"Restricted Choice"

Sermon by the Rev. Dr. Stephanie May
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As Unitarian Universalists, we affirm the principle of the "free and responsible search for truth and meaning." Such encouragement to freely seek and to learn is, I know, what has drawn many of us to this tradition. Today, I want to connect this impulse to learn and to seek out the truth with the idea that many of us likely do not know the truth of the role the government has played in racially segregating housing. As Richard Rothstein outlines in the 2017 book *Color of Law,* this history has been largely forgotten or taught falsely to generations of students.

And yet, government actions in support of racially segregated housing have not only created long-term economic impacts, they have also contributed to our experiences of often *not* living, working, and/or worshipping with people of different racial identities. As such, learning the history of housing in the U.S. not only teaches us something about the ways African Americans have *not* been treated with full worth and dignity, but also shows us something about how inequitably the privileges of housing have accrued to white Americans. As a religious tradition that proclaims a desire to promote equity, justice, and compassion in human relations—understanding the history of segregated housing in critical.

On April 11, 1968, the House of Representatives enacted the Fair Housing Act—just days after the assassination of the Rev. Dr. Martin Luther King, Jr. This is not coincidence. And it was not a certain conclusion. Two years earlier, when President Lydon Johnson attempted to pass a similar act, he received a rare congressional defeat. Trying again, the Senate narrowly passed the bill in 1968 which shortly after passed the House in the emotional wake of King's assassination. The narrow margins suggest that ending racial discrimination in housing was a step too far for many in a nation long accustomed to widespread segregated housing.

In *Color of Law,* Richard Rothstein carefully details the multitude of ways that racially segregated housing was not simply a *de facto* arrangement based on personal preferences of white and black families. Rather, racial segregation was *de jure* – enacted and supported directly by rights granted by federal, state, and local governments. In other words, racially segregated housing grew under color of law, which is to say under the authority of the government. Such actions directly violated the civil rights of African Americans guaranteed by the 14th Amendment with its guarantee of equal protection under the law.

But. Well. That's not what happened.

Rothstein outlines a long list of ways the government acted to create, sustain, and support racially segregated housing. In making his case, Rothstein argues, "The government was not following preexisting racial patterns; it was imposing segregation where it hadn't previously existed." (14)

Here are some of the ways this happened.

During the New Deal, Secretary of the Interior Harold Ickes arranges to build public housing, but does so by segregating projects for whites from those of African Americans. To make way for the new segregated housing, integrated neighborhoods would be destroyed.

In 1910, Baltimore becomes the first city to pass racial zoning—determining by law where white and African American housing could be built. Many cities follow suit. When the Supreme Court deemed racial zoning illegal in 1917 in a suit involving Louisville, Kentucky, some cities ignored it and others moved to thinly veiled economic zoning. By zoning some areas only for single-family homes, this restricted many low-income African Americans from moving into these areas.

To further insure that middle-class African Americans would not move into the single-family, white neighborhoods, the white homeowners created racially restrictive homeowners associations and/or added restrictive clauses to their deeds prohibiting sale to African Americans. At first courts upheld these actions as matters of economic contract between individuals. However, in the 1948 case *Shelly v. Kraemer,* these were deemed unenforceable because they relied on the courts, and thus the state, to act against the rights protected in the 14th amendment.

But there were still more tactics.

For African Americans, the choice of purchasing a home had been further restricted in 1933 when the Home Owners Loan Corporation or HOLC created color-coded maps marking areas of African American housing as "red" and high-risk for lending. Shortly after the Federal Housing Association or (FHA) followed suit with underwriting guidelines that effectively prohibited lending to African Americans. Later, the Veterans Administration would do the same after World War II in VA loans. In short, mortgages with low or no down payment, long-terms, and amortization that enabled the creation of equity were simply not available to African Americans. These government restrictions in lending would create an enormous disparity of wealth creation over the next several generations. For example, the cost for a white family to

buy a house in the famed Levittown was $75,000 in today's dollars. Decades later, these same houses are now worth $325,000—an enormous increase in asset wealth for the families who had access to the investment.

When neither explicit racial zoning nor the economics of housing were enough to maintain segregated housing, local governments had yet more tricks. School boards intentionally located segregated schools in particular locations to drive the development of racialized housing districts—placing white schools in suburbs and African American schools near undesirable industrial areas. Or when town councils learned that a proposed development was to include African Americans, they simply refused to permit housing developments or rezoned the parcel. And, when a courageous African American family *did* attempt to move into a white neighborhood, the police would stand by as white neighbors harassed the family and, in the face of violence, do virtually nothing.

Again and again local, state, and federal governments actively created, sustained, and supported racially segregated housing.

So did some churches.

Remember the 1948 case *Shelly v. Kraemer* that made racially restrictive homeowners clauses unenforceable? Well, that particular homeowners group was sponsored by the Cote Brilliante Presbyterian church. The church would go on to bankroll the Kraemers in their court challenges. (103-4) And the church did this while receiving the benefit of tax exemption from the state. Rothstein suggests this too is a way the state sanctioned racial segregation by not removing state benefits from institutions violating the civil rights of African Americans.

There are more details, more examples of course. State funds directed to the federal highway system in support of white suburbs while demolishing African American or integrated neighborhoods to make way for roads. Also, African Americans faced added costs of transportation when they were prevented from living near their jobs. They also faced the economic burden of high housing costs because limited housing stock drove up prices. The examples which Rothstein presents goes on and on.

But that was then, this was now, right? Since 1968, racial discrimination in housing has been illegal. Yes. But housing is unlike other civil rights wins such as desegregating restaurants or drinking fountains where people's behavior could change the next day. The patterns of racially segregated housing were not only well-established by 1968, the economic advantages were well rooted in the white community. Changing the impact of decades of racially segregated

housing could not happen overnight.

To make the point of how complicated undoing state sponsored violation of the 14th amendment is, Rothstein presents ideas for fixes. For example, he suggests the government could buy all the houses for sale in Levittown until they own about 15% of the houses—the percentage of African Americans living in the New York metropolitan area. Then, the government could sell the houses to African Americans for $75,000—effectively transferring the equity to the family at the government's cost.

Rothstein is under no illusion that such a program is politically viable, but he suggests it so that we may consider how complicated undoing decades of state support for segregated housing is.

As an example of a possible program, Rothstein actually points to the 40B Massachusetts legislation that requires towns to have at least 10% affordable housing. As many of you know well, if a town does not maintain its "fair share" of affordable housing, this legislation allows developers the right to construct affordable housing at density levels that exceed local zoning. In other words, they can build multi-family apartments against the objections of neighbors and the town. For Rothstein the intent of such legislation is to incentivize towns to develop affordable housing according to their own development plans rather than face developers overruling local ordinances.

While such legislation is not explicitly about race, the long-term impact of state-sponsored segregated housing means many suburbs are more affluent and predominantly white. Within this context, undoing the injustices created by segregated housing means creating more affordable housing in affluent areas.

In reading Rothstein's book, I was struck by the role churches played in helping to create and support segregated housing. I do not know the history of First Parish in this regard, nor really the historic details of housing in Wayland, Weston, Framingham, and the other towns represented in our congregation. However, I do hope we can all continue to learn more about this history. Perhaps then we might be able to rethink how we might be a part of working together towards a more equitable, integrated, and just society.

So may it be.
Amen.