SOLUTION ESSAY

Enforce the Civil Rights Acts to End Housing Discrimination

By Imani Norris

The Civil Rights Act (CRA) of 1964 ended segregation in public places and banned employment discrimination on the basis of race, color, religion, sex, or national origin. It also paved the way for two major follow-up laws with lasting impacts: the Voting Rights Act of 1965 and the Fair Housing Act of 1968. The Fair Housing Act (FHA) banned discrimination in the sale, rental, and financing of property. Although the FHA brought an end to legal segregation in the United States, housing access has remained largely segregated more than half a century later. Despite the CRA and the FHA, civil rights violations continue to compromise housing access.

Middle-class Black people tend to live in poorer neighborhoods than low-income White Americans, and Black Americans still lag far behind White Americans in home ownership. Neighborhoods are also largely segregated: according to a 2018 analysis by the *Washington Post* of US Census data over thirty years, Americans are more likely than not to have neighbors who are the same race as them. This is important because housing access affects all aspects of quality of life, including access to education, employment, and wealth.

Other factors that contribute to the segregation of neighborhoods are crime-free housing policies and nuisance ordinances, which bar individuals from housing because of interactions with law enforcement and the criminal justice system. In a 2019 report, *Michigan Law Review* referred to these ordinances as a new incarnation of the Jim Crow laws, as they often exclude individuals from housing no matter how old a crime is or the nature of the crime. The stigmas surrounding formerly incarcerated people also have racial implications because people of color are more likely to be exposed to the police due to zero-tolerance policing.

HUD Guidance for Landlords for Background Checks

The US Department of Housing and Urban Development (HUD) released guidelines in 2016 for landlords on the application of FHA standards when performing criminal background checks on prospective tenants. These guidelines state that blanket policies in regard to background checks are likely to violate the FHA and that providers of housing must distinguish between criminal conduct that presents an actual risk and criminal conduct that does not.

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Housing providers must articulate exactly why they are excluding people from housing as it relates to their backgrounds. HUD also suggests that when landlords make decisions about excluding individuals from housing, they must take into account the nature of the crime, the time that has passed since the crime occurred, and any evidence of rehabilitation efforts.

Housing providers also may not exclude housing applicants due to arrests without convictions. Although a criminal record can be a legitimate reason for a refusal to rent, a plaintiff or HUD may evaluate claims that compare the race and criminal history of accepted or excluded applicants. If a landlord declines a person of color because of their criminal history but accepts a White applicant with a similar history, this is discriminatory.

Enforcing FHA and Desegregating Neighborhoods

Aside from eliminating housing discrimination through background checking processes, desegregation can also be facilitated by taking steps to integrate communities. Developers should set aside affordable housing units to achieve this. In 2015, the Affirmatively Furthering Fair Housing rule (AFFH) was passed as an effort to decrease discrimination in housing. AFFH required districts that received federal funds to assess patterns of housing discrimination within their communities and come up with plans to address them. The AFFH was adopted to increase the supply of affordable housing in neighborhoods but

Legends Park West, a mixed-income and affordable housing re-development in Memphis, Tennessee, has forty-eight public housing units, thirty-nine low-income housing tax credit units, and thirteen market-rate units.

US Dept. of Housing and Urban Development (HUD), public domain, via Wikimedia Commons.

was terminated in 2020. With its reinstatement in July 2021, the AFFH could compel developers to offer affordable housing in communities that have been largely segregated.

Other policies to desegregate neighborhoods would focus on preventing displacement in neighborhoods due to gentrification. In many cases, developers in newly gentrified neighborhoods are offered tax abatements from their localities to build in these neighborhoods. These tax abatements provide an incentive for developers to build in neighborhoods that are considered to be "distressed." If these abatements were also offered to long-term residents who wish to remain in the neighborhood, it would ease the burden that increasing costs impose on the communities who already live there. Also, localities should consider revising tax abatement programs to include stipulations that compel investors to focus on equity by designing programs that protect the individuals who built the culture of the neighborhood.

About the Author

Imani Norris is a journalist based in Chicago, Illinois. She has previously authored articles about education inequities and culture. Her main areas of specialization include race and racism and public policy.

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