



The Ongoing Struggle Against Racial Discrimination in American Housing

**A review of the proposed HUD rule
that would rollback protections for minorities**

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The Fair Housing Act of 1968 made racial discrimination in housing a federal crime. 50 years later, we have still not achieved equality.

Recent research by UC Berkeley has revealed that racial discrimination in housing continues to this day. Their research indicates that African-American and Latino mortgage borrowers pay up to \$500 million more in interest every year than white borrowers with comparable credit scores. From the UC Berkeley press release:

“The findings raise legal questions about the rise of statistical discrimination in the FinTech era, and point to potentially widespread violations of U.S. fair lending laws, the researchers say. **While lending discrimination has historically been caused by human prejudice, pricing disparities are increasingly the result of algorithms that use machine learning to target applicants who might shop around less with higher-priced loans.**”

“[Co-author and finance professor at UC Berkeley] Adaire Morse said the results are consistent with lenders using big data variables and machine learning to infer the extent of competition for customers and price loans accordingly. This pricing might be based on geography—such as targeting areas with fewer financial services—or on characteristics of applicants. **If an AI can figure out which applicants might do less comparison shopping and accept higher-priced offerings, the lender has created what Morse calls “algorithmic strategic pricing.”** ‘There are a number of reasons that ethnic minority groups may shop around less—it could be because they live in financial deserts with less access to a range of products and more monopoly pricing, or it could be that the financial system creates an unfriendly atmosphere for some borrowers,’ Morse said. ‘The lenders may not be specifically targeting minorities in their pricing schemes, but by profiling non-shopping applicants they end up targeting them.’”

Where is the federal government?

Federal housing regulators like the Department of Housing and Urban Development (HUD) and the Consumer Financial Protection Bureau (CFPB) were created to combat violations of the Fair Housing Act. Yet as Reuters reports, enforcement by the CFPB is down 50% under this administration:

“The Consumer Financial Protection Bureau’s track record of enforcement and consumer protection came under congressional scrutiny during an appearance last week [March 2019] by director Kathleen Kraninger before the Senate Banking Committee. Under the leadership of Kraninger, and her predecessor Mick Mulvaney, the CFPB has significantly scaled back its enforcement actions. ‘Enforcement activity at the CFPB has declined to levels that are either nonexistent or significantly below that of the prior administration,’ the report [by the Consumer Federation of America] stated. It said the bureau’s enforcement actions plummeted from 55 in 2015 to 11 in 2018.”

HUD is right now actively engaged in passing a new rule which would, according to Politico, make it harder to bring lawsuits against mortgage lenders who discriminate. From Politico:

"The Department of Housing and Urban Development released a proposed rule Friday [August 16th] that would make it more difficult to bring discrimination claims under the Fair Housing Act, a move that is drawing protests from civil rights groups. The proposed rewrite of a 2013 HUD rule would require plaintiffs to clear a higher bar to prove unintentional discrimination — known as disparate impact — and give defendants more leeway to rebut a claim. The proposal would ‘obliterate a bedrock tool for fighting discrimination in housing,’ Lisa Rice, president and CEO of the National Fair Housing Alliance, said in an email earlier this month. ‘At a time when racial disparities in housing are stark [and] the racial wealth gap is growing [and] the African-American homeownership rate has declined to historically low levels...it is critical to preserve and strengthen the tools we have to ensure that everyone is treated fairly in their search for housing,’ Rice said.”

Let your voice be heard in Washington, D.C.

Join hundreds of other activists who have written a public comment to HUD. Protect the regulations that do the work of enforcing the Fair Housing Act. Keep racial discrimination in housing a federal crime.

“As someone who works in the field of public health (at the Boston University School of Public Health), I know that housing discrimination isn't just a matter of fairness. It is also the difference between a child living up to their potential or being stunted in their physical, cognitive, and educational development. It is the difference between someone getting a job they can live on and support their family with, or struggling to survive. Housing segregation means food deserts and streets too dangerous to walk on, which means obesity, which means diabetes and heart disease. It is a matter of life and death.” - **Michelle Samuels**

“This proposed rule will give legal permission to landlords to continue discrimination against people of color, families with small children, and people with disabilities. Quoting Andrew D. Selbst's article on SLATE: "While HUD claims that its rule is not intended to provide a special exemption for parties who use algorithmic models, the agency's stated goal is to limit potential disparate impact liability, to make it easier to make practical business choices and profit-related decisions. If its new rule stands, HUD will be wildly successful in that goal. Landlords who do not want to discriminate will have peace of mind that they need never be troubled by pesky discrimination lawsuits again as long as they buy industry-standard software, leaving their own discriminatory choices unexamined. Malicious actors can easily devise algorithms that functionally redline, as long as they do so without any one factor clearly being a substitute for protected class. And as is too common in housing, people of color, families with small children, and people with disabilities will suffer.” - **Mariru Kojima**

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