

SUPPRESSED HISTORY

THE INTENTIONAL SEGREGATION OF AMERICA'S CITIES

BY RICHARD ROTHSTEIN

*As Phia S. Salter explains (see page 26), increasing our knowledge of African American history—without shying away from enslavement, systemic racism, and other critical truths—can have profound benefits. Using an interview with Richard Rothstein to increase college students' knowledge of how Black people across the United States were prevented from becoming homeowners for much of the 20th century, Salter (along with a team of researchers) found that as understanding of historic racial inequities is enhanced, so is recognition of ongoing racism—and interest in taking action. Inspired by Salter's results—and heartened by this new evidence of the power of education—we offer this excerpt from Rothstein's *The Color of Law*. May it build our collective knowledge and will to act.*

—EDITORS

In 2014, police killed Michael Brown, a young African American man in Ferguson, a suburb of St. Louis. Protests followed, some violent, and subsequent investigations uncovered systematic police and government abuse of residents in the city's African American neighborhoods. The reporting made me wonder how the St. Louis metropolitan area became so segregated.

Most of us think we know how segregated neighborhoods in places like Ferguson—with their crime, violence, anger, and poverty—came to be. We say they are “*de facto* segregated,” that they result from private practices.

That has some truth, but it remains a small part of the truth, submerged by a far more important one: until the last quarter of the 20th century, racially explicit policies of federal, state, and local governments defined where whites and African Americans should live. Today's residential segregation in the North, South, Midwest, and West is not the unintended consequence of individual choices and of otherwise well-meaning law or regulation but is the result of unhidden public policy that explicitly segregated every metropolitan area in the United States. The policy was so systematic and forceful that its effects endure to the present time. Segregation by intentional government action is not *de facto*. Rather, it is what courts call *de jure*: segregation by law and public policy.

To prevent lower-income African Americans from living in neighborhoods where middle-class whites resided, local and federal officials began in the 1910s to promote zoning ordinances to reserve middle-class neighborhoods for single-family homes that lower-income families of all races could not afford. Certainly, an important and perhaps primary motivation of zoning rules that kept apartment buildings out of single-family neighborhoods was a social class elitism that was not itself racially biased. But there was also enough open racial intent behind exclusionary zoning that it is integral to the story of *de jure* segregation.

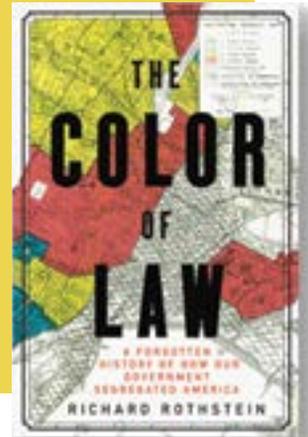
St. Louis appointed its first plan commission in 1911 and five years later hired Harland Bartholomew as its full-time planning engineer. His assignment was to categorize every structure in the city—single-family residential, multifamily residential, commercial, or industrial—and then to propose rules and maps to prevent future multifamily, commercial, or industrial structures from impinging on single-family neighborhoods. If a neighborhood was covered with single-family houses with deeds that prohibited African American occupancy, this was taken into consideration at plan commission meetings and made it almost certain that the neighborhood would be zoned “first-residential,” prohibiting future construction of anything but single-family units and helping to preserve its all-white character.

According to Bartholomew, an important goal of St. Louis zoning was to prevent movement into “finer residential districts

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Racial segregation was a nationwide project in the 20th century. *The Color of Law*, from which this article is excerpted, demonstrates that racially explicit government policies to segregate our metropolitan areas were neither subtle nor intangible and were sufficiently controlling to construct the *de jure* segregation that is now with us in neighborhoods (and hence in schools). The core argument of this book is that African Americans were unconstitutionally denied the means and the right to integration in middle-class neighborhoods, and because this denial was state sponsored, the nation is obligated to remedy it.

—R. R.



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... by colored people.” He noted that without a previous zoning law, such neighborhoods have become run-down: “Where values have depreciated, homes are either vacant or occupied by colored people.” The survey Bartholomew supervised before drafting the zoning ordinance listed the race of each building’s occupants. Bartholomew attempted to estimate where African Americans might encroach so the commission could respond with restrictions to control their spread.

The St. Louis zoning ordinance was adopted in 1919. Guided by Bartholomew’s survey, it designated land for future industrial development if it was in or adjacent to neighborhoods with substantial African American populations.

Once such rules were in force, plan commission meetings were consumed with requests for variances. Race was frequently a factor. For example, one meeting in 1919 debated a proposal to reclassify a single-family property from first-residential to commercial because the area to the south had been “invaded by negroes.” On other occasions, the commission changed an area’s zoning from residential to industrial if African American families had begun to move into it. In 1927, violating its normal policy, the commission authorized a park and playground in an industrial, not residential, area in hopes that this would draw African American families to seek housing nearby. Similar decision making continued through the middle of the 20th century. In 1948, commissioners explained

they were designating a U-shaped industrial zone to create a buffer between African Americans inside the U and whites outside.

In addition to promoting segregation, zoning decisions contributed to degrading St. Louis's African American neighborhoods into slums. Not only were these neighborhoods zoned to permit industry, even polluting industry, but the plan commission permitted taverns, liquor stores, nightclubs, and houses of prostitution to open in African American neighborhoods but prohibited these as zoning violations in neighborhoods where whites lived. Residences in single-family districts could not legally be subdivided, but those in industrial districts could be, and with African Americans restricted from all but a few neighborhoods, rooming houses sprang up to accommodate the overcrowded population.

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FEDERAL SUPPORT FOR SEGREGATIONIST ZONING

Local officials elsewhere, like those in St. Louis, did not experiment with zoning in isolation. In 1921, President Warren G. Harding's secretary of commerce, Herbert Hoover, organized an Advisory Committee on Zoning to develop a manual explaining why every municipality should develop a zoning ordinance. The advisory committee distributed thousands of copies to officials nationwide. A few months later, the committee published a model zoning law. The manual did not give the creation of racially homogenous neighborhoods as the reason why zoning should become such an important priority for cities, but the advisory committee was composed of outspoken segregationists whose speeches and writings demonstrated that race was one basis of their zoning advocacy.

The segregationist consensus of the Hoover committee was reinforced by members who held positions of leadership in the National Association of Real Estate Boards, including its president, Irving B. Hiatt. In 1924, two years after the advisory committee had published its first manual and model zoning ordinance, the association followed up by adopting a code of ethics that included this warning: "A realtor should never be instrumental in introducing into a neighborhood ... members of any race or nationality ... whose presence will clearly be detrimental to property values in that neighborhood."

Secretary Hoover, his committee members, and city planners across the nation believed that zoning rules that made no open

reference to race would be legally sustainable—and they were right. In 1926, the Supreme Court for the first time considered the constitutionality of zoning rules that prohibited apartment buildings in single-family neighborhoods. The decision, arising from a zoning ordinance in a Cleveland suburb, was a conspicuous exception to the Court's previous rejection of regulations that restricted what an owner could do with his property. Justice George Sutherland, speaking for the Court, explained that "very often the apartment house is a mere parasite, constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district," and that apartment houses in single-family districts "come very near to being nuisances."

In the years since the 1926 Supreme Court ruling, numerous white suburbs in towns across the country adopted exclusionary zoning ordinances to prevent low-income families from residing in their midst. Frequently, class snobbishness and racial prejudice were so intertwined that when suburbs adopted such ordinances, it was impossible to disentangle their motives and to prove that the zoning rules violated constitutional prohibitions of racial discrimination. In many cases, however, like Secretary Hoover's experts, localities were not always fastidious in hiding their racial motivations.

The use of industrial, even toxic waste zoning to turn African American neighborhoods into slums was not restricted to St. Louis. It became increasingly common as the 20th century proceeded and manufacturing operations grew in urban areas. The pattern was confirmed in a 1983 analysis by the US General Accounting Office, concluding that, across the nation, commercial waste treatment facilities or uncontrolled waste dumps were more likely to be found near African American than white residential areas.

A NEW HOUSING DEAL, FOR WHITES ONLY

Even before the Great Depression, homeownership was prohibitively expensive for working- and middle-class families: bank mortgages typically required 50 percent down, interest-only payments, and repayment in full after five to seven years.

The Depression made the housing crisis even worse. Many property-owning families with mortgages couldn't make their payments and were subject to foreclosure. With most others unable to afford homes at all, the construction industry was stalled. The New Deal designed one program to support existing homeowners who couldn't make payments, and another to make first-time homeownership possible for the middle class.

In 1933, to rescue households that were about to default, the Franklin D. Roosevelt administration created the Home Owners' Loan Corporation (HOLC). It purchased existing mortgages that were subject to imminent foreclosure and then issued new mortgages with repayment schedules of up to 15 years (later extended to 25 years). In addition, HOLC mortgages were amortized, meaning that each month's payment included some principal as well as interest, so when the loan was paid off, the borrower would own the home. Thus, for the first time, working- and middle-class homeowners could gradually gain equity while their properties were still mortgaged.

HOLC mortgages had low interest rates, but the borrowers still were obligated to make regular payments. The HOLC, therefore, had to exercise prudence about its borrowers' abilities to avoid default. To assess risk, the HOLC wanted to know something about the

condition of the house and of surrounding houses in the neighborhood to see whether the property would likely maintain its value. The HOLC hired local real estate agents to make the appraisals on which refinancing decisions could be based. With these agents required by their national ethics code to maintain segregation, it's not surprising that in gauging risk, the HOLC considered the racial composition of neighborhoods. The HOLC created color-coded maps of every metropolitan area in the nation, with the safest neighborhoods colored green and the riskiest colored red. A neighborhood earned a red color if African Americans lived in it, even if it was a solid middle-class neighborhood of single-family homes. Although the HOLC did not always decline to rescue homeowners in neighborhoods colored red on its maps (i.e., redlined neighborhoods), the maps had a huge impact and put the federal government on record as judging that African Americans, simply because of their race, were poor risks.

To solve the inability of middle-class renters to purchase single-family homes for the first time, Congress and President Roosevelt created the Federal Housing Administration (FHA) in 1934. The FHA insured bank mortgages that covered 80 percent of purchase prices, had terms of 20 years, and were fully amortized. To be eligible for such insurance, the FHA insisted on doing its own appraisal of the property to make certain that the loan had a low risk of default. Because the FHA's appraisal standards included a whites-only requirement, racial segregation now became an official requirement of the federal mortgage insurance program. The FHA judged that properties would probably be too risky for insurance if they were in racially mixed neighborhoods or even in white neighborhoods near Black ones that might possibly integrate in the future.

When a bank applied to the FHA for insurance on a prospective loan, the agency conducted a property appraisal, which was also likely performed by a local real estate agent hired by the agency. As the volume of applications increased, the agency hired its own appraisers, usually from the ranks of the private real estate agents

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who had previously been working as contractors for the FHA. To guide their work, the FHA provided them with an *Underwriting Manual*. The first, issued in 1935, gave this instruction: "If a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes. A change in social or racial occupancy generally leads to instability and a reduction in values." Appraisers were told to give higher ratings where "protection against some adverse influences is obtained," and that "important among adverse influences ... are infiltration of inharmonious racial or nationality groups." The manual concluded that "all mortgages on properties protected against [such] unfavorable influences, to the extent such protection is possible, will obtain a high rating." The FHA was particularly concerned with preventing school desegregation. Its manual warned that if children "are compelled to attend school where the majority or a considerable number of the pupils represent a far lower level of society or an incompatible racial element, the neighborhood under consideration will prove far less stable and desirable than if this condition did not exist," and mortgage lending in such neighborhoods would be risky.



Left: St. Louis planning engineer Harland Bartholomew, who strove to prevent "colored people" from moving into "finer residential districts." Right: Low-rent, dilapidated housing in St. Louis, 1936.

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REVERSE REDLINING

Racially discriminatory government activities did not end 50 years ago. On the contrary, some have continued into the 21st century. One of the more troubling has been the regulatory tolerance of banks' "reverse redlining"—excessive marketing of exploitative loans in African American communities. This was an important cause of the 2008 financial collapse because these loans, called subprime mortgages, were bound to go into default. When they did, lower-middle-class African American neighborhoods were devastated, and their residents, with their homes foreclosed, were forced back into lower-income areas.

In 2000, 41 percent of all borrowers with subprime loans would have qualified for conventional financing with lower rates, a figure that increased to 61 percent in 2006. By then, African American mortgage recipients had subprime loans at three times the rate of

white borrowers. Higher-income African Americans had subprime mortgages at four times the rate of higher-income whites. Even though its own survey in 2005 revealed a similar racial discrepancy, the Federal Reserve did not take action. By failing to curb discrimination that its own data disclosed, the Federal Reserve violated African Americans' legal and constitutional rights.

In 2010, the Justice Department agreed that "the more segregated a community of color is, the more likely it is that homeowners will face foreclosure because the lenders who peddled the most toxic loans targeted those communities." For those dispossessed after foreclosures, there has been greater homelessness, more doubling up with relatives, and more apartment rental in less stable neighborhoods where poor and minority families are more tightly concentrated.

—R. R.

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Subsequent editions of the *Underwriting Manual* through the 1940s repeated these guidelines. In 1947, the FHA removed words like "inharmonious racial groups" from the manual but barely pretended that this represented a policy change. The manual still specified lower valuation when "compatibility among the neighborhood occupants" was lacking, and to make sure there was no misunderstanding, the FHA's head told Congress that the agency had no right to require nondiscrimination in its mortgage insurance program. The 1952 *Underwriting Manual* continued to base property valuations, in part, on whether properties were located in neighborhoods where there was "compatibility among the neighborhood occupants."

After World War II, the newly established Veterans Administration (VA) also began to guarantee mortgages for returning servicemen. It adopted FHA housing policies, and VA appraisers relied on the FHA's *Underwriting Manual*. By 1950, the FHA and VA together were insuring half of all new mortgages nationwide.

EXCLUSIVE ENCLAVES

The FHA had its biggest impact on segregation not in its discriminatory evaluations of individual mortgage applicants, but in its financing of entire subdivisions, in many cases entire suburbs, as racially exclusive white enclaves. Mass-production builders created these suburbs with the FHA- or VA-imposed condition that they be all white.

Levittown, New York, for example, was a massive undertaking, a development of 17,500 homes. It was a visionary solution to the housing problems of returning war veterans—mass-produced two-bedroom houses of 750 square feet sold for about \$8,000 each, with no down payment required. William Levitt constructed the project on speculation; it was not a case in which prospective purchasers gave the company funds with which to construct houses. Instead, Levitt built the houses and then sought customers. He could never have amassed the capital for such an enormous undertaking without the FHA and the VA. But during the World War II years and after, the government had congressional authority to guarantee bank loans to mass-production builders like Levitt for nearly the full cost of their proposed subdivisions. By 1948, most housing nationwide was being constructed with this government financing.

Once Levitt had planned and designed Levittown, his company submitted drawings and specifications to the FHA for approval. After the agency endorsed the plans, he could use this approval to negotiate low-interest loans from banks to finance its construction and land-acquisition costs. The banks were willing to give these concessionary loans to Levitt and to other mass-production builders because FHA preapproval meant that the banks could subsequently issue mortgages to the actual buyers without further property appraisal needed.

For Levittown and scores of such developments across the nation, the plans reviewed by the FHA included the approved construction materials, the design specifications, the proposed sale price, the neighborhood's zoning restrictions (for example, a prohibition of industry or commercial development), and a commitment not to sell to African Americans. The FHA even withheld approval if the presence of African Americans in nearby neighborhoods threatened integration. In short, the FHA financed Levittown on condition that it be all white, with no foreseeable change in its racial composition.*

Although Levittown came to symbolize postwar suburbanization, Levittown was neither the first nor the only such development financed by the FHA and VA for white families. Metropolitan areas nationwide were suburbanized by this government policy. Only in 1962, when President John F. Kennedy issued an executive order prohibiting the use of federal funds to support racial discrimination in housing, did the FHA cease financing subdivision developments whose builders openly refused to sell to Black buyers.

By the time the federal government decided finally to allow African Americans into the suburbs, the window of opportunity for an integrated nation had mostly closed. In 1948, for example, Levittown homes sold for about \$8,000, or about \$90,000 in today's dollars. Now, properties in Levittown without major remodeling (i.e., one-bath houses) sell for \$350,000 and up. White working-class families who bought those homes in 1948 have gained, over three generations, more than \$200,000 in wealth.

Most African American families—who were denied the opportunity to buy into Levittown or into the thousands of subdivisions like it across the country—remained renters, often in depressed neighborhoods, and gained no equity. Others bought into less desirable neighborhoods. Consider the example of one African American World War II veteran, Vince Mereday, who worked for his family-owned trucking company that helped to build Levittown. He was prohibited from living there, so he bought a home in the nearby, almost all-Black suburb of Lakeview. It remains 74 percent African American today.

One-bath homes in Lakeview currently sell for \$90,000 to \$120,000. At most, the Mereday family gained \$45,000 in equity appreciation over three generations, perhaps 20 percent of the wealth gained by white veterans in Levittown. Making matters worse, it was lower-middle-class African American communities like Lakeview that mortgage brokers targeted for subprime lending during the pre-2008 housing bubble, leaving many more African American families subject to default and foreclosure than economically similar white families (see “Reverse Redlining” at left). Seventy years ago, many working- and lower-middle-class African American families could have afforded suburban single-family homes that cost about \$90,000 (in today's currency) with no down payment. Millions of whites did so. But working- and lower-middle-class African American families (indeed, working-class families of any race) cannot now buy homes for \$350,000 and more with down payments of 20 percent, or \$70,000.

*As explained in *The Color of Law*, the *Underwriting Manual* also recommended that deeds to properties explicitly prohibit resale to African Americans so that these new communities would remain white.

The Fair Housing Act of 1968 prohibited future discrimination, but it was not primarily discrimination (although this still contributed) that kept African Americans out of most white suburbs after the law was passed. It was primarily unaffordability. The right that was unconstitutionally denied to African Americans in the late 1940s cannot be restored by passing a Fair Housing law that tells their descendants they can now buy homes in the suburbs, if only they can afford it. The advantage that FHA and VA loans gave the white lower-middle class in the 1940s and '50s has become permanent.

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We as a nation have avoided contemplating remedies because we've indulged in the comfortable delusion that our segregation has not resulted primarily from state action and so, we conclude, there is not much we are required to do about it.

It's not that private choices haven't also been involved. Many Americans had discriminatory beliefs and engaged in activities that contributed to separating the races. Without the support of these private beliefs and actions, our democratically elected governments might not have discriminated either. But under our constitutional system, government has not merely the option but the responsibility to resist racially discriminatory views, even when—especially when—a majority holds them. In the 20th century, federal, state, and local officials did not resist majority opinion with regard to race. Instead, they endorsed and reinforced it, actively and aggressively.

Undoing the effects of *de jure* segregation will be incomparably difficult. To make a start, we will first have to contemplate what we have collectively done and, on behalf of our government, accept responsibility. □

For a far more detailed discussion of how communities across the United States became segregated, including substantial historical evidence and detailed source citations for the assertions made in this article, as well as suggestions for beginning to address the lasting inequities, please see *The Color of Law* (the book from which this article is excerpted): www.norton.com/books/the-color-of-law.