

2020

Moving Toward Sustainable Residential Integration with Racial Justice and Social Equity

Kermit Lind

Follow this and additional works at: <https://scholarlycommons.law.case.edu/caselrev>

 Part of the [Law Commons](#)

Recommended Citation

Kermit Lind, *Moving Toward Sustainable Residential Integration with Racial Justice and Social Equity*, 70 Case W. Res. L. Rev. 759 (2020)

Available at: <https://scholarlycommons.law.case.edu/caselrev/vol70/iss3/11>

This Symposium is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Law Review by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

MOVING TOWARD SUSTAINABLE RESIDENTIAL INTEGRATION WITH RACIAL JUSTICE AND SOCIAL EQUITY

Kermit Lind[†]

CONTENTS

| | |
|---|-----|
| INTRODUCTION | 759 |
| I. PERSPECTIVE OF A NEIGHBORHOOD-BASED COMMUNITY DEVELOPMENT LAWYER | 762 |
| II. THE CHALLENGES OF NEIGHBORHOOD COMMUNITY DEVELOPMENT IN 21ST CENTURY CITIES | 764 |
| III. THE PRINCIPLES AND CHARACTERISTICS OF JUST SUSTAINABILITY.. | 766 |
| IV. MOVING TOWARD SUSTAINABLE INTEGRATED RESIDENTIAL NEIGHBORHOODS AND COMMUNITIES | 770 |
| CONCLUSION | 775 |

INTRODUCTION

Among the outpouring of scholarship upon the fiftieth anniversary of the 1968 Federal Fair Housing Act there have been few publications matching the size, scope, and ambition of *Moving Toward Integration: The Past and Future of Fair Housing*, the book that is the subject of this symposium. Its three authors cover multiple disciplines—law, economics, sociology, and history.¹ Their perspectives look to both the past and the future. Using data and multi-disciplinary studies, they set out to examine housing desegregation to analyze what fifty years of public fair housing policies have done, and where those policies have

[†] Clinical Professor Emeritus of Law, Cleveland-Marshall College of Law, Cleveland State University. Professor Lind thanks the Case Western Reserve Law Review’s editorial staff for their excellent management of the Article.

1. Richard H. Sander, whose education includes degrees in law and economics, is a professor of law at the University of California, Los Angeles. *Richard H. Sander*, UCLA LAW, <https://law.ucla.edu/faculty/faculty-profiles/richard-h-sander> [<https://perma.cc/AP99-4FB3>] (last visited Feb. 7, 2020). Yana A. Kucheva is an assistant professor of sociology at the City College of New York, focusing on social policy, housing policy, and inequality. *Yana Kucheva, Ph.D.*, <https://www.yanakucheva.com> [<https://perma.cc/6Z5G-QBB4>] (last visited Feb. 7, 2020). Jonathan M. Zasloff holds a law degree and a Ph.D. in the history of American foreign policy, and is a professor of law at the University of California, Los Angeles. *Jonathan M. Zasloff*, UCLA LAW, <https://law.ucla.edu/faculty/faculty-profiles/jonathan-m-zasloff> [<https://perma.cc/Ry23-NATM>] (last visited Feb. 7, 2020).

been successful. Their thesis, if one can summarize it in a single sentence, is that after fifty years of fair housing law enforcement against housing providers, the future requires a revived and proactive initiative toward metropolitan integration.² The authors propose twelve strategies for that task that are likely to be familiar to many practicing housing advocates and observers.³

A work of this scale—attempting to revise and restate both the historical record of racial segregation and the discrimination that established and maintains it—presents critics with a large selection of targets. Still, those who have been studying and practicing in the fields of fair housing law, residential integration, and racial equity must humbly accept that racial discrimination and inequity are not moving in the direction we have been pushing for during the past fifty years. We must admit that our optimistic expectations in 1968 stretched well beyond our collective grasp of the reality summed up in the introduction to the Kerner Commission Report: “What white Americans have never fully understood—but what the Negro can never forget—is that white society is deeply implicated in the ghetto. White institutions created it, white institutions maintain it, and white society condones it.”⁴ There is scant evidence that white society has a fuller understanding now.⁵

In a very thoughtful article, University of San Francisco School of Law Professor Tim Iglesias demonstrates that advocates of “residential integration” are still not certain of what we mean by it, and analyzes

-
2. See RICHARD H. SANDER, YANA A. KUCHEVA & JONATHAN M. ZASLOFF, *MOVING TOWARD INTEGRATION: THE PAST AND FUTURE OF FAIR HOUSING* 409 (2018).
 3. See *generally id.* at 423–44 (outlining strategies for promoting integration and fair housing).
 4. NAT’L ADVISORY COMM. ON CIVIL DISORDERS, *REPORT OF THE NATIONAL ADVISORY COMMITTEE ON CIVIL DISORDERS* 1 (1968). See *generally The Fiftieth Anniversary of the Kerner Commission Report*, 4 RSF: RUSSEL SAGE FOUNDATION J. SOC. SCIS., Sept. 2018 (collecting articles about the legacy of the Kerner Commission).
 5. The COVID-19 pandemic hit the nation right after this Article was submitted to its editors for publication. The Pandemic is unleashing a torrent of even more vivid evidence of the scale and scope of racial and economic disparity than what is described here. Many public officials—state governors, mayors and county officials—are calling out the unconscionable neglect by white institutions and the societal support for condoning both implicit and explicit racism. Yet again, promises of repentance and restitution are being made. No one can now reasonably claim to be unaware of or excused from taking more responsibility for and being accountable for seeing those promises kept.

two competing meanings.⁶ New York Times columnist Thomas Edsall asked a number of leading scholars in 2019 to assess the progress of residential and school integration.⁷ The scholars' replies pointed out that while studies showed significant benefits resulted from integration, white fear and intransigence frequently limited and undermined the success of residential and school integration initiatives.⁸ Walter Mondale, a sponsor of the Federal Fair Housing Act fifty years ago, acknowledges now that the expectations of its proponents were naïve and are far from being met.⁹ Surely, then, our more optimistic authors have good reason to question the past approach of replacing the prevailing residential segregation by moving African Americans into previously white neighborhoods and communities.¹⁰ Even maintaining residential integration when it occurs in metropolitan contexts dominated by persistent systemic discrimination requires more willpower and commitment than normally seen in the past fifty years.¹¹

-
6. See Tim Iglesias, *Two Competing Concepts of Racial Integration* 20, 23–24 (Univ. of S.F. Sch. of Law, Research Paper No. 2017-09, 2017). For more of Professor Iglesias' work, see Tim Iglesias, *Selected Works of Tim Iglesias*, UNIV. OF S.F., https://works.bepress.com/tim_iglesias/ [<https://perma.cc/6LRA-C4V6>] (last visited Feb. 8, 2020).
 7. See Thomas B. Edsall, *Integration vs. White Intransigence*, N.Y. TIMES: OPINION (July 17, 2019) <https://nytimes.com/opinion/2019/07/17/opinion/integration-politics.html> [<https://perma.cc/6LXW-7Z5G>].
 8. *Id.* Edsall's sources contains an array of concise summaries of research and scholarship from very noted experts that are generally in contrast to the more optimistic views in *Moving Toward Integration. Id.*
 9. Walter F. Mondale, *Walter Mondale: The Civil Rights Laws We Ignored*, N.Y. TIMES: OPINION (Apr. 10, 2018), <https://www.nytimes.com/2018/04/10/opinion/walter-mondale-fair-housing-act.html> [<https://perma.cc/55JA-HE6V>].
 10. There is a tendency in discussions of racial segregation to consider people of color, especially African Americans, to be segregated into racially identified enclaves disparaged as ghettos without considering the larger, more resilient enclaves of privileged white people who generally have more personal choice about where to reside. It is also reasonable to expect some objection by persons of color to measurements of segregation made in terms of how many of them would have to move to achieve the benefits of residential integration. After all, vastly wealthier white households have greater economic capacity and opportunity to make that move toward integration than the average non-white household. See *infra* notes 39–47 and accompanying text.
 11. For an examination of this challenge, see generally Kermit J. Lind, *Maintaining Residential Integration: Municipal Practices and Law*, 31 CLEV. ST. L. REV. 603 (1982). But see Rodney A. Smolla, *Integration Maintenance: The Unconstitutionality of Benign Programs that Discourage Black Entry to Prevent White Flight*, 1981 DUKE L.J. 891, 893 (1981) (“Although the purpose of integration maintenance is to

The question for readers of *Moving Toward Integration* is whether the authors' prescribed approach is up to the task now, given the present state of experience, knowledge, and general public resistance. This essay responds by offering an alternate approach—one that sees racial integration as part of an emerging, more comprehensive movement toward development of residential communities that are both ecologically and socially sustainable for all, not exclusively for a rich and politically powerful minority. This approach would not measure integration solely in terms of dermatological factors. It would consider the significance of the whole range of societal and cultural elements of life sought in the pursuit of happiness—health, safety, social and economic security, quality of life, and an equal opportunity to access them all. It will prefer the well-being of a residential community over the inequitable individual privileges of a fortunate few. It will be inclusive without demanding uniformity, and diverse without division or marginalization. Sustainable community development can move along different paths toward just and equitable objectives. Development processes will not be the same for every neighborhood, municipality, or region. Equity does not require uniformity. In fact, rigid uniformity may result in inequity.

I. PERSPECTIVE OF A NEIGHBORHOOD-BASED COMMUNITY DEVELOPMENT LAWYER

As a matter of integrity, I must disclose my perspective in this essay and discuss some of the critical terms I employ.¹² Moreover, I must acknowledge that my own language varies depending on when and where I use it—classroom, courtroom, client consultation, or coffee shop. For the purpose of this essay I am trying to be understood by persons beyond my narrow professorial discipline.

Community development as a field of study and professional practice is both broad and varied—more like a wildflower-filled meadow than a field with a single crop. As a government department its job description adheres to the highly regulated management and use of funds deployed for public projects and purposes. Private enterprises identifying as community developers by name may be about for-profit or public-interest activities. Community development may be teamed up with other academic or professional practice fields—for instance

promote 'integration,' its effect is to undermine the proscriptions of fair-housing laws.").

12. It is often the case when lawyers, planners, social scientists, and students of other disciplines try to communicate, they use language without recognizing the different ways each may use words with different meaning or significance in other disciplines.

planning and community development,¹³ housing and community development, community and economic development, and here at Case Western Reserve University there is the Center on Urban Poverty and Community Development.

While “development” refers most often to material construction, here it will refer to construction, organization, or change in the realm of non-material social, cultural, or institutional things as well. Development of communities would be an apt example of both or either of those types of development. The term “community” implies or is accompanied by an adjective specifying what common factor identifies membership. “Residential,” “neighborhood,” “municipality,” “county,” and “region” are examples of locational identification. “Community” indicates a group with one or more things in common. We designate as communities groups with no physical connection or proximity—for instance, “arts community,” “academic or school community,” “foodie community,” and “conservation community.” Ethnic or racial categories may be identified as communities without the possibility of them being aware or interested in communing—the “black community,” “white community,” and “elderly community,” for instance. For the purposes of this essay, community refers to a group, all of whom reside in a specific place, neighborhood, municipality, or maybe a county, but a smaller place than a metropolis or Standard Metropolitan Statistical Area

13. While I was working on this essay, Norman Krumholz, a legendary planner and teacher, died. In his field of equity planning, he reached national and international fame with numerous publications. His radical ideas and training on community development in Cleveland influenced several generations of community-development professionals here and elsewhere. Along with colleagues W. Dennis Keating, Philip Starr and Kathryn Wertheim Hexter at the Levin College’s Center for Planning and Community Development at Cleveland State University, he illuminated both the knowledge and the practice of Community Development. *See e.g.*, REBUILDING URBAN NEIGHBORHOODS (W. Dennis Keating & Norman Krumholz eds., 1999); Norman Krumholz et al., *The Long-Term Impact of CDCs on Urban Neighborhoods: Case Studies of Cleveland’s Broadway-Slavic Village and Tremont Neighborhoods*, COMMUNITY DEV., Dec. 2006, at 33. He was remembered fondly by the Cleveland community as a “nationally respected advocate of equity planning.” Steven Litt, *Former Cleveland Planning Director Norman Krumholz, Nationally Respected Advocate of Equity Planning, is Dead at 92*, CLEVELAND.COM (Dec. 21, 2019), <https://www.cleveland.com/news/2019/12/former-cleveland-planning-director-norman-krumholz-nationally-respected-advocate-of-equity-planning-is-dead-at-92.html> [<https://perma.cc/HR3C-YGQR>].

II. THE CHALLENGES OF NEIGHBORHOOD COMMUNITY DEVELOPMENT IN 21ST CENTURY CITIES

After the media's year-long course in the history of slavery in America, it is unlikely that readers will need more than a brief summary of it here. It is sufficient to say that in the four hundred years since 1619 there have been great changes, but not elimination of all the vestiges of race-based discrimination.¹⁴ Derived from the culture of slave ownership of African people, racism remains branded on American history.¹⁵ As Sander, Kucheva, and Zasloff acknowledge, in the fifty years since passage of the Federal Fair Housing Act, the stated objective—to replace residential segregation by race with open and racially integrated communities and neighborhoods—is largely unrealized.¹⁶ Our authors and others confirm that residential integration as measured by census data would require a large proportion of the population to move to generally achieve demographic integration.¹⁷ Thus, the challenge of re-engineering residential racial segregation remains unfinished business for the nation.

Now, however, there is better understanding of the formidable challenges that loom ahead. It has been widely demonstrated and documented that the Trump administration's policy on fair housing is

14. See SANDER ET AL., *supra* note 2, at 1.

15. See, e.g., Ibram X. Kendi, *The Hopefulness and Hopelessness of 1619*, THE ATLANTIC (Aug. 20, 2019), <https://www.theatlantic.com/ideas/archive/2019/08/historical-significance-1619/596365> [<https://perma.cc/QHA7-TLT5>].

16. See SANDER ET AL., *supra* note 2, at 15. Walter Mondale described the Fair Housing Act's legacy as follows:

If the law's drafters could have been accused of anything, it was excessive optimism about how easily a segregated society could be unified. But even as the epochal events surrounding its passage fade from collective memory, the Fair Housing Act persists. It remains a bulwark for advocates of justice and equality, as they advance, inch by inch, toward a fairer, more integrated nation.

Mondale, *supra* note 9.

17. In *Moving Toward Integration*, the authors provide this hypothetical:

Consider a metropolitan area with a population of one million that is 10 percent African-American. A population of one hundred thousand African-American residents translates to about thirty-five thousand black households. Suppose that the current index of dissimilarity is .80. Getting to .60 means, to put it simply, that some combination of seven thousand black and white households move to blocks where they are currently underrepresented.

SANDER ET AL., *supra* note 2, at 447.

to generally roll back previous success with residential integration.¹⁸ In addition, a federal government attack occurring against existing policies and programs established to reduce racial injustice and inequity in health, education, labor, economic opportunity, politics, and culture. All of these—the entire fabric of the nation’s social and institutional order—are now known to be connected to one another and are crucially related to the prospects for sustainable residential integration. The numerical waning of the middle class that grew steadily after the middle of the twentieth century is accelerating social and cultural separation. Add to this the forecasts of drastic demographic and ecological changes along with increasing tribalism, creating a growing cloud of existential uncertainty. It can rightly be described as a time of dystopia. Yet there are indications of scattered local movements for healing and renewal if we care to look for them.

One such indicator is the recognition that conditions and prospects for future generations are not good enough and that many of our most trusted institutions have much to answer for as a result of that recognition. The United States can no longer honestly boast of excellence compared to most industrialized countries in virtually all indicators of quality of life. Trust and reliance on whole systems of institutions—government, national security, education, medical care, commerce, labor, and finance—are beginning to be held accountable for negligent, reckless, and predatory conduct by their leaders at the expense of the millions who count on them. That recognition invites serious and substantial renewal, starting with core values.

Sustainable development is beginning to emerge now as a core value.¹⁹ It is seen in responses to environmental degradation by short-sighted development and negligent maintenance. It is seen in a surge of local education and organized efforts to remove the racial discrimination that still resonates from the officially authorized redlining started in the 1930s, in the criminal justice system, in medical delivery systems, and in life-advancing opportunities.²⁰ Embedded in these current reform efforts is the realization that a better future requires more than protection of the physical environment; it requires social equity and justice for sustainability. Without those moral features, community

-
18. Stephen M. Dane, *Fair Housing Policy Under the Trump Administration*, 44 HUM. RTS. MAG. (Am. B. Ass’n, Chicago, Ill.), Dec. 6, 2019, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-justice/fair-housing-policy-under-the-trump-administration [https://perma.cc/22CW-HG5D].
 19. MARK ROSELAND, TOWARD SUSTAINABLE COMMUNITIES 3–5 (4th ed., 2012).
 20. See, e.g., *Undesign the Redline*, CLEVELAND NEIGHBORHOOD PROGRESS, <http://www.clevelandnp.org/undesigntheredline/> [https://perma.cc/2BL2-FGGS] (last visited Feb. 9, 2020).

development is not sustainable. In addition, sustainability requires a proactive intentionality—that is, it consciously and constantly seeks improvement, not merely protection after harm has occurred. It must anticipate constant and consequential change in circumstances and situations—change that is both material and intellectual—and act before challenges become crises.

The history of racial segregation, from slavery through emancipation to the present, and its enforced maintenance through law, economics, political, social, and cultural discrimination, has demonstrated that the prevailing social order is infected with racism and is consequently not sustainable. Accordingly, for this nation specifically, sustainability requires a kind of integration not yet realized. That is true both at a national level and in local communities and neighborhoods. The argument here is that the nation’s communities of all kinds and classifications must develop, as a new norm, sustainable residential integration that is also just and equitable. Integration measured only by the residential location of persons of color cannot be sustained without restraining the retained forces of implicit racial injustice and inequity empowered and legitimized by white segregation. Certainly fair housing law enforcement is necessary, but relying on it alone does not lead to full and fair integration. Any movement toward residential integration is still challenged by the collateral institutional systems that perpetuate unjust and inequitable segregation.

III. THE PRINCIPLES AND CHARACTERISTICS OF JUST SUSTAINABILITY

The concept of Just Sustainability, as used in this essay, harkens back to 1987 when the Brundtland Commission of the United Nations declared that sustainable development is development which “meets the needs of the present, without compromising the ability of future generations to meet their own needs.”²¹ The context then was the UN’s effort to institutionalize a global strategy for reckoning with climate change and global ecological dystopia.²² Social scientists claimed that

-
21. Rep. of the World Comm’n on Env’t and Dev., U.N. Doc A/42/427, at ¶ 27 (1987); *see also* Andrew D. Basiago, *Methods of defining ‘sustainability’*, 3 *Sustainable Dev.* 109, 109–19 (1995).
 22. This global context for the conceptual roots of sustainable development in 1987 coincides with conceptual development in the law of nuisance led by Professor Prosser, advancing the notion of public nuisance as a tort offense against the sovereign’s inherent protection of the health, safety, and welfare of its citizens. For more on this esoteric sidebar see the discussion in Kermit J. Lind, *Can Public Nuisance Law Protect Your Neighborhood from Big Banks?*, 44 *SUFFOLK U. L. REV.* 89, 112–22 (2011).

sustainability was not just about the limitations of wounded ecosystems around the globe but also about human social needs and welfare in relation to the limits of ecosystems. Sustainability, environmental justice, and social equity became closely associated in both scholarly research and public-policy debates.²³ Sustainability was seen as an ethical value and a necessary response to both environmental degradation and social inequity over the way the environment was exploited.²⁴ Policies and practices, developed with sustainability as a primary value, advanced more rapidly in Northern European countries and Great Britain.²⁵ Its more recent appearance in the United States emphasizes environmental safety and protection, greening, conservation, and carbon management, as seen in the establishment of governmental offices and corporate offices with the word “sustainability” on the door.²⁶ The addition of social justice and equity to the concept of sustainability is growing slower, but it is gaining currency.

This essay owes much to Professor Julian Agyeman’s work that I discovered in 2016.²⁷ It also owes much to a Canadian scholar now at Arizona State University, Mark Roseland, author of *Toward Sustainable Communities*, who educates citizen activists and

23. See generally Robert W. Collin, *Review of the Legal Literature on Environmental Racism, Environmental Equity, and Environmental Justice*, 9 J. ENVTL. L. & LITIG. 121 (1994) (discussing the history of environmental justice in the law and its foundational cases).

24. *Id.* at 143–54.

25. See generally James J. Friedberg, *Closing the Gap between Word and Deed in European Community Environmental Policy*, 15 LOY. L.A. INT’L & COMP. L.J. 275 (1993) (discussing the development of environmental regulations across Europe).

26. See, e.g., *Home*, OFF. OF FED. SUSTAINABILITY COUNCIL ON ENVTL. QUALITY, <https://www.sustainability.gov/> [<https://perma.cc/X3EY-RPNC>] (last visited Feb. 9, 2020).

27. Agyeman is now Professor of Urban and Environmental Policy and Planning at Tufts University, though he remains involved in research and scholarship in the U.K. where his work began. In the early 2000s, Agyeman developed the concept of “just sustainabilities,” defined as “the need to ensure a better quality of life for all, now, and into the future, in a just and equitable manner, whilst living within the limits of supporting ecosystems.” Julian Agyeman & Tom Evans, *Toward Just Sustainability in Urban Communities: Building Equity Rights with Sustainable Solutions*, 590 ANNALS AM. ACAD. POL. & SOC. SCI. 35, 36 (2003). His book fully states his matured work. See JULIAN AGYEMAN, *INTRODUCING JUST SUSTAINABILITIES: POLICY, PLANNING AND PRACTICE* (Zed Books, 2013). His website offers numerous videos of lectures, speeches and publications making his work very accessible. See JULIAN AGYEMAN, <https://julianagyeman.com/> [<https://perma.cc/VU7H-FXGJ>] (last visited Apr. 6, 2020).

governments on the practice and programs for sustainable municipal communities. While Agyeman's theoretical and practical work is global in scope and Roseland's is local and aimed at practitioners, reading these scholars added conceptual and linguistic strength to what was happening in my community development law and public policy work that focused on development of effective municipal housing and neighborhood code compliance in deteriorating community environments. Just Sustainability's complexity, multi-disciplinary character, and its application in different circumstances have all resulted in a multitude of definitions and descriptions for the concept.²⁸ Consequently, writers are obliged to explain what they mean by the term.

As used in this essay, Just Sustainability has developed in the context of my practice, experience, and teaching work over the past fifty years. As a community organizer in the inner-ring suburb of Cleveland Heights, Ohio in the 1970s, the task was developing an ethos open to racial integration on the one hand, and maintaining racial diversity against the prevalent forces of discrimination and residential re-segregation in the city's housing market on the other. This advocacy's basic assumption was that the future well-being of the residential community depended on accepting and adapting to the new realities of racial diversity. The community-development process required vindicating new fair-housing laws while building community institutional support for public policies affirmatively sustaining integration as a desired improvement.²⁹ Moving from neighborhood organizing to a metropolitan scale program, followed by law school and practicing as a law school clinical community development and public policy lawyer in Cuyahoga County and the City of Cleveland, provided experiential learning for which there are no courses or classes. This experience as legal counsel for community development corporations in racially diverse urban neighborhoods for more than 30 years—and especially during the housing and mortgage crisis of the past decade—produced a clear understanding that residential integration was about much more than location, skin color, and fair housing law enforcement.

This experiential learning over the past fifty years formed my understanding that neighborhood community development could be sustainable only when the development was infused with social values of justice and equity for all. One-dimensional programs—whether in housing, land use planning, environmental protection, education,

28. See, e.g., *Defining Sustainability*, ARIZ. ST. U. SCH. SUSTAINABILITY, <https://schoolofsustainability.asu.edu/about/what-is-sustainability/> (providing various definitions of sustainability) [<https://perma.cc/P2RF-3D46>] (last visited Apr. 6, 2020).

29. See Kermit J. Lind, *Maintaining Residential Integration: Municipal Practices and Law*, 31 CLEV. ST. L. REV. 603, 644–45 (1982).

health, or public safety—that are designed by experts from one discipline or single-issue advocacy group seem to flounder after one or two election cycles; or with changes in the priorities of grant-makers; or when their founding leaders move on. Community development that compartmentalized where each fragment must compete with others for resources could, and did, produce some remarkable examples of limited success from time to time; but after fifty years the results of this piecemeal excellence have not closed the racial and economic gaps that divide metropolitan Cleveland. The maps of 2019 that reveal the places of poverty, poor health and safety, and diminished opportunities look very similar to the redline maps of the 1930s used to segregate people by race and heritage.³⁰ Those old redlined maps that institutionalized segregation of people by race and ethnicity look remarkably similar to current maps documenting the locations of poverty, poor education, poor health, poor safety, unsafe housing, and absence of work and other life-sustaining opportunities.

Finally, this essay's vision sees Just Sustainability as perpetually dynamic, a constant movement toward an unseen destination. It works in many different situations and circumstances with results that are neither uniform, perfect, nor complete, but are characterized specifically by the values supporting sustainability. It is admittedly a moral choice applicable to setting priorities among an array of values, both personal and public. It would demand an answer to the question of where residential integration stands in relation to competing values that result in residential segregation and its consequences. It calls for an adjustment of the hierarchy of values in favor of racial diversity and inclusion and a willingness to accept the cost of that value's benefit not only for the individual, but also for the community and its future. The vision claims that residential integration is sustainable only by placing greater value on racial justice and social equity. Its hope is that living for sustainability will enable a future in the face of greater ecological challenges, population growth in size and complexity, and more social and economic stresses on those populations in a landscape of national and state government dysfunctionality. Just Sustainability is a principle that offers hope for a future that appears to be fraught with greater challenges for neighborhoods, communities, municipalities, and metropolitan regions.

30. Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., *Downloads & Data*, MAPPING INEQ.: REDLINING IN NEW DEAL AM., <https://dsl.richmond.edu/panorama/redlining/#loc=5/39.1/-94.58&text=downloads> [<https://perma.cc/8TEX-7R8R>] (last visited Apr. 6, 2020).

IV. MOVING TOWARD SUSTAINABLE INTEGRATED RESIDENTIAL NEIGHBORHOODS AND COMMUNITIES

The vision outlined above is useless unless it can be actualized. This section considers that process. In doing so, it must be acknowledged that there is no single formula that leads to success. It must also be acknowledged that there is no exact or uniform definition for success. Yet within the space for a variety of good models and processes toward success, there is no room for domination by privileged elites or racial majorities. Divisions must be bridged and decisions must reflect a commitment to including the interests and well-being of the whole community. It is a function of just-community-development advocates to organize the processes at the community level for doing that task.

At the individual level, people tend to choose their residential place with regard to real, though not necessarily professed, values. So choosing where to put down residential roots—where and what to embrace as one's environment—is to a great extent an act of choosing or rejecting community values. Even when that choice is limited or compelled by economic, social, aesthetic, or relationship factors, it nevertheless makes a true personal statement of values. The most critical residential choices are those made by persons with the greatest range of choices by virtue of economic capacity. That is why the continued segregation of white people in the richest sections of communities is such a barrier to the inclusion and diversity for just sustainable communities. Moving away from white privilege and its domination of our political, social, educational, health, and work-opportunity systems is a radical but necessary choice for healing divided residential communities.

Residential community members can organize to develop sustaining characteristics in neighborhood and community life. Current studies demonstrate that the literacy and skills of civic engagement have declined or failed to adapt to this century's new realities. Yet there are efforts emerging to reinstate them.³¹ We see community engagement by people in organizations and institutions—block clubs, parent-teacher associations, political parties and campaign organizations, boards and commissions, faith congregations, social service clubs, home-owners' associations. The entire array of public and private agencies and organizations needs to have the knowledge and skills to sustain vibrant

31. See, e.g., Jeffrey S. Solocheck, *Florida House Advances Bill to Create Civics Literacy Initiative*, TAMPA BAY TIMES (Dec. 12, 2019), <https://www.tampabay.com/news/gradebook/2019/12/12/florida-house-advances-bills-to-create-civics-literacy-initiative/> [https://perma.cc/X5W4-DXHB]; Keith Mahoney, *A New Chapter for Civics in Massachusetts*, THE BOSTON FOUNDATION (Nov. 9, 2018), <https://www.tbf.org/blog/2018/november/a-new-chapter-for-civics> [https://perma.cc/9HPE-7DNN].

civic discussion and actions. A new civic literacy is an important tool to turn visions for Just Sustainability into reality.³² Naming and stating the values of racial inclusion, respect for diverse cultures, and equity for all, are critical actions in communities oriented toward sustainability.

The role of municipal government to make and enforce, with police power, the conduct of persons and condition of property is also critical. Community values and standards expressed in law and public policy become concrete and legally enforceable when expressed in legislative form. There is a persistent tension between personal interests and community interests in the regulation of a community's health, safety, and welfare.³³ The use and abuse of land as well as the structures built on land, for instance, have been historically policed in a manner that discriminates against persons of color, the poor, and the weak. Richard Rothstein's recent book, *The Color of Law*,³⁴ describes how governments at all levels enabled, even promoted, legally permitted racial segregation and injustice still dividing communities to this day. Even though *de jure* race discrimination has been largely dismantled, racial segregation is not eliminated. Compare for instance the segregation in public education, publicly assisted housing, administration of criminal justice, and availability of basic health and quality of life in urban neighborhoods populated predominantly by persons of color now, with what it was a half century ago.³⁵ Governments have not substantially abated racial injustice and economic inequities. Some have indeed tried, but very few have succeeded. At the start of this century's second decade the prospects for aligning public institutions of government with the core community values professed in their constitutions and laws seems slim. Yet, when one looks for examples of better government, some good initiatives can be found in municipalities where communities

-
32. It may be important to observe that the current decline in number and quality of local news outlets is a significant challenge to healthy discourse within communities about local matters. The domination of the media by cable and internet purveyors rarely replaces the traditional role of professional local news producers and too often the new media is a source of civic dismemberment.
33. *See generally* Kermit Lind & Joe Schilling, *Abating Neighborhood Blight with Collaborative Policy Networks—Where Have we Been? Where are we Going?* 46 U. MEM. L. REV. 803 (2015) (detailing the conflicting community and personal interests in public health and welfare policy).
34. RICHARD ROTHSTEIN, *COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017).
35. *See generally* Richard Rothstein, *For Public Schools, Segregation Then, Segregation Since*, ECON. POL. INST. (Aug. 27, 2013), <https://www.epi.org/publication/unfinished-march-public-school-segregation/> [<https://perma.cc/66T8-46LK>].

are starting to prioritize justice and equity, and people are organizing to move more deliberately toward integration and equity for all.

The short list of municipal communities promoting residency for racial inclusion and equity, organizing community-based advocacy for more just community sustainability, and reforming or removing implicit and explicit institutional discrimination in public and private entities—is just a start. The specific steps and sequences of these actions have to be determined at the community level, but determined with eyes focused consistently on the north star pointing in direction of Just Sustainability.

Lessons should be studied from communities that are experienced in intentional movement toward sustaining residential integration.³⁶ By comparison, the study of segregation, discrimination, dysfunctionality, and failures get more attention, possibly because reports of disasters and distress are more dramatic than local news of something working well. Various current models for inclusion of diverse cultures and equity in access to opportunities for groups historically marginalized by bad health conditions, economic discrimination, and educational limitations should be sought out.

Much of the resistance to serious efforts toward sustainability comes from economically and politically powerful forces and interests outside the residential community. The mortgage crisis and accompanying Great Recession dramatically illustrate this fact, with its asymmetrical damage to people of color and divided recovery in the first decade of this century.³⁷ Another example is the persistent work of many state legislatures to gnaw away at the capacity of local governments to deploy local policies for recovery and sustainability. Even with laudable efforts at reform like the examples mentioned above by both scholars and community development practitioners, resistance to actual implementation on a large scale is still extremely difficult to overcome. Therefore,

36. Readers of *Moving Toward Integration* familiar with the fair-housing-for-integration movement of the late 1960s into the 1980s will find very little about neighborhoods and suburban municipalities like Mt. Airy, Evanston, Oak Park, Park Forest and other South Chicago Suburbs, Shaker Heights, Cleveland Heights, and Southfield. These and other municipalities affiliated with National Neighbors, Inc. experimented and practiced residential integration, but their history and experiences do not figure prominently in the scholarly literature of this century. This author's 1982 law review article written during an eight-year tenure as executive director of the Cuyahoga Plan of Ohio, a metropolitan-wide fair housing and residential integration advocacy organization, called for measures similar to those in *Moving Toward Integration*. See Lind, *supra* note 11, at 610 n.26, 640–41, 640 n.189, 644.

37. *Id.* at 606–07.

endurance is essential in the quest for just and sustainable residential communities.

There is some new and emerging thinking that challenges traditional assumptions about racial integration. It was traditionally assumed that desegregation of African Americans would be achieved by integrating marginalized people with people in white residential communities through fair housing law enforcement combined with government-mandated affirmative action for desegregation.³⁸ That assumption is now under attack. There are questions being raised about the nature and role of concentrated affluent white residency. For example, Goetz, Damiano, and Williams's recent article calls for intense scrutiny of Racially Concentrated Areas of Affluence—those places where white residents appear to be hoarding opportunity and advantage—and holding that sector of society with its virtual monopoly of economic and political power accountable for allowing, if not enabling, racial disparities.³⁹ That article includes an array of metrics pointing to wide gaps between most people and those described as affluent advantage hoarders whose ethos is increasing extreme racial and economic segregation.⁴⁰ Also, Professors Robert J. Chaskin and Mark L. Joseph studied three new residential redevelopment projects in Chicago that have both racial and economic diversity built into their establishments.⁴¹ Former public-housing tenants and middle-income tenants and owners, both black and white races, are discovering how to be integrated in new residential communities. This research reveals factors beyond race that complicate the integration process in the new housing communities.

Professor Joseph⁴² and his colleagues at the National Initiative on Mixed-Income Communities at Case Western Reserve University are now researching and collaborating with new residential redevelopment

38. *Id.* at 612.

39. Edward G. Goetz, Anthony Damiano & Rashad A. Williams, *Racially Concentrated Areas of Affluence: A Preliminary Investigation*, 21 *CITYSCAPE: J. POL'Y DEV. & RES.* 99, 118 (2019).

40. *Id.* at 102–03.

41. Robert J. Chaskin & Mark L. Joseph, *Building "Community" in Mixed-Income Developments*, 45 *URB. AFF. REV.* 299, 302, 313–14 (2010); ROBERT J. CHASKIN & MARK L. JOSEPH, *INTEGRATING THE INNER CITY: THE PROMISE AND PERILS OF MIXED-INCOME PUBLIC HOUSING TRANSFORMATION* 71, 73, 102 (2015).

42. I happily disclose that Professor Joseph is a personal friend, teacher and collaborator in a progressive faith-based initiative toward congregational community inclusion and equity at Forest Hill Church (Presbyterian) in Cleveland Heights, Ohio. Our relationship has significantly influenced this essay.

projects across the United States and Canada that have racial and economic diversity built into their establishments. Prior tenants and owners are developing an expanded version of integration at the residential community level. Their research sheds light on the complexities of sustaining inclusion and equity among people with racial, economic, and cultural differences who intend nevertheless to live as neighbors.⁴³ The National Initiative on Mixed-Income Communities views the harsh realities of pernicious white supremacy as a framework to be named and acknowledged in order to discover and apply interventions that promote inclusion and equity within both segregated and integrated residential communities.⁴⁴ Their Initiative urges “a radical shift in the discussion to emphasize the *value* of people of color and the motivating potential of a *positive-sum* reality whereby greater opportunity for the marginalized actually generates increased, sustained opportunity for all.”⁴⁵

Similarly, the Urban Institute and the McArthur Foundation hosted a three-day national conference in October 2019 to engage mission-driven housing developers and owners/operators, researchers, advocates, philanthropists, investors, midcareer and emerging leaders, public officials, and intersecting anchor institutions.⁴⁶ The Urban Institute’s Housing Matters Initiative, which uses research, strategic advising, technical assistance, and communications to improve interrelated outcomes in people’s lives and communities, recently put an “equity lens” into their statement of principles. It is an intentional policy to acknowledge disparities and use that knowledge to forge a new and more equitable path.⁴⁷ These and other similar initiatives present both the theory and practice inspiring the alternative approach advocated in this essay.

43. Amy T. Khare & Mark L. Joseph, *Promoting Equity and Inclusion Through Problematizing Concentrated White Affluence*, in RACE AND POLICY: 50 YEARS AFTER THE FAIR HOUSING ACT 15, 15 (Vincent J. Reina & Susan Wachter eds., 2019).

44. *Id.* at 16.

45. *Id.*

46. See *Foundations for the Future of Housing*, URB. INST., <https://www.housingfuture.org> [<https://perma.cc/8S3B-A2SN>] (last visited Feb. 6, 2020).

47. “Research has shown that housing problems have ripple effects on health, education, economic mobility, child welfare, civil rights, criminal justice, and more. Affordable, stable, and quality housing options for all types of households and income levels can support better outcomes.” *About Us*, URB. INST., <https://housingmatters.urban.org/about-us> [<https://perma.cc/7D9R-Z9DZ>] (last visited Feb. 6, 2020).

CONCLUSION

Clearly, fifty years of federal fair housing laws, litigation, and policy initiatives have not yet produced the results intended in 1968. No less authority than Walter Mondale, a Senate sponsor of the Fair Housing Act, has said so. As Sander, Kucheva, and Zasloff have shown, there are successes; yet they are partial and limited to atypical conditions, circumstances, and locations.

The prevailing social, economic, political, and cultural institutions and CUSTOMS in most metropolitan communities are still dominated by the interests of highly privileged white persons and institutions preserving their privilege. The failure to acknowledge, study, and fundamentally change that reality bars the movement toward sustainable racial integration. Current studies⁴⁸ indicate that, on the whole, people of color and the communities they inhabit are more vulnerable to ecological, economic, social, and opportunity decline than was the case fifty years ago.

The way forward, therefore, requires a new approach, one that values just and equitable communities and their sustainability ahead of interests that sustain deep, destabilizing divisions. Institutions must be accountable for the consequences of their actions when they impede progress toward just racial, equitable, and sustainable communities. Assigning responsibility for residential desegregation only to public-sector law enforcement, or to a specific agency, or single-disciplinary approach dependent on vagaries of civil law has not succeeded.

The quest for just, equitable, and sustainable communities is a process without a pre-defined end point. It is always dynamic. It adapts to changing circumstances. Stasis is a threat. While the direction of the movement is determined, the routes of specific communities will differ. Opportunities, obstacles, changing conditions and circumstances will require a variety of tactical methods and means of proceeding, but always in the direction toward Just Sustainability. Organizing and implementing the process at the level of individual communities is what just community development does.

Movements that lead to deep and long-term changes in societies take generations. For example, the civil rights movement that started in the 1950s had a period of great struggle and accomplishment in the sixties and seventies. It continues to be a reference point for all who work for racial and economic justice. Indeed, the very activity of

48. See, e.g., Solomon Greene, Margery Austin Turner & Ruth Gourevitch, *Racial Residential Segregation and Neighborhood Disparities*, URBAN INSTITUTE (2017); Brian D. Smedley & Hector F. Meyers, *Conceptual and Methodological Challenges for Health Disparities Research and Their Policy Implications*, 70 J. SOC. ISSUES 382, 383 (2014).

publishing this and other commentaries to advance residential integration is an extension of that movement. The roots of the movement were planted nearly two centuries ago by abolitionists whose vision included the eventual elimination of all vestiges of slavery in this country.⁴⁹

The authors of *Moving Toward Integration* are promoting an optimistic renewal in the movement toward integration. They have prescribed some programs for future fair housing work to extend what has been accomplished so far. Their multi-disciplinary, data-driven approach using new information technology is encouraging, especially with the use of real property parcel-based digital data. Residential community development at the municipal or county level is where a strategic movement incorporating racially just and equitable residential integration will be the way forward.

49. The work and writing of Frederick Douglass are a great example of that vision and the struggles to realize it before, during and after the Civil War. See DAVID W. BLIGHT, *FREDERICK DOUGLASS: PROPHET OF FREEDOM* (New York: Simon & Schuster (2018))(showing Douglass' attitudes of segregation prior to, during, and following the Civil War). As William Faulkner famously reminds us: "The past is never dead. It's not even past." WILLIAM FAULKNER, *REQUIEM FOR A NUN* 92 (1951).