

Affirmatively Furthering Fair Housing: An Analysis of Fair Housing Access & Zoning Practices in Pennsylvania



A Report of the
Pennsylvania Advisory Committee to the
U.S. Commission on Civil Rights

June 2023

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states, the District of Columbia, and five U.S. Territories. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. They are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Acknowledgments

The Pennsylvania Advisory Committee (Committee) would like to acknowledge the speakers who presented during the Committee's series of public meetings taking place between March and November 2022, as the Committee worked to understand broad and diverse perspectives on the civil rights impact of housing policy in Pennsylvania. The Committee is also grateful to those who contributed to this work during public comment and via written testimony.

**Pennsylvania Advisory Committee to the
U.S. Commission on Civil Rights**

The Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights submits this report regarding fair housing and zoning practices in Pennsylvania. The Committee submits this report as part of its responsibility to study and report on civil-rights issues in the Commonwealth. The contents of this report are primarily based on testimony the Committee heard during public meetings held via videoconference between March and November 2022. The Committee also includes related testimony submitted in writing during the relevant period of public comment.

This report begins with a brief background of the issues to be considered by the Committee. It then presents primary findings as they emerged from this testimony, as well as recommendations for addressing areas of civil-rights concerns. This report is intended to focus on civil-rights concerns regarding fair housing in Pennsylvania. Specifically, the Committee sought to examine the impact of zoning laws, municipal nuisance and crime-free housing ordinances, and related fair housing concerns on disparities based on race, color, disability status, national origin, age, religion, sex and/or familial status. While additional important topics may have surfaced throughout the Committee's inquiry, those matters that are outside the scope of this specific civil-rights mandate are left for another discussion.

**Pennsylvania Advisory Committee to the
U.S. Commission on Civil Rights**

Steve Irwin, *Chair*, Pittsburgh

Romana Lee Akiyama, *Vice Chair*, Philadelphia

Nathan McGrath,* *Vice Chair*, Mechanicsburg

Gurline Laurore, *Secretary*, Hummelstown

Christopher Brooks,* *Editorial Officer*, Dunmore

Hunter Tower, *Parliamentarian*, Kennett Square

Jessie Allen, Pittsburgh

Angela McIver, Philadelphia

Mary Crossley, Pittsburgh

Sam Park, Schwenksville

Andrew Cuff, Latrobe

Karin Sweigart, Harrisburg

Dariel Janerette, Philadelphia

**See Appendix C for Committee Member Statements*

Overview

On February 7, 2022 the Pennsylvania Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study of Fair Housing and Zoning Practices in Pennsylvania. The focus of the Committee’s inquiry was to examine the impact of zoning laws, municipal nuisance and crime-free housing ordinances, and related fair housing concerns on disparities based on race, color, disability status, national origin, age, religion, sex and/or familial status. The Committee also examined extent to which specific state or local policies and practices may contribute to observed disparities, as well as alternative practices or recommendations with the demonstrated potential to address such concerns.

As part of this inquiry the Committee heard testimony through a series of seven public hearings, held via video conference between March and November, 2022.¹ The following report results from a review of testimony provided at these meetings, combined with written testimony submitted during this timeframe. It begins with a brief background of the issues to be considered by the Committee. It then identifies primary findings as they emerged from this testimony. Finally, it makes recommendations for addressing related civil rights concerns. This report focuses on fair housing access in Pennsylvania. While other important civil rights topics may have surfaced throughout the Committee’s inquiry, matters that are outside the scope of this specific mandate are left for another discussion. This report and the recommendations included within it were adopted by a majority of the Committee on June 7, 2023.²

Background

The Fair Housing Act (FHA) of 1968,³ as amended, prohibits discrimination in the sale, rental, and financing of housing based on race, color, religion, sex, national origin, familial status, or

¹ Meeting records and transcripts are available in Appendix. Briefing before the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights, March 18, 2022, (web-based), Transcript (hereinafter cited as “Transcript 1”). Briefing before the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights, April 22, 2022, (web-based), Transcript (hereinafter cited as “Transcript 2”). Briefing before the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights, April 29, 2022, (location), Transcript (hereinafter cited as “Transcript 3”). Briefing before the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights, June 28, 2022, (web-based), Transcript (hereinafter cited as “Transcript 4”). Briefing before the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights, July 14, 2022, (web-based), Transcript (hereinafter cited as “Transcript 5”). Briefing before the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights, October 28, 2022, (web-based), Transcript (hereinafter cited as “Transcript 6”). Briefing before the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights, November 2, 2022, (web-based), Transcript (hereinafter cited as “Transcript 7”).

² See Appendix F for Committee Member Statements.

³ 42 U.S.C § 3601 et seq.

disability. The Act further directs the U.S Secretary of Housing and Urban Development (HUD) to take proactive and meaningful action to “affirmatively further the purposes” of fair housing.⁴

The Department of Justice (DOJ) and the HUD are jointly responsible for enforcing the federal Fair Housing Act, including the federal obligation to affirmatively further fair housing.⁵ HUD is the federal agency statutorily charged with “the authority and responsibility for interpreting and enforcing the Fair Housing Act and the power to make rules implementing the Act.”⁶ In this role, HUD “has long interpreted the Act to prohibit practices with an unjustified discriminatory effect, regardless of whether there was an intent to discriminate.”⁷ In its final rule published on February 15, 2013, *Implementation of the Fair Housing Act's Discriminatory Effects Standard*, HUD issued the following definition of “Discriminatory Effect” for the purposes of Fair Housing enforcement:

[...A] “discriminatory effect” occurs where a facially neutral practice actually or predictably results in a discriminatory effect on a group of persons protected by the Act (that is, has a disparate impact), or on the community as a whole on the basis of a protected characteristic (perpetuation of segregation). Any facially neutral action, e.g., laws, rules, decisions, standards, policies, practices, or procedures, including those that allow for discretion or the use of subjective criteria, may result in a discriminatory effect actionable under the Fair Housing Act and this rule.⁸

This rule provides an exception that: A practice or policy found to have a discriminatory effect may be lawful if it has a “legally sufficient justification.”⁹ On June 25th, 2015, the Supreme Court of the United States upheld HUD’s interpretation of the Fair Housing Act to encompass disparate-impact liability, regardless of discriminatory intent.¹⁰

In this study, the Committee sought to examine state and local housing policies in Pennsylvania and their potential contributions to proactively (or affirmatively) increasing housing affordability, decreasing housing discrimination, and promoting integration and housing equity. The Committee considered the historical discriminatory housing policies that may have a continued impact on present-day fair housing concerns, as well as “facially neutral” current policies in varying jurisdictions that may nevertheless present concerns of disparate impact. By doing so, the Committee sought to identify for the USCCR policies and practices (1) that appear

⁴ 42 U.S. Code § 3608(d) & (e)(5).

⁵ 42 U.S.C. § § 3601-3619.

⁶ Implementation of the Fair Housing Act’s Discriminatory Effects Standard, A Rule by the Housing and Urban Development Department (February 2013), at: <https://www.federalregister.gov/d/2013-03375/p-3>.

⁷ Ibid.

⁸ [Ibid, section 3](#), “Discriminatory Effect Defined”

⁹ [Ibid, section 4](#), “Legally Sufficient Justification (§ 100.500(b))”

¹⁰ *Texas Department of Housing and Community Affairs et al. v. Inclusive Communities Project, INC, et. al.*, at: <https://www.justice.gov/sites/default/files/crt/legacy/2015/06/25/tdhcainclusiveopinion.pdf>.

from existing evidence to make a positive contribution toward fair housing; (2) that appear from existing evidence to negatively affect progress toward fair housing; and (3) that warrant further research to assess their impact on civil rights and fair housing.

Methodology

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly impacted by the civil rights topic at hand; researchers and experts that have rigorously studied and reported on the topic; community organizations and advocates representing a broad range of backgrounds and perspectives related to the topic; and government officials tasked with related policy decisions and the administration of those policies.

Committee studies require Committee members to utilize their expertise in selecting a sample of panelists that is the most useful to the purposes of the study and will result in a broad and diverse understanding of the issue. This method of (non-probability) judgment sampling requires Committee members to draw from their own experiences, knowledge, opinions, and views to gain understanding of the issue and possible policy solutions. Committees are composed of volunteer professionals that are familiar with civil rights issues in their state or territory. Members represent a variety of political viewpoints, occupations, races, ages, and gender identities, as well as a variety of background, skills, and experiences. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in oversight of nuances in the testimony.

In fulfillment of the Committees' responsibility to advise the Commission of civil rights matters in their locales, Committees conduct an in-depth review and thematic analysis of the testimony received and other data gathered throughout the course of their inquiry. Committee members use this publicly collected information, often from those directly impacted by the civil rights topic of study, or others with direct expert knowledge of such matters, to identify findings and recommendations to report to the Commission. Drafts of the Committee's report are publicly available and shared with panelists and other contributors to ensure that their testimony was accurately captured. Reports are also shared with affected agencies to request for clarification regarding allegations noted in testimony.

For the purposes of this study, **Findings** are defined as what the testimony and other data *suggested, revealed, or indicated* based upon the data collected by the Committee. Findings refer to a synthesis of observations confirmed by majority vote of members, rather than conclusions drawn by any one member. **Recommendations** are specific actions or proposed policy interventions intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also identify specific directed

areas in need of further, more rigorous study. Recommendations are directed to the Commission; they request that the Commission itself take a specific action, or that the Commission forward recommendations to other federal or state agencies, policy makers, or stakeholders.

Findings

In keeping with their duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,¹¹ the Pennsylvania Advisory Committee submits the following findings to the Commission regarding fair housing access and zoning practices. This report seeks to highlight the most salient civil-rights themes as they emerged from the Committee's inquiry. The complete meeting transcripts and written testimony received are included in Appendix 371 for further reference.

Finding I: Access to affordable housing has significant impacts on quality of life, and demonstrates disparity based on race.

Affordable Housing Availability

The U.S. Department of Housing and Urban Development (HUD) defines affordable housing as “housing on which the occupant is paying no more than 30 percent of gross income for housing costs, including utilities.”¹² Yet, Councilwoman Jamie Gauthier of Philadelphia's Third District reported that of the more than 140,000 renter households in Philadelphia making less than \$35,000 per year, a startling fifty-three percent spend more than half of their income on housing expenses.¹³

Panelist Stanley Lowe at Lower Marshall Shadeland Development Initiative testified that private market and financial institutions usually determine housing affordability according to the level of income in each neighborhood (known as naturally occurring affordable housing, or NOAH).¹⁴ In other words, this is housing that is created and made available without government subsidy. Affordable housing can also be produced through public investment, where naturally occurring affordable housing is lacking. However, Yonah Freemark, Senior Research Associate at the Urban Institute, testified that public investment in affordable housing in the United States is generally insufficient, and has declined since the 1990s.¹⁵ Councilwoman Gauthier reported that “The only permanent affordable housing in Philadelphia is housing owned by the Philadelphia

¹¹ 45 C.F.R. § 703.2 (2018).

¹² U.S. Department of Housing and Urban Development, Glossary of Terms to Affordable Housing, <https://archives.hud.gov/local/nv/goodstories/2006-04-06glos.cfm>.

¹³ Gauthier Testimony, Transcript 6, p. 16 lines 35-38.

¹⁴ Lowe Testimony, Transcript 3, p. 16, lines 4-13.

¹⁵ Freemark Testimony, Transcript 1, p. 15 lines 14-18. *See also*: Gauthier Testimony, Transcript 6, p. 16 lines 23-34.

Housing Authority; all the remaining federally subsidized affordable housing has contracts or rent restrictions that will eventually expire.”¹⁶ This lack of public and private investment in low- and moderate income communities perpetuates racial and economic segregation: Consistent with patterns of significantly higher private lending in non-minority neighborhoods than in minority neighborhoods, home ownership by White Americans is heavily supported by the private market. Black homeowners, by contrast, often have less access to private capital, leaving them more likely to rely on government sources of housing support.¹⁷ Importantly, Lowe noted that over the past thirteen years, banks have funded the creation or preservation of three times as many housing units as the public sector, creating significant advantage for White families accessing their homes through private loans.¹⁸

The Pennsylvania Department of Community Economic Development conducted a study in 2018 to better understand impediments to fair housing choice.¹⁹ Representative Donna Bullock of the 195th House District in Philadelphia testified that from this study, the number one barrier to housing was cost.²⁰ Other barriers included housing availability, adequate information about fair housing laws, discrimination against Section 8 voucher tenants, and discrimination against tenants with disabilities.²¹ Of note, through the focus groups and surveys included in this study, the Department also identified that one of the most significant barriers to additional affordable housing development was public resistance to hosting affordable construction in individual neighborhoods: “folks just didn’t want particular types of housing or special housing in their backyard. And that was seen as one of the most significant barriers, in addition to cost.”²²

¹⁶ Gauthier Testimony, Transcript 6, p. 17, lines 3-8; p. 25, lines 6-19.

¹⁷ Lowe Testimony, Transcript 3, p. 16, lines 4-13; p. 17 lines 5-25. “Inherited Inequality: The State of Financing for Affordable Housing in Pittsburgh, Pennsylvania,” Lower Marshall-Shadeland Development Initiative, (Sept. 2021) Pg. 17, at: https://www.pghlending.com/files/ugd/dcc000_182adaaa28e94fc9ac70a51578b56c70.pdf; see also Confer-Hammond Testimony, Transcript 1, p. 19 lines 31-34; Freemark Testimony, Transcript 1, p. 15 lines 26-33.

¹⁸ Lowe Testimony, Transcript 3, p. 17 lines 5-25.

¹⁹ Analysis of Impediments to Fair Housing Choice, Pennsylvania Department of Community & Economic Development (May 2018), at: <https://dced.pa.gov/download/pa-ai-for-fair-housing-final-draft-2015/?wpdmdl=56387>.

²⁰ Bullock Testimony, Transcript 6, p. 3, lines 20-30.

²¹ Bullock Testimony, Transcript 6, p. 3, lines 20-30.

²² Bullock Testimony, Transcript 6, p. 3, lines 31-35; Confer Hammond, Transcript 1, p. 19 lines 39-42.

US affordable housing construction is declining

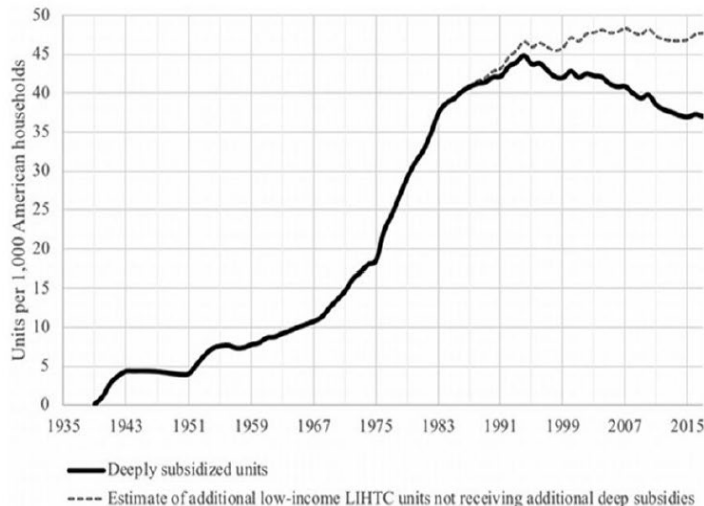


FIGURE 1: FREEMARK TESTIMONY, 3.18.22 HEARING, SLIDE 71. SOURCE: L.VALE AND Y. FREEMARK (2019), "THE PRIVATIZATION OF AMERICAN PUBLIC HOUSING."

The resulting housing crisis has shown stark racial disparities,²³ and has left more than six million families throughout the U.S. without access to affordable housing, "...which means that they can't afford other priorities like healthcare and food."²⁴ Councilwoman Gauthier testified, "To afford the average rent for a two-bedroom unit in Philadelphia, an individual would need to have an annual household income of \$50,400 or \$24.23 an hour. At minimum wage, that means a person would have to work three full-time jobs or 132 hours a week to afford an average two-bedroom, and this is simply not sustainable."²⁵ Gauthier lamented that the city of Philadelphia alone is currently sitting on over 26,000 unfunded rental assistance applications, totaling over 200 million people in need from 2021 alone. She called for the U.S. treasury to fill this backlog and provide sustained annual funding in order for meaningful housing assistance to be proactive again.²⁶ Freemark urged that policymakers must reduce restrictions on housing construction and allow the construction of more apartments and multifamily housing units in order to increase affordability and equity in our housing market.²⁷

Lack of affordable housing options has created and perpetuated a crisis of foreclosures and evictions of families who simply cannot afford to sustain their housing. Tracy McCracken of the National Community Reinvestment Coalition shared data from 2021 published by Magnified Money, a financial management website, which ranked Pennsylvania sixth among states by share

²³ Phillips Testimony, Transcript 1, p. 8 lines 11-29.

²⁴ Freemark Testimony, Transcript 1, p. 15 lines 26-33.

²⁵ Gauthier Testimony, Transcript 6, p. 16 line 35 – p. 17 line 2; *See also*: Phillips Testimony, Transcript 1, p. 8 lines 11-16.

²⁶ Gauthier Testimony, Transcript 6, p. 19 lines 20-35.

²⁷ Freemark Testimony, Transcript 1, p. 16 line 35 – p. 17 line 2.

of renters behind in rent and thus at risk of eviction, at twenty-three percent.”²⁸ She testified that these patterns are particularly notable in communities of color,²⁹ and have worsened since the eviction-moratoriums in place due to the COVID-19 pandemic have begun to expire.³⁰ Rasheeda Phillips of Policy Link presented data from the National Equity Atlas which shows that the risk of eviction “remains at crisis levels,” with an estimated 219,000 households in Pennsylvania unable to pay rent on time, a majority of whom are Black and Latinx.³¹

Foreclosures and evictions have cascading effects not just for those families directly impacted, but entire communities. McCracken noted that mass evictions and foreclosures “change the social and demographic characteristics of neighborhoods,” and create “greater levels of spatial segregation along the lines of class and race.”³² Foreclosures bring down housing prices and increase the number of properties left vacant and abandoned, contributing to the overall decline of neighborhood quality.³³ Eviction and foreclosure records can also make it extremely difficult for families to secure housing in the future.³⁴

Quality of Life

The United States Department of Health and Human Services names five “social determinants of health”³⁵ that have a significant impact on quality-of-life outcomes, all of which can be directly or indirectly tied to housing. They are: economic stability; education access and quality; health care access and quality; neighborhood and built environment; and social and community context.³⁶ Throughout the course of the Committee’s inquiry, speakers emphasized the significant impact that access to affordable housing can have on these and similar indicators of wellness and quality of life. For example:

- Debby Goldberg of the National Fair Housing Alliance noted that where a person lives impacts “the kind of housing that you live in, the kind of schools that you send your kids to, what jobs are available to you, what transportation you are served by, the environment you live in, whether you can drink clean water, and breathe clean air, your opportunities to build wealth, and many, many other aspects of your life.”³⁷

²⁸ McCracken Testimony, Transcript 2, p. 4 lines 29-33; See also: Magnify Money, <https://www.magnifymoney.com/news/eviction-moratorium-study/>.

²⁹ McCracken Testimony, Transcript 2, p. 4, lines 11-12; Phillips Testimony, Transcript 1, p. 7 line 42 – p. 8 line 15.

³⁰ McCracken Testimony, Transcript 2, p. 4 lines 25-33.

³¹ Phillips Testimony, Transcript 1, p. 8 lines 11-15; PPT presentation 03.18.22 hearing, slide 33.

³² McCracken Testimony, Transcript 2, p. 4, lines 6-24.

³³ Park Testimony, Transcript 3, p. 5 lines 35-39; McCracken Testimony, Transcript 2, p. 4, lines 25-27.

³⁴ See *Finding 5 for further discussion*.

³⁵ <https://health.gov/healthypeople/priority-areas/social-determinants-health>

³⁶ Ibid.

³⁷ Goldberg Testimony, Transcript 1, p. 3 lines 20-30.

- Yonah Freemark testified that people living in communities with better access to jobs and public services have increased incomes, reduced incarceration, and improved mental and physical health.³⁸
- T’Keyah Nelms of the Fair Housing Rights Center in Southeastern Pennsylvania cited a 2016 report published in *The Guardian*,³⁹ which explored the link between housing and mental health outcomes in the U.K. The study found that 33% of people report that housing costs are causing them stress and depression in their families; 25% are kept awake at night by the stress of paying rent or mortgage; and 25% report housing costs are causing arguments with their partners and other family members.⁴⁰ Additionally, children that have lived in temporary homes for more than a year are three times more likely to experience mental health problems such as anxiety and depression.⁴¹
- Marsha Grayson of the Housing Authority of Pittsburgh noted that housing instability can even lead to family separation. Parents involved in family court can lose custody of their children without access to stable housing—forcing impossible choices as they attempt to balance both work and court obligations in an effort to reunite with their children.⁴²
- Ira Goldstein of the Reinvestment Fund presented data from a 2022 state-wide study of first time homebuyers in Pennsylvania which found that those who were able to become homeowners described their new neighborhoods as “peaceful,” and expressed satisfaction with the increased safety, lack of sirens and crime in their new neighborhoods.⁴³ Additionally, most buyers who chose to change neighborhoods from where they had previously rented moved into neighborhoods that were modestly more integrated than those in which they had lived before.⁴⁴

Health, Wellness and Racial Segregation

The dearth of affordable housing in the United States and Pennsylvania was created and perpetuated in large part by housing policies that were explicitly designed to further racial and economic segregation.⁴⁵ The health and environmental impact of this segregation can still be

³⁸ Freemark Testimony, Transcript 1, p. 15 line 34 - p. 16 line 7.

³⁹ Foster, Dawn. Poor Housing is bad for your mental health. *The Guardian*, February 4, 2016, at: <https://www.theguardian.com/housing-network/2016/feb/04/poor-housing-bad-mental-health>. See also; https://www.nhsconfed.org/system/files/media/Innovation-housing-care-and-support_0.PDF

⁴⁰ Nelms Testimony, Transcript 2, p. 9, lines 1-10; 4.22.2022 Hearing, slide 19.

⁴¹ Nelms Testimony, Transcript 2, p. 9, lines 8-10.

⁴² Grayson Testimony, Transcript 6, p. 14 lines 14-35.

⁴³ Goldstein Testimony, Transcript 5, p. 5 lines 26-42; Barriers to Homeownership: Observations on the Experiences of Prospective First-Time Homebuyers in the Commonwealth of Pennsylvania (May 2022), pp. 22-23, at: https://www.phfa.org/forms/housing_study/barriers-to-homeownership.pdf. Hereinafter cited as: “*Barriers to Homeownership* (May 2022).”

⁴⁴ *Barriers to Homeownership* (May 2022), p. 22.

⁴⁵ Freemark Testimony, Transcript 1, p. 15 line 34 – p. 16 line 2; Goldberg Testimony, Transcript 1, p. 3 lines 31-37 03.18.22 Hearing, slide 10) & p. 5 lines 27-31; Confer-Hammond Testimony, Transcript 1 p. 18 lines 23-30 & p. 19 lines 16-28. Further discussion of the impact of historical housing policies on racial and economic segregation is included in Finding 3.

seen in existing disparities present in health and wellness indicators of racially segregated communities today:

- Debby Goldberg of the National Fair Housing Alliance testified that people who live in communities of color are three times more likely than those living in predominantly White communities to be exposed to environmental hazards, increasing the risk of negative development and health impacts.⁴⁶
- Tracy McCracken of the National Community Reinvestment Coalition (NCRC) cited a 2015 brief published by the U.S. Centers for Disease Control and Prevention (CDC) which found a link between neighborhood level racial segregation and cardiovascular disease risk.⁴⁷ A 2020 report of the NCRC found “statistically significant associations” between historic redlining and risk factors for heightened morbidity in COVID-19 patients including asthma, COPD, diabetes, hypertension, high cholesterol, kidney disease, obesity, and stroke.⁴⁸
- Rasheedah Phillips, Director of Housing Policy at Policy Link, compared maps of historical redlining with current eviction maps and maps of cases of COVID-19 to demonstrate that “...areas with elevated eviction rates fell within zip codes with the highest COVID-19 positivity and hospitalization rates.”⁴⁹ Additionally, Phillips noted racial disparities layered within these data: zip codes with higher COVID-19 positivity and hospitalization rates also had predominantly Black renters.⁵⁰

Education and Housing Segregation

Finally, panelists presented evidence that racial and economic segregation heavily determines educational opportunity, or lack thereof.⁵¹ Megan Confer-Hammond, Executive Director at Fair Housing Partnership of Greater Pittsburgh discussed findings from a 2020 study published by EdBuild which identified the most economically segregated school districts in the United States.

⁴⁶ Goldberg Testimony, Transcript 1, p. 5, lines 11-17; Center for American Progress. (2017, February 21). EPA Study: Pollution Disproportionately Impacts Communities of Color. ThinkProgress. Retrieved from <https://thinkprogress.org/epa-study-pollution-impacts-communities-of-color-59fe867d560d/>

See also: <https://www.nbcnews.com/id/wbna10452037>

⁴⁷ McCracken Testimony, Transcript 2, p. 4, lines 7-9; https://www.cdc.gov/dhdsppubs/docs/sib_may2015.pdf. See also: <https://www.cdc.gov/minorityhealth/racism-disparities/index.html#print>.

⁴⁸ Richardson, et. al, “The Lasting Impact of Historic Redlining on Neighborhood Health: Higher Prevalence of COVID-19 Risk Factors” NCRC (2020), at: <https://ncrc.org/holc-health/#:~:text=A%20higher%20historic%20redlining%20score,tract%20average%20prevalence%20of%20diabetes>

⁴⁹ Phillips Testimony, Transcript 1, p. 7, line 42 – p. 8 line 10; 3.18.22 Hearing slide 32.

⁵⁰ Phillips Testimony, Transcript 1, p. 7, line 42 – p. 8 line 10; *See also*: McCracken Testimony, Transcript 2, p. 3, lines 34-37.

⁵¹ McCracken Testimony, Transcript 2, p. 4 lines 3-5. *Note*: The Commonwealth Court of Pennsylvania ruled in February of 2023 that the current state system of funding education is unconstitutional, as it deprives students who reside in districts with low property values and incomes of the same opportunities and resources as students who reside in districts with high property values and incomes. William Penn School District et al v. Pennsylvania Department of Education et al (2023), at: <https://pubintl.org/wp-content/uploads/2023/02/02.07.23-Memorandum-Opinion-Filed-pubintl.org.pdf>.

Five of the most segregated school districts in the country existed in Pennsylvania.⁵² Although the data was based on poverty rate differences, the segregation was also strongly associated with race.⁵³ For example, Clairton City School District in Allegheny County is eighty percent non-White and has a forty percent poverty rate. Directly adjacent is West Jefferson Hills School District has a seven percent non-White population and a five percent poverty rate.⁵⁴ The report finds that Pennsylvania is one of several states in the Northeast to draw school district borders corresponding to municipal borders, meaning that almost every municipality has its own school district.⁵⁵ This makes school districts in economically (and racially) segregated communities extremely vulnerable to resource gaps: “for them, the district border is effectively a wall, one that separates them from both school resources and their fellow students.”⁵⁶ The report notes that Pennsylvania has sixty-two school district borders with a poverty divide of at least twenty percentage points, serving twenty nine percent of Pennsylvania students.⁵⁷ These figures illustrate the correlation between segregated housing and racial and economic segregation in public schools.

Rural Pennsylvania

Access to affordable housing and its impact on quality of life may look different in rural Pennsylvania. The Center for Rural Pennsylvania defines “rural” as any area of the state with a population density below 291 persons per square mile.⁵⁸ By this definition, 75% of Pennsylvania’s land mass is classified as rural, encompassing 3.4 million residents.⁵⁹ Center director Kyle Kopko testified that housing complaints in rural Pennsylvania are difficult to track, and are not stored in a centralized database that allows for easy comparison with more urban areas.⁶⁰ The population of rural Pennsylvania, as with many rural communities across the midwestern United States, has stagnated in recent years, and is also aging.⁶¹ By 2030 rural Pennsylvania is projected to have more senior citizens than young people in a majority of counties.⁶² Along with these demographic shifts, rural Pennsylvania has become increasingly diverse.⁶³ In 2010, people of color in rural Pennsylvania represented 7% of the population; in

⁵² Edbuild. (2020). *Fault Lines, America's Most Segregating School District Borders*. Edbuild. Retrieved from <https://edbuild.org/content/fault-lines/full-report.pdf>.

⁵³ Confer-Hammond Testimony, Transcript 1, p. 18, lines 31-37.

⁵⁴ Confer-Hammond Testimony, Transcript 1, p. 18, lines 39 – p. 19, line 4; Edbuild. (2020). *Fault Lines, America's Most Segregating School District Borders*, p. 6. Edbuild. Retrieved from <https://edbuild.org/content/fault-lines/full-report.pdf>.

⁵⁵ Edbuild. (2020). *Fault Lines, America's Most Segregating School District Borders*, pp 7-8. Edbuild. Retrieved from <https://edbuild.org/content/fault-lines/full-report.pdf>.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Kopko Testimony, Transcript 2, p. 10 lines 6-7.

⁵⁹ Kopko Testimony, Transcript 2, p. 10 lines 8-11.

⁶⁰ Kopko Testimony, Transcript 2, p. 12 line 36 – p. 13 line 19.

⁶¹ Kopko Testimony, Transcript 2, p. 10 lines 21-43.

⁶² Kopko Testimony, Transcript 2, p. 11 lines 6-28.

⁶³ Kopko Testimony, Transcript 2, p. 13 lines 6-12.

2020 this number grew to 12% and is expected to continue to increase.⁶⁴ Kopko noted that in rural Pennsylvania, people of color are more likely to be homeowners than renters, which is opposite of urban communities.⁶⁵ Additionally, people of color who are first time homebuyers in rural Pennsylvania have a median income of just above \$100,000, which is higher than non-Hispanic White individuals in the same region and higher than persons of color in urban communities.⁶⁶ Rural municipalities are also significantly less likely than urban jurisdictions to have any kind of zoning ordinance than urban jurisdictions.⁶⁷

Finding II: Homeownership in the United States drives the development of intergenerational wealth and economic mobility, yet demonstrates stark racial disparities.

During the Committee’s hearings, panelists spoke to the importance of homeownership in generating and transferring intergenerational wealth.⁶⁸ Tom Murphy of the Urban Land Institute testified that today in the United States, over seventy percent of White families own homes, compared to just over forty percent of Black families.⁶⁹ Murphy argued that these disparities in home ownership create disproportionate financial barriers for Black families, heavily impacting economic mobility.⁷⁰ Supporting this concern, Ira Goldstein of the Reinvestment Fund testified that the average wealth of White families eclipses the wealth of Black and Hispanic families by seven to one, conditioning families’ ability to attain homeownership.⁷¹ Goldstein cited evidence that children whose parents are homeowners are much more likely to become homeowners themselves. A 2018 study by the Urban Institute found that parents who are homeowners are more likely to be able to mentor their children through the homeownership process and to support them with down payments and co-signing loans so that their children can obtain their first home.⁷²

⁶⁴ Kopko Testimony, Transcript 2, p. 11 lines 36-42.

⁶⁵ Kopko Testimony, Transcript 2, p. 12 lines 25-35.

⁶⁶ Kopko Testimony, Transcript 2, p. 12 lines 25-35.

⁶⁷ Kopko Testimony, Transcript 2, p. 12 lines 11-24. *Further discussion of zoning ordinances as they pertain to fair housing rights is included in Findings 2&3.*

⁶⁸ Murphy Testimony, Transcript 3, p. 14, lines 19-21; Goldstein Testimony, Transcript 5, p. 3, lines 5-31; *See also:* United States Department of Justice Announcement: New initiative to combat redlining, October 22, 2021, at: <https://www.justice.gov/opa/pr/justice-department-announces-new-initiative-combat-redlining>.

⁶⁹ Murphy Testimony, Transcript 3, p. 14 lines 19-30; National Association of Realtors. (n.d.). More Americans Own Their Homes, But Black-White Homeownership Rate Gap Is Biggest in a Decade [Press release]. Retrieved from <https://www.justice.gov/opa/pr/justice-department-announces-new-initiative-combat-redlining>. *See also:* McCracken Testimony, Transcript 2, p. 4 lines 13-14; Goldstein Testimony, Transcript 5, p. 3, lines 5-26.

⁷⁰ Murphy Testimony, Transcript 3, p. 14, lines 26-28; *see also:* McCracken Testimony, Transcript 2, p. 4 lines 3-5.

⁷¹ Goldstein Testimony, Transcript 5 p. 3 lines 32-37.

⁷² Choi, J. H., Zhu, J., & Goodman, L. (2018). Intergenerational Homeownership: The Impact of Parental Homeownership and Wealth on Young Adults' Tenure Choices. *Urban Institute*. Retrieved from https://www.urban.org/sites/default/files/publication/99251/intergenerational_homeownership_0.pdf.

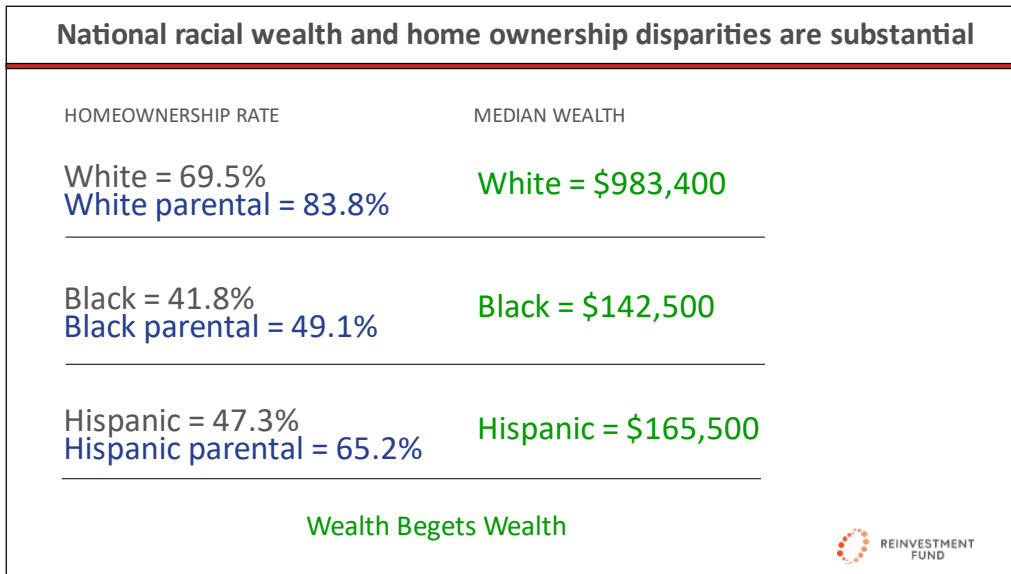


FIGURE 2: GOLDSTEIN TESTIMONY, 07.14.2022 HEARING, SLIDE 12. SOURCE: ⁷³

Rasheedah Phillips, Director of Housing Policy at Policy Link, testified that poverty rates in Pennsylvania reflect these challenges, with Black households making up more than roughly twenty seven percent of those living in high-poverty neighborhoods compared with just under four percent of White households.⁷⁴

These ongoing gaps in wealth and poverty rates disproportionately put Black and Latino homebuyers at a disadvantage. Goldstein described participants in the 2022 Barriers to Homeownership study who were assigned to housing counselors to assess their readiness to buy a home, and were then assigned into tiers based on the estimated amount of time it would take them to secure the credit, income history, savings, etc. necessary for them to qualify for a home loan.⁷⁵ They found that Black applicants in particular, compared to White applicants, were clustered in tiers in which it would take longer to become a homeowner.⁷⁶ In response, Goldstein urged expansion of first time homebuyer programs to aid families in obtaining down payment and closing costs that would otherwise put homeownership out of their reach.⁷⁷

⁷³ Goldstein Testimony, Transcript 5, p. 3 lines 18-37; see also: 07.14.2022 Hearing, Slide 12. Sources: Choi, J. H., Zhu, J., & Goodman, L. (2018). Intergenerational Homeownership: The Impact of Parental Homeownership and Wealth on Young Adults' Tenure Choices. *Urban Institute*. Retrieved from https://www.urban.org/sites/default/files/publication/99251/intergenerational_homeownership_0.pdf.

Bhutta, N., Chang, A. C., Dettling, L. J., & Hsu, J. W. (2020). Disparities in wealth by race and ethnicity in the 2019 survey of Consumer Finances. Board of Governors of the Federal Reserve System, 2020(2797). <https://doi.org/10.17016/2380-7172.2797>

⁷⁴ Phillips Testimony, Transcript 1, p. 8, lines 26-28, National Equity Atlas, *Neighborhood Poverty: All Neighborhoods Should be Communities of Opportunity*. (2020) https://nationalequityatlas.org/indicators/Neighborhood_poverty?geo=02000000000042000

⁷⁵ Goldstein Testimony, Transcript 5, p. 4 line 20 – p. 5 line 2; *Barriers to Homeownership* (May 2022), pp. 19-21.

⁷⁶ Ibid.

⁷⁷ Goldstein Testimony, Transcript 5, p. 6 lines 29-36.

Panelist Debby Goldberg cited a study from the Federal Reserve Bank of Cleveland which found that regions that were more inclusive in terms of race, income, and immigrant status, have more robust and sustained economic prosperity,⁷⁸ yet lack of fair access to homeownership opportunity perpetuates neighborhood racial and economic segregation.⁷⁹

Fair Lending

While the cash-purchase of homes by affluent buyers is reportedly on the rise,⁸⁰ a large majority of homeowners continue to rely on mortgage loans to purchase their property. Tracy McCracken testified that Black homebuyers are more likely than White buyers to be steered toward high-interest and high-risk loans, regardless of income or credit score.⁸¹ Ira Goldstein noted that Black and Hispanic mortgage applicants are one and a half to two times as likely to be denied a loan than White applicants.⁸² In fact, recent data from the Home Mortgage Disclosure Act (HMDA)⁸³ suggests that mortgage denial rates between less qualified White applicants and highly qualified Black applicants are similar.⁸⁴ Goldstein also shared that Black and Hispanic loan applicants are more often pushed into government insured loan products, which puts them at a significant disadvantage, particularly in a competitive housing market.⁸⁵ Once approved, NCRC's testing of banks in the Philadelphia area in 2013-2014 suggested that Black borrowers were less likely to receive follow up information from the bank regarding their loan than White borrowers.⁸⁶

Data indicate that the impact of these loan disparities is systemic – not limited to individual borrowers, but instead affecting entire neighborhoods and communities. Stanley Lowe testified that between 2007 and 2019, bank lending in just one predominantly White neighborhood of Pittsburgh (Shadyside) was greater than bank lending to *all* predominantly Black neighborhoods

⁷⁸ Goldberg Testimony, Transcript 1, p. 29, lines 36-39; An Update of the Regional Growth Model for Large and Mid-Size U.S. Metropolitan Areas: Northeast Ohio Dashboard Indicators (Austrian, Lendel, Yamoah 2007) urban.csuohio.edu/publications/center/center_for_economic_development/dashboard_report_final_0807.pdf, Regional Dashboard of Economic Indicators 2008: Comparative Performance of Midwest and Northeast Ohio Metropolitan Areas (Austrian, Lendel, Yamoah

2008) engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1130&context=urban_facpub

See also: Confer-Hammond Testimony, Transcript 1, p. 29, lines 16 et seq.

⁷⁹ Goldberg Testimony, Transcript 1, p. 4, lines 31-34; Goldstein Testimony, Transcript 5, p. 3, lines 28-31.

⁸⁰ Redfin News: Share of homes bought with all cash hits 30% for first time since 2014 (July 2021), at: <https://www.redfin.com/news/all-cash-home-purchases-2021/>.

⁸¹ McCracken Testimony, Transcript 2, p. 4 lines 1-2; p. 5 lines 13-22. Barriers to Homeownership: Observations on the Experiences of Prospective First-Time Homebuyers in the Commonwealth of Pennsylvania (May 2022), pp. 22-23, at: https://www.phfa.org/forms/housing_study/barriers-to-homeownership.pdf. Hereinafter cited as: “*Barriers to Homeownership* (May 2022).”

⁸² Goldstein Testimony, Transcript 5, p. 3 line 38 – p. 4 line 3. Barriers to Homeownership (May 2022), Mortgage Lending Key Take-Aways from the 2021 Home Mortgage Disclosure Act Data Release, (October 2022), at: https://www.reinvestment.com/wp-content/uploads/2022/10/Reinvestment-Fund_HMDA_2022.pdf; *See also:* McCracken Testimony, Transcript 2, p. 5 lines 23-29.

⁸³ 12 U.S.C 29 § 2801 et. seq.

⁸⁴ Goldstein Testimony, Transcript 5, p. 4 lines 8-34; *see also:* McCracken Testimony, Transcript 2 p. 5 lines 23-31.

⁸⁵ Goldstein Testimony, Transcript 5, p. 4 lines 3-7.

⁸⁶ McCracken Testimony, Transcript 2, p. 5 lines 13-22.

in the city combined.⁸⁷ During this same timeframe, just three and one-half percent of loans were approved for Black borrowers, despite Black households making up more than twenty-three percent of the Pittsburgh population.⁸⁸ In fact, Lowe noted that of the 906 financial institutions examined, 551 never made a single loan to a Black person.⁸⁹ At a structural level, the Black population in Pittsburgh has declined by more than twelve percent over the past ten years, a loss that Lowe attributed at least in part to the inadequate wealth-building environment with rapidly rising housing costs.⁹⁰ Lowe noted that of the twenty-two different banks with 119 branches in Pittsburgh, only twelve percent of branches (holding less than one half of a percent of all branch deposits) even exist in minority neighborhoods.⁹¹ Considering this limitation, Lowe suggested that banks are unlikely to be able to establish the necessary relationships to improve their loan processes and financial opportunity for Black borrowers.⁹²

To address these issues, and ensure improved access to home mortgage loans, panelists emphasized the importance of continued data collection and systemic testing to detect patterns of discriminatory practices across the housing system—including loan originators, insurance agents, and real estate agents.⁹³ Ira Goldstein testified that years of training and education for realtors regarding fair housing laws has significantly improved interactions with realtors since the 1990s, particularly for Black and Hispanic families.⁹⁴ However, more work needs to be done with lenders to achieve the same improvements.⁹⁵ Tom Murphy of the Urban Land Institute described a series of community based public education efforts he engaged in throughout the 1980's to identify lending institutions that were investing in disadvantaged neighborhoods, and those that were not.⁹⁶ Activists would encourage people to withdraw their deposits from financial institutions that were not making loans in the neighborhood, successfully changing the availability of mortgages in disadvantaged areas of the city.⁹⁷ Despite these efforts, in the May 2022 Barriers to Homeownership study⁹⁸ conducted in partnership with the Reinvestment Fund, Goldstein noted that while lenders were not overtly discriminatory, in comparing narratives of people's experiences with their lenders, "there was really just a cumulative effect of a set of incidents, which were far more negatively experienced by Black people than White people. And

⁸⁷ Lowe Testimony, Transcript 3 p. 16 lines 14-28. "Inherited Inequality: The State of Financing for Affordable Housing in Pittsburgh, Pennsylvania." Pittsburgh: Lower Marshall-Shadeland Development Initiative, 2021, pp. 13-14

⁸⁸ Lowe Testimony, Transcript 3, p. 16 lines 14-34.

⁸⁹ Lowe Testimony, Transcript 3, p. 16 35-39.

⁹⁰ Lowe Testimony, Transcript 3 p. 16 line 39 – p. 17 line 3.

⁹¹ Lowe Testimony, Transcript 3 p. 17 lines 26-40; See also: Murphy Testimony, Transcript 3, p. 13 lines 24-29.

⁹² Lowe Testimony, Transcript 3 p. 17 lines 26-40.

⁹³ McCracken Testimony, Transcript 2, p. 4 line 34 – p. 5 line 12; p. 5 line 32 – p. 6 line 6.

⁹⁴ Goldstein Testimony, Transcript 5, p. 5 line 40 – p. 6 line 8.

⁹⁵ Goldstein Testimony, Transcript 5, p. 6 lines 9-25; *Barriers to Homeownership* (May 2022), pp. 23-26.

⁹⁶ Murphy Testimony, Transcript 3, p. 13 lines 19-40.

⁹⁷ Murphy Testimony, Transcript 3, p. 13 lines 19-40.

⁹⁸ *Barriers to Homeownership* (May 2022), pp. 23-26.

it is that cumulative effect of those interactions that made it much more difficult for people to experience and to achieve homeownership.”⁹⁹

Zoning and Land Development

Panelists recognized the critically important role that zoning and land use restrictions play in neighborhood development and fair housing.¹⁰⁰ Yonah Freemark of the Urban Institute defined zoning as a “complex set of mechanisms that are used by communities throughout the country to determine what should be built, where.”¹⁰¹ He noted that zoning is part of an overall system constrained and directed by state and federal regulations, involving municipalities, private real estate investment, and the feelings and opinions of the public at large.¹⁰² By the early 1900’s, some American cities began to implement zoning ordinances purportedly developed to address overcrowding and pollution,¹⁰³ yet many of these earliest zoning rules were designed with explicitly racist motivation.¹⁰⁴ Freemark noted that these laws originated and were supported by government institutions, but “zoning was hardly something imposed by governments alone. In fact, many of the most vicious elements of the early history of zoning in the United States were directly inspired by members of the real estate market themselves.”¹⁰⁵ For example, developers across the country would request zoning for only single-family homes, but then would privately implement a series of covenants attached to property deeds that restricted property sale to White people only.¹⁰⁶

Freemark argued that the lingering impact of these policies can still be seen in cities throughout the United States today, as far more land is zoned for single-family homes than any other type of residential use.¹⁰⁷ Affording a single-family home in a major U.S. city requires higher wealth, and higher wealth in the U.S. is correlated strongly with race—structurally prioritizing housing for wealthy, White families.¹⁰⁸ Heavily zoning for single family homes has contributed to several ongoing social and civil rights problems:

- Encouraging both racial and economic segregation;¹⁰⁹

⁹⁹ Ibid.

¹⁰⁰ Goldberg Testimony, Transcript 1, p. 3 lines 17-30.

¹⁰¹ Freemark Testimony, Transcript 1, p. 12, lines 41-42.

¹⁰² Freemark Testimony, Transcript 1, p. 13 lines 3-40.

¹⁰³ Freemark Testimony, Transcript 1, p. 13 lines 3-31.

¹⁰⁴ Freemark Testimony, Transcript 1, p. 13 line 32 – p. 14 line 19; Goldberg Testimony, Transcript 1, p. 3 lines 31-44; Nelms Testimony, Transcript 2, p. 6 lines 23-28. Note: *Additional discussion of zoning practices is included in Finding 3.*

¹⁰⁵ Freemark Testimony, Transcript 1, p. 14, lines 20-34.

¹⁰⁶ Freemark Testimony, Transcript 1, p. 14, lines 20-34; Goldberg Testimony, Transcript 1, p. 3 lines 31-44; p. 4 lines 27-31. Note: *additional discussion of these covenants is included in Finding 3.*

¹⁰⁷ Freemark Testimony, Transcript 1, p. 14 line 35 – p. 15 line 4.

¹⁰⁸ Freemark Testimony, Transcript 1, p. 14, Lines 37-39 and 41-44.

¹⁰⁹ Freemark Testimony, Transcript 1, p. 15 lines 5-11.

- Restricting housing available for families who cannot afford a single-family home (*also affecting the availability of affordable housing more broadly*);¹¹⁰
- Increasing car dependency;¹¹¹
- Limiting housing construction necessary to keep up with population growth.¹¹²

Freemark noted that Pennsylvania law has required municipalities to zone for a variety of different housing types since 1968, though the law is vague and has been rarely enforced.¹¹³ He suggested that “enhancing this law, or changing the way it is enforced” could lead to an increase in availability of other types of housing in communities across the Commonwealth.¹¹⁴ In a written statement, Chad Dion-Lassiter of the Pennsylvania Human Relations Commission noted that local government entities (cities, counties, boroughs, townships) are responsible for the final application and/or execution of state level zoning policies, making uniform application a challenge.¹¹⁵ The Commission has begun trainings and discussions with such localities to review their collective responsibility to ensure zoning practices are not discriminatory.¹¹⁶

Jesse Hunting of the Norris Square Community Alliance asserted that complex zoning ordinances can also force many small businesses out of their neighborhoods, including grocery stores, restaurants, corner stores, and manufacturers.¹¹⁷ This loss impacts quality of life for residents, who then must navigate public transit or buy and maintain a car to access basic resources such as grocery stores.¹¹⁸ Hunting testified that businesses help people and communities by increasing the tax base and creating jobs that are needed in order to get people out of poverty.¹¹⁹

Property Tax

Panelists also testified to the impact that property tax policy and assessment can have on access to homeownership. Jesse Hunting of Norris Square Community Alliance described Philadelphia’s real estate tax policy as “regressive,” in that it disproportionately impacts low-income people of color, and accelerates gentrification.¹²⁰ As neighborhoods rapidly gentrify,

¹¹⁰ Freemark Testimony, Transcript 1, p. 15 lines 5-11. *See Finding 1 for further discussion of the availability of affordable housing more broadly.*

¹¹¹ Freemark Testimony, Transcript 1, p. 15 lines 5-11.

¹¹² Freemark Testimony, Transcript 1, p. 15 lines 12-25.

¹¹³ 53 Pa. Stat. § 10604. Freemark Testimony, Transcript 1, p. 16 lines 16-21; p. 22 lines 23-37. *See also:* Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No247. Article VI, §604 (4) at: <https://www.dep.state.pa.us/hosting/growingsmarter/MPCCode%5B1%5D.pdf> (p.47).

¹¹⁴ Freemark Testimony, Transcript 1, p. 22, lines 23-37.

¹¹⁵ Dion-Lassiter, Written Testimony, Appendix B.

¹¹⁶ Dion-Lassiter, Written Testimony, Appendix B.

¹¹⁷ Hunting Testimony, Transcript 4, p. 6, lines 1-6.

¹¹⁸ Hunting Testimony, Transcript 4, p. 6 lines 14-25.

¹¹⁹ Hunting Testimony, Transcript 4, p. 7, lines 31-38.

¹²⁰ Hunting Testimony, Transcript 4, p. 4 lines 7-13.

year over year property taxes for longtime residents increase substantially.¹²¹ Hunting provided the example of one home in Norris Square which saw a 180% increase in property tax assessment between 2022-2023.¹²² He demonstrated that at a wage of ten dollars per hour (which many residents in the neighborhood make), the homeowner would have to work an additional 280 hours, or seven full weeks in order to continue to afford their home.¹²³ As a result, residents are moving out of their neighborhoods and private landlords must raise their rents to cover additional costs.¹²⁴ Hunting argued that simple policy solutions such as capping the percentage of year over year property tax increases, indexed to inflation, and allowing for a full market reset only when the property changes hands, could greatly help to address this problem.¹²⁵

From a somewhat countering perspective, Kevin Quisenberry, Litigation Director with Community Justice Project (CJP), raised concern that freezing property assessments at a point in time can actually increase gaps in fair housing.¹²⁶ Quisenberry argued that freezing property tax assessments creates a disproportionate burden on homeowners in areas where property value has seen a slower increase (or even decrease) over time, while allowing homeowners in neighborhoods with more rapidly appreciating value to pay less than the actual fair value of their property.¹²⁷ Quisenberry noted potential civil rights concerns with this formula, as homeowners from protected classes may also be disproportionately represented in neighborhoods with more slowly appreciating (or even declining) property values.¹²⁸ He argued that the longer a property assessment remains frozen, the greater the disparities become. As a solution, Quisenberry recommended either a required periodic reassessment of property value, or requiring reassessment upon a triggering event, such as an analysis of equity that grows beyond a specific threshold.¹²⁹

Gentrification

The U.S. Department of Housing and Urban Development (HUD) describes gentrification as “a form of neighborhood change that occurs when higher-income groups move into low-income areas, potentially altering the cultural and financial landscape of the original neighborhood.”¹³⁰ In a 2016 brief on gentrification and housing affordability, HUD noted that in recent years,

¹²¹ Hunting Testimony, Transcript 4, p. 4 lines 14-26.

¹²² Hunting Testimony, Transcript 4, p. 4 line 27 – p. 5 line 20.

¹²³ Hunting Testimony, Transcript 4, p. 5 lines 11-20.

¹²⁴ Hunting Testimony, Transcript 4, p. 5, lines 3-10.

¹²⁵ Hunting Testimony, Transcript 4, p. 5 lines 21-29; p. 19 lines 17-38.

¹²⁶ Quisenberry Testimony, Transcript 4, p. 12, Lines 7-10; p. 20, lines 1-13.

¹²⁷ Quisenberry Testimony, Transcript 4, p. 12, lines 1-15; p. 20, lines 1-13.

¹²⁸ Quisenberry Testimony, Transcript 4, p. 12, lines 16-27.

¹²⁹ Quisenberry Testimony, Transcript 4 p. 20 lines 1-26.

¹³⁰ U.S. Department of Housing and Urban Development, Office of Policy Research: Ensuring Equitable Neighborhood Change: Gentrification Pressures on Housing Affordability (2016), at: <https://www.huduser.gov/portal/sites/default/files/pdf/Insights-Ensuring-Equitable-Growth.pdf>. Hereinafter cited as: “Gentrification Pressures on Housing Affordability (2016).”

gentrification has been primarily concentrated in redevelopment and downtown areas of large cities.¹³¹ Stanley Lowe of the Lower-Marshall-Shadeland Development Initiative cautioned that if not carefully managed, community reinvestment dollars and other programs designed to increase or maintain affordable housing can actually end up seeding the ground for gentrification.¹³² Debby Goldberg of the National Fair Housing Alliance testified that there are disparities in the ways that development and infrastructure projects are typically carried out in segregated communities. She noted a pattern in cities across the country of “urban renewal” projects such as highway construction displacing many previously thriving, healthy, integrated neighborhoods and neighborhoods of color, “not only displacing people who live there, but also cutting off remaining communities from the rest of the city, and really constricting the kinds of access and opportunities that people living there had.”¹³³ This movement has created the potential for “displacement of long-term low-income residents, long-run resegregation of neighborhoods, and heightened barriers to entry for new low-income residents looking to move to places of opportunity.”¹³⁴

Panelists expressed an urgent need to manage community redevelopment projects in a way that preserves access to both affordable rentals and affordable homeownership opportunities.¹³⁵ Rose Gray of the Asociación Puertorriqueños en Marcha (APM) described the importance of community-driven, public/private partnerships to ensure continued availability of affordable housing in rapidly gentrifying neighborhoods.¹³⁶ Gray described a partnership that APM established with the City of Philadelphia, whereby they acquired vacant land from the city and used city and state subsidies to develop housing they sold to low-income households for between \$55,000 and \$160,000.¹³⁷ Years later, those houses now have a value of close to \$300,000, providing equity and economic advancement for the families living in them.¹³⁸

Gray emphasized the importance of community-driven collaboration in this process, which resulted in the initiative also meeting other community needs, such as development of healthy, energy-efficient buildings, a health center, and pharmacy.¹³⁹ She cautioned that such projects must be community driven, and intentionally managed: as soon as the market was established for the area, and land value started to rise accordingly, families in homes worth \$100,000 - \$120,000

¹³¹ Gentrification Pressures on Housing Affordability (2016), p. 1

¹³² Lowe Testimony, Transcript 3, p. 21 lines 13-27; p. 28 line 32 – p. 29 line 17.

¹³³ Goldberg Testimony, Transcript 1, p. 4 line 40 – p. 5 line 10.

¹³⁴ Gentrification Pressures on Housing Affordability (2016), p. 1. *See also*: Beck Testimony, Transcript 5, p. 9, lines 3-9; Aken, Goldstein, and Lee: Trends and challenges in the Philadelphia rental market, The Housing Initiative at Penn & Community Legal Services of Pennsylvania (2022), at: https://www.housinginitiative.org/uploads/1/3/2/9/132946414/cls-hip_report_6-14-2022.pdf. Hereinafter cited as: “Trends and Challenges in the Philadelphia Rental Market (2022).”

¹³⁵ Gray Testimony, Transcript 5, p. 14, lines 7-9.

¹³⁶ Gray Testimony, Transcript 5, p. 14 line 17 – p. 15 line 42.

¹³⁷ Gray Testimony, Transcript 5, p. 14 line 17 – p. 15 line 42.

¹³⁸ Gray Testimony, Transcript 5, p. 15 lines 3-6.

¹³⁹ Gray Testimony, Transcript 5, p. 15 lines 6-42.

had people knocking on their doors offering \$50,000 cash for them to move.¹⁴⁰ APM responded with an anti-displacement campaign, and Gray encouraged legislation to restrict this type of predatory activity.¹⁴¹ State Representative Donna Bullock also spoke to the importance of preventing displacement of longtime residents in gentrifying neighborhoods.¹⁴² She testified that providing homeowners with funds to provide repairs and improvements is especially important: “we know that the most affordable home is the one that you’re already in.”¹⁴³ Gray additionally recommended zoning restrictions “with teeth;” when developers agree to keeping 20% of their units affordable, for example, there are currently no enforcement mechanisms that monitor and ensure this affordability is maintained year after year.¹⁴⁴

Finding III: While fair housing progress has been made, the impact of historical policies that were explicitly created to further racial and economic segregation is still prevalent today.

Explicit, racialized housing discrimination in the United States was established and perpetuated by government institutions, with cooperation from private developers, throughout much of U.S. history. In written testimony, Chad Dion Lassiter, Executive Director of the Pennsylvania Human Relations Commission summarized the coordinated role of public and private actions in creating racially segregated neighborhoods. “Our country’s history and the actions of our government along with lending institutions, developers and the insurance industry have played a role in segregating our communities to benefit...the majority market. Redlining, urban renewal, blockbusting, slum clearance, and exclusionary zoning are but a few policy examples of this, the latter of which persists today throughout the U.S.”¹⁴⁵

Our country’s history and the actions of our government along with lending institutions, developers and the insurance industry have played a role in segregating our communities to benefit...the majority market. Redlining, urban renewal, blockbusting, slum clearance, and exclusionary zoning are but a few policy examples of this, the latter of which persists today throughout the U.S.

- Chad Dion-Lassiter, Pennsylvania Human Relations Commission

Debby Goldberg of the National Fair Housing Alliance testified that the Homeowners Loan Corporation (HOLC), a federal agency, assessed residential neighborhoods around the country in the 1930’s and ranked them into categories from the “best” neighborhoods to live in to those

¹⁴⁰ Gray Testimony, Transcript 5, p. 16 lines 1-21.

¹⁴¹ Gray Testimony, Transcript 5, p. 16 lines 1-24.

¹⁴² Bullock Testimony, Transcript 6, p. 4, lines 6-13.

¹⁴³ Bullock Testimony, Transcript 6, p. 4, lines 6-13.

¹⁴⁴ Gray Testimony, Transcript 5, p. 17 lines 12-27.

¹⁴⁵ Dion-Lassiter Written Testimony, Appendix B; See also Gauthier Testimony, Transcript 6, p. 19 lines 31-35.

deemed “hazardous.”¹⁴⁶ Such classifications were made in large part based on the racialized categorization of the people who lived there (Black and Jewish residents were considered particularly “undesirable”).¹⁴⁷ The Federal Housing Administration (FHA) then institutionalized these classifications by requiring that developers receiving FHA funding include covenants in their home sales guaranteeing that the properties they built would not be sold to people of color.¹⁴⁸ These covenants also often included requirements that the home would not subsequently be sold to a family of color.¹⁴⁹ Goldberg noted that following the end of World War II, the FHA financed the construction of suburbs across the country—explicitly excluding families of color.¹⁵⁰ While the United States Supreme Court ruled in 1948 (*Shelley v. Kraemer*)¹⁵¹ these covenants could not be enforced in court, because to do so would violate the U.S. Constitution’s guarantee of equal protection under law, it was not until 1968 with the passage of the Fair Housing Act¹⁵² that inclusion of the covenants themselves in property deeds was made illegal.¹⁵³

Redlining

The term “redlining” refers to the practice of mortgage lenders “drawing red lines around portions of a map to indicate areas or neighborhoods in which they do not want to make loans,” even to otherwise creditworthy applicants.¹⁵⁴ “Redlining,” as it became known, was derived directly from HOLC maps in which neighborhoods deemed “hazardous” were colored in red,¹⁵⁵ and its remnants remain today. Goldberg noted that the neighborhood classifications from the 1930’s HOLC maps closely reflect the segregation apparent in census maps today in major cities across the country.¹⁵⁶

¹⁴⁶ Goldberg Testimony, Transcript 1, p. 4 lines 7-13.

¹⁴⁷ Goldberg Testimony, Transcript 1, p. 4 lines 16-26.

¹⁴⁸ Goldberg Testimony, Transcript 1, p. 4 lines 22-34.

¹⁴⁹ Goldberg Testimony, Transcript 1, p. 4 lines 27-31.

¹⁵⁰ Goldberg Testimony, Transcript 1, p. 4 lines 22-26.

¹⁵¹ *Shelley v. Kraemer* (1948)

¹⁵² 42 U.S.C. §3601 et seq.

¹⁵³ Freemark Testimony, Transcript 1, p. 14 lines 20-34.

¹⁵⁴ *Federal Fair Lending Regulations and Statutes: Fair Housing Act*. Federal Reserve. (n.d.), p.1. Retrieved from https://www.federalreserve.gov/boarddocs/supmanual/cch/fair_lend_fhact.pdf

¹⁵⁵ Goldberg Testimony, Transcript 1, p. 4 lines 7-16.

¹⁵⁶ Goldberg Testimony, Transcript 1, p. 4 lines 31-39; See Panel 1 presentation slides 14 & 17.

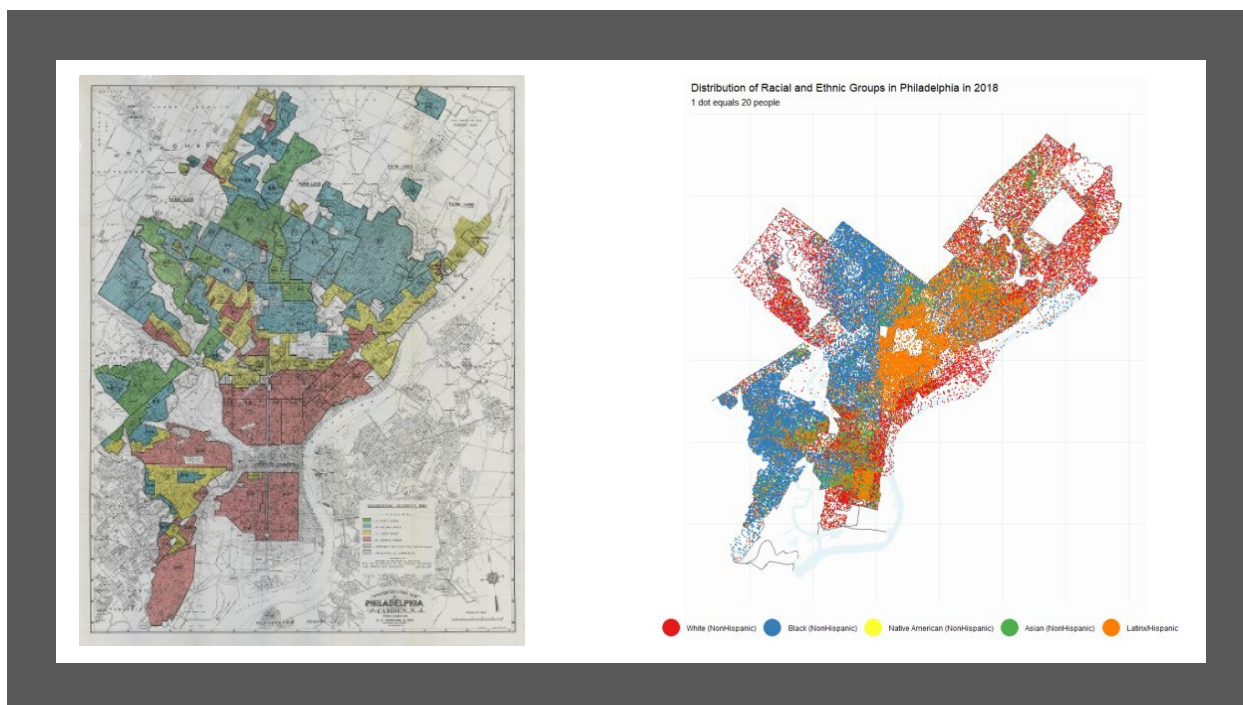


FIGURE 3: 1937 HOLC MAP OF PHILADELPHIA & 2018 RACIAL AND ETHNIC NEIGHBORHOOD DISTRIBUTION.¹⁵⁷

Recognizing this ongoing legacy, Assistant Attorney General Kristen Clarke of the U.S. Department of Justice Civil Rights Division announced a new initiative in October 2021 to combat modern-day redlining: “Equal and fair access to mortgage lending opportunities is the cornerstone on which families and communities can build wealth in our country. We know well that redlining is not a problem from a bygone era but a practice that remains pervasive in the lending industry today.”¹⁵⁸ The initiative, led by the Division’s Housing and Civil Enforcement Section, “seeks to make mortgage credit and homeownership accessible to all Americans on the same terms, regardless of race or national origin and regardless of the neighborhood where they live.”¹⁵⁹ These efforts include:

- “Utilize U.S. Attorneys’ Offices as force multipliers to ensure that fair lending enforcement is informed by local expertise on housing markets and the credit needs of local communities of color.
- Expand the department’s analyses of potential redlining to both depository and non-depository institutions. Non-depository lenders are not traditional banks and do not provide typical banking services, but engage in mortgage lending and now make the majority of mortgages in this country.

¹⁵⁷ Credit: The Economy League of Greater Philadelphia, *The Color of Inequality Part 1: Housing and the Built Environment* (2020), at: <https://economyleague.org/providing-insight/leadingindicator-colorofinequalitypart1>.

¹⁵⁸ United States Department of Justice Announcement: New initiative to combat redlining, October 22, 2021, at: <https://www.justice.gov/opa/pr/justice-department-announces-new-initiative-combat-redlining>.

¹⁵⁹ *Ibid.*

- Strengthen our partnership with financial regulatory agencies to ensure the identification and referrals of fair lending violations to the Department of Justice.
- Increase coordination with State Attorneys General on potential fair lending violations.”

160

Zoning

In addition to redlining, panelists testified that historic and present-day zoning policies have served to create and perpetuate racially and economically segregated communities across the United States.¹⁶¹ James E. Loewen's book *Sundown Towns: A Hidden Dimension of American Racism*, reveals the existence of all-White cities, towns, counties, and subregions as the result of purposeful action. Many of the locals described using zoning and minimum housing price requirements to remain almost all White. Goldberg and others argued that many neighborhoods never recovered, and the impact of such polices can still be seen in communities across the United States (and even some property deeds), today.¹⁶²

While zoning may be an important tool for municipalities to organize communities, address concerns of crowding, and reduce pollution from industrial and commercial uses,¹⁶³ panelists described that in practice, zoning has been used from its onset both explicitly and implicitly to further racial and economic segregation.¹⁶⁴ Megan Confer-Hammond of the Fair Housing Partnership of Greater Pittsburgh testified that zoning was “largely nonexistent” in the country until after the Great Migration, when six million Black Americans relocated to the North to escape [post-]Reconstruction policies and Jim Crow laws prevalent throughout the American South.¹⁶⁵ Debby Goldberg of the National Fair Housing Alliance provided the below example of an early zoning ordinance from Baltimore in 1910, noting similar ordinances existed in cities across the country at that time:¹⁶⁶

¹⁶⁰ United States Department of Justice Announcement: New initiative to combat redlining, October 22, 2021, at: <https://www.justice.gov/opa/pr/justice-department-announces-new-initiative-combat-redlining>.

¹⁶¹ Note: *Additional discussion on zoning practices is included in Finding 2.*

¹⁶² Goldberg Testimony, Transcript 1, p. 4 lines.

¹⁶³ Confer-Hammond Testimony, Transcript 1, p. 18, lines 15-16 and 21-23; Freemark Testimony, Transcript 1, p. 11, lines 6-10.

¹⁶⁴ Freemark Testimony, Transcript 1, p. 13, line 35 - p. 14, line 3.

¹⁶⁵ Confer-Hammond Testimony, Transcript 1, p. 17 line 38 – p. 18 line 5.

¹⁶⁶ Goldberg Testimony, Transcript 1, p. 3 lines 31-38.

The *Baltimore Sun* summarized the ordinance's provisions as follows:

That no negro can move into a block in which more than half of the residents are white.

That no white person can move into a block in which more than half of the residents are colored.

That a violator of the law is punishable by a fine of not more than \$100 or imprisonment of from 30 days to 1 year, or both.

That existing conditions shall not be disturbed. No white person will be compelled to move away from his house because the block in which he lives has more negroes than whites, and no negro can be forced to move from his house if his block has more whites than negroes.

FIGURE 4: GOLDBERG TESTIMONY, 03.018.22 HEARING, SLIDE 10

While the United States Supreme Court struck down such explicitly racist zoning ordinances with *Buchanan v. Warley*¹⁶⁷ in 1917, panelists described how such explicit ordinances were simply replaced with alternative ordinances that had a discriminatory effect.¹⁶⁸ Confer-Hammond noted that after the U.S. Supreme Court upheld density-based zoning in a 1926 ruling (*Euclid v. Ambler Realty*),¹⁶⁹ density-based zoning quickly became an alternative pretext for racial discrimination and segregation.¹⁷⁰ In *Euclid*, the Court held that zoning ordinances are constitutional “as long as they have some relation to public health, safety, morals, or general welfare.”¹⁷¹ This allowed municipalities to institute zoning restrictions purported to prevent “destruction of a neighborhood’s character,” giving rise to restrictions such as minimum sizes for new homes, and limiting or barring the construction of multi-family homes.¹⁷² Goldberg cited several cases before the U.S. Department of Justice today addressing the use of zoning policies to exclude people of color from certain neighborhoods though the use of such policies.¹⁷³ Carolyn Kornegay Punter of HUD’s Office of Fair Housing and Equal Opportunity testified that

¹⁶⁷ *Buchanan v. Warley*, 245 U.S. 60 (1917).

¹⁶⁸ Phillips Testimony, Transcript 1, p. 7 lines 32-41.

¹⁶⁹ *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).

¹⁷⁰ Confer-Hammond Testimony, Transcript 1, p. 18, lines 6-30.

¹⁷¹ *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926). Primary Holding Annotation: <https://supreme.justia.com/cases/federal/us/272/365/>.

¹⁷² Confer-Hammond Testimony, Transcript 1, p. 18, lines 23-30; Nelms Testimony, Transcript 2, p. 7 lines 9-27; Nelms Testimony, Transcript 2, p. 7, lines 18-23; p. 8, lines 14-22; Freemark Testimony, Transcript 1, p. 14, lines 7-13.

¹⁷³ Goldberg Testimony, Transcript 1, p. 5 lines 23-42.

exclusionary zoning and targeted enforcement of otherwise neutral land use laws are among the most common zoning-related violations of the Fair Housing Act today.¹⁷⁴

T’Keyah Nelms of the Fair Housing Rights Center in Southeastern Pennsylvania described several “commonly used” methods to disguise zoning discrimination today, including:¹⁷⁵

1. Imposing minimum residential lot and/or floor space requirements;
2. Forbidding construction of apartment buildings;
3. Zoning to preserve the “character of a community;”
4. Use barriers (ex. in-home workspaces);
5. Using mixed-income housing zoning bonuses to build luxury apartments or condos and pay a fine to the Housing Trust Fund (HTF);¹⁷⁶ and
6. Zoning hearing boards using public opinion to discriminate based on characteristics of and generalizations regarding protected classes.

Residential – Neighborhood and Town
Residents of Bridgeport value and want to preserve the existing character of residential neighborhoods largely characterized by small lots, a feeling of neighborliness that is created by the connection between the front stoops and the street, and a diversity of residential units types that support working families. Much of the borough residential neighborhood is developed in a grid layout. A large number of the residential properties are served by alley access for rear parking, or a mix of alley access with detached rear-access garages, while newer units have a mix of alley access for rear parking and front-loading garages.

Nelms provided the example of a present-day ordinance from the Borough of Bridgeport, PA which includes: a minimum lot area of 20,000 square feet; a side yard building setback of 20 feet; minimum lot width of 100 feet; and a maximum density of six bedrooms per acre with no more than two adults per bedroom.¹⁷⁷ The accompanying neighborhood plan specifically states that such requirements are intended to “preserve the existing character” of the neighborhoods, which Nelms pointed out, are more than seventy percent White.¹⁷⁸

FIGURE 5: BRIDGEPORT BOROUGH 2040 COMPREHENSIVE PLAN (APRIL 2021). 04.22.2022 HEARING, NELMS TESTIMONY, SLIDE 14.

Confer-Hammond noted that while polices to prevent overdevelopment and unsafe living conditions are certainly important, “We have moved so far in the other direction that we are disallowing housing when we need housing at a critical level.”¹⁷⁹ She urged the use of

¹⁷⁴ Kornegay Punter Testimony, Transcript 7, p. 5 lines 26-34; 11.07.22 Hearing, slide 23.

¹⁷⁵ Nelms Testimony, Transcript 2 p. 7 lines 9-34; 04.22.22 Hearing, slide 11. *Source:* Borough of Bridgeport, PA Zoning Ordinance § 560-29(A)(10).

¹⁷⁶ Housing Trust Fund, https://www.hud.gov/program_offices/comm_planning/htf.

¹⁷⁷ Nelms presentation, 04.22.2022 Hearing, slide 13.

¹⁷⁸ Nelms Testimony, Transcript 2, p. 8 lines 14-22; 04.22.22, slide 14.

¹⁷⁹ Confer-Hammond Testimony, Transcript 1, p. 32 lines 16-24.

inclusionary zoning concepts to compel the allowance of affordable, multifamily housing where there continues to be widespread municipal and public pushback.¹⁸⁰ Rasheeda Phillips defined inclusionary zoning as an equitable land use policy that “require[s] or encourage[s] that a percentage of housing units in new residential developments be available to low and moderate income households, and requires developers receive compensations in exchange for contributing to the affordable housing stock.”¹⁸¹ Debby Goldberg added that reminding legislators and the public of our shared values of fairness, and that inclusionary zoning benefits¹⁸² everyone, not just those traditionally marginalized, can help to break through some areas of resistance.¹⁸³

Home Appraisals

Tom Murphy of the Urban Land Institute emphasized that “appraisals of real estate have a huge impact on the ability of communities to succeed.”¹⁸⁴ However, bias in the appraisal industry has utilized the racial and ethnic composition of neighborhoods to value homes and neighborhood stability for decades. Debby Goldberg of the National Fair Housing Alliance noted that the appraisal industry used lists that ranked residents by race and ethnicity to determine property value and neighborhood stability. For instance a list in McMichael’s *Appraising Manual* (1961), which ranked “English, Germans, and Scotch” at the top, while placing “Negros” and “Mexicans” at the bottom, to determine property value and neighborhood stability.¹⁸⁵ She noted that, to date, the industry has not succeeded in eliminating such ongoing biases from the appraisal process.¹⁸⁶

A September 2021 research note published by Freddie Mac explored the present-day impact of race on variations in appraisal values.¹⁸⁷ Using data from more than 12 million appraisals for purchase transactions from a 2015 through 2020, the study found that only 7.4 percent of appraisals in purchase transactions for properties in majority-White census tracts came in below contract price, compared with 12.5 percent of those in majority-Black neighborhoods and 15.4

¹⁸⁰ Confer-Hammond Testimony, Transcript 1, p. 32 lines 24-29.

¹⁸¹ Phillips Testimony, Transcript 1, Pg. 9, Lines 26-30

¹⁸² Inclusionary zoning policies require or encourage developers to set aside a certain percentage of housing units in new or rehabilitated projects for low- and moderate-income residents. Inclusionary zoning programs vary in their structure and have different set-aside requirements, affordability levels, and control periods. Most inclusionary zoning programs offer developers incentives, such as density bonuses, expedited approval, and fee waivers. More at: *Inclusionary Zoning and Mixed-Income Communities*, U.S. Department of Housing and Urban Development, Evidence Matters (2013), at: <https://www.huduser.gov/portal/periodicals/em/spring13/highlight3.html>.

¹⁸³ Goldberg Testimony, Transcript 1, p. 32 line 31 – p. 33 line 6.

¹⁸⁴ Murphy Testimony, Transcript 3, p. 14, lines 37-40.

¹⁸⁵ Goldberg Testimony, Transcript 1, p. 4 lines 1-6; *See also*: McMichael’s *Appraising Manual*, 4th Edition, 1951; 03.18.22 Hearing, PPT slide 13.

¹⁸⁶ Goldberg Testimony, Transcript 1, p. 4 lines 1-6.

¹⁸⁷ Narragon, M., Wiley, D., McManus, D., Li, V., Li, K., Wu, X., & Karamon, K. (2021, September). Racial and Ethnic Valuation Gaps in Home Purchase Appraisals. Freddie Mac, at: <https://www.freddiemac.com/research/insight/20210920-home-appraisals>. Hereinafter cited as: “Freddie Mac Valuations Gaps in Home Purchase Appraisals (2021).”

percent in majority-Latino neighborhoods.¹⁸⁸ As the concentration of Black or Latino households in the census tract increased, the appraisal valuation gap also increased. The study further found that these race-based gaps in home valuation held true across a large portion of appraisers, and even when taking “structural and neighborhood characteristics” into consideration.¹⁸⁹

EXHIBIT 1:

Appraisal gaps for minority tracts

Appraisals for the purchase of single-family one-unit homes, Jan. 1, 2015-Dec. 31, 2020

Property Tract	Count	% Lower Than Contract Price	Gap vs. White
Overall	12,752,779	8.3%	-
White	10,632,616	7.4%	-
Latino [50% -100%]	553,470	15.4%	8.0%
Latino [50%-80%]	443,218	15.0%	7.7%
Latino [80%-100%]	110,252	16.7%	9.4%
Black [50%-100%]	373,747	12.5%	5.2%
Black [50%-80%]	245,428	12.1%	4.8%
Black [80%-100%]	128,319	13.3%	5.9%

FIGURE 6: SEPTEMBER 2021 RESEARCH NOTE: FREDDIE MAC, “RACIAL AND ETHNIC VALUATION GAPS IN HOME PURCHASE APPRAISALS.

In recognition of these ongoing challenges, Carolyn Kornegay Punter of the Philadelphia Regional Office for the United States Department of Housing and Urban Development, referenced a 2022 report published by the Interagency Task Force on Property Appraisal and Valuation Equity (PAVE).¹⁹⁰ The task force is comprised of 13 federal agencies, and is chaired by the HUD Secretary. Its inaugural report includes an action plan to improve fair housing accountability in the appraisal industry, empower consumers with information, prevent algorithm bias, improve training and diversity in the appraisal profession, and leverage federal data and

¹⁸⁸ Freddie Mac Valuations Gaps in Home Purchase Appraisals (2021).

¹⁸⁹ Freddie Mac Valuations Gaps in Home Purchase Appraisals (2021).

¹⁹⁰ Kornegay Punter Testimony, Transcript 7, p. 6, lines 24-26. *See:* Action Plan to Advance Property Appraisal and Valuation Equity: Closing the Racial Wealth Gap by Addressing Mis-valuations for Families and Communities of Color. Interagency Task Force of Property Appraisal and Valuation Equity (PAVE). March 2022, at: <https://pave.hud.gov/sites/pave.hud.gov/files/documents/PAVEActionPlan.pdf>. Hereinafter cited as “PAVE Action Plan, 2022.”

expertise to inform policy.¹⁹¹ Forthcoming work of the taskforce includes initiating assessments of the following potential policy interventions:¹⁹²

- Expanded use of alternatives to traditional appraisals as a means of reducing the prevalence and impact of appraisal bias;
- Range-of-value estimates instead of point estimates as a means of reducing the impact of racial or ethnic bias in appraisals;
- The potential use of alternatives and modifications to the sales comparison approach that may yield more accurate and equitable home valuation;
- Public sharing of a subset of historical appraisal data to foster development of unbiased valuation methods.

Public Sentiment and Discriminatory Impact

While many federal, state, and local government bodies were responsible for institutionalizing discriminatory policies and practices that created and perpetuated racial and economic segregation in housing, panelists reflected that these policies were not established in a vacuum. Yonah Freemark of the Urban Institute noted that public institutions are established and managed by popularly elected officials, and much of their action is driven and enforced by public sentiment.¹⁹³ Importantly, Freemark observed that “the voting public was limited in large degree to White people until the passage of the 1965 Voting Rights Act.¹⁹⁴ That means that the public at large was not necessarily representing the needs of the people in the communities.”¹⁹⁵ Tom Murphy of the Urban Land Institute testified that expanding public involvement can help to push fair housing forward. In the 1970’s when neighborhood groups became more aware of redlining, they began to organize and lobby to change the practice, resulting in the 1977 passage of the Community Reinvestment Act,¹⁹⁶ which encourages financial institutions to help meet the credit needs of all communities, including low- and moderate-income communities.¹⁹⁷

As overtly discriminatory policies have given way to a more neutral landscape over the years, new forms of discrimination have cropped up. T’Keyah Nelms of the Fair Housing Rights Center in Southeastern Pennsylvania noted, “originally we were seeing that certain protected classes were being directly targeted in these city ordinances, but now we’re seeing that there is that undercover, or camouflage, discriminatory impact.”¹⁹⁸ Nelms cited the importance of cases such as the U.S. Supreme Court ruling in *Texas v. Department of Housing and Community Affairs v*

¹⁹¹ Kornegay Punter Testimony, Transcript 7, p. 6 lines 10-23.

¹⁹² PAVE Action Plan, 2022, pp. 43-44.

¹⁹³ Freemark Testimony, Transcript 1, p. 12, lines 37-40; p. 14 lines 28-32.

¹⁹⁴ 52 U.S.C. §10101.

¹⁹⁵ Freemark Testimony, Transcript 1, p. 14 lines 28-32.

¹⁹⁶ 12 U.S.C. § 2901.

¹⁹⁷ Murphy Testimony, Transcript 3, p. 13 lines 11-17.

¹⁹⁸ Nelms Testimony, Transcript 2, p. 7, lines 1-8.

Inclusive Community Projects, Inc. (2015) which affirmed that entities can be held liable for the discriminatory impact of housing policies under the Fair Housing Act, regardless of discriminatory intent.¹⁹⁹

In one current example of these concerns, Debby Goldberg of the National Fair Housing Alliance noted that discrimination can be perpetuated through artificial intelligence (AI) systems that allow landlords to use algorithm screening to identify preferable tenants.²⁰⁰ Tracy McCracken of the National Community Reinvestment Coalition cited a 2016 ProPublica investigation²⁰¹ that revealed how Facebook allows advertisers to exclude users by race, and described how such methods may run afoul of the Fair Housing Act. She testified that “discrimination is moving to new platforms, with technology reinforcing human and societal biases.”²⁰² “Thus,” she concluded, “there is a compelling interest to address the limited amount of fair housing awareness, lack of exposure for fair housing advertising campaigns, and narrow fair housing outreach that exacerbate the impact of new forms of housing discrimination.”²⁰³

Finding IV: States, counties, and local jurisdictions that receive federal funding, e.g., Community Development Block Grants, have an obligation to not just prohibit discriminatory practices but to affirmatively further fair housing. However, current resources available to enforcement agencies are insufficient for meeting this goal.

Affirmatively Furthering Fair Housing (AFFH)

In addition to prohibiting discrimination in the sale, rental, and financing of housing based on race, color, religion, sex, national origin, familial status, or disability, the Fair Housing Act (FHA) of 1968,²⁰⁴ as amended, directs the U.S Secretary of Housing and Urban Development (HUD) to take proactive and meaningful action to “affirmatively further the purposes” of fair housing.²⁰⁵ Affirmatively Furthering Fair Housing (AFFH) is defined as:

Affirmatively Furthering Fair Housing: Taking meaningful actions, in addition to combatting discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity,

¹⁹⁹ Nelms Testimony, Transcript 2, p. 6 line 33 – p. 7 line 2.

²⁰⁰ Goldberg Testimony, Transcript 1, p. 25, lines 21-26.

²⁰¹ Angwin, J., & Parris, T. (2016, October 28). *Facebook lets advertisers exclude users by race*. ProPublica. Retrieved from <https://www.propublica.org/article/facebook-lets-advertisers-exclude-users-by-race>.

²⁰² McCracken Testimony, Transcript 2, p. 3, lines 13-20.

²⁰³ McCracken Testimony, Transcript 2, p. 3 lines 19-23.

²⁰⁴ 42 U.S.C § 3601 et seq.

²⁰⁵ 42 U.S. Code § 3608(d) & (e)(5).

replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

– U.S. Department of Housing and Urban Development, AFFH Fact Sheet²⁰⁶

AFFH requirements set a framework for local governments, states, and public housing agencies to “overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.”²⁰⁷ Implementation of this requirement has varied with changing administrations, but the current administration has signaled an intent to enforce it more vigorously, including reinstating a requirement that HUD and its recipients of federal financial assistance reasonably use available data to proactively “promote integration, decrease segregation, undo racially or ethnically concentrated areas of poverty, and overcome significant disparities in access to opportunity.”²⁰⁸

Rasheeda Phillips of Policy Link shared that in Philadelphia her organization was able to use the AFFH framework to expand legal representation for homeowners and tenants, preserving and building new affordable and subsidized housing, expanding mobility for housing voucher holders, and fair housing outreach and enforcement activities.²⁰⁹ Yonah Freemark of the Urban Institute noted AFFH efforts have recently included policies beyond housing. He provided the example of a federal transportation grant (RAISE) that is now requiring applicants to demonstrate how they will make sure their project will benefit disinvested communities, and he encouraged the idea that all federal grants should be distributed and studied within the framework of AFFH.²¹⁰ Freemark noted that other states are using the AFFH framework to develop their own requirements for municipalities. For example, California is now requiring municipal governments to “develop plans for future housing production that explicitly incorporate the idea that we need to be creating communities where people of all backgrounds have access to neighborhoods of opportunity.”²¹¹

Panelist Carolyn Kornegay Punter of HUD’s Office of Fair Housing and Equal Opportunity (FHEO) described barriers to AFFH as both historic and legislative in that city councils and

²⁰⁶ 24 C.F.R. §5.152; *See also*: U.S. Department of Housing and Urban Development, AFFH Fact Sheet, at: <https://www.hud.gov/sites/dfiles/FHEO/documents/AFFH-Fact-Sheet.pdf>.

²⁰⁷ Dion-Lassiter, Written Testimony, Appendix B. *See also*: U.S. Department of Housing and Urban Development, AFFH Fact Sheet, at: <https://www.hud.gov/sites/dfiles/FHEO/documents/AFFH-Fact-Sheet.pdf>.

²⁰⁸ *See*, <https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>.

²⁰⁹ Phillips Testimony, Transcript 1, p. 11, lines 11-19.

²¹⁰ Freemark Testimony, Transcript 1, p. 27 lines 17-32. *See*, <https://www.transportation.gov/RAISEgrants>.

²¹¹ Freemark Testimony, Transcript 1, p. 27, Lines 3-14.

public opinion are not always friendly to these initiatives.²¹² She noted that creative, “out of the box” solutions are often necessary to ensure continued progress.²¹³ Panelists also emphasized that affordable housing and fair housing are “two separate, but overlapping issues.”²¹⁴ People of color and other protected classes often experience discrimination regardless of economic status or income.²¹⁵ As such, Debby Goldberg of the National Fair Housing Alliance emphasized including racial equity provisions separately from income equity provisions in AFFH strategy.²¹⁶

AFFH Enforcement

Carolyn Kornegay Punter testified that all entities receiving federal funding must complete either an Analysis of Impediments (AI) to fair housing or an Assessment of Fair Housing (AFH) every five years in an effort to uncover fair housing issues and barriers.²¹⁷ She noted the office also relies heavily on community complaints to trigger AFFH compliance reviews.²¹⁸ Where problematic housing patterns are found, HUD has Voluntary Compliance Agreements (VCAs) with some jurisdictions requiring specific remedies such as use of their voucher programs to allow low-income Black and Latino families access to long-standing, historically segregated neighborhoods.²¹⁹ Kornegay Punter noted that VCAs give HUD leverage to require change in historically segregated communities because HUD can stop funding for noncompliance.²²⁰ While stopping funding for housing assistance may not be ideal because families in need of such assistance may lose access, the action can push jurisdictions forward in complying with their AFFH obligations.²²¹ Noncomplying jurisdictions can also be referred to DOJ for enforcement.²²²

Kevin Quisenberry of the Community Justice Project testified however that the FHEO does not have enough staff or resources to effectively monitor fair housing obligations, particularly for municipalities receiving Community Development Block Grant (CDBG) funding.²²³ Quisenberry noted that CDBG recipients have a long list of concrete fair housing obligations, though many municipalities do not have the protocol in place to adequately consider those

²¹² Kornegay Punter Testimony, Transcript 7, p. 7, lines 36-38; p. 11 lines 4-11.

²¹³ Kornegay Punter Testimony, Transcript 7, p. 7 lines 36-39; p. 10 lines 28-32.

²¹⁴ Goldberg Testimony, Transcript 1, p. 23 line 32 – p. 24 line 2.

²¹⁵ Goldberg Testimony, Transcript 1, p. 23 line 32 – p. 24 line 2; p. 25 lines 4-9; Confer-Hammond Testimony, Transcript 1, p. 24 lines 6-31; Phillips Testimony, Transcript 1, p. 24 lines 32-40.

²¹⁶ Goldberg Testimony, Transcript 1, p. 23 line 32 – p. 24 line 2; p. 25 lines 4-9.

²¹⁷ Kornegay Punter Testimony, Transcript 7, p. 3 lines 32-42; p. 7, lines 26 – p. 8 line 4.

²¹⁸ Kornegay Punter Testimony, Transcript 7, p. 12 lines 12-25.

²¹⁹ Kornegay Punter Testimony, Transcript 7, p. 10 line 28 – p. 11 line 15.

²²⁰ Kornegay Punter Testimony, Transcript 7, p. 10 line 28 – p. 11 line 15.

²²¹ Kornegay Punter Testimony, Transcript 7, p. 11 lines 11-15.

²²² Kornegay Punter Testimony, Transcript 7, p. 11 lines 20-35.

²²³ Quisenberry Testimony, Transcript 4, p. 10, line 30 – p. 11 line 35; *See also*: McCracken Testimony, Transcript 2, p. 4 lines 35-37. Information regarding Community Development Block Grants is available at: <https://www.hudexchange.info/programs/cdbg/>.

obligations.²²⁴ He raised concern that a single FHEO staff person may be charged with monitoring compliance in a dozen or dozens of jurisdictions—an impossible task.²²⁵ This leaves individuals who are aggrieved by the failure of municipalities to consider fair housing in their CDGB implementation without a clear remedy outside of litigation.²²⁶ He emphasized that it is not feasible to rely on litigation to resolve such problems; therefore expanding resources to support improved and more consistent administrative enforcement is critically important.²²⁷ In commenting on challenges and enforcement capacity to further fair housing, Kornegay Punter also noted that additional staffing is necessary to be able to thoroughly investigate all AFFH claims.²²⁸ Funding support is also needed for public education materials and initiatives to increase public awareness of fair housing rights. She concluded, “everything goes back to funding.”²²⁹

Testing, Training, & Education

Tracy McCracken of the National Community Reinvestment Coalition testified that systematic testing to detect and uncover patterns of discriminatory practices among housing providers, loan originators, insurance agents, and real estate agents is critical to fair housing enforcement and protection.²³⁰ This is particularly true because given the covert nature of most modern day discrimination, many people don’t realize they have been subjected to discrimination.²³¹ Testing must be conducted through multiple mediums, including telephone, website search, email, and in person contact.²³² Testing must also take place in different regions and geographic locations across each jurisdiction in order to adequately uncover institutional patterns and practices of discriminatory behavior.²³³ When conducted properly, McCracken asserted that these methods are “highly effective for detecting discriminatory activity, and chart the course for ensuring that fair housing laws are upheld.”²³⁴ By testing and re-testing through multiple mediums, it is possible to ensure that differences in treatment are not due to factors such as a phone number change, or a lost email.²³⁵ Testing across multiple branches of the same agency makes it difficult for lenders to use the common defense that a “rogue agent was responsible for the discrimination.”²³⁶ Comprehensive testing data can then be used to create enforcement actions

²²⁴ Quisenberry Testimony, Transcript 4, p. 10, line 30 – p. 11 line 35.

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Kornegay Punter Testimony, Transcript 7, p. 13, lines 14-21.

²²⁹ Ibid.

²³⁰ McCracken Testimony, Transcript 2, p. 4 lines 34-43.

²³¹ McCracken Testimony, Transcript 2, p. 3 lines 6-16.

²³² McCracken Testimony, Transcript 2, p. 5 lines 1-7.

²³³ McCracken Testimony, Transcript 2, p. 5 lines 7-14.

²³⁴ McCracken Testimony, Transcript 2, p. 5 lines 1-14.

²³⁵ McCracken Testimony, Transcript 2, p. 5 lines 3-5.

²³⁶ McCracken Testimony, Transcript 2, p. 5 lines 7-14.

against housing providers and lenders who are engaged in discriminatory practices.²³⁷ Housing agencies can use this data to ensure that lenders and other organizations they partner with do not have any findings of discrimination against them.²³⁸ Ira Goldstein of the Reinvestment Fund noted that agencies can also engage in self-testing as a best practice to ensure that they are not unnecessarily denying or pushing people into a “less good product without there being concrete evidence that those policies or practices actually address risk or loss.”²³⁹

In addition to directing enforcement efforts, panelists recommended linking testing data to training and education requirements. McCracken noted that when enforcement actions are taken, settlements can include requirements such as additional fair housing training and assistance with fair housing education activities.²⁴⁰ She concluded that the combination of testing, training, and enforcement is the most effective way to ensure fair housing access for members of protected classes.²⁴¹ Panelists noted several specific areas where training and education efforts could be expanded:

- Confer-Hammond and Goldberg both noted that in many local municipalities, the council governments and even their attorneys are not aware of their AFFH obligations.²⁴²
- McCracken urged improved education for real estate agents and rental managers, many of whom “[do] not even have enough knowledge of their fair housing obligations to ensure that they were meeting those fair housing obligations.”²⁴³
- Goldstein recommended that the Pennsylvania Housing Finance Agency (PHFA), a state-affiliated agency that works to provide affordable homeownership and rental options, require any lenders they do business with to undertake comprehensive fair housing training as a matter of standard practice.²⁴⁴
- Goldstein also urged improving broader financial literacy campaigns so that people “don’t have to rely on a housing counseling experience at the very last moment as they’re trying to become a homeowner.”²⁴⁵
- McCracken recommended improved public educational tools and information, in multiple languages, especially regarding the Fair Housing Act.²⁴⁶ McCracken highlighted the

²³⁷ McCracken Testimony, Transcript 2, p. 5 lines 32-43.

²³⁸ Goldstein Testimony, Transcript 5, p. 6 lines 37-40; p. 8 lines 14-15.

²³⁹ Goldstein Testimony, Transcript 5, p. 6 line 37 – p. 7 line 5.

²⁴⁰ McCracken Testimony, Transcript 2, p. 5 lines 38-43.

²⁴¹ McCracken Testimony, Transcript 2, p. 5 lines 33-35.

²⁴² Confer-Hammond Testimony, Transcript 1, p. 27 lines 3-14; Goldberg Testimony, Transcript 1, p. 26 lines 28-36.

²⁴³ McCracken Testimony, Transcript 2, p. 6 lines 1-6.

²⁴⁴ Goldstein Testimony, Transcript 5, p. 6 lines 34-40; more about the Pennsylvania Housing Finance Agency at: <https://www.phfa.org/about/>.

²⁴⁵ Goldstein Testimony, Transcript 5, p. 7 lines 14-23.

²⁴⁶ McCracken Testimony, Transcript 2, p. 3, lines 39-40; p. 21, lines 10-26.

importance of having testers in housing enforcement who speak multiple languages to ensure that all residents can understand.²⁴⁷

Finding V: Persistent structural barriers make it especially difficult for people who face discrimination on account of intersecting identities of race, gender, disability, and economic status to access safe and affordable housing.

Housing Voucher Discrimination

In April of 2021, the U.S. Department of Housing and Urban Development began a Community Choice Demonstration (CCD) program for Housing Choice Voucher (HCV) participants in collaboration with nine lead public housing authorities (PHAs) across the country, including Allegheny County and Pittsburgh Housing Authorities in Pennsylvania.²⁴⁸ The project cites growing research that families and children who are able to move to low-poverty, “high opportunity” areas experience a myriad of long-term health, educational, and economic benefits.²⁴⁹ The purpose of the program is to increase mobility of HCV recipients, granting them greater access to higher-opportunity neighborhoods with lower concentrations of poverty.

Despite these efforts, Megan Confer-Hammond noted that concentrated areas of poverty in Pennsylvania are closely tied to racial segregation, and bias against HCV holders presents significant challenges to achieving these desegregation and mobility goals.²⁵⁰ There are currently no federal protections against source of income discrimination in housing—nor does Pennsylvania offer any source of income protection at the state level. Therefore, in most jurisdictions, landlords can legally refuse to rent to tenants with vouchers. Debby Goldberg testified that even in cases where landlords are required to accept HCVs, such as with housing that was financed through the Federal Low Income Housing Tax Credit Program, landlords may use other methods, such as raising the rent just above market rate, to achieve the same effect of screening out people who are using vouchers.²⁵¹ Rasheeda Phillips of Policy Link pointed to a 2018 Urban Institute study, sponsored by the U.S. Department of Housing and Urban Development, which found that in Bucks County, PA, sixty-seven percent of landlords refused to accept housing vouchers. In low-poverty neighborhoods, fully eighty-three percent of landlords refused to accept vouchers.²⁵²

²⁴⁷ McCracken Testimony, Transcript 2, p. 4, lines 37-43; p. 21, lines 18-37.

²⁴⁸ U.S. Department of Housing and Urban Development, Community Choice Demonstration: https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/communitychoicedemo.

²⁴⁹ Ibid.

²⁵⁰ Confer-Hammond Testimony, Transcript 1, p. 21 lines 20-36.

²⁵¹ Goldberg Testimony, Transcript 1, p. 25 lines 11-22.

²⁵² Phillips Testimony, Transcript 1, p. 8 lines 29-38. Cunningham et. al., A Pilot Study of Landlord Acceptance of Housing Choice Vouchers (2018), at: <https://www.huduser.gov/portal//portal/sites/default/files/pdf/Landlord-Acceptance-of-Housing-Choice-Vouchers.pdf>.

The Committee notes that despite the lack of federal non-discrimination protection for voucher holders, several protected classes under fair housing law may be implicated: a 2022 report of the Urban Institute found that seventy-eight percent of voucher holders are female-headed households; sixty-five percent are Black or Hispanic (compared to just 40 percent of the general U.S. renter population), and twenty-five percent of all voucher holders include a family member with disabilities.²⁵³ Where state and federal protections are lacking, some local jurisdictions across the country, including in Pennsylvania, have instituted their own source of income protections in housing.²⁵⁴ However in 2021, the Pennsylvania Supreme Court struck down the City of Pittsburgh’s source of income protections,²⁵⁵ ruling that the city did not have the authority to require private landlords to participate in an otherwise voluntary government program. Philadelphia Councilmember Jamie Gauthier testified that her chamber is still interested in holding a hearing surrounding HCV discrimination, to understand ways that local government can work to combat the discrimination they are seeing in the private market against people using vouchers.²⁵⁶ Marsha Grayson of the Housing Authority of Pittsburgh spoke to the importance of breaking down barriers to allow HCV recipients easier access to emergency housing.²⁵⁷ She noted that it is important to remove unnecessary barriers for both tenants and landlords willing to work with the program.²⁵⁸ This requires regularly revisiting of policies and restrictions that may have at one time served a purpose, but may no longer be advancing program goals.²⁵⁹

Accessible Housing for People with Disabilities

Even with multiple federal nondiscrimination protections,²⁶⁰ Rocco Iacullo of Disability Rights Pennsylvania spoke of the severe challenges facing people with disabilities seeking housing that is both affordable *and* accessible.²⁶¹ While new affordable developments must ensure that five percent of units are accessible, Iacullo noted that some jurisdictions have needs that far exceed

²⁵³ Goodman, Kaul, and Stegman. Leveraging Financing to Encourage Landlords to Accept Housing Choice Vouchers. Urban Institute (September 2022), p. 1, at: <https://www.urban.org/sites/default/files/2022-09/Leveraging%20Financing%20to%20Encourage%20Landlords%20to%20Accept%20Housing%20Choice%20Vouchers.pdf>.

²⁵⁴ National Multifamily Housing Council, Source of Income Laws by State, County, and City: <https://www.nmhc.org/research-insight/analysis-and-guidance/source-of-income-laws-by-state-county-and-city/>.

²⁵⁵ *The Apartment Association of Metropolitan Pittsburgh v. the City of Pittsburgh* (2021).

²⁵⁶ Gauthier Testimony, Transcript 6, p. 28 lines 31-36.

²⁵⁷ Grayson Testimony, Transcript 6, p. 13 line 1 – 14 line 12; p 15 lines 4-13.

²⁵⁸ Grayson Testimony, Transcript 6, p. 14 line 40 – p. 15 line 4.

²⁵⁹ Grayson Testimony, Transcript 6, p. 21 lines 3-9; p. 26 lines 12-19.

²⁶⁰ The Fair Housing Act (42 U.S.C. §§ 3601 – 3619) prohibits discrimination in the sale and rental of housing based on disability; Section 505 of the Rehabilitation Act (29 U.S.C. 794) prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance, Titles II and III of the Americans with Disabilities Act (42 U.S.C. § 12131 et seq) prohibits discrimination on the basis of disability in all programs, services, and activities of public entities and by private entities that own, operate, or lease places of public accommodation. More at: https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main.

²⁶¹ Iacullo Testimony, Transcript 3, p. 9 line 5 – p. 6 line 3.

this threshold.²⁶² For example, in Philadelphia, sixteen percent of individuals report having a physical, mental, or cognitive disability.²⁶³ This has resulted in long wait lists—currently more than 100,000 in Philadelphia alone.²⁶⁴ This shortage leaves many people with disabilities unable to remain in their own homes in the community, instead “subject to segregation and isolation, because they’re unnecessarily forced to either move into nursing homes or other segregated institutional settings.”²⁶⁵ This problem is even more pronounced for people with disabilities who also rely on housing choice vouchers. Iacullo noted that housing secured through the housing choice voucher program is managed by private landlords, and those units are often not accessible.²⁶⁶ Disability Rights Pennsylvania has also received complaints about private landlords, despite participating in the HCV program, refuse to allow reasonable modifications for tenants with disabilities.²⁶⁷

T’Keyah Nelms of the Fair Housing Rights Center in Southeastern Pennsylvania noted that the United States Supreme Court ruled in 1999 (*Olmstead v. L.C.*)²⁶⁸ that “public entities must provide community-based services to persons with disabilities when (1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account resources available to the public entity and the needs of other who are receiving disability services from the entity.”²⁶⁹ Despite these requirements, Megan Confer-Hammond of the Fair Housing Partnership of Greater Pittsburgh observed that “Pennsylvania is one of eleven states with no statewide zoning for any type of community residences for people with disabilities.”²⁷⁰ She described the humiliating experience two adults with autism faced in Westmoreland County, Pennsylvania in January 2022 when they were forced to go before the local zoning board to apply for a zoning variant so that they could live in a group home in the neighborhood: “The public embarrassment that is required and allowed at the local level in order to assess group homes, in order to allow group homes and recovery housing is despicable.”²⁷¹ Confer-Hammond noted that many municipalities continue to classify group homes as businesses, rather than residential homes,

²⁶² Iacullo Testimony, Transcript 3, p. 9 line 26 – p. 10 line 3. *Note: Iacullo described several funding sources to help address gaps between the need for affordable, accessible housing and the supply, including: The Housing Trust Fund, the Pennsylvania Housing Affordability and Rehabilitation Enhancement Fund, Medicaid and/or Medicaid Home and Community Based Waivers, and Section 811 Rental Assistance, though each remains insufficient to address current need (Transcript 3, pp. 10-11).*

²⁶³ *Ibid.*

²⁶⁴ Iacullo Testimony, Transcript 3, p. 9 lines 5-25.

²⁶⁵ Iacullo Testimony, Transcript 3, p. 9, lines 5-17.

²⁶⁶ Iacullo Testimony, Transcript 3, p. 10 lines 4-13.

²⁶⁷ Iacullo Testimony, Transcript 3, p. 24, lines 28-32.

²⁶⁸ 527 US 581 (1999).

²⁶⁹ Nelms Testimony, Transcript 2, p. 6 lines 33-41; *See also:* United States Department of Justice Civil Rights Division, ADA Archive, https://archive.ada.gov/olmstead/olmstead_about.htm.

²⁷⁰ Confer-Hammond Testimony, Transcript 1, p. 20 lines 37-41.

²⁷¹ Confer Hammond Testimony, Transcript 1, p. 20 line 42 – p. 21 line 14.

making it difficult for people who would require the supportive environment of a group home to occupy residential neighborhoods, be integrated into society, and to have true housing choice.²⁷²

Kevin Quisenberry of the Community Justice Project testified that many municipalities have additional zoning limitations on disability-reserved parking spaces, further restricting accessible housing access.²⁷³ He described current and potential lawsuits his organization is working on, challenging municipal ordinances that limit handicap-designated on-street parking for people with limited mobility.²⁷⁴ One municipality enacted a 2019 ordinance²⁷⁵ prohibiting handicap-reserved street parking unless an applicant is “wheelchair-bound,” requires the use of ambulatory oxygen, or requires the use of “a prosthetic device that restricts normal ambulation.”²⁷⁶ The ordinance also prohibits granting handicap parking permits if the applicant has off-street parking available, “regardless of whether that off-street parking is actually accessible to the applicant.”²⁷⁷ Quisenberry described the case of one client who has an off-street parking pad in the back of his home, though it is too far for him to navigate to his door from this location. Instead, he must park in front of his house and use the front door as his main entrance. Yet, due to the related zoning ordinance, he was unable to obtain a handicap parking permit for this space.²⁷⁸ Finally, this same ordinance limits the absolute number of permits available for any block to one permit if the street allows parking on only one side, or two permits if parking is available on both sides of the street. Quisenberry asserted this limitation exists regardless of actual need or who applies, and argued that particularly with an aging population, unnecessarily restricts people’s ability to remain in their homes.²⁷⁹

To advance accessible housing for the future, Marsha Grayson of the Housing Authority of Pittsburgh noted that the city has a higher payment standard for landlords that provide modifications to their units for people with disabilities.²⁸⁰ Iacullo noted that one-time home modifications are much more cost-effective than the annual cost of a nursing home, and a good way to achieve housing stability.²⁸¹ Iacullo emphasized there is additional need for new and increased funding to both construct more affordable, accessible units, and to fund accessibility

²⁷² Confer Hammond Testimony, Transcript 1, p. 21 lines 12-21.

²⁷³ Quisenberry Testimony, Transcript 4, p. 9 line 7 – p. 10 line 29.

²⁷⁴ Ibid.

²⁷⁵ *Urban et al. v. Borough of West View, PA*, Docket No. 2:22-cv-00938-WSS (W.D.Pa. 2023) (Under the terms of a Consent Order entered on 03/03/2023, the Borough enacted legislation amending the challenged ordinance to ensure that disability designated street parking in the borough is administered in compliance with federal civil rights laws.).

²⁷⁶ Quisenberry Testimony, Transcript 4, p. 9 line 37 – p. 10 line 6.

²⁷⁷ Quisenberry Testimony, Transcript 4, p.10 lines 8-15.

²⁷⁸ Ibid.

²⁷⁹ Quisenberry Testimony, Transcript 4, p. 10 lines 16-29.

²⁸⁰ Grayson Testimony, Transcript 6, p. 25 lines 30-37.

²⁸¹ Iacullo Testimony, Transcript 3, p. 10 line 28 – p. 11 line 29.

modification programs.²⁸² He referenced several pieces of pending legislation that would help to achieve these dual purposes.²⁸³

Nuisance Ordinances and Crime Victims

Panelists referred to the 2012 story of a woman in Norristown, Pennsylvania who had been subjected to domestic violence by her ex-boyfriend.²⁸⁴ Though he did not live with her, police warned that if she made any additional 911 calls for assistance, she and her young daughter would be evicted from their home under the city's local nuisance ordinance.²⁸⁵ When the abuser returned to her home and stabbed her, a neighbor called police and she was airlifted to a local hospital. When she returned from the hospital, she was served with eviction papers. Despite the landlord not wanting to evict her, and the judge in the case denying the eviction, the city threatened to condemn the property if the landlord did not remove the tenant.²⁸⁶

While the case in Norristown was eventually settled and the city repealed its ordinance,²⁸⁷ many such nuisance laws remain.²⁸⁸ Megan Confer-Hammond of the Fair Housing Partnership of Greater Pittsburgh argued that the term “nuisance” itself is broad and discretionary, and lends itself to be used in discriminatory ways.²⁸⁹ Sandra Park of the American Civil Liberties Union (ACLU) added that nuisance ordinances provide “no fair process for tenants to contest alleged violations”²⁹⁰ and “essentially punish people for seeking emergency assistance.”²⁹¹ Park further observed “data clearly shows that people of color are disproportionately suspected of criminal activity” and nuisance ordinance laws “raise serious racial justice concerns” because of that.²⁹²

²⁸² Iacullo Testimony, Transcript 3, p. 11 lines 34-38.

²⁸³ Iacullo Testimony, Transcript 3, p. 11 line – p. 12 line 9.

²⁸⁴ Park Testimony, Transcript 3, p. 3 line 34 – p. 4 line 33.

²⁸⁵ Confer-Hammond Testimony, Transcript 1, p. 20 lines 19-7. *See also*: Briggs, Lakisha. I was a domestic violence victim. My town wanted me evicted for calling 911. *The Guardian*, Opinion (September 2015), at: <https://www.theguardian.com/commentisfree/2015/sep/11/domestic-violence-victim-town-wanted-me-evicted-calling-911>.

²⁸⁶ *Ibid.*

²⁸⁷ ACLU Press Release: Pennsylvania City Agrees to Repeal Law that Jeopardizes Safety of Domestic Violence Survivors (September 2014), at: <https://www.aclu.org/press-releases/pennsylvania-city-agrees-repeal-law-jeopardizes-safety-domestic-violence-survivors>.

²⁸⁸ *Additional discussion and resources:*

National Housing Law Project, Nuisance and Crime-Free Ordinances and their Impact on Housing Access for Survivors, International Conference on Sexual Assault, Intimate Partner Violence, and Increasing Access Information and Resource Packet (2019), at: https://www.nhlp.org/wp-content/uploads/Combined-Information-Packet_EVAWI.pdf.

Gavin, Amanda. Chronic Nuisance Ordinances: Turning Victims of Domestic Violence into “Nuisances” in the Eyes of Municipalities. Comments, *Pennsylvania State Law Review* Vol 119:1 (2014), pp. 258-278, at:

<https://www.pennstatelawreview.org/wp-content/uploads/2015/02/5-GAVIN.pdf>.

²⁸⁹ Confer-Hammond Testimony, Transcript 1, p. 20 lines 19-7.

²⁹⁰ Park Testimony, Transcript 3, p. 3, lines 32-33.

²⁹¹ Park Testimony, Transcript 3, p. 3 line 40 – p. 4 line 7.

²⁹² Park Testimony, Transcript 3, p. 4 lines 30-38.

A 2011 memo of HUD’s Office of Fair Housing and Equal Opportunity notes that because women are overwhelming victims of domestic violence, “domestic violence survivors who are denied housing, evicted, or deprived of assistance based on the violence in their homes may have a cause of action for sex discrimination under the Fair Housing Act.”²⁹³ Similarly, disparities in rates of domestic violence based on race and national origin may also give some women cause of action for race or national origin discrimination under the Fair Housing Act.²⁹⁴ 2016 guidance issued by the U.S. Department of Housing and Urban Development Office of General Counsel²⁹⁵ concludes that:

- Eighty percent of domestic violence victims are women, and in some communities, racial or ethnic minorities are disproportionately victimized by crime. Where the enforcement of a nuisance or crime-free ordinance penalizes individuals for use of emergency services or for being a victim of domestic violence or other crime, a local government bears the burden of proving that any discriminatory effect caused by such policy or practice is supported by a legally sufficient justification. Such a determination cannot be based on generalizations or stereotypes.
- Selective use of nuisance or criminal conduct as a pretext for unequal treatment of individuals based on protected characteristics violates the [Fair Housing] Act. Repealing ordinances that deny access to housing by requiring or encouraging evictions or that create disparities in access to emergency services because of a protected characteristic is one step local governments can take to avoid Fair Housing Act violations and as part of a strategy to affirmatively further fair housing.

Following the Norristown case, Pennsylvania did pass legislation to prohibit nuisance ordinances from being used against “victims of abuse or crime or individuals in an emergency.”²⁹⁶ Park noted that Section 603 of the recently reauthorized Violence Against Women Act²⁹⁷ further prohibits localities that receive community development block grant funding from penalizing tenants, homeowners, or landlords based on request for emergency assistance or based on criminal activity of which the resident is a victim or otherwise not at fault.²⁹⁸ Park urged that proactive compliance measures be put in place to ensure grantees are meeting this obligation.²⁹⁹

²⁹³ U.S. Department of Housing and Urban Development Memorandum for FHEO Office Directors, FHEO Regional Directors (February 2011), at: <https://www.hud.gov/sites/documents/FHEODOMESTICVIOLGUIDENG.PDF>

²⁹⁴ Ibid.

²⁹⁵ U.S. Department of Housing and Urban Development, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others who Require Police or Emergency Services, (September 2016), at: <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>.

²⁹⁶ 53 Pa.C.S. § 304. *See*: Park Testimony, Transcript 3, p. 4 line 39 – p. 5 line 13; Confer-Hammond Testimony, Transcript 1, p. 20 lines 28-30.

²⁹⁷ 42 U.S.C. § 13925 *et seq.*

²⁹⁸ Park Testimony, Transcript 3, p. 5 lines 14-34.

²⁹⁹ Park Testimony, Transcript 3, p. 5 lines 24-34.

Carolyn Kornegay Punter of HUD’s Fair Housing and Equal Opportunity (FHEO) office testified that FHEO recently began accepting claims related to the Violence Against Women Act.³⁰⁰ While appreciated, Confer-Hammond commented that this protection is “reactive” rather than “proactive” in that it puts the burden on victims and advocates to demonstrate harm if a municipality is using a nuisance ordinance in this way.³⁰¹ She noted that landlords already have the ability to evict, therefore: “I fail to understand why the municipality must make a determination on forcing the eviction of the individual tenant,” especially when there is no such comparable option to compel the eviction of a homeowner.³⁰²

People with Eviction Records

People named in eviction filings often face significant barriers accessing housing—even if the court never actually issued a judgment ordering the eviction.³⁰³ Attorney Holly Beck of Community Legal Services of Philadelphia testified that more than one quarter of all eviction cases in Philadelphia are withdrawn by the landlord (never resulting in judgment), yet these filings remain publicly available.³⁰⁴ Following the 2008 financial crisis, the United States saw a vast expansion in the number of tenant screening companies that search available court data and provide summaries reports to landlords regarding prospective tenants.³⁰⁵ Today there are almost 2,000 private tenant screening companies across the United States, and with the rise of easily accessible online records, the information available to landlords in recent years has vastly expanded.³⁰⁶ Depending on the screener, there can be a wide range of information included on these reports, and a wide range in the level of accuracy provided.³⁰⁷ In November of 2022, the Consumer Financial Protection Bureau (CFPB) released a study³⁰⁸ detailing a number of challenges with tenant screening reports that included inaccurate, misleading, or obsolete information that make it difficult for tenants to find stable and secure housing.³⁰⁹ This information can be extremely difficult to correct, the CFPB concluded, contributing to challenges “finding affordable, quality housing, and result[ing] in people living farther from school or work, paying more in rent or fees, and undermining their overall financial stability.”³¹⁰

³⁰⁰ Punter Testimony, Transcript 7, p. 5, lines 4-11.

³⁰¹ Confer-Hammond Testimony, Transcript 1, p. 20 lines 30-35.

³⁰² Confer-Hammond Testimony, Transcript 1, p. 20 lines 19-37.

³⁰³ Phillips Testimony, Transcript 1, p. 9 lines 6-22; *See also*: Blankenship Testimony, Transcript 2, p. 17 lines 26-30; Gauthier Testimony, Transcript 6, p. 18 lines 31-34.

³⁰⁴ Beck Testimony, Transcript 5, p. 10 line 40 – p. 11 line 9.

³⁰⁵ Beck Testimony, Transcript 5, p. 21 lines 29-40.

³⁰⁶ Beck Testimony, Transcript 5, p. 21 lines 29-40.

³⁰⁷ Beck Testimony, Transcript 5, p. 28 line 34 – p. 29 line 15.

³⁰⁸ Consumer Snapshot: Tenant Background Checks; Tenant screening issues described in consumer complaints and interviews. Consumer Financial Protection Bureau (2022), at:

https://files.consumerfinance.gov/f/documents/cfpb_consumer-snapshot-tenant-background-check_2022-11.pdf

³⁰⁹ *Ibid*, at 3.

³¹⁰ *Ibid*, at 3.

While simply being named on an eviction filing is routinely used as a reason landlords deny housing to applicants,³¹¹ these filings demonstrate disparities based on race, sex, disability, and other protected classes.³¹² Sandra Park of the American Civil Liberties Union testified that Black women face double the rate of eviction filings as White renters, “stigmatizing them for years as they submit housing applications.”³¹³ Families with children, and people with disabilities also face disproportionate rates of eviction.³¹⁴ In 2022, Community Legal Services (CLS) and the Housing Initiative at the University of Pennsylvania released a report on trends and challenges in the Philadelphia rental market.³¹⁵ The survey included over 6,000 tenants, and analysis indicated that 81% of eviction filings in Philadelphia occurred in communities of color.³¹⁶ Vikram Patel of Community Legal Services noted that these neighborhoods with high eviction filings are the same neighborhoods that were marked as “hazardous” in early redlining maps.³¹⁷ Advocates are currently watching pending litigation in Connecticut regarding eviction records as a potential source of disparate impact under fair housing law.³¹⁸

In response to these concerns, some local governments have begun to enact eviction screening laws that limit landlords’ use of eviction records in screening tenants. While federal rules allow for an eviction to remain on an individual’s credit report for seven years,³¹⁹ the CFPB recently issued guidance clarifying that federal law does not preempt localities from further limiting the use of eviction records or tenant screening companies’ dissemination of eviction records.³²⁰ In Philadelphia, the 2021 Renters’ Access Act³²¹ barred landlords from screening tenants for evictions that occurred four or more years prior, or records that did not end in a judgment for the landlord, or that have otherwise been settled or discontinued.³²² It also instituted a requirement that landlords establish uniform screening criteria, and prohibited blanket bans of eviction or credit score limits.³²³ Finally, the Act requires that landlords denying an applicant provide that denial in writing and provide any documentation they relied on in making that denial, including

³¹¹ Beck Testimony, Transcript 5, p. 10 line 41 – p. 11 line 2; p. 21 lines 29-40.

³¹² Beck Testimony, Transcript 5, p. 9 lines 17-24; Park Testimony, Transcript 3, p. 6 lines 15-18.

³¹³ Park Testimony, Transcript 3, p. 5 lines 3-9; Phillips Testimony, Transcript 1, p. 9 lines 6-22.

³¹⁴ Patel Testimony, Transcript 5, p. 8 lines 19-36.

³¹⁵ Beck Testimony, Transcript 5, p. 8 line 40 – p. 9 line 9; Trends and Challenges in the Philadelphia Rental Market (2022).

³¹⁶ Beck Testimony, Transcript 5, p. 11 lines 6-9; Patel Testimony, Transcript 5, p. 8 lines 7-18.

³¹⁷ Patel Testimony, Transcript 5, p. 8 lines 7-18.

³¹⁸ Beck Testimony, Transcript 5, p. 21 lines 10-24. *See also:* <https://www.cohenmilstein.com/case-study/connecticut-fair-housing-center-et-al-v-corelogic-rental-property-solutions>.

³¹⁹ Phillips Testimony, Transcript 1, p. 9 lines 6-22.

³²⁰ Beck Testimony, Transcript 5, p. 21 lines 19-24. *See also:*

https://files.consumerfinance.gov/f/documents/cfpb_consumer-snapshot-tenant-background-check_2022-11.pdf ; and https://files.consumerfinance.gov/f/documents/cfpb_fera-preemption_interpretive-rule_2022-06.pdf.

³²¹ Philadelphia Code § 9-1108; 9-810, at: <https://www.phila.gov/documents/renters-access-act-tenant-screening-guidelines/>.

³²² Park Testimony, Transcript 3, p. 6 lines 20-34; *See:* <https://www.phila.gov/documents/renters-access-act-tenant-screening-guidelines/>.

³²³ Beck Testimony, Transcript 5, p. 11 lines 14-20.

tenant screening reports.³²⁴ Beck observed this information will give tenants a much better idea of what their screening report contains, detail which was previously unknown.³²⁵ This Act is enforceable by Philadelphia’s Commission on Human Relations and through a private right of action; the challenge now, Beck argued, is public education about these rights.³²⁶ Ultimately, advocates urged that most eviction records should be expunged or sealed, particularly in cases where there was no judgment issued against the tenant, as these records may not accurately predict whether or not a tenant will be a suitable renter in the future.³²⁷

Despite the widespread, devastating effects evictions have on families and communities, and the racially disparate impact, in most jurisdictions there is currently no right to counsel for tenants facing eviction.³²⁸ As a result, landlords are far more likely to be represented in eviction proceedings than their tenants.³²⁹ Vikram Patel noted that even where there are pre-filing eviction diversion programs, such as in Philadelphia, that match tenants with housing counseling, housing law is complicated and counselors need to have the ability to refer clients to legal services as necessary.³³⁰ In 2019 Philadelphia became the fifth jurisdiction in the U.S. to pass Right to Counsel legislation for tenants. As of February 2022, Philadelphia began implementation of Right to Counsel for low-income residents facing eviction in two Philadelphia zip codes and two additional zip codes were added in February 2023.³³¹ Holly Beck testified that though scaling the program has been slow due to the need to build out systems for hiring and training new staff incrementally, tenant representation in the city has increased significantly as a result.³³²

In addition to Right to Counsel initiatives across the United States, some jurisdictions have instituted and expanded mediation and diversion programs designed to avoid eviction filings entirely.³³³ As part of Philadelphia’s Emergency Housing Protection Act (2020),³³⁴ the city instituted a free Eviction Diversion Program (EDP)³³⁵ to help landlords and tenants resolve

³²⁴ Beck Testimony, Transcript 5, p. 29 lines 7-15.

³²⁵ Beck Testimony, Transcript 5 p. 28 line 34 – p. 29 line 18.

³²⁶ Beck Testimony, Transcript 5, p. 11 lines 31-37.

³²⁷ Phillips Testimony, Transcript 1, p. 10 line 37 – p. 11 line 10; Beck Testimony, Transcript 5, p. 11 line 38 – p. 12 line 2.

³²⁸ 13 cities, including Philadelphia, and three states have enacted a right to counsel in eviction cases: Park Testimony, Transcript 3, p. 6 line 35 – p. 7 line 14; *See also*: Beck Testimony, Transcript 5, p. 10 lines 37-40.

³²⁹ Park testified that that 80% of landlords are represented in eviction hearings, compared to just 3% of tenants (Transcript 3, p. 6 line 35 – p. 7 line 14). Beck testified that in Philadelphia, 11% of tenants were represented, compared to 80% of landlords (Transcript 5, p. 25 line 36 – p. 26 line 6).

³³⁰ Patel Testimony, Transcript 5, p. 25, lines 13-28.

³³¹ Beck Testimony, Transcript 5, p. 25 line 36 – p. 26 line 6; p. 27 lines 8-19. *See also*:

https://clsphila.org/news/new_righttocounsel/#:~:text=PHILADELPHIA%20%E2%80%93%20Starting%20February%201%2C%202023,City%20Council%20in%20November%202019.

³³² Beck Testimony, Transcript 5, p. 25 line 36 – p. 26 line 6; p. 27 lines 8-19.

³³³ Grayson Testimony, Transcript 6, p. 15 lines 14-27; Patel Testimony, Transcript 5, p. 10 lines 4-36.

³³⁴ Philadelphia Code §9-809, at: https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-278036.

³³⁵ Program details at: <https://eviction-diversion.phila.gov/#/>.

issues prior to landlords filing in court to seek legal eviction. Councilwoman Jamie Gauthier of Philadelphia’s 3rd District testified that reducing the eviction rate has helped to mitigate consequences such as poverty, violent crime, and poor mental health.³³⁶ Philadelphia was fourth in the nation in evictions pre-pandemic;³³⁷ Gauthier remarked the city “had to act quick or risk a tidal wave of evictions and homelessness.”³³⁸ Philadelphia’s eviction diversion program currently includes housing counseling paired with applicable rental assistance programs, and direct mediation with landlords and tenants to determine things like payment plans, repairs, utility bills, access to the property, and timelines for a “graceful exit of the property” if the tenant is to move out.³³⁹ Gauthier noted that the program has managed more than 4,000 mediations, and at the peak of the pandemic (when emergency rental assistance and other financial supports were most readily available), over 90% of mediations were able to avoid eviction.³⁴⁰ Today, the program’s success rate is between 60-70%.³⁴¹ This diversion has reduced the backlog in the city’s eviction court from 90 days to 30 days, allowing people who do need judicial intervention to access it sooner.³⁴² Marsha Grayson of the Housing Authority of Pittsburgh similarly described eviction diversion efforts in Allegheny County.³⁴³

Overall, to address the eviction crisis and ensure fair access to housing, panelists emphasized the need for a combination of diversion, mediation, right to counsel, and emergency rental assistance funding.³⁴⁴ Some evidence suggests that a significant portion of nonpayment evictions are based on landlord/tenant relations rather than tenant ability to pay.³⁴⁵ A 2022 study published in the Proceedings of the National Academy of Sciences suggests that simply mitigating transportation barriers to court can reduce default evictions by the thousands.³⁴⁶ Avoiding eviction can be helpful to both landlords and tenants, and prevent adversarial outcomes for each.³⁴⁷

Criminal Records Impacting Fair Housing

People with criminal records also face additional barriers when seeking housing. State Representative Donna Bullock testified that people with criminal records often face landlords who refuse to rent to them, “even though they may be financially able to pay the rent, they may

³³⁶ Gauthier Testimony, Transcript 6, p. 19 lines 13-16; *See also*: Beck Testimony, Transcript 5, p. 10 lines 37-40.

³³⁷ A reference to the 2020 global Covid-19 pandemic.

³³⁸ Gauthier Testimony, Transcript 6, p. 18 lines 28-34.

³³⁹ Gauthier Testimony, Transcript 6, p. 18 line 21 – p. 19 line 6.

³⁴⁰ Gauthier Testimony, Transcript 6, p. 19 lines 7-16.

³⁴¹ Gauthier Testimony, Transcript 6, p. 19 lines 7-16.

³⁴² Gauthier Testimony, Transcript 6, p. 19 lines 7-16.

³⁴³ Grayson Testimony, Transcript 6, p. 15 lines 14-27.

³⁴⁴ Phillips Testimony, Transcript 1, p. 10 line 25 – p. 11 line 10; Grayson Testimony, Transcript 6, p. 15 lines 14-27; p. 23 lines 30-33; Patel Testimony, Transcript 5, p. 10 lines 4-36; p. 23 lines 11-19; p. 24 lines 9-17.

³⁴⁵ Trends and Challenges in the Philadelphia Rental Market (2022), p. 11. *The report cites tenants withholding rent payments because landlord refused to make necessary repairs or was reportedly harassing to tenant.*

³⁴⁶ Hoffman, David A. and Strezhnev, Anton, Longer Trips to Court Cause Evictions (June 8, 2022). PNAS (2022), Available at SSRN: <https://ssrn.com/abstract=4130696>.

³⁴⁷ Grayson Testimony, Transcript 6 p. 23 lines 20-33; Patel Testimony, Transcript 5, p. 10 lines 4-36.

have a job, they have all of the other skills to be a suitable tenant.”³⁴⁸ Kim Blankenship, Professor of Sociology and the Founding Director of the Center on Health Risk and Society at American University noted that, one may be excluded from housing based on a record of being arrested, even if one is never charged, let alone convicted of a crime.³⁴⁹ Landlords can legally take these records into account when determining whether or not to rent to someone, including voucher holders.³⁵⁰ Arrest records are also used by public housing authorities when determining access to public housing and housing choice vouchers.³⁵¹ While there are some protections in that rejecting an applicant simply because of an arrest without a conviction is a violation of the Fair Housing Act,³⁵² Representative Bullock testified that many arrest records are now easily accessible online and landlords do nevertheless use them for tenant screening.³⁵³

The U.S. Department of Housing and Urban Development (HUD) provides guidance to housing authorities and prospective landlords on using criminal records in applicant screening, though it leaves wide discretion regarding specific screening policies.³⁵⁴ Professor Blankenship and colleagues conducted a research study analyzing housing authority policy documents for U.S. cities with a population over 100,000.³⁵⁵ They found wide variation in policies between jurisdictions, even within the same state, regarding the restrictiveness of each housing authority as it relates to allowing people with a history of interaction with the criminal justice system to access to their programs.³⁵⁶ This variance was not without pattern. Blankenship testified that the most restrictive policies were associated with racial and ethnic neighborhood segregation, “such that the more segregated the neighborhoods were where public housing was located, the more restrictive the [public housing agency] policy.”³⁵⁷

³⁴⁸ Bullock Testimony, Transcript 6, p. 6, lines 21-34.

³⁴⁹ Blankenship Testimony, Transcript 2, p. 15 lines 18-22.

³⁵⁰ Blankenship Testimony, Transcript 2, p. 15, lines 14-24.

³⁵¹ Blankenship Testimony, Transcript 2, p. 15 lines 18-32.

³⁵² Bullock Testimony, Transcript 6, p. 5, lines 18-25; *See also*: U.S. Department of Housing and Urban Development, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real-Estate Related Transactions (April 2016), p. 5, at: https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF. Hereinafter cited as “HUD Guidance on Application of FHAct Standards for Criminal Records (2016).”

³⁵³ Bullock Testimony, Transcript 6, p. 5, lines 26-32.

³⁵⁴ Blankenship Testimony, Transcript 2, p. 15, lines 33-43; HUD Guidance on Application of FHAct Standards for Criminal Records (2016); *See also*: Curtis, Garlington, and Schottenfeld: Alcohol, Drug, and Criminal History Restrictions in Public Housing. *Cityscape: A Journal of Policy Development and Research* v.15, no 3. (2013). U.S. Department of Housing and Urban Development, Office of Police Development and Research, at: <https://www.huduser.gov/periodicals/cityscape/vol15num3/ch2.pdf>.

³⁵⁵ Blankenship Testimony, Transcript 2, p. 16 lines 3 – 36; *See also*: Jonathan Purtle, Luwam T. Gebrekristos, Danya Keene, Penelope Schlesinger, Linda Nicolai, and Kim M. Blankenship, 2020: Quantifying the Restrictiveness of Local Housing Authority Policies Toward People With Criminal Justice Histories: United States, 2009–2018 *American Journal of Public Health* 110, S137_S144, at: <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305437>.

³⁵⁶ Blankenship Testimony, Transcript 2, p. 16 lines 3-36.

³⁵⁷ Blankenship Testimony, Transcript 2, p. 16 lines 29-36.

Blankenship asserted that undue barriers limiting access to housing for people with criminal records creates a broad, harmful effect for families and communities, “in ways that undermine goals of race equity.”³⁵⁸ The United States has the largest incarcerated population in the world, many of whom have not been convicted of a crime but are simply awaiting trial.³⁵⁹ These incarcerations reflect stark racial disparities. Black people in Pennsylvania are 7.4 times more likely to be incarcerated than White people, and Latinx people are 2.3 times more likely.³⁶⁰ This, despite the fact that at least with drug-related crimes, Black and White people report equivalent rates of drug selling and use.³⁶¹ Bullock spoke to the challenges facing formerly incarcerated individuals, who she argued are much more likely to reoffend without access to jobs and housing.³⁶² Illustrating this concern, Blankenship told the story of a woman named Maya, who faced a drug-related charge and was sent to a treatment program for two months, then permitted to return to the community as long as she stayed drug-free.³⁶³ When she returned, however, both she and her husband were evicted from the housing authority property they had rented with a voucher. They spent more than two years unsuccessfully searching for housing, living on the couches of different relatives and friends, until the stress finally led to both the dissolution of their marriage and Maya’s relapsing into drug use.³⁶⁴

I would suggest that we ask ourselves what is the overall goal we think we are achieving by restricting access to affordable housing for those with criminal records or histories of substance use. Is there any evidence to suggest that these restrictions actually make individuals safer, families safer, neighborhoods safer? The stories of people like Maya suggest that it may be the opposite.

– Kim Blankenship, Professor of Sociology, American University

Blankenship argued that the consequences of arrest and incarceration aren’t just limited to the incarcerated individuals, but affect entire families and communities as well.³⁶⁵ In Maya’s case, every friend and family member who allowed her temporary residency in their home after her eviction potentially put themselves at risk for eviction as well.³⁶⁶ Among other offenses, federal law denies access to federally assisted housing for a minimum of three years for the entire

³⁵⁸ Blankenship Testimony, Transcript 2, p. 13, lines 30-36.

³⁵⁹ Blankenship Testimony, Transcript 2, p. 13, line 38 – p. 14 line 6.

³⁶⁰ Blankenship Testimony, Transcript 2, p. 14 lines 15-36. *See also:* The Color of Justice: Racial and Ethnic Disparity in State Prisons (2021), at: <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

³⁶¹ Ibid.

³⁶² Bullock Testimony, Transcript 6, p. 6, lines 35-43.

³⁶³ Blankenship Testimony, Transcript 2, p. 16 line 40 – p. 17 line 40.

³⁶⁴ Ibid.

³⁶⁵ Blankenship Testimony, Transcript 2, p. 14, lines 3-10.

³⁶⁶ Blankenship Testimony, Transcript 2, p. 18, lines 1-4.

household if any member has been evicted from federally assisted housing for a drug related crime.³⁶⁷ Blankenship concluded by questioning not only the impact of these policies on racial equity, but also whether or not there is any evidence to suggest that these restrictions actually make anyone safer.³⁶⁸

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.³⁶⁹ In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should:
 - a. *Issue a statement affirming (i) the role of local land-use policies, combined with policies employed by lenders, developers, and landlords, in perpetuating historical patterns of segregation and unfair housing; (ii) the potentially discriminatory impact of exclusionary zoning policies and tenant screening based on source of income, eviction records, and criminal records; and (iii) the importance of collaborating among federal, state, and local fair housing agencies, housing non-profits, and community-based organizations in identifying and addressing these discriminatory impacts.*
2. The U.S. Commission on Civil Rights should issue the following recommendation to the U.S. Congress and the President:
 - a. *Renew public investment in affordable (income-driven) housing.*
 - b. *Increase public investment in resources to permit vigorous enforcement of the Fair Housing Act (including the Affirmatively Furthering Fair Housing obligation).*
 - c. *With the support of public and private partnerships, provide federal incentives for private lending for mortgages in the affordable housing, or income driven housing, tranche to increase private lending.*

³⁶⁷ Blankenship Testimony, Transcript 2, p. 15, lines 25-27; See: 24 C.F.R § 960.204.

³⁶⁸ Blankenship Testimony, Transcript 2, p. 18, lines 1-16.

³⁶⁹ 45 C.F.R. § 703.2 (2018).

- d. *Further enforce compliance with the Section 3 Program of the Fair Housing Act, which requires “that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing and to businesses that provide economic opportunities to low- and very low-income persons”.*³⁷⁰
 - e. *Address and eliminate federal law that denies access to federally assisted housing for a minimum of three years for the entire household if any member has been evicted from federally assisted housing for a drug related crime; require annual fair housing training for human service agencies, including child welfare agencies.*
3. The U.S. Commission on Civil Rights should issue the following recommendation to the Pennsylvania Governor and General Assembly:
- a. *Incentivize inclusionary zoning on local levels.*
 - b. *Increase the use of mediation to address and avoid foreclosures and evictions.*
 - c. *Codify a right to counsel for individuals facing foreclosure or eviction.*
 - i. *Enact state statutory language that limits the use of eviction records, and creates more incentives for attorneys to engage in pro bono activity.*
 - ii. *Require, as part of foreclosure or eviction proceedings, an analysis of fair housing rights and potential violations and requests for reasonable accommodations.*
 - d. *Require annual fair housing updates training for Pennsylvania legislative assistants and district office staff with responsibility for housing policy, or with work intersecting with fair housing (environment, employment, health, education).*
 - e. *Require annual training (for example, from the National Fair Housing Training Academy) for public employees responsible for administering the Community Development Block Grant Program.*
 - f. *Implement funding for Fair Housing investigations and education outreach, driven by population size.*

³⁷⁰ U.S. Department of Housing and Urban Development, *About Section 3*, <https://www.hud.gov/section3#:~:text=The%20Section%203%20program%20requires,and%20to%20businesses%20that%20provide>

- g. *Establish funding to support the modification of affordable housing to meet the needs of qualifying individuals with disabilities.*
 - i. *Ensure that those with disabilities receive their fair share of federal affordable, or income-driven, housing dollars and facilitate their use of these resources by requiring that public housing be accessible as well as affordable.*
 - ii. *Incentivize landlords and those able to accept housing vouchers to prevent source of income discrimination in the state of Pennsylvania.*
 - h. *Pursue an initiative that investigates the enforcement of intersectional forms of discrimination that people with disabilities experience.*
 - i. *Establish funding to support the modification of existing housing units to allow residents to remain in their homes as their needs change.*
 - j. *Require fair housing training for housing lenders in Pennsylvania.*
 - k. *Host an annual symposium on fair housing.*
 - l. *Fund and conduct a study on fair housing status in Pennsylvania every five years to capture emerging and trending issues.*
 - m. *Establish an inter-agency working group to include agencies relating to housing, aging, disabilities, economic development, health, and education charged with holistically assessing how fair housing opportunity, affordability, and accessibility affect the health and well-being of all Pennsylvanians.*
4. The U.S. Commission on Civil Rights should issue the following recommendation to the U.S. Department of Housing and Urban Development:
- a. *Establish mechanisms for FHEO to partner with states, municipalities, housing non-profits, and community-based organizations to increase testing and enforcement activities to ensure compliance with AFFH obligations and prohibitions on practices with unlawful discriminatory impacts.*
 - b. *Develop and disseminate educational materials regarding fair housing generally and AFFH obligations targeting mortgage lenders, landlords, municipal governments, and consumers.*
 - c. *Develop and disseminate to mortgage lenders, landlords, and municipal governments materials regarding alternatives to exclusionary zoning and other “best practices” to further fair housing.*

- d. *Develop a framework to allow federal funds to be dedicated for the use of down payment and closing costs to assist lower income buyers in consummating the purchases of homes.*
5. The U.S. Commission on Civil Rights should issue the following recommendation to Pennsylvania Commissioners, Mayors, and Councils:
- a. *Require officials working in housing-related areas within local governments and agencies to undergo regular, mandated training regarding FHA requirements and on the impacts of exclusionary zoning on housing integration, opportunity, affordability, and accessibility.*
6. The U.S. Commission on Civil Rights should issue the following recommendation to the Pennsylvania Department of Banking and Securities:
- a. *Require lenders to collect, and report disaggregated data regarding the race/ethnicity, gender, and disability status of loan applicants.*
 - b. *Monitor non-depository bank lending to prevent redlining and to heighten awareness of discriminatory lending tendencies.*
 - c. *Conduct regular audits of lending institutions should be conducted to identify disparities (based on race/ethnicity, gender, and disability) at multiple stages of the mortgage lending process.*
7. The U.S. Commission on Civil Rights should issue the following recommendation to the Pennsylvania Department of Aging:
- a. *In recognition of the growing number of seniors and people of color residing in rural Pennsylvania, the Pennsylvania Department of Aging should track rural housing practices and patterns to ensure compliance with the Fair Housing Act, U.S. Department of Agriculture, and Pennsylvania Human Relations Act.*
8. The U.S. Commission on Civil Rights should issue the following recommendation to the Pennsylvania Human Relations Commission, Pennsylvania Housing Finance Agency, and the Department of Community and Economic Development:
- a. *Establish a centralized database to track fair housing complaints in Pennsylvania, including rural communities.*
 - b. *Conduct an impact study on neighborhood gentrification and related property tax increases.*

9. The U.S. Commission on Civil Rights should issue the following recommendation to the Administration for Community Living (under HHS):
 - a. *The Administration for Community Living should expand its focus to include programming and research to support seniors and the disabled who are experiencing barriers, including affording renovations or other modifications, who wish to remain in their homes as they age, and their physical ability evolves.*

Appendix ³⁷¹

A. Hearing materials

- a. Transcript
- b. Agenda
- c. Minutes
- d. Panelist Presentations (PPT)
- e. Other Records

B. Written Testimony

- a. Debby Goldberg, Vice President of Housing Policy & Special Projects, National Fair Housing Association (NFHA)
- b. Dr. Kyle C. Kopko, Executive Director of the Center for Rural Pennsylvania
- c. Kevin Quisenberry, Esq. Litigation Director of the Community Justice Project
- d. Stanley Lowe, Executive Director, Lower Marshall Shadeland Development Initiative
- e. Chad Dion Lassiter, Executive Director, Pennsylvania Human Relations Commission
- f. Ira Goldstein, President of Policy Solutions, Reinvestment Fund

C. Committee Member Statements

- a. Concurring – Christopher Brooks
- b. Concurring – Nathan J. McGrath

³⁷¹ Appendix materials available at: <https://tinyurl.com/yu9k4prv>

Christopher Brooks – Concurring Statement

Acknowledging the weight of President Lyndon B. Johnson signing into law the Fair Housing Act of 1968 just one week after Martin Luther King, Jr.’s assassination, President George W. Bush in 2008 proclaimed April to be Fair Housing Month, making it nationally recognized.³⁷² Issues with the perpetuation of restrictive covenants despite Supreme Court precedent interdicted such inimical behavior³⁷³ were ones that deserved the attention of legislators. Indeed, that is why we concur with many of the broader themes of this report. However, we must in good conscience respectfully add some of the issues we find in some of the report’s rationale.

As shared in Rural Pennsylvania President Kyle Kopko’s testimony, “people of color who are first time homebuyers in rural Pennsylvania have a median income of just above \$100,000, which is higher than non-Hispanic White individuals in the same region and higher than persons of color in urban communities.”³⁷⁴ The following question then follows: how, then, are the disparities in housing access – rented or purchased – anything other than economic? Systemic racial animus and its legacy? The report suggests as much.

On pages 13 and 14, the authors share that “Data indicate that the impact of” banking loans are “systemic – not limited to individual borrowers, but instead affecting entire neighborhoods and communities.” This section of the report – which utilizes the testimony of the Lower Marshall Shadeland Development Initiative (Pittsburgh area) – goes on to point out that,

between 2007 and 2019, bank lending in just one predominantly White neighborhood of Pittsburgh (Shadyside) was greater than bank lending to *all* predominantly Black neighborhoods in the city combined. During this same timeframe, just three and one-half percent of loans were approved for Black borrowers, despite Black households making up more than twenty-three percent of the Pittsburgh population.³⁷⁵ In fact, Lowe noted that of the 906 financial institutions examined, 551 never made a single loan to a Black person.

This is awful news. Indeed, on its face, racial animus does appear to be at play. However, what is omitted could be instructive. For example, is there data juxtaposing the loan rejection rates of Caucasian applicants of the same income level as the rejected African-American or other POC applicants? Such potentially compelling data is missing from the report. Thus, the causal connection between race and loan rejection is tenuous at best.

The issue of education is touched upon in the report, and it, too, is presented in a fashion that may raise questions. There is little debate that improved educational outcomes leads to higher

³⁷² See: <https://www.justice.gov/archive/opa/pr/2008/April/08-crt-314.html>

³⁷³ See: *Shelley v. Kraemer*, 334 U.S. 1 (1948)

³⁷⁴ Per Kopko Testimony, Transcript 2, p. 12 lines 25-35.

³⁷⁵ Lowe Testimony, Transcript 3, p. 16 lines 14-34.

income, which, in turn, leads to less housing insecurity. However, the report section entitled “Education and Housing Segregation” applies information in a seemingly uncritical manner, suggesting that, “Although the data was based on poverty rate differences, the segregation was also strongly associated with race.” Correlation does not equate to causation, but this section suggests the opposing assumption without providing sufficient data to support the claim. The report goes on to mention that “Clairton City School District in Allegheny County is eighty percent non-White and has a forty percent poverty rate. Directly adjacent is West Jefferson Hills School District has a seven percent non-White population and a five percent poverty rate.”³⁷⁶ Using Pennsylvania Department of Education data, one sees that the school with the highest percentage of low-income households is indeed Laboratory Charter School in Philadelphia, with 99.6% of the students stemming from poorer households.³⁷⁷ At 96.9% low income is Greater Johnstown School District.³⁷⁸ Laboratory Charter is 88.3% African-American;³⁷⁹ Greater Johnstown School District is 39.9% White and 37% African-American. With both districts among the poorest in the Commonwealth, it is difficult to see how race can empirically be the driver here. Again, correlation does not equate to causation.

T’Keyah Nelms of the Fair Housing Rights Center in Southeastern Pennsylvania shared useful information. However, she claimed that “typically,” laws preventing affordable housing from being built violate the rights of POCs and other protected classes. Unfortunately, she provided no concrete evidence of intent in her testimony that this was currently the case. Without Pennsylvania legally permitting the usage of single-party recordings, which could unveil malicious intent, Nelms’ contention remains conjecture.

Dr. Kopko noted in his testimony that, though there were fewer younger people in rural PA 2010-2020, the number of POCs moving to rural PA has increased. This is for people who identify with more than one race. This self-reported assessment is all we have. More importantly, this question: are multiracial POCs not more likely to identify with just one group in urban areas due to peer pressure?

Testimony provided compellingly highlighted issues with accessibility to fair housing, be that due to criminal activity or other reasons. Nevertheless, few presenters provided evidence of discrimination other than for socio-economic reasons. Indeed, even the most compelling, that of Professor Blankenship,³⁸⁰ does not seem to directly address the issue of how the opioid crisis

³⁷⁶ Confer-Hammond Testimony, Transcript 1, p. 18, lines 39 – p. 19, line 4; Edbuild. (2020). *Fault Lines, America's Most Segregating School District Borders*, p. 6. Edbuild. Retrieved from <https://edbuild.org/content/fault-lines/full-report.pdf>.

³⁷⁷ See: <https://www.education.pa.gov/DataAndReporting/LoanCanLowIncome/Pages/PublicSchools.aspx>

³⁷⁸ See: <https://www.niche.com/k12/d/greater-johnstown-school-district-pa/students/>

³⁷⁹ See: <https://www.niche.com/k12/laboratory-charter-school-philadelphia-pa/students/>

³⁸⁰ See Blankenship’s testimony at footnotes 354-356 and the corresponding main body text of this report.

may have impacted the racial composition of areas where ex-convicts re-entering society have difficulty finding housing. Indeed, the data may have even strengthened her points.

The PA SAC to the USCCR may not be looking at protected classes in this instance and may be instead looking at matters that legislators need to address due to them not falling within the scope of the USCCR's purview: defining protected classes.

Nathan J. McGrath - Concurring Statement

At a high level, I agree with the intent of this Report—to better understand the affordable housing situation in the Commonwealth of Pennsylvania and the barriers thereto, and to develop appropriate recommendations to address those barriers. This issue matters greatly. After consideration of the testimony before this Committee and this Report, however, I can concur only in certain parts of this Report. The Report is heavy on conclusions and recommendations, but the record was light on diverse perspectives. I fear that the Report and the evidence gathered in its support spring from a foregone conclusion that left issues and evidence worth exploring out in the cold.

I concur in the portion of Finding V of this Report, pp. 34–38, concerning the rights and access to affordable housing for those with “handicaps,” Affordable Housing Act, 42 U.S.C. § 3602(h)(1)–(3), and “disabilities,” Americans with Disabilities Act, 42 U.S.C. § 12131. The evidence before this Committee highlighted the barriers to affordable housing these individuals face. The testimony and evidence make it clear that those with disabilities need more Act-compliant housing options, which requires greater consideration by cities, towns, counties, municipalities, and others to ensure access to such housing. As such, I concur in the recommendations of this Committee that would further the rights and access to affordable housing for those with handicaps and disabilities, specifically Recommendations 4(g)–(i) of this Report.

In Recommendation 1(a)(iii), this Committee recommends collaboration between certain groups. I recommended adding banks and realtors, as it would seem to me that these are important stakeholders to have at the table to work on “identifying and addressing . . . discriminatory impacts.” My suggestion was not accepted. However, I believe that it aligns with the recommendation received by this Committee from Tracy McCracken, who suggested that “improved education for real estate agents” and others is needed as many of them do “not even have enough knowledge of their fair housing obligations to ensure that they [are] meeting those fair housing obligations.” McCracken Testimony, Transcript 2, p.6 lines 1–6.

Additionally, the Committee’s myopic focus on urban areas resulted in a missed opportunity to explore issues in the rural parts of the Commonwealth. At least two thirds of the panelists who testified before this Committee focused on major metro areas, such as Philadelphia and Pittsburgh. As noted by Kyle Kopko, and this Report, “housing complaints in rural Pennsylvania are difficult to track and are not stored in a centralized database that allows for easy comparison with more urban areas.” Report, p. 11. There was, therefore, significant need for a report like this one to examine rural housing issues, which this Committee should have spent more time on. Instead, this Report is largely focused on urban areas, all but ignoring rural Pennsylvania, which

is home to approximately 3.4 million residents, Report, p. 11. Given this, I concur in Recommendations 3, 8, and 9(a) of this Committee.

This Report highlights some of Jesse Hunting's testimony related to complex zoning and property taxes. Report, pp. 17–18. It references Mr. Hunting's testimony that “[g]ood jobs, help put people out of poverty.” Hunting Testimony, Transcript 4, p. 7, lines 37–38; see Report, p. 17. He further expounded upon the damage that complex zoning laws create to quality of life and affordable housing options. See generally Hunting Testimony, Transcript 4, pp. 13–14. However, from my reading, this Committee has not provided a recommendation along the lines of Mr. Hunting's urging to “lower[] taxes” on businesses or create “a more business friendly environment.” Hunting Testimony, Transcript 4, p. 7, lines 38–39. This is a missed opportunity to recommend significant zoning and tax policy changes that can directly and indirectly lift people out of poverty and help provide them with access to affordable housing and a better quality of life. Moreover, this Report could have offered critical guidance and opportunity to create not just government-first or -only solutions to the affordable housing struggles many Pennsylvanians face. A broader openness to solutions, including how to engage businesses and the private sector in the cause of more affordable housing, was warranted. The Report's single focus on government as the driving solution misses the chance to allow the successful entrepreneurs and businesses of the Commonwealth to be partners in a holistic solution to expanding affordable housing in the Commonwealth.

Finally, I believe Finding I on page five of the Report is too narrowly drafted. It states that “Access to affordable housing has significant impacts on quality of life, and demonstrates disparity based on race.” I suggested it to be revised to state that “Access to affordable housing has significant impacts on quality of life, and includes disparities based on race.” The testimony before this Committee showed that disparities occur based on race, but on other factors as well. The Committee's narrow finding gives short shrift to the evidence before this Committee. It misses the opportunity to provide a comprehensive examination of what the evidence showed as to the many possible causes for a lack of affordable housing in Pennsylvania. I concur only in the afore-stated findings and recommendations of this Committee in the Report.

**Pennsylvania Advisory Committee to the
United States Commission on Civil Rights**



U. S. Commission on Civil Rights Contact

USCCR Contact Regional Programs Unit
U.S. Commission on Civil Rights
230 S. Dearborn, Suite 2120
Chicago IL, 60604
(312) 353-8311

This report is the work of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights. The report, which may rely on studies and data generated by third parties, is not subject to an independent review by Commission staff. Advisory Committee reports to the Commission are wholly independent and reviewed by Commission staff only for legal and procedural compliance with Commission policies and procedures. Advisory Committee reports are not subject to Commission approval, fact-checking, or policy changes. The views expressed in this report and the findings and recommendations contained herein are those of a majority of the Advisory Committee members and do not necessarily represent the views of the Commission or its individual members, nor do they represent the policies of the U.S. Government.