

**A Synopsis of Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*. New York: Norton, 2017. (Draft #2)**

*The Diversity Team began reading this book when it was published in 2017, and we have come back to its compelling message again and again. We want to share it with you as the basis for proposed action by our church to combat segregation, again - more than 50 years after the Civil Rights movement.*

**Preface.** Pervasive segregation has been called *de facto*, which means it results mainly from private practices, not policy. It has been so labeled by Supreme Court Chief Justice John Roberts. But segregation is actually much more *the result of laws* and official policies; that is, *de jure*. *Racially explicit policies* of federal, state and local governments up to the late 20<sup>th</sup> century defined where African Americans could live, and where they could not. Residential segregation and its effects still endure today. By actively promoting housing segregation, governments failed to abide by the Thirteenth Amendment's prohibition of slavery and its relics. Desegregation is a constitutional obligation we are required to fulfill.

**Ch. 1. If San Francisco, then Everywhere?** Examples. During and after WWII, Federal Government public housing was built explicitly *for whites only* in Richmond, CA. Housing that was developed in Milpitas under Federal Housing Authority mortgages explicitly prohibited blacks from buying. East Palo Alto was forcibly segregated by the California Real Estate Association by means of *blockbusting*. (See Ch. 6 below.)

**Ch. 2. Public Housing, Black Ghettos.** Public housing was first developed under the New Deal. It was *explicitly restricted* only to whites. Agencies with such restrictions included the Tennessee Valley Authority, the Civilian Conservation Corps, the Public Works Administration, and the San Francisco Housing Authority. By the end of World War II, 33% of San Francisco blacks had been herded into Western Addition or Hunters Point. Truman proposed a housing bill; but "the Senate and House rejected proposed integration amendments" to it. So the 1949 Housing Act that passed permitted local authorities to "design separate public housing projects for blacks and whites, or to segregate within projects." Housing authorities then sought to segregate *existing projects*, creating racial ghettos. After its founding in 1965, the U.S. Department of Housing and Urban Development (HUD) perpetuated segregation.

**Ch. 3. Racial Zoning.** As blacks escaped the Jim Crow south, *city ordinances* prohibited blacks from buying houses on city blocks where whites were a majority. Zoning ordinances reserved middle-class neighborhoods for single family homes. Areas were zoned "first-residential" or "commercial," with African American housing located near or in the latter zones. Such zoning practices rendered African Americans ineligible for FHA mortgages, since commercial zoning created property value risks. *Zoning masquerading as an economic measure* accomplished more segregation; it also had serious environmental and health effects. A 1983 study by the UCC Commission for Racial Justice found the share of minorities living near incinerators and hazardous waste dumps was 89% higher than the national median.

**Ch. 4. "Own Your Own Home."** After the Depression, the Federal Government created the Home Owners' Loan Corporation, which created color-coded maps of all the metropolitan areas in the nation. "Foreclosure risk" zones were coded red. HOLC applied *red-lining* wherever African Americans lived, even in middle-class black neighborhoods. The newly created Federal Housing Authority stated in its manual, "It is necessary that properties shall continue to be occupied by the same social and racial classes." Builders benefiting from FHA loans were thus *required* to build housing that was segregated. By guaranteeing bank loans to mass-production builders, the federal government spurred the suburbanization of every metropolitan area. Blacks—some of whom worked on building them--could not move into these suburbs.

**Ch. 5. Private Agreements, Government Enforcement.** Private property deeds could include *restrictive covenants*, providing that the property could not be resold to blacks. Racial covenants then led to contracts among all owners in a neighborhood. Subdivision developers created *community associations*, with mandatory membership containing whites-only clauses, before houses were sold. "Government at all levels became involved in promoting and enforcing restrictive covenants." A 1972 federal appeals court ruled that these covenants violated the Fair Housing Act of 1968, and "that recording deeds with such clauses would constitute state action in violation of the Fourteenth Amendment," but such judgments were repeatedly circumvented by other methods.

**Ch. 6. White Flight.** Racial integration did not cause property values to fall, but sometimes to increase. But the FHA's theory of declining values was fulfilled by *blockbusting realtors* who panicked white owners into selling at deep discounts once one black family moved in. The East Palo Alto story is a case in point. Blacks were then offered the houses at inflated prices. Being ineligible for bank mortgages, they had to buy on the *contract sale system*, in which realtors offered them houses on installment plans, under which, if evicted, they would have no equity. To try to own a home, stressed couples worked multiple jobs, renting out rooms to make payments, which helped deteriorate their now red-lined neighborhoods, aiding in the spread of slum conditions.

**Ch. 7. IRS Support and Compliant Regulators.** The IRS granted tax-exempt status to groups *including churches and universities* that promoted residential segregation. Regulatory agencies were complicit in the actions of insurance companies and banks, who denied service to African Americans without penalty. *Slum clearance* projects removed people without rehousing them. *Reverse redlining* occurred when subprime mortgages were heavily marketed to black customers, causing many foreclosures.

**Ch. 8. Local Tactics.** Examples. Learning that a local builder intended to sell to both blacks and whites, in 1955 the Santa Clara Board of Supervisors *rezoned the site* from residential to industrial use. The Milpitas City Council prevented the proposed construction of an integrated project by *denying access to sewer lines*. Interstate highways were routed to create *racial boundaries*. Segregation maps guided school construction decisions by school boards, who *tore down integrated schools*, forcing white and black families to move apart.

**Ch. 9. State-Sanctioned Violence.** Throughout the 20<sup>th</sup> century, police tolerated cross burnings, firebombing, vandalism, arson and other violence meant to maintain residential segregation.

**Ch. 10. Suppressed Incomes.** The 1935 Wagner Act protected the bargaining rights of unions that denied privileges to African Americans. It was not until 1964 that the National Labor Relations Board refused to certify whites-only unions. Until then, many *national unions excluded blacks*, or restricted them to low paying jobs and second class auxiliaries. The Veterans Administration both denied African Americans mortgage subsidies, and restricted their training to lower-level jobs. The U.S. Employment Service refused to enroll blacks in training for skilled work. *Higher property taxes* were assessed in black neighborhoods. Blacks were and are more likely to lose homes through *tax-lien reposessions*.

**Ch. 11. Looking Forward, Looking Back.** The Fair Housing Act was passed in 1968, following MLK's assassination. But residential segregation is difficult to undo, even 50 years on. Integrated buses and lunch counters can be used immediately; housing does not change hands often. And with depressed incomes, the lack of any home equity for building wealth, a tax code that disadvantages renters, and discriminatory extra costs and taxes, generations of African Americans have grown up in poor neighborhoods with substandard schools and environmental health risks. The wealth effect is enormous. The median black household's wealth--assets minus liabilities--is less than 10% of the median for white households. Even policies meant to help have been implemented in a segregated way. The Low Income Housing Tax Credit is often used by developers to build housing only in poor, segregated neighborhoods. Housing with the use of Section 8 vouchers is often made available mainly in such neighborhoods as well.

**Ch. 12. Considering Fixes; and Epilogue.** Children need to be in integrated schools, located in integrated neighborhoods. But, Rothstein states, "I hesitate to offer remedies ... because remedies are inconceivable as long as citizens, whatever their political views, continue to accept the myth of *de facto* segregation." At every level, this myth must be undone; we must understand the history of how segregation has been created and maintained.

*This is where we come in. There are some possible remedies suggested. But none of them can be really useful to us, unless we commit to becoming deeply informed and politically active in our own communities, here on the ground. How can we help make integrated housing come to pass here, now, in our own mission area?*