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A Portfolio of Integration Strategies

As we have seen, there are extraordinary benefits to urban areas—and particularly to African-Americans—in getting from very high levels of black/white segregation to moderate levels. The diverging paths that separated the "high" from "moderate" segregation areas in the 1970s and 1980s were largely a product of demographic happenstance. And remarkably favorable conditions prevail in most high-segregation metro areas today—conditions that tend to insure that increased integration will be stable and self-reinforcing.

These three propositions, which we think are well-supported by the evidence, make a powerful case for some type of policy intervention. But do effective strategies to promote integration and create a twenty-first-century fair housing policy exist? We think they do. This chapter details twelve potential elements of a comprehensive pro-integration strategy, and Chapter 22 explains a way to create metropolitan-level entities to organize and implement them.

Our policy recommendations fall into three categories. The first category—and the most indispensable one—aims to promote pro-integrative mobility while guarding against neighborhood transition. This involves, as it must, migration in both directions: migration of African-Americans into non-black communities, and migration of non-blacks into African-American communities. As we have shown, a good deal of such migration occurs already. The key idea is to augment this migration and nudge it in ways that open additional communities to integration, while at the same time making sure that where integration occurs, it endures. Thus, in central cities where Anglos are already migrating and often "gentrifying," the policy aim is to

make the gentrification more diffuse—spread across more neighborhoods—while insulating enough housing from the market so that large-scale displacement does not occur. In predominantly white areas, the policy aim is to widen the range of neighborhoods where black in-migration occurs, both to broaden the extent of integrated neighborhoods and to defuse the threat of gradual resegregation in the integrated neighborhoods that already exist.

In the second category are policies aimed at giving us a better understanding of fair housing conditions, and combating the types of discrimination that are most likely to undercut efforts to advance integration. Many of our current efforts to promote fair housing and attack discrimination are outmoded and ineffective; these strategies would revitalize these efforts and focus them on the genuine problems that still remain.

Our third group of strategies focus on structural segregation—that portion of racial segregation that results from racial differences in income, wealth, family size, and other sociodemographic characteristics. Although we have shown (Chapter 10) that structural segregation—as a racial barrier—is more modest than many people assume, it is linked to many related problems such as rising urban housing costs and increasingly severe economic segregation. It is also proving to be an important barrier to further desegregation of our most integrated metropolitan areas. We think that with some new tools and as part of a coherent metropolitan strategy with clear goals, real progress can be made in lowering structural barriers.

Strategies for Creating Integration Dividends from Mobility

1. *Mobility grants.* "Mobility grants" are probably the only strategy on our list that could be vulnerable to legal challenge. We nonetheless lead with it, because we believe it to be the most efficient way of achieving integration. It represents an area where experimentation could yield immensely valuable results and knowledge.

The idea of a mobility grant is simple: provide subsidies to both renters and homeowners to make "pro-integrative" moves. There is a good fairness rationale for such subsidies, since there is a cost to being a neighborhood racial pioneer. That is why both blacks and whites, even when they are seeking integration, prefer to move into a neighborhood that already has some coracial presence. A mobility grant compensates pioneers for that cost, and

also yields an efficiency rationale: the costs to pioneering represent one of the most significant barriers to residential integration, and so any strategy combatting it should focus directly on overcoming such a barrier.

We envision subsidies as tightly targeted upon the pioneering experience. In other words, the most significant subsidies would be available to persons moving to neighborhoods where segregation levels are highest—where one's "own group" makes up less than 2 percent of the local population. Subsidies would decline as the "own group" presence declines, phasing out completely when the "own group" presence in the neighborhood matches metropolitan averages. Thus, in an urban area that was 10 percent African-American, subsidies for moving into a given neighborhood would disappear by the time that neighborhood reached a 10 percent black threshold.

Mobility grants could take many forms, and in a comprehensive program (Chapter 22) we envision leaving the specific form to the choice of a metropolitan council drawing from a variety of approved federal templates. One elegant approach for the rental market is to pattern the grants after housing allowances. Under this approach, one sets a ceiling housing cost—say, the median amount paid by households (renters and owners) for housing in a metropolitan area. Suppose this amount is $1,500 per month. The full allowance then provides a grant covering the difference between $1,500 and 30 percent of a household's monthly income—which means that households with incomes over $60,000 would not be eligible for the allowance. Allowance awards could last for five years, with some phase-out over the last twenty-four months.

Housing allowances have some large advantages over other types of rental subsidies, such as Section 8 certificates. They do not require landlord participation or consent, making them much easier to use universally. They do not require the recipient to substitute housing consumption for other types of consumption, so long as minimum housing standards are met, and at the same time they permit recipients to rent more expensive housing if they choose; artificial incentives are minimized, because of the simple structure of the assistance.

For homeowners, mobility grants should take the form of an interest-rate subsidy. We suggest not having income qualifications for such a program—since integration is desirable across the income range—but we recommend that the subsidy be capped at a one-point reduction in interest on the first $180,000 of a purchase mortgage to buy in a targeted neighborhood, once

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again with a five-year phase-out. This structure provides a modest but easy-to-use and easily administered subsidy.

Of course, just what level of subsidy is required to catalyze the desired moves is difficult to determine in advance. As we shall see in Chapter 22, a national program that facilitates local autonomy and experimentation, while carefully monitoring results, would yield a lot of information quickly about how elastic household tastes are with respect to racial pioneering. The evidence we have reviewed suggests that tastes are elastic indeed; especially in conjunction with mobility counseling, we anticipate a high level of interest in even modest subsidies.

Certainly, that was the case in the highly successful *Gautreaux* program (Chapter 15), which essentially offered racial mobility grants in the form of Section 8 certificates; program administrators faced enormous demand over the nearly two decades of the program's existence, far outpacing their supply of certificates. High demand also followed the creation of the Baltimore Housing Mobility Program (BHMP).[1] BHMP, much like *Gautreaux*, originated from litigation against the local, big-city public housing authority.[2] In this case, a federal court found that the Baltimore Housing Authority had built housing and moved residents into units in ways that segregated African-Americans from whites—and had done so over a period of decades. Part of the remedy was BHMP, which issued vouchers that residents could use throughout the Baltimore region. African-American recipients of the vouchers had to use them in neighborhoods that were at least 70 percent white.

In the mid-1980s, the Ohio Housing Finance Agency undertook a program of mobility grants in the form of interest-rate subsidies for home mortgage loans.[3] The program was small and mainly targeted at a few Cleveland suburbs. African-Americans could secure a below-market-rate mortgage loan if they moved to a neighborhood whose black presence was at least fifteen points below the county's black presence. (In Cuyahoga County, this meant neighborhoods that were no more than 10 percent black.) Whites could secure the mortgages if they moved into neighborhoods whose white presence was at least fifteen points below the county's white average (areas that were no more than 40 percent white). The program thus became known as the "10/40 Plan."[4]

Despite limited marketing, the program was known to planners in some eastern suburbs of Cleveland—in particular, Shaker Heights and Cleveland Heights—and those areas generated most of the applications and partici-

pants. In 1985, it made more than $3 million in loans to a total of thirty black and nineteen white mortgagors. The nineteen whites included sixteen buying homes in the Lomond section of Shaker Heights, where the percentage of whites buying homes had fallen, according to local officials, from 63 percent in 1983 to 49 percent in 1984, leading to tipping fears. A Shaker Heights agency report gave the program credit for stabilizing white demand. Chip Bromley, the director of the Cleveland area's leading fair housing agency, credited the program with opening two previously all-white Cleveland suburbs to black buyers: Maple Heights, where seven mortgages financed African-American buyers, and South Euclid, with six African-American buyers. The size of the subsidy offered by the 10/40 program was notably modest, partly because market interest rates declined after the initial bonds to finance the program were sold.

Before long, however, the program attracted attention and political controversy; it was criticized both by conservatives in the Ohio legislature and by the Cleveland-area Realtists—an organization of black real estate agents who expressed concern that the program would undermine demand for their services. When one state senator requested an official opinion on the constitutionality of the program, Attorney General Anthony Celebrezze Jr. prepared an analysis finding that it did indeed pass constitutional muster.[5] But without any committed constituency, the program faded away and was officially discontinued in the early 1990s.

Like Ohio's initiative, we envision a program that is "race-neutral"—that is, available to all households so long as they are moving into a neighborhood in which they would be racial pioneers. Subsidizing Anglos and Asians to move into predominantly minority neighborhoods is as sensible as subsidizing African-Americans to move into white neighborhoods; as we have discussed, one-way integration is not a viable long-term strategy for simple market reasons. And although we charted the impressive growth in demand for central-city neighborhoods by whites, it is still clear that whites find those moves much more appealing when they are not racial pioneers—in other words, when there is at least some significant white or Asian presence.

To say, however, that at a general level mobility grants are "race-neutral" hardly disposes of what we concede are potential constitutional problems with this policy. Both blacks and whites—and indeed, someone of any race—can participate. But as we envision them, mobility grants do indeed distinguish on the basis of race. If someone wants to move into a predominantly

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white area, they are eligible for a grant if they are black and not if they are white. This requires someone (undoubtedly the agency responsible for administering the grants) to identify people based upon race, and the Supreme Court has been skeptical, if not downright hostile, to such identifications over the last quarter century. "Disparate impact" liability under the Fair Housing Act has recently survived Supreme Court scrutiny in no small part because while such claims are "race-conscious," they are not individualized: they do not distribute benefits and burdens to individuals according to their race. But mobility grants do.

That said, mobility grants differ from, for example, the use of racial preferences for college admissions in critical and constitutionally important ways. For one thing, mobility grants are *temporary*. As we explain in Chapter 22, the integration programs we envision would occur over a ten- to fifteen-year period. They can be feasibly temporary because the required interventions are small in scale (relative to an overall market) and rising housing integration levels are consistently self-sustaining. In contrast, affirmative action programs in university admissions have no clear end point. Even if the use of preferences integrates a particular school, there will always be another class to admit the next year; nothing in the process generates self-sustaining cures. Advocates of affirmative action say that they can stop only once the United States has achieved overall racial equality—a massive (and vague) goal that may be many generations in the future.

This distinction matters because it has mattered to the Supreme Court. In *Grutter v. Bollinger,*[6] Justice Sandra Day O'Connor's majority opinion upheld some racial preferences in admissions to achieve diversity, but warned that the Court's patience was running out: "We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest [in student body diversity] approved today."[7] In other words, at least under current legal doctrine, the Court is more tolerant of race-conscious measures that distinguish between individuals when they are temporary. For something to be temporary, it must have a relatively clear end point, and mobility grants do.

Moreover, the policy's remedial nature also buttresses its constitutional strength. The Court has repeatedly stated (although not recently) that if a preference is seeking to undo the effects of previous discriminatory policies, then preferences might be warranted.[8] Such is precisely the situation here, and we do not rely upon some general notion of structural American racism.[9]

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While it is clearly untrue that the federal government created ghettos, its policies undoubtedly helped to sustain them from the late 1930s through the 1950s (Chapter 4). And we have shown the direct lineage from mid-century housing segregation to the conditions persisting in high-segregation metro areas. From a constitutional point of view, a government initiative to break high-segregation equilibria has a strong remedial justification.

A final factor favoring the constitutionality of mobility grants is the clear and close connection between means and ends. The Supreme Court has demanded "narrow tailoring" to uphold race-conscious policies, and although law library shelves groan with articles attempting to determine its precise meaning, we believe that mobility grants easily satisfy most definitions. Racial segregation is about race. Although we favor measures combatting structural segregation and argue they could be useful in fighting segregation, they are decidedly second-best alternatives because they play only an indirect role in racial segregation. But mobility grants directly spur racial integration. Every race-conscious benefit conferred by such a program has a clear connection to the problem and solution in view. And since mobility grants are voluntary, they are *more* narrowly tailored than other race-conscious remedies that courts have upheld.[10]

2. *Mobility counseling.* Housing choices are heavily shaped by information networks. When people move within metro areas, they tend to make relatively short moves and lean heavily upon readily available news about housing opportunities. In a racially segregated metro area, moves made in this way will tend to reinforce segregation (for instance, black moves to border areas) rather than spreading integration. Maria Krysan and Kyle Crowder, in dozens of intensive interviews with prospective movers of all races, found that people replicated segregation in their moves even though they initially were willing and even eager to move to more integrated neighborhoods:

> The majority of whites (52 percent) search in locations that, on average, have a higher percentage of whites than they say they prefer. And they end up living in the less diverse neighborhoods they search in, as reflected by the fact that 63 percent of whites live in neighborhoods that reflect the racial composition of their search locations. African Americans live in communities with more African American residents than they preferred *and* fewer than are in the communities in which they searched: about 60 percent of blacks and 56 percent of Latinos live in neighborhoods with

> a higher percentage of their own group compared to the average racial composition of the places they searched.[11]

Real estate agent steering did not drive this trend: after all, people are actually *searching* in more integrated neighborhoods. Rather, the search process involved a wide variety of factors that interacted in complex ways. And recall (from Chapter 7) the strong tendency of households to move only short distances from their current location. The cumulative effects of small factors on search and moving decisions have large effects in perpetuating residential segregation.[12]

These basic insights about the housing search process fueled one of the nation's most successful housing integration programs: the Oak Park Regional Housing Center. Oak Park is a largely middle-class suburb on the western border of Chicago. In the early twentieth century it was home to both Frank Lloyd Wright's studio (and much of his early work) and a young Ernest Hemingway (who famously dismissed the town's "broad lawns and narrow minds"). By 1970, the village was both economically diverse (though overwhelmingly white) and more liberal than its suburban neighbors; about a third of its sixty thousand residents were renters. Austin, the Chicago neighborhood that bordered Oak Park, was passing through rapid racial transition, the latest neighborhood to do so as Chicago's predominantly black west side neighborhoods advanced westward. As the 1970s progressed, African-Americans moved in substantial numbers into the eastern side of Oak Park; it seemed likely that Oak Park would either pass through racial transition or, at the least, become highly segregated by neighborhood.

Oak Park's response was to launch the Housing Center, whose goal was to facilitate pro-integrative moves. The essential idea was quite simple: provide free housing advice to persons of all races, provide specific leads to housing in all of Oak Park's neighborhoods, and make sure homeseekers understood that they would be welcomed in any of those neighborhoods. Whether this information-sharing slid into a form of reverse steering is open for discussion, but there is not much doubt that the Center effectively enlarged the mobility vision of prospective Oak Park residents. There is also not much doubt that it worked. By 1990, racial dissimilarity in Oak Park had declined sharply, and it continued to fall. Oak Park today has a racial makeup quite similar to the Chicago metropolitan area as a whole, and a black/white dissimilarity index of about .40.

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We highlight Oak Park because it represents one of the few mobility counseling programs not focused on tenants leaving racially segregated public housing: as we have seen, many of the most important black pioneers are not public housing residents but rather working- and middle-class blacks. That said, suggestive results from public housing counseling also provide a basis for generating promising policy experiments.[13]

We saw in our discussion of publicly assisted housing other examples of the importance of counseling (Chapter 15). The *Gautreaux* program's remarkable results were due in large part to a careful and well-developed counseling program that identified good housing options for certificate holders and worked to make moving transitions smooth. In contrast, the Section 8 program of the city of Los Angeles (and those of many other cities) tended to reinforce rather than undermine segregation by simply giving eligible tenants lists of landlords especially interested in Section 8 tenancies.

Mobility counseling is important for the information it provides; it is also important because it lowers the cost of seeking housing in integrated areas and nudges people to consider a wider horizon of possibilities. Mobility grants do this as well. And a key lesson about public policy that has emerged from social science research on decision-making and the heuristics of choice is that nudging works.[14]

Even very high-quality mobility counseling is relatively inexpensive (perhaps $3,000 per successful pro-integrative move); the challenge is scaling up such a program to a metropolitan scale while preserving that quality. If that can be done, a broad counseling program should be a core part of any broad integration strategy.

3. *Housing trust funds.* As we have seen (Chapter 18), the bulk of evidence suggests that the gentrification that has occurred in many cities over the past twenty years has brought more benefits than harms. It has made cities more vibrant and fiscally healthy, has often increased integration and has not produced nearly as much direct displacement as critics feared. But a key residual concern, which we consider valid, is whether gentrification does eventually produce a neighborhood transition where low-income, mostly minority residents are effectively priced out. Such an outcome would not only be unfair but would defeat gentrification's desegregation potential.

Housing trusts present a win-win solution. Policy advocates have promoted them for years as a means to generate funds for affordable housing,

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and they have appeared throughout the country.[15] The basic conception of a housing trust is straightforward: dedicate a particular revenue stream for the construction of affordable housing. A real estate transfer tax serves as a common source. Our idea, however, is somewhat different. We propose using trust revenues not to *build* more housing, but to preserve affordability in gentrifying neighborhoods by purchasing neighborhood housing stock.

Suppose, for example, that a twenty-unit apartment building has a market value of $800,000 before gentrification begins; in the early stages of the process, its price rises to $1 million. The trust buys the property, using in effect a $200,000 subsidy to preserve rents at their pre-gentrification level. In this example, the subsidy amounts to $10,000 per unit of affordable housing preserved. Since the property was economically viable in its pre-gentrification state, it requires no significant further subsidy. The housing is now in a more desirable neighborhood and the units are "worth" more than the rent charged, but the trust is kept under an obligation (written into its charter and perhaps through deed restrictions) to maintain a low- and moderate-income tenant distribution.

If housing trusts operate on a sufficiently large scale, they affect gentrification itself: specifically, they tend to spread it around. Gentrifying Neighborhood A cannot tip into a fully upscale neighborhood, because the housing trusts limit the supply of housing available to gentrifiers, thereby limiting the neighborhood's "yuppification." Gentrifiers will therefore spill over to Neighborhood B in larger numbers than they otherwise would.

The presence of housing trusts and a protected housing stock also changes the psychology of gentrification: incumbent residents have a reason to welcome and seek out gentrification rather than to oppose it. This facilitates the aggregated process of in-migration and bounded gentrification that produces more integrated and more dynamic neighborhoods.

Can these housing trusts operate at a sufficient scale to really preserve affordable housing in the face of widespread gentrification? We think so, and in Chapter 22 we work through a specific example of how they would fit into a metropolitan strategy. Many low-income housing initiatives today try to simultaneously protect the poor and revitalize their neighborhoods by investing in expensive new construction or gut rehabilitation, both of which are fabulously expensive in per-unit costs. The strategy we envision is quite different: gentrification is doing the work of revitalizing; these

housing trusts simply aim to shelter low-income housing from the market, and to operate with only a modest subsidy.

4. *Tax-increment financing in gentrifying neighborhoods.* Lance Freeman, one of the most thoughtful scholars on gentrification, has proposed a version of the housing trust idea, as well as a method of financing it: using tax-increment financing in gentrifying areas.[16] Currently, local housing policies tend to "tax" gentrification in inefficient ways: redevelopment permits and new construction are tied up for years in protests, litigation, and politicking, or new housing is required to incorporate a certain proportion of "affordable" units. There is a much better way: the local jurisdiction observes neighborhoods in which property values are starting to rise at rates that exceed city-wide averages. Through frequent reassessments, the jurisdiction collects property tax on the added value of those properties. These additional revenues are set aside for two neighborhood-specific purposes: half of the funds go to the housing trust program, and half are used to invest in better neighborhood amenities: better parks, more reliable services, improved local schools. From the perspective of the developer or gentrifier, they are not singled out at all: they are simply paying taxes based on the new value of their property, and they are getting some better services out of it. Unlike current approaches, this plan stimulates rather than retards the momentum of migration to central-city neighborhoods. From the perspective of incumbent residents of the neighborhood, gentrification is directly financing protections against rent inflation and improved neighborhood amenities—and the level of financing is directly proportional to the volume of gentrification.

As Chapter 22 will explain, we neither propose nor expect that integration can finance itself. The tax-increment scheme we describe would not suffice, we think, to create housing trust units on a scale to adequately protect economic (and racial) integration. But it is a logical and important complement.

5. *Community development banks.* As we have seen, fair lending strategies fail for some very distinct types of problems. Urban minority neighborhoods with high poverty concentrations tend to lack local financial institutions that provide ready access to checking accounts, consumer loans, and other basic parts of financial life that most Americans take for granted. For this and other reasons (Chapter 19), urban minorities have been particularly vulnerable prey to lenders offering inferior mortgage products. And urban neighborhoods often suffer from having no local entity that can

identify and pursue development strategies at the neighborhood level, based on local expertise and with community interests at heart.

Community development banks can help to redress all three of these problems, if carefully designed. In Chapter 11, we discussed South Shore Bank's dramatic impact upon Chicago's South Shore neighborhood in the 1970s and 1980s. The bank made standard banking services widely available in the community. It sharply increased the incidence of conventional mortgage loans for South Shore residents and catalyzed greater access to Chicago's larger banks. And it pursued intelligently crafted strategies aimed at stemming areas of neighborhood deterioration while preserving an economically integrated community.

South Shore Bank had four key design features that made this success possible. It was owned by churches, foundations, and philanthropists, so its ultimate goals were tied to public purposes. At the same time, it operated as a for-profit institution; every project it pursued had to make business sense on some level. A for-profit bank has the capacity to greatly leverage resources: South Shore Bank managed with an initial capital infusion of $700,000 to make tens of millions of dollars in loans, and its attention to the bottom line meant that its capital was self-renewing.[17] It recruited high-quality managers, attracted partly by idealism but also by good working conditions and competitive pay. And it viewed community problems comprehensively, taking into account an overall balance sheet of community vulnerabilities and strengths.

Many other experimental community development institutions have not done so well. Substantial public funding can infect community investment functions with cronyism and deals guided by political alliances rather than business and community acumen. But the potential of well-crafted community development banks dovetails so well with our identified community-finance–related needs that policymakers should not overlook experiments in community banking as part of an overall integration strategy. In the context of such a program, the role of the bank would not only be to improve the credit records and access to credit for households in segregated communities, but also to assist in supervising and guiding the neighborhood housing trust initiative we described earlier. A community development bank would be well placed both to monitor changes in neighborhood composition and prices, but also to identify specific properties that make good candidates for the housing trust.

6. *Reshaping other housing programs to foster desegregation.* As we have noted, existing Section 8 programs have more often than not failed in their promise to deconcentrate poverty and lower segregation. The good news is that we know why: voucher certificates are often not easily portable across jurisdictions; landlords of low-income, segregated housing are allowed to "recruit" voucher tenants; and housing administrators operate with incentives that often undermine desegregation goals. Section 8 programs also often impose irritating burdens on participating landlords, making many landlords—especially those with the most attractive housing—reject Section 8 tenants as a matter of policy.

Under the Obama Administration, HUD made significant progress in identifying some of these disincentives, and innovative public housing authorities have taken the lead in showing how they can be overcome and reversed (Chapter 15). One important initiative aims to make vouchers more portable across metropolitan areas by setting rent limits according to smaller, intra-metropolitan markets. This change (which the Trump Administration at the time of this writing is trying to suspend[18]) would mean that vouchers could more easily be used in affluent suburban areas. In demonstration programs, the change in rent limits made subsidy costs somewhat higher, but it also made tenant placement more stable and raised average tenant incomes, thus saving the government money. Changes of this sort can make existing housing programs valuable complements to, and components of, a metropolitan integration strategy.

Strategies for Understanding and Advancing Fair Housing Conditions

7. *A housing search component of the CPS.* For more than forty years, the basic mechanism for assessing fair housing conditions has been the paired-application test. When HUD conducted the first systematic, national fair housing audits in 1977, it represented a breakthrough in our understanding and concrete assessment of housing discrimination. While it still provides a valuable charting of change—and mostly progress—in the treatment of housing applicants, it does not address a host of issues we would like to know about, namely how people search for housing, and with what results.

The Bureau of the Census and the Bureau of Labor Statistics have developed over many decades a superb instrument for tracking these kinds of searches in the labor market. It is known as the Current Population Survey

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(CPS), and one of the numbers it reports—the national unemployment rate—makes national news when it is announced on the first Friday of every month. Social scientists at the BLS and the Census use cluster sampling to create a very large (roughly eighty thousand) representative sample of American households. Participating households are interviewed once a month over four months; they then rotate out of the sample for eight months, and rotate back in for another four monthly interviews. The value of this procedure is that we learn about short-term (month-to-month) and medium-term (year-to-year) changes in the earnings and labor force participation of household members. The CPS periodically includes "modules" on special topics of interest to government, such as labor mobility and long-term unemployment.

The CPS is ideally suited for monitoring fair housing conditions in the market and the effectiveness of the other strategies outlined in this chapter. By including a CPS component on "housing search and movement," the CPS could gather household-level data on housing searches and actual moves undertaken by participating households during the sixteen-month period they are in the panel. Data on housing searches, such as identifying the type of housing investigated by households thinking of moving, and the outcomes of those investigations, would tell us (a) how the search behavior of households varies by race, metropolitan location, and other demographic characteristics, (b) when searches actually produce offers of housing from providers, and (c) when offers are accepted and a household moves. Gathering such data on an occasional basis as a special CPS module would provide us with unparalleled insight into key unknowns which we can now only infer from other data sources. To what extent do African-Americans search for housing in outlying neighborhoods? What are the outcomes of those searches? How does searching, and search success, vary by economic class?

8. *Randomized, full-application testing.* Traditional fair housing testing has another serious flaw: it "audits" the behavior of landlords, home sellers, and lenders only at the opening stage of a housing inquiry. Paired testers with similar (fictitious) biographies respond to housing ads, and make appointments to see units. If the tester in the protected category is given different information—say, told about fewer units, or cautioned that the neighborhood is bad, or asked to jump through more hoops as part of the application process—this provides evidence of discrimination.

Traditional testing has largely outlived its usefulness, perhaps in large part because of the very success of fair housing enforcement. It is now rare for landlords to lie to members of protected groups about the availability of housing. This is probably because discrimination has become much less common; but it may also be because housing providers have learned that lies of this sort are easily detected and will make them legally vulnerable to large penalties. A landlord who wants to discriminate would be much better advised to treat all applicants just the same, but to simply turn down the applications of those the landlord wishes to exclude. Of course, many other types of evidence suggest that discrimination in fact has fallen, but we really have no idea how well traditional testing methods work in identifying how often minority applicants are, in the end, illegally denied housing they are seeking.

Traditional testing is especially ineffective in the sales market. Someone who is interested in buying a condominium or securing a mortgage loan from a bank generally cannot proceed very far without providing a substantial amount of personal information. Fictitious biographies will not do for these purposes; a credible applicant must have real bank accounts and a genuine current address. Partly for this reason, fair housing enforcement is much rarer in the sales and finance markets.

A solution that avoids these limitations is "full-application testing." The testing agency identifies actual people and households that are in the process of searching for housing, and enrolls them in a panel testing process. Enough people are recruited (or at least screened) so that reasonably close matches can be found across the lines to be tested (for instance, race). Pairs of testers then actually apply for the same apartment, or the same house, or a mortgage loan from the same lender. The applicants' experiences in these processes provide far richer and more authentic information about the true practices of the housing provider, and of course the ultimate action of the provider gives genuine and reliable data about the existence of discrimination.[19]

Full-application tests provide more robust and conclusive evidence about the playing field of housing opportunity. They are more expensive and complex to perform, but the information they generate is so much more valuable as to make this investment worthwhile. Moreover, knowledge that such testing occurs could encourage housing providers to eliminate vestiges of discrimination, just as traditional testing probably prodded many pro-

viders to professionalize the processes of "showing" housing to casual home seekers.

Such testing should occur at a metropolitan (or even better, a statewide or nationwide) scale, at a rate of perhaps three thousand tests per year, with housing units selected through a procedure that makes sure all parts of the market are covered in a representative fashion. Full-application testing can be used to investigate complaints, but experience shows that as discrimination becomes less common and more subtle, civilian complaints are not likely to be a good guide to actual discrimination patterns.[20] Randomized selection provides current data on the extent of discrimination and allows the testing agencies to pinpoint enforcement efforts—things that are quite rare in enforcement today.

9. *Targeting source-of-income (SOI) discrimination.* As noted earlier, existing rental subsidy programs that can, in principle, further housing integration often fail in part because many landlords refuse to rent to "Section 8" tenants. These refusals correlate with the attractiveness of the housing and the affluence and whiteness of the surrounding neighborhood. Part of the reluctance of landlords is legitimate, because program regulations can make Section 8 rentals an administrative hassle. Landlords may also be concerned about turnover if the tenant's ability to pay depends upon a subsidy of uncertain duration. An unknown share of landlord reluctance is based on illegal discrimination, including assumptions that subsidized tenants are more likely to pose problems of one kind or another.[21]

Some integration programs—notably Chicago's *Gautreaux* program—circumvented this problem by devoting resources both to the cultivation of host landlords and the rigorous screening of participating tenants. The *Gautreaux* program managers thus developed credible reputations for finding reliable tenants and making good placements. These are important elements that should be built into the mobility strategies we advance. Recall, moreover, that housing allowances—unlike Section 8 certificates—can be used without any landlord paperwork or other direct interaction between landlords and program administrators.

Nonetheless, an additional strategy worth considering is a ban on source-of-income discrimination. Such bans have been adopted by a few cities and states without much controversy, and implemented without much difficulty. Lance Freeman and Yunjing Li found that eliminating SOI discrimination

increased the exposure of minority voucher recipients to whites (though it did not reduce their exposure to other voucher-holders).[22] Earlier, Freeman found that in those jurisdictions where SOI discrimination was banned, voucher recipients were able to use their vouchers much more successfully.[23] Other research has found some modest effects. The evidence is not yet convincing that such a ban is justified by its modest benefits; *Gautreaux*-type outreach might be more effective, and housing-allowance users may find that the problem simply does not arise. This is, however, one of the few specific "fair housing" threats to a desegregation program that one can readily identify.

Strategies for Reducing Structural Segregation

Our analyses in Chapter 10 demonstrated that structural segregation (like housing discrimination) is relatively low. It is not the linchpin of high housing segregation, and that our key policy goal—to get the black/white index of dissimilarity down to .60—is very achievable even if levels of structural segregation do not change at all. This is a good thing, because one can imagine that the policy steps described in this section would arouse stronger political opposition than all the others we have described thus far.

Still, there are important reasons to include strategies against structural segregation as part of an overall strategy. First, studies have shown a strong link between overall housing *density* and reduced segregation. Early research on this subject was hampered by the poor quality of data on density levels. Rolf Pendall's research published in 2000, for example, merely showed a general association between low-density zoning and lower African-American and Hispanic populations.[24] As better data has become available, the results show stronger connections. In 2013, Matthew Resseger examined spatial data available for all Massachusetts municipalities and found that blocks zoned for multifamily housing had black population shares 3.4 percentage points higher and Hispanic population shares 5.8 points higher than adjacent single-family-zoned blocks.[25]

Moreover, as many analysts have pointed out, housing segregation by income has been rising over the past generation even as black/white segregation has edged downward.[26] We do not want to win the battle for racial desegregation only to lose the war on class segregation. And, as explained in Chapter 10, there is one subset of metro areas—the ones with moderate

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segregation—that have particularly high structural barriers, and thus are areas where structural segregation is a particularly important part of any effort to give those areas' desegregation further momentum.

We have three specific policy suggestions for reducing structural segregation:

10. *Reducing regulatory barriers to multifamily housing.* As Edward Glaeser has powerfully argued, for urban areas to thrive—or even avoid decline—they must allow builders to actually construct housing.[27] Housing costs have risen sharply through nearly all highly urbanized areas; rising demand has not produced corresponding increases in supply, and this is principally due to the rising barriers local and state governments have placed in the path of the new construction. Concerns about extended sprawl justify limits on the extension of single-family tracts far from urban centers, especially in areas of water scarcity like the Southwest. But restrictions on multifamily construction tend to be counterproductive from a metropolitan point of view. They contribute directly to structural segregation and, more importantly, increase scarcity and thus produce rapid increases in cost in an inelastic market.

Government agencies and, to no small degree, the public itself have bought into the idea that because the market is tight, developers of multifamily property can be assigned additional tasks for the reward of being permitted to build. This can sometimes produce great results, but it is in general an inefficient approach. Getting the housing built is the main thing: doing so will directly ease costs for everyone while also generating tax revenue that can be targeted at addressing the more specific goals of local governments. This is, of course, our approach to gentrification: reduce the costs to the arrival of gentry while aggressively focusing on the need for long-term, affordable housing nearby, the feared loss of which drives gentrification.

11. *Quantifiable "fair share" guidelines.* As we saw in Chapter 10, legislatures (like New Jersey's) that seek to reduce structural segregation typically do so by requiring the individual jurisdictions within major state regions to provide their "fair share" of low- and moderate-income housing. This principle has intuitive appeal, but how does one define it in practice?

Consider the example of California, which has had a "fair share" requirement for decades. The state's lead housing agency, through an obscure methodology, develops regional housing need assessments for each of the

state's metropolitan regions.[28] Each region has a body (for example, the Southern California Association of Governments) which assigns each municipality a number of housing units in different categories of type and cost which, in the aggregate, would be adequate to meet the state-determined needs. Local governments are required by law to develop a "Housing Element"—that is, a plan to generate housing—that puts them in "substantial compliance" with these goals.

All of this sounds impressive, but in reality California cities very rarely meet their "fair share" goals; in general, they do not even come close. The state cannot fine cities that do not comply, and the state has no mechanism for rewarding jurisdictions whose Housing Elements translate into tangible progress in meeting affordable housing needs.[29] Cities can be sued, but judges have proven loath to second-guess local officials in interpreting what "substantial compliance" means.[30] Even if a Housing Element adjusts some regulations in response to state pressure, the city can often devise countermeasures that neutralize its effect. Some fifteen years ago, for example, when state officials directed local governments to make it easier for homeowners to rent out or develop "granny flats" on their property (for example, by converting a coach house into an apartment), many cities "complied" with formal zoning changes, but simultaneously erected new barriers (requirements for additional parking space, or for occupants of the new housing to be related to the owner, and so on) that effectively canceled out their formal compliance.[31]

We can make fair-share policies work better by creating genuine incentives for jurisdictions to collaboratively develop a metropolitan approach to zoning and land use regulation. They will also work better if we apply more objective yardsticks; current fair share goals are arrived at through processes which seem complex and obscure. We think that the measure of structural segregation introduced in Chapter 10 provides a better way; for example, one can determine whether structural segregation goes up, or goes down, when a given municipality is excluded from the measure. If the measure goes down, that implies that the municipality's housing contributes disproportionately to structural burdens on the metro area. Combined with metropolitan-wide analyses of the relationships between specific regulatory practices and structural segregation, a collective approach by municipalities in setting reasonable land use policies could materially reduce the current prevalence of parochial standards.

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12. *Disparate impact litigation on zoning.* As we explained in Chapter 10, the U.S. Supreme Court famously turned aside a Fourteenth Amendment challenge to exclusionary zoning in its 1977 *Arlington Heights* decision.[32] It remanded and did not resolve the question of whether a remedy for "disparate impact" existed under the Fair Housing Act. The decision was widely viewed as a major blow to efforts aimed at reducing exclusionary zoning through litigation.

Thirty-eight years later, the Supreme Court finally did address the issue of disparate impact. In *Texas Dept. of Housing and Community Affairs v. The Inclusive Communities Project,*[33] the Court upheld the use of "disparate impact" theories under the Fair Housing Act. Plaintiffs can successfully challenge a policy if it (a) has a disparate impact on some group protected by fair housing law, and either (b) does not serve some important purpose or (c) does serve a valid goal, but the goal can be achieved through methods that have less exclusionary effect. Almost every federal circuit court had endorsed some version of disparate impact theory before the *Inclusive Communities* decision,[34] but litigation built upon those endorsements was slow to develop, partly because many insiders thought the Supreme Court would kill the doctrine rather than endorse it.

Disparate impact litigation can potentially address structural segregation when regulatory barriers and land use regulations artificially raise the cost of housing. On average, African-Americans of course have substantially less wealth and lower incomes than whites; if the cost effect is strongly linked to a racial effect, the regulation is vulnerable.

A particularly extreme example can be found in the municipality of Sunnyvale, Texas, the site of a lengthy disparate impact case in the late 1990s and early 2000s. There, the chief judge of the federal court in Dallas explained:

> Approximately twelve miles east of the central business district of Dallas lies the aptly named town of Sunnyvale. Nestled in the midst of towns defined by the shopping malls and dense apartment development for which the Dallas Metropolitan Area has become famous, Sunnyvale presents a stark contrast. It is a beautiful, rural, Texas town with almost 11,000 acres of rolling hills and green grassland and only 2,000 residents. Sunnyvale has no shopping malls and no apartment developments. The secret to Sunnyvale's success is its unusual zoning laws, including an outright ban on apartments and a one-acre zoning requirement for residential development.[35]

This idyllic setting carried a serious price. African-Americans in the Dallas metropolitan region relied disproportionately on apartments, so banning them made it more difficult for blacks to move there. Moreover, the large-lot zoning also disproportionately affected African-Americans. Blacks lived in significant numbers in the Dallas metropolitan area, but:

> By raising the cost of entry into Sunnyvale, the Town has imposed a barrier that cannot be overcome except by a token number of black households. According to the 1989 American Housing Survey (AHS), only 1,100 black households in the Dallas Metropolitan area paid $150,000 or more for their owner-occupied homes. Yet, thirty-eight [*sic*] times as many whites, or 38,500 white households, paid within the same price range for their homes. While 1,900 black households live in homes valued at $150,000 or more, forty times as many white households, or 82,300 households, live in homes similarly valued.[36]

The discriminatory effect was significant. As the Court noted, one census tract comprised all of Sunnyvale and a significant portion of the neighboring towns of Mesquite and Garland:

> The occupied units for the portion of the tract in Sunnyvale are 0.96 percent black and 0.55 percent Hispanic. The occupied units for the portion of tract 181.04 in Mesquite are 8.26 percent black and 12.5 percent Hispanic. A comparison with the population in the Garland census tract (181.15) that is next to Sunnyvale shows the same pattern. The total population for that tract is 7.45 percent black and 6.64 percent Hispanic. In census tract 181.15, the block groups that are adjacent to Sunnyvale are 4.41 percent, 9.46 percent, and 11.32 percent black.[37]

Sunnyvale might be an outlier: its practices were (and, plaintiffs are arguing, still are) particularly egregious. But regulatory barriers to housing have increased over the last four decades, as noted above, and as was documented in a 2016 White House report.[38] If a plaintiff can show that a city's policies will burden a protected group's ability to purchase or rent housing to a significantly greater extent than they do for whites, and that such a burden will have an actual effect on whether different groups will be able to live in that city, then the city must show that its policies are sufficiently important that they must be maintained and that no other policy will suffice. We believe that in many cases, municipalities will be unable to do so, particularly

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if a metropolitan area is in the midst of active efforts to overcome historic patterns of segregation.

All this said, we should not overestimate disparate impact litigation's potential efficacy, for practical reasons. In the *Mount Laurel I* case, Justice Hall noted that "courts do not build housing, nor do municipalities."[39] For the same reasons that *Mount Laurel* generated years of trench warfare, disparate impact litigation could do the same: Sunnyvale grudgingly agreed to allow some low-income units in a settlement, but never liberalized its zoning code, and as of this writing, the town is still mired in a fair housing lawsuit.[40] Disparate impact might also be useful in an individual developer's legal arsenal to avoid restrictive zoning.[41] Both agencies and civil rights groups could use the more objective and precise techniques we have described to identify particularly exclusionary barriers within a metropolitan area, and use the carrot of a clear metropolitan plan (Chapter 22) and the stick of disparate impact litigation, to pressure individual suburbs to cooperate. Residents hostile to apartment buildings and smaller lots might not be persuaded by theoretical appeals to racial justice; but the prospect of taxpayers having to finance ongoing litigation might be more effective. Perhaps most importantly over the long run, the Department of Justice could become more involved in bringing disparate impact suits in the same way that it effectively broke down discrimination in the 1970s. As of this writing, such a prospect is unrealistic, but it could emerge again as political conditions change.

We hardly intend for the twelve above initiatives to exhaust the possibilities. But given the right implementation structure, we think they provide enough to do the job, and provide a substantive collection of tools for reducing segregation. We turn now to the crucial question of how they could be deployed successfully and in concert.

17. Jessica Monique Barron, "Living Life in the Middle?" (PhD diss., Texas A&M, 2013), tries to link findings about black/white multiracial integration to alternative theories of segregation. See also Mark Ellis et al., "Agents of Change: Mixed-Race Households and the Dynamics of Neighborhood Segregation in the United States," 102 *Annals of the Association of American Geographers* 549 (2011).
18. Ryan Gabriel, "A Middle Ground? Residential Mobility and Attainment of Mixed-Race Couples," 53 *Demography* 165 (2016). Gabriel used PSID data to track actual moves of multiracial couples, compared to similar monoracial couples.
19. See Sheryll Cashin, *Loving: Interracial Intimacy in America and the Threat to White Supremacy* (Boston: Beacon Press, 2017), chapters 6–8.
20. This argument is developed in Nicholas O. Stephanopoulos, "Civil Rights in a Desegregating America," 83 *University of Chicago Law Review* 1329 (2016), 1379–93.
21. Elizabeth Cascio et al., "From Brown to Busing," 64 *Journal of Urban Economics* 296 (2008).
22. 413 U.S. 189 (1973).
23. Sarah Reber, "Court-Ordered Desegregation: Successes and Failures Integrating American Schools since Brown versus Board of Education," 40 *Journal of Human Resources* 359 (2005).
24. See Gary Orfield, "Metropolitan School Desegregation: Impacts on Metropolitan Society," 80 *Minnesota Law Review* 825 (1995).
25. Note that the tenth-grade dissimilarity levels are consistently lower than those in the fifth grade. We suspect there are two reasons for this: (1) there are fewer high schools than elementary schools, so the unit of analysis is bigger, and this normally lowers measured segregation levels; (2) integration strategies like magnets are more likely to come into play in high school than in elementary school.

21: A Portfolio of Integration Strategies

1. The best introduction to the BHMP can be found in Lora Engdahl, *New Homes, New Neighborhoods, New Schools: A Progress Report on the Baltimore Housing Mobility Program* (Washington, D.C.: Poverty and Race Research Action Council, 2009), http://quadel.com/wp-content/uploads/2015/01/newhomes.pdf.
2. Several lawsuits were eventually consolidated into *Thompson v. HUD*, 348 F. Supp.2d 398 (D. Md. 2005). See also Poverty and Race Research Action Council, "An Analysis of the Thompson v. HUD Decision," http://www.prrac.org/pdf/ThompsonAnalysis.pdf.
3. It was well placed to do this, since such agencies regularly issued mortgage-revenue bonds to finance local public housing initiatives. Holders of the bonds

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were not taxed on the interest, which made the interest rate owed by the agency lower, and thus provided the subsidy for mortgage loans it extended.

4. Much of our discussion is from Howard Husock, " 'Integration Incentives' in Suburban Cleveland," a Kennedy School case program study (C16–89–877.0) (Cambridge, MA: Kennedy School of Government, Harvard University, 1989).
5. Celebrezze's opinion reached this conclusion by applying highly deferential "rational-basis" review, which surely would not be the case now. Shortly after Celebrezze's opinion appeared, the Supreme Court held that minority set-asides for state and local government contracts are subject to "strict scrutiny," which requires the government to demonstrate that any program is necessary to achieve a compelling governmental interest. See *City of Richmond v. J.A. Croson,* 488 U.S. 469 (1989).
6. 539 U.S. 306 (2003).
7. *Grutter*, 539 U.S. at 343.
8. See, e.g., *Local 28 of Sheet Metal Workers' Int'l. Assn. v. EEOC,* 478 U.S. 421, 480 (1986).
9. We do not deny the existence of such generalized racism; rather, we only point out that such generalized racism has usually been held to be insufficient to allow a policy to be considered "remedial."
10. Adam Winkler found that nearly half of race-conscious law enforcement hiring decisions have been upheld under strict scrutiny. Mobility grants are far less intrusive: they provide benefits to all races, and do not directly injure the non-favored race, as do hiring decisions. *See* Adam Winkler, "Fatal in Theory and Strict in Fact: An Empirical Analysis of Strict Scrutiny in the Federal Courts," 59 *Vand. L. Rev.* 793 (2006), 833–43.
11. Maria Krysan and Kyle Crowder, "What Would It Take to Promote Residential Choices that Result in Greater Integration and More Equitable Neighborhood Outcomes?" Paper prepared for the Harvard Joint Center for Housing Studies conference, "A Shared Future: Fostering Communities of Inclusion in an Era of Inequality" April 19–20, 2017.
12. Ibid.
13. Stephanie DeLuca and Peter Rosenblatt, "Walking Away from *The Wire*: Housing Mobility and Neighborhood Opportunity in Baltimore," 27 *Housing Policy Debate* 519 (2017).
14. See most famously Richard H. Thaler and Cass R. Sunstein, *Nudge: Improving Decisions About Health, Wealth, and Happiness* (New Haven, CT: Yale University Press, 2008). Mobility counseling is not a "nudge" in Thaler's and Sunstein's sense because it does not alter choice architecture. We mention it, however, because the book and related research demonstrate how small changes in context can generate large changes of preferences, which are often quite malleable. In 2015, the Obama administration established the Social and Behavioral Sciences Team (SBST) as a subcommittee of the National Science and Technology Council. The main function of the SBST was to use key

insights from behavioral economics and other social sciences to make government programs easier to access, understand, and use. The SBST facilitated the implementation of thirty pilot programs with rigorous evaluations ranging from sending young adults in public housing reminders to complete the FAFSA to encouraging military personnel to sign up for savings plans. We envision that some of the initiatives described in this chapter could be implemented using the SBST model where a committee of social scientists and policymakers works with relevant departments, such as HUD or the DOJ, to implement metropolitan-specific pilot programs of integration. In particular, our mobility grants and counseling programs are very well suited for an approach where a pilot program is rigorously tested across several metropolitan areas with different demographic and structural characteristics. See Social and Behavioral Sciences Team (SBST), "About SBST," https://sbst.gov/.

15. See, for example, Center for Community Change, "Housing Trust Fund Progress Report 2007," http://housingtrustfundproject.org/wp-content/uploads/2011/10/2007-Housing-Trust-Fund-Progress-Report-2.pdf; Charles E. Connerly, "A Survey and Assessment of Housing Trust Funds in the United States," 59 *Journal of the American Planning Association* 306 (1993); Alex F. Schwartz, *Housing Policy in the United States,* 3rd ed. (Abington, UK: Routledge, 2014), 277–82.
16. See Freeman, *There Goes the 'Hood* (2006), chapter 6.
17. The philanthropists who bought South Shore Bank used $700,000 to leverage financing for the bank's $3 million purchase price in 1973; over the next ten years, the bank extended some $200 million in credit. See, e.g., Dave Carpenter, "'Bank with a Heart' Thrives," *Associated Press,* June 12, 2007. In 2010, the bank collapsed due to the financial crisis, but as *The Economist* noted, community development banks generally did comparatively well during the crisis. In sum, it concluded, "ShoreBank may have failed, but the movement it once led is stronger than ever." See "Small Enough to Fail," *The Economist,* August 26, 2010.
18. In August 2017, HUD suspended the mandatory implementation of Small Area Fair Market Rents (SAFMRs) for twenty-three out of the twenty-four metropolitan areas which needed to comply with the rule (Dallas still needs to comply as a result of a legal settlement; other PHAs can still opt in voluntarily). HUD justified its decision based on objections from PHA industry groups and the need to fully inform local PHAs of the results of an interim report on the effectiveness of SAFMRs in seven demonstration areas. As of this writing (December 2017), a federal judge has blocked the delay of the implementation of the rule; http://thehilll.com/homenews/administration/366340-federal-judge-blocks-delay-of-rule-to-help-low-income-people-obtain). Local housing authorities use Fair Market Rents (FMRs) published by HUD to set the maximum amount which a voucher would cover in rent. HUD sets the FMR for a two-bedroom apartment at

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40 percent of the median rent for recent movers within metropolitan areas and nonmetropolitan parts of each state and makes additional adjustments for household size and apartment size. FMRs apply to entire metropolitan areas (or nonmetropolitan counties) regardless of rent price differentials within metropolitan areas. This means that some neighborhoods may not have any available units that could be rented with a voucher if the price of rental housing units there is above the FMR standard. The intent of the SAFMR rule is to change how the maximum allowable rent for a voucher apartment is to be calculated. By setting the FMR at the ZIP-code level as opposed to the metropolitan level, HUD would allow voucher holders to move to more expensive apartments in better neighborhoods since the maximum rent that the voucher would cover is tied to the ZIP-code of the apartment rather than the metropolitan area of the apartment. This change means that HUD would cover less in rent in less expensive ZIP codes potentially decreasing the number of apartments that qualify for a subsidy in these neighborhoods. This reduction is offset by raising the maximum rent that HUD would cover in more expensive ZIP codes. Opponents of the rule have argued that implementing ZIP-code specific rent rules might discourage landlords in cheaper neighborhoods from accepting a voucher, since FMRs in those ZIP-codes would decrease the maximum rent that a voucher would cover. As the interim evaluation of the demonstration SAFMR program showed, implementing SAFMRs in seven metropolitan areas resulted in a decrease of about 3.4 percent of units that could be rented with a voucher. This loss of units, however, masks important differences by metropolitan areas leading to markedly different experiences with the SAFMR program. Opponents of the rule have also claimed that implementing the SAFMR rule would increase costs to the voucher program since local authorities would need to cover higher rents in more expensive neighborhoods. Supporters of the rule have pointed to evidence showing that SAFMRs would produce little change in overall costs to the voucher program and would allow voucher holders to live in better neighborhoods with lower levels of poverty and crime. Robert Collinson and Peter Ganong, "How Do Changes in Housing Voucher Design Affect Rent and Neighborhood Quality?" 10 *American Economic Journal*: *Economic Policy* 49 (2017).

19. Measuring discrimination is both more and less accurate in full-application testing. On the one hand, the use of "real" people and genuine histories means that no two testers will exactly match. But this is more than offset by the ability to observe the ultimate decisions of the tested subjects about who to accept and who to reject, and why. (Margery Turner and others at the Urban Institute have explored these issues; a pilot study in Los Angeles in 1998 showed the promise of full-application testing detecting rental discrimination.)
20. It is difficult for housing searchers to know when they are encountering discrimination. A very large proportion of fair housing complaints yield, upon

investigation, no actual signs of differential treatment. Moreover, there are systematic patterns of discrimination that are underreported. A study of Los Angeles in the 1990s estimated that Hispanics were about 1/20 as likely as African-Americans to report discrimination when they encountered it. Richard H. Sander, *Fair Housing in Los Angeles County, 1970–1995* (1996), chapter 2.

21. For one example, see John Eligon, "A Year After Ferguson, Housing Segregation Defies Tools to Erase It," *New York Times,* August 8, 2015, http://www.nytimes.com/2015/08/09/us/a-year-after-ferguson-housing-segregation-defies-tools-to-erase-it.html.
22. Lance Freeman and Yunjing Li, "Do Source of Income Anti-Discrimination Laws Facilitate Access to Less Disadvantaged Neighborhoods?" 29 *Housing Studies* 88 (2014).
23. Lance Freeman, "The Impact of Source of Income Laws on Voucher Utilization," 22 *Housing Policy Debate* 297 (2012).
24. Rolf Pendall, "Local Land Use Regulation and the Chain of Exclusion," 66 *Journal of the American Planning Association* 125 (2000). Pendall used a survey of planning directors to measure degrees of exclusivity, which was the best that could be done under the circumstances of the time. What is required is comprehensive data of density, height restrictions, use restrictions, and other limitations on building. Some data sets have produced this but not at the level of granularity that would be required for the most conclusive results.
25. See Matthew Resseger, "The Impact of Land Use Regulation on Racial Segregation: Evidence from Massachusetts Zoning Borders," November 26, 2013, http://scholar.harvard.edu/files/resseger/files/resseger_jmp_11_25.pdf?m=1385500647.
26. See, e.g., Sean Reardon and Kendra Bischoff, *The Continuing Increase in Income Segregation, 2007–2012* (2016), http://inequality.stanford.edu/sites/default/files/increase-income-segregation.pdf.
27. Edward Glaeser, *Triumph of the City: How Our Greatest Invention Makes Us Richer, Smarter, Greener, Healthier, and Happier* (New York: Penguin Press, 2011). Attacking over-regulation in land use is one of the rare places where progressives and conservatives agree. See, for example, Paul Krugman, "Inequality and the City," *New York Times,* November 30, 2015, available at https://www.nytimes.com/2015/11/30/opinion/inequality-and-the-city.html?_r=0.
28. Cal. Govt. Code Sections 65580–65589.8 and 65751–65761.
29. See Paul G. Lewis, *California's Housing Element Law; The Issue of Local Noncompliance* (San Francisco: Public Policy Institute of California, 2003). Lewis found no relevant or statistically significant difference between those jurisdictions with complying housing elements and those without.
30. A good example of this reluctance can be found in *Fonseca v. City of Gilroy,* 56 Cal.Rptr.3d 374 (Cal. App. 2007).
31. Margaret Brinig and Nicole Garnett, "A Room of One's Own? Accessory Dwelling Unit Reforms and Local Parochialism," 45 *Urban Lawyer* 519 (2013).

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32. *Village of Arlington Heights v. Metropolitan Housing Development Corp.,* 429 U.S. 252 (1977).
33. 576 U.S.—(2015); 135 S. Ct. 2507 (2015).
34. See, for example, *Huntington Branch NAACP v. Town of Huntington,* 844 F.2d 926 (2nd Cir. 1988); *Metropolitan Housing Dev. Corp. v. Village of Arlington Heights,* 558 F.2d 1283, 1287–90 (7th Cir.1977); *Resident Advisory Board v. Rizzo,* 564 F.2d 126, 146–48 (3d Cir.1977); *United States v. City of Black Jack,* 508 F.2d 1179, 1184–85 (8th Cir.1974).
35. *Dews v. Town of Sunnyvale*, 109 F.Supp.2d 526 (N.D. Tex. 2000).
36. 109 F.Supp.2d at 566.
37. 109 F.Supp.2d at 567–68.
38. See Housing Development Toolkit: September 2016, 3–4, https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Housing_Development_Toolkit%20f.2.pdf (last visited July 20, 2017).
39. *South Burlington County NAACP v. Township of Mount Laurel,* 336 A.2d 713, 67 N.J. 151, 192 (1974).
40. See, for example, Thomas Korosec, "Sunnyvale: The Whitest Town in North Texas," *D Magazine,* March 2012, https://www.dmagazine.com/publications/d-magazine/2012/march/sunnyvale-the-whitest-town-in-north-texas/; Gayle Reaves, "The Fight for Fair Housing," *Texas Observer,* August 4, 2015, https://www.texasobserver.org/texas-lawsuits-affordable-fair-housing-inclusive-communities/; Ray Leszcynski, "Sunnyvale Hit with New Suit over Low Income Apartments," *Dallas Morning News,* January 22, 2012, https://www.dallasnews.com/news/news/2012/01/22/sunnyvale-hit-with-new-suit-over-low-income-apartments.
41. A prominent recent example can be found in *Avenue 6E Investments LLC v. City of Yuma,* 818 F.3d 403 (9th Cir. 2016).

22: Race to the Top

Epigraph: From the Public Papers and Addresses of Franklin D. Roosevelt, The American Presidency Project, at http://www.presidency.ucsb.edu/ws/?pid=88410.

1. The Obama White House's description of the Race to the Top program, with the puffery that can be expected of high-profile political initiatives, can be found at https://obamawhitehouse.archives.gov/issues/education/k-12/race-to-the-top.
2. Another program from the Obama administration that is similar in spirit to what we propose in this Chapter is Promise Neighborhoods. Promise Neighborhoods is an initiative under the Department of Education, modeled after the Harlem Children's Zone. Its main goals were to improve schools and early childhood support in severely distressed neighborhoods. The Promise Neighborhoods initiative provided funds to local organizations in