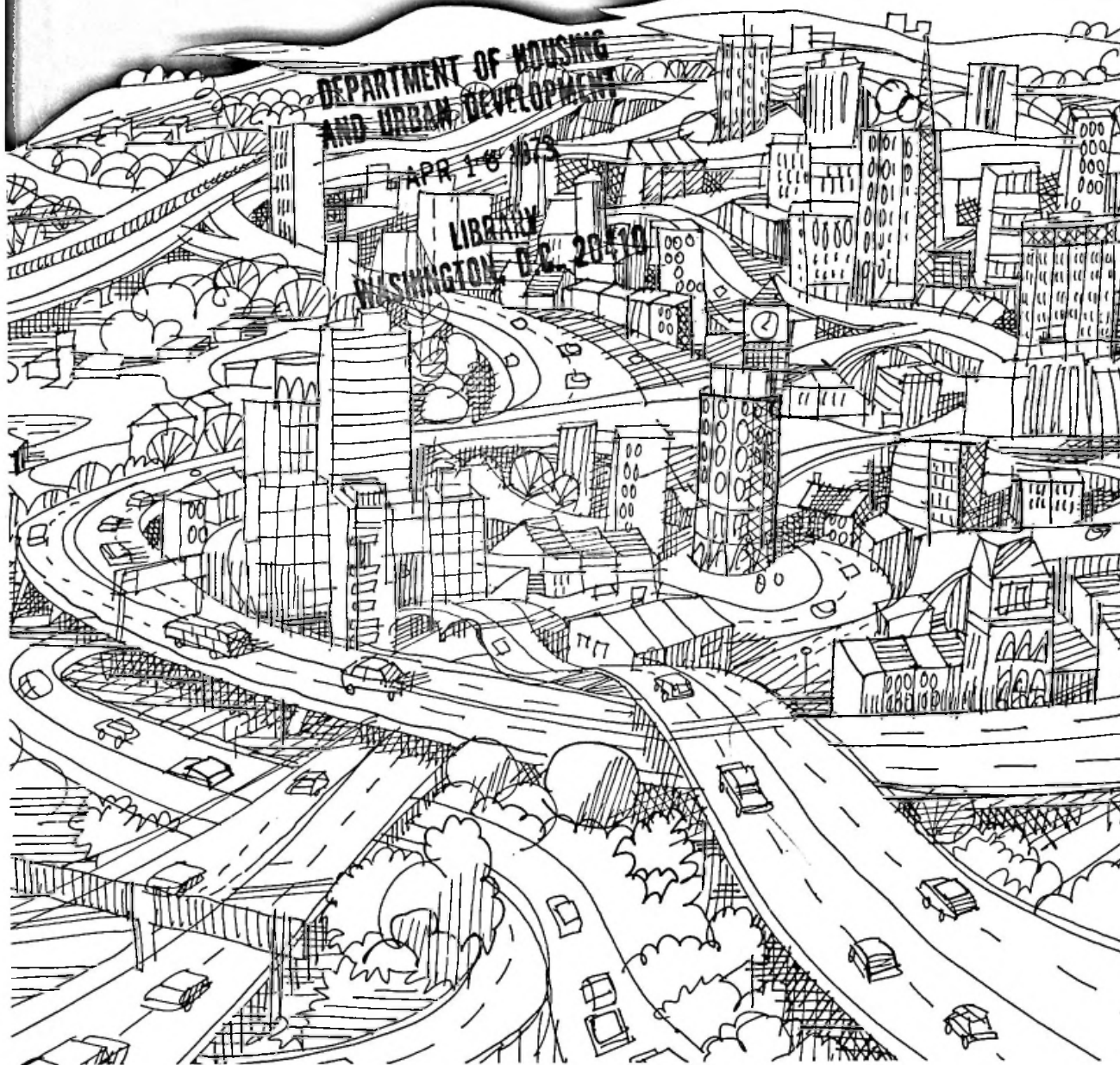


# ABOVE PROPERTY RIGHTS



UNITED STATES COMMISSION ON CIVIL RIGHTS  
Clearinghouse publication #38 December 1972

## **U.S. Commission On Civil Rights**

The U.S. Commission on Civil Rights is a temporary independent bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;
- Appraise Federal laws and policies with respect to equal protection of the laws;
- Serve as a national clearinghouse for information in respect to denials of equal protection of the laws; and
- Submit reports, findings, and recommendations to the President and the Congress.

### **Members of the Commission**

Rev. Theodore M. Hesburgh, C.S.C., *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Maurice B. Mitchell

Robert S. Rankin

Manuel Ruiz Jr.

John A. Buggs, *Staff Director*

# ABOVE PROPERTY RIGHTS

"I believe in property rights; I believe that normally the rights of property and humanity coincide; but sometimes they conflict, and where this is so I put human rights above property rights."

From a speech "Democratic Ideals" delivered by Theodore Roosevelt in Buenos Aires, November 7, 1913 and reprinted as delivered in *The Outlook*, an extinct magazine, on November 15, 1913.

Prepared for the  
UNITED STATES COMMISSION ON CIVIL RIGHTS

by Simpson F. Lawson

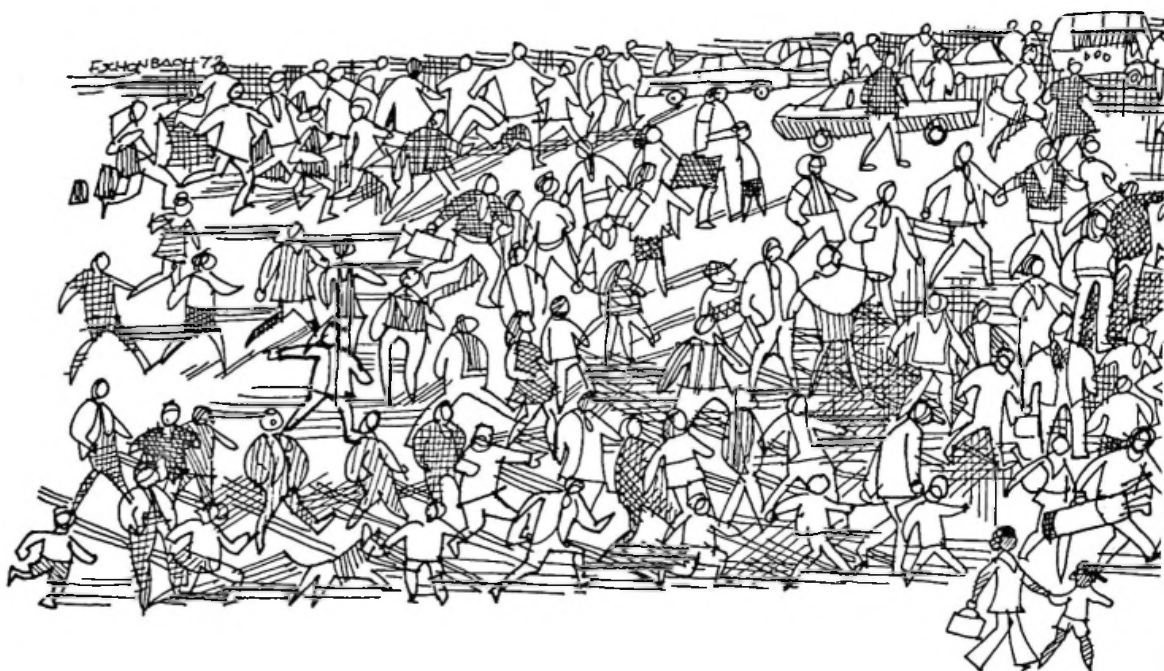
Clearinghouse publication #38  
December 1972

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, D.C. 20402—Price 65 cents  
Stock Number 0500-0080

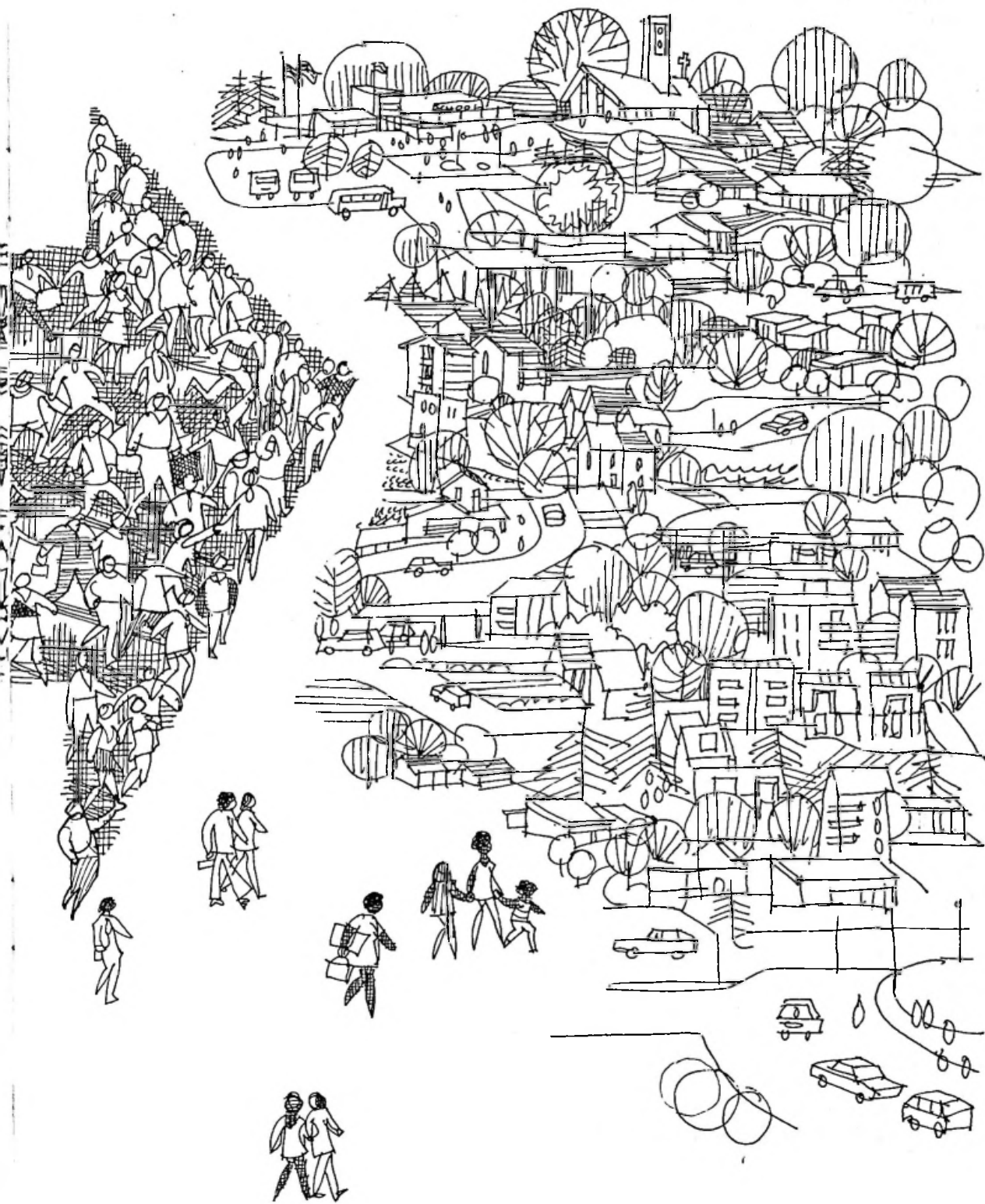
## CONTENTS

I	Access to Suburbia: A Slightly Greater Trickle .....	4
II	Metropolitan Mismatch: Jobs and Housing .....	9
III	New Words of Unwelcome .....	12
IV	Highways: Full Enclosure, Limited Access .....	15
V	Federal Role: Policy Shift, Performance Lag .....	17
VI	Local Role: Urban Expulsion .....	21
VII	The Dual Market as Policy Implementer .....	23
VIII	The Judiciary as Policy-Maker .....	25
IX	Summary .....	27



## Access to Suburbia: A Slightly Greater Trickle

In 1962 Adel Allen, an engineer from Wichita, Kansas, took a job in McDonnell Douglas Corporation's giant aerospace conglomerate scattered throughout St. Louis County. After a \$5,000 down payment, he moved his family into a \$16,000 house in suburban Kirkwood, Missouri.



Eight years later he recalled:

"Well, some of the neighbors that lived there told us that they would welcome black people and told us that they are glad that we came and all that. But the next day we saw signs going up—For Sale—all around us."

At that time, Mr. Allen told the United States Commission on Civil Rights, his block contained 30 white families and one black family. In 1970 it contained 30 black families and two white families.

Mr. Allen was one of scores of witnesses the Commission heard in an 18-month intensive investigation of racial polarization in the Nation's metropolitan areas. The inquiry included comprehensive hearings on access to suburban housing opportunities in the St. Louis and Baltimore regions and one in Washington D.C. that was national in scope.

In all three hearings the Commission sought to find, and press for elimination of, the causes that have kept at a trickle the flow of minority families to suburbia, clearly the residential preference of majority Americans with unfettered choice.

Among major barriers which frustrate the free choices of minorities, the inquiry revealed, are pervasive racial discrimination that persists in the face of explicit laws and far-reaching court decisions; widespread resistance to changes in land-use patterns that might alter either the racial or economic composition of suburban neighborhoods; a fragmented real estate marketing system, highly susceptible to covert discrimination and racially biased manipulation; and a degree of governmental enforcement of civil rights laws that at no level is adequate to reverse the pattern of segregation and discrimination fostered in most of the first three decades of housing-policy administration.

No single minority family's entry into a previously all-white suburban neighborhood can be called typical. But an inestimable number of minority group people, willing to be "pioneers" to suburbia, have felt a common need to cope with white attitudes that range from reluctance to hostile resistance. Adel Allen shared that need, or anxieties over it, with these other Commission witnesses:

Larman Williams, a black assistant high school principal, was able to move his family into an all-white neighborhood in Ferguson, Missouri, only through the intercession of the white pastor of the church he attended in St. Louis. At a caucus and prayer meeting the minister convened, the residents

of the suburban community agreed that admitting the Williams family without protest was the only right thing to do.

Resistance that other black families have encountered in settling in the suburbs discouraged 25-year-old Donald Whitworth from moving from a St. Louis apartment to Fenton, Missouri, where he is employed by the Chrysler Missouri Truck Plant. Such a move could end commuting that takes Mr. Whitworth up to an hour one-way and costs him up to \$40 a month.

It was not overt discrimination that the young white-collar worker feared. "Not the cross-burning or the night riders," he said. "There's nothing that direct any more." His perception of a hostile suburbia was reinforced by racial slurs scribbled on walls of the plant washrooms, and he was determined not to subject his wife and 6-year-old daughter to possible harassment in community and school.

When Armando Pereiras's wife asked in fluent English about an apartment in suburban Mahwah, New Jersey, she was told it was vacant. Then Pereiras went in person to the agency to inquire further. He told the Commission: "When I would show up, and I spoke [with a heavy Spanish accent] that was the end . . . they don't say, you can't take the apartment, you know. They already rent it."

The same covert housing discrimination that disenchanted young Donald Whitworth with the St. Louis suburbs was more clearly articulated to the Commission six months later in Baltimore County by Dr. Homer Favor, dean of the Center for Urban Affairs at Morgan State College.

Dr. Favor told the Commissioners not to expect to find the "nefarious practices" in the Baltimore housing market that abounded in the 1950's. "But by the same token," he said, "you will still find the same proportions of black people participating in the mainstream of life. . . . Those would be a very small percentage."

The 1970 census quantified Dr. Favor's estimate. Only 3.2 percent of Baltimore County's 1,165,000 residents are black, a decline of .3 percent during the 1960's. His observation could as easily have been applied to St. Louis County where the same percentage of the slightly more than a million residents are black. In terms of those ratios, both



counties are fairly representative of suburban parts of the Nation as a whole. St. Louis County has nearly 100 municipalities, while Baltimore County has none, but in neither is the central city within the county's boundary. In this sense, both are what Baltimore author and newspaperman Theo Lippman, Jr., calls "pure suburbia."

The 1970 census showed that total nonwhite population in the suburban parts of the Nation's 66 major metropolitan areas had risen by 762,000 during the 1960's. Although this was 42 percent more than the increase of the previous decade, the black percentage of the suburban population remained virtually unchanged, rising from 4.2 to 4.5 percent. The nonwhite migrants entering suburbia at a somewhat accelerated pace in the 1960's were engulfed by the influx of 12.5 million whites, a continuous flow.

Minority families represented by this token increase were not scattered in a pepper-and-salt pattern over a carpet of green, middle class lawns. Actually, the stereotype of suburbia such a misconception suggests is fast fading.

Much of the nonwhite increase has been due, as it was in the St. Louis area, to the extension of already predominantly black residential corridors over city boundaries and into older, close-in suburban communities.

An undetermined number of other minority families are scattered throughout metropolitan areas in complexes developed hurriedly during the Second World War to house desperately needed defense workers. All-black Turner's Station, for example, contains 1,400 apartments and several hundred single family houses adjoining the all-white community of Dundalk on a Chesapeake Bay peninsula, far from Baltimore's inner-city ghettos.

As suburbia swept outward it surrounded tracts of rural land that have been owned or occupied by black families for more than a century. Before the suburban city of Olivette, Missouri, annexed it and bulldozed most of its houses, an 18-acre St. Louis County area was a black settlement for more than 100 years after the abolition of slavery. The all-black city of Kinloch in the same county grew from a tract subdivided to St. Louis blacks in the 1890's.

Suburban development has also surrounded thousands of other existing towns, many of which had

been trade centers for rural and semi-rural areas for generations before the first subdivision in their region was laid out. Like the cities to which they are satellites, those towns had their middle class and working class neighborhoods and their own ghettos.

Because of this highly diverse pattern of development, access routes for minorities to suburban housing defy classification, as do the barriers they encounter in reaching it. Most of the barriers, however, stood clearly identified as the 1970's began, awaiting public and private action to enforce constitutional guarantees to freedom of choice in housing.

Such freedom will not exist, the Commission has repeatedly asserted, until it is possible everywhere in the Nation to buy a house as easily as one can now buy an automobile. The Commission's inquiry made it patent that this time had not yet arrived.

For each Adel Allen or Larman Williams, black city dwellers willing to become pioneer residents of the suburbs, there probably are thousands of Donald Whitworths. Like that young St. Louis husband and father, the latter are deterred more by the risk of subjecting their families to embarrassment than by any fear of white resistance.

Negative experiences of "pioneers" get back to former neighborhoods, helping shape perceptions of potential minority migrants to the suburbs. Such perceptions must be considered forms of barriers to freedom of residential choice.

A detailed account of the Allens' first eight years in Kirkwood, Missouri, is likely to discourage all but the hardest minority families. The departure of their white neighbors by what seemed to be reflex action was followed by a steady decline in municipal services. Nevertheless, their house, which in eight years had increased in value by \$2,000, was taxed at the same rate.

Pleas by the neighborhood for sidewalks and curbs were ignored while other sections of the city were practically "forced" to take them. Residents could count three abandoned cars in the streets.

Police surveillance was one municipal activity that did not diminish. "I think we got more police protection than we required when I first moved there," Mr. Allen said. "I don't know if they were protecting me or protecting someone from me."

The engineer's doubts were born of demeaning experiences. "There's an almost automatic suspicion that goes along with being black. . . . I've been stopped, searched, and I don't mean searched in the milder sense, I mean laying across the hood of a car. And then told after they found nothing that my tail light bulb was burned out, or I should have dimmed my lights, something like that."

Schools? "Well . . . you would have to consider [Kirkwood] a little bit south of Mississippi because we still have some segregated schools here." Although the Allen children attended classes integrated through the pairing of two racially diverse schools, they traveled greater distances to get to them than the average white pupil.

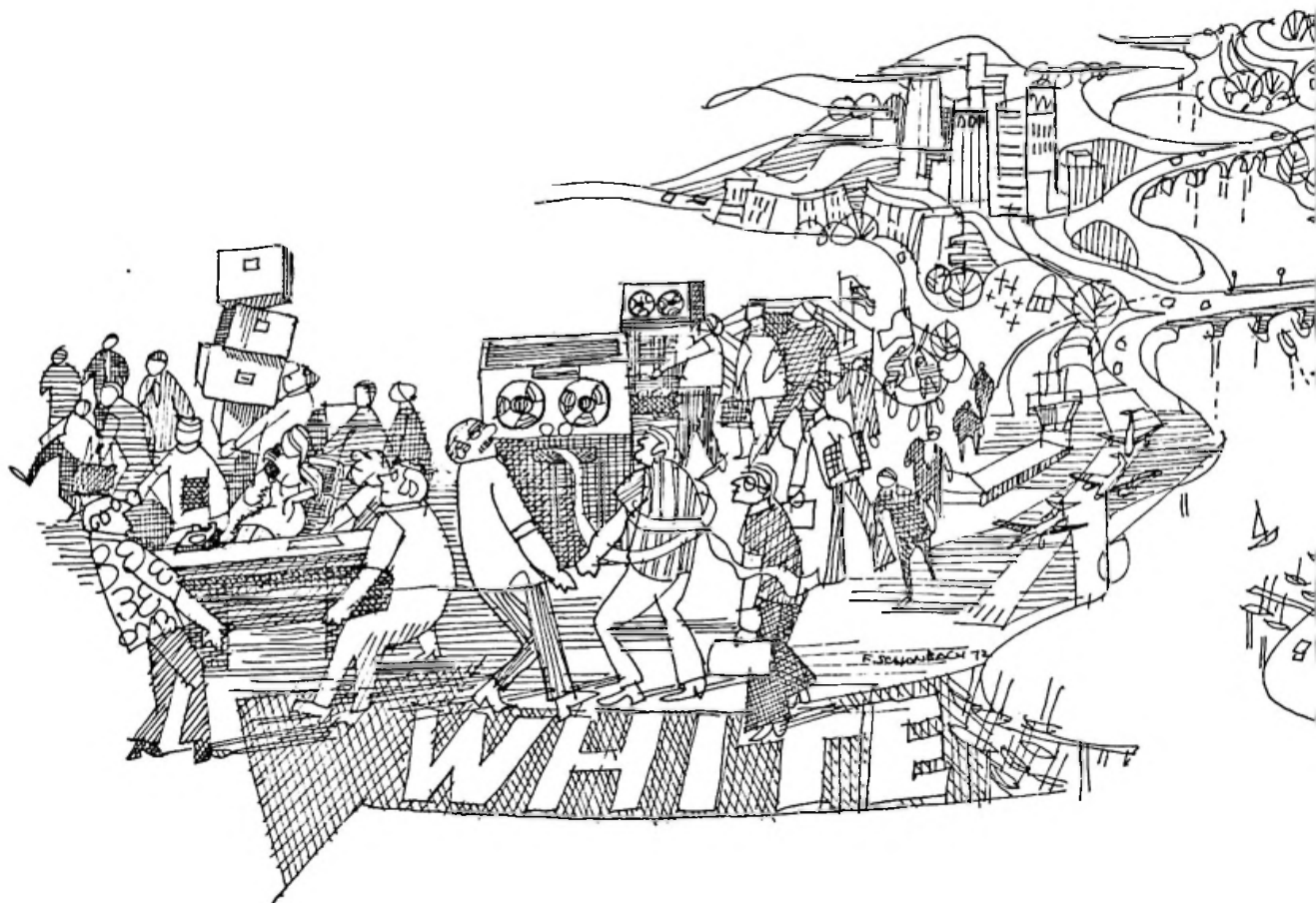
To Mr. Allen's alarm, school-crossing guards were conspicuously absent at intersections near clusters of black homes. A course in Black History was offered for the first time in 1970 and that was the year "they found that black girls are coordi-

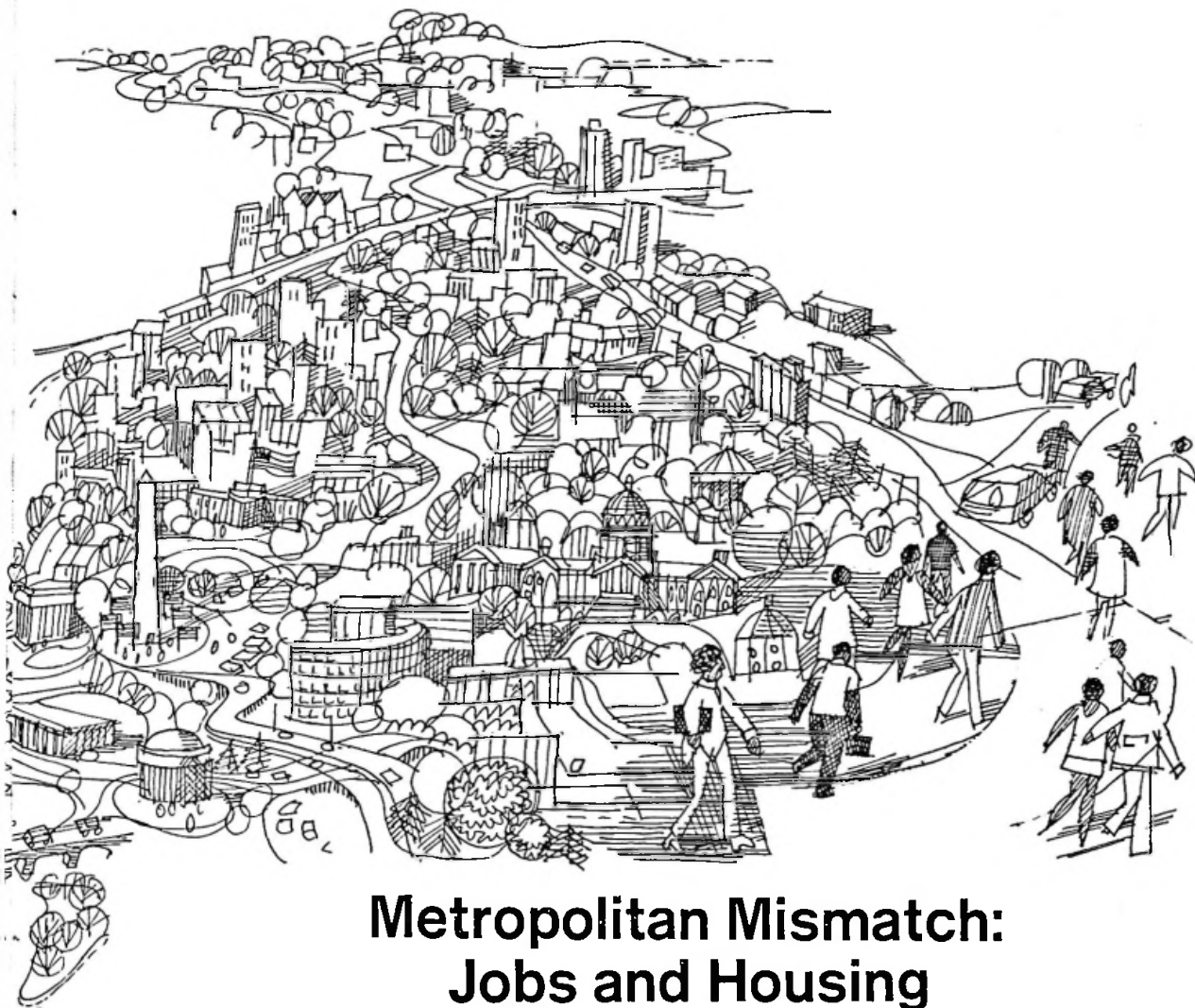
nated enough to become cheerleaders. . . ."

After responding to questions, Mr. Allen sought to alter some misleading stereotypes.

"I am supposed to say some things for about 20 neighbors of mine," he said. "And one of them is the fact that we *do* want this police protection and that we strive for better education and we like law and order and we like nice, beautiful neighborhoods."

The findings of a recent national survey provide some hope that the neighbors of Adel Allen and Larman Williams were out of step with the main current of white attitudes. Responses to four surveys made over the past 30 years by the National Opinion Research Center show a steady increase in support of integration by whites. On a specific question regarding neighborhood integration, pro-integrationist responses increased by about 15 percent between 1963 and 1970.





## Metropolitan Mismatch: Jobs and Housing

Visual evidence of an emerging suburban majority in the United States has been mounting for years. The 1970 census provided statistical proof that it now exists. Thirty-six percent of the population live in suburban parts of metropolitan regions, 30 percent in central cities, and 34 percent in rural areas.

What was not as easily perceived visually was the concurrent shift in the balance of jobs to the suburbs.

Between 1951 and 1967, the number of jobs in St. Louis County increased five times while the number of jobs in St. Louis City declined by more

than 20 percent. While the county gained 170,000 new jobs in that period, the city lost more than 80,000. Similar conditions prevailed in Baltimore County, a major reason for high unemployment rates—up to 27 percent in some census tracts—among black workers in the city.

Over the past five decades the Nation's 40 largest metropolitan areas gained more than five million jobs, 85 percent of them in the suburbs. More significantly, of the 2,080,000 manufacturing jobs included in this total, the suburbs gained 2,055,000; the cities lost 29,000. Thus, the jobs for which the greatest proportion of minority residents are likely

to be eligible are leaving cities at the most rapid rate.

To continue to deny minority families access to the suburbs in light of this growing mismatch of job opportunities and available housing deprives minority families of more than free choice of residence. It significantly narrows their means of livelihood as well.

The alternative for the excluded worker is commuting. This is time consuming and expensive for those who have cars; virtually impossible in many metropolitan areas for those who do not. Public transportation systems, designed primarily to carry commuters to the center of the city in the morning and return them in the evening, are ill-suited for reverse commuting to suburban plants. When service exists its costs may cancel out wage gains to a low-skilled worker.

Armando Pereiras, the auto worker whose accent cost him an apartment in Mahwah, New Jersey, is among the overwhelming majority of the 4,200 employees of the giant Ford Motor Company plant there that commutes to work. Round trips of 70 miles a day are not uncommon. Only 88, or 2 percent, of the work force have been able to find homes in that suburban town of 10,000.

The pattern of residential exclusion and the governmental and economic structure that supports it is nowhere better illustrated than in Mahwah. The scarcity of housing which hourly paid workers can afford prevails amidst an abundance of vacant land. Most of that land, the Commission was told, is zoned for one- and two-acre family houses, an acreage requirement that fixes the price range from \$50,000 to \$75,000. Less than 1 percent of the buildable land is available for apartments.

By zoning to limit the number of child-producing families and to reduce its chances of admitting families with social problems, Mahwah can offer an attractive tax rate to businesses. Yet applied to the enormous value of such installations as the Ford Plant, that tax rate yields sufficient revenues for quality schools and municipal services. During the 1970-71 school year, Mahwah spent \$1,177.38 per pupil, compared with per pupil expenditures by nearby Newark of \$896.65. Because of its fiscal bonanza, Mahwah could sustain this vastly higher expenditure by taxing its citizens at a rate of only

\$1.63 per hundred compared with a rate of \$3.69 for Newark residents.

Planners Linda and Paul Davidoff and Neil N. Gold of Suburban Action Institute of White Plains, New York, have illustrated other inequities in the region as a result of this kind of fiscal zoning. They note that in 1970 Mahwah levied a tax rate on industrial and commercial property of 1.55 percent of full value. By comparison, the city of Newark, where 1,000 of Ford's black workers and their families live and send their children to school, taxed business property at the rate of 7.14 percent of full value.

Mahwah's tax base, swelled by the value of the Ford Plant, included \$104,000,000 of business property and yielded \$1,612,000. If the same property were taxed at the Newark rate it would bring nearly \$7.5 million in added funds to the city. Given a bigger tax base, of course, Newark might lower its rate somewhat. But the comparison does demonstrate the powerful inducements restrictively zoned suburbs can offer corporations to relocate from impoverished central city areas.

The bountiful revenue suburban-bound corporations bring with them is powerful leverage in getting land rezoned for their own plant or office building. Yet most of them have been unwilling to use that leverage to insist that the community they are entering lift restrictions that will keep their employees from living near the new facility.

Can self-interest overcome this corporate reticence? A survey of leading business leaders by the American Jewish Committee's Institute of Human Relations revealed a growing concern that the dearth of housing for lower-income employees is creating problems related to absenteeism, job turnover, recruitment, and profits.

Forty-five percent (against 39 percent) of the 210 responding chief executives said they regarded a suburb's willingness to provide an adequate range of housing as a factor in plant location. Thirty-one percent said suburban residential zoning policies are restrictive; 30 percent believed them mildly restrictive; and 23 percent found them adequate. Sixty-four percent agreed that companies should have a role in securing more housing for employees near their workplace.

At least two far-reaching proposals would use Federal sanctions to reduce future inequities re-

sulting from the relocation of plants and offices. Meanwhile, the Federal Government has proclaimed policies of halting most suburbanization of Federal installations and of making the availability of racially inclusive housing a factor in relocations.

The Equal Opportunity Employment Commission reportedly has under consideration a proposal that would make relocation a *prima facie* violation of the Equal Employment Opportunity Act if: 1) the community from which the plant is moved has a higher percentage of minority workers than the new location, or 2) the transfer is more detrimental to minority workers than others, and 3) the employer fails to take measures to correct the "disparate effect." The proposal suggests that relocating employers be required to take a number of steps to assure a continuous supply of minority employees in the new location.

Connecticut Senator Abraham A. Ribicoff has proposed legislation designed to increase the housing and employment opportunities of low- and moderate-income families in the vicinity of Federal and State facilities and those of Federal contractors. It would forbid the location of such facilities in any community which failed to develop an acceptable plan to provide an adequate supply of housing for low- and moderate-income employees.

Belatedly, the General Services Administration (GSA), the landlord of most Federal Agencies, acted to prevent some of the hardships endured by minority employees as a result of the decentralization trend in the Federal Government. GSA relocated facilities employing more than 17,000 persons from the District of Columbia to the Washington area suburbs between 1963 and 1968.

In addition, Agencies employing a total of 20,000 persons not housed by GSA, left the city during the same period. James O. Gibson, president of the Metropolitan Washington Planning and Housing Association, cited a report of the Commission's District of Columbia State Advisory Committee which found that 87 percent of operational expansion in Federal Government offices since 1963 had gone into the suburbs rather than the city of Washington.

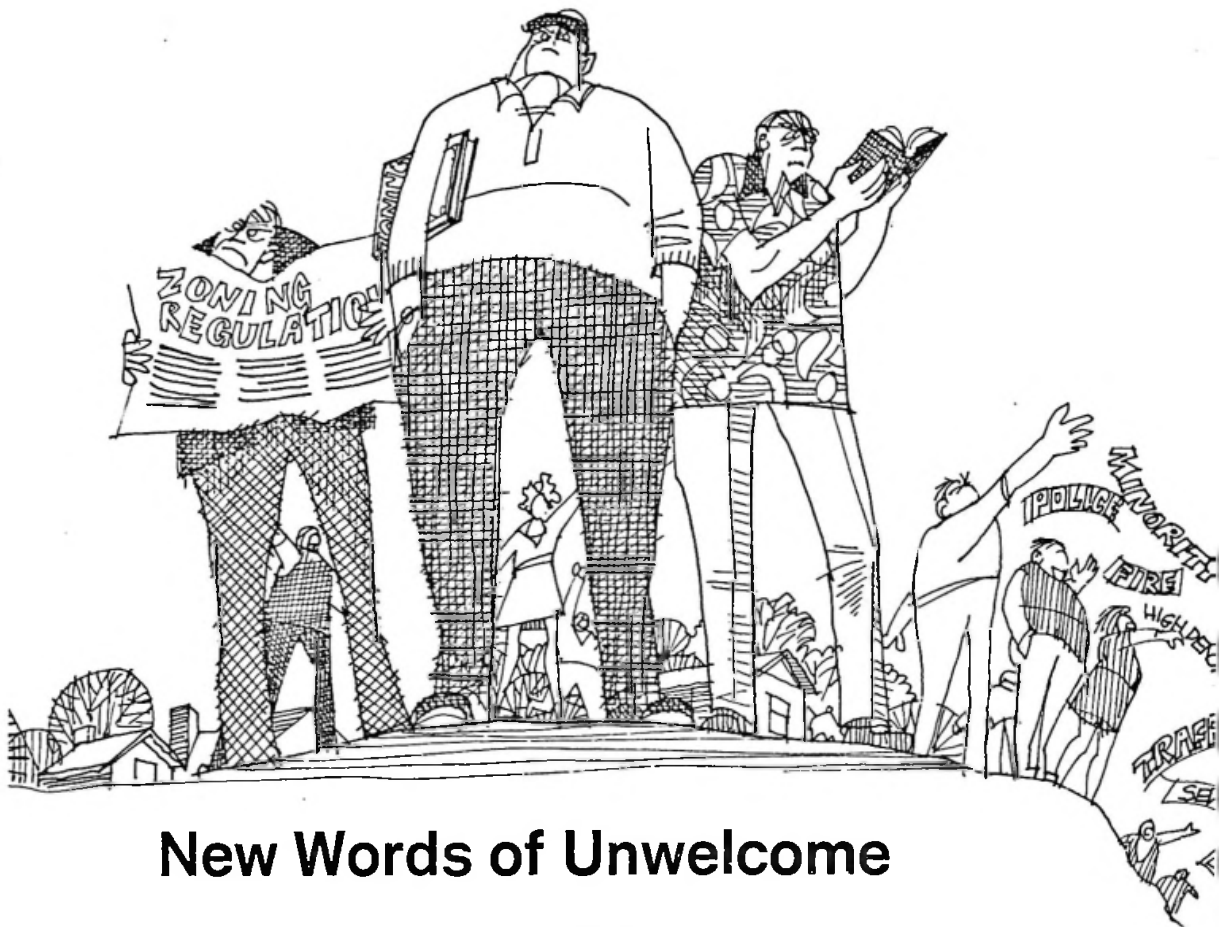
"You might notice," Gibson said, referring to a map of the metropolitan area, "that while black migration to the suburbs is going east, the Federal migration of jobs is going west, along with the white population." As a result, the majority of the few blacks who have moved to the suburbs have not benefited from the exodus of Federal offices, he told the Washington Hearing.

The difficulty of finding accessible housing near the new suburban locations of Federal Agencies was only one of the handicaps outlined by minority employees of those Agencies at earlier hearings of the D. C. Advisory Committee. Witnesses told of increases in commuting costs of up to 200 percent, losses of part-time employment, and dislocations of family living patterns.

Robert L. Kunzig, then GSA Administrator, agreed that the decentralization of Federal Agencies during the 1960's had a detrimental effect on many lower-paid employees, but he said most of the dispersion of Agencies took place before he took office. "I started a very strong policy of not moving . . . buildings or people out of cities, particularly in Washington, D. C. . . ." Mr. Kunzig said. He traced authority for that policy to Executive Order 11512, which requires that in locating or relocating Government facilities GSA consider "the impact a selection will have on improving social and economic conditions in the area and the availability [on a nondiscriminatory basis] of adequate low and moderate income housing. . . ."

Two days before Mr. Kunzig testified, he and Secretary of Housing and Urban Development (HUD) George W. Romney announced a joint memorandum of understanding under which the advice of HUD was to be systematically provided concerning the availability of housing for lower-income families in areas considered for location of Government facilities.

An evaluation by the Commission on Civil Rights six months later of Federal Agency enforcement efforts found that procedures to carry out the agreement had not been completed and that "Federal installations still are being located on a business-as-usual basis."



## New Words of Unwelcome

The eagerness with which suburban communities welcome tax-generating industries contrasts with the bristling resistance many of them offer to any kind of subsidized housing.

In the San Fernando Valley, in prestigious Potomac, Maryland, in the upper reaches of Westchester County, on the fringe of Columbus, Ohio—in almost any suburb in the Nation—a proposal calling for federally assisted housing arouses a syndrome of fear.

Consider the protective maneuvers used by one affluent suburb to repulse a nonprofit housing sponsor backed by Chicago's formidable power structure. The sponsor, Metropolitan Housing Corporation, is an affiliate of the Leadership Council for Metropolitan Open Communities, formed in 1965 after a march by Dr. Martin Luther King into the working class suburb of Cicero. The nonprofit corporation is seeking several hundred sites for federally assisted housing.

Morally committed to expanding housing opportunities and pinched for funds to operate its schools, Chicago's Roman Catholic Archdiocese agreed to sell the corporation 15 acres of an 80-acre high school campus in Arlington Heights, an upper-income Northwest Chicago suburb. Prudent home buyers usually regard a parochial school as one of the best buffers against future "undesirable" residential development. So occupants of the \$35,000 to \$60,000 homes surrounding St. Viators High School were stunned by notices of a hearing on the corporation's proposal to rezone part of the campus for town houses. The sponsors said the multifamily units would be well designed and compatible with the neighborhood. But occupants would be low- and moderate-income families, some of whom were certain to be minority families.

Unlike the Cicero residents who five years earlier greeted followers of Martin Luther King with rocks and epithets, Arlington Heights residents threw only carefully chosen phrases from zoning textbooks at



representatives of the nonprofit housing sponsors when they sought rezoning for the town houses on a site surrounded for miles around by virtually all-white residential areas. Marvin Chandler, a gas company executive who is president of Metropolitan Housing Development Corporation, said there was no explicit mention of race among the vocal opponents who held a 4-to-1 majority against the development at the hearings. The arguments, Mr. Chandler said, centered around the concern of property owners that the intrusion of multifamily houses would tend to lower the value of their property investments.

Mr. Chandler said he doubted that the Arlington Heights zoning board's 9-to-2 decision against rezoning could be viewed as "clearly exclusionary zoning." "But," he declared, "I am bruised and battered from the flak one takes from the majority of the residents who clearly don't want it."

If Mr. Chandler was unable to find clear evidence of racial exclusion in Chicago's Arlington Heights, former Mayor Carl B. Stokes had little trouble in finding it only thinly concealed by many of the protests about higher densities in the Cleveland area.

Among the instances he cited was the opposition of a coalition of suburban mayors which blocked the development of a new community by Cleveland

on land the city owns outside its boundaries. Their language was scarcely distinguishable from that of a split-level mortgage holder. "The density contemplated for this new town is unbelievable," Mayor Raymond Grabow of Warrensville Heights, Ohio told The Cleveland Press. And he went on to catalog the burdens the development would put on area schools, sewers, traffic, and police and fire services. Although slightly more than a fourth of the proposed town's 8,000 units would be for lower-income families, Mr. Grabow envisioned "astronomical problems" and additional taxes that would be "devastating". Fellow mayors were equally adamant. A school board officially recorded its alarm at the potential sharp rise in enrollment.

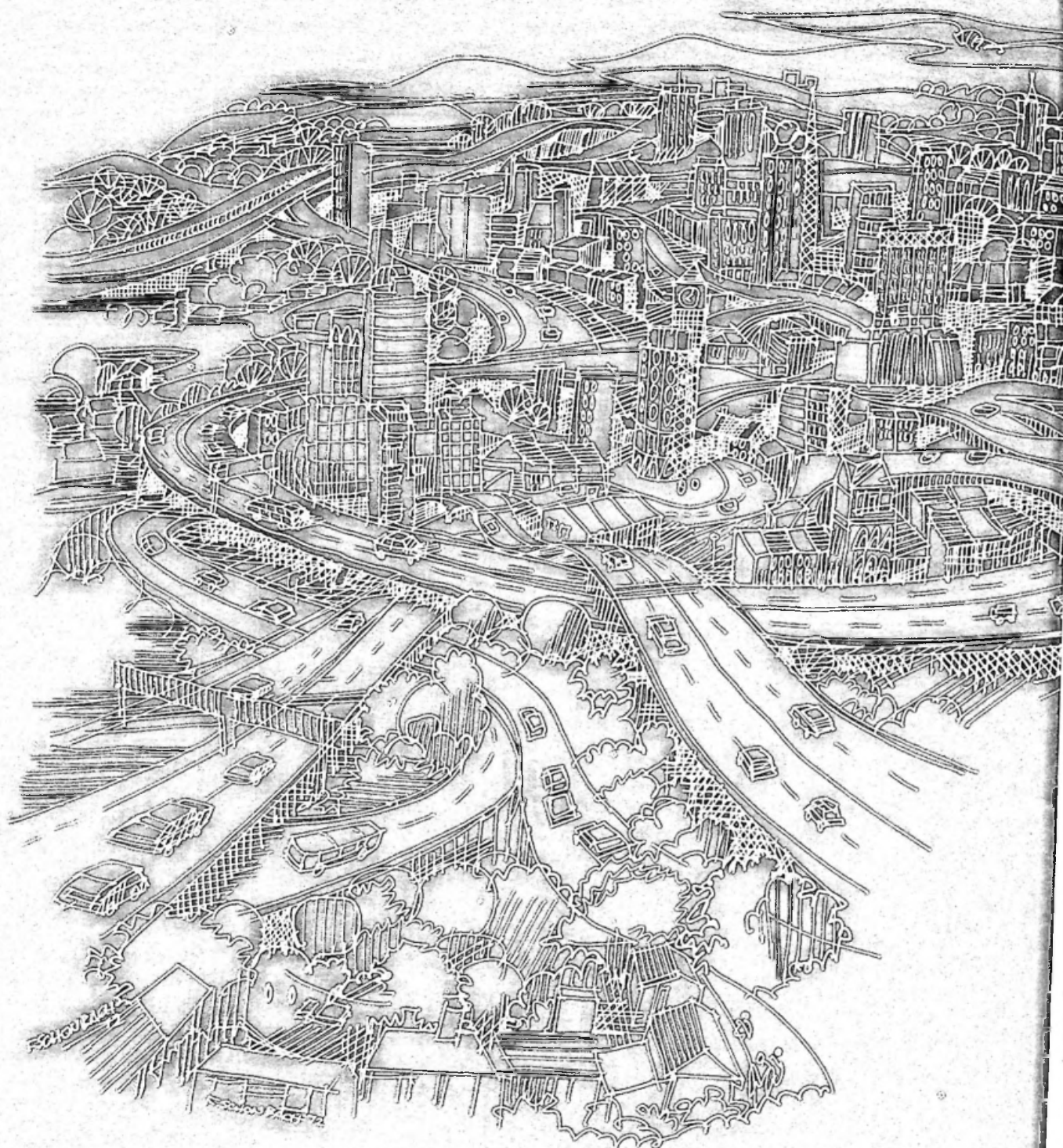
"Not one of them said anything about black people moving out there," Mr. Stokes said. "Not one of them said anything about poor people moving out there. But that was the unspoken reason."

Such exclusionary pressures, he said, are far more subtle than those in Black Jack, Missouri, target of an antidiscrimination suit announced by John N. Mitchell, then Attorney General, two days before he testified before the Commission. The suburban St. Louis community had incorporated itself and banned multifamily housing after a nonprofit sponsor announced plans to build subsidized apartments.

"It is not this outrageously flagrant violation of people's rights that would assure me about the Administration's policy in this regard," Mr. Stokes said. "It is that Cleveland situation which I say is the day-to-day situation of an America which learns that it no longer talks about spicks and wops and niggers, but rather talks about density and overcrowding of schools, etc., to achieve the same purpose."

Mr. Stokes testified a few days after President Nixon had issued a statement declaring that, while the Administration would not tolerate racial discrimination in housing, it would not "impose economic integration upon an existing local jurisdiction." The former Cleveland mayor argued that "you cannot separate the pernicious economic discrimination of this Nation from the pervasive white racial perversions and problems of our country. The two of them together manage, whether it is white or black, to keep the kind of suburban ring around the central cities."





## Highways: Full Enclosure, Limited Access

Circumferential freeways that surround most metropolitan areas roughly define the "white noose" which marks the limit of advance of desegregated residential areas. Those concrete loops, usually part of the Federal interstate system and thus financed 90 percent with Federal funds, guarantee that cross-country motorists will see the skyline of cities but none of the blight below it. Often elevated and sometimes flanked by landscaped strips, these wide corridors wall in the inner-city and wall out all but a few of its ill-housed poor, a disproportionate number of whom are nonwhite.

Commuting trips from one part of the suburbs to another are up sharply in most metropolitan areas, suggesting that the limited access outer loops are facilitating the suburbs' growing economic independence from central cities.

Interchanges on these beltways are magnets for tremendous growth. Minority residents of inner-cities could easily qualify for many of the kinds of



jobs they generate. Yet they often lack the requisites for getting them—a systematic means of learning when they are available and an automobile to drive through a maze of traffic-clogged surface streets to reach them.

Literal barriers hamper or actually bar access to federally subsidized metropolitan highway networks. Rush hour closings of inner-city entrance ramps to downtown expressways in Detroit keep the residents from joining commuting suburbanites on the roads that have despoiled their neighborhoods.

Not only do circumferential highways define the inner boundaries of suburbia, they generate wide swaths of nearly all-white settlements, thus keeping the metropolitan "noose" taut. The first and most widely known example of this phenomenon took place in the corridor of Route 128, completed around the outskirts of Boston in 1952. Joint hearings in June 1970 of the Massachusetts State Advisory Committee to the U.S. Commission on Civil Rights and the Massachusetts Commission Against Discrimination revealed that five years after completion of that loop there were at least 99 new commercial or industrial facilities along the road, 77 of them from Boston.

These plants represented a loss of 3,701 jobs to Boston but a net gain of 13,000 jobs to the suburbs. In the nine years between 1958 and 1967, the number of companies located on 128 rose to 729 and the employment figures to 66,041 workers.

What has since become a familiar cycle of suburban development went like this: When Route 128 was completed population movement already taking place spurred the movement of industry; this, in turn, facilitated population movement; the convenience of the highway intensified both and, operating together, they had opened the suburban flood gates to the mobile class.

Between 1955 and 1965 the city of Boston lost 15 percent of its white population. In the same period towns on or near 128 recorded population increases ranging from 24 percent to 272.2 percent. Yet all those towns in 1960 had a black population well under 1 percent.

Staff studies done for the Commission on Civil Rights in the St. Louis and Baltimore areas found black communities isolated from the county road network because roads dead end in the community or loop within the area.

In Baltimore County, city planner Yale Rabin counted some 24 black residential areas that are isolated from their surroundings and particularly from adjacent white residential areas by discontinuous street patterns.

Why would the Federal Government, which in 1968-69 invested \$51 million in the Baltimore area's highway system, tolerate such inequities in access? Diligently, but in vain, the Commission on Civil Rights sought the answer from August Schofer, Regional Federal Highway Administrator.

Although persistently pressed to justify an apathetic Federal posture while communities were being deprived of equal access to a heavily subsidized public system, the Administrator adamantly argued at the Baltimore Hearing that the Federal role is limited to technical oversight of State and local plans. He suggested that coordination and equalization of services were the responsibility of the Regional Planning Council for the Baltimore area, not "The 'Great White Father' in Washington." That remark touched off this exchange:

Chairman Hesburgh: But the "White Father" from Washington decides whether . . . Federal money . . . should go to a community that is not upholding the purpose for which the country is established.

Mr. Schofer: No, sir. I'm sorry to disagree. The initiation of projects is not a Federal responsibility. . . .

Mr. Glickstein: Do you have to automatically approve these projects?

Mr. Schofer: If it's on a Federal system and it provides continuity, it provides a service and is adequate to perform the function for which it is designed, yes.

Finally, Chairman Hesburgh was moved to say:

"I think the trouble with you is that you are thinking about roads as roads. I am thinking about roads as serving human beings who have certain rights in a community, in a Nation.

"Now if a community is so chintzy about its internal roads that it doesn't connect them up [and thus keeps] certain people out of certain areas or makes it difficult to get in certain areas, then I think the last thing the Federal Government should do is come along and say: 'Here is \$51 million to help you with your roads.'"

## Federal Role: Policy Shift, Performance Lag

"We have had a definite urban policy ever since 1934 when the Congress established the Federal Housing Administration. Ever since then, the FHA has played a part in what I call "the ghettoization" of American cities by subsidizing the flight of the middle class . . . into neat rows of restrictively zoned subdivisions."

In "telling it like it was" to a national assembly of architects, Newark Mayor Kenneth Gibson was rebutting an assumption by a previous speaker that urban decay has "happened without a plan."

The late Dr. Clarence Funnyé, a Brooklyn city planner and professor, was equally blunt. As a Commission witness in St. Louis he charged: ". . . the American Federal Government is probably the world's greatest ghetto builder."

Strong indictments. But a review of the painful evolution of Federal housing policy gives them considerable credibility.

From the 1930's to 1947, Martin E. Sloane, then Acting Deputy Staff Director of the Commission, testified, the Federal Housing Administration's mortgage-underwriting manuals actively encouraged racial homogeneity in residential neighborhoods, warned against fostering school integration, and rec-

ommended restrictive covenants to assure racially pure subdivisions.

By the start of the first postwar wave of migration to suburbia, FHA and its newly formed sister Agency, the Veterans Administration, had adopted a posture of neutrality. Discriminatory language was gradually removed from lending guidelines and, after the Supreme Court voided restrictive covenants, Federal underwriters rejected loans containing them. Open housing was formally encouraged but not enforced, and fewer than 2 percent of the FHA subdivision built between 1946 and 1959 went to minorities.

An Executive order [11063] decreeing equal opportunity in federally assisted housing was issued by President John F. Kennedy in November 1962. It was followed by Title VI of the Civil Rights Act of 1964, which prohibited discrimination in federally assisted programs, including housing programs.

Title VIII of the Civil Rights Act of 1968 prohibits discrimination in most of the Nation's housing. The Supreme Court's decision in *Jones v. Mayer* prohibited racial discrimination in all housing, public and private.

Although the Department of Housing and Urban Development is limited by Title VIII to "informal methods of conference, conciliation, and persuasion," that title directs the Secretary of HUD to "administer the programs and activities related to housing and urban development in a manner affirmatively to further the policies of this title." The same mandate applies to all other executive departments; their cooperation is required to "further such purposes."

The miniscule rise in the proportion of nonwhite residents in suburban parts of major metropolitan areas during the 1960's attests to the scant use that has been made of the Nation's arsenal of civil rights enforcement weapons amassed in that decade.

In nearly 40 years of involvement in housing, official policy of the Federal Government has done an about-face. But in the opinion of veteran observers, actual practices have not changed nearly to the same extent. At least the same vigor should be applied to civil rights enforcement now, they argue, as was applied to fostering segregation and discrimination in FHA's early years.

By 1970 there was a preponderance of evidence to remove any comfort white middle class consciences might have taken in the belief that the main reason for the low representation of blacks in suburbia was that they couldn't afford to live there. A 1967 survey in the Baltimore area showed that at least 10 to 15 percent of the area's black families had sufficient incomes to buy median-priced houses in suburban Baltimore County and that 25 to 30 percent of them could have paid median rent on suburban apartments.

After making a study of Richmond, Virginia, residential patterns in 1971, sociologist Karl E. Taeuber asserted that no more than 15 percent of that city's segregation between blacks and whites was traceable to income differentials.

The 1970 census showed that, in metropolitan areas with populations of one million or more, far more blacks live in the central city than in the suburbs, regardless of income. For example, 85.5 percent of all black families with incomes of less than \$4,000 lived in the central cities, compared with 46.4 percent for whites with the same income. For families earning \$10,000 or more—the group with the greatest financial capability for suburban

living—76.8 percent of black families lived in the central city compared with 30.9 percent for white families.

Those figures cannot be used to suggest any strong preference for racial exclusiveness by blacks. In a 15-city survey of racial attitudes made for the U. S. Advisory Commission on Civil Disorders an overwhelming majority of blacks sampled preferred either "racial balance" or indicated race was irrelevant to decisions about neighborhood. Half preferred mixed neighborhoods; only one out of eight favored residential separation.

The effects of a Federal housing policy that first embraced racial segregation, then tolerated years of creeping gradualism in civil rights enforcement is clear in the distribution of the minority populations of Baltimore City and County.

While the black population of the county was declining over two decades, the black percentage of the city's population increased from 24 percent to nearly 50 percent. The city has 11,000 public housing units, for which there is a waiting list of 3,000 families; estimates of actual need are vastly greater.

Fear by county whites and city blacks hardens the division. Conjuring specters of an earlier generation of public housing, whites in Baltimore County talk of holding the line against "built-in ghettos" and "red-brick architectural monstrosities." Possibly deterred by bigoted rhetoric that has been particularly noxious during referendums, many black residents are reluctant to leave all-black enclaves in the county.

It was not until 18 months after the Commission's Baltimore Hearing that the county got its first public housing. In January 1972, HUD authorized the leasing of 250 units of privately owned housing for rent to low-income residents. Even this light sprinkling of public housing of the most unobtrusive type had to be brought into the county through an administrative back door.

Because Baltimore County has no housing authority and a public move to create one could have provoked still another referendum, HUD awarded the \$386,400 in assistance for the leasing to the Maryland Department of Economic and Community Development. Under the supervision of that State agency the Baltimore County Department

of Social Services will carry out the program.

Highly articulate blacks in the city, meantime, warily view proposals to relocate certain facilities in the county as steps "to prepare the city for absentee ownership," a condition that they fear would result from metropolitan government. Similar patterns of polarization exist in most metropolitan areas.

This institutionalized apartheid, nevertheless, is increasingly coming under pressure from efforts by the Federal Government to meet national housing goals: 26 million units by 1978, six million of which are to be subsidized units. A third of 1970's housing starts were federally assisted. The annual total had risen from 60,000 in 1969 to 530,000 by 1971.

Simply because of lack of sufficient sites for such housing in cities, much of it must be built in the suburbs. The Black Jack, Missouri, case dramatically focused national attention on this fact. It was the first time the Federal Government had been willing to use its influence to overcome what HUD Secretary George Romney had labeled a "flagrant violation of the Constitution."

It seemed clear, however, that the Administration had no intention of moving beyond action against individuals and communities that manifest racial discrimination to shape a national policy for overcoming metropolitan disparities. In an 8,000 word statement on equal housing opportunity issued only three days before the Commission opened its Washington Hearing on suburban access, President Nixon declared:

A municipality that does not want federally assisted housing should not have it imposed from Washington by bureaucratic fiat; this is not a proper federal role. . . . The federal program role . . . is essentially one of responding to local or private initiatives rather than one of imposing its programs on state and local governments. . . . The challenge of how to provide fair, open and adequate housing is one that [communities and metropolitan areas] must meet, and they must live with their success or failure.

This language amplified a series of earlier, more brusque, press conference expressions by the President on his opposition to what he termed "forced

integration of the suburbs."

That phrase apparently stemmed from apprehension over the emergence in suburban areas of federally subsidized housing, which, by the President's estimate, had increased fourfold since 1968, the year the most highly productive of those programs (Sections 235 and 236) were enacted. Although more than half the occupants of such housing are white, the subsidy programs had become associated with racially tinged threats to the suburban way of life invoked by the term "forced integration."

Despite the fact that he had disavowed "forced integration" as vigorously as the President, HUD Secretary George Romney hailed Mr. Nixon's statement as vindication of his Department's efforts to encourage equitable distribution of subsidized housing on a metropolitan basis.

Much of the Secretary's testimony before the Commission on Civil Rights revolved around the leverage of Federal programs in gaining compliance with national programs. In his conception, the Federal Government's power to prod local governments into doing what is right is a matter of degree. Federal grants, he maintained, give Washington leverage, but not "enormous leverage."

In addressing a gathering of big-city mayors bent on castigating the President for not cutting off Federal funds to localities which exclude minority residents, Mr. Romney cited an adage of H. L. Menken: "Those who press too hard for what ought to be, prevent what can be."

The Secretary expanded on that theme as he defended the Federal Government's practice of restraint in overcoming local restrictive land-use tactics before the Commission. A challenge of this posture of reticence brought this exchange between Chairman Hesburgh and the Secretary:

Chairman Hesburgh: I think I would disagree with you when you say you can't put on pressure for what ought to be. I think we've got to put on pressure for what ought to be.

Secretary Romney: Dr. Hesburgh, I said too much pressure. . . . I didn't say just pressure; I said too much pressure.

Chairman Hesburgh: Well, I disagree in any event. . . . I don't think you can have too much

pressure in this country today for what ought to be. . . .

Secretary Romney: Well, look . . . if you put so much pressure on what ought to be . . . you prevent what can be and you stop progress. . . .

Chairman Hesburgh: But the beauty of the ideal, I think—someone said it's like the stars, you may not reach them but you chart your course by them. . . .

Secretary Romney: . . . The question is the practical process of getting things done. . . .

Chairman Hesburgh: Well, I think we are probably talking on the same lines, Mr. Secretary. . . . I guess what I am impatient with is the fact that something I said 10 years ago in this field I could say again today.

The confrontation never fully reconciled the pursuit of the ideal with the pragmatism of the day-to-day, political-administrative process, but it ended with a measure of accord.

Secretary Romney: [O]ne of the things that ought to be done is to get at it [broadening housing choices] on a metropolitan basis instead of this fragmented governmental basis. . . .

Chairman Hesburgh: I think we are agreed on that.

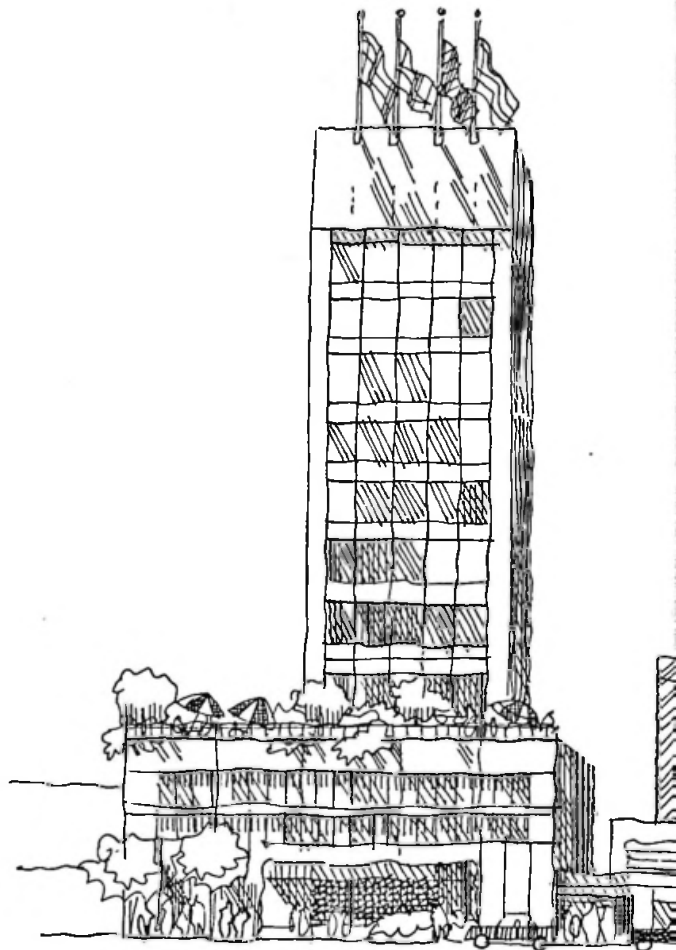
In the days ahead, almost as if the President's message had provided the cue, rhetoric from HUD increasingly inveighed against fragmented government and appealed for locally initiated, areawide approaches to urban problems. Solutions for equal distribution of subsidized housing, Mr. Romney insisted, must encompass the "real city—the metropolitan area."

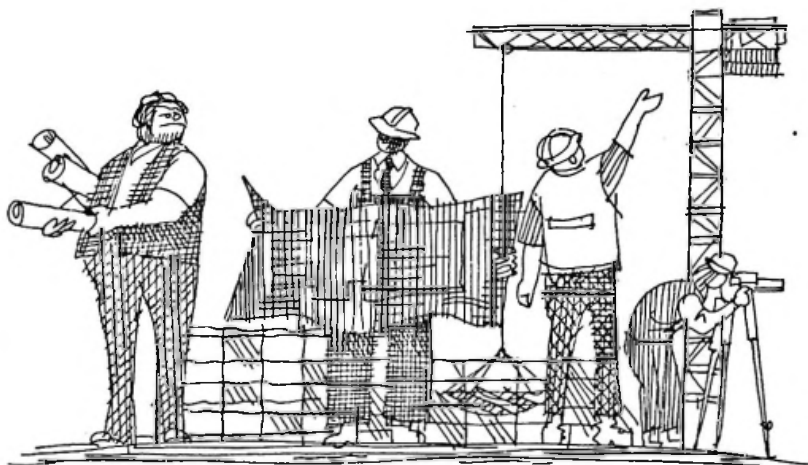
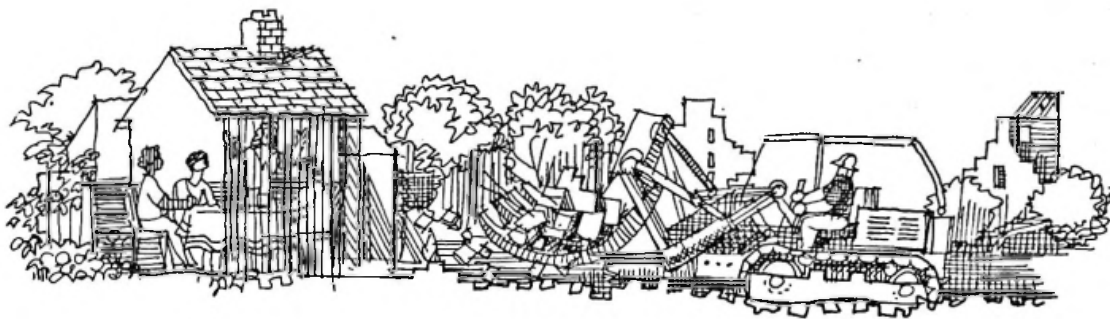
The Secretary could point to no fully operational models, but the groundwork for such an areawide distribution mechanism had been laid in Dayton, Ohio. There the Miami Valley Regional Planning Commission determined that its five-county area needed 14,000 additional units of low- and moderate-income housing in the next four years. It devised what its planners believed was a fair plan for allocating such units, including public housing, in 53 districts throughout the region.

The Miami Valley Commission, the region's federally sanctioned council of governments, unanimously adopted the goals and policies of the plan.

The solidarity of the elected municipal and county officials who make up the commission came as a surprise to professional planners who had witnessed harassment, name-calling, and "the rawest forms of bigotry" in some communities during prevote presentations of the plan. They were to find the bigotry surfacing again as they began to implement the plan.

Further acts of political courage clearly will be needed to translate aspiration into masonry, but even at its inception the plan's architect, Dale F. Bertsch, executive director of the Miami Commission, was besieged with requests for detailed information from fellow professionals and political leaders.



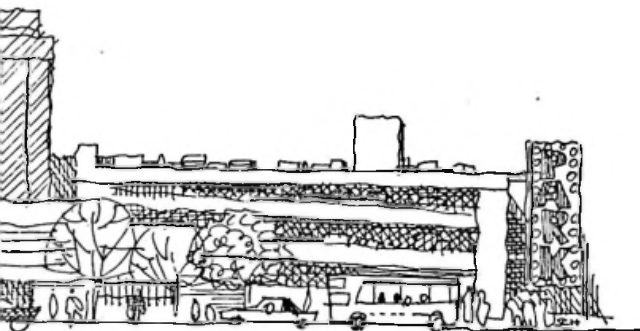


## Local Role: Urban Expulsion

In concluding his statement on equal housing opportunity, the President said the basic questions involved in housing—its quality, how much to build, and where—are entrusted to local officials. “Local and State authorities, for their part, should continue to respond constructively, pressing forward with innovative and positive approaches of their own,” he said.

The Commission on Civil Rights heard descriptions of local administration of urban renewal projects in St. Louis and Baltimore Counties that do not sustain such high expectations about local initiative. Both cases reveal, instead, a crass disregard for adequate housing of the people displaced.

The St. Louis County project was carried out on an 18-acre area known as Elmwood that had remained a black settlement for a century after abolition. Divided by a flood-prone creek, the area



was served by a partly paved road and by meandering dirt lanes on which cinders and refuse were dumped from time to time.

In 1945 Herman Davis bought a house and six lots there. Four years later the community was annexed by adjoining Olivette. But Mr. Davis didn't know that he was a citizen of Olivette until 1955 when he learned by chance that properties in Elmwood were being auctioned at the Olivette City Hall for back taxes. Although his property had already been sold when he arrived at City Hall for the auction, Mr. Davis was able to redeem it upon payment of five years back taxes.

The next threat to Elmwood came in 1960 when Olivette began what is one of the Nation's oldest uncompleted urban-renewal projects. In "bureaucratese" the description of the area seems pathetically absurd. "The Project Area," said one report, "is characterized throughout by economic stagnation or improper utilization of land . . . cannot reasonably be expected to be utilized without clearance." Thirty-six of the community's 37 buildings, all homes but one, were declared "sub-standard."

The end result of the abnormally long chain of decisions: Demolition, control of flooding, and development of most of the land for industrial sites. A fraction of the land was retained for 10 houses the city proposed to build. Only half a dozen of the 30 families originally occupying the area remain, the only blacks among the 10,000 residents of generally middle class Olivette.

HUD blocked a move by the city to relocate the area's families outside Olivette, across railroad tracks, in adjoining Elmwood Park. Families then drifted away, to St. Louis ghettos and to black enclaves in the suburbs.

The picture that emerged as the Commission's General Counsel and other staff members plied Olivette representatives with questions about the 10-year-old renewal project was one of an affluent community which had annexed a blighted area, treated it like a stepchild and, after the original

residents had been goaded by bureaucratic regulations into leaving, turned it into tax-producing property. The answers cited some mitigating circumstances but did little to soften the portrait.

Commissioner Maurice B. Mitchell raised a question that went without a satisfactory answer:

"For a community in which the median home is \$27,500 . . . in which you are talking about an upper, middle-income group, which I would assume to be a rich group, is this a proper use of Federal funds—to help them relieve the tax base?"

This clear case of "black removal" demonstrates that local governments can be at least as insensitive toward residential aspirations and relocation needs as the Federal Government which casually countenanced the process.

In Baltimore County, the tiny enclave of East Towson is in the path of even more intensive expansion. Homes of some 30 black residents sit in the shadow of Towson, the county seat. In this rapidly spreading commercial and retail trade center a 26-story apartment tower is rising above a cluster of office buildings and other apartments. Any potential site for revenue producing property is fair game for land hungry developers.

Federally assisted projects intended to renew the Towson business district and parts of nearby Catonsville envisioned demolition of large numbers of black owned homes.

Both projects were rejected by referendum, but in Towson substantial parts of the renewal plan are being carried out without HUD assistance. As a result, black families displaced by road improvements or commercial expansion have not been eligible for Federal relocation assistance.

In other parts of the county many black residential areas have been zoned for industry or business. Because of the lack of other low-cost housing in the county many of those displaced by these forces have had to move into the city, further depleting the county's meager black population.





## The Dual Market as Policy Implementer

Although Government Agencies reinforce barriers to suburban access and sometimes erect them, it is the housing and home finance industry which stands at the crucial access points. This complex network of mortgage lenders, land developers, builders, real estate brokers, and salesmen probably exercise more control over where people live than any of the other forces in housing and community development. Its current restrictions on freedom of choice seem limited only by comparison with a history of blatant discrimination.

Malcolm Sherman, a former Baltimore broker who is now vice-president of residential land sales in the new city of Columbia, Maryland, found a once-thriving firm he worked for blackballed by competitors when in 1963 it announced it would sell property without regard to race, creed, or national origin whenever an owner was willing. Sales were cut by 65 to 70 percent.

The Greater St. Louis Committee for Freedom of Residence maintains a biracial staff which double-checks on the practices of real estate brokers and



salesmen. Mrs. Lorraine Parks, a black checker, found that agents in the real estate offices she visited repeatedly referred her to property for sale in racially changing areas of University City, a town bordering St. Louis into which the city's black population has been expanding.

When she expressed an interest in predominantly white areas, agents told her homes there were out of her price range or they took her name and promised to call if homes became available. She received no calls.

When Mrs. Heddy Epstein, a white checker, mentioned to some of the same real estate firms that she would be interested in seeing homes in integrating sections of University City she got responses such as this: "Well, University City is all colored, you don't want to go there." Or: "Property values are going down there, the neighborhood is getting blighted and there are many break-ins."

These practices—the "steering" of buyers—are by no means confined to St. Louis. Steering was revealed in a four-city survey by the Commission to be a stock practice of the firms handling sales of houses to lower-income families under the FHA's Section 235 program. Because new houses built under the program were more likely to be in the suburbs, this had the potentiality for reversing the trend toward racial separation. That was part of the rationale for studying the program in St. Louis, Philadelphia, Little Rock, and Denver.

To the contrary, the investigators found, the 235 program followed the trend toward separation, a discovery that is not startling in view of the fact that, except for paper processing by FHA, it is the housing and home finance industry which carries it

out.

In Denver, as in Little Rock, new houses sold with a 235 subsidy were marketed only to potential white buyers. In Philadelphia, as in St. Louis, minority buyers were shown only older, sometimes dilapidated housing in ghetto areas or "changing" neighborhoods.

In all four cities new 235 houses were located in the suburbs and nearly all were occupied by whites; the few sales to blacks in the suburbs took place in all-black enclaves.

The Commission's report on 235 Housing said all segments of the housing and home financing industry took part in the dual marketing system they found in operation in the four cities. Brokers readily acknowledged that they practiced "steering." They, as well as builders and mortgage loan officers, were willing to discuss discriminatory practices openly, with no sense of wrongdoing.

Meanwhile, the report said: "FHA continues to play a passive role in the operation of the program, disclaiming any responsibility for the quality of housing produced or the impact of the location of 235 housing on racial residential patterns."

In testifying before the Commission, Secretary Romney said he didn't basically disagree with the report. "We've got dual housing markets in practically every metropolitan area in the country, and that's one reason we need an affirmative marketing plan, and that's one reason we developed one. . . ."

But that plan, Mr. Romney acknowledged, applies only to new housing starts, not to sales of existing houses. The latter make up the bulk of the real estate market.



## The Judiciary as Policy-Maker

"Sue the bastards!"

That was the rallying cry adopted at the 1971 annual meeting of National Neighbors, a confederation of local organizations representing racially integrated neighborhoods. It signified that this wing of the fair housing movement intended to take to court real estate firms that engage in block busting and steering of buyers, especially those whose tactics tend to "tip" the precarious racial balance of neighborhoods at the edge of city ghettos.

Two major civil rights breakthroughs in 1968 made litigation a formidable method of leveling barriers to areas that previously excluded minorities. Title VIII of the Civil Rights Act of 1968 provided for enforcement by lawsuits filed by the Attorney General if conciliation of complaints by HUD fails or if State or local attempts at enforcement are unsuccessful. Passage of that act was followed in a few months by the Supreme Court's decision in *Jones v. Mayer*, prohibiting racial discrimination in all housing, even encompassing the few categories exempt under the 1968 act.

Between January 1969, and mid-1972 the Department of Justice brought or participated in more than 100 suits against more than 300 defendants in 27 States and the District of Columbia. Priority,

former Attorney General John N. Mitchell told the Commission's Washington Hearing, has been given to cases in large cities and suburban areas with significant nonwhite populations. Many of the cases have involved defendants controlling high volumes of sales or rentals—21,000 units in a New York case; 9,000 in one in Los Angeles, as examples.

Charges of discrimination made in the Commission's hearing in St. Louis led to suits by the Department of Justice against four of the area's real estate firms. One result of that litigation was an agreement by the Real Estate Board of Metropolitan St. Louis to adopt a code of fair housing practices that is binding on all its 4,000 members.

An increasing body of litigation is challenging exclusionary land use controls, restrictions which typically include minimum house and lot requirements or restrictions on apartments, or both. These standards tend to establish prices of housing at a relatively high level, excluding substantial numbers of lower-income families. Neil Newton Gold, director of Suburban Action Institute, told the Commission that land use controls in today's suburbs result in development of new housing at rents and prices that roughly 80 percent of the American people can't afford. Because minority groups are generally in the lower half of the national scale of income distribution "they are, in effect, precluded from competing for the housing that is developed in the suburbs," Mr. Gold said.

In his June housing statement, President Nixon warned that it would be unwise for a situation to develop in which local land use policies had to be "hammered out in the courts." Yet because the executive and legislative branches have regarded this issue as too sensitive politically, both Federal and State courts have moved rapidly into the vacuum.

The core of the Nation's system of land use controls, Herbert M. Franklin of the National Urban Coalition has observed, "is devoted to the maintenance of racial and economic homogeneity. Every man's home is his castle, particularly if it is on a half-acre lot surrounded by similar castles. . . . The jurisdictional boundary of his suburb is his moat."

By moving to alter the ground rules for allocat-

ing housing in metropolitan areas, the courts have dared to cross that moat. Courts in more than half a dozen States have overturned local zoning ordinances and building codes which discriminate against low- and moderate-income housing. Meanwhile, the Federal judiciary has moved to halt the concentration of subsidized housing where it has traditionally gone, in low-income, central city ghettos.

In the most sweeping in a series of landmark decisions, a Federal judge in 1971 ordered Atlanta and surrounding Fulton County to prepare jointly and submit to the court a housing plan for the entire metropolitan area. The ruling said the court would then determine whether the plan was in compliance with "the national policy of balanced and dispersed public housing."

Though less far reaching, two earlier rulings were hailed as strong blows against exclusionary patterns. In Lackawanna, N. Y., an integrated, lower-income housing development was proposed in an all-white ward. The court halted efforts by the city council to block the project by declaring a moratorium on new subdivisions and moving to buy the land for a park, ruling that the effect of the council's action would be discriminatory, regardless of its motives.

In Chicago, a Federal judge found that the city and its local housing authority had discriminated against blacks by giving aldermen a veto over proposed housing in their wards. Thus public housing was concentrated in black wards. To offset this, the court ordered 700 new units of public housing to be built in white wards.

Those decisions have suggested to some that Federal judges might follow the precedent set in school desegregation cases. They can envision courts ordering housing site allocation in much the same way some judges handed down areawide school plans to foot-dragging educators.

Vigorous judicial enforcement of fair housing mandates is less desirable and far slower than affirmative administrative action, but the pressure of such rulings makes an impact felt even in the most reluctant quarters of the executive branch.

# Summary

By 1970, suburbs contained 76 million people—almost four out of every 10 Americans—12 million more than the cities that generated them. Not only do the suburbs contain most of the Nation's people; they are rivaling, often surpassing, the central cities in jobs, investment, construction, commercial development, and political power.

This report has attempted to focus attention on the rigid restrictions that keep minority families confined to the central cities in the face of the dynamic centrifugal forces of almost every other aspect of metropolitan life. Two statistical measurements will reinforce data already cited to suggest the degree of confinement and the rate at which economic opportunities have gravitated to locations historically less accessible to minorities.

While the percentage of blacks living in central cities rose from 18 to 24 percent between 1960 and 1970 the proportion of blacks living in the Nation's suburbs remained virtually unchanged, rising just three-tenths of 1 percent.

During the past 20 years in 39 major metropolitan areas, 85 percent of all industrial and commercial growth, measured by jobs, has taken place in the suburbs.

In general, this growth has been welcomed in revenue hungry suburban towns, many of which slam the door against new residents. The varied, complex reasons they cite to justify their exclusionary practices may or may not cloak fear of racial, economic, or social change. Their effect, however, is to maintain racially separate residential spheres in metropolitan areas.

As it closed an 18-month investigation with a hearing in Washington, the U.S. Commission on Civil Rights had to conclude "that the Federal Government has not treated the problem of racial and economic polarization as a problem of the first priority." Despite sufficient laws to attack this problem, it asserted, "we continue to temporize with the cancer of racial polarization. . . ."

That hearing and earlier ones traced the degree of implication of the Federal Government in the development and perpetuation of racially exclusive suburbs.

Highway systems, built with Federal funds in ratios ranging to 90 percent, make possible sub-

urbia's low densities and permit reasonably easy commuting from deepest residential seclusion. Despite a prominent Federal presence and a bountiful Federal purse, the highway patterns of most metropolitan areas have not performed equivalent services for urban minorities. Circumferential loops around cities provide ultimate mobility for white suburbanites, but often serve as walls of the inner-city while the availability of jobs generated in commercial clusters at the interchanges only rarely reach the attention of the average ghetto dweller.

The General Services Administration, which acts as a landlord for Federal Agencies, dispersed Federal facilities through metropolitan areas during the 1960's with little regard for distances from jobs or the availability of homes near the new sites.

There has been major Federal presence in housing since the early 1930's, and it consciously helped create the rigid pattern of segregation that exists in suburbia. The Federal Housing Administration has renounced segregationist policies spelled out in Federal mortgage-underwriting manuals during early waves of suburban migration. But it has yet to exert sufficient muscle to correct the effects of this past discrimination, although Federal officials have frequently avowed that objective.

In June 1971, the Department of Justice sued suburban Black Jack, Missouri, charging racial discrimination in the community's hasty incorporation and rezoning of a site for a proposed federally assisted housing development that would have been open to blacks. At the same time a Presidential statement relegated to States and localities sole responsibility for land use controls and measures to insure equitable distribution of housing opportunities.

The history of local administration of housing and community development programs contains some cases that do not justify such complete faith. The Commission on Civil Rights explored cases of urban renewal in both St. Louis and Baltimore Counties that revealed a total insensitivity to the housing needs of those displaced by clearance.

Although the actions of both Federal and local government reinforce barriers to suburban access, it is the housing and home finance industry that actually controls sales and rentals of housing to the consumer. While minority families seeking entry to

the suburbs no longer encounter blatant discriminatory treatment by real estate agencies, they do meet evasion and manipulation. In a dual housing market, the existence of which was acknowledged by HUD Secretary George Romney, black buyers are often steered to homes and apartments in black or racially changing neighborhoods; whites to all-white enclaves.

With the advent of Title VII of the Civil Rights Act of 1968 and the Supreme Court's sweeping decision in *Jones v. Mayer*, court action became a potent weapon against residential discrimination. The Department of Justice has filed more than 100 suits to implement this provision. Meanwhile, litigation in Federal and State courts has resulted in some significant changes in local land use policies. These could lead to substantial racial and economic integration in the suburbs, perhaps ultimately to equitable distribution of housing on a metropolitan basis as a matter of routine.

Much of what the Commission revealed to be a national pattern emerged in earlier hearings in the St. Louis and Baltimore areas. A Summary of findings in the St. Louis area in January 1970, indicated that "some Federal agencies . . . were actually conducting their programs in a way which contributed to the concentration of poor black persons in certain areas of metropolitan St. Louis."

The Department of Defense had awarded an aerospace contract with a potential value of \$7 billion to a company although serious questions had been raised about the firm's compliance with equal-opportunity employment regulations. Of the county's 96 municipalities, only the all-black town of Kinloch had a public housing authority. While a county housing authority had been in existence for 14 years, it had yet to build its first unit.

"Thus," said the Summary, "HUD has permitted the various jurisdictions in St. Louis County to benefit from its programs on a selective basis, rejecting programs for the poor . . . but utilizing programs benefiting middle- and upper-income families. . . ."

Six months later, when the Commission conducted a similar hearing in Baltimore, it found that area to be "a picture of a polarized society." Commission Chairman Hesburgh said: "If there is a single word that brings into sharp focus the dimen-

sions of the problem growing out of such suburbanization patterns as these, it's the word 'fear'."

Developer James Rouse sought to make that analysis slightly less ominous. It was "fear of the unknown; not fear based on hate," he contended. It could be dispelled by using "the whole construct of leverage" in Government programs to create a wide range of housing choices so that nobody will feel isolated, said Mr. Rouse, developer of the racially integrated new city of Columbia, Maryland. For the area as a whole, however, isolation prevailed; Baltimore's population is 50 percent black while the surrounding county is 96 percent white.

Amid the dismal analyses were proposed remedies. Description of a fair-share plan for distribution of housing throughout the metropolitan area of Dayton, Ohio, offered the beginning of hope for cooperation between fragmented governmental jurisdictions.

The authority under which the Miami Valley Regional Planning Commission administers that plan was recognized as a tool for broadening housing opportunities, although it is one that needs strengthening. The planning commission is designated by the Federal Government to review all Federal programs proposed in its area, in accordance with coordinating procedures of Circular A-95 of the Office of Budget and Management. OMB has revised that circular to specify that regional civil rights

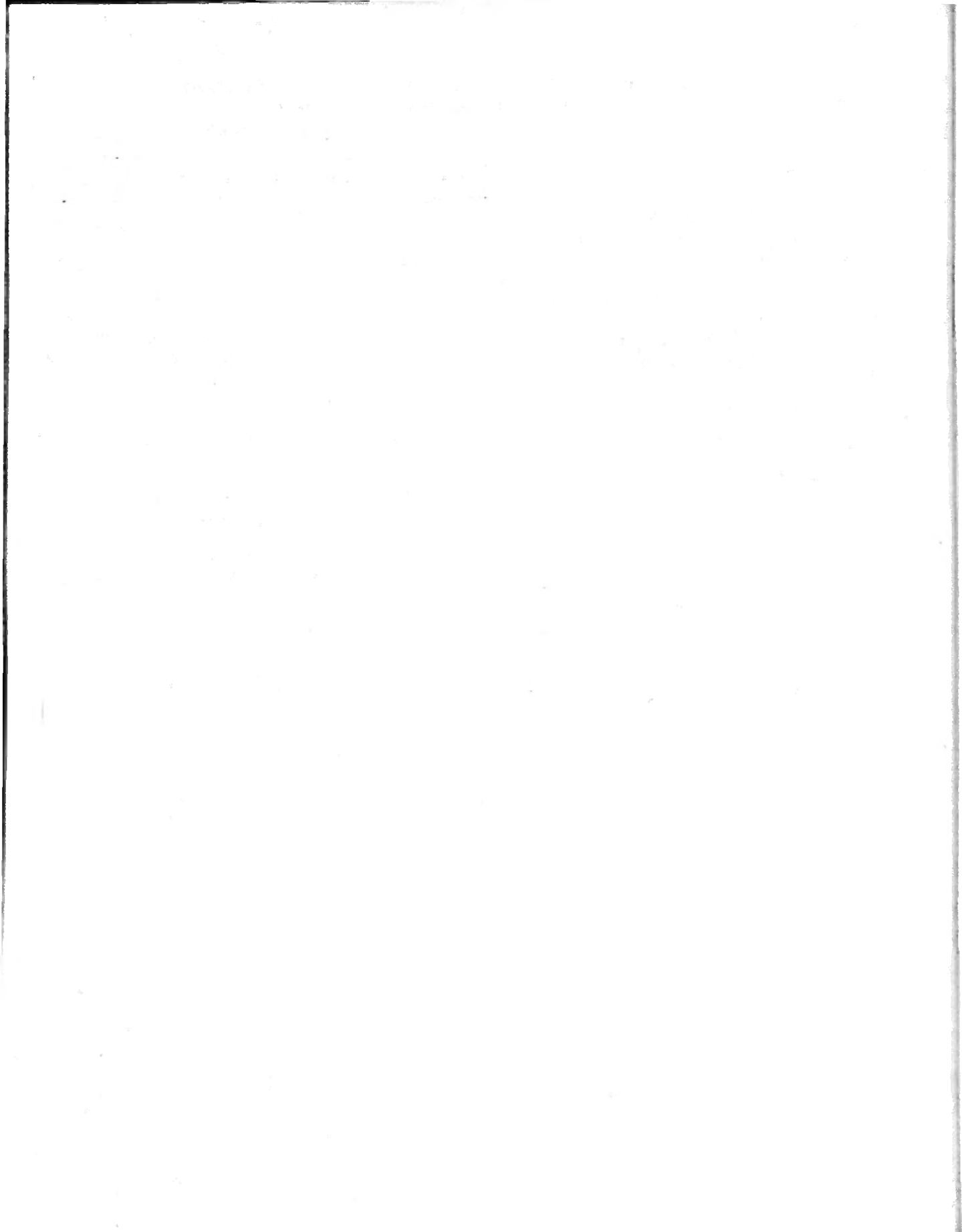
bodies may comment on the impact of Federal activities from their standpoint.

The sweeping provisions of Title VII of the Housing Act of 1970 provide opportunities for construction of new towns that will guarantee open occupancy and at least a legal minimum of lower-income housing. Already, there is a ring of statistical equity in the privately developed city of Columbia, Maryland. An estimated 15 percent of its population of 20,000 is nonwhite.

Those who see New Town development as a strong stimulus to open communities point out that residents who settle in new communities with full knowledge of their open occupancy policies are less likely to fear intrusions from "outsiders." This should preclude the kind of mindless, traumatic turnover that occurred when the Adel Allen family moved into Kirkwood, Missouri.

As he adjourned the Washington Hearing, the final one in the Commission's series on suburban access, Chairman Hesburgh noted loud affirmations of intention by many witnesses to respond to the "just demand" of minorities with remedies for "the manifold injustice wreaked by racial polarization in all our metropolitan areas." He added:

"That just demand makes crucial the question of whether the good words and good intentions . . . are matched with the use of every available tool for the solution of this pressing and urgent problem."



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

**APR 16 1973**

**LIBRARY  
WASHINGTON, D.C. 20410**



RECEIVED  
JAN 10 1964  
U.S. AIR FORCE

100-100000  
JAN 10 1964  
U.S. AIR FORCE

1325  
C65ab

728.1 :325 C65ab

U.S. Commission on Civil Rights.  
Above property rights.

DATE	ISSUED TO
<del>1-28-75</del>	<del>111 U. West 3253</del>
	<del>57110</del>
	<del>2-18-75</del>
<del>5/22/75</del>	<del>57110</del>
	<del>6/13/75</del>

U. S. COMMISSION ON CIVIL RIGHTS

WASHINGTON, D. C. 20425

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE, \$300

POSTAGE & FEES PAID  
U. S. COMMISSION ON CIVIL RIGHTS

