



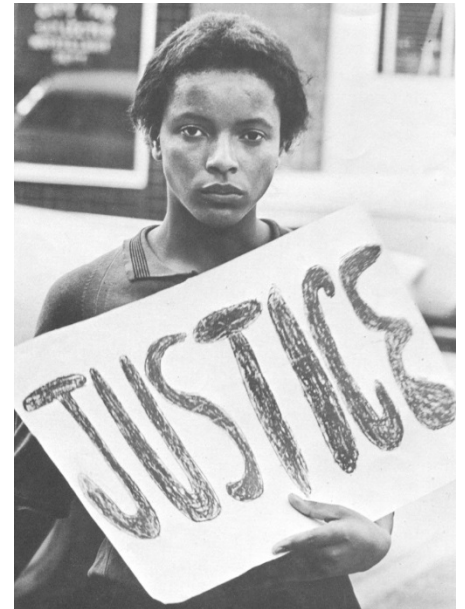
# ***Fair Housing and Gentrification***

***Disparate Impact  
and Case Studies***

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# History

- 1968 Title VIII of Civil Rights Act
- 1968 Winston-Salem Fair Housing Ordinance
- 1975 Human Relations Commission
- 1978 Human Relations Department



# Fair Housing Law

## ● 7 Protected Classes

- Race
- Color
- Religion
- Sex
- National Origin
- Familial Status
- Disability



# Protection Includes

- Sale
- Rental
- Leasing
- Advertisements
- Brokerage Services
- Availability



# Types of Discrimination

- Refusal to rent, sell or negotiate housing
- Setting different terms, conditions or privileges
- Providing different housing services or facilities
- Block – Busting
- Falsely denying that housing is available for inspection, sale or rental
- Denying access or membership to a facility or service

# Gentrification Defined

- 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.
  - *HUD-Office of Policy Development and Research*

# Disparate Impact Theory

- Under this standard, a neutral policy that has a discriminatory effect violates fair housing law if it is not supported by a legally sufficient justification.

# Disparate Impact Theory Analysis

- Does the policy have a discriminatory effect?
  - Statistics are often utilized
- Is the policy necessary to achieve substantial, legitimate, nondiscriminatory interest?
- Is there a less discriminatory alternative?



# Proving Discriminatory Effect

- Burden of proof is on the individual (or whoever files the complaint)
- Statistics/data may include applicant data, tenant files, census data, etc.
- HUD has indicated that the type of data needed to assess a policy is case-specific

# Proving Substantial, Legitimate and Nondiscriminatory Interest

- Burden of proof shifts to housing provider
- This should not be hypothetical, yet proves through reliable evidence that the policy intends to achieve their nondiscriminatory interests.
- Justifications based on generalizations or stereotypes are red flags

# Less Discriminatory Alternative

- Burden of proof shifts back to the individual challenging the policy to prove that the housing providers interest could be served by another practice that has a less discriminatory effect.
- HUD recommends nuanced policies that allow for individualized assessment if needed

# Court Cases: Analysis and Review

- - In 2008 nine Latino residents filed a Fair Housing complaint against the Village of Farmingdale, NY. The complainants were displaced when the building was sold to Fairfield Properties who turned it into an upscale property. The building was in the heart of what was called “Little Latin America” neighborhood.

## Court Cases: continued

- The case was settled for an undisclosed amount of money and the promise by the Village of Farmingdale to create 54 affordable housing units.
- In 2014 in Saint Paul Minnesota, a Fair Housing complaint was filed against the St. Paul Housing and Redevelopment Agency, Mayor Chris Coleman and six city employees

## Court Cases: continued

- Because of “illegal Code Enforcement” that was looking to evict tenants from one building the city deemed uninhabitable. The building was occupied by recent immigrants and African-Americans. The complainants claimed that the building only had cosmetic defects like peeling wood and paint. The city claims it had structural issues.

## Court cases: continued

- HUD rejected a plan by the city of San Francisco, CA, that attempted to put individuals displaced by gentrification in an affordable housing project built with Federal Funds from Section 202.
- The plan established five categories to obtain the Certificate of Preference.

## Court cases: continued

- HUD wanted the city to show that the preference would not have a disparate impact on members of a protected class.
- The City of San Francisco insisted that the plan was designed to protect residents of color that had been disproportionately impacted by rising market rent.



## Court cases: continued

- In the end, the building was built with federal funds but the city had to use methodology from the Urban Displacement Project and apply the preferences to 40 census tracts that had suffered the most displacement.
- In *Munoz-Mendoza v. Pierce*, seven people: 5 African-Americans, a Puerto Rican and a Chinese-American filed a complaint

# Court cases: continued

- Against a developer who wanted to build a 712-room luxury hotel, 960-room convention hotel, retail space, facilities, office space, parking and 100 to 150 units for housing 25% of which would be reserved for low income residents.
- The complainants said that the City of Boston did not do a housing impact study to show

## Court cases: continued

- That the residents of adjacent neighborhoods would not suffer rent increases, displacement and loss of integrated neighborhoods.
- On June 13, 1983 the 1<sup>st</sup> Circuit Court determined the plaintiffs could not show “an injury in fact” so the case was dismissed for lack of standing in a constitutional sense.

# Court cases: continued

- Laramore v. The Illinois Sports Facilities Authority
- The decision was rendered on September 8, 1989.
- The case was based on the decision of the City of Chicago to change the zoning on a predominantly African-American Section to build a stadium for the Chicago White Sox.

# Court Cases: continued

- The plaintiffs were residents from Wentworth Gardens, T.E. Brown Apartments and Bridgeport.
- There were 425 black residents displaced by the construction but the Illinois Sports Facilities Authority bought their houses at market value and gave relocation costs and cash settlements to renters.

## Court Cases: continued

- There were seven charges: the sixth invoked the Fair Housing Act. The plaintiffs did not allege one specific protected class but claimed that many business and employment opportunities in the area would disappear, that rent and property taxes would increase and that a wall built around the stadium would further segregate them.

# Court cases: continued

- The Northern District of Illinois dismissed all the charges except the one that the plaintiffs were not offered an Equal Protection under State Law.

# Conclusions:

- Court cases that invoke gentrification or some type of displacement typically will mention two protected categories: race, national origin or both.
- Generally, Disparate Impact will be the theory of discrimination used, although Disparate Treatment can also be invoked.



## Filing a Housing Discrimination Complaint

- Contact HRD to schedule appointment
- Bring all necessary documentation including lease agreement
- Sign 903 Form (written allegation)
- Respondent notified & interviewed
- Conciliation Attempted
- Cause or No Cause Determination
- Case turned over to City Attorney's Office

