The Color of Law

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WE THINK OF the San Francisco Bay Area as one of the nation's more liberal and inclusive regions. If the federal, state, and local governments explicitly segregated the population into distinct black and white neighborhoods in the Bay Area, it's a reasonable assumption that our government also segregated metropolitan regions elsewhere and with at least as much determination—which is why I became particularly interested in the government's racial policies in San Francisco and its environs in the twentieth century.

Prejudice in Palo Alto

AT THE end of World War II, Stanford University in Palo Alto, south of San Francisco, recruited Wallace Stegner to teach creative writing. Stanford's offer followed the publication in 1943 of Stegner's widely acclaimed semiautobiographical novel, The Big Rock Candy Mountain. Years later Stegner would go on to win the Pulitzer Prize and the National Book Award, but when he arrived in Palo Alto with his family immediately after the war, his financial resources were modest.

Like the rest of the country, the Stanford area was suffering from a housing shortage: during the war, with all available material and labor reserved for military use, the government had prohibited civilian housing construction, except for projects designated for the defense industry in towns like Richmond. Stegner joined and then helped to lead a cooperative of middle- and working-class families who were all unable to find available housing. For the most part, college professors were not highly paid; the co-op included others of similar economic status—public school teachers, city employees, carpenters, and nurses. Of the first 150 families to join, three were African American.

Calling itself the Peninsula Housing Association of Palo Alto, the co-op purchased a 260-acre ranch adjacent to the Stanford campus and planned to build 400 houses as well as shared recreational facilities, a shopping area, a gas station, and a restaurant on commonly owned land. But banks would not finance construction costs nor issue mortgages to the co-op or to its members without government approval, and the FHA would not insure loans to a cooperative that included African American members. The cooperative's board of directors, including Stegner, recommended against complying with the demand that the cooperative reconstitute itself as an all-white organization, but the membership, attempting to appease the government, voted in January 1948 by a narrow 78–75 margin to compromise. The co-op proposed to include a quota system in its bylaws and deeds, promising that the proportion of African Americans in the Peninsula Housing Association would not exceed the proportion of African Americans in California's overall population.

This concession did not appease government officials, and the project stalled. Stegner and other board members resigned; soon afterward the cooperative was forced to disband because it could not obtain financing without government approval. In 1950, the association sold its land to a private developer whose FHA agreement specified that no properties be sold to African Americans. The builder then constructed individual homes for sale to whites in "Ladera," a subdivision that still adjoins the Stanford campus.

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OVER THE next few years, the number of African Americans seeking jobs and homes in and near Palo Alto grew, but no developer who depended on federal government loan insurance would sell to them, and no California state-licensed real estate agent would show them houses. But then, in 1954, one resident of a whites-only area in East Palo Alto, across a highway from the Stanford campus, sold his house to a black family.

Almost immediately Floyd Lowe, president of the California Real Estate Association, set up an office in East Palo Alto to panic white families into listing their homes for sale, a practice known as blockbusting. He and other agents warned that a "Negro invasion" was imminent and that it would result in collapsing property values. Soon, growing numbers of white owners succumbed to the scaremongering and sold at discounted prices to the agents and their speculators. The agents, including Lowe himself, then designed display ads with banner headlines—"Colored Buyers!"—which they ran in San Francisco newspapers. African Americans, desperate for housing, purchased the homes at inflated prices. Within a three-month period, one agent alone sold sixty previously white-owned properties to African Americans. The California real estate commissioner refused to take any action, asserting that while regulations prohibited licensed agents from engaging in "unethical practices," the exploitation of racial fear was not within the real estate commission's jurisdiction. Although the local real estate board would ordinarily "blackball" any agent who sold to a nonwhite buyer in the city's white neighborhoods (thereby denying the agent access to the multiple listing service upon which his or her business depended), once wholesale blockbusting began, the board was unconcerned, even supportive.

At the time, the Federal Housing Administration and Veterans Administration not only refused to insure mortgages for African Americans in designated white neighborhoods like

Ladera; they also would not insure mortgages for whites in a neighborhood where African Americans were present. So once East Palo Alto was integrated, whites wanting to move into the area could no longer obtain government-insured mortgages. State-regulated insurance companies, like the Equitable Life Insurance Company and the Prudential Life Insurance Company, also declared that their policy was not to issue mortgages to whites in integrated neighborhoods. State insurance regulators had no objection to this stance. The Bank of America and other leading California banks had similar policies, also with the consent of federal banking regulators.

Within six years the population of East Palo Alto was 82 percent black. Conditions deteriorated as African Americans who had been excluded from other neighborhoods doubled up in single-family homes. Their East Palo Alto houses had been priced so much higher than similar properties for whites that the owners had difficulty making payments without additional rental income. Federal and state housing policy had created a slum in East Palo.

With the increased density of the area, the school district could no longer accommodate all East Palo Alto students, so in 1958 it proposed to create a second high school to accommodate the expanding student population. The district decided to construct the new school in the heart of what had become the East Palo Alto ghetto, so black students in the existing integrated building would have to withdraw, creating a segregated African American school in the eastern section and a white one to the west. The board ignored pleas of African American and liberal white activists that it draw an east-west school boundary to establish two integrated secondary schools.

In ways like these, federal, state, and local governments purposely created segregation in every metropolitan area of the nation. If it could happen in liberal San Francisco, then indeed, it not only could but did happen everywhere. That the San Francisco region was segregated by government policy is particularly striking because, in contrast to metropolitan areas like Chicago, Detroit, Cleveland, or Baltimore, northern California had few African Americans before..World War II. The government was not following preexisting racial patterns; it was imposing segregation where it hadn’t previously taken root.

The First Racial Zoning Laws

IN THE early-twentieth-century, when African Americans in the South faced terror that maintained them in subjugation, when African Americans throughout the nation were being driven from small towns where they had previously enjoyed a measure of integration and safety, and when the federal government had abandoned its African American civil servants, we should not be surprised to learn that there was a new dedication on the part of public officials to ensure that white families' homes would be removed from proximity to African Americans in large urban areas.

Government policies to isolate white families in all-white urban neighborhoods began at the local level. As African Americans were being driven out of smaller midwestern and western communities like those in Montana, many other cities, particularly in southern and border states, already had large black populations that couldn't be expelled. Instead, many of these cities adopted zoning rules decreeing separate living areas for black and white families.

The first to do so was Baltimore, which in 1910 adopted an ordinance prohibiting African Americans from buying homes on blocks where whites were a majority and vice versa. Milton Dashiel, the lawyer who drafted Baltimore's ordinance, explained:

> Ordinarily, the negro loves to gather to himself, for he is very gregarious and sociable in his nature. But those who have risen somewhat above their fellows appear to have an intense desire to leave them behind, to disown them, as it were, and get as close to the company of white people as circumstances will permit them.

The segregation ordinance, he said, was needed to prevent this.

The troubles Baltimore encountered in applying the ordinance reflected just how integrated some areas of the city were. Soon after it adopted the ordinance, the city pursued twenty prosecutions to evict wrong-race residents. Judges had to grapple with such questions as whether an African American should be allowed to buy a home on a block that was evenly divided between white and black. A white homeowner moved out while his house was being repaired but then couldn't move back because the block was 51 percent black. An African American pastor of a church with an African American congregation complained to the mayor that because his church was on a mostly white block, the pastor who succeeded him would be forbidden to move into the parsonage. Eventually, the ordinance was revised so that it applied only to blocks that were entirely white or black, leaving Baltimore's integrated blocks unaffected."

Many southern and border cities followed Baltimore and adopted similar zoning rules: Atlanta, Birmingham, Dade County (Miami), Charleston, Dallas, Louisville, New Orleans, Oklahoma City, Richmond (Virginia), St. Louis, and others. Few northern cities did so; before the Great Migration stimulated by the First World War, most northern urban black populations were still small. Nonetheless support for these segregation ordinances was widespread among white political and opinion leaders. In 1915, The New Republic, still in its infancy but already an influential magazine of the Progressive movement, argued for residential racial segregation until Negroes ceased wanting to “amalgamate” with whites—which is to say, ceased wanting to engage in relationships that produced mixed-race children. The article’s author apparently did not realize that race amalgamation in the United States was already considerably advanced, resulting from the frequent rapes of slaves by white masters.

In 1917, the Supreme Court overturned the racial zoning ordinance of Louisville, Kentucky, where many neighborhoods included both races before twentieth-century segregation. The case, Buchanan v. Warley, involved an African American’s attempt to purchase property on an integrated block where there were already two black and eight white households. The Court majority was enamored of the idea that the central purpose of the Fourteenth Amendment was not to protect the rights of freed slaves but a business rule: “freedom of contract.” Relying on this interpretation, the Court had struck down minimum wage and workplace safety laws on the grounds that they interfered with the right of workers and business owners to negotiate individual employment conditions without government interference. Similarly, the Court ruled that racial zoning ordinances interfered with the right of a property owner to sell to whomever he pleased.

Many border and southern cities ignored the Buchanan decision. One of the nation’s most prominent city planners, Robert Whitten, wrote in a 1922 professional journal that notwithstanding the Buchanan decision, “[e]stablishing colored residence districts has removed one of the most potent causes of race conflict.” This, he added, was “a sufficient justification for race zoning. . . . A reasonable segregation is normal, inevitable and desirable.” Whitten then went ahead and designed a zoning ordinance for Atlanta, advising city officials that “home neighborhoods had to be protected from any further damage to values resulting from inappropriate uses, including the encroachment of the colored race.” The zone plan drafted by Whitten and published by the Atlanta City Planning Commission in 1922 explained that “race zoning is essential in the interest of the public peace, order and security and will promote the welfare and prosperity of both the white and colored race.” The zoning law divided the city into an “R-1 white district” and an “R-2 colored district” with additional neighborhoods undetermined.

Challenged in court, Atlanta defended its law by arguing that the Buchanan ruling applied only to ordinances identical to Louisville’s. Atlanta’s was different, its lawyers contended, because it designated whole neighborhoods exclusively for black or white residence, without regard to the previous majority-race characteristics of any particular block. The lawyers also claimed that the Louisville decision didn’t apply because Atlanta’s rules addressed only where African Americans and whites could live, not who could purchase the property. The Georgia Supreme Court rejected this argument in 1924, finding Whitten's plan unconstitutional, but Atlanta officials continued to use the racial zoning map to guide its planning for decades to come.

Other cities continued to adopt racial zoning ordinances after Buchanan, insisting that because their rules differed slightly from Louisville's, the Court's prohibition didn't apply. In 1926, Indianapolis adopted a regulation permitting African Americans to move to a white area only if a majority of its white residents gave their written consent, although the city's legal staff had advised that the ordinance was unconstitutional. In 1927, the Supreme Court overturned a similar New Orleans law that required a majority vote of opposite-race neighbors.

Richmond, Virginia, attempted a sly evasion of Buchanan. In 1924, the state adopted a law banning interracial marriage, so the city then prohibited anyone from residing on a street where they were ineligible to marry a majority of those already living there. Municipal lawyers told federal courts that Buchanan did not apply because their city's racial zoning law was solely intended to prevent intermarriage and its interference with residential property rights was incidental. In 1930 the Supreme Court rejected this reasoning.

In addition to promoting segregation, zoning decisions contributed to degrading...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. Later in the twentieth century, when the Federal Housing Administration (FHA) developed the insured amortized mortgage as a way to promote homeownership nationwide, these zoning practices rendered African Americans ineligible for such mortgages because banks and the FHA considered the existence of nearby rooming houses, commercial development, or industry to create risk to the property value of single-family areas. Without such mortgages, the effective cost of African American housing was greater than that of similar housing in white neighborhoods, leaving owners with fewer resources for upkeep. African American homes were then more likely to deteriorate, reinforcing their neighborhoods' slum conditions.

But in cities that respected Buchanan as the law, segregationist officials faced two distinct problems: how to keep lower-income African Americans from living near middle-class whites and how to keep middle-class African Americans from buying into white middle-class neighborhoods. For each of these conditions, the federal and local governments developed distinct solutions.

The 1930s: When the Federal Government democratized homeownership (for whites)

ALTHOUGH THE federal government had been trying to persuade middle-class families to buy single-family homes for more than fourteen years, the campaign had achieved little by the time Franklin D. Roosevelt took office in 1933. Homeownership remained 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, at which point the borrower would have to refinance or find another bank to issue a new mortgage with similar terms. Few urban working- and middle-class families had the financial capacity to do what was being asked.

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 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 fifteen years (later extended to twenty-five 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 home-owners could gradually gain equity while their properties were still mortgaged. If a family with an amortized mortgage sold its home, the equity (including any appreciation) would be the family's to keep.

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 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.
For example, in St. Louis, the white middle-class suburb of Ladue was colored green because, according to an HOLC appraiser in 1940, it had “not a single foreigner or negro.” The similarly middle-class suburban area of Lincoln Terrace was colored red because it had “little or no value today . . . due to the colored element now controlling the district.” 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 in 1934. The FHA insured bank mortgages that covered 80 percent of purchase prices, had terms of twenty 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 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 “[p]rotection against some adverse influences is obtained,” and that “[i]mportant among adverse influences . . . are infiltration of inharmonious racial or nationality groups.” The manual concluded that “[a]ll mortgages on properties protected against [such] unfavorable influences, to the extent such protection is possible, will obtain a high rating.”

The FHA discouraged banks from making any loans at all in urban neighborhoods rather than newly built suburbs; according to the Underwriting Manual, “older properties . . . have a tendency to accelerate the rate of transition to lower class occupancy." The FHA favored mortgages in areas where boulevards or highways served to separate African American families from whites, stating that "[n]atural or artificially established barriers will prove effective in protecting a neighborhood and the locations within it from adverse influences, ...includ[ing] prevention of the infiltration of...lower class occupancy, and inharmonious racial groups."

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."

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."

FHA policy in this regard was consistent. In 1941, a New Jersey real estate agent representing a new development in suburban Fanwood, about twenty miles west of Newark, attempted to sell twelve properties to middle-class African Americans. All had good credit ratings, and banks were willing to issue mortgages if the FHA would approve. But the agency stated that "no loans will be given to colored developments." When banks told the real estate agent that without FHA endorsement they would not issue the mortgages, he approached the Prudential Life Insurance Company, which also said that although the applicants were all creditworthy, it could not issue mortgages unless the FHA approved. Today, Fanwood's population remains 5 percent black in a county with a black population of about 25 percent.

Good Whites, Bad Outcomes

In 1958, a white San Francisco schoolteacher, Gerald Cohn, purchased a house with an FHA-guaranteed mortgage in the Elmwood district of Berkeley. By the closing date, Mr.

Cohn wasn't ready to move in and, while keeping up his mortgage payments, rented the house to a fellow teacher, Alfred Simmons, an African American. The Berkeley chief of police asked the Federal Bureau of Investigation (FBI) to inquire how Mr. Simmons had managed to get into this all-white community. The bureau questioned Gerald Cohn's neighbors in San Francisco but failed to find evidence that he had obtained his mortgage under false pretenses—in other words, that he had never intended to occupy his Berkeley home but had always planned to rent to an African American. The FBI referred the case to the U.S. attorney, who refused to prosecute because no law had been broken. The FHA, however, then blacklisted Mr. Cohn, advising him that he would be "denied the benefits of participation in the FHA insurance program" and never again be able to obtain a government-backed mortgage. The director of the San Francisco FHA office wrote to him, "This is to advise you that any application for mortgage insurance under the programs of this Administration submitted by you or any firm in which you have ten per cent interest, will be rejected on the basis of an Unsatisfactory Risk Determination made by this office on April 30, 1959."

In thousands of communities between Fanwood and Berkeley, FHA policy was the same, with very few exceptions: no guarantees for mortgages to African Americans, or to whites who might lease to African Americans, regardless of the applicants' creditworthiness.

A ST. LOUIS story illustrates how stark the FHA policy could be. Charles Vatterott was an area builder who obtained advance FHA guarantees for a subdivision of single-family homes in western St. Louis County. Vatterott called his development St. Ann and intended it to be a community for lower-middle-class Catholics, particularly returning war veterans. He began construction in 1943, and while he made a special effort to recruit Catholics, he did not prohibit sales to non-Catholic whites—he barred only blacks, as the FHA required. Vatterott had relatively moderate attitudes on racial matters and believed that the housing needs of African Americans should also be addressed but in separate projects. So after completing St. Ann, he constructed a subdivision for African Americans—De Porres, in the town of Breckenridge Hills, a few miles away from St. Ann. He intended to sell to African Americans whose incomes and occupations, from truck drivers to chemists, were similar to those of St. Ann buyers. These were the kinds of potential purchasers who, if they were white, could have bought into St. Ann or any of the many other subdivisions developed throughout St. Louis County in the postwar "period.

But because De Porres was intended for African Americans, Vatterott could not get FHA financing for it. As a result, the construction was shoddier and the house design skimpier than it had been in St. Ann. Because potential buyers were denied FHA or VA mortgages, many of the homes were rented. Vatterott set up a special savings plan by which families without FHA or VA mortgages could put aside money toward a purchase of their homes. But unlike St. Ann residents, the De Porres savers could not accumulate equity during this process. The De Porres development for African Americans also lacked the community facilities—parks and playgrounds—that Vatterott had built into the St. Ann subdivision."

WHEN THE FHA rejected proposals for projects like De Porres that might house African Americans or otherwise threaten future integration, the agency didn't mask the racial bases of its decisions. In 1940, for example, a Detroit builder was denied FHA insurance for a project that was near an African American neighborhood. He then constructed a half-mile concrete wall, six feet high and a foot thick, separating the two neighborhoods, and the FHA then approved the loan. Occasionally, FHA mortgage holders did default, and the agency repossessed the property and resold it. To make certain that such resale did not undermine its segregation policy, the FHA contracted with real estate brokers who refused to sell to African Americans."

A pattern emerges from these examples. Government's commitment to separating residential areas by race began nationwide following the violent suppression of Reconstruction after 1877. Although the Supreme Court in 1917 forbade the first wave of policies—racial segregation by zoning ordinance—the federal government began to recommend ways that cities could evade that ruling, not only in the southern and border states but across the country. In the 1920s a Harding administration committee promoted zoning ordinances that distinguished single-family from multifamily districts. Although government publications did not say it in as many words, committee members made little effort to hide that an important purpose was to prevent racial integration. Simultaneously, and through the 1920s and the Hoover administration, the government conducted a propaganda campaign directed at white middle-class families to persuade them to move out of apartments and into single-family dwellings. During the 1930s the Roosevelt administration created maps of every metropolitan area, divided into zones of foreclosure risk based in part on the race of their occupants. The administration then insured white homeowners' mortgages if they lived in all-white neighborhoods into which there was little danger of African Americans moving. After World War II the federal government went further and spurred the suburbanization of every metropolitan area by guaranteeing bank loans to mass-production builders who would create the all-white subdivisions that came to ring American cities.

In 1973, the U.S. Commission on Civil Rights concluded that the "housing industry, aided and abetted by Government, must bear the primary responsibility for the legacy of segregated housing. . . . Government and private industry came together to create a system of residential segregation."

Racially Restrictive Covenants

BEFORE THE FHA sponsored whites-only suburbanization in the mid-twentieth century, many urban neighborhoods were already racially exclusive. Property owners and builders had created segregated environments by including language both in individual home deeds and in pacts among neighbors that prohibited future resales to African Americans. Proponents of such restrictions were convinced that racial exclusion would enhance their property values and that such deeds were mere private agreements that would not run afoul of constitutional prohibitions on racially discriminatory state action. The FHA adopted both of these theories.

But when the Supreme Court ruled in 1948 that racial clauses in deeds and mutual agreements, if truly private, could not depend on the power of government to enforce them, the FHA and other federal agencies evaded and subverted the ruling, preserving state-sponsored segregation for at least another decade.

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AS EARLY as the nineteenth century, deeds in Brookline, Massachusetts, forbade resale of property to “any negro or native of Ireland.” Such “provisions spread throughout the country in the 1920s as the preferred means to evade the Supreme Court’s 1917 Buchanan racial zoning decision.

The deed clauses were part of what are commonly termed “restrictive covenants,” lists of obligations that purchasers of property must assume. The obligations included (and still do include) such matters as what color the owner promises to paint the outside window trim and what kind of trees the owner commits to plant in front. For the first half of the twentieth century, one commonplace commitment in this long list was a promise never to sell or rent to an African American. Typical restrictive language read like this from a 1925 covenant on a property in suburban northern New Jersey:”

There shall not be erected or maintained without the written consent of the party of the first part on said premises, any slaughter house, smith shop, forge furnace, steam engine, brass foundry, nail, iron or other foundry, any manufactory of gunpowder, glue, varnish, vitriol, or turpentine, or for the tanning dressing or preparing of skins, hides or leather, or for carrying on any noxious, dangerous or offensive trade; all toilet outhouses shall be suitably screened, no part of said premises shall be used for an insane, inebriate or other asylum, or cemetery or place of burial or for any structure other than a dwelling for people of the Caucasian Race.

Almost all such documents created exceptions for live-in household or childcare workers, like this passage from a 1950 covenant on property in the Westlake subdivision of Daly City, California:

The real property above described, or any portion thereof, shall never be occupied, used or resided on by any person not of the white or Caucasian race, except in the capacity of a servant or domestic employed theron as such by a white Caucasian owner, tenant or occupant.

In the Northeast the pattern established in Brookline was pervasive. Around suburban New York City, for example, a survey of 300 developments built between 1935 and 1947 in Queens, Nassau, and Westchester Counties found that 56 percent had racially restrictive covenants. Of the larger subdivisions (those with seventy-five or more units), 85 percent had them.

It was also the case in midwestern metropolises. By 1943, an estimated 175 Chicago neighborhood associations were enforcing deeds that barred sales or rentals to African Americans. By 1947, half of the city's residential area outside its African American areas had such deed restrictions. In Detroit from 1943 to 1965, white homeowners, real estate agents, or developers organized 192 associations to preserve racial exclusion.

And so it was, too, in the Great Plains. The Oklahoma Supreme Court in 1942 not only voided an African American's purchase of a property that was restricted by a racial covenant; it charged him for all court costs and attorney's fees, including those incurred by the white seller.

In Oakland, California, DeWitt Buckingham was a respected African American physician who had been a captain in the Army Medical Corps during World War II. After the war he established a medical practice serving the city's African American community, and in 1945, a white friend purchased and then resold a home to him in Claremont, a Berkeley neighborhood where many University of California professors and administrators lived. When the identity of the true buyer became known, the Claremont Improvement Club, a neighborhood association that controlled a covenant restricting the area to those of "pure Caucasian blood," sued. A state court ordered Dr. Buckingham to vacate the residence.

In Los Angeles from 1937 to 1948, more than one hundred lawsuits sought to enforce restrictions by having African Americans evicted from their homes. In a 1947 case, an African American man was jailed for refusing to move out of a house he'd purchased in violation of a covenant.

The Contract System

THE FHA's redlining necessitated the contract sale system for black homeowners unable to obtain conventional mortgages, and this created the conditions for neighborhood deterioration. Mark Satter was a Chicago attorney who in the early 1960s represented contract buyers facing eviction; mostly he was unsuccessful. His daughter Beryl, now a professor of history at Rutgers University, described the conditions he encountered in her memoir, Family Properties, and summarized them like this:

Because black contract buyers knew how easily they could lose their homes, they struggled to make their inflated monthly payments. Husbands and wives both worked double shifts. They neglected basic maintenance. They subdivided their apartments, crammed in extra tenants and, when possible, charged their tenants hefty rents. . . . White people observed that their new black neighbors overcrowded and neglected their properties. Overcrowded neighborhoods meant overcrowded schools; in Chicago, officials responded by "double-shifting" the students (half attending in the morning, half in the afternoon). Children were deprived of a full day of schooling and left to fend for themselves in the after-school hours. These conditions helped fuel the rise of gangs, which in turn terrorized shop owners and residents alike.

In the end, whites fled these neighborhoods, not only because of the influx of black families, but also because they were upset about overcrowding, decaying schools and crime. . . . But black contract buyers did not have the option of leaving a declining neighborhood before their properties were paid for in full—if they did, they would lose everything they'd invested in that property to date. Whites could leave—blacks had to stay.

This contract arrangement was widespread not only in Chicago but in Baltimore, Cincinnati, Detroit, Washington, D.C., and probably elsewhere. In Mark Satter's time, approximately 85 percent of all property purchased by African Americans in Chicago had been sold to them on contract. When the neighborhood where he worked, Lawndale on the city's West Side, was changing from predominantly white to predominantly black, more than half of the residences had been bought on contract.

Suppressed Incomes

A COMMON EXPLANATION FOR de facto segregation is that most black families could not afford to live in predominantly white middle-class communities and still are unable to do so. African American isolation, the argument goes, reflects their low incomes, not de jure segregation. Racial segregation will persist until more African Americans improve their educations and then are able to earn enough to move out of high-poverty neighborhoods.

The explanation at first seems valid. But we cannot understand the income and wealth gap that persists between African Americans and whites without examining governmental policies that purposely kept black incomes low throughout most of the twentieth century. Once government implemented these policies, economic differences became self-perpetuating. It is not impossible, but it is rare for Americans, black or white, to have a higher rank in the national income distribution than their parents."

IN THE 1930s, President Franklin D. Roosevelt could assemble the congressional majorities he needed to adopt New Deal legislation only by including southern Democrats, who were fiercely committed to white supremacy. In consequence, Social Security, minimum wage protection, and the recognition of labor unions all excluded from coverage occupations in which African Americans predominated: agriculture and domestic service. State and local governments behaved similarly. When, for example, in the mid-1930s St. Louis constructed a segregated hospital for African American patients, a contractor hired a single black tile setter; white union members protested, and the city fired the contractor and announced it would no longer use any firm that employed African American labor."

The Tennessee Valley Authority (TVA) segregated its workers on the job as well as in housing. At construction projects, African Americans were assigned to work separately, but only if enough were needed at particular sites to make up full crews. If not, then African Americans were denied work entirely. No African Americans were permitted to be promoted to foreman or other supervisory roles in the TVA. The first national New Deal program, the Federal Emergency Relief Administration, adopted in 1933, disproportionately spent its funds on unemployed whites, frequently refused to permit African Americans to take any but the least skilled jobs, and even in those, paid them less than the officially stipulated wage."

THE GOVERNMENT'S participation in blocking African Americans' wage-earning opportunities had its most devastating effect during World War II, when black workers migrated to centers of war production in search of jobs. The Roosevelt administration required factories to convert from civilian to military production. The army and navy effectively operated shipbuilding yards, munitions makers, and aircraft and tank manufacturers. Yet federal agencies both tolerated and supported joint management-union policies that kept African Americans from doing any but the most poorly paid tasks in defense plants.

Events in the San Francisco Bay Area, where Allen and Frank Stevenson sought work during the war, were typical. The region was the largest center of war-related shipbuilding in the nation. The Marine Laborers Union, which had seven members in 1941, grew to more than 30,000 during the next few years. The Steamfitters union membership soared from 400 to 17,000. Unions like these had NLRB-certified agreements that companies could not hire without a union referral, and the unions would not refer African Americans

The construction trades continued to exclude African Americans during the home and highway construction booms of the postwar years, so black workers did not share with whites the substantial income gains that blue collar workers realized in the two big wage growth periods of the mid-twentieth century—war production and subsequent suburbanization. African Americans were neither permitted to live in the new suburbs nor, for the most part, to boost their incomes by participating in suburban construction.

In 1964 the National Labor Relations Board finally refused to certify whites-only unions. Although the policy was now changed, the agency offered African Americans no remedy for decades of income suppression that flowed from its unconstitutional embrace of segregation. Still another decade passed before African Americans were admitted to most AFL craft unions, but seniority rules meant it would take many more years for them to achieve incomes in these trades that were comparable to whites'. Racial income inequality by then was firmly established, and suburban segregation was mostly complete.

The G.I. Bill

In 1944, the G.I. Bill was adopted to support returning servicemen. The VA not only denied African Americans the mortgage subsidies to which they were entitled but frequently restricted education and training to lower-level jobs for African Americans who were qualified to acquire greater skills. In some cases, local benefit administrators refused to process applications to four-year colleges for African Americans, directing them to vocational schools instead. Servicemen with dishonorable discharges were ineligible for benefits under the G.I. Bill, and African American soldiers disproportionately received dishonorable discharges—some for protesting segregation in army towns."

Property Taxes and Prejudice

AFRICAN AMERICANS could save less from their wages because in some (perhaps many) cities, discriminatory property assessments left them with less disposable income than whites with similar earnings. A homeowner's property tax is calculated by taking the property's assessed value, usually set by a county tax assessor, and multiplying it by the tax rate set by a municipal government agency (city, county, school district, water district, fire district, etc.).

Taxpayers have a natural tendency to be pleased when the assessor gives a high value to their property. It makes them feel wealthier, increasing their equity on paper. But what an assessor says about property value can't affect the potential sale price of a home; higher assessed values only mean that tax payments will be higher if other properties are not overassessed in the same way. Studies of Albany, Boston, Buffalo, Chicago, Fort Worth, and Norfolk have documented the higher effective property tax burdens borne by African Americans.

An investigation of 1962 assessment practices in Boston, for example, found that assessed values in the African American community of Roxbury were 68 percent of market values, while assessed values in the nearby white middle-class community of West Roxbury were 41 percent of market values. The researchers could not find a nonracial explanation for the difference.

Seventeen years later, an analysis of Chicago assessments found the most underassessed neighborhood to be Bridgeport, the all-white home of Mayor Richard J. Daley, where resistance to African Americans was among the most violent in the nation. Bridgeport assessed values were about 50 percent lower than the legally prescribed ratio of assessed-to-market value; in the nearby African American North Lawndale neighborhood, they were about 200 percent higher than the legally prescribed ratio.

In a 1973 study of ten large U.S. cities, the federal Department of Housing and Urban Development (HUD) found a systematic pattern of overassessment in low-income African American neighborhoods, with corresponding underassessment in white middle-class neighborhoods. The study revealed that in Baltimore, the property tax burden in the white middle-class community of Guilford, near Johns Hopkins University, was one-ninth that of African American East Baltimore. In Philadelphia the burden in white middle-class South Philadelphia was one-sixth that of African American Lower North Philadelphia. In Chicago the burden in white middle-class Norwood was one-half that of African American Woodlawn. The report provoked no action by the U.S. Department of Justice. The higher property taxes paid by African American owners—and through their landlords, by African American renters—contributed to the deterioration of their neighborhoods. After taxes, families had fewer funds left for maintenance, and some were forced to take in boarders or extended family members to pay their property taxes.