Keep Austin…White? How Equitable Development Can Save Austin, Texas from its Racist Past and Homogenized Future

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Abstract

More than a century of racist federal, state, and local government policies created inequitable and racially segregated neighborhoods through a practice known as redlining. I-35 in Austin, Texas, represents one of the most iconic and stark segregationist splits in the country, with the Eastside being impoverished and mostly Black while the Westside’s mostly White population thrives. As a result, Austin is the only fastest-growing city in the nation losing people of color. While there have been some private and local efforts in Austin and across the country to increase investment in marginalized and divested communities, most of these approaches are limited because they cannot combat the systemic practices that lead to this issue in the first place. Without acknowledging the intentional and racist policies that created this issue and using the same intentionalism to reverse this, policies will fail to reach the communities in most need of affordable housing and eventually drive all people of color out of metropolitan cities. Thus, to properly redevelop cities such as Austin equitably, federal, state, and local governments should create affordable homes and rental units with an intentional focus on targeting marginalized communities and those displaced from the city. This Article seeks to explore tools that will allow cities to accomplish this, with a particular focus on a solution tailored to Austin, Texas, in light of redlining’s history on the federal and local levels and the more recent history of failed reforms attempting to address this issue.

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DOI: https://doi.org/10.37419/JPL.V9.I1.5

†Kaylie Hidalgo is a J.D. Candidate at Texas A&M School of Law with a graduation date of May 2023. She would like to thank Professor Neil Sobol for advising her on this paper and for his constant encouragement and guidance.
I. INTRODUCTION

Racial segregation in cities throughout our nation still exists to this day. While exclusionary zoning and discriminatory lending practices known as redlining created these racial divides, racism’s effects have not disappeared simply because these practices became outlawed over 50 years ago.¹ The denial of homeownership and investment into Black and Latino communities while White neighborhoods saw remarkable improvement in job opportunities, schools, and equity in their homes, has created a stark racial wealth gap.² As of 2021, 74% of White households owned their homes, while only 44% of Black households, 48.3% of Latino households, and 60.2% of other ethnicities owned their homes.³

The effects of discriminatory zoning and lending practices that first created segregation have now led to the trend of Blacks and Latinos moving out of their segments of cities and into surrounding suburbs due to rising housing prices and property taxes that they are unable to afford.⁴ This trend is especially rampant in Austin, the only fastest-growing city in the nation losing people of color.⁵ If this trend continues,

³. U.S. Census Bureau, CB22-10, Quarterly Residential Vacancies and Homeownership, Third Quarter 2021 (2022).
⁵. Univ. of Texas at Austin, UT Austin Policy Report Shows Austin’s the Only Fast-
Austin faces the risk of becoming a homogenized, White city with Blacks and Latinos segregated to surrounding suburbs but still forced to travel into Austin’s city limits for opportunities lacking in the suburbs, such as jobs and community events.6

This Article explores the history of redlining and other discriminatory practices that led to segregation and created the racial wealth disparities we see today. In particular, it focuses on how this occurred and the effects these policies and practices had in Austin, Texas. Part II discusses the origin and history of redlining on the federal level and then explores the history of discriminatory practices in Austin, Texas, specifically. Part III explains the effects these practices had on Austin, Texas, and people of color, focusing on Blacks’ and Latinos’ movement out of Austin due to unaffordability and other related factors. Part IV begins by identifying current reforms that Austin, other cities, and private groups are using to address housing affordability issues and racial disparities that are ineffective or insufficient for closing the racial wealth gap and providing access to affordable housing opportunities. Part IV concludes by recommending that the federal government and cities like Austin undertake equitable development, discussing what that means, its emphasis on involving the community in decisions that will directly impact them, what potential tools exist to accomplish these ends, and finally emphasizing the strategies Austin should employ in different areas of the city.

II. HISTORY OF REDLINING

A. Federal Policies Drive Redlining

Redlining is the practice of systematically denying loans or up charging for goods and services in specific neighborhoods, typically to minorities and low-income people.7 In 1934, the federal government launched a program under the New Deal to revitalize and restore communities

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following the Great Depression.\textsuperscript{8} The Housing Act of 1934 established the Home Owners Loan Corporation ("HOLC") under the governance of the Federal Housing Authority ("FHA"),\textsuperscript{9} requiring mortgage lenders to give White neighborhoods priority while penalizing Black neighborhoods.\textsuperscript{10} This was accomplished by the HOLC’s race-rating system, used to (a) appraise homes, neighborhoods, and households; (b) determine property values and the investment worthiness of prospective homeowners and land developments; and (c) exclude Black-Americans from housing, government-subsidized and government-issued loans, and home equity opportunities.\textsuperscript{11} HOLC then color-coded neighborhoods within the United States placing them into one of four categories: “‘A’ (green); ‘B’ (blue); ‘C’ (yellow); and ‘D’ (red).”\textsuperscript{12}

“A”-rated neighborhoods were “homogenous” consisting of “American business and professional men” and would receive preferential treatment.\textsuperscript{13} Neighborhoods in category “D” received the lowest rating and were color-coded red, coining the term “redlined” due to the “invasion” or “infiltration” of people of color.\textsuperscript{14} HOLC’s ratings excluded Black-Americans from entry into “A” neighborhoods where private and public investments for White homebuyers were centered.\textsuperscript{15} As a result, Black homebuyers were denied public and private funding for homeownership.\textsuperscript{16} In addition to the HOLC’s direct, subsidized lending, the FHA provided financial incentives encouraging private and public lenders “to invest in residential mortgages” and suburban developments by insuring them against losses.\textsuperscript{17} Using the HOLC’s rating system, the FHA selected homeowners deserving of loan insurance and investment, awarding homeownership opportunities to White-Americans in homogenous White neighborhoods but refusing Black-Americans the chance of homeownership or loans to purchase and improve their rented properties.\textsuperscript{18}


\textsuperscript{9} Id.


\textsuperscript{11} Kim, supra note 8, at 140–41.

\textsuperscript{12} Id. at 141.

\textsuperscript{13} Id.

\textsuperscript{14} Id.

\textsuperscript{15} Id. at 143.

\textsuperscript{16} Id.

\textsuperscript{17} Id. at 145–46.

\textsuperscript{18} Id. at 145–47.
In the short term, this resulted in higher valuations for homes and discriminatory investment and development in White communities, while long term, these effects have grown exponentially.\textsuperscript{19} For instance, higher property values and concentrated investment over eighty years have contributed to increasing wealth gaps between White communities and communities of color which further affects investment in education and other community resources.\textsuperscript{20} From 1930 to 1960, less than 1\% of all mortgages issued in the U.S. were to Black-Americans.\textsuperscript{21} Throughout the 1950s and 1960s, only 2.3-2.5\% of FHA-insured mortgages went to non-Whites.\textsuperscript{22} Because minorities could not receive loans, they entered contract-for-deed arrangements, where the seller retains the title to the property, and the buyer does not receive the deed until all payments are made.\textsuperscript{23} A study conducted in 2019 on Chicago’s neighborhoods showed that Black families made up between 75\% to 95\% of contract-for-deed arrangements and lost upwards of $4 billion in wealth due to the significant price markup on the properties during the 1950s and 1960s.\textsuperscript{24}

"The Housing Act of 1949 created the U.S. Housing Agency and the nation’s first public housing program, which” furthered segregation by funding slum clearance, demolishing entire neighborhoods and replacing them with highways and new industrial zones.\textsuperscript{25} This displaced thousands of Black households and moved them into segregated and inferior locations and structures.\textsuperscript{26} While this was done in the name of “urban renewal” and ridding cities of blighted homes, relocated families’ new homes were either marginally better or even worse but “on average, around seventeen to twenty-five percent” more expensive to rent.\textsuperscript{27} The Federal Aid Highway Act, enacted in 1956, delegated to state and local governments control over new highway constructions, usually

\begin{itemize}
\item \textsuperscript{19} Id. at 143–44.
\item \textsuperscript{20} Id. at 144.
\item \textsuperscript{21} Id. at 149.
\item \textsuperscript{22} Id.
\item \textsuperscript{25} Tyson, supra note 10, at 891.
\item \textsuperscript{26} Jon C. Dubin, From Junkyards to Gentrification: Explicating a Right to Protective Zoning in Low-Income Communities of Color, 77 Minn. L. Rev. 739, 754 (1993).
\item \textsuperscript{27} Peter Marris, A Report on Urban Renewal in the United States, 1 Urb. Condition 113, 120 (1963).
\end{itemize}
built in Black neighborhoods. 28 Highway construction either served to continue urban renewal and destruction of Black communities or “became a racial barrier between White and Black neighborhoods, further entrenching racial segregation and walling off economic opportunity.” 29

Title VIII of the 1968 Civil Rights Act, also known as the Fair Housing Act of 1968, prohibited discrimination based on “race, color, religion, sex or national origin” for “residential real-estate related transactions” and brokerage services. 30 As a condition of receiving Housing and Urban Development (“HUD”)-administered funds, participants had to take steps to reverse segregation and detail the past discriminatory housing practices that were now prohibited. 31 While this Act created a cause of action for individuals on the receiving end of housing discrimination, overall, the Act lacked teeth and enforcement mechanisms. 32 It exempted dwellings from the statute that had less “than five rental units [when] its owner lived in one,” there were no civil penalties for violating the law, and HUD had no “cease and desist powers to temporarily hold a housing unit off the market” until they could complete an investigation. 33 Throughout the first twenty years of the act’s implementation, HUD and the Department of Justice had no resources to seek relief on behalf of individuals alleging housing discrimination. 34

The Title VIII law passed following riots that had persisted for the past few years in Black and Latino neighborhoods in several cities across the nation, such as Detroit, Chicago, and Los Angeles. 35 In 1967, President Lyndon B. Johnson appointed the Kerner Commission to identify the underlying reasoning for the riots in Detroit and Newark that killed almost seventy people. 36 The “Kerner Report,” released in March 1968, concluded that the riots were due to poor neighborhood conditions and scarce housing options for Black-Americans because of racial

28. Tyson, supra note 10, at 891.
30. Rice, supra note 1, at 584.
32. Id.
33. Id.
34. Id.
36. Id.
discrimination in the housing system. It recommended achieving immediate relief through "large-scale, targeted government investment in housing, education, and employment programs." However, President Johnson ignored the report and its recommendations due to his concerns that recognizing the report and the blame placed on White society for the riots would reflect badly on his Great Society programs and hurt his overall chances at re-election. Thus, allowing for the Title VIII law to pass despite the fact that it hardly took any steps to remedy the problems identified in the Kerner Report.

In 1972, a study by the National Commission on Consumer Finance revealed that private lenders were still denying credit and loans to consumers "such as racial minorities and women" through discriminatory practices. This prompted the legislature to pass the Equal Credit Opportunity Act of 1974 ("ECOA") in response. Three years later, another congressional hearing revealed that federally insured financial institutions were doing the same and amended the ECOA to strengthen compliance provisions of the act. Congress also passed the Community Reinvestment Act of 1977 ("CRA") to combat anti-consumer and discriminatory practices by requiring "federal banking regulators to encourage financial institutions to help meet the credit needs of the communities ... in low and moderate-income neighborhoods." While these acts helped outlaw outright denial of mortgages based on race,
they have not combatted the more covert forms of predatory practices such as subprime lending and less favorable loan terms. Finally, the Fair Housing Act was amended in 1988 and committed the federal government to enforce non-discrimination in housing and lending practices. The amendment added new protected classes, created new administrative compliance processes and civil penalties for violations, and gave state and local human rights commissions the ability to perform conciliations.

Unsurprisingly, these acts have done little to combat the effects of nearly sixty years of housing discrimination. In the decades to come, discriminatory lending practices shifted from outright denial of loans to certain neighborhoods or minorities to what is called “reverse redlining.” Reverse redlining is the practice of discrimination by charging non-Whites more in fees and interest rates than White borrowers based on credit referred to as “subprime loans” and issued to those who do not qualify for prime-rate loans. Minorities had much lower credit scores than Whites because of the decades of discrimination that prevented them from building any wealth through homeownership. The practice of subprime lending ran rampant throughout the 1990s and 2000s until the recession hit, resulting in many losing their homes, with Black and Latino borrowers being 76% and 71% more likely, respectively, to be foreclosed on than White borrowers. With minorities making little gains in wealth and holding low credit scores because of subprime lending, contract-for-deed arrangements are coming back in full swing, trapping yet another generation of minorities into predatory housing schemes.

Today, the average neighborhood containing Black residents is only 35% White, which is worse than in 1940, when Black residents lived in neighborhoods where Whites comprised 40% of the total neighborhood

47. Kim, supra note 8, at 156.
49. Rice, supra note 1, at 585; Kim, supra note 8, at 156.
51. Id.
52. Semuels, supra note 23.
54. Id.
population.$^{55}$ Nationwide, two-thirds of Blacks “born between 1985 and 2000 live in neighborhoods that are at least as impoverished as where their parents lived.”$^{56}$

B. History of Discriminatory Zoning, Displacement, and Lending Practices in Austin, Texas

Austin’s history of discrimination has evolved in the same way racism has generally transformed, from overt and explicit exclusion to covert practices that disfavored Blacks and Latinos.$^{57}$ This Section explores the evolution of Austin’s racist history, first accomplishing its targeted goals through exclusionary zoning, racially restrictive covenants, the Austin Plan of 1928, and eventually transitioning into more covert discrimination, such as redlining, urban renewal, and subprime lending.$^{58}$ This Section concludes by examining how Austin continues these more covert forms of discrimination by focusing its development efforts in predominantly Black and Latino neighborhoods, driving the cost of living up, but now in the name of environmental sustainability and creating a “smart” city.$^{59}$

In the late 1800s and early 1900s, Black and Hispanic residents of Austin lived in pockets throughout the entire city.$^{60}$ However, the free movement and residence of minorities in Austin, known as a safe haven for freed slaves, did not last long.$^{61}$ In 1891, Austin’s first planned suburb was constructed and ensured homebuyers that it would be “select and entirely free from nuisances and an objectionable class of people, 


59. See Eliot Tretter & Elizabeth J. Mueller, Transforming Rainey Street: The Decoupling of Equity from Environment in Austin’s Smart Growth Agenda, in THE ROUTLEDGE HANDBOOK ON SPACES OF URB. POL. 167, 167 (Kevin Ward et al. eds., 2018).


61. Id.
proper restrictions being taken to guard against undesirable occupants.” Although usually smaller in scale, neighborhoods like these began popping up throughout Austin. Austin enacted comprehensive zoning ordinances to enforce the prohibition of minorities in these neighborhoods.

Until the 1970s, Austin conducted most of its planning at the city level through its city council. The city council represented the business and real estate priorities of Austin’s elite class, interested in “economic development through land use and zoning.” However, in 1917, the Supreme Court ruled in Buchanan v. Warley that segregationist zoning laws violated the Fourteenth Amendment’s protection of the right to acquire and enjoy property and denied equal protection of the law. Cities thus had to get a little creative to achieve segregation, so engineering firm Koch and Fowler hatched the plan to relocate segregated facilities, cut off minorities’ access to facilities in all other parts of the city, and the minorities would follow suit. The Austin Plan of 1928 was this group’s first attempt to develop the city in a way that would serve their desire to segregate the city. The Austin Plan of 1928 states:

In our studies in Austin we have found that the negroes are present in small numbers, in practically all sections of the city, excepting the area just east of East Avenue and south of the City Cemetery. This area seems to be all negro population. It is our recommendation that the nearest approach to the solution of the race segregation problem will be the recommendation of this district as a negro district; and that all facilities and conveniences be provided the negroes in this district, as an incentive to draw the negro population to this area. This will eliminate the necessity of duplication of white and black schools, white and black parks, and other duplicate facilities for this area.

The plan acknowledged that moving all Black citizens to the same area would save money by ridding themselves of the need to build multiple schools in the same district to ensure schools remained

62. Tretter, supra note 58, at 1–2.
63. Id. at 2.
64. Id. at 12.
65. Busch, supra note 58, at 90.
66. Id.
69. Busch, supra note 58, at 90.
segregated.\textsuperscript{71} It also served the needs of the elite class by making the homes once occupied by Black citizens available to White landowners and developers for pennies on the dollar.\textsuperscript{72} By 1932, almost all Black people had transferred to Austin’s Eastside.\textsuperscript{73}

The HOLC furthered this initiative by redlining the Eastside, containing mostly Black residents, and the Southside, containing mostly Latinos and Mexican-Americans.\textsuperscript{74}

This, along with the FHA, ensured that White residents received loans with favorable interest rates in the suburbs on the Westside and allowed the HOLC’s rating system to redline the entire Eastside more effectively.

\begin{figure}[ht]
\centering
\includegraphics[width=\textwidth]{austin_redlining_map.png}
\caption{Austin Redlining Map, 1934.\textsuperscript{75}}
\end{figure}

\textsuperscript{71} Tretter, \textit{supra} note 58, at 18–19.
\textsuperscript{73} Id.
\textsuperscript{74} Busch, \textit{supra} note 58, at 90.
\textsuperscript{75} Miller Blue Print Co. (map), \textit{in Austin and Travis County Neighborhood-level Equity Model}, \textsc{Root Pol’y Resch}, 5 (2019), http://www.austintexas.gov/sites/default/files/files/Housing/DRAFT_Central_TX_A1_March_2019_Section_Two_A.pdf [https://perma.cc/YC6P-R4S5].
barring all minorities from any chance of acquiring a loan to buy a home.76

While White developers capitalized on these newly created opportunities, minority residents, especially Blacks, suffered greatly.77 "Racially restrictive covenants" maintained the barricade between Blacks and Latinos in the east and the Whites in west Austin's neighborhoods which majorly contrasted with the Eastside's quality of life.78 The Eastside had fewer career and educational opportunities and contained dangerous conditions due to the dilapidated infrastructure and city carelessness.79 "‘Dilapidated’ was the worst classification of housing according to the city,” meaning that the structure was uninhabitable and should be demolished.80 The Mexican-American area housing was over 56% dilapidated, the Latino and Black neighborhoods 41% to 55% dilapidated, while neighborhoods in South or West Austin had no more than 25% dilapidated housing, a majority of them being under 10%.81

The Industrial Development Plan of 1957 brought polluting industries, such as the Tank Farm and Holly Street Power Plant, to the Eastside, resulting in environmental harm, hazardous living conditions, and lower property values for the area.82 Just a year later, on August 21, 1958, the city council announced that they were expanding I-35, seizing more land in east Austin from Black and Hispanic households.83 These inequities became literally cemented into place in 1962 when I-35 construction was completed, becoming one of the clearest dividing lines of segregation in the nation.84

The next large-scale plan for Austin ensued in 1961, recommending demolishing large parts of Eastside Austin to accommodate an industrial park that would attract business and further displace thousands of

76. Id. at 4–6.
78. Id. at 982.
79. Id.
80. Id. at 983.
81. Id.
84. Racial Equity Anti-Displacement Tool, supra note 82, at 42.
minorities. The Housing Plan of 1949 provided federal funding to cities like Austin to purchase all of the lots within impoverished areas and reconstruct them under the auspice of “urban renewal.” A referendum in Austin allowed citizens to vote on whether they approved this endeavor. The Austin Urban Renewal Agency (“AURA”) advertised this to White citizens as a method for cleansing the city and removing blighted districts, and considering few minorities could vote in this referendum, it passed. AURA only had to “declare fifty percent of the structures” in an area “dilapidated beyond reasonable rehabilitation” to condemn the entire area. Five major urban renewal projects ensued, all affecting sections of the Eastside, with two exclusively targeting the Eastside’s center. By mid-1966, almost 1,000 acres were condemned and scheduled to be cleared or rehabilitated in east Austin, with 250 acres at minimum being in an area occupied almost entirely by Black residents.

The Texas Urban Renewal Law forbade using urban renewal areas for public housing, which was still segregated by technicality due to their locations in Austin, exacerbating the issue of displacing thousands more minorities. In 1964, an AURA newsletter illustrated the extent of the issue, writing that only one Black-designated public housing unit was available for every thirty Black residents and that the city’s plans to build thirty-two more would not come close to meeting that need. Urban renewal expanded to new depths in 1965 when the state legislature granted the University of Texas Board of Regents the power of eminent domain, allowing the university to displace more residents to make room for the expansion of its football stadium.

In the 1970s, Austin attempted to engage the community in determining how Austin would be developed by starting Austin Tomorrow, a “participatory planning initiative” led by Austin’s Department of

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85. Busch, supra note 58, at 90.
87. Id.
88. Id.
90. Id.
91. Id.
92. Id.
93. Id. at 987.
94. Id. at 984.
95. Taylor, supra note 86.
Planning throughout the decade. Austin’s planning commission stressed the importance of the neighborhood and developmental constraints with environmental concerns in mind but, unfortunately, only focused on certain neighborhoods. Racial divides in the city were not considered, and participation came from citizens with more time to contribute who focused primarily on ecological matters. Throughout Austin Tomorrow, minority participants voiced their concerns with the way participatory planning favored the wants and needs of White citizens while their neighborhoods' “services, schools, parks, and infrastructure remained inferior,” but the commission did not consider the racism built into Austin’s structure.

The Rainey Street Historic District (“Rainey”) was transformed from a low-income, majority Hispanic neighborhood into a popular nightlife area through rezoning efforts. Beginning in the 1960s, development plans for Rainey focused on improving the area’s environmental quality, usually through the creation or upgrading of environmental amenities. A 1967 report concluded that recent high-rise developments had contributed to a change in land use that showed promise for the area but was impeded by the interior areas’ “lack of access, unpaved streets, small parcels, and existing structural blight …” The report recommended that the blighted structures be removed, which led to the removal of 110 out of 166 families living there and thirty-three individuals, 40% of the families having an annual income of $3,000 or less. The intensive housing development that followed in the late 1970s began to promote neighborhood revitalization and combat suburban sprawl.

In 1985, residents had Rainey declared a historic district under the U.S. National Register of Historic Places. The East Austin Chicano Economic Development Corporation (“EACEDC”) was responsible for the city council committing to the Barrio Plan. The plan called for the city to purchase a small plot of land for the EACEDC in Rainey so that it could build houses “available for purchase by low and moderate-income...

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96. Busch, supra note 58, at 88.
97. Id.
98. Id.
99. Id.
100. Brendan Lavy et al., Media Portrayal of Gentrification and Redevelopment on Rainey Street in Austin, Texas (USA), 2000-2014, 7 City Culture & Soc’y 197, 199 (2016).
102. Id. at 170–71.
103. Id. at 171.
104. Id. at 168.
105. Lavy et al., supra note 100, at 199.
people such as current tenants in the Rainey neighborhood.”107 Despite the historic status and commitment to the Barrio Plan, no action resulted,108 and no protection was afforded to Rainey’s structures, allowing developers to “relocate or demolish buildings with approval from local authorities.”109 The area had a couple of decades of rest until the 2005 Rainey Street Master Plan, which focused on developing high-density commercial and residential buildings to meet the city’s sustainability agenda by promoting compact urbanization.110 It also allowed Rainey to officially become zoned as part of Austin’s Central Business District (“CBD”), which gave developers few restrictions on developing the area that focused more on development optics than ethics.111 The development of Rainey into a popular food and nightlife district resulted in increased property taxes that have forced many to sell their homes and white-washing a once culturally rich Hispanic community.112

Austin’s sustainability agenda in Rainey to build a more compact urban form continued113 in 1997 with Austin’s Smart Growth Initiative (“SGI”).114 SGI designated Austin’s Eastside as the “desired-development zone (“DDZ”)” and the “urban desired-development zone” and redirected the business district’s development away from Edwards Aquifer, or the Drinking Water Protection Zone (“DWPZ”).115 The city sought to achieve this by offering developers on Austin’s Eastside financial incentives.116 While the city had considered equity and ensuring affordable housing in the development areas to be one of the three central values of SGI, economic and environmental values quickly won out as the key

107. Id. (internal citation omitted).
108. Id.
109. Lavy et al., supra note 100, at 199.
112. Lavy et al., supra note 100, at 199.
115. Id.
116. Id.
priorities.\textsuperscript{117} In 1999, the Austin City Council allocated more than $100 million towards these incentives, waived fees, and rebated infrastructure costs.\textsuperscript{118} By 2000, SGI had created almost 2,000 new jobs in Austin, but it also accounted for another massive displacement of Black and Latino residents.\textsuperscript{119} From 2000 to 2010, Blacks and Latinos were the only groups to decline in numbers in Austin.\textsuperscript{120}

![Smart growth zones, Austin\textsuperscript{121}]

The history of discriminatory lending does not end just because it was outlawed. It has simply taken a different form—subprime lending.\textsuperscript{122} A study by Jackelyn Hwang shows that after the subprime mortgage meltdown in the late-2000s, many lenders had intentionally directed riskier, higher-cost mortgages at minority neighborhoods.\textsuperscript{123} The fact that minority populations were already segregated made them an easier target. While Austin did not have as high of rates as other cities, it had an

\begin{itemize}
  \item \textsuperscript{117} Tretter & Mueller, supra note 59, at 169.
  \item \textsuperscript{118} Levin, supra note at 114.
  \item \textsuperscript{119} Id.
  \item \textsuperscript{120} Id.
  \item \textsuperscript{121} Smart Growth Zones, Austin (illustration), in Tretter & Mueller, supra note 59 at 170.
  \item \textsuperscript{122} Zehr, supra note 56.
  \item \textsuperscript{123} Id.
\end{itemize}
unusually high number of subprime loans going to predominantly minority areas. Hwang notes that “such unequal lending patterns will likely have long-term consequences for the accumulation of wealth for Blacks and Hispanics that will last well beyond the housing crisis.”

III. Effect on Austin and People of Color

These policies had a clear discriminatory effect that has prevented minorities from building houses or generational wealth compared to White residents in Austin, pushing minority residents out of Austin. Austin happens to be the only fastest-growing city losing people of color due to the structural inequalities that have disproportionately impacted Blacks in Austin. It also happens to be the tenth most income-segregated city in the nation. From 2000 to 2010, Blacks were the only racial group to decline, seeing a 5.4% decrease, while Austin, the third fastest-growing city in the country, saw an overall growth of 20%. Austin welcomed an average of 100 residents every day in the last decade, with this added population from net migration making up about 13% of its total population.

The rising property taxes have forced Blacks to move to the suburbs in surrounding cities such as Pflugerville, where the Black population has increased by about five times since 2000. Other surrounding cities, such as Buda, Georgetown, and Leander, have seen the most significant influx of Black residents, with a 438%, 140.6%, and 344.6% increase in the Black population from 2010 to 2019, respectively. A 2014 study of more than 100 Black residents who left Austin showed

124. Id.
125. Id.; see Jackelyn Hwang et al., Racial and Spatial Targeting: Segregation and Subprime Lending Within and Across Metropolitan Areas, 93 Soc. Forces 1081, 1102 (2015).
126. Zehr, supra note 56.
127. UT Austin Policy Report Shows Austin’s the Only Fast-Growing City Losing African-Americans, supra note 5.
129. Adler, supra note 4.
132. Zehr, supra note 56.
133. Moreno-Luzano, supra note 6.
that 56% of respondents cited the absence of affordable housing due to the SGI’s downtown revitalization as the reason for their departure.\textsuperscript{134} The lack of affordable housing comes as no surprise considering the median home price in the center of east Austin’s 78702 zip code tripled between 2011 and 2014, from $125,000 to $375,000.\textsuperscript{135} The second most common reason for leaving was schools;\textsuperscript{136} 24% of respondents said that the schools in east Austin are highly segregated and that the lack of resources in their neighborhoods resulted in their children getting a poor education.\textsuperscript{137}

While moving outside of Austin for these families allowed them to achieve more affordable living and somewhat better schools, those who moved east of Austin encountered a substantial reduction in access to services such as health clinics, grocery stores, outdoor recreational areas, and affordable restaurants.\textsuperscript{138} On the other hand, respondents who moved north of Austin reported that their access to these amenities had improved.\textsuperscript{139} This is because the east residential areas are “economically marginalized and geographically isolated” due to large metropolitan areas such as Austin pushing out poor residents that, in turn, create fast-growing populations of poor people.\textsuperscript{140} Another reason cited in the study by 16% of respondents was institutional racism, specifically, the discrimination faced interacting with public schools, businesses, municipal agencies, and police.\textsuperscript{141} Overall, 43% of respondents noted a past negative experience with Austin police.\textsuperscript{142} A 2018 City of Austin report of traffic stops and searches shows that people of color are disproportionately targeted, with Blacks being overrepresented by 17% compared to the population of Blacks in Austin, while Whites are underrepresented by 23%.\textsuperscript{143}

\textsuperscript{134} Levin, \textit{supra} note 114.
\textsuperscript{136} Adler, \textit{supra} note 4.
\textsuperscript{137} Id.
\textsuperscript{139} Id. at 4.
\textsuperscript{140} Id. at 5.
\textsuperscript{141} Id. at 6.
\textsuperscript{142} Id.
In 1970, central Eastside had a 37.5% poverty rate, almost double the city average, and during a time of more than 98% employment within Travis County. By 1990, that number rose to 52%, seeming unintelligible for “a city with one of the highest rates of economic growth and employment in the country for the past decade.” According to the 2015—2019 maps by the American Community Survey, the vast majority of the zip codes in east Austin have 30—50% or above 50% of the population living under 200% of poverty, while the majority of West Austin zip codes are in the 7-15% or 15-30% ranges. Life expectancy rates between Austin’s East and Westside also significantly differ, with a resident of the former living until the age of 72, while the latter’s expectancy is 83 years.

Austin’s policies continue to reflect the desire to push out unwelcome communities, as shown by its passage of Proposition B in early 2021, which makes it a criminal offense “to sit, lie down, or camp in public areas” yet does nothing to address rising poverty and homelessness. An elite group of wealthy residents and business leaders called Save Austin Now contributed $1.9 million to support passing the ordinance, illustrating that times have not changed much since 1928. The city also continues to ignore the requests of its community by supporting TxDOT’s $7.9 billion plans to displace around 150 properties both on the East and Westside directly surrounding I-35 instead of considering the community-proposed alternatives.

[https://perma.cc/E6V3-A5LR]

145. Id. at 988.
146. April Klein, Rochelle Olivares, & Octavio Ulloa, Travis County Poverty Brief, Am. Comm. Survey (April 2021), https://storymaps.arcgis.com/stories/6bb1e1d2b8a34acc8ed5f5fa79ab41b4 [https://perma.cc/UPA3-BMP7].
148. AUSTIN, TEX., CODE §§ 9-4-11, 9-4-14 (2021).
IV. ADDRESSING REDLINING

A. Current Reforms

There are several current reforms nationally and in Texas, including in Austin, Texas, trying to grapple with the effects of over a century’s worth of intentional discriminatory practices and segregation. However, these reforms fail to address the issue effectively because they do not have the same intentionality to reverse these severe effects. When overt racism was the driving factor that created these issues, the means of fixing the issue must not be “color blind.” Instead, the focus should be on providing affordable housing to the same minority groups that were forced into segments of metropolitan areas and now into surrounding suburbs. Another central issue of inadequate reforms is their inability to reach the lower-income populations as defined by the area’s median income (“AMI”). Households earning between 0-30% of AMI are “extremely low-income,” those earning 31-50% of AMI are “very low-income,” and those making 51-80% are “low-income,” however, most affordable homes are targeted at reaching those at or below 80% AMI.

1. Local and State Efforts Across the Nation

The City of Austin and the federal government need to recognize and repair the racism built into its housing system to give minorities housing and wealth-building opportunities. Some cities are taking action to mitigate gentrification by providing financial literacy education and purchasing vacant land for affordable housing construction to allow low-to-mid-income renters in the area the opportunity to become homeowners. Further efforts, such as providing housing choice vouchers and low-income housing tax credits, and others to be discussed below, have the potential to combat gentrification but only if there is an effort to afford these opportunities to people of color and prevent discriminatory practices. Any of these efforts taken alone, however, will be insufficient to solve the problem.

The City of Houston has implemented a plan to build 1,100 homes within the next five years in conjunction with the Houston Community Land Trust. The houses will accommodate those making up to 80% of

opposition/5681378001/[https://perma.cc/S4C2-58AP].
152. Id.
153. Mike Morris, City Plan to Expand Affordable Housing Will Rely on Land Trust
the AMI, priced at $180,000, and occupants will either buy the home outright with $30,000 in down-payment assistance or, if in need of further assistance, will enter the land trust to receive additional subsidies which would cover the difference between the cost to build the home and the price set by the land trust.\(^{154}\) While the number of homes Houston will build is ambitious compared to what other cities and land trusts have done, only those making close to 80% AMI would be able to afford the mortgage without additional assistance.\(^{155}\) Most participants will likely have to enter the land trust, making a three-bedroom home within the trust $74,600.\(^{156}\) While this program is a good first step, using a tool identified below for equitable development, it fails to extend affordable housing to extremely low-income to very low-income households or emphasize closing the racial wealth gap.\(^{157}\)

While there are additional housing reforms in states and cities across the nation, Houston’s efforts are a great example because they go further than most city and state programs while still failing to focus their attention on providing a path to homeownership to minorities and those in the extremely low-income to low-income range.

### 2. Private Efforts

Private efforts often receive criticism because they are for-profit, predatory ventures that hurt marginalized communities more than they help.\(^ {158}\) An example of such an effort is Jay-Z and Will Smith’s “Buy the Block” program.\(^ {159}\) The two, along with other investors, contributed $165 million to Landis Technologies, a company that buys homes and rents them to clients until they can afford to purchase them themselves.\(^ {160}\) Landis provides financial coaching for selected clients on how to improve their credit and save the money needed for the down

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154. Id.
155. Id.
156. Id.
157. Id.
158. Tyson, supra note 10, at 885–86.
160. Id.
payment but charges clients a fee for these services.\textsuperscript{161} The rent-to-own period is capped at two years, and at the expiration of the term, the client has the option of buying the house, moving out, or possibly getting an extension.\textsuperscript{162} However, this program fails to provide a pathway for renters to become homeowners like most rent-to-own programs.\textsuperscript{163} Instead, the program "charge[s] struggling people additional fees for being poor, which is what every other predatory lender does."\textsuperscript{164} Credit counseling without financial assistance towards purchasing a home does not help low-income persons purchase homes when what they lack is wealth.\textsuperscript{165} Critics have noted that for participants, the worst-case scenario is paying someone else's mortgage for two years before getting kicked out, and the best-case scenario is paying above market value for your home.\textsuperscript{166} Lastly, critics argue that this program is no better than predatory contract-for-deed arrangements.\textsuperscript{167}

This one private effort also serves as a great example to sum up what private reforms look like. As well-intentioned as people like Will Smith and Jay-Z may be, at the end of the day, the goal is to make money. Even if money were removed from the picture, private reforms are unlikely to make the kinds of sweeping and structural changes necessary to address such a large issue.

3. In Austin, Texas

As discussed above, Austin continues to develop into a “smart,” sustainable, and high-density city, but it has also acknowledged its racist history and undertaken reforms to address it. Austin City Council made affordable housing a priority for the 2021 to 2022 cycle, seeking new

\textsuperscript{161} Id.
\textsuperscript{162} Id.
\textsuperscript{164} Id. (quoting @nhannahjones, TWITTER (Aug. 1, 2021, 10:08 AM)), https://twitter.com/nhannahjones/status/1421850296586747906?ref_src=twsrc%5Etfw%7Ctwtvmtwembed%7Ctwtterm%5E1421850296586747906%7Ctwgr%5E5E35bf03675d4228578e92186bab99e601769945e%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fmoguldom.com%2F366366%2Flyts-nikole-hannah-jones-suggests-jay-z-and-will-smith-backed-rent-to-own-housing-startup-is-predatory%2F [https://perma.cc/2PLY-HL2W].
\textsuperscript{165} Id.
\textsuperscript{166} Id.
\textsuperscript{167} Id.
members of their Housing Investment Review Committee to track the progress of new housing projects. Their latest development is called Project Connect, a $7.1 billion program approved in November 2020 that aims to develop railway lines throughout the city. Project Connect also dedicates some funding towards affordable housing, providing home repair assistance and rental subsidies, and a right-to-return program, with $300 million specifically allocated to anti-displacement efforts to be spent over twelve years.

Austin’s recent Right to Stay and Right to Return program focuses on allowing working-class families living in gentrified neighborhoods to find permanent affordable housing and providing displaced families with historical ties to these neighborhoods a preference for affordable housing units to be built. The 560 units will be available on a priority basis for those with “generational ties to a neighborhood or that were displaced from it, that have a disability, or families that would fit the available units.” Half of the units built in a North Austin neighborhood are exclusively for those earning 50-70% of Austin’s AMI.

A similar program in Portland, Oregon, received criticism for only enabling nine families to obtain housing in a historically black neighborhood similar to Austin’s Eastside. The shortcomings of the program were due to its focus on moving families back in as homeowners instead of renters, even though most of them were too low-income to qualify for a mortgage, reflecting the lack of generational wealth that families of color have been able to garner. Despite the criticisms the Portland

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172. PLANETIZEN, supra note 171.


174. Id.
program received, Austin’s resolution adopting its own program still identifies Portland’s program as “a model that Austin should look to.” Austin has also mandated that only 40% of the housing under this program be for those under the generational ties criteria and defines generational ties as those with an immediate family member living in the area from 2000 to the present.

Project Connect’s anti-displacement program presents an opportunity for nonprofits to buy land for affordable housing constructions through their community acquisition program. Funding will be provided to selected nonprofits through forgivable and non-forgivable loans at 0% interest and is only for lot purchases in areas at gentrification risk that are less than a mile away from railway lines placed in east Austin. In January 2022, community members and city employees released a report called the Racial Equity Anti-Displacement Tool (“Tool”), acknowledging that Austin’s Eastside was created through racial covenants, discrimination, and redlining practices that prevented people of color from living where they desired. It also recognizes the drastic effects of discrimination and disinvestment in infrastructure on these communities, which cannot cope with the rising living costs or fight displacement. Lastly, it recognizes the risks that new developments, such as Project Connect, pose for further displacing low-income families and seeks to combat this through a $300 million anti-displacement fund. The Tool’s goal is to ensure equitable development by centering communities of color in Project Connect’s decision-making processes and ensuring that the railways constructed are beneficial and not another displacement risk.

While the report is a great first step for Austin by acknowledging the harms that have been perpetuated against Blacks and Latinos and calling for many of the components of equitable development discussed below, these efforts are isolated to Project Connect and preventing further displacement. Austin will need to apply these community-centered ideas and funds and uplift marginalized communities to create a lasting

176. McGlinchy, supra note 173.
177. Thompson, supra note 168.
178. Id.
179. Racial Equity Anti-Displacement Tool, supra note 82.
180. Id.
181. Id.
182. Id.
183. Id.
impact in Austin, which optimistically includes integration of all races and ethnicities in Austin and making Eastside Austin a high-opportunity area that is affordable and accessible for Blacks and Latinos.

B. Equitably Addressing Redlining and Gentrification

Because gentrification and displacement occur predominantly in minority communities, equitable development is necessary to reverse the effects of minority displacement and prevent future displacement. Equitable development is a community-based development strategy that focuses on involving residents, especially those of color, in the area’s future development endeavors with the intentional and primary goal of eliminating existing and preventing future racial inequalities. This requires acknowledgment that past efforts to develop communities were rooted in white supremacy and isolating Blacks and Latinos in their own, inferior neighborhoods; the participation of cities, states, and the federal government by providing financial resources and regulations aimed at historically divested communities; and ensuring that marginalized communities can move into high-opportunity areas to combat segregation and poverty concentration. Although there is no set definition, experts have loosely identified high-opportunity areas as those that include the five main indicators of opportunity: access to education, economic growth and jobs, growing income levels, access to health care, and access to transportation.

1. Tools that Should be Utilized

An effective solution will likely require some or all the tools discussed below. Public or quasi-public entities are preferred over private entities because they are less transactional and use public finance tools that can bridge gaps between actual costs and the affordability of homes or rental units.

184. Tyson, supra note 10, at 884.
186. Tyson, supra note 10, at 884, 897–99.
188. Tyson, supra note 10, at 899, 904.
Redevelopment Authorities and Land Banks ("RALB") are highlighted as an equitable development tool because they focus on neighborhoods, which provides opportunities for community investment and engagement.\textsuperscript{189} RALBs also involve many other promising tools to be discussed, such as Community Land Trusts ("CLT") and tax credits. Its plans usually involve local governments and communities, again centering its execution at the neighborhood level.\textsuperscript{190} Redevelopment Authorities are quasi-public agencies and may acquire and dispose of properties in areas where disinvestment has occurred or is currently happening.\textsuperscript{191} They can develop comprehensive planning efforts through tax-exempt financing and bonding real estate development with local government, and sometimes through the power of eminent domain.\textsuperscript{192} Redevelopment Authorities are not new and, in the past, were used to drive urban renewal and segregation.\textsuperscript{193} However, with the intentionalism of refo-cusing resources towards growth in these urbanized areas concentrated with minorities, Redevelopment Authorities can potentially be effective at equitable development.\textsuperscript{194}

Land Banks can be governmental or non-governmental entities that acquire, manage, or develop unproductive properties such as vacant lots, abandoned buildings, or foreclosures, turn them into affordable housing or community gardens, and make them useful for the community.\textsuperscript{195} The goal is to return properties to purchasers, who are often community developers, such as CLTs dedicated to revitalizing neighborhoods one lot at a time, that will put the property back on the tax roll and benefit that specific community.\textsuperscript{196} Prosper Portland, Build Baton Rouge, Invest Atlanta, and The Port are great examples of RALBs that have recognized the racial inequities created by past housing policies and vowed to remedy these inequities by dedicating their missions to equitable development.\textsuperscript{197} Invest Atlanta created almost 8,500 units for lease or purchase to those in the less than 60% AMI category, and overall, created 7,551 rental units and 1,540 homeowner units, almost halfway to its goal to create 20,000 affordable units by 2026.\textsuperscript{198}

\begin{footnotes}
189. Id. at 884.
190. Id. at 886.
191. Id. at 888.
192. Id. at 888–89.
193. Id. at 890.
194. Id. at 889.
195. Id.
196. Id.
197. Id. at 897.
There are three types of Shared Equity Ownership: CLTs, Limited-Equity Housing Cooperatives ("LEC"), and Deed-Restricted Homeownership.199 Studies show that all three Shared Equity Ownership models successfully maintain affordability and stability and allow participants to build wealth.200

CLTs are non-profit organizations that provide more affordable housing by gaining property ownership, often being granted by the city that acquired the land through eminent domain, and then building or improving the home to sell the structure to someone in the community at a below-market price.201 The CLT retaining the ownership of the land allows them to sell the home itself at an affordable price while leasing the land to the owner long-term and ensuring long-term affordability by capping the resell value's increase rate.202 Because the land is community-owned, the power is in the hands of the community to decide what they want on their land and how to accomplish their goals.203 By persuading local governments to use eminent domain on blighted structures and areas and grant CLTs those lands, CLTs can focus their efforts on serving underserved communities that have experienced rapid displacement, putting power and affordable housing back into those communities.204 For example, in the 1980s, Boston South End's community members lobbied Boston to grant sixty acres of land to their CLT, the Dudley Street Neighborhood Initiative.205 They created 225 affordable planning/housing/affordable-housing-tracker [https://perma.cc/7Z75-U2JY]; Housing Affordability Action Plan, CITY OF ATLANTA, Ga, https://www.atlantaga.gov/government/mayor-s-office/projects-and-initiatives/housing-affordability-action-plan [https://perma.cc/5FGE-8P37].


202. Id.


204. Cohen, supra note 201, at 317.

205. Id.
units, including 95 permanently affordable homes, which effectively prevented displacement in the neighborhood. Overall, CLT homeowners are ten times less likely to default on their homes than those who purchased through the private market.

Housing cooperatives, in general, follow the same model of ownership where a state-chartered corporation is the titleholder of the property, paying the mortgage and municipal taxes and fees, while the occupant owns shares in that corporation and leases the property from that entity. Ownership of shares gives occupants voting rights in the corporation, allowing them to control the corporation's assets, operations, and enforcement of restrictions on property use and resale of shares. LECs are a bit different from other housing cooperatives in that homeowners can garner some appreciation in equity from their purchase until the eventual resale of their shares. However, to ensure future affordability, the resale of shares is capped at a certain value determined by a formula specified in the leasing agreement, corporate bylaws, and the stock certificate. LECs are also the least inexpensive type of subsidized housing, with operating costs that have been estimated at up to a third lower than similar rental properties because of members' pooling resources and vested interests in the management and maintenance of the property.

Deed-Restricted Homeownership is the fastest-growing shared equity ownership model where a subsidy, usually provided by the government, lowers the purchase price of a home to be affordable for a certain income group, with restrictive covenants being placed in the deed agreement to ensure its affordability upon its resell. While owners have exclusive use over their home, restrictions usually require the owner to occupy the home as their primary residence and, when they wish, to resell the property to those within the specified income range at an affordable price. However, it is important that whatever agency is placing these restrictions enforce them for at least thirty years.

206. Id.
208. Davis, supra note 200, at 23.
209. Id. at 23–24.
210. Id. at 23.
211. Id. at 24.
212. Id. at 92.
213. Id. at 13–14, 18; Shared Equity Models of Ownership, supra note 199.
ensuring that upon reselling, the price is affordable and not allow them to be “self-enforcing,” which has proven unsuccessful in most cases.215

Housing Trust Funds (“HTF”) are grants provided by HUD to states and state-designated entities to construct and preserve affordable housing for extremely low-income to low-income households.216 States must maintain rental units or homes’ affordability for at least thirty years, use at least 80% of grants for rental housing, and may use up to 10% for homeownership, with the rest being allowed to go towards the state’s administrative costs.217 However, while HTFs are useful in meeting short-term housing needs for those living under the poverty line, the federal government’s strong emphasis on rental units rather than affordable homeownership units does little to advance wealth-building for its occupants.218

Community Benefits Agreements (“CBA”) begin when a developer for a city project agrees with a group of organizers or community organizations who represent the community that will be affected by the proposed project.219 Usually, the developer and organizers enter a private contract where the organizers agree not to oppose development in exchange for a promise from the developer to take their recommendations and critiques into account and to provide some type of affordable housing.220 While sometimes the city may get involved as a party to the contract, this can diminish the power that organizers have to influence the project.221 CBAs are useful for giving community members input on where the project will take place, a role in determining the project’s direction, and enforcing benefits for city developments that will directly affect them.222 If community organizers focus on promoting racial equity and developers are willing to enter these contracts and work with organizers to meet these goals, CBAs can be a tool to increase civic engagement in city projects and ensure that the community benefits from and supports these projects.223

215. Id. at 14–15.
217. Id.
218. Davis, supra note 200, at 103.
220. Id.
221. Id. at 1785–86.
222. Id. at 1785–87.
223. Id. at 1824.
The Housing Choice Voucher ("HCV") Program under HUD alleviates the rental burden for low-income households by providing rental assistance payments that ensure households pay no more than 30% of their income on housing and utilities.\textsuperscript{224} The program aims to give low-income households spatial mobility; however, this will only happen if the focus is on moving these households into high-opportunity areas.\textsuperscript{225} As of right now, the HCV program has helped provide effective rental assistance but has been overall unsuccessful in allowing participants to move into high-opportunity areas with low levels of economic distress, and even less successful for Black and Hispanic participants.\textsuperscript{226} This is because most rental units eligible for rent under the HCV program are in racially segregated and high-poverty areas. Very few are in areas with less than 10% poverty, where rental units are more likely to be rented to unassisted rental households.\textsuperscript{227} However, experts suggest that the HCV program could reduce racial segregation and poverty concentration if it assists participants with identifying high-opportunity areas; increases the number of eligible units in these areas; and restricts its participants to living in areas with low poverty, low high school dropout rates, and low concentrations of minorities.\textsuperscript{228}

Inclusionary Zoning is usually implemented by a land-use ordinance that requires developers to set aside a certain number of new constructions for low- to moderate-income homes at affordable rates.\textsuperscript{229} This allows those in this income category to live in high-opportunity neighborhoods, which also fights against concentrations of race and poverty in other neighborhoods.\textsuperscript{230} However, there is no guarantee that these homes will remain affordable, so to prevent future foreclosure and displacement, other tools should be used to ensure affordability.\textsuperscript{231}

Low-Income Housing Tax Credits ("LIHTC") are federal income tax credits that incentivize private investors to make equity investments in

\textsuperscript{227} McClure, supra note 225, at 117–18; Schwartz, supra note 226 at 224.
\textsuperscript{228} McClure, supra note 225, at 117–18.
\textsuperscript{230} Id.
\textsuperscript{231} Id.
affordable rental units. Equity is then used to construct or acquire affordable properties, allowing developers to avoid incurring debt and sustain the affordability of rental units. The average income of all participating households in LIHTC units must be at or below 60% of the AMI, and individual households’ income must not exceed 80% of the AMI. These credits fund 55% of projects’ costs, on average. Because LIHTC allocations are so competitive, most units contain 100% affordable units, even though some rental units may be at market rate. Bonus tax credits are also offered to projects in areas where 25% or more of the population is under the poverty line or where 50% of the population has an AMI under 60%. Rental assistance, such as housing vouchers, is often utilized to make LIHTC affordable for extremely low-income households, which comprise 45% of those living in LIHTC units. A study of eighteen states showed that around 70% of extremely low-income households in LIHTC units received a type of rental assistance. Thus, one of the often noted shortcomings of the LIHTC program is that it does not serve households that make less than 60% of AMI alone. Additionally, units are only required to be affordable for thirty years and usually require additional funding to be affordable beyond this timeframe. Lastly, the program’s structure incentivizes construction in low-income areas, which concentrates units in impoverished areas and consequently furthers racial segregation. To utilize tax credits equitably, criteria for awarding credits must incentivize the construction of units for extremely and very low-income residents beyond impoverished areas where minorities are concentrated, rather than focusing on acquiring the cheapest land or buildings possible.

These tools have in common either the ability to equitably develop neighborhoods they are employed in or the possibility of failing to achieve this goal completely. This means that cities or agencies using

233. Id.
234. Id. at 2.
235. Id. at 6.
236. Id. at 7.
237. Id.
238. Id. at 9–10.
239. Id. at 9.
240. Id. at 13.
241. Id. at 12–13.
242. Id. at 14.
these tools must emphasize accomplishing equitable development’s goals: increasing or providing the path to homeownership for Black and Latino households in high-opportunity areas; and creating new high-opportunity areas in historically marginalized communities, deconcentrating race and poverty.

2. The Federal Government’s Role

The federal government can potentially be more impactful than any local government or organization by investing in HUD and low-income housing. Unfortunately, federal investment in HUD has declined by about 60% in the last twenty-five years. However, the Build Back Better bill would change this.

The Build Back Better bill is a $1.75 trillion package with $150 billion dedicated to investing in equitable and affordable housing infrastructure and, if passed, could be the federal action necessary to support states and localities in equitable development. The bill aims to fund the construction and redevelopment of more than one million affordable rental units and homes in hopes that increasing the housing supply will reduce rent and housing market prices. It also emphasizes engaging the community and local leaders in housing projects and garnering their support and input on new developments, and prioritizes grant applications of organizations that demonstrate community outreach and planning. This is supported by awarding $500,000,000 in grants to CLTs and shared-equity home ownership and supplemented by allotting up to 750,000 HCVs to assist low-income persons in affording stable housing. About 71% of these vouchers would go to families of color.


allowing minorities who have had few housing choices due to discriminatory practices more choice in where they live.249

The bill proclaims one of the largest packages in history for down-payment assistance for first-generation homebuyers, at $6,825,000,000.250 Assistance for qualified homebuyers (socially and economically disadvantaged individuals) will be in the form of grants up to $20,000, and are eligible for homes made available by community land trusts or shared equity homeownership programs.251 The bill also acknowledges the racial wealth gap created by redlining policies; seeks to counter the effects by funding local initiatives that demonstrate a commitment to anti-displacement efforts; and ensures equitable housing access and opportunity within localities with high proportions of eviction and foreclosures, low homeownership rates, racial disparities in homeownership, and high poverty rates. 252 Local organizations whose plans support closing the racial wealth gap, ensuring equitable access to housing, and countering redlining’s effects are also given priority to grants.253 Any grants awarded to organizations that plan to demolish abandoned or distressed structures must incorporate anti-displacement efforts, such as offering tenants the right to return or the right of first refusal to purchase.254 Grants that include the demolition of these structures are limited to 10% overall, showing the bill’s commitment to creating new affordable housing rather than displacing individuals to rehabilitate existing structures.255 The bill expands the existing LIHTC program, increasing the amount of allocable LIHTC for projects overall, and to those that serve extremely low-income households, with an increase in credits for the latter as well.256 It also creates a program similar to LIHTC but for homeowners, where investors would receive tax credits for constructing homes or rehabilitating homes already owned after successfully being occupied by an eligible homeowner (family income does not exceed AMI).257 Homes must be located in a

249. Id.
252. Id. § 40105.
253. See id. § 40001.
254. Id. § 40105.
255. Id.
257. Build Back Better Act, supra note 250, § 135101; The Neighborhood Homes
qualified census tract, meaning an area with an AMI not exceeding 80%, and must not sell for more than the actual development costs.\textsuperscript{258}

For instance, the buildings designated to serve extremely low-income households include those where 20% or more of the residential units in such buildings are rent-restricted and are designated for occupancy by families not exceeding the greater of 30% of the AMI or 100% of the Federal Poverty Line.\textsuperscript{259} Units constructed for homeownership are only available for purchase to those who have an income of less than 120%.\textsuperscript{260} According to the National Low Income Housing Coalition ("NLIHC"), 74% of renters in Texas are considered extremely low-income, making no more than 30% of the AMI.\textsuperscript{261} Whether the act will serve extremely low-income households depends on if housing vouchers can close the price gap between higher-income units constructed and the household income; and how much priority there is for lower-income units. Additionally, while the bill will increase the number of rental units available to extremely low-income households through its expansion of the LIHTC program, it does not include any adjustment of criteria for selecting projects that will drive the construction of units in high-opportunity areas that would help desegregate cities.\textsuperscript{262} Unfortunately, even after reducing the size, scope, and costs of the bill, it died in the Senate.\textsuperscript{263} Instead, the Inflation Reduction Act of 2022 was passed, which does not include any of the provisions discussed above or address equitable and affordable housing.\textsuperscript{264}

Raising the federal minimum wage would be an additional solution to close the gap between what the Build Back Better bill offers and what is affordable.\textsuperscript{265} Currently, no state or county exists where a renter working full-time at minimum wage can afford a two-bedroom apartment,

\textsuperscript{258} Build Back Better Act, \textit{supra} note 250, § 135201.
\textsuperscript{259} Id. § 135103.
\textsuperscript{260} Id. § 40201.
\textsuperscript{261} \textit{Housing Needs by State – Texas, NAT’L LOW INCOME HOUS. COAL.} https://nlihc.org/housing-needs-by-state/texas [https://perma.cc/4GUR-TLAk].
\textsuperscript{262} See generally Build Back Better Act, \textit{supra} note 250.
\textsuperscript{264} Id.
\textsuperscript{265} \textit{Why We Care: The Problem, NAT’L LOW INCOME HOUS. COAL.} https://nlihc.org/explore-issues/why-we-care/problem [https://perma.cc/7BSK-G46R].
and the NLHIC estimates that a renter in Austin, Texas, would need to make $27.58 per hour to achieve this.266

3. A Solution Tailored to Austin, Texas

Since Austin has only recently announced Project Connect and the Tool, it is unclear what impact they will have and whether they will be far-reaching enough to develop Austin equitably. However, the Tool identifies many of the components for equitable development discussed in this Article, such as land banks, centering Black and Latino communities in the decision-making processes, and creating high-opportunity areas, which seek to close the racial disparity gaps in Austin.267 This gives cause for optimism that Austin wishes to avoid repeating large development projects’ mistakes, such as Austin Tomorrow, the Rainey Street development, and SGI.268 However, Austin must devote more than $300 million towards anti-displacement to ensure that they not only prevent further movement of people of color out of the city but also allow people of color to move back into their city.

The Kirwan Institute, with Green Doors, has done some leg work for Austin, identifying areas of very-low-opportunity to very-high-opportunity and mapping the areas on an Opportunity and Change Index to help policymakers identify where and what help is needed most.269 The main action items are to prevent low-opportunity areas from becoming high-opportunity through displacement, ensure that current residents have affordable housing so they can enjoy the increasing opportunity, and increase affordable housing in existing high-opportunity areas.270 Currently, 79% of the 23,437 affordable housing units in Central Texas are in very-low- to low-opportunity areas, while 8% are located in high- to very-high-opportunity areas.271 Thus, strategies in low-opportunity areas like the Eastside should focus on increasing homeownership for

266. Id.


268. See generally Tretter & Mueller, supra note 59; see also Busch, supra note 58, at 90; see also Tretter, supra note 58, at 1.


270. Id. at 30.

271. Id. at 23.
existing residents as well as investing in education, transportation, the environment, and other factors indicative of opportunity. In contrast, strategies in high-opportunity areas like the Westside should focus on increasing affordable housing units and ensuring that Blacks and Latinos historically denied housing choice and opportunities move into these areas.\textsuperscript{272}

V. Conclusion

This Article sought to examine this nation, and more particularly, Austin’s history of racist housing policies that are not as of the past as people believe or wish. While we no longer see new neighborhood developments displaying statements such as the famous Hyde Park sign that says, “where lots are sold only to white people,” that does not mean that racism in housing or neighborhoods does not exist to this day. Overt forms of housing racism, such as exclusionary zoning, racially restrictive covenants, and the Austin Plan of 1928, evolved throughout history into more covert discrimination, such as redlining and urban renewal. Today, possibly the most covert forms of housing discrimination exist to cope with society partially waking up to systemic racism, taking the form of reverse redlining, subprime lending, or predatory contract-for-deed arrangements. The aftermath of over a century’s worth of discrimination is a large racial wealth gap between Whites and Blacks and Latinos and segregated cities across the nation. These effects are especially drastic in Austin, Texas, where a nonunique pattern of discrimination created an iconic and identifiable segregationist split thanks to the construction of I-35 but has transformed into a unique pattern of Blacks and Latinos moving to surrounding suburbs to cope with the rising living costs that are untenable due to their lack of generational wealth.

However, examining the racist history of both national and local housing policies was only part of what this Article aimed to address. While recognizing our racist history is a crucial first step towards a solution for affordable housing issues and the racial wealth gap, alone, it is insufficient. Thus, this Article also sought to identify the ongoing reforms attempting to grapple with these problems and why they fail to progress us towards a resolution. More optimistically, this Article also explored a more promising route, equitable development. This strategy is flexible and can utilize any of the tools discussed with the only requirement that its focus is on community-based development with the

\textsuperscript{272} Id. at 32.
intentional and primary goal of eliminating existing and preventing future racial inequalities. While equitable development must be executed at the local level, local funds are unlikely to support the far-reaching developments that are needed to achieve equity, and thus, financial and policy support from the state and the federal government is necessary for efforts to be successful. Lastly, this Article strived to identify what specific strategies Austin should undertake and where to desegregate its city to bring people of color back, particularly in high-opportunity areas, and to ensure that future displacement does not occur.

In conclusion, while Austin is the tenth most income-segregated city in the nation and the only fastest-growing city in the nation losing people of color, if it utilizes tools identified by this Article, using the same intentionalism to reverse the effects of housing discrimination that were used to create them in the first place, Austin can stop the trend of people of color moving and prevent becoming a homogenized city.