they were enabling their origination by purchasing them to resell as structured products. In short, the market for structured products fueled the incentive for banks and other lenders to extend credit to those who would become subprime borrowers through what can be called "predatory structured finance."[68] And thus, institutions engaging in sponsoring and administrating the securitization of mortgages were also participating in predatory lending practices.[69]

Moreover, during this period of time, the government incentivized rather than discouraged excessive risk-taking.[70] First, Federal Reserve Chairman Alan Greenspan encouraged homeowners to take out variable-rate mortgages, rather than fixed-rate mortgages.[71] This placed homeowners at risk if interest rates went up.[72] Second, in 2003, Greenspan brought interest rates down to an unprecedented low of 1 percent, whereby increasing demand for mortgages.[73] Inevitably, short-term interest rates rose (rising to 5.25 percent in 2006), creating a crisis for those who had taken out the largest mortgages they were told they could afford or that their banks would give them. For many, their only option was default.[74]

The mortgage crisis consequently had disproportionate effects on Black borrowers and homeowners, in addition to Latinos, the elderly, people with disabilities, and those with poor credit.[75] It has been estimated that "subprime lending accounted for 43 percent of the increase

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[67] Rugh and Massey, 629.
[68] Peterson, 4.
[69] Drawing on the FDIC's definition, predatory lending is the practice of "imposing unfair and abusive loan terms on borrowers" (FDIC 2006: 1). http://www.fdicoig.gov/reports06/06-011.pdf (accessed January 9, 2013).
[70] Stiglitz.
[71] Greenspan, PAGE#.
[72] Stiglitz, PAGE#.
[73] The Economist, PAGE #.
[74] Stiglitz.
[75] Peterson.

in black home ownership during the 1990s."[76] Furthermore, subprime lending disproportionately affected Black middle- and upper-income borrowers where credit-worthiness was not an issue. For example, across Ohio, upper-income Blacks received subprime loans 47.51 percent of the time, whereas lower income Whites received them 28.50 percent of the time.[77] These high rates of subprime lending in Black communities were not related to lending under CRA. As Bhutta and Canner's (2009) findings demonstrate, "only 6 percent of subprime loans were made to low-income borrowers or individuals in neighborhoods subject to CRA oversight."[78]

Thus, such as occurs with uneven geographic development, the effects of foreclosures were disproportionately felt in Black neighborhoods.[79] As Rugh and Massey (2010) argue, the higher the degree of Black/White segregation in a metropolitan area, the greater the number and higher the frequency of foreclosures. For example, in the city of Atlanta, middle-income Black borrowers were "35 percent more likely to go into foreclosure" than White middle-income borrowers.[80] Yet, because consumer protection laws were outpaced by the financial technology of securitization, victims of subprime lending had little legal recourse because it was almost impossible to hold any one institution accountable for the predatory practices.[81]

As a consequence of the financial crisis, Congress passed the Dodd–Frank Wall Street Reform and Consumer Protection Act in 2010. In terms of the mortgage crisis, the Act first seeks to address subprime lending by making all mortgage originators, including institutions that are not banks or thrift holding companies, subject to consumer protection laws and standards for the origination of all mortgages. It therefore attempts to align the incentives of borrowers, banks, and the investors of structured products. Second, it prohibits discrimination against "consumers of equal credit worthiness but of different race, ethnicity, gender, or age."[82] Nevertheless, the act does not address critical problems in the secondary market.[83] It

[76] Rugh and Massey, 181–208.
[77] Dillman.
[78] Rugh and Massey, 2010, 635.
[79] Ibid.
[80] Anaker, Carr, and Pradhan.
[81] Peterson.
[82] Haberle.

fails to incentivize "an inclusive market" that provides access to adequately financed housing loans through the secondary market, leaving a "credit vacuum" in communities already devastated by the foreclosure crisis.[84] In the end, the Act was a compromise that largely gave in to the demands of the banking community.

Few attempts were made to address the underlying racialized housing and credit market. In the midst of the crisis, the government reached out to help save the banks, but refused to do anything but offer the weakest response to the needs of borrowers and homeowners. The Home Affordable Modification Program (HAMP) and Home Affordable Refinance Program (HARP) programs have been notable, high-profile failures.[85] Though there is evidence that HAMP has had some positive effects, the program fell well short of its goal of facilitating three to four million modifications. Ultimately, these programs did not change the behavior of the biggest banks.[86]

By all accounts, what has been adopted and is being considered is likely to deepen the dual housing and credit market. Some call for an explicit dual market, where loans are given to borrowers who could put down 20 percent, which the bank could then sell. If borrowers put down less, banks would be required to hold on to the loan. The idea is to incentivize banks to check the viability of the loan. Such a plan would lock a large number of Blacks and Latinos and some poor Whites out of the housing market. The response by the head of HUD is that some people maybe should not be homeowners. This is the position being advanced by an African American president and a democratic secretary of HUD. The Republicans have been even more insistent that banks be left to do what they do without government intervention. The problem of a deeply racialized market has been reconstructed, recast as the fault not of the banks or lack of oversight, but of low-income borrowers, and particularly borrowers of color. This approach could deepen the racial divide for further generations.

Rather than exacerbate this vacuum, banking institutions must play a critical role as vehicles for extending and fairly distributing credit. The question remains. In the shadow of

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[83] Ibid.
[84] Ibid.
[85] Pierce and Kiel.
[86] Kiel.

redlining and subprime lending, how do we incentivize the extension of credit to all borrowers in a racially just and ethical way in order to ensure wealth creation in Black and other communities of color?

Ending Residential Segregation and Creating Sustainable Structures and Relationships

This paper has laid out a number of tools and practices that have been used to both continue a segregated housing market and to help construct race in a particular way. There are many more that could be included. Some of these will be important to address and understand if we are to have a truly integrated housing market. But before considering how we might get there, there are two important things to address.

The first is that housing is just a tool. It is conceivable that we could have an integrated housing market and find some other mediating practice and norms to reproduce racial meaning and stratification. There is no single force producing racial meaning. Too often, we have assumed that there was only one issue, and that if we addressed that issue, everything would change. When we fall prey to that illusion, we put all our efforts on a singular strategy and fail to address the shifts and accommodation that systems can and do make to limit change.

We cannot be in a rush to move on from that which is not a complete move forward. Certainly the move from slavery to Jim Crow and sharecropping was a move, but it was not a move to full belonging and an end of racial stratification. The end of formal slavery did not ensure freedom. Similarly, the move from Jim Crow to what some call "colorblind" racism has been a move, but not an end to racial meaning and racial stratification. Consider "stop and frisk" practices in New York, or mass incarceration throughout the country and the disenfranchisement of millions of Blacks who are nonetheless counted for White congressional districts.[87] There are ways to reproduce racial stratification that we have not even thought of. The point is not to detract from the importance of addressing de facto housing segregation, but to continue to be aware of emerging innovative racial practices.

The second point is similar to the first. We have to be willing to state our goal and work towards it. The goal is not to end intentional discrimination or to repeal a particular racist law.

[87] Sommerstein.

The goal is to have a truly just set of arrangements and outcomes reflected in housing, schools, and other institutions in our society to support fully belonging. It is not enough to have a just process, although there is value in the process. If we return to the opening of this paper, we are calling for a society where all groups are full members and fully belong. This will call for more than just new structures. It will also call for a new culture and a new way of being. When Herbert Wechsler claimed that the call for integration in Brown v. Board of Education[88] was not rooted in neutral principles,[89] and in some important ways impinged on the rights of Whites, he was not entirely wrong. True integration cannot occur or survive in a society committed to racial exclusion and stratification whether de jure or de facto. As a society we have not agreed on that goal. Without that agreement, the process loses its force.

[88] *Brown v. Board of Education*, 347 U.S. 483 (1954).
[89] Wechsler, 1 .

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