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THREE STRATEGIES FOR REDUCING INVOLUNTARY SEGREGATION*

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ABSTRACT

The involuntary aspects of residential segregation in this country are examined, a conceptual model of involuntary segregation is presented, and four causative factors of involuntary segregation are noted. These four factors are the targets of three recent corrective strategies which have been used in an attempt to reduce involuntary segregation. The three strategies -- fair-share plans, exclusionary zoning laws, and community housing audits -- are reviewed and analyzed in terms of their potential success in reducing involuntary segregation. Though no single strategy would be sufficient, all three strategies in combination may ultimately achieve a reduction of involuntary segregation in our metropolitan areas.

Racial and economic residential segregation continues to prevail in most metropolitan areas of the nation, despite the slight improvement in some 1970 residential segregation indexes (Sorenson et al, 1975). Although some scholars emphasize the voluntary aspects of segregation¹, extensive analyses of residential segregation indicate that the concentration of blacks and the poor is largely involuntary (e.g., Abrams, 1965; Foley, 1973; Helper, 1969; Pettigrew, 1975, 1971; Saltman, 1971; Taeuber, 1975, 1965).

The causes of the involuntary segregation of blacks and the poor are multiple, and have been the targets of three recent strategies. These strategies are an attempt to change the situation of involuntary segregation to one of greater equality of opportunity -- or freedom of choice -- in housing. This paper briefly examines the involuntary aspects of

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residential segregation and the factors which generated it, and then focuses on the three recent corrective strategies.

Involuntary Aspects of Segregation

Many urban and race relations scholars have acknowledged that the involuntary aspects of racial concentration stem from a network of institutional discrimination. Karl Taeuber (1965:12-19) maintains that of three possible reasons for continued black concentration -- poverty, choice, and discrimination -- it is primarily discrimination that has caused blacks to live in concentrated areas.

Taeuber and Taeuber (1965:22-3) emphasize the involuntary aspects of black residential segregation, as do Amos Hawley and Vincent Rock (1973:11) and Chester Hartman (1975:13). Raymond Franklin and Solomon Resnik (1973:11) concur when they contend that using the concept of black "choice" within the context of current discrimination in housing is absurd.

Thomas Pettigrew (1971:306) suggests that racial separation is a cumulative process in that it "feeds upon itself and leads its victims to prefer continued separation." He cites Bernard Frieden's study (1965) indicating that restrictive zoning practices in the suburbs nourish black fears.

In his most recent work, Pettigrew (1975:123-4) claims that the attitudes of both whites and blacks are more derivative than causal in the total process of the racial distribution of housing in this country. He argues that separatist attitudes are "often formed after the harsh facts of racial discrimination and segregation in housing" (1975:117).

Involuntary Segregation: A Conceptual Model

Let us consider, then, this conceptual model of involuntary segregation. We will begin by defining segregation as the clustering of like units. In urban ecology, segregation may apply to animate or inanimate objects, i.e., people or building types or business types. Segregation is one of six ecological processes that occur in all human communities.

Residential segregation we will define as the physical concentration or clustering of racial minorities or economic groups, though racial concentration is much greater than class concentration (Taeuber, 1965:34; Erbe, 1975). Segregation may be voluntary or involuntary, depending on whether free choice exists as the basis of the clustering. Voluntary segregation occurs where there are no external factors or constraints influencing the clustering, i.e., where real freedom of choice is the basis of the clustering. Involunta-

ry segregation occurs where external factors or constraints influence the clustering, e.g., racial discrimination fear, or poverty, thus making real freedom of choice impossible.

Since real freedom of choice can only occur in the absence of external factors influencing clustering, voluntary segregation is impossible until involuntary segregation has been eliminated. The issue is not one of integration or segregation, but freedom of choice. Thus, if segregation were truly voluntary and based on real freedom of choice, it would not be a social problem. It is only when the segregation is involuntary that a social problem exists.

The fluidity of minority-majority relations has been noted by William Newman (1974). Voluntary segregation can now describe the situation of many ethnic and religious minorities living together in different neighborhoods throughout the country. Though they too suffered discrimination in the past, they are currently living together primarily by choice (Kantrowitz, 1973; Lieberman, 1963; Taeuber, 1975,94).

This choice has not yet been fully offered to blacks in this country. The policy implications for the future are clear. When racial discrimination in housing and involuntary segregation are reduced, equal housing opportunities and freedom of choice in housing will be increased.

Before presenting three strategies for reducing involuntary segregation, we will briefly review the policies and practices which generated the situation of involuntary segregation. For in order to perceive the relevance of the corrective strategies, it is essential to understand the factors responsible for involuntary segregation.

Factors of Involuntary Segregation

The substantial research on residential segregation indicates four general factors that have generated and maintained residential segregation in this country: 1) government policies related to urban renewal, public housing and suburban development, 2) the inadequate supply of low and moderate income housing dispersed throughout the metropolitan area, 3) suburban zoning regulations, and 4) racial discrimination in the housing industry by real estate companies, lending institutions, builders, and individual owners and landlords.

Segregation in housing has had a long history, and is the result of past discriminatory practices in which all of these -- the private housing industry, and federal, state and local governments -- have been active participants. These dis-

crimnatory practices have been traced (Foley, 1973; Helper, 1969; U.S. Commission, 1973; Saltman, 1971) from 1866 -- when the first open housing law was passed -- to 1968, when the constitutionality of the earlier law was reaffirmed by the Supreme Court. This was several months after Congress passed its first federal open housing legislation (1968 Civil Rights Act, Title VIII).

Thus, it took 102 years to legally reaffirm the basic human right to shelter. During those 102 years, three racist textbooks for the national real estate industry were published by 1923 and reconfirmed as late as 1950. Federal Housing Administration (FHA) manuals from 1935 to 1940 insisted on discriminatory practices in instructions to builders of new housing developments. Federal banking agencies urged similar practices, and approved racially restrictive covenants in deeds during a sixteen year period when more than eleven million new homes were built. State courts upheld many discriminatory ordinances passed by local and state governments during these 102 years, making the legacy of discrimination complete.

Taeuber notes that in recent years, despite court rulings and legislation clearly outlawing virtually all types of racial discrimination in housing, past patterns persist. Thus, "every investigation uncovers evidence that old impediments to free choice of residence by blacks continue" (Taeuber, 1975:91).

It is these practices that have resulted in racial and economic separation in every metropolitan area of the country. The ending of involuntary segregation, and the beginning of real freedom of choice in housing, is the primary goal of three recent strategies that have been used with varying degrees of success.

Three Corrective Strategies

Fair-Share Plans

The first strategy is housing allocation or fair-share plans to equitably disperse low and moderate income housing throughout metropolitan areas. This is done through the voluntary cooperation of suburban governments and jurisdictions within a metropolitan area. One rationale for such plans is the fact that between 1960 and 1970, for each new job in the central city nearly three new jobs were created in the suburbs of our major cities (Erber, 1974:8; Berry and Cohen, 1973:453; Rosenthal, 1972:1, 58; Massotti and Madden, 1973; U.S. Census,

Final Report, 1971, Report #7, 1973; Palen, 1975:152-53).

Both white collar and blue collar employment expanded in the suburbs during this time. But the inadequacy of housing opportunities near these new jobs has deprived inner city workers of access to them, except by costly and time-consuming travel. Thus it has seemed economically rational to plan housing near these employment opportunities.

Such planning begins with a determination of the total need for housing within a defined housing market area, based on criteria of land availability, facility of employment access, and other pertinent factors such as sewers, drainage, transportation and school facilities, etc. The housing is then allocated by number of units of various types and prices to the various parts of the planning jurisdiction.

The Dayton, Ohio metropolitan area was the first to adopt a fair-share plan, and is the most advanced in its execution of it. In the five years since the Dayton Plan was initiated, over 25 other metropolitan areas have undertaken housing allocation planning, with about $\frac{1}{2}$ having been officially adopted, and many more in preparation. "Rarely has a new concept in planning spread so widely and so swiftly" (Erber, 1974:2), despite the number of years of haggling and negotiation to reach this point.

In the Dayton area, nearly half of the proposed 14,000 housing units have been built and dispersed throughout the five county area in sections that previously had no minority or moderate-income residents. Some suburbs obtained their first public housing complexes under the plan. The dispersal fair-share plan of Dayton has produced more units than any other metropolitan plan. A major reason for the others' lack of productivity is the current economic situation and the earlier housing moratorium declared by the Nixon administration. Also, the new HUD administrators have not expressed the same support for the plan as former HUD Secretary George Romney. Thus, the success of fair-share plans depends on a number of political and economic conditions. This will be discussed further in the concluding section of this paper.

Exclusionary Zoning Lawsuits

The second strategy is a legal one, aimed at removing zoning laws or regulations which are racially and economically exclusionary. Several states have passed new laws designed to overcome the barriers of exclusionary zoning. Massachusetts enacted an "Anti-Snob Zoning Law", which establishes a quota for low and moderate income housing for each town in the

state (U.S. Commission, 1973:17). New York established a State Urban Development Corporation with power to override local zoning laws and other exclusionary land use controls and provide low and moderate-income housing.² But perhaps the most far-reaching effects have come from legal suits against municipalities, resulting in precedent-setting legal decisions.

In March, 1975 the New Jersey Supreme Court ruled as illegal those zoning laws that effectively exclude poor and moderate-income people. "This decision has the potential for undermining the legal foundation on which suburbia is built" (N.Y. Times, March 30, 1975). The opinion upheld a lower court decision invalidating the zoning laws of Mt. Laurel Township (in Burlington County, N.J.), because those laws failed to include regional low and moderate-income housing needs. The suit was brought by plaintiffs including a Legal Aid organization, a local chapter of NAACP, and private citizens against the township. The decision was upheld by the U.S. Supreme Court seven months later (N.Y. Times, October 12, 1975).

The importance of the ruling is in its potential impact on the suburbs' tradition of home rule, which may now have to give way to regional housing goals for communities, and broader state authority to obtain local compliance. The court said a jurisdiction could not legally zone solely to protect "its own selfish and parochial interest", and that zoning laws must serve the "general welfare" not only of the locality but of the surrounding region as well. The ruling was based on state constitutional guarantees of equal protection and due process.

Another Federal court ruling represents a second significant attack on exclusionary zoning, this time in the New York metropolitan area. The U.S. Court of Appeals for the Second Circuit ruled, in a case involving the town of New Castle in Westchester, that nonresidents could properly challenge the use of Federal funds in suburban communities that allegedly zone out the poor and minorities. The ruling affirmed the appellants' legal standing on the ground that they were sufficiently injured by Federal agencies' failure in their "affirmative duty" to encourage fair-housing practices mandated by Federal civil-rights laws (N.Y. Times, June 8, 1975).

Another legal suit also linked exclusionary zoning to the denial of Federal funds in the Hartford, Connecticut metropolitan area. The city of Hartford objected to the use of Federal grants under the Community Development Act being

allocated to suburbs with exclusionary zoning. The city of Hartford and other plaintiffs sued the Department of Housing and Urban Development (HUD) for granting funds to seven towns that allegedly had a "history of discriminatory housing, zoning and land use policies." The suit charged that the department had failed its duty to promote fair housing practices and to consider housing needs in the area for the poor and minorities.

The Federal District Court in Hartford ruled that seven Hartford suburbs cannot receive \$4.4 million in Community Development funds until construction of low and moderate income housing is given priority (N.Y. Times, February 1, 1976; October 12, 1975).

Another significant ruling involving exclusionary zoning came from the New Jersey Superior Court, which ordered eleven municipalities in Middlesex County, N.J. to provide for their share of the 13,697 low and moderate income housing units needed in the region by 1985. The Court struck down the zoning ordinances of the eleven municipalities and required eleven other municipalities in the County to remove all exclusionary provisions from their zoning laws. This decision followed an executive order of the Governor of New Jersey, directing the state's towns, cities and suburbs to provide the zoning and planning necessary for them to have a "fair share" of housing for the poor, the elderly and families with small children (N.Y. Times, April 13, 1976; Trends, May-June, 1976).

Most recently, the Supreme Court has ruled that Federal courts can order the U.S. Department of Housing and Urban Development to place subsidized housing in suburbs to break up metropolitan-wide segregation caused by exclusionary zoning. The case before the court, Hills vs. Gautreaux, had been in the judicial system more than ten years, and involved the public housing system of the Chicago metropolitan area (N.Y. Times, April 25, 1976).

Community Housing Audits

The third and last strategy considered here is social action based on implementing existing open housing laws. This approach is a combined action research-educational-legal strategy, designed to increase awareness of racial discrimination in housing and its legal implications, in order to encourage constructive change in the community.

The general strategy consists of surveying actual housing availability for minorities, and sharing the results with the community and relevant housing establishment and

law enforcement agencies. This is a quasi-experimental study conducted with trained matched pairs of black and white homeseekers, who attempt to secure identical housing at different times. Since Audit methods and results have been reported in detail elsewhere (National Neighbors, 1973, 1974; Trends, 1973, 1974; Saltman, 1972, 1975), we will here focus on the use of the findings as a strategy for community change in reducing involuntary segregation.

The findings in housing Audits conducted by community organizations throughout the country show remarkable consistency. They document the continued existence of racially discriminatory practices in the real estate industry, which have been cited earlier. Generally, they reveal from seven (Saltman, 1975) to sixty-seven (Epstein, 1970) different techniques of denying freedom of choice in housing to homeseekers. Since 1969, Audits have been conducted by voluntary citizen organizations in more than twenty communities throughout the country. Each Audit typically takes from six to twelve months to plan, execute, analyze, summarize, and present to the public.

Each community organization has utilized its findings in different ways as a strategy for change; some have used multiple action approaches. The use of Audit findings may be categorized into four major types of action: 1) Legislative, 2) Negotiation, 3) Funding, and 4) Legal.

The legislative approach involves the use of Audit data as a basis for obtaining new community legislation, e.g., an anti-steering law, an anti-solicitation law, etc. These are designed to supplement and/or reinforce existing federal and state open housing legislation.

The negotiation approach involves direct communication with all those audited in the housing establishment, e.g., real estate company presidents, brokers, agents, rental managers, owners, etc. Private meetings are arranged with those audited, and the pertinent data is revealed to them in order to obtain a corrective affirmative action or voluntary compliance agreement. This, of course, is only made feasible by the existence of open housing laws and the knowledge of the possibility of legal action against racial discrimination in housing.

The funding approach involves the use of Audit data to secure funding from private or public sources for the operation of a metropolitan open housing agency, since the data establish the need for a staffed full-time program. Funding enables such an agency to implement the law through monitoring, and to secure compliance through constant staffed ac-

tivity involving community education.

The legal approach involves two options: 1) filing a lawsuit against discriminating companies and/or individuals, and 2) sending the Audit data to the U.S. Department of Justice for their investigation and possible litigation. In addition, other relevant enforcement agencies may be informed of Audit results in order to initiate additional investigation and official action to bring about compliance with the law.

All four approaches are generally preceded by a public hearing or meeting, at which the Audit data are revealed to the public for the first time, with media and area organizational representatives invited to be present. Each of the four types of action approaches is illustrated in the following accounts of specific housing Audits in five different communities.

Palo Alto, California. -- Negotiation, legislative and legal approaches were used after the Palo Alto Audits, begun in 1970 by the Midpeninsula Citizens For Fair Housing (MCFH). When the Audits indicated substantial discrimination in suburban apartment developments, MCFH first sought voluntary corrective action from the housing establishment. They then used Audit results to obtain new legislation on apartment licensing through their City Council. Finally, their Audit results were sent to the U.S. Department of Justice, which sued the owner of 11 apartment complexes in the area, resulting in massive affirmative action by the owner.³

Baltimore, Maryland. -- Negotiation, funding and legal approaches were used by Baltimore Neighborhoods, Inc. (BNI) after their 1972 Audits. BNI first used its Audit results to secure an affirmative marketing agreement with the housing industry. Funds were then sought and secured from HUD to implement the program. Finally, Audit findings resulted in a \$200,000 lawsuit against the owner and manager of a suburban apartment complex of 295 units.

Chicago, Illinois. -- Legal action was the result of a suburban Audit conducted by the Leadership Council for Metropolitan Open Communities. They sued 9 real estate firms charged with racial discrimination in violation of federal law. Actual and punitive damages sought are close to one million dollars.

Cleveland Heights, Ohio. -- Negotiation, legislative and

legal approaches were used after auditing by the Heights Community Congress. When various cooperative educational attempts with the real estate industry were unsuccessful, anti-steering legislation was passed in 1973, and a \$1 million lawsuit was filed against a real estate company owned by the president of the Cleveland Area Board of Realtors.

Akron, Ohio. -- All four action approaches -- negotiation, legislation, funding, and legal -- were used by the Fair Housing Contact Service, one of the first open housing organizations in the country to be funded under the Community Development Act of 1974. The funding was the culmination of a longitudinal auditing program lasting four years.⁴

Audit data were used to negotiate with the real estate industry, resulting in a series of joint sales training sessions for agents. Legislation was passed by City Council banning solicitation and "For Sale" signs in an integrated area. Increased awareness of the link between segregated schools and segregated housing resulted in a school plan for desegregation. The Department of Justice was involved in repeated investigations of the housing industry, after Audit results were sent to them. And finally, the city and county together funded a staffed county-wide open housing program, after 10 years of voluntary effort.

Summary and Conclusions

Residential segregation has been defined as the physical concentration of a racial minority or economic group. It has been shown that residential segregation in this country is largely involuntary, since it is the product of a network of institutional discrimination and constraints. To make true freedom of choice in housing a reality, the constraints must be removed. If the constraints and obstacles were eliminated, and voluntary segregation then occurred, this would not constitute a social problem. But voluntary segregation cannot occur until involuntary segregation has been eliminated. The policy implication, then, is to eliminate obstacles to freedom of choice in housing.

Three corrective strategies have been recently utilized to reduce involuntary segregation and expand equal housing opportunities for blacks and the poor. The first strategy, fair-share plans, is designed to equitably disperse moderate and low-income housing throughout metropolitan areas. However, this can only be achieved through the voluntary

cooperation of suburban governments and jurisdictions within a metropolitan area.

Despite the fact that more than 25 metropolitan areas have undertaken housing allocation planning, only half of these have been adopted, and few have actually been implemented because of economic conditions and political difficulties. Thus the success of fair-share plans depends on political and economic factors. The fact that the plans are voluntary also weakens the possibility of this strategy having any broad impact on national residential segregation patterns, unless strong incentives are provided for participation (Weaver, 1973:6).

Moreover, the small number of housing units allocated to each area would not significantly change segregation patterns. It is possible, however, that if a small number of moderate-income black and white families gain access to suburban areas, this may result in reduced resistance to such groups by majority residents in those areas. In addition, the increased access of some minority families of moderate-income levels may encourage middle and upper-income blacks to seek more housing in these nontraditional areas.

Pettigrew's claim (1975:123-4) that attitudes on race and housing are derivative rather than causal would imply that past separation of racial and economic groups in metropolitan areas will not very likely lead to future voluntary agreements to include such groups in suburban areas. Yet the clear policy implication remains: to achieve more interracial and multi-economic level housing.

The second strategy, lawsuits against exclusionary zoning, has barely begun to have an effect on weakening local control over land-use and expanding the metropolitan housing opportunities for moderate-income and minority families. Zoning regulations are consistently referred to as a major factor in creating residential segregation. Pettigrew said (1971: 25), "What Federal policies, direct discrimination, and the scarcity of modest-income housing have left undone, the white suburb's zoning methods have completed."

It is intriguing to note that the most recent Supreme Court decision on zoning upheld the Mr. Laurel, New Jersey decision of a lower court, instead of its own earlier 1971 James vs. Valtierra decision. The 1971 decision was a serious setback for those challenging exclusionary zoning and land-use bias, since it ruled that referendums on zoning changes were constitutional. The later decision, however, invalidates zoning laws which exclude regional low and moderate-income housing needs.

The lawsuit with the broadest ramifications for reducing involuntary segregation is the recent one linking exclusionary zoning to the denial of Federal funds in the Hartford, Connecticut area. The ruling that municipalities can be denied Federal funds for having a "history of discriminatory housing, zoning, and land-use policies" leaves very few municipalities that would not be affected!

The success of this second strategy, however, depends on the organization and mobilization of residents or groups in a metropolitan area by knowledgeable leaders. Without such a resource, lawsuits against municipalities are not likely to be a frequent occurrence, and thus would have little impact on existing residential patterns of involuntary segregation in this country.

The third strategy, community housing Audits, also depends on the organization and mobilization of individuals and groups by knowledgeable leaders. It has been noted that one Audit takes from six months to one year to plan, organize, execute, analyze, summarize, present and pursue. In view of this, it is nothing less than remarkable that so many have been conducted. It is even more remarkable that a large number of Audits have been conducted by volunteer organizations.

The completion of an Audit, however, cannot in itself bring about a change in the community's pattern of residential segregation. It is the use of the findings that is the crucial factor in this strategy. Four such usages or action approaches have been named: 1) Legislative, 2) Negotiation, 3) Funding, and 4) Legal. Of these, new legislation is least likely to affect residential segregation patterns, unless vigorous implementation and enforcement procedures have been instituted.

Negotiation for voluntary corrective action by housing industry representatives is desirable from an educational perspective, i.e., it increases awareness and consciousness of the law and the possible consequences of violating the law with racially discriminatory practices. But this too rests on continued vigilance and monitoring to insure the compliance with the law by the housing industry.

Funding makes it possible to acquire a full-time professional staff to continue and sustain the negotiation and monitoring efforts. But funding cannot guarantee the success of such efforts (Saltman, 1973). This depends on the dedication and expertise of the staff, and its ability to maintain support from various segments of the community while pursuing a vigorous monitoring and implementation program.

Ultimately, negotiation and monitoring success depend on knowledge of the law and possible enforcement of that law.

Thus, the fourth action approach, the legal one, may offer the greatest possibility of effectively changing discriminatory practices in housing and reducing involuntary segregation. This can also be used to successfully initiate negotiation and legislation. One successful lawsuit, with monetary damages awarded, can accomplish what seven years of negotiation might not, i.e., compliance with the law. But this too, of course, requires mobilization and organization.

The use of Audit findings in all four action approaches can have a powerful effect in changing racial discrimination within a metropolitan community. The provision of a continual watchdog in many communities throughout the nation may finally bring about greater compliance with the law.

While each of the three strategies is not likely in itself to substantially alter existing patterns of residential segregation, all three strategies in combination may ultimately achieve greater freedom of choice in housing for blacks and the poor. Together, the three strategies may achieve the eventual elimination of involuntary segregation in our metropolitan areas.

NOTES

1. In addition to Nathan Kantrowitz (1973), others emphasizing voluntary aspects of segregation are Edward Banfield, The Unheavenly City Revisited (Boston: Little, Brown & Co., 1974), Nathan Glazer and Daniel Moynihan, Beyond the Melting Pot (Cambridge: M.I.T. Press, 1963) and Elliott Rudwick (Personal Communication, January 8, 1976).
2. The UDC is now defunct because of severe financial straits (N.Y. Times, March 16, 1975).
3. Under the Civil Rights Act of 1968, a "pattern or practice" suit may be brought if there is evidence of a pattern of discrimination existing in one or more real estate companies or apartment complexes. Formerly individual suits were the only recourse for those who experienced racial discrimination in housing.
4. Akron is the only known municipality in the nation that has experienced repeated Audits followed by successive public presentations of findings and subsequent quadruple action approaches.

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