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The Harms of Race-Neutrality in Obama-Era Affordable Housing Policy

RICHARD MARSICO*

INTRODUCTION

Today, public housing provides support for the least well-off in society, and its purpose is to assist those who would otherwise be unable to compete for housing in the private market. However, public housing was not originally intended to serve such a purpose. It originated under the New Deal to serve struggling middle class families during the Great Depression. The fact that the poorest segment of our society lives in public or assisted housing today, and the fact that such housing is typically located in isolated, racially segregated, and underserved neighborhoods, has created hardship for those living there, who are mostly minorities and predominantly black. Whether or not intentionally caused by the government, this situation was not inevitable, and a series of discriminatory government policies, programs, and laws contributed to the segregation of black people in neighborhoods that are lacking in economic productivity and educational opportunity, and are saturated with crime.

This image of the public housing neighborhood was viewed by outsiders as threatening to the wellbeing of cities across America. The government sought to address this threat with the passing of the Housing Act of 1949, which authorized urban renewal. In fact, however, urban renewal actually harmed public housing residents more than it helped them. I argue that the most recent program to focus on the plight of the public housing neighborhood, the Obama Administration’s Choice Neighborhoods Initiative (CNI), is another program in a long line of government actions since urban renewal which has perpetuated the challenges faced by residents of those neighborhoods.

In the wake of the 2016 Presidential election and the rising tide of white nationalism, it is clear that we do not live in the “post-racial” society that some believed was evinced by the election of Barack Obama, the first black president. At its most general level, this paper demonstrates, through an evaluation of the Obama Administration’s housing policy, that post-racialism was never a viable representation of our social and political world. At its core, even Obama’s public housing policy is no different in nature from the long line of policies our government has implemented since World War II that have had a disparate impact on black Americans.

My ultimate theoretical argument is based on CNI’s failure to acknowledge that the problem it seeks to address is in part caused by a history of legally sanctioned government discrimination. Instead of taking responsibility for some part of the cause of the plight of the racially segregated urban neighborhood, the government, by remaining silent with respect to its responsibility for past harms it caused black people by its discriminatory housing law and policy, implicitly contributes to the

mainstream discourse that pathologizes the black community and blames black people for failing to overcome the challenges that disparately affect them. Until government housing programs explicitly acknowledge responsibility for past discrimination, a productive racial discourse will be hard to achieve.

This theoretical argument goes hand in hand with a practical argument that is focused on CNI. In the absence of a productive racial discourse, government programs and laws repeatedly privilege white people at the expense of black people and other minorities. Based on an examination of CNI policies and early reviews of its results, I show that CNI works this way. Laws and programs such as CNI, which purport to be race neutral and colorblind, actually reinforce racism and inequality because they disparately affect minorities. Behind a premise of neutrality, the laws masquerade as providing equal opportunity and equal protection to all. By virtue of this image, when minorities do not do as well as white people would, no responsibility falls on the law, and it is instead placed mainly on the minority. I argue that it is unrealistic to expect housing law, which is framed by a history of white supremacy and oriented to the perspective of a dominant white majority, to contribute to a productive racial discourse unless it takes responsibility for the past wrongs it has wrought on black people.

The first step towards fostering a productive racial discourse would be for Department of Housing and Urban Development (HUD) to explicitly acknowledge responsibility for past harm caused by legally sanctioned discrimination and use this acknowledgment as a justifying principle for housing programs, like CNI, that seek to effect change. This acknowledgment should appear in the summaries of all program-authorizing documentation, and it should replace othering language that highlights problems within public housing neighborhoods. HUD should instead harness efforts for change on aspects of community strength and should empower residents of target neighborhoods to determine what successful change looks like.

Thus, the second step to foster productive racial discourse would be for the government to relinquish control over defining the success or goals of housing policy. The government’s consolidation of power places it in an excellent position to coordinate actors and manage projects, but it is undemocratic for the government to monopolize the meaning of success. When HUD orients CNI to the culturally white model of capitalist success by saying that it aims to build “Ladders of Opportunity to the middle class,” those who fail to climb the ladder are stigmatized. Instead of creating top-down policy goals, HUD needs to engage in a dialogue with the people it purports to help. By working to cross-culturally negotiate definitions of success, the insidious effects of the culturally white model of capitalist success, which blocks discourse that acknowledges and addresses racial and cultural differences, are defused.

In sum, acknowledging the history of legally sanctioned discrimination and collaboratively developing models of success will foster a productive racial discourse around housing policy. Until such measures are taken, the list of failed government housing programs will only lengthen.

In section I, I provide a brief history of discriminatory housing law. In section II, I explain the theoretical underpinnings of the problem with race neutrality. In section
III, I provide an overview and analysis of the Choice Neighborhoods Initiative with respect to these theoretical underpinnings. Section IV briefly ties together the conclusions I draw from my analysis of CNI, and section V presents an evaluation of the practical results of early CNI implementation.

I. A BRIEF HISTORY OF DISCRIMINATORY HOUSING LAW

The Genesis of Public Housing

Public housing in America was created under the Housing Act of 1937. It was designed to finance multi-family buildings that would be publicly owned and managed. The Housing Act was passed during the Great Depression and was not meant to house the poorest people in America permanently, but instead to provide temporary housing for the middle class, who were struggling with Depression-induced unemployment and to aid the sluggish economy by initiating building projects that would put people to work. After World War II and the end of the Depression, many middle class public housing residents were able to afford homes in the suburbs, aided by the Federal Housing Act. The federal policies under the Act were discriminatory, by helping white people move out of public housing and into the suburbs while keeping black people segregated within cities. The result of the changing economy and the federal policies that made it easier for the white middle class to move out of public housing led to a shift in the composition of public housing, which became inhabited by lower-income, black people.

Suburbanization and Redlining

Due to government policies that supported this exodus of white people from cities to growing suburbs across the nation, assisted and public housing became occupied primarily by intergenerationally poor minorities, which are predominantly black. Suburbanization from the 1930s through the 1960s was financed and supported by taxation, transportation and housing policy. Businesses were given tax breaks for moving to the suburbs and as a result, both capital disinvestment and a decrease in employment opportunities were realized in cities. Highway construction and low

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2. See id.
3. See id. at 3.
4. See id.
6. See STOLOFF, supra note 1.
8. See id.
gas prices encouraged by transportation policies made it feasible to live in the suburbs and commute to work.\(^9\)

Housing policy, however, played the largest role in suburbanization.\(^10\) The government initially entered the home financing market in response to high foreclosure rates during the Great Depression.\(^11\) The Home Owners Loan Corporation (HOLC) was created to refinance struggling loans, but it also developed standards that ultimately became the practice of redlining, which excluded black people from the suburbs and from receiving mortgage money from the government.\(^12\) In deciding which mortgages it was useful or productive to finance, HOLC bypassed communities that were predominantly black, or whose racial composition was changing from white to black, in favor of white neighborhoods.\(^13\) In determining where to offer mortgage assistance, HOLC colored predominantly black neighborhoods red, indicating them as areas to avoid issuing assistance. These maps were subsequently used by the Federal Housing Authority (FHA), which made loans in the same discriminatory way as HOLC offered assistance (that is, they both based their decisions on HOLC’s redlined maps).\(^14\)

The FHA, founded in 1934, was created to bolster the struggling construction industry during the Great Depression.\(^15\) The FHA provided incentives that made buying a home cheaper in some cases than renting by insuring mortgages with small down payments and low interest rates, but excluded black people from receiving program benefits.\(^16\) Additionally, the FHA Underwriting Manual stated that “if a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes” and prescribed racially restrictive covenants to accomplish this end.\(^17\)

These policies of HOLC and the FHA, in combination with taxation and transportation policies, aided over 35 million families, mainly white, between 1933 and 1978 to reap the benefits of homeownership equity accumulation\(^18\) and had the concomitant effect of isolating black people in cities and excluding them from realizing benefits of wealth accumulation.\(^19\) Due to the discriminatory conferral of mortgage underwriting by the FHA to white people and not black people, white people received a “generation’s head start on accumulating wealth through homeownership.”\(^20\) Adam Gordon has suggested that FHA underwriting policies may account

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9. See id.
10. See id.
11. See id.
12. See id. at 499-500.
13. See id. at 500.
14. See id.
15. See id.
16. See id.
17. See id.
18. As Adam Gordon recounts, prior to the 1930s, housing was held primarily for consumption. However, with the FHA policies and benefits instituted in the Great Depression, homeownership became the predominant method by which middle-class Americans built wealth. See Gordon, supra note 5, at 78.
19. See OLIVER & SHAPIRO, supra note 7.
20. Gordon, supra note 5, at 79.
for the fact that today, the median white household contains ten times more wealth than the median black household.21

Not only were federal policies regarding homeownership discriminatory and conferred predominantly for the benefit of white people, but the housing policies for assisted and public housing that many black people lived in as a result of not being able to own a home did nothing to help the situation of those black people and arguably made their lives more difficult by introducing disruption and uncertainty. Indeed, the very need for these programs arose from the segregation that resulted from discriminatory homeownership policies, which gave rise to suburbanization induced by “white flight,” leaving mostly black people in cities, depriving cities of jobs and leading to capital disinvestment. Prior to these policies, black neighborhoods existed, but most black people lived beyond these neighborhoods and, as late as 1910, segregated housing was not a significant problem faced by black people.22

Urban Renewal

In the face of faltering cities and poor urban housing caused by the problems outlined above, Congress passed the Housing Act of 1949, which enacted the urban renewal program.23 The goals of urban renewal were to eliminate substandard and otherwise inadequate housing by clearing slums and blighted areas; stimulate the production of housing to make up for the lost housing; and provide suitable housing for everyone in America.24 After an area was designated by a local renewal agency as an urban renewal area and a renewal plan was created, there were five steps to an urban renewal project implementation.25 First, land was acquired, sometimes forcibly through the government’s eminent domain power.26 Second, individuals, families, and businesses located in the renewal area were forced to leave.27 Some compensation was provided to those dislocated, and the government was supposed to provide satisfactory relocation, but this did not happen all the time.28 Third, the renewal site was cleared and buildings demolished.29 Fourth, infrastructure and replacement buildings were built on the site.30 The new construction could include, for example, schools, libraries, and parks, but it was to be primarily private residential development.31 Fifth, the improved land was then sold.32

Urban renewal was a simple concept but it led to disastrous results for urban black people. Urban renewal failed to achieve its goal of increasing the supply of adequate

21. See id.
22. See id. at 82.
24. See id.
25. See id.
26. See id. at 492-93.
27. See id. at 493.
28. See id.
29. See id.
30. See id.
31. See id.
32. See id.
housing, and in fact severely decreased the supply of low-rent housing.\textsuperscript{33} Between 1950 and 1960, urban renewal caused the destruction of about 126,000 housing units,\textsuperscript{34} and by 1963, approximately 609,000 people had been forcibly displaced.\textsuperscript{35} According to one estimate, about 28,000 new housing units were constructed in the same decade within urban renewal areas, only about 3,000 of which were public housing units.\textsuperscript{36} On top of this fourfold decrease in housing units, almost all of the 126,000 destroyed units were low-rent units, whereas most of the new units had very high rent.\textsuperscript{37} This made it next to impossible for a family displaced by urban renewal to move into a new unit and created a pipeline into public housing.\textsuperscript{38}

The results of urban renewal were deterioration in both housing availability and conditions for those most in need and an improvement in housing availability and conditions for those who were initially best off.\textsuperscript{39} Many people living in urban renewal areas were poor, and approximately two-thirds of those forced to move by urban renewal were black people and Puerto Ricans.\textsuperscript{40} From urban renewal emerges a picture of a law that subsidized high income groups and harmed low income groups,\textsuperscript{41} just like HOLC’s and the FHA’s redlining policies. We see further that urban renewal disproportionately affected minorities, displacing them from their homes on a national scale and creating a pipeline into public housing that, in the future, would be segregated, isolated from jobs and transportation, and plagued with crime, poverty, and poor institutions.

\textit{Model Cities}

An initial effort to remedy the negative effects of urban renewal, the Model Cities program, part of President Lyndon Johnson’s Great Society Program, was passed into law in 1966.\textsuperscript{42} Model Cities provided federal funds to grantees who developed plans to improve housing, education, and vital services in targeted areas.\textsuperscript{43} Residents of target areas were expected to play a role in the planning process, but officials in charge of the programs and local officials on the ground lacked experience in making

\begin{itemize}
  \item \textsuperscript{33} See id. at 494.
  \item \textsuperscript{34} See id.
  \item \textsuperscript{35} See id. at 496.
  \item \textsuperscript{36} See id. at 494-95.
  \item \textsuperscript{37} See id. at 495. Anderson finds it doubtful that the average rent for low rent units that were destroyed exceeded $50 or $60 per month. One the other hand, the new homes built in urban renewal areas in 1962 had rents averaging $195 per month. A small percentage of these new homes had rent exceeding $360 per month. \textit{Id.}
  \item \textsuperscript{38} See id.
  \item \textsuperscript{39} See id.
  \item \textsuperscript{40} See id. at 496.
  \item \textsuperscript{41} See id. at 507 ("Consider . . . the decrease in low-rent housing and the increase in high-rent housing in the urban renewal areas; urban renewal actually subsidizes high-income groups and hurts low-income groups. Add to this the destruction of businesses and the forcible displacement of people from their homes . . . On balance, the federal urban renewal program has accomplished little of benefit in the past, and it appears doubtful that it will do better in the future.").
  \item \textsuperscript{42} See Peter W. Salsich, Jr., \textit{The Choice Neighborhoods Initiative: Model Cities by Another Name, or Truly Transformative?}, 26 PROB. & PROP. 34, 37 (2012).
  \item \textsuperscript{43} See id.
\end{itemize}
collaborative decisions with low-income residents. In the end, Model Cities failed to produce recognizable results due to unrealistic expectations and insufficient resources.

In 1973, President Richard Nixon ordered a moratorium on federal housing programs, halting funding for urban renewal and model cities. For the next two decades (until the introduction of HOPE VI in the early 1990s), control over housing policy would devolve from HUD to local officials and the private sector.

**Housing Choice Voucher Program and Community Development Block Grant**

The Housing and Community Development Act of 1974 initiated this shift in control from HUD to local officials and the private sector. The primary manifestation of this shift was the Act’s creation of the Housing Choice Voucher Program (HCVP) (Section 8 vouchers) and the Community Development Block Grant (CDBG). Section 8 vouchers are rental assistance subsidies issued to low-income families. The families are responsible for finding a housing unit where the owner agrees to rent under the HCVP. The CDBG replaced categorical grants such as urban renewal and model cities with formulaic revenue sharing grants, which gave those entitled to the money broad discretion in how to use it.

**HOPE VI**

Local government and the private sector were unable to alleviate the plight of the public housing neighborhood created by the combination of suburbanization, housing discrimination, and urban renewal. In the early 1990s, the federal government took back the reins. HOPE VI (Housing Opportunities for People Everywhere), authorized by Congress in 1992, attempted to address problems in isolated, high-poverty public housing neighborhoods. HOPE VI used HUD funds to demolish what HUD defined to be severely distressed public housing projects and rebuild public housing in a way that would deconcentrate poverty. HOPE VI accomplished this through two rounds of grants, revitalization grants and demolition grants, for which only public housing agencies were eligible to apply. Revitalization grants were meant to help public housing agencies improve the living situations of low-income public housing residents of units that demolition grants aided to demolish.

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44. See id. at 37-38.
45. See id.
49. See NAT’L LOW INCOME HOUS. COAL., supra note 47.
51. See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 50, at 1, 8.
52. See id. at 1.
To be eligible for demolition, a public housing project had to be “severely distressed,” which meant that it had to be responsible for physical decline of and disinvestment from the neighborhood in which it was situated; be occupied primarily by very low-income families who had high rates of unemployment and relied on public assistance; and, have a high crime rate.\textsuperscript{53}

HOPE VI did not require grantees to replace all the affordable housing units it demolished.\textsuperscript{54} It envisioned that Section 8 housing assistance vouchers would help residents permanently displaced by HOPE VI demolition find housing.\textsuperscript{55} It turned out that HOPE VI harmed the poorest public housing residents more than it helped them. First, Section 8 vouchers have a relocation time limit of 90 days, and the availability of Section 8 housing depends on the participation of private landlords, who are disincentivized to participate by compliance burdens.\textsuperscript{56} Second, families who were able to relocate successfully with Section 8 vouchers faced grim future prospects: after displacement and relocation, 59% of families that used Section 8 vouchers reported having difficulty paying rent or utility fees, according to the “HOPE VI Resident Tracking Study” completed in 2002.\textsuperscript{57}

These problems were illustrated in a case study of the largest HOPE VI demolition in New Orleans, the St. Thomas development.\textsuperscript{58} The study found that the project resulted in a 63% reduction in the amount of affordable housing units, and one third of displaced families received no housing mobility assistance.\textsuperscript{59} Additionally, there was a citywide reduction of public housing units by 7,109,\textsuperscript{60} and there was a waitlist of 19,000 persons for Section 8 vouchers.\textsuperscript{61}

Therefore, HOPE VI was not too much unlike urban renewal in that it attempted to address the problems faced by public housing communities through demolition. There was no effective input from residents of demolished units, and many of the people displaced by HOPE VI demolition were either unable to return to the revitalized neighborhood or had difficulty finding housing elsewhere. If they did find housing, they likely had difficulty paying rent.

II. THEORETICAL UNDERPINNINGS AND THE PROBLEM WITH RACE NEUTRALITY

Underlying postwar housing policy is the tendency of the government to deal with poverty in urban neighborhoods “by defining the people most impacted as the problem that needs to be addressed, rather than recognizing how they have been
affected by inequitable and exclusionary policies and practices. As I have attempted to show and scholars have argued, the inadequate housing, poor quality education, poor health, and unemployment faced by so many low-income black families are the result of structural impediments created by a lack of collective responsibility. Brendan O’Flaherty elucidates the collective nature of this responsibility by pointing out that it lies not only with legally sanctioned government discrimination, but also with forces of history (the Great Migration of southern black people to the north increased in the 1920s) and extralegal discrimination by individuals: professional realtor codes specified that it was unethical for a realtor to sell houses in white neighborhoods to black people; black people who nonetheless bought homes in white neighborhoods often were firebombed; apartment owners refused to rent to minorities; cities, where given discretion, devised public housing in ways that enforced racial segregation. While the Great Migration and extralegal discrimination by individuals no doubt played a role in creating the conditions of poor black neighborhoods, we must recognize that these conditions have been, to a non-trivial extent, created by government policies and practices.

I argue that the lack of collective responsibility on the part of the government and the mainstream racial discourse is manifested by the race-neutral, colorblind approach taken by housing redevelopment programs over the course of the past two decades (HOPE VI and CNI). By failing to acknowledge the racial aspect of public housing redevelopment, CNI fails to produce a discourse that places any responsibility on the government. As a result, we have government policies that fail again and again to create any positive lasting benefits for public housing residents. Without acknowledging government responsibility, the blame goes to the public housing residents, and the dominant discourse places the responsibility with public housing residents. Given the predominantly racially black makeup of public housing communities, such a discourse reinforces victim-blaming and pathologizing of the black family, and at the same time makes politically infeasible and unproductive any discussion or consideration of affirmative government action to alleviate the challenges faced by public housing communities.

Cheryl Harris provides a valuable perspective of affirmative action from a critical race perspective that in turn explains why affirmative action is stigmatized and why it is not used to justify government programs such as CNI. The law, she tells us, has recognized racial identity when it seeks to exclude (for example, Jim Crow laws); however, it has not recognized racial group identity when racially oppressed groups

63. See id. at 894.
65. See Scott, supra note 62, at 894.
66. Indeed, when most people think of the term affirmative action, they think only of the policy in institutions of higher education to take race into consideration as a factor for admitting students. It does not even occur to most people that affirmative action can be manifested in any area of public life. I discuss affirmative action in this broader sense.
seek to assert rights.\textsuperscript{67} This refusal to recognize racial group identity is undergirded by the continued ability of culturally white-dominated institutions to “control the legal meaning of group identity.”\textsuperscript{68} Harris conceptualizes a property interest in whiteness which involves the expected and continued right to determine meaning and to establish norms for the historically oppressed.\textsuperscript{69} Law, constituted in this manner, “masks as natural what is chosen,” and “[t]he result is that the distortions in social relations are immunized from truly effective intervention, because the existing inequities are obscured and rendered nearly invisible. The existing state of affairs is considered neutral and fair, however unequal and unjust is in substance.”\textsuperscript{70}

Affirmative action, to Harris, helps us rethink “rights, power, equality, race and property from the perspective of those whose access to each of these has been limited by their oppression.”\textsuperscript{71} Affirmative action should be reconceptualized as a delegitimation of the property interest in whiteness.\textsuperscript{72} Harris argues that intense judicial opposition to affirmative action stems from affirmative action’s challenging of the sanctity of traditional law as being illegitimately based on white privilege.\textsuperscript{73}

In what follows, this Note applies Harris’ critical race theory lens to CNI and argues that not only does CNI demonstrate the ability of mainstream white culture to exercise its power in upholding norms, but that doing so perpetuates racism at an institutional level by failing to help public housing residents and instead reinforcing their marginalized position.

In the context of programs like CNI, displaced public housing residents are at the mercy of program directors and grantees. The residents are not the ones developing the ideas for the neighborhood transformation, so housing owners and project managers “have institutionalized privilege in the larger society that translates to dynamics on the ground at these mixed-income sites in ways that are often interpreted by low-income African-American renters as racially driven.”\textsuperscript{74}

Once we realize the large degree of control over CNI retained by the government and property owners and managers, the perpetuation of culturally white interests is evident. Indeed, by virtue of early results of CNI, we see that it causes problems and difficulties for marginalized minority public housing residents. Not only does CNI fail to put the interests of the oppressed first, but at the same time, in failing to acknowledge the history of racial oppression and the particular government policies such as redlining, urban renewal, and HOPE VI that have contributed to the current situation of concentrated poverty and segregation, CNI shifts responsibility from the government to the oppressed. CNI denies racial group identity and serves to perpetu-

\textsuperscript{68} Id.
\textsuperscript{69} See id.
\textsuperscript{70} See id.
\textsuperscript{71} Id. at 288.
\textsuperscript{72} See id.
\textsuperscript{73} See Harris, supra note 67, at 289.
ate the dominant interests of white people. CNI makes no progress towards acknowledging the whiteness at the core of law and policy and therefore serves to perpetuate the stigma surrounding affirmative government action. It is unfortunate, yet unsurprising, that early reports of CNI projects show that it is not successful in benefitting those it intends to help, just as past programs and laws of the same ilk. My theoretical contention is that this failure contributes to a harmful racial discourse that blames the people CNI is intended to help, who are predominantly black, and makes people believe that problems with poor neighborhoods are pathological.

III. CHOICE NEIGHBORHOODS INITIATIVE

A. Initial Overview of CNI

The Obama administration made efforts to develop broad-reaching, place-based neighborhood initiatives, the goal of which was to revitalize neighborhoods with high rates of poverty. The Administration sought to facilitate coordination among agencies, including the Department of Justice, Department of Education, and Department of Housing and Urban Development (HUD), under the ambit of its “Neighborhood Revitalization Initiative” (NRI). The NRI’s overarching goal is to build “Ladders of Opportunity to the middle class” for residents of distressed public housing neighborhoods by addressing the interconnected challenges of poor housing, under-performing schools, poor health, high crime rates, and absence of capital.

The Choice Neighborhoods Initiative (CNI), administered by HUD, and authorized under Section 24 of the U.S. Housing Act of 1937 (42 U.S.C. 1437v), addresses the housing component of the NRI.

CNI was first funded by Congress in fiscal year 2010 as a replacement to HOPE VI. CNI’s guiding purpose, like HOPE VI, is to deconcentrate poverty in order to turn distressed neighborhoods into places where people choose to live. Unlike HOPE VI, however, which focused exclusively on the redevelopment of housing projects, CNI takes a broader, holistic approach, seeking to incentivize not only housing redevelopment but also other neighborhood essentials in need of revitalization.

CNI makes three general improvements over HOPE VI. First, it expands beyond the public housing property. Second, it allows local governments and nonprofits to apply for grants, in addition to public housing agencies. Third, it covers not just public housing projects, but also other federally-assisted housing that

76. See id.
78. See id. at 5.
79. See Gebhardt, supra note 75, at 94.
80. See id.
81. See id.
82. See id. at 94-95.
83. See id. at 96.
84. See id. at 97.
is distressed. Although legislation has been introduced in Congress to authorize CNI as a full-fledged initiative, it has not yet been passed, and CNI continues to be funded as a demonstration through HUD appropriations money.

Each year CNI funds are distributed in two rounds as grants for which applicants need to compete. First, planning grants are awarded to aid grantees in the development of a transformation plan. A planning grant is meant to “assist communities in developing a successful neighborhood transformation plan and building support necessary for that plan to be successfully implemented.” Next, implementation grants are awarded in order to facilitate the implementation of the transformation plan. The yearly appropriations bill determines the amount of grant money available for CNI. CNI grants are not meant to fund the entire transformation plan; it is expected that applicants will use the grant money to leverage support from public and private actors who partner with the lead applicant (the originator of the transformation plan).

In order to receive CNI grants, applicant neighborhoods must reach a certain threshold of poverty or low-income households and contain distressed subsidized housing. Racial demographics are not a factor in HUD decisions to award grants, but neighborhoods that compose the CNI applicant pool are highly racially segregated, containing much greater proportions of minority residents than the national average.

CNI has three main goals: (1) “[r]eplace distressed public and assisted housing with high-quality mixed-income housing that is well-managed and responsive to the needs of the surrounding neighborhood”; (2) “[i]mprove educational outcomes and intergenerational mobility for youth” and provide “supports delivered directly to youth and their families”; and, (3) “[c]reate conditions necessary for public and private reinvestment in distressed neighborhoods to offer the kinds of amenities and

85. See id.
86. See id.
87. See id. at 94.
88. Parties who are eligible to apply for HUD CNI planning grants include: local governments, public housing authorities, and nonprofits (other than higher education institutions). See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 12. Private citizens are not eligible to apply. See id. Where the owner of the public or assisted housing is not the lead applicant, the lead applicant must include a letter from the owner indicating the owner’s support for the planned project and his desire to collaborate with the project’s future development. See id. at 17. For profit developers can apply for CNI grant money, but they must partner with a co-applicant government entity. See id.
89. U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 1.
90. See Gebhardt, supra note 75, at 94.
91. See id. Other sources of funding envisioned by HUD include: public, private, and nonprofit entities; state and local housing finance agencies; local governments; foundations; government sponsored enterprises, such as Fannie Mae and Freddie Mac; HUD and other federal agencies; and financial institutions, including banks and insurers. See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 50.
92. See Gebhardt, supra note 75, at 94.
93. See id. at 98.
94. See id. at 94-95.
95. See id. at 94-95.
assets, including safety, good schools, and commercial activity, that are important to families’ choices about their community.”

As we see from its guiding principles and general objectives as propounded by the Obama Administration, CNI has given little explicit attention to the issue of race in the neighborhoods it seeks to transform and has instead been framed primarily in terms of economic integration and equal opportunity. Upon further investigation into the dynamics of the program, we will see ignorance of race as a recurring theme. This Note argues that this silence regarding race constrains the effectiveness that public housing programs such as CNI can have on low-income black people. As this Note shows next, CNI neighborhoods are predominantly composed of low-income black people and thus, as we have seen over the course of housing law history, black people are in a position to be disparately impacted by CNI.

B. CNI Grantee Neighborhood Demographics

In the Appendix, you will find a table of demographics of the first five neighborhoods that received CNI grants. Because CNI is a new program, these are the only grantees for which data has been collected and reported.

In all five neighborhoods, black people make up the largest single racial group. In New Orleans, black people make up 100 percent of the neighborhood, and in Chicago, black people make up 98 percent of the neighborhood. Poverty rates are significantly high in all five neighborhoods, ranging from 25 to 42 percent. The average unemployment rate across all neighborhoods is nearly 17 percent, and the average vacancy rate exceeds 17 percent. Violent crime is a problem in all five neighborhoods. Based on the HUD education proficiency scores, the schools in all five neighborhoods are performing worse than the average city school. Despite the fact that substantial housing assistance is provided to residents in the five neighborhoods, most renters in grantee neighborhoods were cost-burdened by their rent, which is defined as paying more than 30 percent of their income for rent. These demographics paint a picture of racially segregated neighborhoods facing many challenges, and therefore present a racial equality issue to any program that seeks to bring change to the neighborhoods.

C. Detailed Examination of CNI

1. Eligibility and Program Requirements

a. Definition of Distressed Public Housing. Each CNI application “must focus on the revitalization of at least one severely distressed public and/or HUD-assisted

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96. See Khare, supra note 74, at 2.
97. See id. at 3.
99. See id. at 2-29.
housing project."100 "Severely distressed housing"101 applies to public housing or assisted housing projects that: (1) require "major redesign, reconstruction, or redevelopment, or partial or total demolition to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plan of the project"; (2) "[[is a significant contributing factor to the physical decline of, and disinvestment by public and private entities in, the surrounding neighborhood]; and (3) is occupied primarily by low-income and/or unemployed families who are dependent on public assistance, has high crime rates, and has insufficient transportation, economic opportunity, and schools.102

We glean from the first part of the definition of "severely distressed housing" that HUD requires each CNI grant to be focused on a project that requires major construction. In most cases, this turns out to be demolition. Because HUD does not require resident participation in the decision to apply for CNI grants and does not require a significant amount of resident participation in the development of the transformation plan, public housing residents have very limited say in demolition decisions. This under-emphasis of resident input regarding such an important issue displays a lack of concern for the interests of the residents whom CNI purports to help and orients CNI not to the perspective of public housing residents, but rather to the perspective of the dominant white culture that created it.

In the second part of the definition of "severely distressed housing," HUD places the responsibility for the physical decline of and disinvestment from public housing neighborhoods on the public housing itself by calling it a "significant contributing factor." Instead of acknowledging the past history of state sanctioned racial discrimination, which was a significant cause of the current plight of public housing, CNI serves to perpetuate a harmful racial discourse that pathologizes the black community and blames public housing residents for their situation.

The third part of the definition shrouds the CNI in a veil of neutrality by ignoring the racial composition of public housing and instead classifying public housing by its composition of low-income and unemployed residents. Thus, CNI does not acknowledge the disparate effect it will have on black people. This places CNI within the ambit of the mainstream legal discourse of neutrality. If it turns out that CNI harms black people, just as housing programs of the past did, the veil of neutrality insulates the legal establishment from realizing or acknowledging responsibility for the law's effects on the black community.

100. U.S. Dep’t of Hous. and Urban Dev., supra note 77, at 13. A public housing project, as defined by HUD, refers to housing that is funded under Section 9 of the Housing Act of 1937. Id. at 9. Assisted housing, as defined by HUD, includes housing assisted under Sections 8 or 9 of the Housing Act of 1937 (42 USC 1437f and 42 USC 1437g), section 221(d)(3) or section 236 of the National Housing Act (12 USC 1715 and 1715z-1), section 202 of the Housing Act of 1959 (12 USC 1701q), section 811 of the National Affordable Housing Act of 1990 (42 USC 8013), and the Native American Housing Act of 1996. Id. at 6.

101. Defined at Section 24(j)(2) of the Housing Act of 1937.

b. Resident Involvement. Compared to the amount of time needed to put together planning or implementation grant applications, the requirements for resident involvement are insignificant. HUD requires that at least one meeting with residents of the applicant neighborhood be held by the planning grant application deadline. Implementation applicants must conduct at least two meetings with residents of the target public or assisted housing regarding the proposed transformation plan. There must also be two public meetings with residents and the wider community to develop the transformation plan. Issues regarding the transformation plan and its implementation must be discussed at the meetings, including proposed demolition, supportive services, relocation issues (including mobility and relocation assistance), re-occupancy plans, and economic opportunities for low-income people.

Residents have a chance to discuss CNI implementation, but because they do not have much of a say in the ultimate decision to demolish their housing and displace them, CNI appears detached from the perspective of the poor people it purports to help. The limited nature of resident participation in the development of CNI plans belies any conjecture that it is rooted in the interests of public housing residents.

c. Ability to Return to Revitalized Units. Transformation plans must show that each public housing tenant who wishes to return to replacement housing once the redevelopment is complete will be permitted and able to return if he has complied with his lease. A tenant may eschew replacement housing in favor of a tenant-based voucher provided under Section 8(o) of the Housing Act of 1937. Landlords have discretion to determine how strictly to enforce lease terms, which puts tenants at their mercy and allows landlords to remove tenants without the possibility of return. In the face of this concern, tenants may be impelled to leave public housing and look for housing on their own with the help of the Section 8 voucher.

The options available to a Section 8 voucher will likely be limited to minority dominated, low-income, segregated neighborhoods. The study of residents displaced by HOPE VI who used Section 8 vouchers to find new housing showed that 59% of these residents had difficulty paying rent after finding housing with the vouchers. Another report showed that there was a waiting list of 19,000 people even to be able to use the vouchers. There is no reason why residents will not face the same difficulties that resident-subjects of HOPE VI dislocation experienced.

103. See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 20.
105. See id.
106. See id.
108. See id.
109. See Popkin et al., supra note 57.
110. See Pardee & Gotham, supra note 58.
While grantees must come up with a strategy to relocate families who will be displaced during demolition and reconstruction of housing units,\(^\text{111}\) studies indicate that grantees do not prioritize mobility counseling.\(^\text{112}\) This same problem occurred in HOPE VI implementation and led to unfavorable results for displaced residents.

d. One-for-One Housing Replacement. All public and/or assisted housing units that are marked for demolition by a CNI transformation plan are supposed to be replaced.\(^\text{113}\) HUD prefers that replacement units be built in the target neighborhood. If an applicant wishes to build replacement units beyond the applicant neighborhood, it must show that such off-site development is necessary to address fair housing objectives, deconcentrate poverty, or redevelop with appropriate density.\(^\text{114}\) Further, the off-site replacement housing must provide access to economic, social, and educational opportunities on par with those in the applicant neighborhood and must not be located in areas of highly concentrated minority population or with a poverty rate over forty percent.\(^\text{115}\)

This one-for-one replacement requirement fails to get far in aiding public or assisted housing residents, especially when taking into account the fact that under past programs, such as urban renewal and HOPE VI, the government demolished more affordable housing units than it built. In failing to make up for this deficit, CNI’s one-for-one requirement will likely fail to remedy the past harms caused by urban renewal and HOPE VI. Also, placing the burden on grantees to defend decisions to build replacement housing beyond the target neighborhood serves as a built-in mechanism to reinforce past segregation.

Additionally, the one-for-one replacement requirement is not as strict as it purports. HUD still rewards applicants whose plans propose to replace between sixty and eighty percent of public or assisted housing units demolished.\(^\text{116}\) The one-to-one replacement requirement is a main factor distinguishing CNI from HOPE VI; without it, there is no reason to expect that CNI will have better results.

e. Affirmatively Furthering Fair Housing. All CNI activities must be carried out in a way that affirmatively furthers fair housing.\(^\text{117}\) HUD provides specific requirements regarding the fulfillment of the affirmatively furthering fair housing mandate within the context of CNI. Grantees are required to adopt affirmative marketing procedures or monitor the marketing procedures of project owners.\(^\text{118}\) HUD defines “affirmative marketing” as “outreach efforts targeted to persons who are least likely to apply for the housing, to ensure that all persons regardless of their race . . . are aware of the

\(^{111}\) See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 14.  
\(^{113}\) See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 21.  
\(^{114}\) See id.  
\(^{115}\) See id., at 21-22.  
\(^{116}\) See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 104, at 72.  
\(^{117}\) See Section 808(e)(5) of the Fair Housing Act, as amended (42 USC 3608(e)(5)); U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 23.  
\(^{118}\) See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 23.
housing opportunities in each [CNI] project.”

The word “affirmative” here is misleading because the government is not taking affirmative action to redress past harm caused by housing law. Instead, it is essentially acting affirmatively to be colorblind in the implementation of CNI. It is unclear who the “least likely to apply for the housing” might be: low-income black people or middle-income white people?

2. Rating Factors—Planning Stage

HUD evaluates CNI planning grant applications under a rubric for which eighty-nine points are available. The more points an applicant scores, the greater likelihood they receive a grant. Examining the ways in which HUD awards points provides insight into the true nature and underlying goals of CNI.

a. CNI Prioritizes Demolition Over the Construction of Affordable Housing in Neighborhoods of Need.  HUD awards up to five points for applicants who show that the target neighborhood contains public or assisted housing buildings that are “structurally deficient” such that “significant rehabilitation or demolition is required.” Additionally, applicants receive up to four points if they demonstrate that fundamental design flaws are apparent in the target housing such that “substantial rehabilitation or reconstruction” is required. In awarding up to nine out of eighty-five points (slightly over ten percent of all available points) to projects that seek to demolish public or assisted housing units, HUD indicates that CNI prioritizes demolition.

Because CNI has not acknowledged that the majority of residents whom it displaces are black, when CNI aids in the demolition of a housing project, the negative effect that displacement and relocation has on individuals is not understood as having a disparate impact on black people. Subsequently, when black people continue to represent a disproportional share of those in poverty, the mainstream discourse does not understand why. Instead of blaming some part of the difficulties of black people on disruptive policies like CNI, the mainstream discourse instead blames black people themselves.

In contrast to its robust incentivization of public housing demolition, CNI does not substantially incentivize the construction of affordable housing for people who need it. Only one point is awarded to applicants whose neighborhoods are in need of affordable housing. In a program ostensibly created to provide people in poverty with a ladder to the middle class, it is counterintuitive to place such a low priority on

119. Id.
120. See Id. at 49-50.
121. Id. at 42.
122. Id. at 43.
123. The rating factors for implementation grants follow the same pattern. Up to eight points (out of a total of 198) are awarded for structural and design deficiencies that warrant demolition. See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 104, at 64.
the need of those persons for affordable housing, especially within the context of a program meant to provide such a ladder primarily through the provision of quality housing.

b. Resident Input Does Not Receive Much Weight. No more than three points can be awarded for plans that show how residents of targeted public or assisted housing will play a role in the planning process. Just as with the prioritization of demolition over the creation of affordable housing for those in need, this relatively low priority on resident involvement casts CNI as a program concerned with something other than building ladders of opportunity to the middle class for those stuck in isolated, poor housing communities.

3. Rating Factors—Implementation Stage

HUD evaluates CNI implementation grant applications under a rubric for which 198 points are available. As with the planning grant application, the more points an applicant scores, the greater likelihood they receive a grant.

a. Mixed Income Housing. HUD awards up to five points for applicants who plan to develop mixed income housing. Points under this element are only awarded if the applicant plans to have at least half of its units available at normal market rates and are made available to people earning above sixty percent of the average median income of the region. This provides insight as to why only one point is awarded for affordable housing need. CNI incentivizes the creation of market rate units, hoping that the benefits of wealthier individuals moving into proximity with poor people will trickle down to the poor. Instead of focusing on the needs of those in poverty, CNI appears to benefit the middle class with an increased supply of housing.

b. Race. HUD awards two points for applications that “affirmatively further fair housing” by specifying how it will do two of the following things: (1) increase neighborhood racial and economic diversity; (2) provide choice to current residents to pursue housing in areas of lesser poverty and segregation; (3) show that replacement housing outside the target neighborhood will be in areas of greater economic and racial diversity than within the target neighborhood; (4) incorporate “the principles of universal design and visitability”; or (5) show a clear connection between how the implementation plan will alleviate the impediments to fair housing identified elsewhere in its application.

This is the only place the CNI Notices of Funding Availability [NOFA] mentions race. In addition to being an insignificant, unrequired factor (worth only two points), its effectiveness with respect to race is diluted because only two out of five parts need to be shown, one of which can be related to design, which does not directly involve

125. See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 77, at 46.
126. See U.S. DEP’T OF HOUS. AND URBAN DEV., supra note 104, at 58-60.
127. See id. at 72.
128. See id.
129. See id. at 85.
racial segregation, and another of which is a catch all that need not have anything to do with race. Affordable housing critics suggest that the inclusion of the “affirmatively furthering” mandate is promising but argue that more detailed requirements and a better balancing incentive structure are needed if such a mandate is actually to be effective.\footnote{See Tegeler et al., supra note 112, at 45-46.}

IV. CONCLUSIONS OF CNI ANALYSIS

CNI seeks to improve the conditions of public housing neighborhoods by demolishing public housing and building mixed-income housing in its place. In the process, it does not take into account the perspective of public housing residents, who are predominantly black. At the same time, it does not acknowledge the disparate impact it will have on black people, nor does it acknowledge the past history of government-sanctioned racial discrimination that is in part responsible for the current plight of public housing neighborhoods. In failing to provide for sufficient mobility services to displaced residents, in incentivizing a greater construction of market rate units than affordable units, and in its lack of emphasis on supplying affordable housing to those in need, CNI appears oriented, under the surface, towards benefitting the middle class.

V. EVALUATION OF CNI’S SUCCESS

This analysis of CNI has cast it as a program that is unconcerned with redressing the past history of housing law discrimination that has had a disparate impact on black people. I argue that such a program will continue to feed an unproductive, white-centric legal and racial discourse. We might find solace in a successful practical implementation of CNI, but the early record shows that the program has run into some of the difficulties my analysis has anticipated. CNI’s poor early performance frames it as another government program that harms black people more than it helps them and that consequently contributes to a racial discourse that pathologizes the black community and puts the responsibility on black people for not achieving the white image of success (i.e., for not successfully climbing a ladder to the middle class). Not only does CNI perpetuate this harmful racial discourse, but it also serves to perpetuate inequalities in wealth between black people and white people by displacing black people from their homes and supplying additional market rate housing to middle-income families.

CNI is a new program—the first grants were awarded in 2010—so the evaluation of its impact and success is limited to the first set of implementation grants awarded. These grants, totaling $122 million, were distributed in 2011 to sites in five cities: Boston ($20.5 million), Chicago ($30.5 million), New Orleans ($30.5 million), San Francisco ($30.5 million), and Seattle ($10.3 million).\footnote{ROLF PENNALL & LEAH HENDEY, A BRIEF LOOK AT THE EARLY IMPLEMENTATION OF CHOICE NEIGHBORHOODS 3 (Urban Institute 2013).} HUD has performed a
preliminary evaluation and commissioned a study by the Urban Institute. Addition-
ally, the Poverty & Race Research Action Council (PRRAC) studied CNI grantee plans with respect to off-site replacement housing.

Two common themes across all five implementation sites are lack of resident involvement in the development of the CNI plan and difficulties faced by residents who are displaced by demolition of their homes. In Boston, grantees made efforts to recruit residents to community meetings but not many residents attended. In Chicago, tenant involvement has not been maintained since the initiation of CNI. In New Orleans, community involvement was impeded by lack of meeting space.

Weak housing mobility supportive services have exacerbated the negative effects of resident displacement. In Boston, resources for supportive services are insufficient. The transformation plan called for all residents to return to the redeveloped housing, yet some tenants desired to move away, and grantees are having trouble coordinating voucher-assisted moves. If not enough residents return, the redeveloped housing could suffer vacancy and depressed rents.

The Chicago project has faced challenges involving resident relocation and return. Residents were notified of demolition and the need to relocate in 2008 but supportive services were not available until after relocation began. Additionally, some residents will have to move multiple times during the course of the project because of the staggered way in which permanent replacement units will be built over multiple years.

Supportive services in the New Orleans project have had trouble benefitting residents because of the uncertainty residents face about their future living situation. Support services in Seattle have faced difficulty in gaining resident trust because of past trauma experienced by most residents from displacement, poverty, and/or physical disabilities.

The Seattle project has caused unique hardship for displaced residents. Many residents of the pre-development property had private backyards from which they derived income through vegetable cultivation or daycare business. State law requires

132. See The Urban Institute, supra note 98.
133. See Martha Galvez, An Early Assessment of Off-Site Replacement Housing, Relocation Planning and Housing Mobility Counseling in HUD’s Choice Neighborhoods Initiative (PRRAC 2013).
134. See id. at 4-21.
135. See id. at 5-21.
136. See id. at 3-26.
137. See id. at 3-21.
138. See id. at 3-21.
139. See id.
140. See id. at 4-19.
141. See id.
142. See id.
143. See id. at 5-21.
144. See id. at 7-19.
daycare locations to fence their yards.\textsuperscript{145} The redevelopment will lack private gardens, and residents have voiced concern about the loss of income they will suffer.\textsuperscript{146}

Although three of the grantees (New Orleans, Chicago, and San Francisco) plan to build replacement units off the original site of the demolished public or assisted housing, none of the initial five grantees plan to build replacement housing outside the target neighborhood.\textsuperscript{147} Indeed, there is no requirement to build replacement housing beyond the target neighborhood. Therefore, it is possible that 100 percent of replacement housing will be built within target neighborhoods in future CNI projects, without consideration of the preferences of current or future residents.\textsuperscript{148} Critics are concerned that this will perpetuate the segregation and isolation that CNI is ostensibly aimed to combat.\textsuperscript{149} The Urban Institute’s study points out that none of the five CNI plans give attention to residents who do not wish to return to the target neighborhood, nor do the plans elaborate how grantees will avoid negative effects of displacement and relocation on residents.\textsuperscript{150}

In focusing mainly on long-term neighborhood transformation, CNI has failed to provide opportunities to low-income residents through off-site replacement housing (the idea is that by moving out of the most segregated and poverty-stricken neighborhoods, public or assisted housing residents are likely better off) and through housing mobility supportive services.\textsuperscript{151} The PRRAC study shows that CNI’s incentives to grantees to site as much replacement housing as they please in the target neighborhood in fact leads to reinforcement of segregation.\textsuperscript{152} Critics point out that, despite the references in the CNI NOFAs to promoting housing choice and counseling, CNI places an emphasis on residents returning to target neighborhoods.\textsuperscript{153}

Indeed, continuing the theme of failing to provide housing choice, HUD puts the burden on applicants to justify location of replacement housing outside target neighborhoods.\textsuperscript{154} CNI’s goal of creating neighborhoods in which people choose to live is not oriented around giving current residents of public housing a choice, but rather towards increasing the supply of market rate housing to entice middle income people to move into the community. Such a scheme brings to mind the benefits given to the middle class by FHA mortgage assistance during the Great Depression. In both cases, we see benefits exploitable by the middle class but not by the poor.

While CNI appears to be a valiant effort on behalf of the government to create lasting change in public housing neighborhoods, its practical application has created difficulty for residents of those neighborhoods. At the same time, CNI’s prioritiza-

\textsuperscript{145} See id. at 7-20.
\textsuperscript{146} See id.
\textsuperscript{147} See Philip Tegeler & Megan Haberle, Re: Bringing the Choice Neighborhoods Initiative into Alignment with the AFFH Mandate—Proposed Improvements in the CNI Implementation NOFA 2 (PRRAC 2013).
\textsuperscript{148} See id. at 2-3.
\textsuperscript{149} See Tegeler et al., supra note 112, at 47.
\textsuperscript{150} See Pendall & Hendey, supra note 131, at 10.
\textsuperscript{151} See Tegeler & Haberle, supra note 147, at 1.
\textsuperscript{152} See id. at 2.
\textsuperscript{153} See Tegeler et al., supra note 112, at 123.
\textsuperscript{154} See id. at 46.
tion of the construction of market rate housing benefits the middle class. So at the core of CNI lies the potential to perpetuate wealth inequality between low-income black people and the white middle class. This perpetuation of inequality is mutually constitutive with the perpetuation of a harmful racial discourse that pathologizes the black community and blames black people for the conditions of public housing neighborhoods.

CONCLUSION

The Choice Neighborhoods Initiative is the most recent iteration of a long line of government actions that have disproportionately benefited white people and harmed black people. Redlining limited the opportunity to accumulate wealth through homeownership exclusively to white people, and policies such as urban renewal and HOPE VI, which sought to fix the problems faced by public housing neighborhoods, actually created more difficulties for public housing residents than they solved. The main thrust of my theoretical argument is that CNI is a program that is part of and contributes to the structures that maintain racial injustice. By its ignorance of the disparate impact it has on black people and by its failure to acknowledge the past history of harmful laws that have contributed to the problem it attempts to address, CNI illegitimately casts itself as a colorblind, race-neutral policy. This claim to neutrality contributes to a discourse that expects all to excel. When people fail to succeed in this “neutral” environment, the blame is placed on those who fail, and the government is attributed none of the responsibility for the inequality it perpetuates. Within this framework of neutrality, institutional racism is ignored, and racial inequality uncomprehended.155 It is only when housing law acknowledges the disparate impact it has had, and continues to have, on black people and uses this as a justifying principle for its efforts to alleviate the challenges faced in public housing neighborhoods, that racial progress will be made. Further, only in the case that this occurs will housing law be able to reorient itself to the perspective of public housing residents and finally bring positive change to public housing neighborhoods. Practically speaking, this re-orientation should take the form of a government relinquishment of control over defining what success looks like in housing policy. Though government is in an excellent position to bring together vital actors in the housing sphere, it is undemocratic for it to insist upon a pre-determined model of success, such as enabling all public housing residents to climb a ladder to the middle class. When individuals fail to climb that ladder, they are stigmatized. Instead of creating top-down policy goals, the government should initiate a dialogue with the people it purports to help. Those people should be empowered to harness the strengths of their communities into positive change that they themselves desire. By working cross-culturally to develop definitions of success, the culturally white model of capitalist success, which serves to block discourse that acknowledges and addresses racial and cultural differences, will be bypassed, and the path to a productive racial discourse about housing policy forged.

155. See Khare, supra note 74, at 6.
APPENDIX

Characteristics of CNI neighborhood residents (2010):

<table>
<thead>
<tr>
<th>Resident ethnicity (percent of total)</th>
<th>Boston</th>
<th>Chicago</th>
<th>New Orleans</th>
<th>San Francisco</th>
<th>Seattle</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>32</td>
<td>2</td>
<td>0</td>
<td>16</td>
<td>10</td>
</tr>
<tr>
<td>Black</td>
<td>36</td>
<td>98</td>
<td>100</td>
<td>51</td>
<td>46</td>
</tr>
<tr>
<td>Hispanic</td>
<td>12</td>
<td>1</td>
<td>0</td>
<td>11</td>
<td>0</td>
</tr>
<tr>
<td>Asian/other</td>
<td>11</td>
<td>0</td>
<td>0</td>
<td>21</td>
<td>41</td>
</tr>
<tr>
<td>Poverty rate</td>
<td>38</td>
<td>29</td>
<td>42</td>
<td>25</td>
<td>36</td>
</tr>
<tr>
<td>Unemployment rate</td>
<td>21</td>
<td>17</td>
<td>20</td>
<td>16</td>
<td>10</td>
</tr>
<tr>
<td>Vacancy rate</td>
<td>10</td>
<td>22</td>
<td>38</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>Violent crime rate per 1000 population</td>
<td>16</td>
<td>24</td>
<td>15</td>
<td>14</td>
<td>7</td>
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<tr>
<td>HUD school proficiency index</td>
<td>14</td>
<td>17</td>
<td>71</td>
<td>7</td>
<td>36</td>
</tr>
<tr>
<td>neighborhood score</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change in population (percent per year)</td>
<td>.8</td>
<td>−1.3</td>
<td>−5.7</td>
<td>−.2</td>
<td>−.4</td>
</tr>
<tr>
<td>Percent of households paying more than 30% of income in rent</td>
<td>69</td>
<td>62</td>
<td>67</td>
<td>60</td>
<td>54</td>
</tr>
</tbody>
</table>

156. See The Urban Institute, supra note 98, at 2-29.