

I Introduction: The Rough Road to Reinvestment

These are the two faces of community development: noisy protest and quiet accomplishment. . . . One can act one way at age 20 and another at age 40. It is called growing up.

– Lawrence B. Lindsey (Lindsey 2000)

If there is no struggle, there is no progress.

Those who profess to favor freedom and yet deprecate agitation

Are men who want crops without plowing the ground.

They want rain without thunder and lightning.

They want the ocean without the awful roar of its waters.

Power concedes nothing without a demand.

It never did, and it never will.

– Frederick Douglass, August 4, 1857, West India Emancipation,
Speech delivered at Canandaigua, New York
(Blassingame 1985, 204)

After decades of overt redlining and racially discriminatory lending practices, financial institutions are once again returning to the nation's cities. Between 1993 and 2000 the share of single-family home-purchase mortgage loans going to low- and moderate-income borrowers increased from 19 percent to 29 percent. The share of loans going to black households increased from 3.8 percent to 6.6 percent, while the Hispanic share increased from 4 percent to 6.9 percent (National Community Reinvestment Coalition 2001a, 9). As Paul S. Grogan and Tony Proscio have observed, "Not only have community-based organizations found it vastly easier to line up financing and equity investments for their projects, but millions of individual borrowers and home buyers have found credit where for decades there had been only rejections" (Grogan and Proscio 2000, 120). One result is that homeownership rates are at all-time record high levels. In the first quarter of 2001 the national homeownership

rate rose to 67.4 percent. African American homeownership climbed to 47.6 percent and the Hispanic homeownership rate reached 46.3 percent (Joint Center for Housing Studies 2001, 14). In central cities the homeownership rate reached a record high of 51.2 percent in 2000 (U.S. Department of Housing and Urban Development 2000a, 38-39). All of these figures were the highest in the nation's history. Though much remains to be done, clearly there has been progress in recent years.

Noting the greater availability of credit in urban and minority markets, some prominent observers attribute such change to the maturing of 1960s-style protesters who grew up and now pursue "progress over protest." Lost in what is in fact a premature declaration of victory is the vital role that advocacy and organizing efforts have played and continue to play in ongoing struggles to increase access to capital in distressed neighborhoods. This book tells the story of how neighborhood groups brought their communities together to change the way financial institutions do business in the nation's cities.

Politics, Protest, and Progress

Community development is big business today. Billions of dollars are spent by a range of investors, development organizations, and consumers. In observing that community development has emerged as an industry, Lawrence B. Lindsey, former economic policy advisor to President George Bush, patronizingly concedes that "The protest banner can still be held reverently in our box of mementos, along with the love beads [and] peace signs." But fortunately, from his perspective, effective proponents of urban communities act differently today; now they are "business people." The evolution is very simple, according to Lindsey: "It is called growing up." In their widely acclaimed book *Comeback Cities* (2000), Paul S. Grogan and Tony Proscio ridicule those with a "preference for confrontation over visible results." As Lindsey would no doubt agree, they applaud the Sixties and seventies activists who, they claim, "exhausted by the antagonisms and fruitless turmoil, were more than ready to turn their newfound community-organizing talents to some practical redevelopment *projects*." Interestingly, they attribute much of the recent success in urban revitalization to the Community Reinvestment Act (CRA), a federal law that emerged from the Alinsky-style radicalism they dismiss. To this day its effectiveness is grounded in large part in the power neighborhood groups have acquired through a range of advocacy and organizing efforts that Grogan and Proscio also scorn.

Community development is clearly changing. Many lenders see investment opportunities in neighborhoods they would not have considered just a few years ago. Financial institutions and community development groups are sitting down as partners and "doing deals." In many cases it is the protest organizations that, as a result of their advocacy, have been able to bring the

lenders to the negotiating table. Financial intermediaries like the Local Initiative Support Corporation (LISC) and quasi-governmental organizations like the Neighborhood Reinvestment Corporation and Fannie Mae are providing capital. Community development finance institutions have been created to contribute to these efforts. Government agencies have used the proverbial stick as well as the carrot in passing new laws, like the CRA, and in filing lawsuits to prod reinvestment. No doubt some lenders have simply responded to signals of the marketplace and found profitable loans and investments in areas they had not previously considered. There are many facets to community reinvestment today.

But those who juxtapose organizing and advocacy efforts with accomplishments and results distort both history and current social reality. Community reinvestment is also an emerging social movement. Like other social movements that sought to alter systems of unequal power and privilege (the two most vivid examples of which are the labor movement and civil rights movement), struggle and conflict are intrinsic to community reinvestment efforts. Advocacy and accomplishment are pieces of the same mosaic. And this does not apply just to historical developments. As the heated debates over the recent Financial Services Modernization Act and implementing regulations indicate, conflicting interests persist. If advocacy and organizing are *passé*, so will be further progress in community reinvestment.

Race, Redlining, and Reinvestment

For at least fifty years it has been very difficult to disentangle the realities of race from the dynamics of urban disinvestment. Racial discrimination has been at the heart of uneven metropolitan development, as the Kerner Commission noted in 1968 and the current debate over urban sprawl reveals today (National Advisory Commission on Civil Disorders 1968; Dreier et al. 2001; Orfield 1997, 2002; Rusk 1999; Powell 1998). Housing policy, and particularly housing finance practices, as well as business and community development have all been shaped by the contours of racial inequality, which these policies and practices in turn have reinforced.

The influence of race on mortgage lending in particular and housing policies and patterns in general is now well known (Jackson 1985; Massey and Denton 1993; Yinger 1995; Squires and O'Connor 2001; Ross and Yinger 2002). More than fifty years ago, University of Chicago sociologist and federal housing policy advisor Homer Hoyt ranked fifteen racial and ethnic groups in terms of their impact on property values in a report he prepared for the Federal Housing Administration (FHA). Those having the most detrimental impact were Negroes and Mexicans (Hoyt 1933). In light of this expert advice, the FHA concluded in its 1938 underwriting manual, "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 contributes to instability and a decline in values" (U.S. Federal Housing Administration 1938, par. 937).

The FHA was also a leading advocate of racially restrictive covenants that virtually guaranteed that properties would be occupied by the same classes over time. These covenants were enforceable in court until the U.S. Supreme Court ruled them unenforceable in the 1948 case *Shelley v. Kramer*.

The FHA has been a major source of home financing for more than seventy years. From 1930 through the 1950s it financed 60 percent of all home purchases. Virtually all FHA insured mortgages were for properties in suburban communities (Lief and Goering 1987, 229). During the 1960s, the FHA altered its policies and began to insure central-city homes in substantial numbers. Liberal loan terms and lower costs attracted low-income buyers. With the costs paid up front and insured by the federal government, they were attractive to many lenders as well. Frequently working with local realtors, lenders would solicit home purchases from families who could not, in fact, afford the acquisition. Exploiting racial fears in many cases, blockbusting resulted in the swift racial transition of urban communities. Thousands of families shortly defaulted on the loans, which led to the deterioration of once vibrant neighborhoods. The linchpin of such destruction was the availability of federally insured loans, which guaranteed the profits of lenders and realtors but cost many families their homes and life savings. The operation of the dual housing finance system—conventional loans for white suburbanites and FHA loans for nonwhite inner-city residents—reinforced the division of American society into the predominantly white, affluent suburbs and largely poor nonwhite central cities foreseen by the Kerner Commission in 1968 (Bradford 1979; Bradford and Cincotta 1992).

Private housing and housing finance industries shared the federal government's racial biases. In 1932 a leading real estate theoretician, Frederick Babcock, observed that "there is one difference in people, namely race, which can result in very rapid decline. Usually such declines can be partially avoided by segregation and this device has always been in common usage in the South where white and negro [sic] populations have been separated" (Bradford 1979). The American Institute of Real Estate Appraisers used the following example to illustrate neighborhood analysis into the 1970s: "The neighborhood is entirely Caucasian. It appears that there is no adverse effect by minority groups" (Greene 1980, 9). Until 1950 the National Association of Realtors stated in its code of ethics that "A Realtor should never be instrumental in introducing into a neighborhood a character of property or occupancy, members of any race or nationality, or any individual whose presence will clearly be detrimental to property values in the neighborhood" (Judd 1984, 284). And in 1988 a sales manager for the American Family Mutual Insurance Company advised one of his agents, in a tape-recorded statement, "I think you write too many blacks. . . . You gotta sell good, solid premium paying white people . . .

they own their homes, the white works. . . . Very honestly, black people will buy anything that looks good right now . . . but when it comes to pay for it next time . . . you're not going to get your money out of them" (*NAACP v. American Family Insurance Company* 1992). The explicit attention paid to race has been a key factor in the creation of the dual housing market and hypersegregation of urban neighborhoods throughout the United States (Jackson 1985; Massey and Denton 1993; Massey 2001).

While the overt discrimination of prior decades has been ameliorated, racial inequality and discrimination persist in housing finance markets. African American mortgage loan applications are still denied twice as often as those from whites, even among those with similar incomes. While there is much debate over the causes of these patterns, available empirical evidence reveals that discrimination is still a central feature of the housing finance market. The most comprehensive study to date, conducted by the Federal Reserve Bank in Boston, found that among similarly qualified applicants, African Americans were 80 percent more likely to be denied than whites (Munnell et al. 1996). Paired testing by fair housing organizations, other academic research, and investigations by regulatory agencies find substantial evidence of discrimination in the marketing of loans, terms and conditions of available credit, impact of underwriting guidelines, and other facets of the mortgage lending industry (Goering and Wienk 1996; Turner and Stidmore 1999; Turner et al. 2002a). Within the past ten years the U.S. Department of Justice has settled at least thirteen cases resulting in over \$33 million in monetary relief from lenders it concluded were refusing to market in black neighborhoods, rejecting black applicants who were as qualified as whites who were approved, charging higher interest rates and other fees to nonwhite borrowers, using underwriting rules that adversely affected black communities (for example, refusing to finance or varying the terms of loans for older and lower-valued properties), providing different levels of counseling based on the race of the applicant, and otherwise treating racial minorities less favorably (Lee 1999).

If access to credit has improved in recent years, predatory lending may be filling at least part of that void. Many lenders use high-pressure sales tactics to market loan products where the interest rates and fees far exceed the risk and where borrowers are often worse off financially after consummating the loan. Such loans are often based on the value of the home rather than the income of the borrower. Consequently, borrowers often find themselves unable to keep up with the loan payments. Predatory lenders may refinance these loans at even more stringent terms, and eventually many borrowers lose the equity in their homes, or lose their house altogether (U.S. Department of Housing and Urban Development 2000b; Immergluck and Wiles 1999). To date the Federal Trade Commission has sued fifteen lenders for unlawful predatory practices and is investigating more (Oppel 2001, 1). Predatory lending today is exerting the same adverse impact on urban communities as the FHA scandals did in the 1960s and 1970s.

There are no precise quantitative estimates of the number of predatory lenders or their share of the market. But there has been a substantial growth in subprime lending, which is the segment in which predatory lenders are located. Between 1993 and 1998 subprime lenders increased their share of home-purchase loans in metropolitan areas from 1 percent to 5 percent. In low-income minority neighborhoods their share grew from 2 percent to 15 percent. Growth has been even greater in the refinance market, where the market share in low-income minority areas went from approximately 5 percent to 46 percent, compared to less than 5 percent to 30 percent in upper-income white areas (Joint Center for Housing Studies 2000). Not all subprime lenders are predatory, of course. Many serve an important role in providing access to credit to higher-risk borrowers who could not otherwise obtain a loan or buy or maintain a home. But the sudden expansion of this part of the market is indicative of the increase in predatory lending. And both Fannie Mae and Freddie Mac have estimated that between 30 percent and 50 percent of borrowers receiving subprime loans would, in fact, qualify for less costly prime loans (Ross and Yinger 2002, 9).

Race has also long influenced small-business lending. Small businesses constitute a critical part of the U.S. economy, particularly in major metropolitan areas. The roughly 24 million small businesses nationwide employ 52 percent of the private workforce, contribute 51 percent of private sector output, create the majority of new jobs, and produce 55 percent of innovations. These businesses, and the U.S. economy generally, depend on access to credit, particularly from commercial banks, in order to survive and thrive (Office of Advocacy, U.S. Small Business Administration 1999).

Yet small businesses, particularly small minority-owned businesses in urban communities, often experience difficulty in securing small-business loans. Recent evidence indicates that minority-owned firms receive fewer and smaller loans than white-owned firms with identical traits (Cavalluzzo, Cavalluzzo, and Wolken I 1999; Blanchflower, Levine, and Zimmerman 1998; Ando 1988; Bates 1989, 1997). In a 1993 survey the National Bureau of Economic Research found that black business owners were three times as likely as whites to be turned down for small-business loans. Among firms that were comparable in terms of credit rating, age, size, geographic location, and experience of owners, black-owned firms were twice as likely to be rejected—and among those firms that were approved, black ownership paid an average of 1 percent more in interest (Blanchflower, Levine, and Zimmerman 1998).

The historical and contemporary reality of racial discrimination, urban disinvestment, and redlining has generated strong reactions on several fronts. Progress is perhaps best symbolized by enactment of key federal laws, including the Fair Housing Act in 1968, the Home Mortgage Disclosure Act in 1975, and the Community Reinvestment Act in 1977. These statutes and their implementing regulations have been revised significantly over time, and more

changes are currently under consideration. Each stage of these developments has been and continues to be enshrouded in political conflict and controversy.

From Redlining to Reinvestment

Community reinvestment and fair lending advocates have used a variety of tools to pursue their objectives of increasing access to credit in underserved markets. These include public education, litigation, demonstrations, partnerships, and direct delivery of services, among others. Critical leverage has been provided by federal law, particularly the Fair Housing Act, Home Mortgage Disclosure Act (HMDA), and Community Reinvestment Act (CRA). Each of these statutes was born in struggle, and controversy continues over their implementation.

The Fair Housing Act

The Fair Housing Act was a product, at least in part, of the civil disobedience that many cities experienced in the 1960s. A combination of political conflicts and compromises resulted in a law that was comprehensive in its coverage but weak in its enforcement. Had it not been for the assassination of Martin Luther King Jr. on April 4, 1968, the bill might never even have made it out of committee to the House floor (this discussion of the Fair Housing Act is drawn from Massey and Denton 1993, 186-216).

The bill did become law in 1968. It prohibited discrimination on the basis of race, color, religion, sex, and national origin in the sale or rental of housing, the terms and conditions under which housing would be made available, the advertising of housing, and the financing of housing. Implementing regulations and court decisions prohibited blockbusting and racial steering, denial of credit due to the racial composition of a neighborhood, property insurance discrimination, and other practices that resulted from unlawful intentional discrimination or had an illegal adverse disparate impact on nonwhites that could not be justified as necessary for a legitimate business purpose.

But the FHA gave the U.S. Department of Housing and Urban Development (HUD), the primary enforcement agency, only the power to engage in “conference, conciliation, and persuasion.” HUD could also refer cases to the U.S. Department of Justice for prosecution. The Fair Housing Amendments Act of 1988 added handicap and familial status (for example, families with children) as protected groups and provided HUD with more enforcement authority. It created a process for the agency to take cases to an administrative law judge who could order full compensation for damages plus civil fines up to \$10,000 for a first violation and \$50,000 for a third offense.

The Justice Department relied on the FHA in settling the lending cases noted above. Private nonprofit fair housing centers have used the Act to

secure relief for victims of discrimination in a variety of areas, including housing finance.

Home Mortgage Disclosure Act

In response to a growing number of complaints and accusations about redlining and the failure of bank regulatory agencies to respond, Congress enacted the Home Mortgage Disclosure Act (HMDA) in 1975. This was soon followed by enactment of the Community Reinvestment Act (CRA) described below.

The initial pressure was mounted in Chicago by community groups, inspired by the organizing tactics of Saul Alinsky, that protested the blockbusting and disinvestment of older urban neighborhoods. Two Chicago groups, the Organization for a Better Austin and the Northwest Community Organization, asked local banks to permit community input in the review of loan applications. They were rebuffed, so more aggressive tactics were employed. For example, organizers assembled area residents to open and close \$1 checking accounts on Saturday afternoons, flooded bank floors with pennies, and arranged boycotts, effectively prohibiting the banks from conducting normal business on those days. Subsequent meetings produced agreements between the banks and the community groups. Research by the Center for Community Change and the National Urban League provided additional evidence of redlining and disinvestment. In 1972 Chicago organizers Gale Cincotta and Shel Trapp hosted a national conference on redlining in Chicago. That meeting resulted in the formation of the National Training and Information Center (NTIC), which would conduct additional research and coordinate further organizing, and National People's Action (NPA), which would serve as a neighborhood advocacy group. The Chicago City Council and later the Illinois legislature enacted anti-redlining legislation. The Chicago organizers then worked with Wisconsin senator William Proxmire, who sponsored HMDA in 1975 and the CRA two years later.

In 1976 several civil rights organizations sued the major federal financial regulatory agencies for failure to enforce nondiscrimination rules. The litigation was settled when three agencies (Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and Office of the Comptroller of the Currency) agreed to maintain loan log registers recording information on loan applications, approvals, and denials. But these agencies, which have long been, at best, reluctant to act on fair lending issues, did little with the newly collected data. In the late 1980s Bill Dedman published a series of stories in the *Atlanta Journal-Constitution* revealing widespread racial disparities in mortgage loan denial rates. Nationwide, blacks were rejected twice as often as whites, even among applicants with similar incomes. These reports stimulated substantial organizing activity, more enforcement efforts on the part of bank regulators, and expansion of the information made available under HMDA (Schwartz 1998; Bradford and Cincotta 1992; Pogge 1992; Dedman 1988, 1989).

HMDA made information available to the general public on the mortgage lending activity of most lenders by census tract in metropolitan areas throughout the United States. The basic objectives were to assist in determining the extent to which financial institutions were serving their communities, to help public officials distribute public investments in a manner that would leverage private investment in distressed communities, and to identify possible discriminatory lending patterns.

Initially HMDA only provided census-tract-level data on mortgage lending activity. But the requirements of the law and its implementing regulations have been expanded several times and now provide information on the characteristics of borrowers, loan products, and the disposition of mortgage applications. Today banks, savings institutions, credit unions, mortgage banking subsidiaries of bank holding companies and savings institutions, and mortgage lenders not affiliated with depository institutions are required to report annual loan information. Information that is currently disclosed includes the race, gender, and income of applicant (as of 2003, race and gender must be requested by lenders in applications taken by phone); type of loan applied for (for example, conventional or government insured); purpose of the loan (for example, home purchase, home improvement, refinancing); dollar amount of the loan, disposition of application (for example, loan originated, application denied); and census tract, county, and metropolitan area in which the property is located. As of 2004 lenders are required to identify high-priced loans subject to protections of the Home Ownership and Equity Protection Act (HOEPA), which basically requires additional disclosures for loans priced substantially above the cost of prime market-rate loans. In addition, as of 2004 lenders must report the difference between the annual percentage rate and the yield on comparable Treasury Department securities for loans that exceed the yield by three percentage points for first-lien loans and five percentage points for subordinate-lien loans (Federal Financial Institutions Examination Council 2001; Board of Governors of the Federal Reserve System 2002a, 2002b, 2002c, 2002d). The Federal Reserve Board estimates that virtually all prime loans will be exempt from this requirement but that it will apply to more than 95 percent of subprime loans (Center for Community Change 2002).

In 2000 approximately 22 million loan records for calendar year 1999 were reported by more than 7,800 institutions. Initially, lenders with assets of \$10 million or more were required to report. In 1996 the Federal Reserve Board (which enforces Regulation C implementing HMDA) determined that the asset-size exemption would be tied to the consumer price index. For calendar 2002 that limit was set at \$32 million (Board of Governors of the Federal Reserve System 2001). As of 2003 lenders with at least \$25 million in mortgage loans are required to report. Prior to that year lenders were exempt if the dollar volume of their mortgage lending was less than 10 percent of their total lending. That exemption no longer pertains to lenders whose mortgage

lending volume reaches \$25 million (Board of Governors of the Federal Reserve System 2002d).

HMDA is simply a disclosure requirement. But the data available from HMDA have been used in conjunction with other tools to increase access to credit in underserved communities. The Community Reinvestment Act has been a particularly valuable complement to HMDA.

Community Reinvestment Act

Under the Community Reinvestment Act most federally regulated depository institutions “have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.” Federal financial regulatory agencies (the four principal regulators are the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision) periodically evaluate lenders under their jurisdiction. Those evaluations and a final rating (outstanding, satisfactory, needs to improve, or substantial noncompliance) are kept on file and also made available to the public upon request. Regulators are required to take lenders’ CRA performances into account when evaluating applications from those institutions they supervise whenever the lenders seek permission to open a new branch, merge or purchase another institution, increase their depository insurance, or to make almost any other significant change in their business practices.

A key provision of the CRA is that third parties can challenge such applications. These challenges often delay consideration of the application and therefore can be quite costly for the financial institution. Regulatory agencies rarely deny applications on CRA grounds. Banking regulators reported that for the ten years prior to 1988 only eight of forty thousand applications were denied because of inadequate compliance with the CRA (Schwartz 1998b, 633). But often they take time to review the challenges and they frequently ask the lender and the organization filing the challenge to seek a voluntary solution. This challenge process provides leverage that several groups have used to negotiate reinvestment or CRA agreements. Community organizations, often in conjunction with supportive public officials, sympathetic reporters and academics, and friendly lenders have exploited the opportunities created by the information made available through HMDA and the affirmative requirements established by the CRA. In light of the growing merger and acquisition activity in the financial services industry in recent years, stepped up enforcement of the CRA in the 1990s, and the increasing capacity of community organizations to conduct research (particularly with HMDA data) and address community development issues in general, the CRA has had a substantial influence on the flow of credit (Marsico 1996).

Institutions subject to the CRA are required to make such information available to the public as a map delineating their service or assessment area,

the products they offer, the location of their main office and branch banks, recent CRA evaluations, and any comments they have received pertaining to their community reinvestment activities. Initially, evaluations focused on a range of procedural matters, such as how often bank representatives met with community groups and the extent to which chief executive officers were involved in community reinvestment activities. In 1995 a new regulation was enacted that focused more on performance.

Under the new regulation, lenders with \$250 million or more in assets are now evaluated in terms of their lending, investment, and service activities. The lending test focuses on the amount of lending in their assessment area and the distribution of loans by neighborhood and borrower income characteristics. The investment test focuses on the extent of their investments where community development is a primary purpose, including grants to community development corporations, affordable-housing developers, and small businesses. The service test examines the distribution of branch banks, the record of opening and closing branches, and services generally provided to low- and moderate-income markets. Smaller banks are examined primarily in terms of their loan-to-deposit ratio, share of loans in their assessment area and to low- and moderate-income areas, and their response to complaints about their community reinvestment record. Wholesale or limited-purpose banks that do not make direct residential or small business loans are evaluated on their community development lending and services. In addition, lenders have the option of developing a strategic plan, in conjunction with community groups, that is tailored to their own institution but will meet the same basic community reinvestment obligations. One further provision of the 1995 regulation was that lenders with assets of \$250 million or more or affiliated with a holding company totaling \$1 billion or more in assets must report their small business lending by census tract to their regulators. Tract-level data, however, are not made available to the public for individual institutions. Aggregate data for all reporting institutions combined are available at the tract level by metropolitan area. For individual lenders, data are available on the number and dollar amount of their small business lending by tract income level (for example, tracts where the median income is less than 50 percent of the metropolitan area median) (Marsico 1996; Haag 2000).

There is now substantial evidence that the CRA is having the intended impact. According to the National Community Reinvestment Coalition, more than 390 CRA agreements totaling over \$1 trillion have been negotiated by community organizations and lenders (National Community Reinvestment Coalition 2001b, 1). These agreements have been implemented in all regions of the country and in at least thirty-four states. They call for increases in home-purchase, home-improvement, and small-business lending in low- and moderate-income areas and to racial minorities throughout metropolitan areas; changes in underwriting standards to increase the flow of credit to previously underserved areas; new branch banks in urban areas; affirmative action

to increase minority employment; and many other activities, along with the establishment of joint monitoring committees (with membership including representatives from community organizations and financial institutions) to implement and provide oversight for these initiatives.

As the following chapters reveal, creating and implementing these agreements is frequently not a smooth process. Often they arise from charges of improper behavior, CRA challenges, and other conflicts. Community groups often organize campaigns highly critical of lending institutions, frequently based on their analyses of HMDA data. In some cases demonstrators “visit” the homes of bank presidents. They contact friendly reporters, who write sympathetic stories. Sometimes it is the reporters’ stories themselves that initiate the campaigns (Dedman 1988, 1989; Everett, Gallagher, and Blossom 1988). But the culmination is often a productive partnership in which the community secures increasing access to capital and the lenders find new and profitable markets.

Scholarly research has also begun to demonstrate empirically the benefits of the CRA. In a review of CRA-related research, the Brookings Institution found that in the 1990s home-purchase mortgage lending to low-income and minority households and neighborhoods increased faster than home-purchase mortgage lending generally (Haag 2000). The U.S. Department of the Treasury reported similar findings, with the greatest increases coming after the 1995 performance-oriented regulation was implemented. In addition, the Treasury report found greater increases in communities where there had been at least one CRA agreement signed by a lender with a community group (Litan et al. 2001). Schwartz drew similar conclusions in a nationwide study comparing the lending record of financial institutions that signed CRA agreements with those that had not (Schwartz 1998a). Raphael Bostic and Breck Robinson found that the number of conventional home-purchase loans going to low- and moderate-income and minority borrowers and areas increased significantly in urban counties with the introduction of new CRA agreements in recent years, though these effects were most pronounced in the first two years the agreements were in place (Bostic and Robinson 2002). The Federal Reserve Board also found that CRA-related lending was profitable for the vast majority of covered lenders, though not quite as profitable as other home lending for a majority of institutions (Board of Governors of the Federal Reserve System 2000b). And the Joint Center for Housing Studies found that CRA-regulated lenders make a higher share of their loans to lower-income people and communities and to minority markets than do nonregulated institutions, that this effect was most noticeable in the assessment areas of CRA lenders (where their loans are most closely scrutinized), and that the CRA has had a direct impact on these patterns (Joint Center for Housing Studies 2002, 135-36.) At the same time, the CRA has been a source of great controversy and contention. A primary and longstanding concern is the argument that the CRA leads to credit allocation, and therefore to inefficiencies in financial service

markets. Some contend that enforcement pressure by regulators may have forced some lenders to make loans to low-income borrowers who were not able to handle the payments and therefore subsequently lost their investments when they went into default (Benston 1997, 1999). A related concern is that there may be a conflict between the safety-and-soundness standards lenders are required to meet and the objectives spelled out in the CRA (Gunther 1999). Senator Phil Gramm, then chair of the Senate Banking Committee and longtime critic of the CRA, stated that the Federal Reserve Board's profitability study "demonstrates that CRA lending as it is now practiced is credit allocation" and called for a more in-depth study of the issue (Heller 2000). Gramm has argued that under the CRA, "We have had rampant extortion, fraud, and kickbacks," and has claimed that neighborhood groups use the law to shake down banks for loans (Dodge and Power 1998). He likens CRA proponents to the Mafia and describes the rules as "an evil like slavery in the pre-Civil War era" (Wayne 1998). Others acknowledge the increase in lending to previously underserved markets but argue that market pressures and improved technology that provide more information on potential borrowers (for example, credit scoring and automated underwriting)—and not the CRA—account for increasing lending in previously underserved areas (Gunther, Klemme, and Robinson 1999).

But the evidence is more consistent with the conclusions of two members of the Federal Reserve Board. Governor Edward M. Gramlich has observed that the "CRA does seem to have generated a large amount of new loans. . . . There seems to be little doubt that most of these outcomes would not have occurred in the absence of CRA and other fair lending laws" (Gramlich 1998). Governor Laurence H. Meyer concurred, stating, "At no time in our history has credit been more available and more affordable to virtually all income groups, than it is today. The Community Reinvestment Act has contributed to this increase in the availability and affordability of credit" (Meyer 1998).

Campaigns

Increasing access to capital in distressed areas has been a common focus of organizing and advocacy efforts, which draw from a common toolkit. At the same time, each campaign has particular objectives and uses an array of strategies and tactics to achieve them.

In Chapter 2, "Where the Hell Did Billions of Dollars for Reinvestment Come From?" Joe Mariano of the National Training and Information Center (NTIC) concretely demonstrates the positive impact of a range of direct actions. In describing the origins of HMDA and the CRA, NTIC's efforts to reform the FHA's guaranteed loan program, and anti-predatory-lending activities, Mariano reveals the limits of "being nice." He clearly demonstrates the ongoing need for organizing and shows why it is not simply a historical curiosity.

The critical role of citizen involvement is demonstrated in Chapter 3, “Giving Back to the Future: Citizen Involvement and Community Stabilization in Milwaukee.” William R. Tisdale and Carla J. Wertheim, president and executive vice president of the Metropolitan Milwaukee Fair Housing Council, show how local citizen involvement at all levels—as board members, investigators, advisors—can lead to a range of successful fair housing and community development initiatives. As the nature of financial institutions and regulation of those institutions evolves, Tisdale and Wertheim reveal how what began as traditional inner-city fair housing struggles can result in comprehensive community development initiatives that benefit entire metropolitan regions.

Attorney John P. Relman shows the critical role the courts can play in furthering fair lending objectives. In Chapter 4, “Taking It to the Courts: Litigation and the Reform of Financial Institutions,” Relman reveals how litigation can enable just one courageous individual to secure significant institutional change in the nation’s largest financial institutions. Lenders have powerful friends in Congress, regulatory agencies, and other halls of power. Access to the courts, however, can level the playing field. Through law enforcement victims can obtain substantial remedies. And with the negative publicity litigation can bring, financial institutions can find it very difficult to do business unless they do so equitably.

Chapter 5, “From Living Rooms to Board Rooms: Sustainable Homeownership Deals with Banks and Insurers in Boston,” reveals the importance of research, favorable reporting by local media, and supportive elected officials, along with organizing initiatives involving ordinary working people who simply want to own their homes. But these cannot be one-shot or short-term activities. Thomas Callahan of the Massachusetts Affordable Housing Alliance illustrates the need for long-term, sustainable efforts. These lessons are drawn from organizing campaigns against, and partnerships with, banks and property insurers in their underwriting and investment activities.

The importance of local coalition building and the role of research in nurturing the effectiveness of local collaborations are examined in Chapter 6, “A Citywide Strategy: The Pittsburgh Community Reinvestment Group.” Stanley A. Lowe and John T. Metzger also describe some of the challenges to local organizing posed by internal staff-management problems, the impact of suburban sprawl, a changing financial and regulatory landscape, and other nonlocal forces.

As Allen J. Fishbein observes in Chapter 7, “Filling the Half-Empty Glass: The Role of Community Advocacy in Redefining the Public Responsibilities of Government-Sponsored Housing Enterprises,” one of the best-kept secrets in the affordable-housing industry is the role of government-sponsored enterprises, primarily the Federal Home Loan Banks, Fannie Mae and Freddie Mac. Fishbein examines the role of community advocacy in the creation, expansion, and enforcement of affordable-housing goals, which has been critical to increasing, by perhaps billions of dollars, the amount of mortgage financing available for low- and moderate-income communities across the nation.

Maude Hurd and Steven Kest of ACORN show the power that low-income residents can exercise in Chapter 8, “Fighting Predatory Lending from the Ground Up: An Issue of Economic Justice.” They reveal the impact of simply having residents tell their own stories of how they were the victims of predatory lending practices. When such stories are publicized in the media, they often lead to institutional changes on the part of financial institutions and their regulators. Simply the threat of holding a public hearing can cause some lenders to come to the bargaining table so as to avoid becoming the poster child for abusive lending practices.

Success often requires linking reinvestment with other social justice issues. In Chapter 9, “Community Reinvestment in a Globalizing World: To Hold Banks Accountable from The Bronx to Buenos Aires, Beijing, and Basel,” Matthew Lee of Inner City Press/Community on the Move illustrates the value in uniting CRA challenges and litigation on a global level. This can require working in conjunction with other social justice issues and organizations, including environmental and labor groups, in order to achieve shared objectives.

The vital role of solid, independent research is the focus of Chapter 10, “Research, Advocacy, and Community Reinvestment,” by Malcolm Bush and Daniel Immergluck of the Woodstock Institute. Bush and Immergluck also point to the critical role of independent advocacy groups, and the somewhat limited role that community development corporations and others dependent on bank financing can play in these efforts. This chapter illustrates the application of these principles, whether the objective is legislative or regulatory change or the negotiation of a reinvestment agreement with a financial institution.

John Taylor and Josh Silver of the National Community Reinvestment Coalition demonstrate how community reinvestment can be a win-win situation for lenders and communities. In Chapter 11, “The Essential Role of Activism in Community Reinvestment,” they indicate the importance of operating at several levels, including negotiating directly with lenders, working with regulators and legislators, and commenting publicly on merger applications. The end result, however, is often a situation in which lenders find new, profitable business and residents gain access to affordable credit.

Community reinvestment involves a range of actors and actions, as Peter Dreier observes in Chapter 12, “Protest, Progress, and the Politics of Reinvestment.” Noting the progress and pitfalls of various campaigns, this chapter assesses the value of organizing and advocacy tools for achieving progress in community reinvestment. Drawing on the findings of the previous chapters, Dreier summarizes the lessons that have been learned about the roles and strategies diverse actors (for example, community organizations, regulators, legislators, financial institutions) have used and could use in the future to further reinvestment objectives. He emphasizes the importance of developing innovative political coalitions with other social justice groups and among urban and suburban constituencies that have not often been on the same side of controversial issues.

Organizing is a means to an end. The prize in community reinvestment struggles has been increased access to affordable credit in traditionally underserved neighborhoods. But each campaign also has specific objectives. The Epilogue, "Where Do We Go From Here?" describes a federal legislative proposal, the Community Reinvestment Modernization Act, that contains several specific goals, each of which on its own, or in conjunction with each other, would constitute fruitful directions for future organizing campaigns. Community reinvestment strategies occupy consistently contested terrain. Specific future objectives will change as developments warrant. But at least some overriding principles will persist. These are captured in the various provisions of that proposal. But it is precisely the contested nature of these issues that promises continued struggles ahead.

Reaction to Fair Lending and Community Reinvestment Initiatives

The CKA and fair lending policies in general have generated a range of attacks. Members of Congress routinely introduce legislation that would provide a "safe harbor" (that is, immunity from CRA challenges, for example) for institutions with "satisfactory" or better CRA ratings—which would include 98 percent of all lenders in 1998, up from 87 percent in 1987 (Woodstock Institute 1998). Small bank exemptions are also frequently proposed. Depending on the definition of a small bank, such proposals could exclude up to 85 percent of all covered lenders (Bradford and Cincotta 1992, 267). Other proposals would permit comment on bank applications only at the time that the CRA evaluation is conducted. Some have proposed that lenders be able to "self-certify" their compliance with the CRA. Elimination of the disparate-impact standard of the Fair Housing Act has been offered (Silver 1999). While no serious public effort has yet been launched to eliminate the CRA altogether, the direction of most proposals is evident; less is more.

Lenders, sometimes through their trade associations, have begun to organize in opposition to community reinvestment and fair lending initiatives. Following the Justice Department's settlement of its lawsuit against Chevy Chase, the Savings and Community Bankers of America—a trade association representing thrifts and banks—created a \$100,000 war chest to fight at least some fair lending enforcement actions. These funds will be used to defend selected institutions and may also support research, public relations campaigns, or friend-of-the-court briefs as part of an advocacy campaign (Meredith 1994). Edward L. Yingling, the chief lobbyist for the American Bankers Association, stated, "We've gone from a decade in which the consumer activists were really able to push their legislative agenda to a point where they not only can't push forward but we can begin pushing back" (Garsson and de Senerpont Domis 1994).

Another threat to community reinvestment is the wave of consolidation and merger activity among financial institutions. The decline in the number of banks, as well as mergers involving mortgage lenders, insurers, and securities firms, raise questions about commitments to community reinvestment. The number of banks in the United States has declined from almost 20,000 in 1970 to 9,100 by the end of 1997. While some of this decline was due to bank failures, most of it is the result of mergers among healthy institutions (Bradford and Cincotta 1992, 261; Meyer 1998). The merger of Citicorp Bank and Travelers Insurance to form Citigroup, resulting in a \$750 billion corporation engaged in banking, insurance, and securities, raised concerns to a new level both because of the scope of the entities involved and the diversity of financial services offered under one roof. In fact, some claimed the merger was illegal under banking law at that time (Seiberg 1998).

Developments like the Citicorp-Travelers merger have provided additional fuel to the twenty-year struggle on the part of some financial institutions to revise Depression-era statutes that limited mergers and consolidations among and across financial industries. Arguing that international competitiveness and maximum efficiency (ultimately for the benefit of consumers) require that financial service providers be able to offer banking, insurance, securities, and other services, proponents have called on Congress for at least twenty years to pass "bank reform" legislation removing remaining barriers to consolidation. Opponents have expressed concern for the safety and soundness of at least some of the financial service companies that such legislation would permit. One basic fear has been that subsidiaries of a holding company would engage in something other than "arms-length" transactions when lending to, insuring, or otherwise financing another arm of that corporation, thus weakening the financial status of that subsidiary or even the entire holding company. Such "crony capitalism" or any number of other developments could lead to more institutions being viewed as "too big to fail," which could result in more taxpayer-subsidized bailouts—a scenario similar to the \$180 billion bailout of savings and loans in the 1980s. A related consumer concern is that current prohibitions against "tying" (where in order to obtain one financial service a customer must agree to purchase others from the same company), would be weakened (Bush 1999).

A more direct CRA-related concern is the enhanced opportunity for such providers to shift assets out of institutions covered by the law into those entities (for example, independent mortgage companies, insurers) not currently covered. In fact, institutions that traditionally provided the vast majority of mortgage loans—savings and commercial banks that are covered by the CRA—now make less than half of such loans (Bush 1999; Taylor 1999). That the impact of CRA has started to wane is evidenced by the fact that fewer than 30 percent of home-purchase loans are now subject to intensive CRA review. This reflects the fact that between 1993 and 2000 the number of home-purchase loans made by CRA-regulated institutions in their assessment areas—the loans

that are subject to the most intensive review—dropped from 36.1 percent to 29.5 percent (Joint Center for Housing Studies 2002, iii, v).

Proponents of bank reform finally won a victory in 1999 when Congress passed and the president signed the Financial Services Modernization Act. For the first time since the CRA was enacted in 1977, Congress did enact legislation that rolled back its authority. This legislation permits banks, insurers, and securities firms to enter each other's business more freely. Such conglomeration had been proceeding piecemeal through various regulatory exemptions and loopholes under previous law. Now financial institutions will be able more easily to offer a range of services to their customers. Congress could have established CRA or CRA-like requirements for all providers of financial services, or at least to the lending activities of these firms, resulting in a level playing field that would not disadvantage the federally regulated depository institutions that are now the focus of the law. Instead, the law weakens the CRA requirements for those institutions to which it does apply.

Under the new law, small banks—those with assets below \$250 million—will be examined once every five years if they have an “outstanding” rating and once every four years if they have a “satisfactory” rating. Under previous rules they were examined every two years. A so-called “sunshine” provision requires lenders and community groups engaged in reinvestment agreements to file with the regulatory agency supervising the lender a report of the terms of their agreements and annual statements on how the funds are used. This will have a chilling effect on the desire of either community groups or lenders to form such partnerships, in part because some lenders do not want their competitors to know all the details of their marketing plans (Taylor 1999b). The extent to which the CRA has been harmed by these changes can be debated. More significant than these particular changes, however, is the fact that for the first time in more than twenty years the CRA has been weakened, and no doubt Congress will consider further CRA “reforms” in the near future.

These developments have already started to take their toll. As noted above, the share of single-family home-purchase loans to low- and moderate-income borrowers grew from 19 percent to 29 percent between 1993 and 2000, but dropped to 24.7 percent in 2001. The share of loans going to blacks increased from 3.8 percent to 6.6 percent but then declined to 4.8 percent in 2001. For Hispanics the increase was from 4 percent to 6.9 percent before falling to 6.2 percent (National Community Reinvestment Coalition 2002, 5-6).

Interestingly, many of the institutions currently engaged in mega-mergers have made unilateral CRA pledges for what appear to be substantial commitments. Citicorp and Travelers announced a \$115 billion commitment to low-income and minority communities over the next ten years. NationsBank and Bank America topped this when they announced a \$350 billion commitment as part of their merger plans. But it is difficult to know what these large national commitments actually mean. These announcements were made without any prior research or planning by, or discussions with, neighborhood

groups. Precisely what counts in these commitments and how these pledges relate to previous lending practices (that is, do they represent an increase in community reinvestment and, if so, how much?) remain unclear. Mechanisms for monitoring and evaluation are also unclear. For example, these commitments sometimes include credit card debt and loans to wealthy nonwhite households. Community groups in the local communities where these dollars may go would not necessarily view these commitments as responding to current needs (O'Brien 1998). And sometimes these "pledges" actually call for a reduction in community reinvestment and fair lending activity.

In 1993 a coalition of inner-city churches in Milwaukee, the Milwaukee Innercity Congregations Allied for Hope (MICAHA), and eight local lenders announced a \$500 million, five-year loan commitment. But the requisite homework was not done. A closer inspection of the previous lending records of these institutions revealed that this "commitment" would actually amount to a lower level of lending than these institutions had provided in prior years (Norman 1993; Squires 1993). One lender conceded, "The dollars we pledged are the amounts we were asked to by MICAHA. Maybe MICAHA didn't seize the negotiating advantage they had. They could have squeezed more" (Norman 1993). Not surprisingly, over the next few years the lenders frequently and proudly announced that they were well ahead of meeting their MICAHA goals.

The advent of electronic banking poses additional potential problems. Lenders are reducing their reliance on brick-and-mortar branch offices and human tellers and other employees at various levels to provide basic banking services. Increasingly they use telephones, stored-value or "smart" cards, computers, and the Internet to provide depository, bill-paying, lending, and other services. More employers provide paychecks electronically, and government agencies are increasingly distributing various benefits (for example, grants, pensions, welfare payments) electronically as well. Low-income and minority households, which are less likely to be "wired," run even greater risks of being locked out of traditional banking services as this trend develops, as it no doubt will (Stegman 1999).

Related developments include the widespread use of credit scoring and automated underwriting. With credit scoring lenders use credit reports to determine certain cut-off points to determine who is automatically eligible and who requires a second look. Automated underwriting involves the use of credit scores and other information about borrowers and the properties they want to purchase in the development of computer-generated models for assessing eligibility. Lenders maintain that these practices allow them to process many more applications, and to do so in a more scientific, unbiased manner (Fannie Mae n.d.; Fair, Isaac and Co. 1997). Others are not so sure. Many observers have raised concerns about the inaccuracy of credit reports. Since the factors that go into the models are generally confidential, it is not clear whether each variable in fact reflects ability to repay or if nontraditional credit-related variables are excluded that would enhance the credit record of minorities. Even

if no discrimination is intended, some models could have a disparate impact on minorities. And questions remain about what happens to those with borderline scores (Fishbein 1996).

Other problems, some longstanding and others relatively new, threaten fair lending and community reinvestment initiatives. Racial steering and other discriminatory practices remain facts of life, as black and Hispanic home seekers encounter discrimination in approximately 20 percent of their encounters with real estate agents (Turner et al. 2002b). Property insurance discrimination has been documented in cities across the nation, with four of the nation's six largest insurance companies (Allstate, State Farm, Nationwide, and Farmers), among others, settling fair housing complaints since 1995, following the pathbreaking settlement with American Family Mutual Insurance Company in Milwaukee that year (Squires 1997; Toledo Fair Housing Center 2001). Arbitrary and discriminatory appraisal practices persist, undercutting property values in minority areas. In a project carried out by the Cleveland Federal Reserve Bank, one property in that city was valued at \$36,000 by one appraiser and \$83,500 by another (Pittinger 1996; Appraisal Process Task Group 1994). Each of these practices makes it more difficult for minorities and residents of low-income areas to build financial assets, qualify for mortgage loans, and become homeowners.

Perhaps the greatest threat is posed by the growing evidence of predatory lending discussed above. Predatory lending practices may actually be more damaging than the refusal to provide service. Families subject to these practices frequently find themselves with loans they cannot repay and ultimately lose their homes along with the life savings they have invested in them.

The political pendulum continues to swing. Fair housing and community reinvestment advocates are responding to the new financial service marketplace and the challenges it poses. Ongoing debates suggest that it would be premature to retire the protest banner.

A Fragile Movement

The struggle to democratize access to capital goes on. The latest legislative thrust is the Community Reinvestment Modernization Act, introduced by two Midwestern Democratic congressional representatives, Tom Barrett of Milwaukee and Luis Gutierrez of Chicago. This bill would extend CRA or CRA-like provisions to all mortgage lenders, insurers, and security firms. It would establish HMDA-like disclosure requirements for the property insurance industry. And it would revise those sections of the Financial Services Modernization Act that weakened the CRA. But the prospects for this legislation are uncertain. The future of fair lending and community reinvestment, as ever, depends on community-based organizing efforts.