The 1968 Fair Housing Act; 50 Years Of Progress, Still An Uphill Climb To Equality

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Housing market discrimination has been illegal for a half-century yet housing equality remains a distant dream. A broad range of barriers remain that must be addressed by strong federal action if housing equality is to be achieved. Shutterstock

Today, Senator Tim Kaine and the National Fair Housing Alliance (NFHA) are convening a briefing on Capitol Hill to commemorate the 50th Anniversary of the 1968 Fair Housing Act and discuss the challenges that remain to achieve equal housing opportunity for all Americans.

The event is designed to inform Members of Congress, their staffs and the public about the history, effectiveness, weaknesses and future prospects for the Act, as well as the future of equal housing access in our nation.

The significance of the Fair Housing Act cannot be overstated; the community in which a family resides significantly determines the quality of access they will have to education, employment, health care, credit, food, and recreation services. Housing location also determines the overall safety and stability of the environment in which they live.

The Fair Housing Act has eliminated the most blatant and overt forms of housing discrimination that were routine a half-a-century ago. Yet our nation's housing markets, rental and owner-occupied, remain awash in racial bias and denial of equal access.

NFHA estimates that each year, there are more than 4 million acts of housing discrimination, very few of which are ever challenged in court or an administrative tribunal. The pervasiveness of housing discrimination is exhibited in continuing hyper-segregation in many of our nation's largest cities and vast disparities in the rates of homeownership between non-Hispanic Whites and people of color.

The homeownership rate for Blacks, for example, at 42%, is roughly only 60% of that for non-Hispanic Whites. In fact, the Black homeownership rate is virtually unchanged from its level in 1968 and less than the national homeownership rate during the Great Depression, 80 years ago.

The disparity in homeownership rates between Latinos and non-Hispanic Whites is similarly large; 47% and 73%, respectively.

Since overt and obvious forms of discrimination have diminished, housing discrimination has taken much more subtle forms that are difficult to detect and challenge. Detecting discrimination can be daunting because often it cannot be detected at the individual homeseeker level.

The reasons for continued housing discrimination and concentrated segregation are complex and require comprehensive responses.Shutterstock

In a recently released book, *The Fight for Fair Housing*, sponsored by NFHA and edited by George Washington University professor, Dr. Gregory Squires, many of the nation's most knowledgeable and prolific experts on the subject of housing discrimination discuss the many ways in which real estate agents, financial institutions, landlords and other housing market participants continue, illegally, to deny housing access to people of color.

One of the major challenges to the success of the Fair Housing Act is the fact that in order to gain sufficient votes for its passage, the Act lacked any enforcement provisions for its first 20 years. "According to the Fair Housing Act, HUD was authorized only to investigate complaints of housing discrimination and had just 30 days to decide whether to pursue or dismiss the allegations. If HUD chose to pursue a claim of discrimination, it was empowered only to engage in 'conference, conciliation, and persuasion' to resolve the problem."

Moreover, some of the law's most important regulations were not promulgated until as recently as the Obama Administration.

One of the most important housing market discrimination studies conducted to date was *Mortgage Lending in Boston: Interpreting HMDA Data*, published in 1992 by the Federal Reserve Bank of Boston. That research found that, after controlling for "financial, employment and neighborhood characteristics," borrowers of color were 60 percent more likely to be denied a loan than similarly situated Whites.

The study demonstrated the complexities of uncovering discrimination by highlighting that at an individual level, discrimination would have been nearly impossible to detect since lenders rejected only borrowers who had defects with their applications. Discrimination was only able to be determined when the files of Black and Latino applicants who were rejected, were compared to non-Hispanic Whites applicants, with similarly flawed applications, who were accepted.

The study found that 80 percent of all mortgage applications, Black, Latino and White, had some form of application deficiency, such as lower credit scores or high debt-to-income ratios. Lenders worked with White borrowers to improve the quality of their applications but rejected Black and Latino applicants who had similar application deficiencies.

Disparate treatment in the housing sector also perpetuates discrimination. For example, the use by some lenders of underwriting criteria or tools that have a disproportionately harmful impact on people of color, but that are not required to achieve any legitimate business necessity, unnecessarily block people from opportunities they should be able to access.

Unreasonably high credit score and/or downpayment requirements are examples of these types of biased standards. Establishing unreasonable financial hurtles for loan applicants singles out, disproportionately, people of color, whose lower wealth status is directly attributable to a history of discrimination.

The disproportionate peddling of irresponsible and high-risk loans to borrowers of color, relative to non-Hispanic White applicants, is another widespread form of mortgage lending discrimination.

In the years leading up to the 2007-2009 foreclosure crisis, Black and Latino households that qualified for affordable and sustainable conventional loans were, nevertheless, steered into reckless subprime loans that were actually designed to fail.

Access to global capital markets, sophisticated financial products and other financial innovations allowed lenders to rake in huge profits on loans that were designed to trigger unaffordable mortgage payments for borrowers two-to-three years after the loan originations.

When the housing market imploded, Black and Latino borrowers suffered the most.

Federal regulators were fully aware of the dangers of predatory subprime lending but refused to act. The State of North Carolina, as far back as 1999, passed a law to prohibit those mortgage products due to their obvious financially exploitative nature and the targeting of them, by lenders, to people of color. Other localities followed North Carolina's lead but for a variety of reasons, individual state laws or local ordinances were inadequate to meet the challenges of the exploding growth of predatory subprime lending.

Homeownership is the single most important asset for the typical American household.Shutterstock

Denial of access to homeownership contributes to vast differences in median household wealth between non-Hispanic Whites and people of color. The median non-Hispanic White household [holds 13 times the wealth](#) of the median Black household.

In many cities with disproportionately large Black populations and undergoing impressive economic growth, the wealth gap is even greater. According to the Urban Institute, the median non-Hispanic White household in Washington, DC has 80 times the wealth of the median Black household.

Effective solutions to mortgage lending discrimination are not beyond our ability to design and implement. Many strategies and initiatives to redress housing discrimination are discussed in *The Fight for Fair Housing.*

Moreover, a fair lending forum hosted by NFHA just last week, to discuss and develop solutions to address the nation's access to credit challenges, was sponsored by many of the country's most prestigious lenders and insurance companies, including CitiBank, Nationwide, JP Morgan, State Farm, and Quicken. And many executives other companies, such as Core Logic, Trulia, Moody's, and Genworth, actively participated as panel or keynote speakers.

Yet while workable solutions and strong industry support are crucial to cure housing bias, success at ending housing discrimination will ultimately be determined by the effectiveness of the federal government's anti-discrimination regulatory infrastructure and commitment to succeed.

Unfortunately, on the issue of equal housing access, federal agencies seem either intransigent or regressing.

Today, for example, the Federal Housing Finance Agency continues to allow Fannie Mae and Freddie Mac, the two large mortgage finance giants, to use outdated credit scores to assess the credit worthiness of mortgage applicants although more sophisticated credit risk assessment models exist that could potentially expand homeownership for people of color in a safe, sound and responsible manner.

Further, based on "detailed in interviews with 20 current and former Department of Housing and Urban Development officials and in internal agency emails, " the Department of Housing and Urban Development is considering rolling back enforcement of various fair housing activities on the justification they are no longer needed, in spite of the glaring evidence to the contrary.

That action corresponds with other reports that HUD Secretary Ben Carson has decided to remove from the agency's mission statement, key fair housing terminology that speaks to the principles upon which the agency was founded such as "inclusive" and "free from discrimination."

Purging housing discrimination demands a substantial increase in activities to detect and prosecute housing market discrimination; further eroding of existing, already inadequate enforcement will simply further roll back the clock on progress.

Achieving fair and equal access to housing opportunities should be a national imperative. During the depression era of the 1930's, the federal government was faced with a national foreclosure crisis and national homeownership rate of less than 50 percent.

In response, between 1934 and 1938, the federal government established four new housing agencies including the Federal Housing Administration (better known as FHA), Home Owners Loan Corporation, Fannie Mae and the Federal Housing Finance System.

Those institutions revolutionized mortgage lending and created the modern housing finance system that has built trillions of dollars of wealth for American homeowners. For decades, those institutions were not available to people of color. And even today, full access continues to be denied. Its time for federal policy makers and financial regulators to finally level the playing field. Its time to empower fair housing enforcement to enable the Fair Housing Act to achieve its 1968 goals of an inclusive housing market, free from discrimination.

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