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### **Segregation and Access to Opportunity in U.S. Housing Policy**

A central aspect of social housing in the United States is its racially segregated character, and its isolation from mainstream social and economic opportunity. Racial and economic segregation in America is not a naturally occurring phenomenon, but is strongly influenced by government policy and law at all levels – including federal and state housing policies, and local government land use and school policies. Housing segregation is, of course, also driven by discrimination in the private sales and rental markets, and by lending and insurance discrimination. The problem of housing segregation in the U.S. was a key concluding observation of the U.N. Committee on the Elimination of Racial Discrimination in its 2008 Periodic Review, and we urge the Special Rapporteur to consider the long term impact of segregation on the families and children living in government assisted housing, and to consider appropriate government policy to expand future housing opportunities for poor people of color in areas of higher opportunity with access to high quality schools and employment opportunities. The right of low income families to remain in their communities and benefit from the increasing economic vitality and redevelopment of their urban neighborhoods is also an important human right, but the right to non-segregated housing opportunities and freedom from geographic confinement as a condition of government housing must also be considered in any review of U.S. housing policy.

### **The history and continuing role of government in housing discrimination and segregation<sup>1</sup>**

Historically, the government's policies and practices have helped to create and perpetuate the highly racially segregated residential patterns that exist today in the United States. As the U.S. admitted in its 2000 Periodic Report to the CERD Committee, “[f]or many years, the federal government itself was responsible for promoting racial discrimination in housing and residential segregation.”

The federal government and individual housing authorities played an active and deliberate role in concentrating poverty in racially segregated public housing. Many cities established separate public housing for African American and white residents, whether explicitly or not. In 1989, for example, a court found the “primary purpose of [Dallas’s] public housing program was to prevent blacks from moving into white areas of th[e] city,” and that the city deliberately took actions designed to create and maintain

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<sup>1</sup> This section is drawn from a CERD Shadow Report submitted by a wide range of U.S. civil rights and housing NGOs, entitled “Residential Segregation and Housing Discrimination in the United States” (January 2008); available at [www.prrac.org/pdf/FinalCERDHousingDiscriminationReport.pdf](http://www.prrac.org/pdf/FinalCERDHousingDiscriminationReport.pdf). The shadow report contains detailed references for each of the programs discussed here.

segregation through its public housing. Similarly, Chicago public housing officials admitted to a policy of racial segregation and the imposition of racial quotas in its housing projects.

The U.S. Department of Housing and Urban Development (HUD) has admitted to constructing public housing in already segregated neighborhoods, and to being “part of the problem” and “complicit in creating isolated, segregated, large-scale public housing.” The agency had long employed a deliberate policy of locating public housing residents in neighborhoods where their presence would not disturb the prevailing racial pattern. Indeed, HUD, along with a number of individual local housing authorities, persistently resisted integration, and their policies regarding site selection, tenant selection, and tenant assignment ensured the continuation of racially identifiable public housing in racially concentrated neighborhoods. Today, public housing remains highly segregated and is located largely in areas of concentrated poverty.

Other current federal programs also tend to limit low income persons of color to housing choices in higher poverty, and racially concentrated areas. For example, the Section 8 Housing Choice Voucher Program,<sup>2</sup> although intended to increase mobility and affordable housing choices for very low-income households, as administered, does not affirmatively promote the mobility of program participants to higher opportunity communities.

The Low Income Housing Tax Credit program (“LIHTC”) is another example of an important government program that perpetuates existing patterns of residential segregation. The LIHTC provides federal tax credits to investors who acquire, rehabilitate, or construct affordable rental property targeted to low-income tenants. Indeed, the LIHTC has been the “principal mechanism for supporting the production of new and rehabilitated rental housing for low-income households” since it began in 1987. Since 1999, the LIHTC has supported the development of 100,000 units of affordable housing per year. LIHTC developments must comply with federal rules, but no explicit fair housing standards govern the administration of the tax credit. Instead, the LIHTC actually provides an incentive to develop affordable housing in “qualified census tracts,” which are often the poorest census tracts in a jurisdiction. A recent report indicates that “[o]nly a few states place more than half their LIHTC family housing in census tracts with minority population rates less than half the rate for the metropolitan area.”

Exclusionary zoning is another government practice that influences residential segregation in many jurisdictions and neighborhoods in the United States. Zoning power delegated by state governments gives local jurisdictions control over who may live within their boundaries and has often been used to exclude multifamily housing, thus perpetuating segregation. There is a “long-known connection between low-density-only zoning and racial exclusion,” and many municipalities have low-density-only zoning that tends to exclude African Americans and Latinos from either certain neighborhoods or entire municipalities by effectively reducing the rental housing available.

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<sup>2</sup> Section 8 is a tenant-based rental voucher program administered by HUD, under which local public housing authorities (“PHAs”) issue more than 1.4 million housing vouchers nationwide to income-qualified households, who then find privately-owned housing units to rent. In 2000, 61% of Section 8 voucher holders were people of color; 41% of voucher holders were African American and 16% were Hispanic.

Women of color are disproportionately harmed by segregation in government-subsidized housing because, across all HUD programs, 79% of households are headed by women, 42% are headed by women with children, and 58% of residents are people of color.

Housing segregation has a direct impact on school segregation and increasing concentrations of poverty in predominantly minority schools. Levels of school segregation are increasingly severe in the United States, particularly for low-income African Americans. In 2002-2003, for example, 71% of all African American public school students and 73% of all Latino public school students attended high-poverty schools (defined as schools where 40% or more of the students were eligible for free or reduced price lunches). Meanwhile, 1.4 million African American students (1 of every 6) and nearly 1 million Latino students (1 of every 9) attend schools where 99% to 100% of the students are people of color.

### **Remedies for Housing Segregation: 2008 Recommendations of the National Commission on Fair Housing & Equal Opportunity**

There are a broad range of remedies available for both private discrimination and government-perpetuated segregation, including stronger fair housing enforcement, reform of the Section 8 voucher program to provide regional housing choice, stronger “affirmative marketing” to promote integration, tenant selection policies that do not have the effect of discriminating on the basis of race, and most importantly, a balanced siting policy for future low income housing that places a substantial percent of low income family housing in areas with low poverty, low crime, and high performing, integrated schools. In every city, there are many low income families who would move to a lower poverty, less segregated community if they were given a realistic choice – but the government has rarely offered this choice.

The range of available programs to promote housing integration is discussed in detail in the recent report of the National Commission on Fair Housing & Equal Opportunity (December 2008), sponsored by the Leadership Conference on Civil Rights, the NAACP Legal Defense Fund, the Lawyers Committee for Civil Rights, and the National Fair Housing Alliance. This bipartisan Commission was co-chaired by former HUD Secretaries Henry Cisneros and Jack Kemp and heard extensive testimony from experts and public witnesses in five regional hearings across the U.S. in 2008. Testimony before the Commission is collected at [www.prrac.org/projects/fairhousingcommission.php](http://www.prrac.org/projects/fairhousingcommission.php) and the Final Report is available [www.prrac.org/projects/fair\\_housing\\_commission/final\\_report.php](http://www.prrac.org/projects/fair_housing_commission/final_report.php).

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